



## SPARK AND CANNON

### TRANSCRIPT OF PROCEEDINGS

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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

BRISBANE

..DATE 26/02/2013

Continued from 12/02/13

DAY 45

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

THE COMMISSION COMMENCED AT 10.03 AM

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COMMISSIONER: Good morning.

MS McMILLAN: Yes, thank you. Good morning, Mr Commissioner. Mr Commissioner, we have Ms Allison here to give evidence this morning and as you may well be aware it was proposed, because of the detailed nature of some of the questions I propose to ask her, that she have the benefit of some assistance from Mr Brad Swan, who the commission has already heard from. He's the executive director child safety policy and programs, Department of Communities, Child Safety and Disability Services. Because it would appear he may well answer some questions, I propose to swear them both in as witnesses in the interests of having both of their evidence as sworn. I've indicated that to all the parties and there's no objection.

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COMMISSIONER: Okay.

**ALLISON, MARGARET ANNE** sworn:

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ASSOCIATE: For recording purposes please state your full name and your occupation.

MS ALLISON: Margaret Anne Allison, director-general.

**SWAN, BRADLEY GRANT** sworn:

ASSOCIATE: And for recording purposes, your full name and your occupation?

MR SWAN: Bradley Grant Swan, executive director child safety services.

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COMMISSIONER: Good morning, Ms Allison.

MS ALLISON: Good morning.

COMMISSIONER: Good morning, Mr Swan. Welcome.

MS McMILLAN: Thank you. Ms Allison, I might start with you. Ms Allison, you're currently, are you not, the director-general of the Department of Communities, Child Safety and Disability Services, Queensland, and have been so since March 2012?

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MS ALLISON: That's correct.

MS McMILLAN: Ms Allison, is this a copy - no doubt abbreviated - of your curriculum vitae?

MS ALLISON: Yes, it is a short form version of my - - -

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MS McMILLAN: Mr Commissioner, a copy has been circulated to the parties. I tender that. 1  
COMMISSIONER: The curriculum vitae will be exhibit 181.

ADMITTED AND MARKED: "EXHIBIT 181"

MS McMILLAN: Perhaps I'll just give a copy to the witness for her to peruse.

MS ALLISON: I have one, thank you.

MS McMILLAN: Right, thank you. I'll turn to Mr Swan briefly. Mr Swan, as I indicated, you are the executive director, child safety, policy and programs, Department of Communities, Child Safety and Disability Services? 10

MR SWAN: Yes, I am.

MS McMILLAN: All right. And both of you, your professional address is 111 George Street, Brisbane?

MR SWAN: Yes.

MS ALLISON: Correct. 20

MS McMILLAN: Correct, all right. Now, I should just indicate, Mr Swan, you've already given evidence to this inquiry. In fact, you were the first witness who gave evidence, so it's somewhat of a circle to have you almost as the final witness. You have sworn - I wouldn't be able to estimate how many statements during the course of this inquiry. It would be numerous, would it not?

MR SWAN: 37, I think.

MS McMILLAN: 37. All right. Dare I ask you, are the contents of those true and correct? 30

MR SWAN: Yes, they are.

MS McMILLAN: Yes, thank you. Ms Allison, initially I will ask you some questions and obviously if you want to defer to Mr Swan you may do so in answer to any of them. Could I ask you please initially some questions in relation - and I should preface it, I should say that it's correct as you understand that I met with representatives from Crown Law and from your department, including Mr Habermann, in relation to some topics that I wish to canvass with you in examination today. Correct? 40

MS ALLISON: So I understand, yes.

MS McMILLAN: Yes. And they were communicated to you, were they not?

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MS ALLISON: Yes. 1

MS McMILLAN: All right. Mr Commissioner, they've been communicated to the other parties here who have leave to be represented. All right. Now, in relation to that, as the director-general you have overall responsibility for the functioning of your department. Correct?

MS ALLISON: Yes.

MS McMILLAN: And in terms of your qualifications, you say that you have 35 years' experience in Queensland and New South Wales in the public sector. 10

MS ALLISON: Mm'hm.

MS McMILLAN: And the majority of that has been in the community services field. And you've held a range of senior executive positions for more than 25 years. You have, relevance to this inquiry, an interest and commitment to work in the non-government sector and have worked as a volunteer board member and consultant to a number of non-government organisations. You were selected as a winner of the Telstra Businesswoman of the Year Queensland in corporate and government category in 1999. You've also been president of the Institute of Public Administration Australia Queensland. You were appointed as a fellow of the Institute of Public Administration Australia in 2008. Correct? 20

MS ALLISON: Yes, that is correct.

MS McMILLAN: And amongst other things you were the chief executive commissioner of the public service commission January 2010 until you took up your current position. Correct? 30

MS ALLISON: Yes, that is correct.

MS McMILLAN: All right. And you've held other government positions such as the director-general Department of Aging, Disability and Home Care in New South Wales.

MS ALLISON: Yes.

MS McMILLAN: And so it would be fair to say that you have, throughout your career, as you say, held various responsible positions, including director-general, deputy director-generals of numerous government departments and would thus have, one would think, a keen awareness of responsibilities that a director-general has. Correct? 40

MS ALLISON: Yes.

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MS McMILLAN: All right. Now, could I ask you, please, to have a look at section 7 of the Child Protection Act. Do you have it there? 1

MS ALLISON: Yes, I do.

MS McMILLAN: Now, that section proscribes your functions.

MS ALLISON: Mm'hm.

MS McMILLAN: You are of course director-general, but you are known as the chief executive for the purposes of this Act. Correct? 10

MS ALLISON: Yes.

MS McMILLAN: Now, Ms Allison, I understand of course you don't have legal qualifications, but in terms of your understanding of your functions, it would seem amongst the 19 or so functions that are prescribed there, many of them would be prescribed as of a primary and secondary nature, would they not?

MS ALLISON: That is my understanding, yes. 20

MS McMILLAN: Yes. So for instance, let's look at some:

(a) Providing or helping provide information for parents and other members of the community about the development of children and their safety needs.

That would be what would be termed as a primary function, would it not?

MS ALLISON: Yes. 30

MS McMILLAN: All right. (b), what would you term that as?

MS ALLISON: I would also deem that to be a primary function.

MS McMILLAN: And perhaps secondary?

MS ALLISON: And perhaps secondary.

MS McMILLAN: All right. Just reading that through to yourself - - - 40

MS ALLISON: Sorry, can I just clarify, when you're talking about primary and secondary - - -

MS McMILLAN: Yes. Well, I'll ask - - -

MS ALLISON: - - - are you talking in terms of the aspects of the child protection system? 1

MS McMILLAN: Yes.

MS ALLISON: Okay, thank you.

MS McMILLAN: All right.

MS ALLISON: Well in that case my answer to (b) would be secondary. 10

MS McMILLAN: All right. Perhaps it's my mistake. I should have asked you: what do you understand by primary and secondary - - -

MS ALLISON: Yes.

MS McMILLAN: - - - within the child protection framework?

MS ALLISON: Yes.

MS McMILLAN: What is your understanding of those things? 20

MS ALLISON: My understanding is that the primary system refers to universal services, which can be accessed by anybody in the community.

MS McMILLAN: Yes.

MS ALLISON: Secondary services are more targeted within the child protection framework to those families identified as - or children as being at some risk.

MS McMILLAN: Or perhaps more vulnerable. 30

MS ALLISON: Or perhaps more vulnerable, indeed, through other factors.

MS McMILLAN: Right. And tertiary is - - -

MS ALLISON: For those children and families where harm has already occurred or a high level of risk has been identified. So effectively those children have entered the formal child protection system.

MS McMILLAN: All right. Now, Ms Allison, if you look at your functions, some approximately 19 of them, would it be fair to say that approximately half of them at least are primary and secondary in nature? 40

MS ALLISON: That would be a fair characterisation.

MS McMILLAN: And indeed of that, some are really in terms of - if I can put it - research, if you like - R and D, if you like - research and development in nature.

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MS ALLISON: Yes.

MS McMILLAN: Such as (s) and (t).

MS ALLISON: Mm'hm.

MS McMILLAN: So perhaps they somewhat sit outside primary and secondary in the sense that they're - in terms of, if you like - research and development into the area of issues such as - like outcomes for children in care et cetera, cause and effect of harm to children. In your view, from what you've seen of the functioning of your department, do you consider that the department's focus is adequately in keeping with about half of those functions being on the primary and secondary nature of child protection?

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MS ALLISON: I think that there is - over the last probably eight or so years there has been a sharp drift towards the tertiary end of the system.

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MS McMILLAN: Yes.

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MS ALLISON: I think that the functions as set out in section 7 represent a broad systemic look at the child protection system and at my duties as a whole within that system. I don't know that I would draw any correlation between the number of duties that relate to primary areas and the level of the commitment of the department in certain areas. Nevertheless, I certainly would agree there has been a sharp drift to the tertiary - - -

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COMMISSIONER: Ms Allison, in your submission; I'm looking at page 18, that you sent me in December last year - - -

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MS McMILLAN: Christmas Eve, Mr Commissioner.

COMMISSIONER: Yes. It's said that - or characterises the functions as assisting in the interpretation and administration of the act. They are broadly defined to assist in the legislative interpretation of the act rather than being binding statutory obligations. Is that how you see it?

MS ALLISON: I do. It sets a broad framework. My understanding is that there are aspects of - that this sets the entirety of what I'm able to do, however there is a number of other things that affect what I am actually able to achieve.

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COMMISSIONER: So it's permissive rather than prescriptive.

MS ALLISON: That's my view.

COMMISSIONER: There's Supreme Court authority to the contrary, you know. It says essentially that a function in an act is a duty, it's a statutory duty, that can't be advocated or transferred to anybody, and where it's of ongoing - when it's of an ongoing nature, although you can prioritise your functions and there are financial considerations that you can take into account, you can't not do any of them. You must have a plan for discharging them. That case arose out of an action for judicial review against the CJC, as it then was, in respect of its function of reviewing the adequacy of legal aid funding in the state. It was determined by the currency of justice and that's really effectively what he held, that the CJC had in fact deferred the discharge of that function for so long that it had evinced an intention not to fulfil it. It was held that that was a failure to discharge a statutory obligation.

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For the lawyers in the room, that's Barlow v CJC, 1989, 1990 - might even be 1992. So why that's important is that it seems according to the intent of the legislation, anyway, that - and if you read the whole tenor of it, and it tried to make this point in the discussion paper, the

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parliament wanted the department to be very - to intervene 1  
early and be preventive. Spread out through the  
legislation the definition of intervention, for example, is  
defined as action to help when it's needed.

MS ALLISON: Yes.

COMMISSIONER: It refers to children at risk or children  
in need of care. So it discriminates between the two  
different types of children and their different needs at  
different points along the continuum, and so does section 10  
159B to G where it talks about your coordination  
responsibilities. They're not functions, they're  
responsibilities. I'm not sure if there's much difference  
between the two. It talks about giving prevention so that  
you reduce the likelihood of a child at risk being in need  
of protection so you avoid the primary need of protection.  
So that's what it expects you to give on the one hand, but  
on the other it seems to limit your power of intervention  
to very late in the game and it's protective based rather  
than preventive based. Do you find that difficult to - a  
difficulty in trying to fulfil a requirement to act  
preventatively and intervene early when the law says you  
actually can't intervene until harm has been done? 20

MS ALLISON: I think so. I think there is an inherent  
contradiction in the act, in that the functions are very  
broadly cast in section 7, but even the construct of the  
act itself, immediately, almost, you move to areas of  
intervention and grounds for formal intervention et cetera.

COMMISSIONER: And your thresholds are quite high.

MS ALLISON: It is very high, yes.

COMMISSIONER: So by then the damage has already been 30  
done. All you can do, it seems to me, reading the act as a  
whole, is prevent harm from being repeated, and that's  
about the only preventive action you can take on that view  
of things, but it does seem to me that somehow it expects  
you, despite the machinery of government changes and  
things, to find a way of providing prevention and early  
intervention services to children at risk. I don't know,  
would you say you manage to do that much?

MS ALLISON: Not to the extent that I think the investment  
should be there. Of course, the other thing I'd point out,  
if I can, commissioner, is a lot of the services that I 40  
would regard as primary services, those are offered by  
other departments of government. For example, child care  
services, pre school services, infant health and maternal  
health services.

COMMISSIONER: Can I just tease that out with you? I'm  
going to be a little while, Ms McMillan, so save you

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standing. Thanks. You haven't got a copy of the annual report 2011-12 with you? 1

MS ALLISON: I don't, I'm sorry.

COMMISSIONER: Okay. I'm referring to page 39 and this is - for people who don't understand how the department works, you're one department but you have three different streams and the streams are funding and functions. So when we talk about the tertiary system or the formal child protection system or the statutory system, we're talking about what child safety does, the child safety services arm of the department. 10

MS ALLISON: Yes.

COMMISSIONER: Its name reflects the previous incarnation as a separate department under the same name.

MS ALLISON: Yes.

COMMISSIONER: But do I understand it correctly that whatever child protection related functions are all discharged by the child safety services section or does communities provide funding for some child protection related secondary services? 20

MS ALLISON: They are under child safety generally. I would say that there are some services that benefit children. For example, some of the services we fund, the domestic and family violence programs, certainly have benefits to children in houses - - -

COMMISSIONER: Yes, I wanted to come to them, because one of the functions ties you to reducing the incidence of harm by doing something in that space, domestic and family violence, an also gives you something to do in the juvenile justice or criminal justice connection between the two as well, but in your annual report you talk about prevention and intervention support services as one of the things you do and you say you've got a range of them and you identify presumably all of them at pages 39 and 40. They include the Evolve. 30

MS ALLISON: Yes.

COMMISSIONER: That's 1.2 million. 40

MS ALLISON: It's much more than 1.2 million. I'll have those figures shortly for you, commissioner.

COMMISSIONER: All right. I thought it was 1.2 million to disabilities for preventing relinquishment, but maybe Mr Swan can check that.

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MS ALLISON: Yes. All up it's in the vicinity of 20,000,000, the Evolve funding. 1

COMMISSIONER: Okay. You have got Helping Out Families.

MS ALLISON: Yes.

COMMISSIONER: That started in 2010.

MS ALLISON: Yes.

COMMISSIONER: I'm going from the annual report, the published figures. 10

MS ALLISON: Yes.

COMMISSIONER: I know that figures vary a bit. During 2011-2012 there was 13.9 million for that delivered across the three areas, including the intensive family support. Now, would you regard Helping Out Families as secondary or tertiary?

MS ALLISON: High on the secondary scale. 20

COMMISSIONER: Low on the tertiary scale.

MS ALLISON: I think some of the evidence emerging from Helping Out Families is that because there's probably not the range of services we would like across the secondary system, a lot of the families being referred to HOF have quite high support needs and indeed quite complex. There is a place for that but I also think in a sense some of those people are almost at the gateway between secondary and tertiary and there's a place for some less intensive family support services as well. 30

COMMISSIONER: Most of the referrals come through Child Safety anyway, don't they?

MS ALLISON: Yes, they do; yes.

COMMISSIONER: So you intake as the first step in the tertiary process.

MS ALLISON: Yes.

COMMISSIONER: Is that right? 40

MS ALLISON: Yes.

COMMISSIONER: So in order to get to HOF you have got to come through the tertiary gateway of intake, don't you?

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MS ALLISON: Under the trial that's being conducted of alternative referral you can go through some of the other notifiers like police. 1

COMMISSIONER: Okay.

MS ALLISON: As you'd be aware, we're conducting a trial there where notifiers - - -

COMMISSIONER: So they can direct notify, can they?

MS ALLISON: Yes, direct refer. 10

COMMISSIONER: Direct refer.

MS ALLISON: Yes.

COMMISSIONER: These are the same agencies that overload your system by over-reporting, aren't they?

MS ALLISON: Yes.

MS McMILLAN: Mr Commissioner, paragraph 73 of Mr Swan's statement yesterday has the figures for Evolve, amongst other things - - - 20

COMMISSIONER: Yes, I have got them. I will come back to them.

MS ALLISON: Yes.

COMMISSIONER: Thanks. Then you have got the Referral for Active Intervention services.

MS ALLISON: Mm'hm. 30

COMMISSIONER: Now, you provided 10.6 million for that and an additional 1.2 million for ancillary services and they aimed to ensure that the right intensive support services are provided for families and children and young people in vulnerable situations as soon as possible. How do you do that? What does that mean? How is that done? How do you identify these vulnerable situations? How do you do that?

MS ALLISON: There would be a process of assessment, initial assessment, I should say.

COMMISSIONER: From intake? 40

MS ALLISON: From intakes undertaken by departmental staff who would identify a range of risk factors for the child within the family household and also, I think, assess that the family was open to seeking help and responsive to what the programs had to offer.

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COMMISSIONER: So these don't get investigations. These are screened into active intervention services at the intake stage. 1

MS ALLISON: Some would be investigated and it would be the result of that assessment undertaken at the end of the investigation that a conclusion would be drawn that that's an appropriate course of action.

COMMISSIONER: So they don't need protection but they do need something else and they get - that's appropriate action taken under section 14 by you, is it? 10

MS ALLISON: Yes.

COMMISSIONER: Okay. Now, then the family intervention services seem to have consumed 18.3 million in 2011-2012 up from 12,000,000 in 2007-8 and assisted 1700 families. On my figures that's about \$10,700 per family. Have you done any economic evaluations to see if that's a good value buy?

MS ALLISON: I personally haven't.

COMMISSIONER: No, the department. 20

MS ALLISON: I'm not aware of whether any such studies have been undertaken.

COMMISSIONER: What is the research? How is the research function done within the department?

MS ALLISON: If I could separate research and evaluation, there are certainly evaluations undertaken of a range of programs and there have been evaluations undertaken of both Helping Out Families and the Referral for Active Intervention programs. There is an area of the department that is probably more expert in bringing some of our data together, but a lot of the research that is undertaken would be undertaken in partnership with universities. 30

COMMISSIONER: That's in fact what Ms Mayfield said in her response on your behalf to one of my summonses when I asked about research, but it doesn't seem that, for example, there is - she talks about evaluation as being part of the section 7S function. If you have a look at 7S, one of the things it asks or it sort - it's really R and S. R asks you to collect and publish statistics and information. 40

MS ALLISON: Yes.

COMMISSIONER: Then S asks you to promote and conduct research into, like, for example, the causes and effects of harm to children. Would you say the department has done that in the last five years?

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MS ALLISON: I've only been there 12 months and I'm probably not in a position to comment on the previous four years.

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COMMISSIONER: Mr Swan?

MR SWAN: We certainly did some work which I think I presented in my evidence around the parental risk factors and what were the risk factors associated with children and young people coming into care and that certainly does provide helpful information to the types of services which really need to be intensive family support services and other alcohol and drug or mental health or domestic and family violence services that would need to work with those families.

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COMMISSIONER: What about (ii) which is the life outcomes of children in care? I think that's an important outcome and performance indicator for the system. How well are the children we have looked after in the public system doing at 30 and 50 and 20? Do we know that?

MS ALLISON: There is a national project that is being undertaken at the moment, a longitudinal study.

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COMMISSIONER: Is this Judy Cashmore's?

MR SWAN: This is being led by New South Wales.

COMMISSIONER: Yes.

MS ALLISON: Yes.

COMMISSIONER: See, they have a centre for parenting and research, don't they, in New South Wales? It started in 2003 and it does the sort of internal research that drives the departmental policy and programs. It looks at things like early-intervention strategies, effective early intervention with indigenous communities, parental alcohol misuse and the impact on children, neglect risk factors, severity and chronicity, effective strategies and interventions for adolescents, domestic violence strategies and interventions for supporting families, living with parents who have mental health problems, longitudinal studies of wards leaving care four to five years on and a large-scale longitudinal study of children in out-of-home care and then they do annual evaluations of their agendas. That's the sort of thing in a perfect world that you would like to be able to do, wouldn't it, to drive your internal policies and decision-making?

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MS ALLISON: We certainly seek to have a strong evidence base for the policies that we had and such a concept is not unknown in Queensland. We support a domestic violence

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centre of excellence based in Mackay which plays a key role so it's certainly not unknown in the Queensland context. 1

COMMISSIONER: Is there much collaboration between the departments around Australia?

MS ALLISON: Through the Council of Australian Governments there are various ministerial councils that meet. There is a ministerial council for community services ministers. They meet a couple of times a year and they are supplemented by officials' meetings. There are agendas at those meetings which certainly deal with matters such as key initiatives and research being undertaken. There's quite a collaborative approach taken in those meetings and an opportunity to learn what other jurisdictions are doing that it's possible to learn from. 10

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COMMISSIONER: Okay. If I can - Mr Swan swore an affidavit yesterday asking some questions about performance indicators and figures, expenditure activities and your role reports.

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MS ALLISON: Mm'hm.

COMMISSIONER: I just want to go through some of them if I can. Just for the record, it was request number 2106334 and I'm referring to page 4 of 30 in response. Have you got that there, Mr Swan?

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MR SWAN: I've got my statement, yes.

COMMISSIONER: You've got it. You see on page 4, your table 3?

MR SWAN: Yes.

COMMISSIONER: Now, I know this is (indistinct) so there's a little bit of a mismatch between what you actually do what you report on. I understand that. But I'm assuming that AG01 is what we would call intakes?

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MR SWAN: Yes.

COMMISSIONER: Yes. So intakes cost you 23.7 million last year. Is that right?

MR SWAN: Yes.

COMMISSIONER: And so that's 3 per cent of your overall allocation.

MR SWAN: Yes.

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COMMISSIONER: Am I right in thinking that it costs you \$23.7 million to find the 20 per cent of notifications among the 114,000 reports that you get?

MR SWAN: It was one of the issues that I talked about previously, yes, in terms of the large volume that come in the front door and the need to screen those.

COMMISSIONER: Yes.

MR SWAN: And the question about whether or not they needed to all come to child safety services.

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COMMISSIONER: So it costs you \$23.7 million to find the 20 per cent of notifications you need to do something about. You've got no control over that really, have you? You've just got to screen all the reports you get.

MR SWAN: That's right.

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COMMISSIONER: And then you've got an internal policy of investigating 100 per cent of notifications. Why is that? You're the only agency in the country that does that.

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MR SWAN: Yes, Queensland is very different to other jurisdictions when you actually have a look at the data and Queensland, through that pre-screening, actually has a much lower number of what we call notifications, so we have about 21 to 23,000 matters that we call notifications and then the policy-setting had been that we investigate all of those. Other jurisdictions like Victoria have a much wider net at the beginning, so Victoria will record 40,000 matters as a notification and then they go through and sift those and investigate a smaller amount and do other things with some of those other ones - other matters that come in. New South Wales similarly, I think last year from the top of my memory was something like 80,000 matters that they called notifications, so very different - - -

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COMMISSIONER: So is yours more finely grained than theirs at a notification screening?

MR SWAN: At that point in time. However, we have also stated that we think that we can do some further work about not investigating as many of them and still have a differential response within the system for those matters that we have screamed down where families could be identified of needing support.

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COMMISSIONER: Well, I just wondered about that because I gathered from your submission that you didn't think you had enough scope for differential responses, that, you know, it was either intervening with parental consent or parental agreement or a court-order child protection order. I was just wondering whether our view of section 14 the slightly different because section 14 says you must immediately investigate a notification or any awareness of suspected harm, but then it goes on to say, "Or take any other appropriate action." I was wondering if you have 100 per cent investigation policy because you think that section 14 requires you to do that.

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MR SWAN: I don't think it was in relation to the requirement. It certainly had been the policy setting in place over the last number of years within Queensland. However, I have provided some information to Ms McMillan around a trial of differential response that could be looking at in Queensland and commencing in two locations still do have a high end "look at" approach to families in making sure that they either get a family support or that we offer more of an assessment and support approach rather than an investigation.

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COMMISSIONER: All right. I'm going to ask you - this is a high-end policy question now and you may not - and I

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don't really necessarily want to compel an answer because I understand the government positions and departmental interests might not be the same, and it is also a fixed socio-political question; but it seems to me that if you are going to do what the act seems to expect you to do on behalf of the community, you need to intervene at the risk stage and prevent harm by reducing or eliminating risk, don't you?

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MR SWAN: Yes.

COMMISSIONER: Now, the law doesn't let you do that at this point in time, although you're given some functions as if you do have the power to do that, it seems to me. But I just wonder what mechanism you could - bearing in mind the awkwardness between public-private relationship, between state and family, and the traditional respect that we've shown to parental autonomy and family privacy, how you find that point where you can intervene at the right time without being too late or too early? How do you do that? How do you work out where that is when you have to try to reduce risk, rather than wait until harm is done and tried to repair it?

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MR SWAN: It's certainly the work that we've been doing, and I've mentioned a number of times through the Helping out Families initiative and what we were really trying to do through that initiative was to say where you've got concerns about a child's well-being and not concerned about harm or significant risk of harm then those families should be directed towards family support services within the community to be able to provide assistance to those families. The research shows that those families are more likely to engage with those services and participate in the services if they haven't come through a stigmatised child safety path. However, there still is in need that there are some families that are - where the child has been harmed or at significant risk - that would need to come very quickly to child safety services.

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COMMISSIONER: Sure. That's just a screening mechanism, isn't it? At the moment you've got intake in child safety.

MR SWAN: Yes.

COMMISSIONER: What you want in a perfect world is to have people self-refer; they say, "I need help. I'm going to go and get it." From the evidence I've heard the chances of them coming to child safety the help is remote, but that's the only place that's got services on offer, and to do that you've got to come through their intake system, which is the first step in the tertiary procedure. So if you moved it out of, say, child safety and into, say, communities, so that communities could be the gatekeeper between those

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families who have a need and those families whose primary need is protection, could that work? Is that viable? 1

MR SWAN: I think our preference and the direction that we had been trying to head in was a system either similar to Victoria or New South Wales where they actually have a dual reporting pathway, so that those families where there are concerns about the child's well-being, would go directly and very quickly to non-government organisations and intake in the non-government sector for assessment and support; but those families where there are concerns of harm or significant risk of harm would come very quickly to child safety services to be able to do an appropriate response. 10

COMMISSIONER: Now, the risk in that is no matter what system - you know, if you build it they will come. So that if you have a better secondary framework you'll just shift from tertiary to the secondary. At the moment the reports that don't qualify for a notification, what happens to them? I know they get put on a data system, and that's a bit of a concern because there's a lot of private information there, and I know you've got confidentiality arrangements and things, but - - - 20

MR SWAN: In the Helping out Families trial there was a concerted effort in those locations for those matters that we now screen as child concern reports, to get them and refer them directly out to the non-government organisations. What we were also trialling at the same time was to say, "We actually don't need them to come in to us. Health and education, you can send them directly to the non-government sector and record them in that way," and we're trialling the use of the referrer's guide down there.

COMMISSIONER: But as you say in your submission, everybody else shifts the risk suiting the backing where you are. That's the flavour I got from the submission, anyway, that you were critical of the other agencies with a child protection function for shifting risk to you and as a result, you know, reporting information to you that you really can't do anything with under your agreement. 30

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MR SWAN: No, certainly in the early days of Helping out Families and in Victoria and New South Wales now - I think in WA as well - the legislation has been amended to enable those referrers to refer to either a non-government sector or the department and for those referrals to count as if they had referred to child safety services.

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COMMISSIONER: So, Ms Allison, if I was to recommend something along these lines, that the children that the state's responsible for should include those who have a need of protection but also include those who are identified as being at risk, and for the lower threshold there would be a different sort of service or intervention, if you like, is that something that would help meet the expectations of the legislation better?

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MS ALLISON: I think so. Commissioner, I'm pleased that you talked about the state, because of course there's a range of agencies that touch the lives of children and are indeed, you know, often the first to encounter when there might be some issues going on with the child or within the family context. I think at the moment we do see statutory notifiers very keen to discharge their obligations but believe that the only way that they can do that is by making a report to the department.

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COMMISSIONER: Now, what you don't want to do, I suppose, is create another overloaded secondary system.

MS ALLISON: No.

COMMISSIONER: So you need to have screening so that the 80 per cent of work that you can't do anything with or don't do anything with doesn't just get referred on for somebody else to do - spending a lot of money doing nothing much with either. So we'd have to be mindful of that. Then you come to the next tricky question, it seems to me, is your secondary system is built on the assumption of voluntary or self-referral and that it will be - if it's available it will be voluntarily accessed by people who need it. That assumes a couple of things about them: (1) it assumes that they have the insight, and (2) the commitment to actually get a net gain from accessing secondary services, and as far as I know there's no evaluations done to support that assumption.

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So assuming that that assumption is dubious, is there a mechanism, do you think, for the department administratively being a little more intrusive than it currently is at the risk stage, given that that's the critical point, according to most of the research, where you need to intervene appropriately - not necessarily coercively but not entirely voluntary either. Is there some mechanism either existing or you could conceive of that might actually get reluctant or recalcitrant parents

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to get the help they actually need to promote the benefit - the interests of their children over their own? 1

MS ALLISON: I think just to take it back a step, within that, the 80 per cent of intakes that are not - there would be a whole variety of things. There would be things that we don't think there should be any intervention at all, we don't think it meets any kind of threshold. There would be ones where it's apparent that the family is under some kind of temporary stress, so they might be the families who - it might be housing stress, it might be financial stress. They might be the ones who might access and might be very happy to access services. 10

COMMISSIONER: Sure.

MS ALLISON: Whether it's financial counselling, you know, or even getting food vouchers from one of the non-government organisations.

COMMISSIONER: Would they get a referral from you at the moment?

MS ALLISON: No, not necessarily, but then most people who work, you know, broadly in human services would be aware of those kinds of things. But then you get the ones where there are perhaps parental behaviours of concern, whether it's, you know, alcohol or substance abuse, domestic violence, where parents don't have insight into the impact of their behaviour on children, and they are the tougher ones. I certainly think that some of the finest child protection workers that I've known can work with those families as part of an investigation process and in a sense work to make the involuntary voluntary, because working with families where there's ongoing risk to a child, you have to be very clear with parents about what's okay and what's not okay and what represents an unacceptable level of risk. In that context of knowing what future scenarios might be, many parents may engage. Whether there is a place for some sort of order or form of compulsion for parents to engage in treatment, I suppose my preference is always for coercive mechanisms to be ordered by courts. 20 30

COMMISSIONER: Well, again, you don't want to create more work for courts, because that's expensive, but the law requires kids to go to school, for example.

MS ALLISON: Yes. 40

COMMISSIONER: I draw a distinction between intrusive and coercive. Secondary services is actually more intrusive than tertiary services. Tertiary services are coercive, they're compulsory. You don't have a choice. Secondary services are voluntary, generally, so you do have a choice, and the question is how do you get parents who have some -

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who are lacking in some area to identify that they need help and then commit themselves to getting it and presumably if they had those two things they would have already got it rather than coming through your intake system. 1

For example, I'm wondering if there could be a direction by the chief executive to attend a counselling course for six months and reach some milestones otherwise there would be a consequence of some sort. Of course, if you were going to require someone to go to a service you have to make sure it's available and this is the problem, it seems to me, at the moment. We don't have that secondary service framework, not only for people to access voluntarily but certainly not to be able to say, for example, if it was domestic violence, that the perpetrator go and get some help for as long as it took for him or her not to be a risk to the child, but there's a tension there, because the research suggests that that's the very time you should be intervening and it's the most effective and efficient time to intervene for a public system, because you can't undo the harm that's already done. The best protection you can give the child is to prevent the harm from occurring in the first place, but how can you do that by risk minimisation if you don't get an opportunity to deal with the risk factors unless the parents consent, which you're not likely to get? 10 20

MR SWAN: I was just going to say, in Victoria and here in the Helping out Families what the research is showing is that as those non-stigmatising non-government organisations become known in the community to providing a service and assistance and working well with families, the numbers of self-referrals are increasing. In Victoria it's about 25 per cent of numbers into the Child First now are self-referrals. Here, in Helping out Families, we call self-referrals those that - they might have gone out and knocked on the door but the families refused to engage, but as the services become known, other people have utilised it, those people are now coming back and going, "We recognise we need assistance." 30

COMMISSIONER: Is there a corresponding downward pressure on the tertiary system with the upward pressure on the secondary system from those places?

MR SWAN: It's certainly starting to come through in our information in the south-east corner on the Helping out Families, which is starting to show that - and the evaluation has been provided here, that if the families have engaged with the service and worked and completed their case goals they're 50 per cent less likely to be re-reported to child safety services. 40

COMMISSIONER: Yes, they're encouraging figures.

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MR SWAN: It's starting to show in sort of notifications and substantiations, a much lower increase in the south-east than the rest of the state. 1

COMMISSIONER: You've got them in three sites, haven't you?

MR SWAN: Yes.

MS ALLISON: Yes. Logan, Beenleigh and the Gold Coast.

COMMISSIONER: Have you done any costings to see how much that would cost to roll out state wide? 10

MS ALLISON: Yes.

COMMISSIONER: What would it cost?

MR SWAN: I have it in here.

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MS ALLISON: We do have those figures, commissioner. 1  
We're just getting them for you.

COMMISSIONER: Sure.

MS ALLISON: I think while those figures are being sought, commission, could I just say the geography of Queensland is a bit unique compared to other jurisdictions in terms of the proportion of the population who lives outside the capital city and surrounds so I note that for jurisdictions like - well, Victoria is obviously different in terms of, you know, their remote area service is a three-hour drive from Melbourne, but even in New South Wales the majority of the population, around 60 per cent, lives, you know, within an hour of the CBD of Sydney. In Queensland the majority of the population, over 60 per cent, resides outside that immediate corridor so the population is much more dispersed as well as the sheer size of it which is a challenge. We think too to roll out HOF throughout the state would be in the vicinity of 65.2 million. 10

COMMISSIONER: If you did it another way and looked at your most encountered families, what are they, 20 per cent? Would you say they are about 20 per cent of your - I think I saw some research that you conducted a few years ago that suggested that the biggest users were 20 per cent of your cohort. Do they all live in the same geographical area or are they all dispersed throughout the state? 20

MS ALLISON: Dispersed.

COMMISSIONER: It's a shame we can't collect them together. It would be more efficient, but could you target them? Do they have common factors or characteristics that you could - if by reducing 20 per cent, you might reduce 40 per cent of your workload? 30

MS ALLISON: Yes.

COMMISSIONER: By actually being effective with that 20 per cent you might have a 40 per cent net gain for the department.

MS ALLISON: I think there's certainly some - from what we've collected our database are families who tend to be notified more regularly, would have a number of factors. They're more likely to be a household with a range of needs across substance abuse, mental illness, domestic and family violence. They're more likely to be single-parent households. They're more likely to be households with a large number of children. 40

COMMISSIONER: Bigger families closer in age groups.

MS ALLISON: Housing stress.

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COMMISSIONER: Yes, all that. They have got more of a coalition or constellation of risk factors than others might. 1

MS ALLISON: Yes.

COMMISSIONER: All right. There was just one thing else I wanted to ask you. You administer the Adoption Act as well as the Child Protection Act and the Family Services legislation.

MS ALLISON: I do. 10

COMMISSIONER: As at June last year, seven Queensland children were placed with adoptive parents, according to your annual report. Of those, were there any who had been in the care system?

MS ALLISON: I'm not in a position to answer that immediately, commissioner. I'm happy to get - - -

COMMISSIONER: Would you mind; yes, thanks. Just to put that in context, there were 47 nationwide so it sort of seems a national trend, but I was just wondering. Also I would like your opinion on the adoption legislation as it's currently drafted. Is it resistant to children in care being adopted under its procedures? 20

MS ALLISON: I don't know that I would say "resistant". I think that certainly the procedures for dispensation of consent to adoption - they're matters that can be settled through the Children's Court now, whereas once upon a time it was only through the Supreme Court so in that sense it's more accessible. The use of adoption generally in the community has been declining. I think, of course, with inter-country adoption programs we see many of those countries closing down their programs and that is their choice. Through the changing social mores and availability of financial support for single parents there's very few infants relinquished for adoption throughout Australia, as you have pointed out. So if your intention is to draw some links between children in the child protection system who need long-term secure parenting arrangements and adopting, I think that is something that can be explored. One of the issues with adoption is that the effect of an adoption order is to obliterate the original birth records and so new birth records are issued as if that child were born the child of the adoptive parents. 30 40

COMMISSIONER: Yes.

MS ALLISON: So where you have a situation of a child whose own birth parents can never care for them again but there is a connection and a bond between that child and his or her parents, then that step of obliterating the original

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birth records is a very significant one and it reinvents history. Whether or not there can be an opportunity for something like an extension of the order that's currently called long-term guardianship to other which - I understand there's been some previous discussion of notions of calling it something like a permanent parenting order which in reality might not be - in legal effect might not be terribly different from long-term guardianship to other, but I think it would be an important perceptual difference for children and young people and their carers.

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COMMISSIONER: What about open adoption?

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MS ALLISON: I think open adoption is certainly something that shouldn't be ruled out, but again I go back to that effective obliteration of original birth records. There is a strong desire, as we know, from adoptees to find out their birth origins and regardless of how people enter that system I think that drive defines one's origins exist. So if by adoption you mean that there might be a possibility of an adoption order made but ongoing contact of whatever nature with birth parents, yes, that is a possibility.

COMMISSIONER: The last thing I wanted to deal at this stage with is something that's been bothering me and that is the number of substantiated emotional harm and neglect - the rate of substantiation of those two which added together gives you 77 per cent of your substantiations. The evidence I have is that they are both quite vague, indefinite terms about which there is not a lot of consensus even among experts. Coupled with the fact that we know that "harm" is defined in our legislation as an effect on a particular child as opposed to children in general, it seems that there's a risk there for simultaneous over-inclusion and under-inclusion, both of which are - not getting protection that you need is bad. Getting the protection you don't need is bad. So it seems to me to be a very tricky area. Even using the predictive tool which is a risk assessment rather than anything else - and it's actuarial so I'm not sure how much help it gives in identifying emotional harm which by definition is a significant detriment to wellbeing, emotional wellbeing. The evidence that I have received from the paediatricians is that what the system needs to do is identify children who aren't attached to their natural family early, before three preferably, and attach them to a new substitute psychological family as early as possible, on the one hand, and, on the other, not to remove children from a loved family on neglect or emotional-harm grounds unless you can say that you will do less emotional harm by removal and retention that you would if you left the child at home. Now, the risk of not getting children who need to be protected before three is very high because, as we discussed before, your opportunity to surveil the situation and see what level of risk of emotional harm a child under

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three is at is quite narrow. You rely essentially on a rapport. You can't, you know, peek in windows and through doors to see. On the other hand, there is a real risk, it seems to me, of over-including children based on emotional harm substantiations because of the definitional widening of the net. Can you help me with that by reference to your own experience? Is it a concern to you that so many of your substantiations are based on the hardest things to predict, the hardest risk to predict being neglect and emotional harm which aren't single-point-in-time events. They don't happen overnight like physical harm. They happen over months and years. So it seems to me that theoretically anyway that should be your smallest rather than your largest substantiation number.

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MS ALLISON: If we go to the question of emotional abuse first, I think certainly that is the least precise categorisation and probably the one about which I would express most concern in terms of the net-widening capability and bringing children and young people into the system for whom there are other possibilities. We all know of situations where some parents are not good nurturers but there are other persons in the child's life, grandparents, aunts, uncles, family friends, who can provide some positive support in the situation. Neglect is probably a little more amenable to definition. For example, I think some of our paediatrician colleagues would say in terms of children achieving certain - - -

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COMMISSIONER: Milestones.

MS ALLISON: - - - you know, height, weight, developmental milestones, et cetera, we can see some of that. I think there is an edge of concern there that we need to make sure when we're investigating that we're not requiring people to be optimal parents but adequate parents and that we're not imposing, you know, middle-class values on the range of families into whose lives we intrude. So neglect I think, as I said, is a bit more amenable to definition.

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COMMISSIONER: If your answer for neglect was state care, you have got to ask: what was the question? It would seem, because it takes time, you have got plenty of time to intervene less coercively and more supportively. That's the area I was thinking about, that more intrusive, more monitoring role of the department that was supportive and therapeutic in nature but aimed at avoiding the need for care for a neglected child. I think you touched on an important point that's often missed and that is that the legislation says that the primary responsibility for protecting children is with the family; not the parents, the family and maybe the emphasis on the family's responsibility has faded in recent years and there has been a shift of responsibility and expectation within the community onto government and away from families as the

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structures have changed and parenting skills have maybe slipped, because obviously parents today face challenges that parents in previous generations didn't. On the other hand, parents have more resources available to them to help them than their parents did. So I think perhaps there is an advantage in evidence based but also research-driven responses, differential responses, to the same problem based around recognising where the responsibility lies and trying to get those who have the primary responsibility to discharge it rather than the state stepping in too much to discharge it for them. Do you think that's something that might have evolved over years in your experience? There's more reliance on the public system now than there used to be.

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MS ALLISON: Yes, and to some extent it then becomes self-perpetuating because if there's an expectation for the state to step in to a very high level, an inevitable corollary of that, I think, is that a blame culture is created and that is that if something happens to a child, someone must be to blame.

COMMISSIONER: Someone got it wrong.

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MS ALLISON: Yes, someone got it wrong.

COMMISSIONER: But that seems to me to be the almost - that's your intractable problem, intervening just the right amount; not too much; not too little; not too early; not too late.

MS ALLISON: Yes.

COMMISSIONER: That's a very high expectation for society to impose on the public system which it then says the threshold for your intervention is tempered by respect for family privacy and parental autonomy and so it's very difficult then, it seems to me. The law is a blunt instrument for social control.

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MS ALLISON: It is.

COMMISSIONER: However, we're stuck with a situation where we need the law to at least control the statutory system which brings me to my final point with you, that is, when the 1990 act was passed and commenced in 2000, the expectation was that it would be only a small number of people who would be needing statutory protection, according to the explanatory notes anyway, and that the secondary system would be administered administratively by you and it didn't need any legal framework around it because it needed to be flexible and responsive and that sort of thing.

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MS ALLISON: Yes.

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COMMISSIONER: What do you say about that? Do you think there needs to be a bit more structure around the secondary system so that people know what it is; for example, it's defined, the services that it offers are as well known as the services on offer in the tertiary system and the department can - do you think there's room for identifying the framework in law or a policy document but allowing it to be administered by the chief executive, as is currently the case? See, it just seems to me at the moment nobody knows what the secondary system is; what services are available. The annual reports don't really identify them and you have got an ability within your department to shift money from front end to back end because your tertiary system is overloaded, but there doesn't seem to be much movement the other way, that your 2 billion is shifted backwards rather than your 800,000,000 in Child Safety being shifted forwards and yet that's the direction that all the experts say it should be going in. Would you like to comment on whether or not we need a little bit more structure around the secondary system?

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MS ALLISON: There are a number of points in that and if I don't get to them all, perhaps you can remind me. I think that, you know, right at the front end of the system we need to ask: why have we got 116,000-odd intakes a year, and if you look at the pattern over the year and the proportion of substantiated - of intakes become notifications are a declining proportion. So I think that we have the broadening of the net of mandates notifiers has had an intent of expanding that front-end of the system. In turn I think that has created a lot of noise. As I've talked to senior managers and practitioners in the department, what they say is that the level of activity in that intake area, you know, really then translates to the whole of the rest of the office and a busy intake area, a busy investigation and assessment area can really overshadow the activities of the rest of the office and in fact drive, you know, more activity into that area rather than some of the other work which might be typically undertaken in a child safety service centre, such as working with families for the safe return of their children; working with caregivers; making long-term plans the children in care who are unable to return to their parents. So I think in terms of that capacity to reinvest, certainly reducing that number of intakes is important. I think education is a part of that. I think the community may well have been over sensitised in some ways to think that anything other than optimal parenting is something that should be reported. Certainly I think statutory notifiers themselves have a range of duties at times which are not merely discharged by making a report. For example, a teacher who is concerned that child is continually - you know, is not attending school on a regular basis, is falling asleep in class when they do so, they never have lunch or anything to support themselves with, these are things that can and should in the first instance they dealt with in those systems.

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COMMISSIONER: And in fact there's not much you can do about that because it's not going to reach your threshold and if education passes it on to you is really passing it into a void because that's not your job, and it will become one of the 80 per cent that don't get investigated, don't get any support either, they get nothing. That seems to be just as bad or worse, so the small problem becomes a big one for us all. I suppose, would you agree that the risk aversion seems to be a shared trait these days and if you do get a notification your tendency is to investigate it just in case, it's better to be safe than sorry, because if the music stops you're the one holding the responsibility and the risk.

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MS ALLISON: Look, certainly at the end of the day there is very much a strong sense, you know, under this act I'm the one on whose shoulders the many functions fall. I'm very conscious of the fact that I'm a legal guardian many

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thousands of children in care across the state. So there is that sense that at the end of the day responsibility is sheeted home to me. I think that the point I was making, though, was really about there's a lot of things that should probably be dealt with on the spot by the people who are notifying, that we're having a bit of a go through these various pilots and trials that we're doing. I think in terms of section 14 of the act, the part that talks about "any other action that the chief executive deemed appropriate", there is already a head of power there to do that.

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COMMISSIONER: Yes. I was just wondering if it was underutilised, that's all.

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MS ALLISON: I think it is underutilised and I actually think some greater specificity about that would be useful. In terms of making it clearer what the secondary system is, I think that's useful. Having said that, there are many families across Queensland who every day access services that I would characterise as secondary but, you know, wouldn't want to deter them from doing so because it was seen as part of the statutory service system. So the family who's running a bit short because they've had coverage to pay and, you know, don't have enough for their rent or to buy food for the week and go to a charity, those parents are acting appropriately in a protective way to secure the well-being of their children. But I wouldn't want to deter people from seeking that support merely because they thought it would be characterised as being part of the child protection system.

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COMMISSIONER: Yes, I definitely understand that. It just seems to me that there needs to be if the law does expect the department to be providing preventative and early intervention services for a child protection purpose then you've got to do that.

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MS ALLISON: Yes.

COMMISSIONER: And the system has to be accountable for that, so, "That once there fulfils that function." Whereas at the moment it's a bit hard to know because it's easy to say, "Oh well, that the secondary service, it is provided by somebody else." But if you - from a policy point of view you'd want to be able to say, "That particular program has actually got a child protection benefit. We know that. We can track. We know that because we intervened at that point and gave that service, that we don't have to give another more costly or more intrusive service later on." There doesn't seem to me to be any economic evaluation of even HOF. I mean, we've got some qualitative evaluations of HOF, we can see some positive signs, but we don't know if HOF gives us the best value for money, do we, as compared with any rival option.

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MS ALLISON: I don't think we can make the comparative economic analyses at this stage. You know, on the face of it HOF is quite an expensive option. 1

COMMISSIONER: Yes.

MS ALLISON: And there's no doubt some of the emerging science from the evaluation are very encouraging, but, you know, it also requires - it's a service that by its nature, because it requires on a network are participating service agencies, your need a reasonable population size to have a HOF program or similar. So I don't want to put all our eggs in one basket either because it seems to me we've got to have a range of services that are just as capable of providing some support to families in Cape York communities. 10

COMMISSIONER: I know you haven't been there for very long, but what do you say to the proposition that really under the legislation the department is supposed to have been providing this prevention and early intervention services for 12 years and hasn't, and if it had been our tertiary system wouldn't be as overloaded as it is today. What would you say to that proposition? 20

MS ALLISON: In broad terms I would agree with that proposition. There's no doubt that the acceleration of the move towards tertiary end, I think has been part of the CMC report in 2004. And in my view it has created a culture in the department that is quite risk averse, so in terms of the risks that you point out of not including - of under-identifying and including children who need protection or over-identifying, I think we're more - the risk is greater in terms of over-identifying at the moment, and that's probably manifest most clearly in the huge number of children who have entered care and are in out-of-home care. 30

COMMISSIONER: And 40 per cent of them are indigenous.

MS ALLISON: Mm.

COMMISSIONER: I know I've said this before, so this is definitely my final question to you at the moment: what do you say to the viability of conducting an audit of the protective status of children currently in care and if their protective needs have changed since they went into care; and assuming that their emotional stability could be assured, that they go home or somewhere else? What do you say about the viability of that? 40

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MS ALLISON: Because of the sheer number of children we have in our system at the moment there's no doubt that that would be quite challenging for us and would take some time, however in thinking about doing that it seems to me that there are some children that you could think about prioritising within that. For example, one of the first cohort I would look at is the children who haven't been in care very long, less than six months. So I'd really be wanting to look at whether there was a possibility with additional support, additional intervention, some of those children could return home, because we're still at the - even though separation disrupts the parent-child bond, where it has been a shorter period of separation there may be some possibility of - - -

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COMMISSIONER: See, because the evidence I've heard and what I've been told say particularly in indigenous communities, that even though they've been separated from family for a long time, when they hit 18 they go home. So that means theoretically they could go home at 15 if they become more self-protective than they were when they went in.

MS ALLISON: I think that's true not only of indigenous young people but of some non-indigenous young people, and it was my second group that I was in fact going to mention to you of adolescents who are capable of articulating their own needs and able to act a bit more self-protectively, if you like, if they return home, but we do know there are a number of young people in our system who despite our view that home may be less than optimal continue to drift home. With some of those children I think they are at greater risk from absconding, periods of absconding from their placement, than they would be of return to the family home. So I certainly think that's something we need to explore.

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COMMISSIONER: I was going to ask you that, because the evidence I heard during the residential phase sort of suggested that, you know, they do book in and book out, and when you perform to your KPIs - I initially couldn't work out why you would judge - why you would measure beds per night, but having heard that I can understand, because they come in and out, book in and book out when they please. They're the costliest, from 15 to 18. It seems to me that that's the highest end of the cost, and again, bringing us back to the fundamental position is that the family has still got the primary responsibility.

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The public system is there as a safety net. It's not there to meet all needs of all children all the time. It's there to meet the protective needs of children when they have them and that's pretty much it, whereas what seems to have happened is that once children come in they tend to stay there and they're coming in in greater numbers and staying longer. All right, well, that was a very helpful

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discussion. Thank you very much. Now, Ms McMillan, I suppose you want to say something, do you? 1

MS McMILLAN: Thank you. I probably wouldn't mind, Mr Commissioner. You were asked some time back, Ms Allison, about ideas of, for instance, parents needing to meet say milestones in terms of attending counselling and how that might be brought about. That facility already exists, doesn't it, for instance, the intervention with parental agreement, or IPAs, as they're known?

MS ALLISON: Yes. 10

MS McMILLAN: I see Mr Swan nodding vigorously. In the discussion paper at page 28 there is a graph there that depicts in yellow what we might term the IPAs. It's noted in 2011 there were roughly 1900 IPAs as opposed to, in rough terms, 4000 long-term orders and roughly 4000 short-term orders. In the 2012 year there were 2000, roughly, IPAs and again fairly constant, slightly increased numbers of long-term orders. Now, the discussion paper, the last paragraph, reads, "The commission is not aware of the reasons for the limited use of intervention with parental agreement, however it would appear that the less coercive orders are generally decreasing across the board." Clearly IPAs are of a variety of less coercive orders. Are either of you able to assist why it appears that they are of limited use? 20

MR SWAN: Yes, certainly we've tried to have a focus on increasing the number of intervention with parental agreement arrangements that are in place.

MS McMILLAN: Yes.

MR SWAN: For a successful intervention with parental agreement there needs to be both a case worker working with the family but also that family linked in with the family intervention services that the commissioner mentioned before. So to some extent sometimes that capacity within that family intervention services could limit the numbers of families that could go on to interventions with parental agreement for that to be successful. 30

MS McMILLAN: So in other words, it might be the lack of availability of the services that might dictate the availability of offering the IPA. 40

MR SWAN: That could be one reason, and a concern by our staff members that enter into an intervention with parental agreement when they know there isn't the family support service there to work with that family and meet the case plan goals.

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MS McMILLAN: Right, and also, I suppose, the overarching concern may be that that might not be a sufficient safeguard to address the risk factors that you've identified. 1

MS ALLISON: Yes.

MS McMILLAN: Correct?

MR SWAN: That's right.

MS McMILLAN: Yes, all right. Of course, you'd be aware that there has been criticisms raised that IPAs, of course, don't have the supervision, if you like, or oversight of a court, for instance. Correct? That is one criticism that's been made. 10

MR SWAN: We've heard that, yes.

MS ALLISON: Yes.

MS McMILLAN: Yes, all right. Now, can I - sorry, yes, Mr Swan? 20

MR SWAN: I suppose it is, though - for the intervention like that to be successful it is one that the parents need to engage and actively, willingly engage in that to meet the case plan goals, otherwise it won't be successful. I'm not quite sure a coercive intervention of that nature would want them to willingly participate. It would mean - - -

MS McMILLAN: Perhaps is what you say that if it was court approved or supervised you're going to that next level of coercion.

MR SWAN: Yes. 30

MS McMILLAN: So what you're saying is you try to keep it below that level of coerciveness by using that method.

MR SWAN: That's right.

MS McMILLAN: Right, okay.

COMMISSIONER: They're voluntary, though, aren't they?

MR SWAN: It's still a child that's been substantiated in need of protection. 40

COMMISSIONER: Yes.

MR SWAN: So there is a bit of a - I was going to say coercion of the parents, in that if they don't participate willingly then the next step for us would be to review that case and possibly the child would end up in care.

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COMMISSIONER: That's right, but ultimately they can pull out of it. 1

MR SWAN: They can, and then - - -

MS ALLISON: They can.

COMMISSIONER: But they can pay the price if they do.

MR SWAN: That's right.

MS McMILLAN: But you - I'm sorry, Mr Commissioner. But you actually haven't embarked on a full investigation, have you, before you do the - - - 10

MR SWAN: Yes, we have.

MS McMILLAN: Do you, because - - -

MR SWAN: Yes, they're substantiated.

COMMISSIONER: It's substantiated.

MR SWAN: A child in need of protection. 20

MS McMILLAN: You've substantiated harm but you haven't necessarily completed your investigation, have you?

MR SWAN: No, we've completed an investigation.

MS McMILLAN: You have? And then you proceed.

MR SWAN: In the conclusion of that investigation it's deemed that the child could be safe living at home if there were certain actions taken or support provided. 30

MS McMILLAN: Yes, all right. Now, can I just ask you, perhaps, Mr Swan, to go to the figures in your statement that you provided yesterday? I'll take you to paragraph 15, table 3, if you have that there, on page 4. Now, if I can just go down the activities. AG01, you've agreed with the commissioner, is what we would term as intake. AG02 and 02, they would be termed as secondary services, would they not?

MR SWAN: AG02 would be the secondary services such as the referral for active intervention, the Helping out Families services and some targeted specialist family support services, yes. 40

MS McMILLAN: Yes, okay. AG03, would that be Evolve?

MR SWAN: AG03 is usually our family intervention services.

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MS McMILLAN: So is that still secondary or is that more towards the tertiary? 1

MR SWAN: It's what we'd be using in an intervention with parental agreement, yes.

MS McMILLAN: Say an IPA.

MR SWAN: Yes.

MS McMILLAN: So AG04, where would you term that? That's entering the tertiary area, isn't it? 10

MR SWAN: That's predominantly investigation and assessment.

MS McMILLAN: Yes, so tertiary, I would take it.

MR SWAN: Yes.

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MS McMILLAN: AGO5 - clearly one would think that must be tertiary. 1

MR SWAN: That's tertiary, yes.

MS McMILLAN: Clearly AGO6 must be tertiary, seeking an order.

MR SWAN: Seek an order, yes.

MS McMILLAN: Yes, provision of protective intervention and support in combination on an order - that must be tertiary as well. 10

MR SWAN: Yes.

MS McMILLAN: And provision of out-of-home care services - that's clearly tertiary as well. Can I then just take you to paragraph 16? So that's for that budget for 2011-12, 792,000,000. Now, the total expenses you say in your annual report 753,000,000, less the expenditure for adoption services, "Inclusion of the following secondary services managed by the broader department via non-government organisations totalling 45,000,000." Now, that 45,000,000 is included in that 792,000,000 figure. 20

MR SWAN: That's correct.

MS McMILLAN: And that would include, I take it, RAI, HOF and Evolve, would it?

MR SWAN: No, the 45 doesn't include RAI - Evolve. It includes RAI, HOF and targeted family support services.

MS McMILLAN: All right. So am I right if I add AGO2 and AGO3, that adds up to about 11.4 per cent of your budget or your ROG for that 2011-12 year is made up of those, if you like, secondary services? 30

MR SWAN: Yes.

MS McMILLAN: All right. Just pausing there, if I take you, please, to further in your statement at paragraph 36 on page 9, you say, "National partnership agreements that have an impact on the Department of Communities, Child Safety and Disability Services budget include the national disability agreement and the national partnership agreement on homelessness." Now, just so I understand, is that part of the framework that we understand, the national child protection framework? 40

MR SWAN: No.

MS McMILLAN: Is that something different? Perhaps either one of you can answer.

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MR SWAN: The point that we were making in response to question 8 in that summons was that the department has a larger budget of 2 point something billion dollars and the question was about: can any of that be shifted into Child Safety Services?

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MS McMILLAN: Yes.

MR SWAN: What we were saying here is that there are other constraints on the department such as the national disability agreement - - -

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MS McMILLAN: I understand.

MR SWAN: - - - and the national partnership agreement on homelessness that tie up some of those dollars for those specific purposes.

MS McMILLAN: So you say, in effect, you're not able to necessarily shift around of your own volition funding because you're tied to some extent by some national partnership issues.

MS ALLISON: Correct.

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MS McMILLAN: All right, thank you. So just in terms then of that 11.4 per cent, does that accurately reflect of your overall ROG's, as they're termed? Is that, in effect, a fair assessment of the investment for that financial year by the department in secondary services?

MR SWAN: Yes.

MS McMILLAN: Right. The commissioner took you through and I won't obviously repeat but - and for those who wish to refer to it, it's in the discussion paper from page 38 - we know the Forde Inquiry looked at obviously the issues of increasing the budget of the department. There was a boost in funding, we know, and I think, Mr Swan, you were around perhaps in those earlier days when that funding increased, then there was a CMC 2004 report and there was, if you like, the bifurcation of funding between the more tertiary end of funding for the Department of Child Safety and the more preventative aspects that were to be devoted to the Department of Communities' ambit. Does that accord with each of your - - -

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MR SWAN: Yes, I think in one of my statements the question was asked about the amount of money provided following the Forde Inquiry which referenced 118,000,000.

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MS McMILLAN: Yes.

MR SWAN: I think the Forde Inquiry mentioned that it needed to be 118,000,000 per annum.

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MS McMILLAN: Yes. 1

MR SWAN: But what had been provided was 118,000,000 over four years.

MS McMILLAN: Yes.

MR SWAN: So that was qualified in one of the statements that I have provided.

MS McMILLAN: Yes. The discussion paper records it as 103,000,000 so let's call it thereabouts 100,000,000, then the CMC records - and this is page 39 of the discussion paper - the investment in tertiary child protection has increased from 314.9 million in 2004-5 to 735.5 million in 2011-12 and the commensurate figures of 306,000,000 allocated to child protection, 396 million for out-of-home care and 333 million for intensive family support. Now, comment is further made in terms of Queensland still lagging behind several other states in terms of funding. Now, we know that - and correct me if I'm wrong - Evolve commenced in about 2005. Is that correct? 10

MR SWAN: About that time, yes. 20

MS McMILLAN: All right. RAI was about 2004.

MR SWAN: I think around four, five. It was certainly post-CMC.

COMMISSIONER: I thought it was 2006-7.

MR SWAN: It might have been slightly later than that.

MS McMILLAN: Right. HOF was 2009. 30

MR SWAN: 2010.

MS McMILLAN: 2010, right.

MR SWAN: 2010.

MS McMILLAN: So even with those more recent initiatives we still see that only about 11 per cent of your overall budget is still being utilised towards secondary services. What is it then - perhaps each of you could comment on this - that is driving then what might be seen as still a comparatively low figure being devoted towards secondary services? 40

MS ALLISON: Look, the one comment that I would make is that 11 per cent in terms of the total budget is clearly right in terms of specific family support-type services, but I would make the point I made earlier about there would be a range of other services provided and funded by the

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department that families access from neighbourhood centres, from charities providing emergency relief to domestic violence services. They have a broad functionality in the secondary system. 1

COMMISSIONER: Sorry, Ms Allison, but I think 11 per cent is too high. I thought that in 2011-2012 the department allocated \$75.6 million to what it calls family support services and of that \$20,000,000 was at tertiary level and only 55.8 could be characterised as secondary services.

MR SWAN: That's right. 10

COMMISSIONER: 55.8 would be 7 per cent, not 11 per cent.

MR SWAN: Yes, and the 7 per cent in that is the - AGO2 is the secondary services and the AGO3 is family intervention services which are for families and children on interventions with parental agreement.

COMMISSIONER: Yes, but that's a tertiary service, not a secondary one.

MS McMILLAN: All right. So if 11 per cent is too high, then there's obviously even less devoted to secondary. So even accepting your point, Ms Allison, that there are other services which, as you say, offer in a broader context perhaps domestic violence and - - - 20

MS ALLISON: I don't dispute the broader point you're making, Ms McMillan.

MS McMILLAN: Yes. What would you say about what is driving, if you like, that sort of figure? Is it because you obviously have a certain budget and you have so many, for instance, children in out-of-home care that that sucks up a certain amount of your money and that's what you've got left over or what is the driver as you see it for being able to devote that sort of expenditure to secondary services? 30

MS ALLISON: I think that one of the primary recommendations of the CMC report was, as you point out, to create a separate department for child safety.

MS McMILLAN: Yes.

MS ALLISON: The establishment of separate departments comes with enormous cost beyond the cost of establishing those two departments which was the Department of Communities and Department of Child Safety which really had virtually exclusively a tertiary focus and was responsible for that end. You then have the additional costs of coordination across other areas and indeed the process of 40

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engaging another department in some of the work and responsibilities of your department, but the whole CMC report which was initiated, of course, by a concern for the safety and wellbeing of young people in care then really shone a spotlight on that system. I believe that the focus has been very much on that system every system. I think it has driven necessary investment into that area, but not at the same rate to provide a balanced system overall.

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MS McMILLAN: Although since 2009 we know that there has been a change or perhaps a different identity, if you like, of the department, hasn't it? 1

MS ALLISON: Yes.

MS McMILLAN: It's now - - -

MS ALLISON: It's regionalised, yes.

MS McMILLAN: - - - conglomerated back. So if that be the case the expenditure of a different department standing apart has gone so we're three - arguably three budget years on from that. 10

MS ALLISON: Yes.

MS McMILLAN: Does that still explain why there is still comparatively little expenditure in the secondary services?

MS ALLISON: No, not entirely, but I made that point to indicate why there was such a marked investment in the tertiary area. And of course the downstream consequences of those decisions to take young people into care can be - you know, you can have effectively and 18-year lag time then, if an infant ends up in long-term care. So the effect of some of those decisions takes some time to deal with. You know, we've seen a very, very high number of children and young people entering care, on the face of it of which appear disproportionately high compared to some of the other Australian jurisdictions. Certainly the system has been driven, I think, by very high public expectations about the safety of children in our community. And I think an expectation that if there is a risk, that we default to the side of, you know, mitigating that risk to the greatest possible extent. 20 30

MS McMILLAN: All right. Mr Swan, do you want to comment at all in relation to that issue?

MR SWAN: Certainly I think I commented when I first gave evidence about the work that we've had done in looking at what had happened since the CMC and the work that we did which really said that there had been a significant focus and the tertiary and identified the need to try and reorient at that stage, which has then led to the work that we did around Helping out Families to try and shift that balance. 40

MS McMILLAN: All right. Now - - -

COMMISSIONER: Would either of you like a break?

MS McMILLAN: I'm fine, thanks, Commissioner. I'm happy to continue.

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COMMISSIONER: The witnesses I was thinking of. 1

MS McMILLAN: Yes, sorry. Did you wish to have - - -

MS ALLISON: No, I'm fine, thank you.

COMMISSIONER: They're right.

MS McMILLAN: Thank you. I wanted to move on to a different topic in relation to workforce issues, if I could.

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MS ALLISON: Mm'hm.

MS McMILLAN: You would have read - well, I should say firstly, Mr Swan, you gave evidence in your initial statement and you were cross-examined about workforce issues, as you may recall, and you would have seen there's been subsequent evidence given by, for instance, people such as Prof Lonne about the expansion of the qualification for child safety officers and the desirability, for instance, in his view that they should have social work qualification. Now, can I ask you first, Ms Allison, is it your view, should child safety officers be required to hold tertiary qualifications in social work, preferably as a first tier, if I can put it this way; or are you of the view that it should be still at wider ambit, if you like, to include qualifications such as psychology and human services?

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MS ALLISON: I think that in a state like Queensland where there are recruitment challenges across different parts of it, it's probably not feasible to resile completely from having that broader set of qualifications. However - and I clearly declare my own bias here as a - given my first degree was in social work - I do think some of those - a narrower set of qualifications; social work, psychology, human services, community services, some of those core degrees which are much more central to the work we do - much more relevant - are preferred. So having the choice of two candidates, one with, say, a degree in criminal justice and one in social work, all other things being equal, I'd go for the candidate with the social work qualification.

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McMILLAN: All right. Mr Swan, I'll only ask you to comment if you wish to add, because we've already heard your views earlier in time. Ms Allison, is it your view that there should be an alternative vocational education and training pathway for Aboriginal and Torres Strait Islander workers to progress towards a child safety officer role to increase the number, obviously, of ATSI child safety officers in the workforce?

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MS ALLISON: I think that we need a number of strategies to increase the number of indigenous staff in our workforce. The thought of a VET qualification is certainly one. It's cadetship pathways. Equally I think there is an argument to look at scholarships so that we support people to undertake relevant degrees and come to work with the department for a period after that. 1

MS McMILLAN: Okay.

MS ALLISON: So I think that is certainly critical. It is equally critical, however, I think, to support indigenous people in specific family support roles external to the department as well. Clearly it is a very challenging history. We're all aware of the stolen generation and there are many indigenous people who would be much more likely to seek help and support if it was offered by an agency perceived to be outside the formal system. 10

MS McMILLAN: So do you mean by that workers, for instance, employed by non-government organisations, for instance?

MS ALLISON: Correct, yes. 20

MS McMILLAN: I understand there are a number of Aboriginal and Torres Strait Islander workers who are employed as liaison officers - - -

MS ALLISON: Yes.

MS McMILLAN: - - - is that correct? Within the department? Is it your view that that's been a successful initiative of the department?

MS ALLISON: They're actually called child safety support officers. 30

MS McMILLAN: Sorry, that's my mistake, yes.

MS ALLISON: And they will have a - child safety support officers are a generic rather than identified classification, so that there are non-indigenous staff employed in those roles as well.

MS McMILLAN: Yes.

MS ALLISON: And they would be roles that would assist families with some of more practical activities. 40

MS McMILLAN: All right, thank you.

MS ALLISON: But there is at least one identified position in every child safety centre.

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MS McMILLAN: All right. Is there greater than one in areas where there is a higher percentage of Aboriginal and Torres Strait Islander people living there? 1

MS ALLISON: I don't have that information with me.

MS McMILLAN: All right.

MS ALLISON: I can certainly establish that.

MS McMILLAN: Thank you. What other initiatives? You've said that obviously a vocational pathway, scholarships. What other initiatives would you see as possibly being useful to explore in terms of increasing numbers of Aboriginal and Torres Strait Islander workers within the department? 10

MS ALLISON: I think that they're the main strategies that I would see. And as I indicated earlier, a key part of my strategy would be to strengthen the non-government indigenous service response significantly. I do believe it can at times be very challenging for some of our indigenous staff to work in an agency that is seen to be responsible - and that indeed is responsible for the removal of a large number of Aboriginal and Islander children. 20

MS McMILLAN: Now, in terms of issues of training, in terms of your understanding, for those entering the department there are - is it correct - five modules that they undergo over a period of time training. Is that correct?

MS ALLISON: There are certainly a child - I'm not aware of the number of modules. There's certainly a course.

MS McMILLAN: Mr Swan might be able to assist. 30

MR SWAN: Certainly an entry-level training for all child safety officers that has in the past resulted in a vocational graduate - vocational certificate level IV, but the process is that that's currently being looked at at the moment with a view to - I think we've provided in the statement - in terms of regionalising that training back to the local level. 40

MS McMILLAN: You're looking at regionalising that back to the level. 1

MR SWAN: Yes.

MS McMILLAN: Is it your understanding that there is training available at each level within the department so that it's available, for instance, for team leaders, correct, and for managers?

MR SWAN: There's various types of training that has been available from time to time. 10

MS McMILLAN: To your knowledge, is it taken up within the department?

MR SWAN: Certainly when the training is available it's certainly taken up, yes, and that's both face to face availability but also a number of modules that are now online.

MS McMILLAN: Mr Dagley, who is a director, workforce capability, human resources and ethical standards, corporate and executive services, within the department, has provided a statement in response to an information summons. Do you have a copy of that statement with you with certain attachments? 20

MR SWAN: I haven't got the - - -

MS McMILLAN: I'll give you a copy, if you wish. That might be - - -

MR SWAN: I've got the statement, yes.

MS McMILLAN: Do you have attachments to it? 30

MR SWAN: I don't have all of them.

MS McMILLAN: I'll provide you with - - -

MR SWAN: I don't have all 11 attachments, no.

MS McMILLAN: Right. Commissioner, do you have one, a copy of that? I'll pass one up to you as well.

COMMISSIONER: Thank you. 40

MS McMILLAN: Mr Swan, is it correct that Mr Dagley would be the person who would be the correct officer within the department with these figures for training?

MR SWAN: Yes.

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MS McMILLAN: All right. Now, if you just look at the open page there, on the page before it's recorded that these are the training programs and participant numbers 2009 to 2013 for the department. If we look down to child safety officer entry level training program we've got, for instance, 2009-10, 20 programs, 212 participants.

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MS ALLISON: I'm sorry, Ms McMillan, can we just clarify what page?

MS McMILLAN: This is the annexure.

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MR SWAN: Annexure.

MS ALLISON: Yes, okay.

MS McMILLAN: It's attachment 1A. I handed it open to Mr Swan.

MS ALLISON: Yes, thank you.

MR SWAN: Yes, thanks.

MS McMILLAN: Just having a look at those tables there, if you look at the first table, child safety officer entry level training program, looking at the financial years, in 2009-10 there were 20 programs, 212 participants. Now, this is the module, as I understand, where there are five components to it, Mr Swan.

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MR SWAN: Yes.

MS McMILLAN: As I understand, there is, to be fair, some lack of clarity about it because it takes place over an extended period of time. Is that correct?

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MR SWAN: It can take 12 to 18 months to complete, yes.

MS McMILLAN: Yes, all right, but if you look towards - for the 2012-2013 year - now, I accept that this was until the end of October last year - there were four programs and 24 participants. We don't know the number of new employees within the department but what does that indicate? The number of programs in the prior years seem to have been reasonably consistent, with the number of attendees reasonably consistent. There seems to have been somewhat of a drop-off in this last year. Does that indicate anything to you?

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MR SWAN: No, it's certainly - like, it was a little bit over a quarter of the year. There would probably be then, you know, slightly fewer than the 18 programs, but these programs are only run based on the numbers of new officers that are required to go through training as well. So it

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could be a combination of few numbers of programs but also lower turnover at that particular point in time.

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MS McMILLAN: All right. Interviewing children and recording evidence training program, is this what's known as the ICARE training program?

MS ALLISON: Yes.

MS McMILLAN: Yes. We see that there's been one program with 10 participants in the last year. At its highest point in 2009-10 there were 12 programs with 76 participants. Now, this is a program that the Queensland police force also attended. Correct?

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MR SWAN: Yes.

MS McMILLAN: You may recall that in Mount Isa Detective Harvey gave evidence, paragraph 32 of her statement, Mr Commissioner, that, "While members of the CPIU receive ICARE and child protection training as soon as possible when they commence in the CPIU, it is apparent that there are few trained child safety officers in Mount Isa. Whilst child safety may find training difficult due to remoteness and high turnover of staff, QPS also experience the same issues but maintain a high standard in the training arena, ensuring officer skill-sets are specific to the duties they perform."

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Now, just pausing there, in fact, Detective Harvey in her oral evidence said that she in fact had attended for a second time just recently prior to that time. That was her evidence, certainly, there, and it appears that the numbers of officers attending ICARE doesn't seem to be particularly high for the years preceding 2012-13. It would seem to be a fairly essential element of child safety officer training to be skilled in the area of interviewing children, wouldn't it?

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MR SWAN: Certainly for the proportion of our workforce that are under the investigation and assessment component of the workforce at the moment, which isn't the total workforce, it's only a proportion of the workforce.

MS McMILLAN: Yes, I understand that, but naturally one would expect that even if they're not working in that particular area and understanding of interviewing children, for instance, would be an important component of their skills, wouldn't it?

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MR SWAN: It certainly could be, yes.

MS McMILLAN: But even if just that number who are working in that particular area, these don't look particularly promising figures, do they, in terms of attendees?

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MR SWAN: Look, I think the numbers of attendees fluctuates from time to time. As this shows, the programs are available. Certainly when the programs are run there are a number of places that are available for child safety officers to attend and we would encourage officers to attend.

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MS McMILLAN: The figures I particularly, though, want to take you to are the leadership training programs. You'll see that at 2011-12 and 2012-13 for the next three programs that involve leadership training, other than the corporate program there are no attendees, no programs and no participants in those years. Are you able to explain that at all, Mr Swan?

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MR SWAN: It certainly was a particular focus at the point in time of the former Department of Communities around leadership training across the board and not just the child safety officers but for the broader department and those programs have not been running over the more recent times, although there are some online modules available for staff at the moment.

MS McMILLAN: Well, given one would expect, I imagine - Ms Allison, if I can ask you this - that ongoing training, particularly, one would think, at a managerial level, is a very important issue, were you aware of these types of figures?

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MS ALLISON: I was certainly aware that we had a very constrained budget for training and development and so within that the focus, you know, is of course more on the statutory range of functions, however clearly training and leadership, management, supervisory skills, are all critical skills.

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MS McMILLAN: All right. I should say, in fairness, over the page, training for managers, there was manager training in 2011-12. There were participants of 15 in six programs. Can either of you assist how that sits with the other programs on the page I've just taken you to?

MS ALLISON: I'm unable to assist on that now.

MS McMILLAN: All right, thank you, but clearly that's an issue, one would think, of some concern, to be able to provide appropriate training for those particularly in managerial positions and leadership positions within the department.

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MS ALLISON: Yes, it is.

MS McMILLAN: Particularly if you're looking at retaining and supporting frontline staff, one would think.

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MS ALLISON: It is.

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MS McMILLAN: Can I ask you to comment, Ms Allison, and perhaps also Mr Swan, would the introduction of regional back-filling teams be effective in reducing workload demands on child safety officers? If not, what other alternatives should be considered?

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MS ALLISON: I don't know - my answer is that that would be suitable in some parts of the state and perhaps less so in others. In areas like our - some of the regions which cover large areas of the state it is a special kind of person who would choose to spend, you know, six weeks in Mount Isa, six weeks in Townsville and six weeks in Mackay, for example. So I don't know that as job design it is particularly the way to go. I think that certainly we have a number of child safety officers in a team. You can have a person who rotates throughout that office to backfill positions as people take leave. I'm talking about ordinary recreation leave here. Clearly, given we have a highly feminised workforce, we have a lot of staff taking maternity leave and the like and that's an entirely separate issue and they are much more attractive opportunities to fill given that you're generally talking anywhere between six months and 12 months that we have opportunities available for people to backfill.

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MS McMILLAN: Yes.

MS ALLISON: So in terms of - I think that the regional backfilling teams are one strategy that can be used. There are other strategies that have been tried; not explicitly in that way but, for example, we've had teams that have gone around helping to assist with reducing backlogs within investigation and association matters and, of course, that's one of the most concerning consequences of people taking leave when there's no-one to backfill and some of those matters back up. So I think there are a range of strategies that we can look at, of which that would be one.

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MS McMILLAN: Okay. Mr Swan, do you have anything to add?

MR SWAN: It's certainly one that we have discussed with regional staff from time to time and it comes back to the dilemma if you had an additional 20, 30 or 50 staff, whatever numbers you had in your backlog, should you keep them separate to be in the backlog team or are they better off being placed within Child Safety Service Centres and reducing the caseload overall. Certainly the discussions that we have had more recently with regional directors has been about the preference that they be allocated directly to frontline and it should be the manager's responsibility, as the director-general has pointed out then, in terms of managing that workload at a service-centre level.

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MS McMILLAN: Right. I imagine too that they would have, if you like, a greater commitment to that particular office if they're already within that regional office rather than someone who comes in for a couple of weeks.

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MR SWAN: Yes.

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MS McMILLAN: In essence - and I mean nothing deleterious by this - rather than a locum, if you like, that just comes in for a couple of weeks to fill in and who perhaps wouldn't have any particular personal relationships with other workers or indeed any other support services that operate in the local community.

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MS ALLISON: Indeed, they know the staff, they understand the area and some of the imperatives.

MS McMILLAN: Now, in terms of improving support for staff working with clients and communities with complex needs obviously there has been quite a body of evidence about the pressures that operate upon particularly the frontline staff, however you want to define "frontline". Some suggestions that were made - for instance, a solicitor by the name of Ms Perren in Rockhampton made the suggestion that one idea would be that some of the newer child safety officers be put in to look at the long-term guardianship orders where they're not making critical, very urgent decisions such as maybe removal of a newborn baby or, indeed, short-term assessment orders or things of what we might call pointy-end decisions and therefore give them some time, if you like, to come to grips with their role and come to grips with being within the department. Has that sort of thing been trialled and what do you think of that sort of suggestion?

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MS ALLISON: I think that some of those discussions have certainly been held at management level. I suppose, having had the opportunity through what's been a fairly long career to look at a range of service systems, I think that point of entry to the system, wherever it is, is critical and having officers with some experience is highly valuable there. For example, when I worked at Legal Aid Queensland, the new solicitors in fact instructed on higher court trials and our more experienced officers were on their feet in the Magistrates Court every day doing advocacy and those newer lawyers would learn the advocacy skills from watching very experienced advocates on their feet in those higher court proceedings.

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MS McMILLAN: Yes.

MS ALLISON: So I think you can draw some analogies across a range of service systems given that the Magistrates Court, you know, is very much the front end of the criminal justice system.

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MS McMILLAN: Yes.

MS ALLISON: It's the same with officers who work in Children's Courts. It pays to have people who are very experienced there because it is such a critical turning

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point in the life of a child and family about whether they enter the formal system. 1

MS McMILLAN: Yes.

MS ALLISON: So I don't think that you can draw hard and fast rules, on the other hand, that, you know, if you're an officer of less than so many years' experience, you can't do any of that work. I think people need to learn some of those critical intervention skills. As you'd be aware, we have a graduated entry for our officers into the workforce and until they do those first couple of modules of work, they don't - they aren't allocated a caseload. They would be doing work with other people and going out to other matters. 10

MS McMILLAN: Obviously one can't have hard and fast rules in a real world because things don't operate in that way.

MS ALLISON: No.

MS McMILLAN: But when there appears to be issues of training being completed so that if you're not getting the basic training completed necessarily on time, then how does one ensure that these junior child safety officers are being adequately supported because that seems to have been a fairly consistent theme that child safety officers don't feel supported, feel very vulnerable and they're obviously in a very complex often situation where they undoubtedly feel under a great deal of pressure and fairly exposed? 20

MS ALLISON: I think one of the issues that came back to me very clearly from reading the discussion paper - and it was really the first opportunity I'd had to be aware of some of the responses that you had had to the survey put out by the commission - was the sense of staff not feeling supported through professional supervision and that is of great concern to me. 30

MS McMILLAN: Yes.

MS ALLISON: Whatever might be provided through formal courses, I absolutely believe that it is fundamental, particularly for new practitioners, that they need to have regular supervision which is not merely about workload allocation and what's progressing with various cases but is talking about a range of things, including their own responses to various matters, how they are coping with the stress of the content of the work that they are dealing with, and this isn't something that just should occur on a regular and planned basis, though it should also, but, you know, I think back to my own days as a young social worker and before I went out on home visits to families my supervisor would check in with me about what were my goals 40

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for that visit, what did I hope to achieve, what was I looking for, what were the options I'd be talking to the family about, so I had a very clear idea before I went out as to what I was doing and that was in addition to the more formal weekly supervision sessions. I think we have a sense from some of the officers who've responded to the survey that supervision is something that is being at times swept aside, if I can say that, for sort of greater operational emergencies and I do believe that's something that we need to respond to very quickly.

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MS McMILLAN: All right. So it was really through reading the discussion paper that you became aware of those views that these workers are not feeling supported.

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MS ALLISON: It wasn't the only source, but to read comments that were actually in their words was very useful for me to clarify what shape that feeling of lack of support took and it certainly sharpened the focus for me about what we now need to do.

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MS McMILLAN: All right. What about you, Mr Swan? I take it you have read the discussion paper as well. Were you aware of those concerns of workers and the feeling of not being supported? 1

MR SWAN: Yes, it's certainly an issue that's come out in a number of - before Margaret Allison's time in the DG's position, going back into the former department there were exit interviews that were undertaken and the compilation of that information. Certainly one of the issues for the staff turnover has been workers' feeling of lack of supervision and lack of career path were some of the steps that we did put in place at that time to try and work through some of those issues. 10

MS McMILLAN: In terms also of the workforce issues, is it the case also that the risk-averse culture plays a part in how the workers perceive their roles. And I mean by that that they do feel vulnerable and very much subject to public and media scrutiny. Would you both agree with that?

MS ALLISON: I certainly agree with that. And in terms of the previous question about lack of support, certainly in the discussions I've had with child safety staff one of the central themes that emerges for them is a concern that if they are involved with a family through investigation and something happens to a child in the family, that they will be held personally and legally accountable. We have seen - we've had examples even going back over the last six months of officers of the department giving evidence in matters and being on the front page of regional newspapers, being photographed and identified, and people are very concerned and distressed about that. 20

MS McMILLAN: And I wanted to ask you particularly about that, Ms Allison, I don't know if you're aware of the submission by Dr Cashmore, Prof Scott and Commissioner Culver to the special commission of inquiry into child protection services in New South Wales, March 2008. Part of it related to looking at, if you like, the perception of child protection agencies and looked at media coverage of child abuse and they raised, of course: 30

Issues that child abuse and neglect is a complex social problem and given its problematic measurement and definition, its multiplicity of causes, and potential for well-intentioned statutory intervention in the lives of children and families to harm as well is to help. 40

I imagine neither of you would argue with that proposition.

MS ALLISON: No.

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MS McMILLAN: They then go on to say: 1

Media coverage of child protection is a double-edged sword. It is increased community awareness of child abuse and neglect that at times led to greater resources being allocated to child protection services. At the same time this led to the politicisation of child protection and the adoption of policies which are not based on evidence.

Would you agree with that proposition in general terms? 10

MS ALLISON: I don't know that I would - I don't know that I'm in a position to categorically agree or disagree with that statement.

MS McMILLAN: All right. They then go on - which is particularly what I want to put to you:

It has contributed also to creating a defensive and fearful climate where some services and professions are reluctant to work with vulnerable children and their families, seeing their responsibilities as limited to reporting to DOCS. 20

And perhaps, Ms Allison, that's what you were talking about before when you talked about professionals such as teachers looking at discharging their obligations to reporting to the department:

Mass media coverage struggles to convey the complexity and inherent dilemmas in child protection decision-making.

I think that's probably unarguable: 30

This can leave those working in the field feeling scapegoated and denigrated, and may be one factor driving well qualified and experienced professional staff from the field.

What would you say about that?

MS ALLISON: Look, I think that it can be certainly one factor. It is - the kind of work is very complex and challenging work. It is gruelling work at times. It is thankless work. You would not find an officer who had not had the experience of being roundly and soundly abused by people. I think back to my own experience many years ago when it wasn't nearly as politicised. You know, I've had dogs set on me, I've been pushed downstairs by angry people. There is a level of risk in this work. We send people out into the homes of people who will be in most cases extremely upset and angry by allegations that the 40

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care of their child is deficient in some way and that anger is expressed to the officers in front of them. 1

MS McMILLAN: I was going to ask you about that. Has the department considered part of what might be seen as addressing the morale - if I can put it that way - within the department is a more positive public education initiative, such as that this is an inherently risky endeavour, that the outcomes will not always be positive because your department is usually only intervening when there is a substantial risk of some type. There is not always going to be a good outcome. And for an example, the police often have to front the media where there's not always been a good outcome and explain the reason why. Now, clearly a counter to that is doubt say, "We've got confidentiality issues." But no doubt explanations could be given without going into the specifics of the case. I'm just interested, has that been considered within the department? 10

MS ALLISON: I certainly think at times that the confidentiality provisions of the act are both a shield and a sword. 20

MS McMILLAN: Yes.

MS ALLISON: And I think that there is a case in some circumstances to set the record straight in some sense, and I think we have to be very careful about that. I think it is important, you know, when we are intruding into the lives of families, even with very good reason, that there is some protection around the identity of those people. But I do think sometimes where there are matters introduced by the media in a particular way, that there should be an opportunity to set the record straight. As the submission - the Cashmore submission that you were referring to earlier - points out, is very complex and I think that we have seen other campaigns and that complex social masses take many years to mature. So, you know, I do think it's something that could be embarked upon, but no short fix. 30

MS McMILLAN: No. And indeed, the confidentiality provisions, you would no doubt be aware that there has been a degree of agitation - both throughout submissions to the inquiry and indeed correspondence in the media and social media - about the inability of families who'd been involved with the department and their inability to speak publicly about it because of course their children have been the subject of orders, and their frustration about being unable to speak about that. One could understand their frustration in being unable to do so; whereas on the other hand if they'd been charged with a criminal offence they would be able to freely speak about it. 40

MS ALLISON: Mm.

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MS McMILLAN: That's something I imagine you would be well  
able to understand why they feel frustrated about that  
situation. Also there's been at least one decision of the  
ombudsman where a young person had been in care for pretty  
much all of his life sought to obtain his records from the  
department; he was refused that because it would identify  
siblings who had also been in care. Now, he appealed and  
the ombudsman found in his favour. But again, that would  
seem to be some fairly fundamental issues that as a young  
person, or any person, should be entitled to records about  
themselves, particularly where he had been in care and he  
wanted some fairly basic information, wouldn't it?

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MS ALLISON: That would certainly be my view and indeed, it was something I practised during my own early career as a social worker in the department. It was my practice, because my specialist area was working with adolescents, to take all of those young people through their files in the year also before they exited care, because I believed it was an important part of transition to independence and maturity that they understood fully the reasons why they had entered care and what - their journey through care, which for some of them had been for the better part of their life.

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MS McMILLAN: Yes. So do you see that there's perhaps some call for the confidentiality provisions, and I'm using it in a blanket terms, within the act to be addressed to look at (1) some ability to look at some greater public scrutiny under the legislation, but secondly to enable families but also young people who have been in care greater access to information about themselves?

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MS ALLISON: Certainly the question of young people having access to records about themselves, no question in my mind. I think one of the - and certainly in terms of, you know, people being able to speak about their own circumstances, I think the biggest barrier currently in the confidentiality provisions are that at times our staff are unsure what they can legitimately share with other agencies for the purpose of assisting families.

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MS McMILLAN: Well, that was going to be my next question. Do you think it's well understood within the department actually what the provisions actually mean, that it is well understood what the provisions are and what the actual legal provision - what they legally mean or provide for?

MS ALLISON: I think that working in child protection the need for confidentiality is hammered into a worker very early and so I don't know that I would say it's a poor understanding, but I'd say it's a conservative interpretation.

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MS McMILLAN: Thank you.

COMMISSIONER: Just before you go on, Ms McMillan, I just want to ask a couple of questions about performance measures, if I can. Mr Swan, your affidavit of yesterday in response to 2195 99 deals with question 11. Have you got a copy of that there? It's on page 10 of 30.

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MR SWAN: Yes.

COMMISSIONER: You were asked about - this is in the context of being asked about how the department measures its performance against budget allocations and also other

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measures and in answering the question about how you measure efficiency and effectiveness of policies and practices from answer 54 onwards. See that? 1

MR SWAN: Yes.

COMMISSIONER: Maybe we should get some definitional agreement, if we can. To me, something is effective if you achieve your objective. Would you agree with that definition?

MR SWAN: Yes. 10

COMMISSIONER: You can be effective without being efficient but to be effective and efficient means you achieve your goals in a way that optimises the use of the resources that you've got available without waste. Would you agree with that definition of efficiency?

MR SWAN: Yes.

COMMISSIONER: All right. So when you use the words "efficiency" and "effectiveness" in your affidavit you don't mean anything different. 20

MR SWAN: I think we're looking at the overall operations of the services that are provided by the department.

COMMISSIONER: Yes, and whether it's effective, on the one hand, that is, achieved what it's supposed to do.

MR SWAN: Yes, and I suppose it comes back to depending on what those measures are and what they're measuring in terms of, yes, the information that's - - -

COMMISSIONER: Yes, well, if you're analysing the system, trying to, you've got to say, well, what's it supposed to do? Is it doing what it's supposed to do? Is it achieving objectives that are intended and are its outcomes expected? 30

MR SWAN: Yes.

COMMISSIONER: If it's not achieving expected outcomes then there's either a design fault or a malfunction somewhere. So if I can just take you to paragraph 54, you refer me to the tertiary child protection framework.

MR SWAN: Yes. 40

COMMISSIONER: That's what sets out your outcomes, what you're trying to achieve.

MR SWAN: It sets out, I think, the flow of work, yes.

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COMMISSIONER: Yes. So up top it's got aims, which are outcomes, what we want to - our goals. 1

MR SWAN: Yes.

COMMISSIONER: Then indicators, which indicate your performance against those goals, whether you're achieving what you set out to achieve, and then you set out under that the evidence that supports your achievement or failure, right, and we call them measures. So I'm just trying to check with - I'll just take two of the columns, maybe three. Your first outcome is improved safety for children, right. You want to improve their safety outlook. Have you got that with you, or haven't you got the attachment? 10

MR SWAN: I haven't got that. I haven't got the attachment.

COMMISSIONER: Okay. Well, I'll just run through it. So that's your outcome, achieving the improved safety outlook, and your indicator for that is how safe children are in the system and exiting the system, and bearing in mind this is your tertiary area so these aren't children who are being kept safely at home, these are children being looked after by the department in one way or another, but then in your measures, which, don't forget, is measuring improving the safety outlook. We're trying to achieve that, and what indicates the safety outlook and its improvement is how safe children are in care and leaving care, but the way you measure that, according to 1.14, is the proportion of children and young people placed away from home who feel safe in their current environment. That's one way. 20

MR SWAN: Yes.

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COMMISSIONER: How do you find that out?

MR SWAN: We would rely on information from the children's commissioner's survey - provides good information in relation to that.

COMMISSIONER: Okay, and then the next one is proportion of children and young people who exited the system who are substantiated within 12 months of exiting.

MR SWAN: Yes. That's a report from data that we collect and a figure that's published - - - 40

COMMISSIONER: Right, okay. Do you know what proportion it is, just off the top?

MR SWAN: Not off the top of my head, no.

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COMMISSIONER: The next one is responding to overrepresentation of Aboriginal and Torres Strait Islander children and young people in the system. 1

MR SWAN: Yes.

COMMISSIONER: Can I just go to - now, responding to overrepresentation is to lower it, to keep the numbers of indigenous children entering the system down, isn't it?

MR SWAN: That would be the goal, yes. 10

COMMISSIONER: By comparison with non-indigenous, because they represent 7 per cent of the general population of children in Queensland and 40 per cent of those in care. So we want to stop them getting into care. That's where they're overrepresented.

MR SWAN: Yes.

COMMISSIONER: They're overrepresented at other points in the continuum, but I'm just wondering about your evidence to that and whether or not that really responds to overrepresentation. At 3.1.1 you say the proportion of children and young people subject to ongoing intervention who are Aboriginal and Torres Strait Islander - well, that's not overrepresentation, that's just representation, isn't it? 20

MR SWAN: Yes.

COMMISSIONER: That's not an evidence of anything, that just tells you what the - that's just a statistic.

MR SWAN: It gives you the numbers that are coming in, yes. 30

COMMISSIONER: The numbers, yes. So it's not really a measure of anything except the number.

MR SWAN: Activity or volume.

COMMISSIONER: It's not a qualitative measure is it?

MR SWAN: It's probably more volume, yes.

COMMISSIONER: Yes. See, in paragraph 54 you say to me that the framework is an outcomes focused performance framework and I'm just testing as to whether or not it's outcomes as opposed to outputs. 40

MR SWAN: It collects a range of information on both activity and also outcomes. So outputs, yes, and activities, yes.

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COMMISSIONER: Yes, so outputs is the amount of activity and it now covers the achievement, the qualitative achievement. One is a qualitative and one is a quantitative assessment. 1

MR SWAN: Yes, in terms of what's occurred; yes.

COMMISSIONER: Running on the spot can involve a lot of activity or output and very little outcome. I don't move forward. I just say till but I exert a lot of energy doing it. 10

MR SWAN: I suppose depending on what your goal is in the first instance.

COMMISSIONER: That's right. My goal from A to B - running on the spot is going to take me a long time to get there.

MR SWAN: But if your goal is - - -

COMMISSIONER: But I'm going to exert a lot of energy in doing that. 20

MR SWAN: But if your goal is to get some exercise, then it might achieve - - -

COMMISSIONER: And similarly with a system, if a system doesn't achieve its goals, it's very inefficient because it spends a lot of money not achieving its goal. On the other hand, if it does, it's still got to do it efficiently. So going back to overrepresentation and seeing how much of an outcome measure of what we have got at the moment is, one of them is to see how many of them are placed with kin. That wouldn't affect overrepresentation numbers, would it, because they are already in the system? 30

MR SWAN: That's right.

COMMISSIONER: Similarly, the next one is see how many of them believe they're better off since going into care. Again that doesn't affect overrepresentation.

MS ALLISON: No.

COMMISSIONER: The next one is how well their carer treats them, likewise the next one is how well their child safety officer listens to them, likewise, and the last one is the proportion of indigenous children subject to ongoing intervention with a current cultural support plan. Again, to get one of them you have got to go into the system, don't you? So not one of those measures, it seems to me, actually attacks the problem of overrepresentation. It just identifies it. Would you agree with that? 40

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MR SWAN: Yes, and I suppose that's again providing information about how in more recent years we had established the taskforce on overrepresentation and one of the things that we did as a result of that was moved about \$10,000,000 towards Aboriginal and Torres Strait Islander family support services to be able to work intensively with families to try and prevent them being reported or rereported to Child Safety Services and probably should be added to the training.

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COMMISSIONER: Okay. So we have got to update this, but can I ask you a question about that?

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MR SWAN: Yes.

COMMISSIONER: In terms of measuring the effectiveness and efficiency of that program that costs you that much money, can you tell me how effective it was?

MR SWAN: We're just doing a review of that program now so, yes, we can tell you how many people have been referred to that service from Child Safety Services. We can tell you how many people they have engaged to actually receive services, how many have entered into a case plan, how many have achieved their case-plan goals and then we can do some mapping against Child Safety Services to say how many of those that have completed their case-plan goals have been rereported. At this stage we're at the stage of going and talking to all of the services about the data that we've collected to better understand what's going on in those services and what strategy we can put - strategies we can put in place with those services to improve engagement of families in those services and engagement of families to complete their case-plan goals.

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COMMISSIONER: That sounds like an outcome.

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MR SWAN: Yes.

COMMISSIONER: Because what we're trying to work out is: has it achieved it's goal and has it put downward pressure on the tertiary system and reduced the number proportionately of indigenous children coming in?

MR SWAN: Coming in, yes, or the numbers of families that have been worked with and not rereported.

COMMISSIONER: Yes, but in the other column of improved wellbeing it seems to me it does get close to outcomes because one of the measures is the proportion of young people placed away from home who complete year 12. That seems like a reasonable outcome to me. How does it perform against that measure?

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MR SWAN: I don't know the figure off the top of my head but it's not as high as the general population. 1

COMMISSIONER: No. In fact it's not as high as their peers.

MR SWAN: No.

COMMISSIONER: So on that measure the system is underperforming in terms of educating children in care by comparison with their counterparts in the general population. So we know that now. What are we doing about that? 10

MR SWAN: There would be a couple of strategies that would be being undertaken. One is that we do work with Education about education support plans for all children in care to ensure they do have a plan in place and that Education is providing some additional support for those and also then more recently having discussions with Education about the provision of alternative education or other forms of education for those who are not engaging in schooling or vocational education and training options. 20

COMMISSIONER: Strictly speaking, the law requires parents, including substitute parents to make sure that kids go to school. 20

MR SWAN: Yes.

COMMISSIONER: That's the law.

MR SWAN: Yes.

COMMISSIONER: Now, it seems from the evidence that I heard from the questions in the residential phase that a lot of children in residential decide whether they and how often they go to school and that has got to be a problem. I mean, it's a problem in the general population as well, but how do you effectively deal with that as a substitute parent? What strategy is there in place to make sure that children who are under 15 go to school and those who are over 15 get at least the sort of education they need to actually transit to independence? Moreover, under section 7, it's not just getting them to independence, it's getting them to responsible adulthood. That seems to be a higher bar. How do you actually - - - 30 40

MR SWAN: So that's certainly one of the roles of our caseworkers and also working with the residential staff that should be trying to engage those young people and looking at what their goals are and how they might be able to assist them to achieve those goals. I was out just last week talking to a young boy who'd been in residential

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individually placed so there were some issues in co-tenanting and placement; difficulties in attending school. He was now back engaged in year 12, enrolled in a cert II, goals are completing and working, so the caseworkers and the support staff around him - and he particularly referred to the residential care workers in the particular place that he was at that assisted him in working through that and then re-engaging in school and that would be certainly the goal that we'd want.

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COMMISSIONER: Can I just go back to indigenous overrepresentation? Wouldn't a meaningful measure be the extent to which children in, say, the discrete communities actually attend school? Wouldn't that be a measure of how well they're being protected in the system?

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MR SWAN: As well as this information, there's certainly the report that's put out by - it's coordinated through DATSIMA but it provides information about a range of indicators in each of the discrete communities. That does include education at school and presentation at hospitals, et cetera, and we certainly use that information in knowing what's going on.

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COMMISSIONER: See, one of the functions of the chief executive is to actually help Aboriginal and Torres Strait Islander - this is 7(1)(f) - and islander communities to establish programs for preventing and reducing incidences of harm to children in the communities. So it's not just a general harm prevention, harm reduction. It's helping the communities, the indigenous communities, do something about their own challenges. Do we do anything in that space?

MR SWAN: Certainly we fund a range of services across family support services; safe houses that have, you know, accommodation for young people that may be at risk of being removed. They have family intervention workers in those services.

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COMMISSIONER: That's helping the families. It's not helping the communities and, as I read 7(1)(f), the department has got to spill capacity of the communities themselves; reduce violence within the communities so the children can be safe on the streets as well as at home. Do you interpret it that way?

MR SWAN: Certainly there's been some activity again a couple of years ago. There was a joint project led by the Children's Commissioner in working in one of the communities which was about trying to engage - it was a joint project with the department trying to engage that community in developing and putting in place a child protection strategy for that community, and so there was a lot of discussion and trying to then put in place within that community, strategies around what might occur.

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COMMISSIONER: See, it seems to me that we're sharing this responsibility for protecting children. The family has got the primary responsibility; you might think that community has the secondary responsibility and the government has the tertiary. And there seems to be a bit of slippage in there how much actual responsibility communities are taking for keeping their communities safe for children.

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MR SWAN: Yes.

COMMISSIONER: No point in being safe at home if when you walk out on the street, violence is everywhere.

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MR SWAN: Certainly also in the government round tables that they have within those communities - negotiation tables - certainly child protection features as agendas on that where they do discuss those particular issues in the community.

COMMISSIONER: But see, the difficulty is - well, a difficulty is overstating it. It's just that it's a function that the chief executive seems should be expected by the legislation to do and there's a lot of them. I know there are 19 functions, that's a lot of functions, you're expected to do a lot with not a lot. But I don't think there's any way of escaping it, short of amending it. And maybe there's some room for DATSIMA helping there, I'm not quite sure what the cross-portfolio relationship is like or the funding, but that's an area that I want to have a look at and I want to explore that the under-treasurer tomorrow, the cross-portfolio funding, the downstream results and that sort of thing. Because I think it's important that if you're going put in the effort, that you get the downstream credit, because a lot of that - you know, somebody else reaps the benefit of work you put in and you may not be able to (indistinct) a part or a measure. I want to have a look at altering that so that if you, for example, do a secondary service, it can be tracked through some mechanism to show that because you intervened at that point in that way in that child's life, that child is better off overall for you having done it. I think unless we start doing that sort of stuff we're not really going to have any meaningful measure of how well we're doing for children. Because it seems to me the main object of the public child protection system must be to produce effective adults and potentially better parents than their own might have been for them so that we break the cycle of intergenerational reliance on the public system and so that we're preparing children for adulthood either as a natural parent or as a substitute parent and we're judged on how well we do that. And we can't really be judged and can't really say unless we know how well that child is travelling throughout life. You can't really say that the child had a net benefit for having come into the system unless, as I say, at 30 the child is still not suffering any harm. And

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it seemed to me to be really important in 1999 when this act was being debated; the debates acknowledged the importance of a child not being disadvantaged for having been in public care. And that's got to be a measurement for us, doesn't it? To show that child is actually better off than he or she would otherwise have been. We can't do that unless we've got some evidence base to prove it, I guess. All right, last thing I wanted to ask I ask before I ask Ms McMillan to resume is in your annual report last year about the future directions, apart from considering my findings you were going to commence a two-year trial of Fostering Families around helping parents develop child-rearing skills. Have we started that?

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MR SWAN: Yes. Those three services have now been funded and I think most commenced operations in January.

COMMISSIONER: All right. Okay. Now, the next dot point was: to continue to work with Aboriginal and Torres Strait Islander families and recognised entities to address the overrepresentation of indigenous children in care. When you say "continue to work", does that mean continue to do the same thing we were doing before?

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MR SWAN: No, following the report that we received from the task force on the overrepresentation, it had a number of strategies within that. We established a working group underneath that, so we're continuing to work with that. We've identified three projects to be undertaken at this point in time.

COMMISSIONER: So we've got a plan - - -

MR SWAN: Yes.

COMMISSIONER: - - - for attacking overrepresentation.

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MR SWAN: We've got a - yes, there's an overall report that is being provided to us and we are working through those recommendations.

COMMISSIONER: Have I got a copy of that?

MR SWAN: Yes.

COMMISSIONER: Okay, thanks. The next one was: to investigate options for an expanded after-care service delivery model so the children in care aged 15 and over can have a transition plan to take them through to 21. Are we doing that?

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MR SWAN: We've done some preliminary work within the department and also there's a working group involving the sector that have also done some work and provided a report, which I think they've provided to the commission as well.

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COMMISSIONER: Thank you. And: to give 24/7 access to children in regional areas through the telephone support line by December 2012. 1

MR SWAN: Yes.

COMMISSIONER: Done?

MR SWAN: Yes.

COMMISSIONER: Ticked off. Why is it only regional areas? Is that cost thing or is it a demand thing? 10

MR SWAN: That was identified that there was - it was an election commitment of the Newman government to provide additional service. That was recognised as, I think, being a gap in service delivery and a commitment was made to provide a telephone counselling service.

COMMISSIONER: To regional areas.

MS ALLISON: Mm.

COMMISSIONER: Does it already exist in urban areas? 20

MR SWAN: There are, I suppose, some mechanisms that young people can get involved with. There's other things like Kids Helpline and things like that that are - - -

COMMISSIONER: But not departmentally provided. This is - - -

MR SWAN: This won't be a departmental it provided - - -

MS ALLISON: No, it's not. 30

MR SWAN: - - - it would be funded by - - -

COMMISSIONER: Funded, yes.

MR SWAN: It's funded through a non-government organisation.

COMMISSIONER: Okay, but you pay for it.

MS ALLISON: Yes.

COMMISSIONER: Yes, sure. But you don't pay for Kids Helpline? 40

MR SWAN: No.

COMMISSIONER: No. All right. And the other one was: to continue to examine strategies - - -

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MR SWAN: Sorry, I'll just have to check the Kids Helpline. I think we made a contribution to it. 1

COMMISSIONER: You might. Yes, you might.

MR SWAN: I might check that.

COMMISSIONER: Okay. You continue to implement strategies to reduce expenditure on transitional placements.

MS ALLISON: Yes. 10

COMMISSIONER: That's movement. And one of them is to reform underutilised placement services to ensure the right types of placements are available in the right location. That sounds like the sort of thing you'd say on an annual report. But trying to tease it out, what are the underutilised placement services that would be reformed?

MR SWAN: That might be looking at - we might have funded placement services for 100 places in town A but in town A we might only need 80, or that they're struggling to find 100 places, so we might say we'll move 20 of those places to town B or 20 of those places to another service. 20

COMMISSIONER: Okay. And how would you measure how well that's going for you, how successful those strategies have been?

MR SWAN: We get quarterly - on the placement services?

COMMISSIONER: Yes.

MR SWAN: We get quarterly reports from our service providers looking at the capacity that we fund them for, and then also the number of places or bed nights or however we count it, and we continually monitor that and both ourselves and the regions then would have discussions with those service providers. 30

COMMISSIONER: Say, look as to whether or not they're at full capacity or not. I see. Okay, thanks. Yes, Ms McMillan.

MS McMILLAN: Thank you. Can I just ask you, the issue about indigenous issues, in terms of recognised entities, they are funded from within your budget, aren't they? 40

MS ALLISON: Yes.

MS McMILLAN: And we know that from within the act, that they're to actively participate in decisions made by the department and in fact they must be consulted, mustn't they?

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MS ALLISON: Mm.

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MS McMILLAN: It's a mandatory requirement. We've also heard there's been criticism levelled that they feel dependent and somewhat bound to the department because the funding emanates from it, so that there's an inherent conflict that's perceived. What would you say to the funding, for instance, and in fact the recognised entities, be shifted say to DATSIMA where there's already a structure in place, they have mapping obviously within that department to see where communities are, what needs there are, what families and what other socio-economic factors exist within various parts of Queensland, and that would remove the inherent conflict, some would say, that exists for recognised entities. As a global proposition could either of you comment on that?

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MS ALLISON: Yes, I'd be happy to comment on that. I think that given that the services that we are purchasing through recognised entities is essentially cultural advice.

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MS McMILLAN: Yes.

MS ALLISON: I'm not sure of why people would feel that a greater conflict occurs than with any of the other many funded services that we provide. I suppose if I think about the future of recognised entity services my preference would be to look at encouraging the development of some of those services into family support services that also provides cultural advice to the department as required. I think there is clearly a great need for indigenous specific family support services and I certainly think it would help to contextualise some of that advice. It's a very significant investment of around \$10 million a year, so for me a more fundamental question is what should be the tenor of the services provided by recognised entities, and in fact I think it embeds them more deeply into the child protection system if they are actively engaged in delivering services to families in need.

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MS McMILLAN: But do you see that it's arguable that there is an inherent conflict if they're funded by the department that there might be even unconsciously felt that they should advocate something that's seen as desirable by the department in terms of an outcome?

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MS ALLISON: No more so than any other funded agency.

MS McMILLAN: But they're perhaps arguably the only one in the act that's given the prominence, if you like, isn't it? There's no other one particular entity that's given that sort of prominence, is there, and in fact mandatory tick-off, if you like?

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MS ALLISON: Yes.

MS McMILLAN: The department must, as we know, mandatorily consult with them.

MS ALLISON: Yes.

MS McMILLAN: So it's an important role, one would think, and important to get it right.

MS ALLISON: Well, it is an important role, but it's not the only strategy. At the core of it is to make sure that there are effective consultations with the appropriate indigenous people and that that takes place and indeed it must take place at times of critical decision-making. I don't know it's the only way you can achieve that outcome.

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MS McMILLAN: All right. Well, I was going to ask you about that. I understand your department has had presentations made to it from your New South Wales counterparts in relation to - the acronym is AbSec. Could you perhaps just expand on that, perhaps either you or Swan, about that, because I understand that's perhaps maybe what you were alluding to with the idea of providing support services from that sector, the indigenous sector, themselves?

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MR SWAN: Yes. AbSec is a peak organisation that's been funded in New South Wales to work with the state government and indigenous controlled organisations to build both the capacity and the capability of those indigenous controlled organisations over, I think, a 10-year time-frame, to build a capacity and capability for those organisations to be able to provide the out of home care services for children in care. So that would include both placement with kin or family or residentials but also include ongoing case management of those children in care. The only issue that we did to them about, I suppose, is again, to me, it's a strategy building the capacity and capability once children are in care and our comment was about really the capacity and capability - needs to be built at the front end around family supports and working intensively. So in our submission we outlined - - -

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MS McMILLAN: Prior to getting to - - -

MR SWAN: - - - the need to work with indigenous controlled organisations to really build that capacity and capability to work intensively with families before hitting up against the child protection system, as well as, if necessary, if the child does need to enter care, then at that end as well. But a priority, I think, for us here would be about that front end, prior to child protection.

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MS McMILLAN: Is this correct, that the New South Wales - your counterpart department provides the funding but only if AbSec, if you like, comes up to standard, comes up to par? So that if they don't come up to the various key performance indicators they don't receive the funding from the department.

MR SWAN: They have - - -

MS McMILLAN: Is that, in rough terms, correct?

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MR SWAN: They have - the funding gets provided then to the indigenous controlled organisation and the organisation needs to be accredited, so meet certain - yes, meet certain standards. Here in Queensland we have - all organisations that we fund for placement services need to be licensed, which is very similar to the accreditation process.

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MS McMILLAN: So you would say that the department would be interested in that option, but you would see it as perhaps more crucial to be looking at these organisations being able to provide support services at that entry level or primary delivery service rather than necessarily at the tertiary end.

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MR SWAN: I think that would certainly be the priority in building capacity and capability.

MS McMILLAN: Are there any initiatives within the department to do that?

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MR SWAN: Certainly that's why we funded the Aboriginal and Torres Strait Islander family support services and why we're currently doing the review of those services, to understand what's going on and how we can work with the services to really build on the strategies and what's working to get families engaging with those services and working well with them.

MS McMILLAN: Is this part of the taskforce? Did this come out of the taskforce?

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MR SWAN: It was one of the initiatives that came out of the taskforce.

MS McMILLAN: This is detailed at paragraph 491 of Mr Swan's first statement, Mr Commissioner. Indeed, do the family responsibilities commissioners fit within this framework at all as part of the initiatives?

MR SWAN: Certainly in those four communities which they're involved with, child protection matters can get referred to those family responsibility commissioners and they can, you know, work with families in terms of addressing some of those issues.

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MS McMILLAN: Because they seem to have been somewhat successful, don't they, in terms of some of the performance indicators, for instance, about children presenting at school and those types of very basic issues, ensuring those sorts of matters being met for children, isn't it, within families?

MR SWAN: The evaluations I think have certainly shown some improvement in those communities in some of those indicators.

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MS McMILLAN: All right, thank you. I just wanted to return to some courts issues. Mr Swan, in your initial evidence you cited some figures. This was from the 2008 workload analysis project, that 47 per cent of CSOs' time was spent in seeking an order on an application, and that

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included amendments, reapplying for orders, et cetera. That, as I understand your evidence, was disproportionate, of course, in terms of their actual job description, if I can put it that way. Now, as I understand what came out of that project, court coordinators were appointed. Is that correct?

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MR SWAN: The court coordinators I think were in place prior to that project commencing, but certainly the role of the court coordinators was looked at and how they were to then be an integral part of the team at the child safety service centre and their role in oversighting the preparation of submissions to courts.

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MS McMILLAN: They're meant to be sited at each service centre. Is that correct?

MR SWAN: Yes.

MS McMILLAN: Either of you, perhaps, could answer that.

MR SWAN: Yes.

MS McMILLAN: I understand from Mr Dagley's - sorry, Mr Finlay's statement, that there are 48.63 as at September last year throughout Queensland. Would that accord with your understanding?

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MS ALLISON: That would accord with my understanding.

MS McMILLAN: I take it there's not - - -

COMMISSIONER: Ms McMillan, when it's convenient.

MS McMILLAN: Yes, thank you. If I could just finish this question. Point 63, so is it correct also that only about a quarter of those are legally qualified?

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MS ALLISON: That would be my understanding.

MS McMILLAN: All right. I'm happy to leave it there till after the luncheon adjournment.

COMMISSIONER: All right. We'll resume at quarter past 2.

MS McMILLAN: Thank you.

THE COMMISSION ADJOURNED AT 1.03 PM UNTIL 2.15 PM

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THE COMMISSION RESUMED AT 2.17 PM

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COMMISSIONER: Ms McMillan?

MS McMILLAN: Thank you.

Now, before lunch I was asking you some questions about the court coordinator's role.

MS ALLISON: Yes.

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MS McMILLAN: If I can just backtrack for one moment, in the CMC report at 5.11 there was a recommendation that the DCS obviously as a department consider whether there may be advantages in having all court preparation work undertaken by specialist staff. Now, as I understand it, the specialist staff is the role known as the court coordinator. Is that correct?

MS ALLISON: Correct.

MS McMILLAN: And the specialist skills and experience which was the rationale given in the CMC report was for legal qualifications, wasn't it?

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MS ALLISON: That is my understanding, yes.

MS McMILLAN: Right, as best as you understand it.

MS ALLISON: Yes.

MS McMILLAN: The idea being obviously that it would improve the quality of work being presented to the court in relation to applications but I imagine, secondly, it would alleviate to some extent the workload for child safety officers who, having - well, at that time social worker qualifications in undertaking preparation or affidavit material, et cetera. Now, can I ask you: if only about a quarter of them are legally qualified, how is that in fact working out in terms of them performing that role?

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MS ALLISON: Can I just go back a little step because I think probably in terms of the purpose of the roles as, you know, providing some more expert support, freeing child safety officers from work for which they're not as well trained or equipped, that's one angle? I think the bigger question is the volume of court matters and that follows from how we deal with that intake system that we were exploring earlier today. So, you know, it's a natural flow-on that if we can better manage the front end of the system, if we can provide more secondary support services, there will be fewer matters that will proceed to court. So I just put that as a bit of background.

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MS McMILLAN: Yes.

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MS ALLISON: Having said that, I think I've personally seen affidavits that are poorly written, et cetera; you know, perhaps there are matters that need to go back to court on a number of occasions where supplementary information has been provided to the court. I think there is some advantage in looking at legal qualifications. It's not absolutely the case. I was a court officer myself many years ago, but then, you know, I think that the important thing is to understand the limits of your role and what you're able to advise on. I think there is a place for it. The other thing I would say is I think the market, if I can put it like that, in terms of law graduates et cetera, is somewhat different now and I suspect that we would have less trouble recruiting people to those jobs, particularly in more popular centres. The other issue that you've got to look at though when you're employing classes of professionals like lawyers in an organisation where they're not the predominant professional group is how to attend to their practice requirements and legal education needs, et cetera, which is always a challenge.

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MS McMILLAN: And no doubt the functionality, if I can put it this way, of the service office, if I can put it that way, because if they're not the predominant qualification in an area office, then - and they're employed as a PO4, aren't they?

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MS ALLISON: Correct.

MS McMILLAN: And I think the team leaders are PO5.

MS ALLISON: Mm.

MS McMILLAN: They're obviously not senior to the team leader so no doubt that takes some management within the office, doesn't it, in terms of clearly they're not senior to the team leader so the team leader's word would be final, if you like, in what goes into an affidavit and whether that affidavit and whether that affidavit is filed. Correct?

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MS ALLISON: Certainly the team leader would be the one making the key decisions such as like, "Is this a matter that should proceed to the court?" and it's appropriate that they have those kind of statutory delegations, but in terms of - I would hope that, as appropriate, our staff would be taking advice from people who were qualified to guide them as to what evidence should be put before the court and in what form.

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MS McMILLAN: Right. Do you know - and perhaps Mr Swan can comment on that - whether that's actually being

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undertaken within the area offices; , that advice is being taken appropriately as to appropriate evidence being offered to the court? 1

MR SWAN: Certainly the information that we presented previously was about - the role of the court officer being seen as part of the management team within the Child Safety Service Centre was one of the critical strategies that we were trying to put in place that sort of then made them part of that team and the decision-making that would need to occur. 10

MS McMILLAN: Sorry, if I can just interrupt there, about half the orders we know are adjournments and interim orders so we know from the previous information presented, I think, in your statement, Mr Swan, initially that there's at least material - perhaps not 50 per cent because there may be genuine reasons why a matter is not ready to proceed, but there certainly must be an area where perhaps the material isn't sufficient, isn't of a good enough quality, to proceed on that date.

MR SWAN: That could be, yes, part of the reasons for that. 20

MS McMILLAN: So what's being done, in effect? Are there internal checks and balances to look at that?

MR SWAN: Yes, the strategy that we put in place around court work had a number of strategies in terms of looking at the quality assurance around the materials' oversight. The material is, you know, still being prepared in the first instance by the child safety officers who have done the investigation and assessment and undertaking that work. So they're still being prepared in the first instance by those officers. 30

MS McMILLAN: All right.

MS ALLISON: Over and above that, Ms McMillan, if I can say, I have a quarterly meeting with the chief magistrate and we discuss a range of matters about Children's Court operation. My experience has been that he is fairly well informed as to where there are any problem areas and we're able to address those in our discussions.

MS McMILLAN: All right. 40

COMMISSIONER: Why do they count adjournments as an interim child-protection order?

MS McMILLAN: I will ask this. Is it because the child-protection order is continued as an interim order if there's an adjournment? I think that's the answer, isn't it?

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MR SWAN: It's either continued or it's a new short-term order that's put in place. 1

MS McMILLAN: That's right, isn't it, John?

COMMISSIONER: It distorts the figures?

MS McMILLAN: But it is, isn't it? That's what they do.

COMMISSIONER: It's not really a child-protection order.

MR SELFRIDGE: My understanding of it and having been involved on a few occasions is the same, yes. What Mr Swan's evidence is essentially, yes, and it does distort the figures, I agree. 10

MS McMILLAN: That accords with my experience. What happens, Mr Commissioner, is if a matter is adjourned, one of the issues for consideration is that the interim order needs to be continued.

COMMISSIONER: Will continue.

MS McMILLAN: So that's why I'm being careful in the way I put the question that it's a distortion of the figures so that you can't simply say they're all interim orders being continued. Some of them are adjournments but by virtue of that the interim order continues. So I don't know - I will ask Mr Swan this. He might be able to clarify it. 20

I don't think there's any better clarity we can get around that, is there, as to what are simply adjournments as opposed to genuine interim orders continuing?

MR SWAN: No, not from the data that we've got. 30

MS McMILLAN: No, thank you.

COMMISSIONER: I think the magistrates told me that they never adjourn anything without a purpose and so I'm wondering what the purpose is for half of these child-protection orders. Is the purpose to give the department more time to get material or the lawyers representing the parents?

MS McMILLAN: I don't know that Mr Swan or Ms Allison - I can ask them if they can comment, but my understanding - and I can ask them this - is it's often a multiplicity of things. It can be because an assessment isn't finished. It might be because they mightn't be able to serve one of the parents. Most often it's not assessments not being completed. 40

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COMMISSIONER: Why couldn't you do that administratively? 1  
Why do you have to have an adjournment?

MS McMILLAN: Well, yes - - -

MR SWAN: It could be that the family group meeting  
hasn't - - -

MS McMILLAN: Occurred, yes.

MR SWAN: - - - completed the process that it needs to, 10  
and therefore the date for the interim order or short-term  
order may have expired, and we need to actually get that  
extended.

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MS McMILLAN: And my learned friend reminds me there can often be issues. Service hasn't been properly affected and so there are procedural issues. So with respect, it's probably correct to say it's not done without a reason, but one would have to drill down as to what the reasons are and where that lies. 1

COMMISSIONER: You know section 59(6), you've got the two options for long-term guardianship and the chief executive, you know, got to be satisfied of all the preconditions in 59(1) being satisfied. And then if you want to make a long-term order you've got to show that - the court's got to be satisfied that there's no protective parent on the horizon in the foreseeable future. What's the foreseeable future? How far away is that? Is there a general rule of thumb that the courts and the department adopt, or not? 10

MR SWAN: It usually would be a judgment that would be made by the child safety officers in terms of us seeking the order. So if they had, an example, a short-term order that had, you know, been in place for two years; they had been trying to work with the family; that the family was showing some promise of possible reunification, then there could be a case to say we would like another short-term order to continue to work with the family. So there could be a - you know, a range of reasons, and that would be the judgment then of the officers in doing that. 20

COMMISSIONER: I thought you moved to a long-term order for a child - I can't remember your thresholds - from 11 upwards after two years if the order has been ongoing for two years.

MR SWAN: That's generally - they generally go for a short-term order for two years. 30

COMMISSIONER: Yes.

MR SWAN: And generally it would follow with a long-term order after that.

MS McMILLAN: (indistinct) gave that evidence, Mr Commissioner.

COMMISSIONER: Yes. On the basis of the theory that you got two years to reunify and if you haven't done it in that period of time it's not going to happen, or to follow the legislative requirement that you need to have - in 5(b) whatever it is - you need to have long-term arrangements in place. Okay. So that's to try to reflect that. The alternative, it seems to me, is the emotional stability of a child. It's not an additional, it's an optional. How often do the courts default to that as the basis for a long-term order to the chief executive, do you know? See, 40

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because it seems to me the purpose of that provision is for that exact thing when you have a child in care for a period of time and then the foreseeable future comes about and something happens in the parental relationship that enables someone to be protective and they come forward and they want to claim their child back. That's what that is for, so, "Look, no, you can't because the emotional stability of the child over the longer term requires that the child stays put." How often is that sort of argument - or cases decided on that question? How many parents come forward and want to have their child back after a period of years?

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MR SWAN: After a long-term guardianship?

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COMMISSIONER: Long-term order, yes.

MR SWAN: I don't know the numbers but it is possible to review a long-term guardianship order - - -

COMMISSIONER: I know.

MR SWAN: - - - and to go back to the court and have that - - -

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COMMISSIONER: It's not done very often.

MR SWAN: No.

COMMISSIONER: And I'm just wondering if that's the reason why it is not done, or is it because the parents don't come forward after a long time; that is, are we getting it right in the sense that the two-year period, if there is no reunification then long-term care is not only called for but it generally carry through without interruption. Is that what the trend is?

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MR SWAN: Generally. But as I said, there is the ability there to review it. Certainly the views of the child would also be taken into account at that older age, and also the parent's ability to care.

COMMISSIONER: But am I right in thinking that most of the long-term guardianship orders are made on the basis that there's no protective parent in foreseeable future?

MR SWAN: Yes.

COMMISSIONER: Would that be the greatest number?

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MS ALLISON: That would reflect the matters I see before me and my own experience as a practitioner.

COMMISSIONER: But you've got this situation - it seems to be a little anomalous to me, although I can understand its rationale - but you could have a child who was no longer in

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need of protection but being kept by the system on the basis of a belief that his or her emotional stability required it, couldn't you? 1

MS ALLISON: I suppose you could for an older adolescent. You know, in particular in reflecting on the views of quite a few young people in care, some of them have come to that place in their lives where they understand that, you know, for a whole range of reasons is probably never going to work out to live with mum and dad or mum or dad but they still want to have that relationship. So it's not a question of reunification and they're probably starting their transition towards independence at that point, so it really is about emotional stability and constancy in their current lives. 10

COMMISSIONER: 59(1) - maybe we could talk this through because 59(1) requires as a precondition to any child protection order that the child need protection. That makes sense, doesn't it?

MS ALLISON: Yes.

COMMISSIONER: Then when you're considering long-term orders you go to subsection (6) and it gives the magistrate an option of making a long-term order because of the foreseeable future or the emotional stability. But he still has to satisfy subsection 1, which requires the child needs protection. How do you resolve that when you don't need protection but you do need emotional stability? 20

MS ALLISON: And security, yes.

COMMISSIONER: They seem to be irreconcilable to me.

MS ALLISON: Because I really think it is a different test at that point of consideration by the court about whether a long-term order should be granted, because if everyone has been doing their job in the first two years of the order there shouldn't be current protective needs of the child. 30

COMMISSIONER: You'd need a lot of expert evidence on that issue, wouldn't you? I mean, to work out what's in the long term emotional stability of the child, because it's not just the child at 15, it's got to be the child at 35 as well.

MS ALLISON: Yes. 40

COMMISSIONER: So I'm wondering, how often do magistrates resort to expert evidence on emotional stability, questions of that nature, do you know? You probably don't know.

MS ALLISON: I don't know. I'm not in a position to comment.

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COMMISSIONER: No. Fair enough. It just seems an odd -I can see why the provision is there but there seems to be a disconnect between subsection (1) requirements and subsection (6), and (1) seems to be unintentionally potentially overriding the other. It may not be a problem in practice because it might not arise very often.

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MR SWAN: No, and I think that still a young person who's under 18 that may not have a significant adult in their life that would be able to provide that guidance that they need. Some of the other submissions coming forward, particularly from Create and that, is really saying that we actually need to provide support to people beyond 18 and that they need that form of support that will go through to either 21 or 25 but may not necessarily be to the same level of support that's provided.

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COMMISSIONER: But see, if I was deciding that emotional stability question, one of the considerations I would take into account would be how many placements has this child had in care? How stable is that care as compared with the alternative? And it's a bit like - I don't quite see at the moment how it works when you have got no evidence-based make that decision. Like, if I was to be making a decision based on, "Well, if I make the order it's going to be better for the child in the long-term", don't need to know what the rival options are, so that if you came to me and said, "Listen, this is what it's like at home, not much chop. This is what we're offering," I can compare the two, apples and apples, whereas if you come in and say, "This is what it's like at home. I can't tell you what I'm offering in lieu; all I can say is you make an order in my favour I can then administratively decide where to place this child. You'll have to trust me on that" - I don't know why the courts don't have some involvement in the placement issue.

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MR SWAN: Usually in the process that we've gone through, a family group meeting and developed a case plan, and the case plan will include a placement option for that child or young person. 1

COMMISSIONER: Would it be the family or would that be - - -

MR SWAN: Certainly the goal is certainly to try and place with kin or family or community or generalist foster care, et cetera. So that's certainly the goal and I think 93 per cent of children or young people are in home based or family based care. 10

COMMISSIONER: So they've got something to compare against the option of going home.

MR SWAN: Yes, but placements do change over time for some - - -

COMMISSIONER: So I've heard.

MR SWAN: For some young people. 20

COMMISSIONER: Yes, Mr Selfridge?

MR SELFRIDGE: Mr Commissioner, just on that - just on the legal point, as such, if I could address you on two points. The first one is this: you suggest that perhaps there's a disconnect between subsection (1) of 59 and subsection (6). On the basis, first of all, that the differentiation between the two, subsection (1) and subsection (6) relates to, I would suggest, arguably, long term and short term state intervention, and secondly, more precisely, is that cumulative harm and/or emotional type harms, because harm is obviously defined in section 9 and child at risk is defined in section 10 and the two are to be read conjointly, as such. I'd suggest that there's not necessarily a disconnect in legal terms, as such, if you understand my rationale. 30

COMMISSIONER: Yes. No, I do, but I just - because of the definition, the wide definition, of harm, I'm just wondering why you've got emotional stability in there at all. I mean, emotional - and why stability as opposed to emotional wellbeing?

MR SELFRIDGE: In the practical application - - - 40

COMMISSIONER: Which is the term that's used in harm.

MR SELFRIDGE: Yes, I understand. In the practical application of it and experience it usually is - those questions are proposed to a social assessment report writer rather than a psychologist or a social worker in terms of

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that cumulative harm, cumulative risk, longer term, and that's where in my experience the magistrates will make the differentiation between subsection (a) and (b), the foreseeable future or emotional security being met. Whether they're right or whether they're wrong, I'm just trying to explain the rationale of the understanding.

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COMMISSIONER: No, I can see that. How common is a short-term guardianship order? Does everybody who ends on a long-term order start off with a short-term order?

MR SWAN: Yes.

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MS ALLISON: Yes.

COMMISSIONER: Why is that? Does that give you a period of time to do some permanency planning?

MS ALLISON: Commissioner, I was deputy DG of the department at the time this act was being conceived in the late nineties, and the thinking was that there needed to be a short-term order initially to encourage the department as much as possible to garner its resources to working to return children home safely where it was able to do so, and at the very least, if a longer term order was being sought, that there ought be that point of review before the court where the court could consider the two options you talked about. "We know what the situation was two years ago when this child came into care. What's happened? What's changed since then?" So in a sense, "What is the offering now from the family or what would be the circumstances for this child if he or she were not to be to continue in care and this order, the short-term order, the two-year order, were to expire," and on the other hand, "What is the situation for the child now?"

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It may well - issues like placement stability, whether we've been able to protect the child from further harm, may well be considerations before the court. So I do think the court at that two-year point is in a position - perhaps not explicitly, as you suggested, but they are weighing up those scenarios.

COMMISSIONER: Do they have an evidence base to do it? That is, they've got the department's affidavits and evidence, but do they ask an expert what the emotional harm looks like in the context of this particular child or whether there are any options for - you know, like, where is the balance? Do they do that or do they make their own call?

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MS ALLISON: Based on my knowledge, they wouldn't seek further information other than the information put before the court. That can include the reports of other

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professionals who have been seeing the child, for example, psychologists or psychiatrists, depending on what the issue is. In most cases, though, they do not seek extra guidance of their own volition.

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COMMISSIONER: They can under the act, though, can't they?

MS ALLISON: They can.

COMMISSIONER: So when they come to make the second decision as to whether or not the guardianship should be made long term - because I'm assuming most short-term orders are guardianship, because you don't want to have rival parental responsibilities to make statements, do you?

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MS ALLISON: Well, short-term orders are mostly, actually, custody.

COMMISSIONER: Custody, are they?

MS ALLISON: And it is because we're still allowing for the possibility of reconciliation in those cases. It's something we take very seriously. For example, I dealt with a matter late last year where the foster carers of a child on a short-term order wanted their child to attend the same Catholic primary school that their own children attended. The parents had a strong view - the child's birth parents had a strong view they wanted that child to remain attending the state school that he had been attending previous to coming into care. You know, it's a very vexed question, but clearly the parents are retaining some guardianship at that point and I think the right decision in that case was to say that the parents' wishes prevailed.

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COMMISSIONER: Well, they've got all the guardianship, haven't they, at that point? It's only custody, because it's only a short - custody is only day-to-day care, not long-term decisions. So they've got most of the parental responsibility still residing with them under custody orders, haven't they? In the Family Court they have a concept of shared parental responsibility. Do you see any role for that here?

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MS ALLISON: I think it's not a concept that's as relevant as it is in the Family Court jurisdiction, because the presumption in that jurisdiction - - -

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COMMISSIONER: Is (indistinct)

MS ALLISON: - - - is that that you have two parents equally capable of providing nurturing care. However, whether there is some - I think in practice if you're

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looking at scenarios of reunification of a child with his or her family, sometimes in those reunification processes you're effectively going through a period of shared parenting prior to that reunification. 1

COMMISSIONER: I'm just grappling with the concept that in 77 - well, let's just take emotional harm. What is it, 42, or somewhere around there, per cent?

MS ALLISON: Neglect is 42, but it's - - -

COMMISSIONER: Yes, well, it might be 35. 10

MS ALLISON: Something like that, yes.

COMMISSIONER: But they're around - they're pretty close to each other; I just forget, but if you're making that long-term order based on emotional harm considerations I'm just wondering why you'd be defaulting to reunification. Wouldn't the aim be, again, say for emotional harm, given that it takes time to accumulate into a harm, right, for a series of incidents to develop to the point of unacceptable risk or actual harm, that you would generally be able to provide the services that were needed for the child at home and not ever have to remove that child unless you were going to not return the child. 20

MS ALLISON: I think that the categorisation of emotional harm - so when officers record the kind of harm to a child they record it by the most serious form of harm.

COMMISSIONER: Yes.

MS ALLISON: So potentially some children will have - you could tick all four boxes. 30

COMMISSIONER: Yes.

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MS ALLISON: So there would be children, for example, who were subject - in some ways the figures are a little bit rubbery. There could be underreporting of sexual abuse because in some cases it's recorded as emotional harm because of the lasting impact of one or more incidents of sexual abuse is the emotional harm to the child.

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COMMISSIONER: I see; so that's how it works. You explain to me - - -

MR SWAN: I could give a couple of examples in terms of you might have, you know, a severe domestic violence relationship, very violent parents. We would record that as probably emotional harm against the child but the underpinning factors are probably domestic violence and drug and alcohol abuse or something like that. So in that particular case if the parents remain in that relationship, we try and work through those issues, but if they decided to stay in that relationship and the behaviours don't change, then we'd be very unlikely to return the child to that arrangement, but it could be the same situation and the perpetrator leaves the house and therefore - in a similar example about neglect we might have sexual abuse of a child by a third party living in the house, not the parents, so we would possibly go neglect of the parents for failing to protect the child or young person. If that perpetrator continues to live in the house, then we would be very reluctant to return that child to that household but if there were arrangements made and the perpetrator no longer lived in that house and you can look at other safety factors, then there may be a case. So neglect and emotional harm - it's very hard to use those figures because it really depends on the case and it depends on what all the underlying factors are that lead to the substantiation of that.

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COMMISSIONER: But Queensland is still higher proportionately than other states for emotional harm.

MR SWAN: Yes. We've been having a bit of a look at that and I think we've been erring on emotional harm, the underpinning factors that underpin that.

COMMISSIONER: So you might have a look at reclassifying the harm from emotional to something else that might be closer to the actual underlying cause.

MR SWAN: Yes, and the bigger issue then is to understand the parental risk factors that are associated; you know, neglect is usually not just the fact that the child hasn't had something to eat or, you know, living in difficult conditions. It's usually the fact that there's, you know, either alcohol and drug abuse or domestic violence or

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mental illness or a combination of those that are existent in that particular household that might cause us to substantiate neglect. 1

COMMISSIONER: What about in the indigenous households? I notice that in that taskforce - I had a read of it over lunch - neglect is most often the cause of removal and various factors are slightly different. They may include all of those but there are some additional ones like housing, overcrowding and that sort of thing.

MS ALLISON: Yes. 10

COMMISSIONER: So there's no standard concept of emotional harm across the country, is that right, or neglect, for that matter, because for neglect we include failure to protect which is only recent. Isn't it 2011 or something that it was added to the definition of "neglect"?

MR SWAN: I can't remember the date.

COMMISSIONER: But it's not that long ago, I don't think. Mr Selfridge, can you check that for me? 20

MR SELFRIDGE: Yes, I certainly will do.

COMMISSIONER: Yes, look, it just seems to me it's a really critical question to know why the child is being removed and it seems to me the court really needs to have a good understanding of why and whether it should make the order because at the end of the day all you do is you're the investigator. You do the forensics and then you cut out unless and until an order is made. You're the applicant for the order, but that decision isn't yours. That decision is the court's and it seems to me that that's a critical gate-keeping decision for the court to be making and it needs to be made on the best available evidence. 30

MR SWAN: So there would be a range of information collected through either the investigation and assessment or the re-assessment at the time of going from a short term to a long term, including the use of some of the structured decision-making tools such as the family risk evaluation, et cetera, which you have probably heard a little bit about combined with the officer's then professional judgment and the collection of the evidence to then sort of make a decision based on a combination of their professional judgment and what the tools would assist in in making that decision. 40

MS McMILLAN: Mr Swan, can I just ask you arising out of that: is there a capacity - and dare I ask about the ICMS. Is there a capacity - don't roll your eyes.

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MR SWAN: Sorry.

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MS McMILLAN: Is there a capacity in that - it's one thing for you to articulate emotional harm might in fact be a reflection of, you know, a third party being present in the household; this occurring, a failure to protect. You understand how the end point might be emotional harm but they're the subset of factors that cause that. A junior child safety officer picking the file up would read "emotional harm". Is it recorded, the subset of factors, about underpinning that decision that emotional harm is the risk to the child and therefore if one of those factors are no longer present, ie, the third party is no longer there or one of the violent parents had left the household - is that present and is that available to the next child safety officer who picks up the file?

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MR SWAN: Yes.

MS McMILLAN: It is already available.

MR SWAN: It certainly is part of the - if you go through, you know, the case history of the file, you would certainly be able to know in terms of any previous assessments that were done, the family risk evaluations which would incorporate some of that particular information within it, and the information would be there though so that when passed from one officer to another, they should be able to recap on that.

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MS McMILLAN: So they should be able to recap what the factors are that produced the risk as identified.

MR SWAN: Yes.

MS McMILLAN: Right. Now, can I ask you a question of that? Just on section 59 briefly, subsection (6), the alternatives of there's no parent willing and able to protect the child or the need for emotional security, do you understand that that provides the alternatives so that for the long-term orders the parent might be willing and able to do it but - and so the risk that precipitated the original, say, short-term order might have passed but the need for the child's emotional security as such - that's the necessity for the long-term order being made.

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MS ALLISON: Yes, and particularly in terms of younger children where, you know, a two-year placement away from home under a short order might be the majority of their life and so, you know, they have bonded substantially to their new carer.

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COMMISSIONER: The problem with that is that subsection (6) doesn't displace subsection (1) - - -

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MS McMILLAN: No; no. 1

COMMISSIONER: - - - which requires that the child be in need of protection.

MS McMILLAN: Yes.

COMMISSIONER: Even if you're using the emotional stability - - -

MS McMILLAN: Well, I suppose I'm asking you that. Is that your understanding? Is it interpreted, as far as you're aware, within the department that - if I can articulate it this way, is that the new level of protection, if you like, that's hooked under, if you like, under section 59, that is, the need for emotional security? 10

MS ALLISON: That is absolutely the heart of those applications for longer-term orders.

MS McMILLAN: Right.

MS ALLISON: I guess, you know, it's the inverse as well. What are the likely impacts on the child if an order does not continue? 20

MS McMILLAN: And, of course, one presupposes in that, I think, as the commissioner has asked you, that the child is in a secure placement, that is, a stable placement in foster care.

MS ALLISON: Mm.

MS McMILLAN: The other aspect is: is it correct that it is unusual for there to be a short-term guardianship order; that they're usually in your experiences only made where a parent is, for instance, mentally ill or, for instance, may have been convicted of a crime or something of that nature where it's considered by the department so injurious, if you like, to the child's welfare that it's considered that a short-term guardianship order is sought? Is that your experiences or not? 30

MS ALLISON: That would be my understanding, yes.

MS McMILLAN: Mr Swan?

MR SWAN: That was my understanding, but I could gather some further information on that for you. 40

MS McMILLAN: Would that be helpful, Mr Commissioner?

COMMISSIONER: Yes.

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MS McMILLAN: All right. Now, I have just gone back to Detective Harvey's statement in Mount Isa and I have chosen this because it's a snapshot of particularly regional issues. At paragraph 40 of her statement - and she was cross-examined about this - she talks about QPS investigators prioritise intakes and attend to investigations upon receipt of a notification.

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She says, "Joint investigations with child safety are hindered as child safety is not generally in a position to respond due to other work commitments and/or time-frames being outside child safety working shifts, 9.00 to 5.00, Monday to Friday." She said, paragraph 41, "I consider this a major issue, as I have personally requested child safety continue after hours to conduct joint investigations but have only experienced on a few occasions when they have continued on after 5 pm, leaving QPS to complete the investigation without their assistance. The situation has eventuated of police having to care for children under child safety after hours can organise placements, which can take several hours." Then she says, "This creates a situation of officers not being able to continue with core business and at times overtime being incurred."

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She then gives other examples, such as at Mornington Island and Doomadgee where child safety have not been present on the ground and QPS have had to undertaken service of child protection orders and time spent unable to do so because of safety issues themselves. Now, that's just paraphrasing that, but it has been a consistent theme in terms of submissions but also evidence that the fact that child safety is not available after 9.00 to 5.00, Monday to Friday, creates a significant impost upon agencies such as the QPS. We had evidence from Mr Sean Moriarty, who is a social worker, who worked in the department during the time when Crisis Care was manned, and I mean manned to the extent that personnel were available to go out and attend personally on calls with the police.

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We've also had evidence that by its very nature child protection concerns don't tend to occur in business hours, that crises tend to occur often in the evening, after hours and on weekends. I would take it that that would tend to accord with your experiences, both of you, in the field?

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MS ALLISON: Yes.

MS McMILLAN: And that it would seem by all accounts that there is a necessity for the department to be available in terms of personnel, if not 24-7, at least after hours to some extent to attend to call-outs, if I can put it that way. Can I have your comment in relation to that proposition?

MS ALLISON: I think that this is one of the issues I've been considering in the just under 12 months that I've been in the role. Just to go back a step, under the current - the award conditions that our staff work under, there are band hours of 6 am to 6 pm, Monday to Friday. People can work outside those hours and do. For example, many of our staff do visits at night because that's the only time you can catch everyone at home, and where they work outside those band hours they're entitled to time in lieu.

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MS McMILLAN: Yes. 1

MS ALLISON: I certainly think there is a case for expanded hours servicing. Throughout child safety after hours service we do have a 24-hour service. So there's a number that police or health can ring 24/7 to get some response in the local area. I think that I don't have the sense that other people are left holding the baby with what is our work, because I think there is a shared responsibility of many agencies, and explicitly the Queensland Police Service, in terms of responding at the front end to child protection matters. However, all that aside, I think there is certainly something that we can look at. I don't believe that it would be economically viable to have service centres open 24/7. I certainly think that we can look at expanded hours operation and we can do that within our current industrial instruments. I also think we can look at some enhanced on-call models for people, but I certainly - I think that the sense that there's a whole army of child safety workers knocking off at 5.00 is simply untrue. Many of our staff work expanded hours and make themselves available for a whole range of purposes after hours. 10

MS McMILLAN: Obviously there would be a cost to that. 20

MS ALLISON: Yes.

MS McMILLAN: Mr Swan is nodding. So do you have any idea of what that sort of initiative would cost?

MS ALLISON: We've certainly done some costings on what we think it would be for a full state-wide 24/7 service and it would be in the area of another 25 million.

MS McMILLAN: What would that include? 30

MS ALLISON: That would include a number of - that would include two people each at 30 locations across the state and provide for shifts across Saturdays and Sundays.

MS McMILLAN: Would it be possible to provide that in a fashion that perhaps we could have a look at it in terms of the localities that you're looking at?

MS ALLISON: Sure.

MS McMILLAN: I don't mean this afternoon, but - - - 40

MS ALLISON: Yes.

MS McMILLAN: Thank you.



MS ALLISON: Just in terms of the work, when I said I didn't think it would - it wouldn't be economically justified, just as a little bit of back-up to that, I note that between December and January - and they tend to be quite busy times. As you'd appreciate, at those times of the year you haven't got children in school, you know, which tends to provide a little bit of relief for families, a lot of stress around families at Christmas, the child safety after hours service centre collected some data and the majority of contact between the QPS are those cases where a criminal act is alleged to have occurred. So during that period we required QPS assistance on 16 occasions, but during that same period we received over 19,000 calls and recorded of those 1338 intakes. 10

MS McMILLAN: So a considerable number over that period.

MS ALLISON: Yes, so really a very small - - -

COMMISSIONER: That's something that you could have allocated to them anyway under section 14(2).

MS ALLISON: Yes. 20

MS McMILLAN: All right.

COMMISSIONER: Most of them would be physical harm. To be a crisis it would have to be physical harm. It wouldn't be - well, it might be neglect, in rare cases, but generally speaking it's not going to be emotional harm. Sexual assault - - -?

MS ALLISON: Physical or sexual, I would imagine. It also could be harm related to significant domestic violence.

MS McMILLAN: I was going to ask you, you'd have a significant marker, because the statistics tend to indicate that there's a sharp rise in domestic violence around Christmas time, isn't there? 30

MS ALLISON: Yes.

MS McMILLAN: With the influx of family, the heat, excess drinking, et cetera?

MS ALLISON: All of the above.

MS McMILLAN: All of the above. So there would probably be a spike in things like neglect and exposure to domestic violence. 40

COMMISSIONER: How would that qualify as a significant detriment to the child's emotional wellbeing again, domestic violence on Christmas Day?

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MS ALLISON: There tends to be a seasonable peak. 1

COMMISSIONER: Yes.

MS ALLISON: But, you know, domestic violence is rarely a one-off occurrence and so mostly with domestic violence you are looking at cumulative harm to children witnessing violence over a period of time.

COMMISSIONER: Yes, so that's why I'm looking at it through the lens of the crisis needs to be met on a 24-hour, seven-day a week basis. It would be rare that it would be emotional harm even caused by family violence, wouldn't it, because - - - 10

MR SWAN: It could be significant family violence, one partner seriously injured, the child not injured themselves but saw what happened.

MS ALLISON: Yes.

COMMISSIONER: Quite. That would be a traumatic experience and it might qualify as a significant detriment to emotional wellbeing. 20

MS ALLISON: Commissioner, if I can add, the other issue is that new provisions for the domestic violence family protection legislation came into effect in September.

COMMISSIONER: Yes.

MS ALLISON: Which for the first time provided ouster provisions for the perpetrator. So under - you know, there's a different range of options available for immediate protection of the household that didn't exist before September and we probably haven't seen the flow-through of those effects yet. 30

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COMMISSIONER: Yes. So the upshot of it, you say, is that on a cost-benefit analysis 24 hours, seven days a week isn't really justified. Is that right? 1

MS ALLISON: Yes, that is my view but, as I said, I certainly think there are cases for extended hours' servicing and on-call arrangements.

COMMISSIONER: But that's case management more than anything.

MS McMILLAN: Can I just ask you, Ms Allison, could there be savings in other places? For instance, if you have got some after-hours capability to, if I can put it this way, triage matters, if you had someone starting a matter Friday night and getting some investigations ongoing, the CSO who arrives Monday morning and maybe finds 20 notifications or intakes on their desk might in fact have five, for instance, in Fortitude Valley because those may have been started over the weekend. So might there be some savings elsewhere because some of the workload could be started by staff after hours? 10

MS ALLISON: Certainly in the metropolitan area the Child Safety after-hours service centre does some of that preliminary investigation work; yes, they do. 20

MS McMILLAN: Right; and so would that capacity grow if you had greater capacity for after-hours staff?

MS ALLISON: Potentially, and it depends whether - so I think the main impetus about extended hours' servicing is to provide - is to align our service hours of operation more with when families are likely to be available either for investigations or family meetings, et cetera, rather than the crisis. So I don't see much point in having officers open all nights of the week, you know, hoping somebody might call up; you know, I think it's more for planned work that can be planned over an extended period but also the on-call to respond to crisis. 30

MS McMILLAN: No, and I should have perhaps put my question more directly. I meant on an on-call basis.

MS ALLISON: Yes.

MS McMILLAN: Rather than have, you know, your Ipswich office open hoping someone might walk through the door - - - 40

MS ALLISON: Yes.

MS McMILLAN: - - - having it on-call so that you're not having people effectively sitting around.

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MS ALLISON: I think that is the most effective way. Of course we also provide large-scale disability services and the nature of those services, because a lot of them residential, are crises can occur any hour of the day or night and that's - we have a very effective on-call system operating in those services.

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MS McMILLAN: I imagine you have on-call facilities with your community's arm, if I can put it that way, as well, don't you? I mean, for floods and things like that you have an on-call - - -

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MS ALLISON: Yes, absolutely; yes.

MS McMILLAN: No doubt necessary at the moment as well.

MS ALLISON: Yes.

MS McMILLAN: So it's not a structure that's unknown to your department.

MS ALLISON: Well, no, it's not and in fact we have - we do have a system of on-call at the moment so, you know, if there is a matter where we absolutely need somebody in Mount Isa tonight at 9 o'clock to go and do some work, we will have someone in Mount Isa at 9 o'clock to do that work because there will be somebody on call.

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MS McMILLAN: So it's not like an entirely new beast we're talking about.

MS ALLISON: No.

MS McMILLAN: What you're talking about is an expansion of what you say is an existing structure, if you like.

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MS ALLISON: Yes, and a normalisation of that because - you know, the other areas of human service now people expect to be able to contact outside the hours of 9.00 to 5.00 Monday to Friday.

MS McMILLAN: I understand, thank you. Now, I want to change topics. I want to ask you about intakes. It had been raised in that meeting I had with Crown Law and members of your department about the discussion paper in terms of the issues relating to intakes.

MS ALLISON: Mm'hm.

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MS McMILLAN: Now, it's particularly found in pages 50 and following and it looks at intake models, if I can put it that way, in other jurisdictions within Australia and it looks at two, if you like competing perhaps proposals or options for intakes. One is community based intakes through a dual referral pathway on page 57 and the other

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one is option 2, non-government intake and referral services through a single referral pathway. Now, I take it each of you have had a chance to read those parts in the discussion papers.

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MS ALLISON: Yes.

MS McMILLAN: Ms Allison, could I start with you? Firstly, do you have a view about those two options? Do you favour either of them or is there another option that you would prefer and, if so, why?

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MS ALLISON: I strongly favour option 1 for a number of reasons.

MS McMILLAN: Yes.

MS ALLISON: One is that clearly it is working successfully in other jurisdictions and so I think we have the benefit of the experience of other jurisdictions in planning this to look at a way that it could be readily implemented. I also think that I don't favour option 2 because in terms of the discussions that we have had today about the risk-averse nature of the system we have at the moment I think it is simply a bridge too far. So I think we've got a system that's highly risk averse. We've got a range of notifiers who are very diligent and perhaps somewhat nervous at times in discharging their obligations. We also have a variety of matters that are reported from the most serious and life-threatening to the most minor issues about lifestyle - family lifestyle issues that we wouldn't really regard as being protective in nature. So I think that you do need a dual track because you need some way to fast track those most serious, those most urgent, things that we get, the, you know, nine-day-old shaken baby with a brain injury. We need to sort of fast track those and respond immediately, but the vast majority of matters that come before us don't fall within that and, I think, provide - to have an alternative, particularly to look at those less serious ones is likely to be a much more effective way of providing help that is needed for families particularly at an earlier stage.

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MS McMILLAN: What do you say that one of the possible disadvantages, the top of page 59, is that professionals may continue to refer the majority to Child Safety - and this probably picks up that theme of risk averse - to feel that they have discharged their, in some cases, mandatory notification duties? What would you say about that?

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MS ALLISON: Look, I think that there are a number of ways that we could deal with that. One is, I think, there's some promising evidence from the trials we're conducting at the moment of the notifiers' guide that where there are other pathways made available and explicit for people, they

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will use them. So I think that's promising. I think ultimately, you know, even though in any reconsideration of the act I would, I suppose, personally like to see some of the procedural details stripped out, I think that is an area that would be very important to clarify for mandatory notifiers, that they do have a joint pathway option, and then, thirdly, I think it should be supplemented with an education campaign about how notifications are best made.

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COMMISSIONER: In New South Wales they have a internal screening mechanism so that the first report doesn't go externally. It goes internally. Whether it should be passed onto Child Safety or referred to some other agency directly is a decision made by people who are used to making those decisions and who have got some understanding of the effect of over-reporting on you. What do you think about that? Is that just another tier?

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MR SWAN: My understanding of those - I think they're called "child wellbeing units" in New South Wales.

COMMISSIONER: Yes, they are.

MR SWAN: When they first changed their legislation and introduced the referrer's guide and they made it then that - I think a report to Child Safety or a report to the NGO meets your obligations of reporting.

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COMMISSIONER: Yes.

MR SWAN: When they first changed that, those wellbeing units were fairly heavily utilised by frontline police, health and education staff. Their main role was though to try and assist frontline people in making the decision, not to make it for them. So that as time has gone on the need for such additional capacity in there has been reduced over time as workers, frontline workers, have got used to using a guide and making the decision about is the child harmed or at significant risk of harm, child safety - or, "Do I have concerns about the child's wellbeing?" and the guide will help you make that decision, non-government organisation.

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MS McMILLAN: Ms Allison, did I understand you correctly to suggest that instead of the guide it should be prescribed in the legislation that, you know, you cannot report something below this threshold? 1

MS ALLISON: I don't know that I would go that far, but I would want to make it clear that people have discharged their obligations by reporting in this secondary way.

MS McMILLAN: Do you think it - - -

COMMISSIONER: You see, because if you had the one pathway you could make that agency effectively the collective mandatory reporter, so that everyone discharges - there's no direct access to child safety, or whatever it might be, even to a mandatory reporter. They all come through the intake mechanism or the gateway and whether they go on to child safety or are referred to another agency is decided by the intaker, not by the reporter. Do you see what I mean? 10

MS ALLISON: Yes. I do think there is a risk of over-burdening the gateway. I also think it's a big ask. As I said initially, I think it's a bit of a bridge too far for where we are at the moment. That might be something that you'd look at in time. Secondly, as an observer of many human service systems, that whole issue of the gateway in, I do think you need to be able to have some skin in the game yourself, because it's a bit hard to sort of monitor how other agencies are doing things if you're not doing them - you know, if you don't retain some competence in that area. 20

MS McMILLAN: Ms Allison, is - - -

COMMISSIONER: Yes, I understand. 30

MS McMILLAN: I'm sorry. Is the heart of your concern about number 2, or option number 2, the fact that you're concerned that that shaken baby example, if you go number 2 it won't be elevated quickly enough up the chain? Is that really perhaps at the heart of your concern about number 2, that if you don't allow that gateway through the dual system to the department that you're not going to be able to elevate quickly enough those really very serious matters of harm?

MS ALLISON: That is certainly one of my considerations, yes. 40

MS McMILLAN: Thank you. You say in terms of what you would propose, in practice how would you see option 1 as working? What would be the other gateway? You'd have the department still being one of the gateways. What would you

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see in practice as working? As you say, as the observer of many human services, what would be the other gateway, if you like, or provider? 1

MS ALLISON: In terms of the detail on this I wouldn't mind deferring to Mr Swan to talk about - he has given far more consideration to the operational detail of this than I have.

MS McMILLAN: I think that's called buck-passing, Mr Swan.

MR SWAN: Certainly the work that we've been doing over the last few years has really been looking at the Victorian Child First and then we've modelled our family support alliance in the south-east region on that Child First, which is a non-government organisation that's funded to receive referrals directly from other agencies of those matters where people have concerns about the child's wellbeing. They can also receive matters from the department where we've again also - people might have had significant concerns but we've looked at it further and we've said, "No, it doesn't meet a statutory threshold and we'll pass that out." So the three family support alliances that are in the south-east region under that HOF trial have certainly been doing that for the last two years. 10 20

MS McMILLAN: In your view are satisfactorily discharging that?

MR SWAN: Yes, and what the evaluation shows is that, yes, they're getting reasonable numbers of referrals, unfortunately. There are families in need of assistance. They're able to screen them relatively quickly. They know the network of non-government organisations in that location. They're able to refer families to those services relatively quickly. Families that are referred directly from other agencies are more likely to engage in services at first point. 30

MS McMILLAN: Thank you. Now, I want to pass on to another topic. There was evidence that's been referred to earlier about the residential care facilities and I think, Mr Swan, probably you have provided in one of your 37 statements some evidence about the cost of residential care facilities. It's undoubtedly not an inexpensive endeavour for the department. I take it you're also aware there's been some evidence from a psychiatrist named Dr Fryer about secure care. Her evidence, in short, was that in her view it's an option for probably 1 to 2 per cent if that adolescent group who have such significant needs that they are at risk to themselves, if not the community, that it would be a therapeutic model. She attached a number of articles which are available and there's been a lot of work 40

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done in Scotland in particular. Now, I don't know whether either of you have any particular views firstly about the option of secure care. Do either of you wish to venture an opinion about that option? 1

MS ALLISON: Yes, I'm happy to. I'm probably one of the people in the room who are old enough to have lived through the first generation of secure care. When I first started practising as a social worker there was a blurring between what we now call youth detention centres and secure care facilities for children under orders who had not been convicted of any criminal offences, and I suppose I have seen a system, I think, at its very worst, where children were detained for indefinite periods for adolescent rebellious behaviour that was not necessarily at the extreme end. So I would certainly hate to see a return to anything like that. 10

I do think that - and as I said, my experience as a social worker was working with adolescents; in fact, working with very difficult adolescents. Even though I worked in the court services unit I had a small caseload of adolescents who were so mobile and so challenging that the most frequent place they were seen was at court, and I became their social worker over time. So I think that we certainly need to have some therapeutic environments for some young people. I am concerned about the potential for the misuse of the juvenile justice system for children to be potentially detained on quite minor matters, essentially, because of behavioural concerns. 20

I retain strong reservations about secure care, I have to say, and I do have a view, formed over many years, about the paucity of services in the mental health area for young adolescents, because if I think about those extremely difficult, extremely challenging young people that I have known, they have generally been either acting out quite seriously in terms of criminal offending and are dealt with through that system in one way or another, or are acting out quite seriously in self-harming ways. They're not mutually exclusive options, either. It has been my experience over many years of having a great deal of difficulty of getting access to mental health services for adolescents manifesting extreme behaviours. 30

MS McMILLAN: So does one take from your answer that your preference is to engage further in offering mental health services rather than an option as perhaps - maybe the word shouldn't be draconian, but along that continuum to secure care? Is that really what you're driving at in that answer? 40

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MS ALLISON: I would certainly want to explore what more services that we could put around some of those extremely - those children with extremely challenging behaviours, yes. 1

MS McMILLAN: As Dr Fryer says, the success or otherwise of the secure care seems very much dependent on the step-up and step-down services.

MS ALLISON: Yes.

MS McMILLAN: So it seems, unless you have got significant services available - and they must include, one would think by definition, mental health services - they couldn't be successful, one would think. 10

MS ALLISON: Mm.

MS McMILLAN: You would no doubt want to explore - we heard evidence from Dr Stephen Stathis, a child and adolescent psychiatrist, who, when he gave evidence late last year, was in charge of CYFOS which was an outreach service or child and youth mental health.

MS ALLISON: Yes. 20

MS McMILLAN: You no doubt would be concerned to hear that your department is not a stakeholder in that so that he cannot provide a service to young people unless they are already a client of Child and Youth Mental Health Service or some other stakeholder that's involved. I take it you would want to try to address that so that, for instance, his service would be able to provide outreach to young people who would be in need of mental health services.

MS ALLISON: Yes, absolutely. 30

MS McMILLAN: I mean, that would seem a no-brainer, one would think, with respect.

MS ALLISON: Yes; yes.

MS McMILLAN: Yes.

MS ALLISON: Also, we have a couple of specialist psychiatrists actually employed by the department in the disability area and, given that a number of the young people in that very challenging cohort are young people with a disability as well, in fact I have recently asked the psychiatrist in charge of that unit to undertaken an assessment of some of those young people. 40

MS McMILLAN: In fact it's not mutually exclusive - - -

MS ALLISON: No, not at all.

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MS McMILLAN: - - - that whole mix, is it, of young people in care as opposed to disability, is it? 1

MS ALLISON: No.

MS McMILLAN: I mean, there's a considerable degree of overlap.

MS ALLISON: There is.

MS McMILLAN: Okay. Now, I just wanted to move on to - I'm sorry, did you have some figures of what some sort of secure care option would cost? Mr Swan has the envelope, so to speak, to hand to you, I gather. 10

MS ALLISON: We've certainly got some comparative costs from what service is in other states.

MS McMILLAN: Yes, that would be helpful.

MS ALLISON: So, for example, the New South Wales government spends about 2.6 million on a secure-care facility which accommodates up to six children. So just to do the maths, that's about an average cost of \$433,000 per child, but typically there's no more than four children at a time so that ups the cost to about \$650,000. Of course you'd have the capital cost on top of that which would be considerable. The Western Australian government has got two secure-care facilities open since 2011 with a total budget of 13.7. They were intended to accommodate up to 10 children each at a cost of around \$688,000 per child, but they have been downsized due to lower than expected demand for the services and now accommodate up to six children. Of course the costs - if there are few children, the costs don't really reduce because the staffing ratios are still required. 20 30

MS McMILLAN: Yes.

MS ALLISON: The Northern Territory government is also currently planning for the introduction of secure care and has budgeted \$4,000,000 for two facilities, each accommodating four children at around about a cost of half a million dollars per child. So you can see that the costs are in that 5 to 7 hundred thousand dollars per child averaging across Australia.

COMMISSIONER: In Sherwood House in New South Wales it has never been at full capacity and all the residents have been young females. I thought that was an interesting figure. You had to wonder why there wouldn't be - because the expectation would have been that they would be unruly males. 40

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MS ALLISON: In my experience of working in the courts for a number of years unruly males tend to act out more in a way that brings them into contact with the criminal justice system. 1

MS McMILLAN: That was in fact Dr Fryer's evidence. She said that traditionally young male adolescents have acted out in a way that is harming to others, whereas young women have acted in a way that's harming to themselves.

MS ALLISON: Self-harming. 10

MS McMILLAN: Although she says those stereotypes are changing in recent years.

COMMISSIONER: Do you still have the positive-behaviour policy in place that you brought in in 2009?

MS ALLISON: For disability?

COMMISSIONER: No, for restraining the unruly. Do you have the positive-behaviour support policy still.

MR SWAN: Yes, in Child Safety; yes. 20

MS ALLISON: Yes.

COMMISSIONER: Has it been activated recently?

MR SWAN: There's a bit of a difference between the positive behaviour support for disability services where there's a person with an intellectual disability and they do have restrictive practices in place - - -

COMMISSIONER: That's under the disability legislation. 30

MR SWAN: Yes.

COMMISSIONER: No, I don't mean that.

MR SWAN: In the other case the positive-behaviour support is the policy and guidelines available to staff and to incorporate that assessment and then the strategies within the case plan for the young person.

COMMISSIONER: One of the last-resort strategies is restriction to prevent harm to self or others, isn't it? 40

MR SWAN: On a case situational - - -

COMMISSIONER: Yes, that's what I was asking. How many cases of them have we had in the last two years, say?

MR SWAN: It has not been generally out practice in terms of to restrict or restrain young people.

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COMMISSIONER: I know, but are there exceptions to the general rule in the last two years? 1

MR SWAN: Not that I'm aware of, no.

MS McMILLAN: I want to move to a different topic. We know that again - I'm sorry, Mr Swan, I didn't give you a chance to comment on the secure-care model. Ms Allison did. Did you want to add anything?

MR SWAN: No.

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MS McMILLAN: No, all right.

COMMISSIONER: It's in the submission.

MS McMILLAN: Yes, there is a passage about that. In the CMC report of 2004, 9.1, the Child Protection Act it was recommended be amended to enable the department to intervene where it is suspected that an unborn child may be at risk of harm after birth. The rationale was some pregnant women need assistance and support before the birth of their child to reduce the likelihood of the child needing to be placed in out-of-home care after birth. The principle is that of supportive intervention rather than interference with the rights of pregnant women. Now, a submission perhaps again just as a snapshot of a number that the commission has received - this is one from Cape York/Gulf RAATSICC in relation to newborn investigation assessments - indicated to those pregnant women residing in Cape York and Gulf communities an unborn alert flag with Child Safety. They travelled to Cairns to deliver their babies. For most of these cases the women are not aware that an unborn alert has been flagged. When they come to the Cairns Base Hospital to deliver, it is most likely child safety officers visit to conduct an investigation and assessment on the newborn child. For these Cape York community women the outcome has been known to be removal of their child from them whilst the investigation takes place. The mothers are expected to stay in Cairns whilst their investigation happens, but many return to their communities for support in their time of grief and loss of their child. This act is regarded as abandonment and the newborn child is placed in long-term care. Now, they make a number of suggestions in relation to that pregnant women who have an unborn alert must be referred to a family support service. Accommodation must be funded and support given to mothers that are placed in this predicament and the RE must be consulted before the decision to remove any ATSI child from hospitals. Now, firstly, we know Ms Jeffers has provided a number of statements and again you, Mr Swan, have provided the last statement in this chain on 29 January that children admitted to out-of-home care within seven days of their birth in Queensland for the year ending 30 June 20

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2012 was 155, so we're not talking a huge number of children, but not an inconsiderable number, one would think either.

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MS ALLISON: No.

MS McMILLAN: And you probably both agree that to the person in the street it is a gross invasion of a parent's right to remove a child, if not at birth, at least within their first seven days of their life. Is it your understanding that this is not an uncommon occurrence, that really the first a woman may know about a flag, if you like, about an unborn child is at the time that she gives birth or shortly thereafter.

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MS ALLISON: That would be my understanding.

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MS McMILLAN: In your view is that appropriate or desirable? 1

MS ALLISON: Sorry, could you - - -

MR SWAN: I was just going to say, we are able to engage earlier. If we have an unborn alert we can - - -

MS McMILLAN: But do you?

MR SWAN: I don't know the figures of those 155, but it certainly should be a practice that we can talk to the mother about engaging with the family support service. We can also, if it's an Aboriginal and Torres Strait Islander woman, that we can seek their consent to refer to the recognised entity or the family support service. 10

MS McMILLAN: Yes, but of course then she'd need to be aware that you have concerns for that to occur.

MR SWAN: Yes.

MS McMILLAN: You obviously have the facility already to provide that primary support, don't you, in relation to pregnant women. Correct? That is, support services to pregnant women whether or not they have a flag about the unborn child. Correct? 20

MR SWAN: In terms of there's a service that - we're able to refer to the family support services.

MS McMILLAN: Yes.

MR SWAN: But also Queensland Health would have services available. 30

MS McMILLAN: Yes, right. We've also heard evidence from those working in Queensland Health, or the liaison officer within Queensland Health, that it is not uncommon for women not to have a proper explanation of why the child is being removed, nor indeed it being done by the department, it being delegated, in effect, to hospital workers to have to explain to new mothers what is occurring. I take it neither of you would think that that was a desirable state of affairs.

MS ALLISON: I couldn't comment on whether that was the case. I understand it may be the perception. 40

MS McMILLAN: Clearly this being, one would expect, an emotive issue, are there ways in which either of you would see this as being an area which might be improved in terms of what clearly are perhaps poignantly depicted in the RAATSICC submission could be dealt with in a better way.

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MS ALLISON: Just to clarify, because there are no obstetric facilities in any of those communities, all women, not just - - - 1

MS McMILLAN: Yes, must go to Cairns.

MS ALLISON: All women must go to Cairns to - - -

MS McMILLAN: Yes, or Mount Isa or - - -

MS ALLISON: Yes, any of the major centres. So, you know, it's certainly not - and they tend to go to Cairns about six weeks before their due date of delivery so there's quite a period of separation from home for all expectant mothers for those communities and the need for support during that period. One of the considerations, I think, as has been brought to my attention, is a concern that pregnant women continue to seek antenatal advice, et cetera, throughout their pregnancies. One of the areas of caution that's been expressed to me is not wanting to drive women underground, so to speak, so that they don't seek essential health services for themselves and their unborn children during the pregnancy. So, you know, we don't want to create any perverse consequences. Having said that, Brad is absolutely right that we can refer people to services and particularly to indigenous family support services with the consent of the women concerned. I think as far as the scenario in the hospital goes, I think that probably, you know, one of the issues about human services systems is that an action in one part of the system has got a great deal of impact in another part of the system. So, for example, the fact that once upon a time a woman might have had four or five days in hospital past delivery before she and her child were discharged, it doesn't tend to be the case now. You tend to be discharged quite quickly. One of the alternatives I think that could be looked at is a greater use of the powers under the Health Act whereby medical superintendents can invoke a 96-hour holding order which holds the child and at the same time, you know, offer to keep the mother, and that way there's no separation of mother and child which is traumatic but it in fact allows some further opportunity for assessment to take place. 10 20 30

MS McMILLAN: Of course, we've already had evidence from health's perspective that that's really a child safety matter, that's not within their remit. That really should be down to - I see Mr Swan smiling wryly. We've already had evidence, for instance, from Dr Connors, that that is a matter that really is properly within your department's remit and should not be pushed, in effect, over to them. 40

MS ALLISON: Those powers have been in the Health Act for over 30 years.

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MS McMILLAN: Correct. 1

MS ALLISON: So I don't think it's a matter of pushing something off. It was a very deliberate amendment to the Health Act in 1981.

MS McMILLAN: Well, on any view of it, just in terms of those questions and answers, there seems to be a fertile area that you may have discussions with your health counterparts about some clearer perhaps demarcations about those issues, but perhaps it highlights a number of issues, one of them also being cultural competency issues. 10

MS ALLISON: Yes, indeed.

MS McMILLAN: Such as if the mother returns to her community that is termed abandonment and she obviously goes there in her time of grief and loss. Well, that perhaps just again underlines issues of understanding those cultural issues, and again, some of the logistical and regional and remote issues, does it not?

MS ALLISON: Yes, indeed. 20

MS McMILLAN: So perhaps could we agree that it's a work in progress.

MS ALLISON: Yes, we could, but I do think there is a - you know, I would again emphasise, there is a statutory framework on which various agencies have statutory roles. This includes health, and I think that - you know, I do think those powers in the Health Act are there and have been there for a long time for a very good reason, but there has been a tendency not to exercise them. I would suggest that the exercise of those powers would allow for assessment and a potentially much less traumatic outcome for the mother and infant. 30

MS McMILLAN: Yes, well, as I say, perhaps you might take that up with your health counterpart. Now, I have covered the areas I wish to with each of your. Because of the nature of this examination, were there any particular matters you either wanted to respond to from matters I raised or the commissioner raised before I finish?

MS ALLISON: There were probably some of the questions on notice. If I could - - - 40

MS McMILLAN: Yes.

MS ALLISON: From before lunchtime. So there's a question about the Evolve funding and I can confirm that the Evolve funding for the year 2012-2013 was 24.723 million of which 17.9 million went to Queensland Health and roughly 6.8 million went to Disability Services. So the Evolve

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services provided by health, just to clarify, are not secondary services, they're psychological and psychiatric support services to children who are in out of home care.

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COMMISSIONER: Yes.

MS ALLISON: So that is part of the tertiary system. There was also a question about adoption and whether any of the children adopted were from the child protection system, and there were none. I can confirm that. There was also a question about the years when specific initiatives commenced, so terms of the RAI, referral for active intervention, the ten RAI services established were in late 2006. Evolve was 2005. I think we clarified that HOF was in late 2010 and the Aboriginal and Torres Strait Islander family support services were also in 2010.

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COMMISSIONER: The Evolve that you're talking about then was the prevention of relinquishment for disabled - children with a disability rather than the therapeutic care of - or therapeutic treatment of children in care, is that right? The first Evolve was limited to children with disabilities who were at risk of relinquishment.

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MS ALLISON: No, I think - - -

MR SWAN: No, it was the opposite.

MS ALLISON: Yes.

COMMISSIONER: Was it?

MR SWAN: When Evolve was first established it was just targeted for children in care.

MS ALLISON: Foster care.

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MR SWAN: We've now extended it to enable the disability Evolve services to provide support to those children that we would consider at risk of relinquishment to prevent them coming in.

MS ALLISON: Yes.

COMMISSIONER: Yes, I see. Okay, thanks.

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MS ALLISON: Two other matters, if I may. The question was whether there was a high number of identified indigenous positions in those child safety service centres located where there were high indigenous populations and the answer to that is no, there is one of those positions across all of the service centres. Does the department fund Kids Helpline? Kids Helpline is auspiced by Boystown and it's predominantly funded by private sector and donations, but it does receive \$125,000 top-up to extend to regional and remote communities. That's recurrent funding.

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MR SWAN: That's what the Commissioner asked about earlier.

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MS ALLISON: That's the additional services that we talked about earlier.

COMMISSIONER: Yes.

MS ALLISON: And also receive some targeted family support funding of about 77,000. So we provide both of those. I also have a couple of further - some further information about resubstantiation rates. So children subject to a substantiation in the year ending 30 September 11, 20.6 per cent were subject to a subsequent substantiation in 12 months. There was another question about in what year was the definition of neglect in terms of the failure to protect implemented. In August 2011 there were some enhancements to the ICMS system including the ability to record the substantiated harm type of failure to protect from harm or abuse. So it's reported under the broader category of neglect. For example, a risk of emotional harm caused by failure to protect from psychological, physical or sexual abuse is now recorded as neglect. So in that sense there has been that - - -

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COMMISSIONER: An expansion, but not a legislative definitional change, it was just an internal - - -

MS ALLISON: A systemic change.

COMMISSIONER: Yes, I understand.

MS ALLISON: So similarly the risk of physical harm caused by a failure to protect from emotional, physical or sexual abuse is now recorded as neglect. So as a result of these enhancements the proportion of substantiations with neglect as the most serious type of harm has increased. And in the year ending 30 September 2012 neglect was the most serious harm type recorded in 43.5 per cent of substantiated, compared to 32.5 for the year ending 30 June 11.

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COMMISSIONER: But it's different for the indigenous community, isn't it? I think they're reversed.

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MS ALLISON: Yes, it's a bit higher.

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COMMISSIONER: I'm just trying to understand a bit about the failure to protect. Isn't that sort of redefining the definition of "in need of protection" to include a child who hasn't been protected, he doesn't have a protective parent? Like, you've defined harm in terms of protection, which is already an element of "in need of protection", so where's the harm element of the protective need if the need if protection is made up of a failure to protect? Do you know what I mean? Section 9 requires - section 9 defines harm as "a significant detriment to one of a child's wellbeings," which includes emotional wellbeing. And then to be in need of protection you have to be harmed, which includes an unacceptable risk, and generally speaking that's all you're going to measure because you can't change history, and in terms of making decisions, you're looking at probability of future harm. But how does that work if the basis of the harm was a failure to protect when you're assessing the future? And the other element of whether a child is in need of protection is whether or not there's an able and willing parent. I don't understand that.

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MR SWAN: I'm just trying to think if you work through the example I gave before again about a child might be sexually abused and there's a perpetrator living within the household.

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COMMISSIONER: Yes.

MR SWAN: And the parents haven't got the capacity or capability to make the decisions that that's not so for the child and therefore - - -

COMMISSIONER: So they wouldn't be a protective parent.

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MR SWAN: And therefore to protect the child from further harm, if they want to continue to have that sexual perpetrator living in the house with them. So therefore a child - - -

COMMISSIONER: Okay. You work on the past harm in that case - - -

MR SWAN: And also the future risk - - -

COMMISSIONER: And the future failure to protect.

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MR SWAN: Future failure to protect and to be able to make a decision that it's not safe for that sexual perpetrator to continue to live in that house with those children.

COMMISSIONER: But still, the harm wouldn't have been a failure to protect, there, would it, unless you knew.

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MR SWAN: If they knew, yes. 1

COMMISSIONER: If they knew implicitly that they - - -

MR SWAN: If they knew implicitly that it was a sexual  
perpetrated that had returned and come to live with in the  
house.

COMMISSIONER: And that almost permitted the harm.

MR SWAN: Yes. Or they knew something was going on and  
they knew that the person - - - 10

COMMISSIONER: But wouldn't that go to their protective  
qualities rather than the harm element?

MS ALLISON: Where harm has already occurred, certainly  
you're looking at what is the capacity of the parents to  
protect this child from future harm.

COMMISSIONER: Yes. But in reality when you use your  
predictive tool - what you have to do under section 14 is  
investigate allegations or suspicions of abuse or risk and  
notifications essentially. And you investigate to see if  
harm has already happened, but in reality you're looking to  
see whether it's going to happen again. 20

MR SWAN: Yes.

COMMISSIONER: That's why you have the predictive tool.  
And all it does is predict risk, it doesn't tell you  
anything about the past, does it? You forensically decide  
whether it happened in the past - - -

MR SWAN: We're looking at risk evaluation in the future. 30

COMMISSIONER: That's right. So that's the assessment  
part of it. How would you qualify for the definition of a  
child in need of protection based on a parental failure to  
protect alone when the protection capacity of the parent is  
already an element, but it is not sufficient on its own; it  
is a precondition to being in need of protection but it's  
not sufficient on its own.

MR SWAN: You know the child has been harmed when it's  
been sexual abuse.

COMMISSIONER: That's right. 40

MR SWAN: And you know that the parents have known about  
that and not acted in any way - - -

COMMISSIONER: That makes them non-protective.

MR SWAN: - - - to continue to protect that child.

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COMMISSIONER: Yes. 1

MR SWAN: And that they don't want to do anything about anything in the future to protect that child, and that want to continue for the current arrangements to go on. And therefore the future - - -

COMMISSIONER: That's what I meant when I started the conversation. That means and what you do is when you're assessing protection needs is you say, "Well, it happened in the past through failure to protect. It's going to happen in the future because the parents aren't protective." 10

MR SWAN: On the circumstances of what they're not being protective about in the fact that they either won't ask the perpetrator to leave the house or put any strategies in place that would not allow the future continued sexual abuse of that child.

COMMISSIONER: So the unacceptable risk is constituted by the lack of future protective capacities? So the one criteria satisfies both elements of whether a child is assessed to be in need of protection or not. 20

MR SWAN: Yes, the likelihood of that abuse continuing and the likelihood of the parents not acting to protect that child continuing.

COMMISSIONER: I'm still confused but I understand what you're saying.

MR SELFRIDGE: Based on the example or examples that Mr Swan just gave, in my submission in terms of section 9 subsections (3) and (4), those would easily fit within the confines of those harms identified. 30

COMMISSIONER: No question of past harm. Let's assume there's past harm.

MR SELFRIDGE: Okay, yes.

COMMISSIONER: So then we're moving from the investigation stage to be assessment stage.

MR SELFRIDGE: Yes.

COMMISSIONER: And we're assessing is this child in need of protection? 40

MR SELFRIDGE: Yes.

COMMISSIONER: And the question we ask ourselves is, "is unsubstantiated?"

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MR SELFRIDGE: Yes. 1

COMMISSIONER: And thus, "Is there are a protective parent?"

MR SELFRIDGE: Yes.

COMMISSIONER: And the answer is yes, harm is substantiated; and also there's no protective parent. So I understand the legal technicality of it. What I was more focusing on was the practice of it, given that you've got a predictive tool that only doesn't look at past harm, it looks at future risk and says, "Based on the past - - -" 10

MR SELFRIDGE: Past behaviours.

COMMISSIONER: There's a probable risk that it will recur.

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MR SWAN: It's also based on the current circumstances that are likely in the future within that household, not just on the past. 1

COMMISSIONER: No; no, that's right.

MR SELFRIDGE: Doesn't the past harm, in effect, and in the current circumstances, Mr Swan, identifiers relate to the specific risk in the future, whether that be acts or omissions or a combination of those factors identified?

COMMISSIONER: Yes, technically it does, but what I'm saying is the non-existence of a protective carer really qualifies both limbs of the definition of being in need of protection. 10

MR SELFRIDGE: I wouldn't cavil with that.

COMMISSIONER: No.

MR SELFRIDGE: I understand your point, yes.

COMMISSIONER: Right. Ms McMillan? 20

MS McMILLAN: I have finished, thank you, with the witnesses.

COMMISSIONER: I will let you go last, Mr Selfridge, if you want anything.

MR SELFRIDGE: Yes, thank you.

COMMISSIONER: Ms Ekanayake, would you like to ask some questions?

MR EKANAYAKE: Before I start, I have a document to be exhibited as an exhibit. It's with respect to Aboriginal and Torres Strait Islander young people. I have got copies. I'd like one to be given to Ms Allison. 30

COMMISSIONER: While that is being distributed, could tell me - you know that blueprint for implementing the taskforce's report that was done in 2009?

MR SWAN: Yes.

COMMISSIONER: Have we got a shared vision statement yet? We were supposed to have one by March 2011, weren't we? 40

MR SWAN: Yes.

COMMISSIONER: Okay. Any sign of it?

MR SWAN: Not at this stage, no. It was a joint project.

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COMMISSIONER: Yes, I see QATSICPP is your partner in that. 1

MR SWAN: Yes.

MR EKANAYAKE: Jennifer Ekanayake of the Aboriginal and Torres Strait Islander Legal Service. Ms Allison, ATSILS welcomes you to your important role. Given your client base is currently 40 per cent Aboriginal and Torres Strait Islander children and this rate is expected to go up to 60 per cent, how do you view the best interests and the section 5C considerations, that is, the provisions for Aboriginal and Torres Strait Islander children in care. 10

MS ALLISON: Sorry, I'm having a little trouble hearing you.

MR EKANAYAKE: Sorry, can you hear me better now?

MS ALLISON: A little better.

MR EKANAYAKE: Better now, okay. Yes, so I'll repeat the question, but if you could take this document and have a look at page 3, specifically there are two drawings there done by children in out-of-home care. This document was put together by combined voices, the Aboriginal and Torres Strait Islander Legal Service - by three organisations together, that is, the Aboriginal and Torres Strait Islander Legal Service, the QATSICPP; that is, the Queensland Aboriginal and Torres Strait Islander Child Protection Peak, and CREATE Foundation. If you could have a look at the two drawings on page 3, specifically the drawing on top, could you then answer the question that I'm asking you which is: given your client base is currently 40 per cent Aboriginal and Torres Strait Islander children and this rate is expected to go up to 60 per cent, how do you view the best interests and the section 5C considerations in relation to these children and looking at the drawing of these children - - - 20 30

MS McMILLAN: Mr Commissioner, I object to the question. I don't see how it's helpful to you for this witness to try to interpret two diagrams before you. I would have thought the question just put, how does this witness see her role given the functions as prescribed by the act, without the reference to the diagrams as being a perfectly proper question. The interpretation or otherwise of pictures is fraught with danger, with respect, and I don't see how that in any way assists you. 40

COMMISSIONER: Yes, I don't know how it does either. Can't I make my own interpretation as well as either Ms Allison or Mr Swan of what these are meant to convey in the absence of any other information? I don't think really

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that it's going to help me. I might disagree with the interpretation so I might put my own there anyway and if I agree with it, then I would have come to that conclusion without any help.

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MR EKANAYAKE: Commissioner, it's a child in care making known their views.

COMMISSIONER: Yes, sure; no, I understand. I was interested in looking at them.

MR EKANAYAKE: I will still go back to my question then and seek your views on that, your views in relation to the fact that your client base is going to rise perhaps to 60 per cent and looking at section 5C considerations and the best-interest provisions.

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MS ALLISON: I think that there's no doubt that the high number of indigenous children in care is of concern to me and, indeed, one of the greatest concerns for me. Another aspect of my background is that at the time of the Royal Commission into Aboriginal Deaths in Custody I was running the Juvenile Justice System in the state. I was involved in collecting some material from Queensland cases for that and so - and I have worked with quite a number of indigenous families over the years, you know, in my own practice as a social worker where children were separated from their parents. So for me some of the critical issues are about supporting families at home and I think some of the - for me some of the critical issues with working with indigenous families is that the wellbeing of families is - the wellbeing of children is highly linked to the wellbeing of families which is highly linked to the wellbeing of the communities in which those children reside. Of course the majority of children live in urban areas but some of the factors that are of great concern to me is still the extent of disadvantage in many indigenous communities. One of the things that - in terms of the duties and responsibilities under the act one of the things that is of high priority to me is redirecting funding to support indigenous children and families and to introduce strategies to prevent the rereporting of those children. Funding to the Aboriginal and Torres Strait Islander Intensive Family Support Services was a critical step, I think, in this regard, but also we need to make sure that people are working intensively and effectively with families to reduce the reporting and where the child - in those unfortunate circumstances where we're unable to work with the family or the child has to enter care for a period, then I have a strong view that the effective implementation of the child-placement principle is critical and to the extent that that's not possible, maintaining cultural links. I also would just make the remark that in terms of even if a child has to be removed from their parents for a period, I think

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that indigenous services are uniquely placed to help us discover what kin, you know, may be available. That may not be immediately visible to people in the department who are doing the work but there may be other people who are very willing to extend a home to that child or children for a period that we don't know about.

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Thank you. Ms Allison, at page 107 of the department's submission at paragraph 1 there is highlighted cultural competency being more than just Aboriginal and Torres Strait Islander staffing structures and that it requires the incorporation of cultural knowledge - - -

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MS ALLISON: Sorry, I'm still struggling to hear you a little bit.

MR EKANAYAKE: Yes, sorry. At page 107 of the departmental submission at paragraph 1 they highlighted that cultural competency is more than just ATSI staffing structures and that it requires the incorporation of cultural knowledge into a service delivery framework. Would you agree that in building such a framework the starting point is Aboriginal and Torres Strait Islander children and their representative professionals?

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MS ALLISON: I'm not sure that I understand the question as you've phrased it to me. 1

MS EKANAYAKE: Yes. Now, look at paragraph 1 on page 107 of the submission.

MS ALLISON: Yes.

MS EKANAYAKE: It says that cultural competency is more than just having Aboriginal and Torres Strait Islander staff, that if furthermore is the incorporation of cultural knowledge into a service delivery framework. 10

MS ALLISON: Yes.

MS EKANAYAKE: Would you agree that in building such a framework the starting point is Aboriginal and Torres Strait Islander children and their representative professionals?

MS ALLISON: The representative professionals?

MS EKANAYAKE: Professionals. The professionals who work in those areas with Aboriginal and Torres Strait Islander children. 20

MS ALLISON: Yes, but there's many people who work with indigenous children. I'm not quite sure I'm answering your question.

MS EKANAYAKE: Whether the professionals - Aboriginal and Torres Strait Islander professionals would be working with Aboriginal and Torres Strait Islander Aboriginal and Torres Strait Islander children or look at children and the professionals and work with them. Would you agree that that's the starting point? 30

MS ALLISON: It is a starting point, yes.

MS EKANAYAKE: In establishing cultural competency.

MS ALLISON: But it is also - I mean, given that there is quite a small number of specific indigenous support agencies, we would aim to grow those over time, but there are also - it is also about promoting cultural competence in the range of mainstream organisations who will deal with indigenous people over time. In fact, the other thing that I think can be a factor at times, and I'm aware of this with my Legal Aid background, is that some indigenous people explicitly do not want to engage with indigenous organisations, for reasons of their own. 40

MS EKANAYAKE: Would you have numbers? When you say that of your experience at Legal Aid that some indigenous - - -

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MS ALLISON: No, I don't have any numbers. 1

MS EKANAYAKE: Going on to the next question, Ms Allison, could you demonstrate how your office, the executive, is informed by and consults regarding Aboriginal and Torres Strait Islander practice? I'd like to start with the statement - the attachment to Mr Swan's statement which sets out the department's organisational structure? Could you name the sections which inform cultural competency?

MS ALLISON: Again, I'm not sure whether I'm answering the question in the way you're intending it, but if I can say that, you know, of course, in all of the child safety service centres indigenous staff are embedded. Training in cultural competency is a core prerequisite for all staff who are engaged in those frontline child safety services. We've earlier today in this commission referred to Mr Dagley's statement, which includes some of the specific cultural awareness, cultural competence training that is available. So do we have a specific Aboriginal and Islander unit within the department? No, we don't. We certainly have close links with our colleagues in DATSIMA. 10

MS EKANAYAKE: What about cultural competency for the executive or senior staff of the department? 20

MS ALLISON: I think that - just casting my mind over all the members of the executive, I believe that all of the executive, including me, have done cultural competence training at some stage.

MS EKANAYAKE: The indigenous coordination unit headed by, as far as we're aware, manager Jamie Alley, where is this unit located within the structure of the organisation?

MS ALLISON: Reporting to Mr Swan. 30

MS EKANAYAKE: In relation to the unit what's the staffing structure?

MS ALLISON: I'm not in a position to answer that question. Perhaps Mr Swan could answer that.

MR SWAN: It's a small unit. It's incorporated within the policy area under my responsibility. It has the responsibility to both undertake specific work about policies and practices in relation to Aboriginal and Torres Strait Islander children but also a responsibility to inform other areas both in terms of policy, child protection development, non-government organisations and funding, about any issues that we might need to be aware of. The person can also liaise with our regional service staff if required. 40

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MS EKANAYAKE: In relation to - - - 1

MR SWAN: And does do that.

MS EKANAYAKE: Sorry. In relation to the unit what are the skills and expertise and the number of Aboriginal and Islander staff?

MR SWAN: At the moment there is the one person.

MS EKANAYAKE: Just the one person. 10

MR SWAN: Supported by some other staff members who are non indigenous.

MS EKANAYAKE: Ms Allison, would you say there appears to be a reasonable level of decision-making and organisational hierarchy in the unit - within the unit if it's just the one person?

MS ALLISON: I can't comment. I'm not in a position to comment on that.

MR SWAN: Yes, the person is currently meeting the review of Aboriginal and Torres Strait Islander family support services for us. They're currently going out, planning to engage with all services. We've been very cooperative with QATSICPP in relation to developing the terms of reference and the questionnaire that we're using. Through myself we've engaged and contacted all services and had a pre-meeting or teleconference with those services. The person has provided considerable support to myself in relation to advice, the policy direction, the strategy about undertaking the review and the evaluation. 20

MS EKANAYAKE: Thank you. We understand from the organisational structure of the department that the regional directors have a level of independence from the executive, or the executive director Brad Swan, yourself, and child safety subsections. How do you see the unit influencing frontline practice - again, going back to the indigenous - - - 30

MS ALLISON: I think that one of the issues that I attended to very early when I became director-general; in fact, I believe it was on the second day, was to determine that regional executive directors would become part of the department's executive, which they were not, and in a service oriented, outward facing organisation I believe that is the correct thing to do. So it's not true to say they've got - they're independent in a way that they were not independent before, because clearly there are thousands of operational decisions and actions that go on each day in our regional offices. 40

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However, the role of the policy area and the child safety area headed by Mr Swan, it sets, you know, the framework, policy guidelines, it is responsible for the delivery of the child protection manual, which is the key document to which staff must refer in terms of how they exercise various statutory powers and responsibilities. So I certainly think - but there is a - at the same time there is a feedback loop so that staff through the regional directors, which are the level of staff below regional executive directors, there is a regular feedback loop to Brad and his staff about what are some of the practice issues that they are working on to which different kinds of policy responses are needed, and this is the way that we ensure that those issues are regularly refreshed and that policy remains relevant to practice and vice versa. 1 10

MS EKANAYAKE: Ms Allison, are you aware the indigenous coordination unit was originally headed by a director and a full complement of indigenous professionals skilled in policy and practice development?

MS ALLISON: No, I'm not aware.

COMMISSIONER: What does a "full complement" mean? How many is a full complement? 20

MS EKANAYAKE: Staff that were dealing with policy - Aboriginal and Torres Strait - - -

COMMISSIONER: Yes. How many was it, do you know?

MS EKANAYAKE: Four. Four staff.

MR SWAN: From memory, I think it might have had two permanent staff that were supplemented by some temporary staff from time to time depending on the nature of the projects, but we can verify that. 30

MS EKANAYAKE: Another question in relation to - Ms Allison, are there other key identified roles across the executive policy practice and program development, and how do these positions inform practice?

MS ALLISON: Not the best of my knowledge.

MS EKANAYAKE: Regionally?

MS ALLISON: Regionally we've talked about - there are policy positions in the regions. We've talked about the identify positions of child safety support officers in each of the child safety service centres. 40

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MS EKANAYAKE: We're interested in the identified positions in the regional areas or the regional positions that have Aboriginal and Torres Strait Islander staff. 1

MS ALLISON: We do have a number of indigenous staff in positions that are not identified, including as managers of child safety service centres. But to the best of my knowledge - and I don't pretend to have a highly detailed knowledge - the child safety support staff are the main identified positions.

MS EKANAYAKE: Ms Allison, are you aware of the unintended erosion due to reduction in public services, particularly erosion to the cultural competency framework? 10

MS ALLISON: I don't think I'm in a position to comment on that.

MS EKANAYAKE: What directives and considerations were implemented to protect the cultural competency structures children and young people rely on?

MS ALLISON: What time period are you referring to? 20

MS EKANAYAKE: Perhaps Mr Swan might be able to answer that question. Within the past few years.

COMMISSIONER: Is this on the basis that there used to be two, now there's only one, so how come it's been downgraded? Is that what you want to know? The perspectives will be exhibit 182.

ADMITTED AND MARKED: "EXHIBIT 182"

MS EKANAYAKE: With the changes in public service and redundancies I would think the question would (indistinct) in relation to those changes. 30

MS ALLISON: Cultural competency remains a priority for us. You know, I don't - clearly there are some reductions in expenditure that we've had to make over the last year. We've had to prioritise within that. Within the budget that's available for training, cultural competence remains a priority.

MS EKANAYAKE: What advice would you have for members of the Aboriginal and Islander community who see corporate will and cultural competency as interlinked for any successful strategic drive addressing over-representation? 40

MS ALLISON: What advice would I have?

MS EKANAYAKE: Yes.

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MS ALLISON: I'm not sure that I understand the question, but let me start to talk and see if I get to it. I think corporate will is fairly evident in the department's strategic plan right the way through the policy and procedures that support our regional service delivery. It's a very complex issue that requires commitment at all levels of the agency. I think that it is very clear it's a priority, it is reflected in the fact that it's a particular term of reference for this very commission, that it is a very high priority matter.

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MS EKANAYAKE: Thank you. Ms Allison, the department in evidence before the inquiry has made prediction regarding the workload and demands of future trends. These have been largely reactionary: increases in over-representation; more residential; professionalism with foster care, et cetera. What do you think of the notion the community expects excellence, therefore a practice shift towards innovative responses? For example, predictions of increase in the systems for trauma-related behaviours, and therefore increase in the need for residential care?

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MS ALLISON: I think that in times of fiscal constraint such as now the argument is even more towards innovation and not less. However, given the subject matter we're dealing with it needs to be responsible and considered. I think that in the last year - and bearing in mind that this commission has not brought down its final report yet - we have certainly been making some incremental changes but have held off to see what the roadmap provided by this commission would be. But we've recently amended policies and procedures to provide more support to families about when it might be safe for a child or young person to return home and to assist in transition. We'd be very keen to explore a range of ideas and happy to discuss.

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MS EKANAYAKE: As regards corporate will to address overrepresentation and cultural competency to deliver with all NGOs, how is the department ensuring accountability through contract arrangements and service delivery?

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MS ALLISON: There's a more general answer and a more specific answer for that, and so I'm going to ask Mr Swan in a minute to address the more specific answer, but there's a general answer which I'll turn to first: that is we are in the process at the moment of the first wave of some recommissioning of funded services. The first wave of that recommissioning relates to youth services that we fund. So a lot of that is to look at things like historic patterns of investment; where we have funded youth services does not necessarily reflect areas of need now or population growth that's occurred over the last number of years. So we need to look at where, if we are investing in the areas where there are greatest need, we also need to be

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clear about what we want and expect from services and whether we are - in respect of youth services, for example - working to support younger people in the context of their family settings; whether we are working to help transition older young people to a safe independence, that work is being undertaken at the moment. There are then a series of other services which will be undertaken in relation to. So there's a broad framework there about a willingness to look at the fundamentals of the services. We've found it's a very substantial investment overall of about \$1.6 billion, that the entirety of our funded services. In relation to child protection services, of course, there are a range of licensing criteria for those services, so I might turn to Mr Swan talk about some of the more particular matters.

MR SWAN: I was going to say, information I provided this morning was that we do receive quarterly information from non-government organisations about the outputs that have been delivered in accordance with the funding information agreement or service agreement that they have in place with us. Some of those include a range of information about performance measures that might be included. The services that work in the child safety sector are very aware of the proportion of Aboriginal and Torres Strait Islander children and/or families that need to be serviced by those services, and there are some very good example is coming forward now about innovative options for those services to be able to try and get a better engagement of families. So for example the Benevolent Society, one of our Helping out Families services in the South East currently has a partnership with Colwyn, and indigenous-controlled organisation, where the three Aboriginal and Torres Strait Islander women are working out of the Benevolent Society's offices with the qualified professional social workers or psychologists doing site visits. What that's resulted in has been a really high uptake of Aboriginal and Torres Strait Islander families with those services. What we hoped in our submission out of the review we're doing is also that might be some strategies that our Aboriginal and Torres Strait Islander controlled organisations might need to look at in terms of partnerships with mainstream organisations to ensure that they get the qualified workforce to be able to deliver on what is expected in those services as one strategy that they could look at.

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MR EKANAYAKE: Thank you. Ms Allison, there's a great deal of discussion regarding Aboriginal and Torres Strait Islander capacity, its potential or lack of potential capacity. How do you view the capacity of mainstream NGO's to reduce overrepresentation? 1

MS ALLISON: I don't know that I can respond in a useful way to such a general question. I do think it varies. In the course of my job I, you know, travel to all parts of Queensland. I've visited safe houses on communities, on discrete communities, and have seen organisations that are notionally mainstream organisations with a huge commitment to reduce indigenous overrepresentation and, indeed, with a significant number of indigenous staff employed for the direct delivery of those services. So I think it really varies quite widely across the state. 10

MR EKANAYAKE: The departmental submission seems to place unreasonable pressure on a significantly limited funding stream. The recognised entities are the Aboriginal family support services and the Aboriginal and Torres Strait Islander foster and kin care services to address overrepresentation. Could you elaborate - and, Ms Allison, you're aware that these streams only receive a funding allocation of around 15 per cent of NGO programs. 20

MS ALLISON: Yes, and to the extent that those organisations are feeling that they are required to bear the burden, so to speak, of delivering all services to indigenous children and families that concerns me greatly. This is a sector we're clearly growing and intending to grow so the specific agencies work alongside mainstream agencies, many of whom have their own significant numbers of indigenous staff and indigenous programs. So I think that, you know, it concerns me if they have that view that they are bearing the entire weight of the system, so to speak, because while it is the intent to grow and invest in this system, clearly there is a time frame in which to do this and in fact, as I've pointed out before, there will always be probably an element of choice for people accessing those services. 30

MR EKANAYAKE: With those numbers, the 15 per cent, that was commentary in the submission that these agencies have that level of funding and those issues and that they have failed or have not addressed whatever they were supposed to address. 40

MS ALLISON: Sorry, I'm not sure what you're saying.

COMMISSIONER: No.

MR EKANAYAKE: Yes. Your comment that if they feel that they're supposed to address all those issues with

15 per cent of funding - it's just the commentary, sorry, in the submission which says that these services just have 15 per cent of funding.

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COMMISSIONER: Yes, I don't think that's contentious, is it? You accept that it's 15 per cent.

MS ALLISON: I have no reason not to accept that statement as true.

MR EKANAYAKE: Thank you.

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COMMISSIONER: It's 4.30, Ms Ekanayake.

MR EKANAYAKE: I have a few more questions, commissioner.

COMMISSIONER: You might lead them tomorrow then.

MR EKANAYAKE: Sorry.

MS McMILLAN: Mr Commissioner, if you're able to sit on, I think it would suit Ms Allison better if we could finish this afternoon.

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Would it, Ms Allison?

MS ALLISON: It depends on how much longer you want to go. It's entirely up to you, commissioner.

MS McMILLAN: I think, given the under treasurer commitments to tomorrow, if we could finish Ms Allison today, that would be preferable.

COMMISSIONER: Have you got any questions, Mr Capper?

MR CAPPER: No, our issues have been addressed already, thank you.

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MR SELFRIDGE: I have limited, if any, questions depending on what else flows from now, Mr Commissioner.

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

MR EKANAYAKE: I'm hoping not too long, commissioner. I have a list of questions. I might be able to cut them down if you can just give me a couple of minutes.

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COMMISSIONER: Sure.

MR EKANAYAKE: Thank you.

COMMISSIONER: I will always spend a bit of time to save time.

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MR EKANAYAKE: Thank you, commissioner.

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Ms Allison, are you aware of the evidence given to the commission by Julie Bray? I don't know whether you - - -

MS ALLISON: No, I'm not.

MR EKANAYAKE: You have not seen it or the CMC recommendations of holistic service delivery by the Aboriginal and Torres Strait Islander sector. Now, Ms Bray who provided evidence to the commission in her evidence highlights the only investment post-CMC until 2010 were statutory approaches. Are you aware of the limited universal and early intervention approach post-CMC could or might have impacted on reduction of the numbers of overrepresentation?

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MS ALLISON: To be fair, I wasn't around at the time.

MR EKANAYAKE: Yes.

MS ALLISON: I've only been around for about a year and so, you know, it's easy to be wise with the benefit of hindsight. As I indicated in my evidence earlier this morning, I certainly think the focus of the CMC report has sort of driven a sharp move to the tertiary end of the system.

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MR EKANAYAKE: Thank you. The department has highlighted internalisation of a statutory assistance role. Ms Allison, given the significant development since - I don't know whether you're able to answer this because we're talking about development since 1970. Have you been advised and considered that this may be a detrimental step reversing decades of milestone development?

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MS ALLISON: I'm sorry, can you perhaps repeat that question or ask it in a different way? I don't think I understood it.

MR EKANAYAKE: Yes. Could you have a look at page 105 of the submission?

MS ALLISON: Yes, I have it.

MR EKANAYAKE: There's a suggestion that there has been internalisation of the statutory assistance role at page 105.

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MS ALLISON: Sorry, can you point me to where you're looking at on the page?

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MS EKANAYAKE: It's the paragraph before the heading Aboriginal and Torres Strait Islander - - - 1

MS ALLISON: So the paragraph heading - "The Commissioner of Inquiry has heard evidence."

MS EKANAYAKE: Yes, "The Commissioner of Inquiry has heard."

MS ALLISON: Yes.

MS EKANAYAKE: It talks about the expansion of the role of recognised entities within the statutory child protection system. So the question is given the significant developments since 1970, which I don't know whether you will be able to respond to in that sense, have you been advised or have you considered that this may be detrimental, reversing decades of milestone development? 10

MS ALLISON: I'm not sure that I can respond to your question. I'm not sure about the 1970 you were referring to.

MS EKANAYAKE: Since the 1970's, development since the 1970's. 20

MS ALLISON: Yes.

MS EKANAYAKE: If you feel that you wouldn't want to answer that question I can move on to the other one. Thank you.

MS ALLISON: Yes, I'm just not sure what I can add.

MS EKANAYAKE: Yes. You have named the recognised entity manual as a significant outcome. Can you elaborate if this has been endorsed and implemented jointly by the department as a state-wide standard? 30

MR SWAN: I'll answer that. I mean, the recognised entity manual was a manual that was developed by QATSICPP. Certainly the department has significant input into that recognised - into the manual. The manual is the recognised entity's manual. Our concern was ensuring that it was consistent with the Child Protection Act and the child protection manual that we had and then we supported its use by recognised entities. We've just recently raised just a couple of issues within that we are working with QATSICPP to have those looked at, but in a sense it wasn't our manual. 40

MS EKANAYAKE: Certainly.

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MR SWAN: It's the recognised entity's manual and our issue was about just ensuring and providing advice to recognised entity staff that it was consistent with our processes, and that was done. 1

MS EKANAYAKE: Thank you. So you are not aware of whether it has been adopted state-wide by the other recognised entities?

MR SWAN: My understanding is QATSICPP has used it, rolled it out in terms of made it available to recognised entity organisations. It's really up to those organisations to use should they wish to use it. I think all recognised entities are members of QATSICPP except for one. 10

MS EKANAYAKE: Ms Allison, considering the department's constructive criticism and the internalisation of - which seems an extreme measure, have you considered a state-wide agency for the delivery of quality Aboriginal and Islander statutory services under set practice frameworks?

MS ALLISON: No.

MS EKANAYAKE: The Queensland government has been in the area of child protection and worked with the Aboriginal and Islander communities in a range of statutory advice models since the 1970's. Put simply, we have the capability to develop a statutory model in the form of the Family Responsibility Commission of 2008. Why can't this sort of intensive investment and redesign occur for the benefit of children within section 6 of the Child Protection Act, or provisions in section 6 of the Child Protection Act? 20

MS ALLISON: I don't think I can comment on that. That's a matter of government policy. 30

MS EKANAYAKE: Thank you. If we would just reflect on family support needs. On page 100 of the department's submission there is an analysis of parental indicators. You may be aware of Aboriginal - sorry, have you - - -

MS ALLISON: Yes.

MS EKANAYAKE: You may be aware of Aboriginal Islander submissions calling for specialist expertise to effectively address concerns. Is it reasonable to suggest that these recommendations reflect the need for ATODS programs, responses to offending patterns or reintegration to community, mental illness, responses to neglect? 40

MS ALLISON: Sorry, there was part of your question I didn't hear.

MS EKANAYAKE: Yes, so that's asking whether these recommendations that - I'll just go back and read it again.

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MS ALLISON: Yes. 1

MS EKANAYAKE: You may be aware of Aboriginal Islander submissions calling for specialist expertise to effectively address concerns. Is it reasonable to suggest that these recommendations reflect the need for ATODS programs, responses - - -

MS ALLISON: Sorry, what programs?

MS EKANAYAKE: ATODS. 10

MS ALLISON: Okay, thank you, yes.

MS EKANAYAKE: Responses to offending patterns or reintegration to community, mental illness, responses to neglect.

MS ALLISON: If you're asking whether programs that are available should have, you know, a wholistic focus in terms of - yes, I agree with that.

MS EKANAYAKE: Thank you. Foster and kinship agencies - foster and kinship care agencies are under significant pressures due to the nature of over-representation and lack of carers. What are your thoughts of embedding the differential approaches outlined in the Winagay submissions? 20

MS ALLISON: Sorry, in the what submissions?

MS EKANAYAKE: Winagay. I'm sorry, I mispronounced that.

MS ALLISON: Winagay. I'm pretty sure Mr Swan might be able to respond to that, the Winagay submissions. 30

MR SWAN: Is that the Canadian - - -

MS .....: No, New South Wales.

MR SWAN: The New South Wales - - -

MS ALLISON: I'm sorry, I - - -

MR SELFRIDGE: What was the question in that? I don't understand the question either. If we could have some specificity in terms of what we're referring to. 40

COMMISSIONER: What report are you referring - - -

MS EKANAYAKE: Yes, commissioner, we'll leave that question out.

COMMISSIONER: Okay.

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MS EKANAYAKE: On pages 106 to 108 of the submission you've highlighted the capacity building model the department suggests we adopt from AbSec in New South Wales. Realistically we must highlight an important point which aligns to a meaningful determination in service delivery. Going on further, given the proficiency demonstrated in submissions and by Queensland agencies such as ATSIILS, the Institute of Indigenous Urban Health, the Queensland Aboriginal and Islander Health Council, why is there a need for mainstream agencies to capacity build the sector?

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MR SWAN: I mean, I suppose the issue was that - I raised in my first submission, and it's why we're undertaking the review of the Aboriginal and Torres Strait Islander family support services at the moment. The ten kinship carer services that we fund at that time I think were 50 per cent full. I'm pleased to announce that that number has slightly increased and they're I think a bit under or around 70 per cent at the moment. Our Aboriginal and Torres Strait Islander family support services in terms of the funding that's provided and the numbers of families that they're actively working with is not up to what we would believe to be the level of service that we would expect those organisations to be operating at to working with the numbers of families that they should be in terms of what we would fund any other organisation.

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So in terms of undertaking the review, what we're doing is saying we want to work with those organisations. We need to understand what is going on, what are the factors of why families aren't engaging or the services aren't able to engage families? Why aren't families staying engaged with those services to complete their case plan goals and what strategies can we put in place with those organisations to ensure that they're operating efficiently and effectively in delivering the range of services that we expect services to deliver. So in relation to that, we believe there is a need for us to partner and work with organisations to build the capacity and capability to deliver the services that are needed in this system to work with families intensively to reduce those families being re-reported to child safety services and/or their children entering care.

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MS EKANAYAKE: I was also referring to the other models, such as ATSIILS and the Queensland Aboriginal Islander Health Service. Are you aware that these business models and service delivery examples compete with and surpass most mainstream providers?

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MR SWAN: And there are some very developed organisations within the Aboriginal health services, and it could be that some of our services might partner with them or some of our services - we do fund some of those services to deliver intensive family support services.

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MS EKANAYAKE: Would the department - I think following on from your answer - would the department reconsider this approach to ensure it was efficient, Aboriginal agencies co-leading the development and capacity-building?

MR SWAN: That's the approach we're trying to take, yes. And certainly we would certainly believe there needs to be a partnership in working with organisations to do that.

MS EKANAYAKE: How would you consider concepts of adult self-determination in relation to capacity building; a new standard and children's need for responsive service standards within the immediate future?

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MR SWAN: I think in our submission we referred to the fact that one of the issues we need to do was to work with adult services that might be working with the parents, to also ensure that those adult services are taking into account the needs of the children in providing those services.

MS EKANAYAKE: Can I just go back to that answer to the previous question. We were talking about the children's need - Aboriginal and Torres Strait Islander children in care - their need for a responsive service standard in the immediate future - now or soon - because they're within the sector, they're there in care, in the charge of the department. So we're looking at the adult self-determination in relation to capacity-building, which has to happen sooner rather than later.

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MS ALLISON: I don't understand what you're asking.

MS EKANAYAKE: We're looking at these things happening now or soon rather than within the next five or 10 years. This is why the question was asked.

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MS ALLISON: The fact that we mention a time frame - and New South Wales has particularly made a time frame explicit around some of the work that they're doing - so the fact that we're potentially talking quite a long time frame

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doesn't belie any sense of urgency now, because I think we all feel that sense of urgency. But, you know, in terms of, you know, a fully mature self-governing sector of the size that could cover - and capacity that could cover the whole of the state, I think we all recognise that we're talking about something that is some years out.

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MS EKANAYAKE: Thank you. Are you aware of the inconsistencies between the department's blueprint and the original taskforce comprehensive plan?

MR SWAN: The department's blueprint was developed by a sub-working group of people that put together a range of activities using the original report as the guidance, and so that was then endorsed by that sub-working group based on the guidance that was provided by the original report.

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MS EKANAYAKE: Thank you, Mr Swan. ATSILS has, in our submission, proposed a model which could achieve high quality standards within two years, particularly within statutory assistance stream. How do we justify to Aboriginal and Islander children models which may take five years to 10 years to reach those standards?

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MS ALLISON: I'm not familiar with the details of the submission. Suggesting something that could be achieved in two years, I'd be happy to look at that.

MS EKANAYAKE: Thank you. Has the department set a future over-representation reduction target?

MS ALLISON: No, we haven't set a specific target and I'm - again as an observer of and participant in many human services systems over years, I'm a bit reluctant to set targets because I believe they can produce perverse outcomes. Having said that, that's not to say we shouldn't measure our progress. We should. And it's not to say that, you know, I shouldn't be anticipating that trend lines will be going in a certain direction, but my concern about setting specific targets, it can produce some perverse outcomes, such as decisions being made not to act in relation to children who are genuinely at risk.

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MS EKANAYAKE: Thank you. One final question: is there any further comment in relation to the department's Aboriginal and Torres Strait Islander practice vision? Thank you. Thank you, Commissioner.

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COMMISSIONER: Thank you. Mr Capper?

MR CAPPER: Nothing, thank you.

COMMISSIONER: Mr Selfridge?

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MR SELFRIDGE: Ms Allison, Mr Swan, Ms McMillan, who's assisting the court, gave you an opportunity to address any issues that were outstanding or that you were put on notice in relation to. Is there anything subsequent to that that you'd like to address or is there anything you would like to expand upon further in terms of the questions that followed?

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MS ALLISON: If I could just make a couple of brief closing remarks, I'd appreciate it.

MR SELFRIDGE: Sure.

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MS ALLISON: I think that as has been evident throughout the entire work of this commission, we are talking about a very complex social issue which at some level is probably not well understood by the broader community. We're also talking about a system in which we all have a stake. We're talking about - so as much as possible I would hope that future directions reflect a stronger requirement to work with children and families at risk at an earlier stage and prevent the unnecessary or premature entry of children and young people into care. It is certainly my desire to see those primary and secondary service systems strengthened. This requires a recognition by a range of partner government agencies of their role in protecting children, whether it be by providing school programs or infant health services or whatever. So I'd certainly support the notion of a shared responsibility. I'm very aware once children come into care of my role as their legal guardian. I believe, though, that doesn't obviate the need for other agencies to provide services to those children and I would hope that moving forward, that we could look at some systems that provide greater integration of support to those children and young people, including services that support the safe return of children to their families. I wanted to thank the Commissioner for the opportunity to appear today. I'm happy to answer any other final questions that you have, Commissioner.

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COMMISSIONER: Thanks, Ms Allison, I appreciate it. And also thank you for your help, Mr Swan. I know the commission has imposed an additional burden on your work at every level and we appreciate the help that we've received and the timeliness that we've received it in.

MR SELFRIDGE: Nothing further, thank you. Thank you, Mr Swan.

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COMMISSIONER: Ms McMillan, anything? Thank you again and - have you been summonsed? You're formally released from any summons obligations. Thanks very much.

WITNESSES WITHDREW

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COMMISSIONER: Listen, just before we go, I'm going to  
revoke an earlier procedural guideline, number 1 of 2013,  
and I'm going to replace it with number 1.1 of 2013. It  
relates to written and oral submissions. Parties with  
leave have until close of business - that's 4 pm - on 15  
March to provide written submissions relating to findings  
and recommendations for the report and any response to the  
discussion paper the commission released on 18 February on  
the same conditions as previously advised, and any oral  
submissions will be heard on Thursday, the 21st from 11 am.

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MS McMILLAN: Mr Commissioner, and that excludes, as did  
the other practice direction, the term 3(e).

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COMMISSIONER: Yes. The same relates to terms of  
reference other than term 3(e).

MS McMILLAN: Yes, thank you.

COMMISSIONER: All right. Thank you again for your help.  
Appreciate it.

THE COMMISSION ADJOURNED AT 4.57 PM UNTIL  
WEDNESDAY, 27 FEBRUARY, 2013

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