

CHILD SAFETY COMMISSION OF INQUIRY

Court 1, First Floor, Toowoomba Courthouse  
159 Hume Street, Toowoomba

On Thursday, 19 February 2026 at 10.16 am

Before: Mr Paul Anastassiou KC, Commissioner

Counsel Assisting: Ms Robyn Sweet KC  
Mr Nathan Boyd  
Ms Bianca Mendelson

1 COMMISSIONER: Thank you. Yes.  
2  
3 MS McMILLAN: Commissioner, I just announce my appearance,  
4 taking over from Ms Amos.  
5  
6 COMMISSIONER: Yes, thank you. Welcome back.  
7  
8 MS McMILLAN: Thank you.  
9  
10 MR KIYINGI: Mr Commissioner, if the Commission pleases,  
11 my name is Kiyingi, spelt K-i-y-i-n-g-i, initial K.  
12 I appear on behalf of Queensland Indigenous Family Violence  
13 Legal Service.  
14  
15 COMMISSIONER: Thank you very much. Welcome. Ms Sweet.  
16  
17 MS SWEET: Yes, thank you, Your Honour. Today the  
18 Commission will be doing two things. The first is that it  
19 will be examining a dual order case study, which I will  
20 refer to as the case of YP, YP standing for young person.  
21 The young person themselves won't be named. I'm going to  
22 do that. I'm going to open this case study for you,  
23 Your Honour.  
24  
25 The second thing we'll be doing is in the afternoon we'll  
26 have a former foster carer current guardian come to give  
27 evidence about the struggles she has experienced about  
28 obtaining long-term permanent orders for the children in  
29 her care.  
30  
31 But, to the first order of business, Your Honour, because  
32 I'm going to open the case and I'm going to take  
33 Your Honour to a spreadsheet and certain documents, it  
34 would be useful for the witness, who is the department's  
35 witness, to be sworn in first so that that witness can  
36 follow along with my opening and the documents as I take  
37 Your Honour through them.  
38  
39 COMMISSIONER: Yes.  
40  
41 MS SWEET: So I propose that my learned friend Mr Hastie  
42 will now call the witness and have her sworn in.  
43  
44 COMMISSIONER: Yes, thank you, Mr Hastie.  
45  
46 MR HASTIE: Thank you, Commissioner. I call Leanne Black.  
47

1 <LEANNE JANELLE BLACK, AFFIRMED

[10.18 am]

2  
3 <EXAMINATION BY MR HASTIE

4  
5 MR HASTIE: Your full name is Leanne Janelle Black?

6 A. Yes.

7  
8 Q. And you currently hold the position as regional  
9 executive director in the department?

10 A. Yes.

11  
12 Q. And that's responsible for the south-west region?

13 A. Yes.

14  
15 Q. And did you do a - and is that based in Ipswich?

16 A. The regional office is in Ipswich, but it covers out  
17 further to the west including Toowoomba.

18  
19 Q. Right. And did you produce a statement responding to  
20 part 1 of notice 269 from the Commission?

21 A. I did.

22  
23 MS HASTIE: And I'll tender that, Commissioner.

24  
25 COMMISSIONER: Yes, thank you. That will be exhibit  
26 CL-88.

27  
28 **EXHIBIT #CL-88 - STATEMENT OF MS BLACK**

29  
30 MR HASTIE: That statement discloses your qualifications  
31 and the positions you've held in the department. And have  
32 you been in the department since you qualified with a  
33 bachelor of arts psychology in 1990?

34 A. Yes.

35  
36 Q. And in relation to the particular person which is the  
37 subject of the notice you've had no role in the case  
38 involving that particular person?

39 A. No, I haven't.

40  
41 Q. And you're not familiar with the particular  
42 circumstances of that person or the case?

43 A. Sorry, can you repeat that?

44  
45 Q. You're not personally familiar with the circumstances  
46 of that child?

47 A. No, I'm not. No, I'm not.

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Q. Do you have - and has been supplied to you, do you have with you documents that are part of the Commission brief?

A. Yes, I do.

Q. Excluding the personal history, which is document 3 in that bundle?

A. I'm not sure it's document - it might be document 3, not page 3. Yes, I haven't got that document.

Q. Otherwise you've got the same page numbering as the Commission's bundle of documents?

A. Yes.

Q. Including the index?

A. Yes.

MR HASTIE: Thank you, Commissioner.

COMMISSIONER: Thank you, Mr Hastie.

MR HASTIE: Sorry, just one more question. You've seen an Excel spreadsheet involving the child-care history of the child?

A. The child protection history, yes, I have.

Q. Can I hand you a copy in A3. Commissioner, you may wish to have that A3 together with the bundle --

COMMISSIONER: Do you have a spare copy, Mr Hastie? If you do, that's convenient. If not, don't deprive yourself of the --

MR HASTIE: No, that's all right, Commissioner, we can - yes, I do.

COMMISSIONER: Thank you. That doesn't need to be separately tendered?

MR HASTIE: No, it doesn't.

COMMISSIONER: No. All right. Thank you.

MR HASTIE: Yes, and, as my learned friend reminds me, it's a different version from the - it's the Commission's document which has been adopted from one supplied by the

1 department, I think.

2

3 COMMISSIONER: Thank you.

4

5 MS SWEET: Yes, Your Honour, it's been slightly adapted  
6 and it's been colour coded for ease of reference.

7

8 COMMISSIONER: Thank you.

9

10 MS SWEET: If I could begin with a snapshot of the history  
11 of YP. The young person the subject of this case study is  
12 a male. He's Aboriginal but not Torres Strait Islander.  
13 He was taken into care when he was two years old, two and a  
14 half years old. The reason he was taken into care as  
15 recorded in the department's documentation was his mother's  
16 drug and alcohol abuse, neglect, lack of parental  
17 supervision and inappropriate parenting practices.

18

19 In terms of the number of placements he had over the time  
20 he was in care - and I should note here that the child was  
21 in care until such time as he aged out of the system  
22 because he turned 18 - he was in four types of  
23 placements: foster care, kinship care, non-family based  
24 residential care, and he also had a commercial placement.  
25 As you'll come to appreciate, Your Honour, that means - a  
26 commercial placement is the placement in a commercial  
27 motel.

28

29 He had over this period 22 different foster carers, eight  
30 primary placements and 14 foster carers who were acting as  
31 respite carers. He had three kinship care placements. He  
32 had six residential care placements, and one commercial  
33 placement.

34

35 The number of days he spent self-placing - that is, where  
36 he was absent from the placement provided by the department  
37 or where the department had closed that placement - was  
38 778 days, self-placing days. The number of days that he -  
39 he spent 30 days in the watch-house, police watch house,  
40 which was as a result of 14 separate admissions to the  
41 watch house. He also spent 425 days in youth detention,  
42 which is the result of six separate admissions to youth  
43 detention.

44

45 As I said, he aged out of the system at 18 years. On his  
46 18th birthday he was on remand in youth detention on  
47 charges brought against him for his part in certain

1 criminal offending which had tragic consequences for an  
2 innocent and vulnerable member of the community.  
3 Consistent with statutory secrecy obligations, I will not  
4 refer to YP by name or not name any of his family members.  
5 Nor will I refer to particular years or locations. Nor  
6 will I identify by name any of the victims of his criminal  
7 offending.

8  
9 If I can turn now, Your Honour, to the spreadsheet, which  
10 you should have as three pages - there should be three  
11 pages of that spreadsheet.

12  
13 COMMISSIONER: Yes.

14  
15 MS SWEET: It goes from rows 1 to 80, and if I start at  
16 80, which is the date that the child is taken into care.  
17 And, again, I don't refer to that, but if we go with row  
18 80, the first column represents the start date of the  
19 placement - and I use "placement" loosely because some of  
20 these placements are the watch house, sometimes they're  
21 detention centres, other times it's caring, other times  
22 it's self-placing. So the start date of the placement.  
23 Then the next column is the end date of the placement, then  
24 the number of days the young person spent in the placement,  
25 the number of years, the age of the child at the time the  
26 placement starts.

27  
28 You'll also see then there's a column next to that called  
29 "Criminal history". So we have tracked through the young  
30 person's criminal history and we've put it in the context  
31 of where the child is at the time of the offending, and, as  
32 you will find, Your Honour, I think almost without  
33 exception the criminal offending occurs when the child is  
34 self-placing.

35  
36 COMMISSIONER: The first criminal offending is recorded in  
37 column 44?

38  
39 MS SWEET: That's correct.

40  
41 COMMISSIONER: When the child is aged 14?

42  
43 MS SWEET: That's correct.

44  
45 COMMISSIONER: Yes.

46  
47 MS SWEET: And you see that's very soon after the initial

1 self-placing. So the next column is the carer number. So  
2 you'll see the Fs relate to foster carers, and you will see  
3 that by the time the child is 13 years old, if you go to  
4 column - if you go to row 45, that is foster carer number  
5 22, and, as I say, that includes primary foster carers and  
6 respite carers. But it does reflect the various different  
7 houses he's gone into, and that doesn't take into account  
8 the fact there might have been more than one carer in that  
9 house. But, in terms of placements, 22 separate foster  
10 care placements by the time he's 13 years, and you'll see  
11 at the end of the foster caring period is when the  
12 offending commences.

13  
14 The one exception to being self-placing I think at the time  
15 of offending is the event that caused us to interrogate  
16 this as a case study and which is the offending for which  
17 he then ends up in remand on his 18th birthday, and that's  
18 when he is in a kinship care placement

19  
20 COMMISSIONER: Which column is that?

21  
22 MS SWEET: So if you see the row is row 5 on the first  
23 page, and within that --

24  
25 COMMISSIONER: I see. That's what I meant: the row, not  
26 the column. That's what I meant. Yes.

27  
28 MS SWEET: Yes, yes, yes, and you'll see that the end date  
29 of that placement is because the young person is arrested  
30 and you'll see then immediately goes into the watch house  
31 and does not - and then, further, into detention after a  
32 15-day period in the watch house and then remains in  
33 detention on remand until his 18th birthday, and then  
34 obviously there's a period after that before the charges  
35 are finalised.

36  
37 So we were at the carer number column. So Fs are foster  
38 care, Ks are the kinship care and Rs are for residential  
39 care placements. Then there's the location type. You see  
40 not only are they set out but they are - that's how it's -  
41 the table is colour coded, so green for foster care, grey  
42 for residential, light purple for self-placing, blue for  
43 kinship care, dark orange for watch house, and then you'll  
44 see on the first page there there's light orange for  
45 detention centre.

46  
47 After that there's a column which just mentions effectively

1 whether or not the placement is a primary placement or a  
2 respite placement. Then the last column is the reason for  
3 the placement ending, which I will come to. You'll also  
4 see, Your Honour, on the third page we have just tracked  
5 through - it was impossible to do within the table itself,  
6 but you will see there's a white table at the end of  
7 the third page, which just sets out the years of caring, so  
8 the dates that coincide with the first year in care, the  
9 second year in care, all the way up to the 16th year in  
10 care, which is the year in which he ages out of the system.

11  
12 COMMISSIONER: Yes. Thank you.

13  
14 MS SWEET: Thank you. So I'm now going to oscillate  
15 between this table and the bundle that you have in front of  
16 you, Your Honour, which should have 28 tabs in it.

17  
18 COMMISSIONER: Yes, I have that, thank you.

19  
20 MS SWEET: Yes. Thank you. So commencing with the first  
21 year in care, you will see, Your Honour, if you go to  
22 page - if you go to tab 10, page 42.

23  
24 COMMISSIONER: Yes.

25  
26 MS SWEET: Sorry, I think it's tab 11.

27  
28 COMMISSIONER: Tab 11?

29  
30 MS SWEET: It should be tab 11 and page 42.

31  
32 COMMISSIONER: Page 42 is behind my tab 10, but --

33  
34 MS SWEET: Well, then I'm going to --

35  
36 COMMISSIONER: It's page 42. That's fine.

37  
38 MS SWEET: If you have page 42 and you have - partway down  
39 the page is a harm statement?

40  
41 COMMISSIONER: Yes.

42  
43 MS SWEET: Yes, thank you. This document, Your Honour, is  
44 part of a case plan.

45  
46 COMMISSIONER: Yes.

47

1 MS SWEET: It goes to why the child has been brought into  
2 detention, and I read from it:

3  
4 *The history of the child protection*  
5 *concerns for the child relate to the*  
6 *child's mother's alcohol abuse, drug abuse,*  
7 *neglect of the children's basic care and*  
8 *protection needs, not attending to medical*  
9 *needs, lack of parental supervision and*  
10 *inappropriate parenting techniques,*  
11 *including aggressive and destructive*  
12 *parenting practices.*

13  
14 Your Honour, if you go to tab - I don't want to say tab.  
15 If you go to page 4 you should see the child protection  
16 history of the child in the sense of the orders that are  
17 made for the child. Page 4?

18  
19 COMMISSIONER: Yes.

20  
21 MS SWEET: Yes, and you will see that it starts with - it  
22 starts from "Intake", moving through to - you'll see  
23 there's a bold order there - a bold --

24  
25 COMMISSIONER: TAO.

26  
27 MS SWEET: Sorry, I beg your pardon, Your Honour?

28  
29 COMMISSIONER: A TAO.

30  
31 MS SWEET: Yes, that's right

32  
33 COMMISSIONER: On the 1st of [REDACTED]?

34  
35 MS SWEET: Yes, yes. So you'll see that the first order  
36 where the child comes into care is an emergent order in the  
37 form of a temporary assessment order, which moves through  
38 to the court assessment order, and you'll see that from  
39 that date - if we move through, about seven months later is  
40 the first short-term - again moves to a child protection  
41 order in terms of short-term custody. You will then see  
42 over two years later there's another - we then move to  
43 short-term guardianship, and again, further down, a  
44 further - the next child protection order is a further  
45 short-term guardianship. So this is the rolling over of  
46 orders that the Commission has heard so much about which  
47 occurs. Then you'll see finally at the bottom the bottom

1 entry there is - you'll see the date there, the start date  
2 and the end date, being the date of the 18th birthday,  
3 where there's long-term guardianship orders granted to the  
4 Chief Executive, and those long-term guardianship orders  
5 are granted, as you'll see, when you compare it to the  
6 temporary assessment order, a period of almost 10 years  
7 after the child enters care.

8  
9 COMMISSIONER: Yes. Is there an explanation for why it  
10 took 10 years? Perhaps you'll come to it.

11  
12 MS SWEET: I might come to it. Can I indicate, Your  
13 Honour, we will not today have all the answers because what  
14 we have done - given limited time and resources, what we've  
15 asked for from the department was the child protection -  
16 we've been provided with the child protection history in  
17 this sense, and what we did was also - what we wanted to  
18 get was a snapshot of what had occurred in the child's  
19 protection history in the two years prior to the  
20 significant offending event that led him to be in detention  
21 on his 18th birthday.

22  
23 COMMISSIONER: Yes.

24  
25 MS SWEET: So it's a narrower enquiry than perhaps one  
26 could be - that could be wished for, but that is what we  
27 are more exploring today. But it does go to this issue of  
28 the rolling over of short-term orders, the lack of  
29 stability, the fact that there's long-term guardianship  
30 orders to the Chief Executive, and you'll see as I come to  
31 it, Your Honour, at this time the child is in a stable  
32 foster care placement, but we don't see permanent care  
33 orders, we don't see a long-term guardianship order to  
34 other, we have long-term guardianship to the Chief  
35 Executive, and very soon after that we see the breakdown of  
36 the foster care placement because of a standards of care  
37 review which is commenced. Ultimately the harm report  
38 tells us that the harm was not substantiated. The child  
39 does not go back to those carers, with whom he was with for  
40 three and a half years, and it sets off a chain of events  
41 where we then see a great amount of self-placing, the  
42 commencement of offending, absconding from resi care  
43 placements, commercial placements, during which there's  
44 offending, leading up to the ultimate kinship care  
45 placement and the significant offending event.

46  
47 COMMISSIONER: If the standard of care review was not

1 substantiated, what caused the child to be moved to a  
2 different carer?

3

4 MS SWEET: Again, we don't have the answer to that today.  
5 It is something that's come up in the process of --

6

7 COMMISSIONER: Yes.

8

9 MS SWEET: -- looking at this case study, and there may  
10 well be further notices issued about that so we can better  
11 understand that.

12

13 COMMISSIONER: Yes.

14

15 MS SWEET: We certainly have heard about - we've heard  
16 evidence yesterday and we also heard evidence of Cairns  
17 about the difficulties with the standards of care process,  
18 how foster carers experience those processes and the  
19 feelings they have about them, and the difficulties they  
20 have responding to these allegations of - standard of care  
21 allegations and it can lead to foster carers leaving the  
22 system, to the ultimate detriment of children, including  
23 children like this one.

24

25 Now, we don't have those specific details today, but we do  
26 know there is a pattern in what we've seen in terms of the  
27 submissions that have been made to this Commission and the  
28 evidence we've heard from this Commission. The only thing  
29 we have, Your Honour, is if we turn to page 5 - and you  
30 will see on page 5 the third row down there?

31

32 COMMISSIONER: Yes.

33

34 MS SWEET: You'll see that there's a standards of care,  
35 what is alleged is harm in the form of emotional harm and  
36 neglect. Then you'll see, the next column, there's a  
37 three-month period where there's an investigation and  
38 assessment of a harm report, unsubstantiated and in fact  
39 the whole time the standards had actually been met by the  
40 carers. And it's unclear why they don't go back - why the  
41 child doesn't go back. We do know, Your Honour, that later  
42 on in the child's life he does self-place with these carers  
43 for a period.

44

45 So during the first year of care, as I've taken Your Honour  
46 to, you'll see the young person is placed on a short-term  
47 custody order to the Chief Executive which is to last two

1 years. We then move into the third year of care. Now,  
2 you'll see, Your Honour, here there's the - we're going  
3 back to the third page of the spreadsheet, and I take you  
4 to row 77. No, I may have misspoke. I may have the year  
5 wrong, but in any event a year - no, two years after the  
6 child first comes into care we see that there is - the  
7 foster care placement ends because the carers relocate  
8 interstate, and it's during this period, during this third  
9 year of care, we see there that the child is then moved  
10 onto short-term guardianship to the Chief Executive orders.  
11 If we then move to row --

12  
13 COMMISSIONER: I just want to understand that these  
14 short-term orders continued to be extended pursuant to  
15 section 99?

16  
17 MS SWEET: Yes, and I believe that's reflected when  
18 Your Honour looks at --

19  
20 COMMISSIONER: Page 4?

21  
22 MS SWEET: When Your Honour looks at page 4 you'll see  
23 there are interim orders, interim custody, section 99. In  
24 respect of each of those short-term orders, they are  
25 continued under that section of the Act.

26  
27 COMMISSIONER: Because the general practice, as  
28 I understood it, was that if after a period of two years  
29 attempts at reunification have been unsuccessful an  
30 application would normally be made for long-term  
31 guardianship, generally speaking, it seems to the Chief  
32 Executive but possibly to an alternative long-term  
33 guardian. But that doesn't seem to have occurred in this  
34 case.

35  
36 MS SWEET: In fairness to the department, Your Honour, in  
37 some circumstances that's going to be a reflection of  
38 the fact that some of this was occurring pre the Carmody  
39 reforms.

40  
41 COMMISSIONER: Yes, of course.

42  
43 MS SWEET: So once we move into the sixth year in care,  
44 when the child is between seven and a half and eight years  
45 old, we see there's the - is when the child is placed on  
46 the short-term guardianship orders to the Chief Executive,  
47 and there is a placement breakdown. So this is in row 70.

1 You will see that there was a foster care placement of  
2 2.7 years with a primary placement, and there is noted that  
3 the child is relinquished - the child is relinquished by  
4 the foster carers because of a placement breakdown. It is  
5 unclear on the current records why that has occurred.

6  
7 COMMISSIONER: Is anything known about the mental health  
8 of this child or other medical conditions?

9  
10 MS SWEET: Not as at this point, but we'll see,  
11 Your Honour, that we do get some indication of that in the  
12 case notes that occur in the two years prior to the  
13 significant offending event.

14  
15 COMMISSIONER: Right.

16  
17 MS SWEET: Then if you move up row 70 you see the date -  
18 in the third column there, the end date, you'll see that  
19 end date. Then if you move up to column 61 you'll see  
20 there's a further foster care placement, primary placement  
21 that lasts 169 days, and you'll see that by this stage  
22 these are the 14th foster carers, and you'll see "primary"  
23 and then you'll see in the third last column  
24 "relinquished" - "Relinquished. Carers unable to manage  
25 the child's behaviour". So that obviously causes questions  
26 to be asked about what support those carers had.

27  
28 So the child then moves on, and you will see - again,  
29 Your Honour, if you move from the end date of that  
30 placement, at row 61 up to row 54, where we see there's a  
31 placement of 1.5 years, and it's clear that in this  
32 placement - so these are foster carers number 18. Again,  
33 the child is relinquished after a year and a half, and,  
34 based on the notes of the department, that is because the  
35 child was also placed with a sibling and the sibling  
36 displayed sexualised behaviours in the placement and  
37 therefore each of the siblings was relinquished. So that's  
38 the seventh year in care.

39  
40 You will then see, Your Honour, if you go up to row 50,  
41 this is the longest term placement, which lasts for three -  
42 row 50, for three and a half years, and these are foster  
43 carers number 20. There is a respite kin placement in  
44 between those two. It's an eight-day placement only for  
45 the purpose of respite. That's the first time the child is  
46 placed with kin on a respite basis. But then we have this  
47 long-term placement. You see it's 3.6 years. The child is

1 nine years going in and then three and a half years later  
2 is relinquished at a very pertinent age for a young -  
3 somebody becoming a young man, which is at 13 years and  
4 three months, again having had 20 foster carers by this  
5 stage. In row 49 you'll see there's a standards of care  
6 matter and the child is removed for the purposes of the  
7 review, and, as you'll see, doesn't go back to foster  
8 carers number 20.

9  
10 COMMISSIONER: That is in row 50 on my document.

11  
12 MS SWEET: That's correct.

13  
14 COMMISSIONER: Yes. So the detail of this harm report  
15 will be explored, will it, "involving serious allegations"?

16  
17 MS SWEET: It said "serious allegations". That's the  
18 department's wording. As you will see, as I took you to at  
19 page 5 of the bundle, the harm is said to be emotional harm  
20 and neglect, and then the harm report provides that the  
21 allegations were not substantiated. You'll see then the  
22 child is immediately moved to foster carers number 21 at  
23 row 49. I should also say it's during this period -  
24 Your Honour, you'll see the start date and the end date.  
25 It's during this period, so two and a half years into this  
26 long-term foster care placement, that is when the long-term  
27 guardianship Chief Executive order is made, so despite the  
28 fact that the child has been in the placement for two and a  
29 half years, and it's not until more than a year later that  
30 there is then this standards of care review. So the child  
31 moves on to --

32  
33 COMMISSIONER: Is there any evidence that in connection  
34 with foster carer referred to in line 50 --

35  
36 MS SWEET: Yes.

37  
38 COMMISSIONER: -- that those foster carers were considered  
39 as potential long-term guardians?

40  
41 MS SWEET: No.

42  
43 COMMISSIONER: Does that mean it could have happened, we  
44 just don't know, or?

45  
46 MS SWEET: We don't know because what we've asked for is  
47 the child protection history in the sense of placement

1 history, and we focused on the two years prior to the  
2 offending.

3  
4 COMMISSIONER: Yes, I see.

5  
6 MS SWEET: Because of the dual order nature of  
7 the enquiry. These are matters we can seek further  
8 documentation on.

9  
10 COMMISSIONER: Yes.

11  
12 MS SWEET: So we see the child then goes to the foster  
13 care - on respite, from those foster carers, into foster  
14 carer number 21, and you'll see then from there is sent  
15 to his first residential care placement, at row 48, as a  
16 13 year old. That lasts, as you will see in that fourth  
17 column there, that lasts 12 days, after which he leaves the  
18 placement. I believe it's a respite placement at  
19 residential care, but then he moves into self-placing for  
20 the first time.

21  
22 COMMISSIONER: At?

23  
24 MS SWEET: At row 47.

25  
26 COMMISSIONER: When the child is 13 years and seven months  
27 old?

28  
29 MS SWEET: That's correct. Then you'll see that lasts  
30 14 days. Then there is a - this is the second kinship care  
31 placement but the first primary kinship care placement when  
32 he's 13 years and eight months. That lasts 141 days and he  
33 leaves. You'll see row 45 refers to the fact that there's  
34 some respite in that time during that placement but then  
35 effectively he moves from - immediately from the kinship  
36 care placement, after 141 days, into self-placing, and it  
37 is literally one day into that self-placing period, which  
38 lasts - we've got it there - for 100 days, but only because  
39 that's then broken up by the watch house. But it is the  
40 very first - after one day of self-placing, that's when he  
41 has his first formal contact with the police in the form of  
42 a caution for public nuisance.

43  
44 By the end of that month, that first month of self-placing,  
45 the youth is charged with 12 counts of wilful damage, and  
46 you'll see then during that period there is the first entry  
47 to the watch house at 14 years old, and, as you'll see,

1 from hereon there's no green. So the child never goes back  
2 to a permanent - to a primary - the child never goes back  
3 to foster care after this point.  
4  
5 COMMISSIONER: So in relation to what's described as the  
6 watch house --  
7  
8 MS SWEET: Yes.  
9  
10 COMMISSIONER: -- does the child end up in these - in any  
11 of those occasions referred to in lines 43 up to 34, in  
12 that period, while he's around 14 years old, in a youth  
13 detention centre?  
14  
15 MS SWEET: No, not based on our records. The first time  
16 that the young person is in the detention centre seems to  
17 be at row 18, when he is 15, and there's a 53-day stay in  
18 youth detention when he's 15.  
19  
20 COMMISSIONER: In relation to the watch house --  
21  
22 MS SWEET: Yes.  
23  
24 COMMISSIONER: -- referred to in lines 43 to 34 --  
25  
26 MS SWEET: Yes.  
27  
28 COMMISSIONER: -- days of placement, there's either zero  
29 or a 1 in the case of line 34. I assume he was in the -  
30 I see. Do we know how many days he spent in the watch  
31 house on these occasions?  
32  
33 MS SWEET: Where there is a day it means that there has  
34 been a - so you'll see row 34 is a day. I think  
35 otherwise - and my instructor will correct me if I'm  
36 wrong - it just indicates that he was admitted to the watch  
37 house; he may not have spent the night there, but he's  
38 admitted. It shows contact in the - he's sent into the  
39 watch house, and otherwise --  
40  
41 COMMISSIONER: And at that time --  
42  
43 MS SWEET: Yes.  
44  
45 COMMISSIONER: -- is he released from the watch house to  
46 his own self-placing devices? Is that what one should  
47 assume? So, for example, if one looks at row 39, he's in

1 the watch house, and then row 38, if that's the next  
2 event - I may not be reading it correctly - he's  
3 self-placing.  
4

5 MS SWEET: Yes. It's likely - as my learned friend says,  
6 it's likely that he's bailed to a self-placing address.  
7

8 MR HASTIE: Well, likely that he's bailed.  
9

10 COMMISSIONER: But bailed to reside at no fixed address,  
11 is that how I should read it?  
12

13 MR HASTIE: The material suggests that the police would  
14 bail sometimes to a fixed address or sometimes to an  
15 address approved by Child Safety, and the - I'm relying on  
16 my learned friend here, but not always would the child end  
17 up being at that address.  
18

19 COMMISSIONER: Yes. But on the face of it, if I'm reading  
20 this table correctly, he's bailed in the sense of released  
21 from the watch house but there isn't a placement to which  
22 he returns.  
23

24 MR HASTIE: It would be a condition of bail that he would  
25 have to reside at a particular place. But that might mean  
26 that he is supposed to go to a particular place but he  
27 doesn't always.  
28

29 COMMISSIONER: Yes, I see. Thank you.  
30

31 MS SWEET: It seems clear enough from the information  
32 we've gathered that there is no open child safety placement  
33 for the child to be bailed to, and you'll see it in some of  
34 the case notes later on that there's discussions about  
35 where to - the conditional bail and where the child should  
36 go, and it's generally someone he's been self-placing with,  
37 sometimes it's a family member, sometimes it's somebody who  
38 it's unclear how they've met but the police think that "the  
39 lady's quite nice" and "she seems lovely and takes care of  
40 them" and - you'll see it in the notes.  
41

42 COMMISSIONER: Yes, I see.  
43

44 MS SWEET: Yes. Once we move on, back at row 44, we see  
45 these are the first contacts with police and, as you will  
46 end up seeing, Your Honour, the offending only escalates  
47 from that point. Then you'll see - and then we move up -

1 we've got various periods of self-placing. You'll then see  
2 there's two periods of residential placement at rows 33 and  
3 32 which last - there's a one-day placement and then a  
4 13-day placement. Then you'll see at row 31 the child is -  
5 in Child Safety's records at this point is missing and then  
6 becomes "located", which I'm taking to mean the child is  
7 sighted or there is contact via phone with Child Safety.

8  
9 Then you'll see at row 29 there's a period of over seven  
10 months of self-placing, and this is around the time that we  
11 have the two years of Child Safety notes. The request for  
12 that kicks in and we start to see what's happening on the  
13 ground. So you'll see here at row 30 the child has been  
14 self-placing since that date. Then what I want to take you  
15 to now, Your Honour, is the note. So he was self-placing  
16 since that date. Then we have a date, it's about four  
17 months hence, and we see the contact with the child safety  
18 officer. So if I can take Your Honour to page 111 of  
19 the bundle.

20  
21 COMMISSIONER: Yes.

22  
23 MS SWEET: Yes, and you'll see it starts "CP case note".  
24 You'll see that the first child is the subject child, the  
25 type is "Prescribed home visit", but, as we know from  
26 the table, there's self-placing. You'll see there's an  
27 address, and you'll see the date there that this occurs,  
28 say it's about four months hence from when the child  
29 started his last period of self-placing, and you see a time  
30 and you'll see there's an address there. It's unclear  
31 whose address this is but - so the child hasn't been in a  
32 formal placement since - yes, so I think four months,  
33 perhaps three and a half months is fair enough. The CSO  
34 visits the child, provides the child with the \$50  
35 Woolworths voucher. The child requests clothes and  
36 football shoes, and the child safety officer advises the  
37 child shall need to seek approval for those clothes but  
38 it's unlikely the clothes will be provided because he  
39 received clothes a month ago.

40  
41 The third dot point relates to another child, and then  
42 you'll see that the CSO also then provides the child with a  
43 voucher for a piece of footballing equipment. So this is  
44 what occurs during the prescribed home visit. There's no  
45 current placement open for the child. This is the contact  
46 that is had with Child Safety at this time.

47

1 What I now want to take you to, Your Honour, is the  
2 strengths and needs assessment that has been done by Child  
3 Safety in respect of this child, who has already commenced  
4 offending, has had 22 foster placements, four residential  
5 care placements. And we look at - there's the strengths  
6 and needs - so 105, if Your Honour has that?

7  
8 COMMISSIONER: Yes.

9  
10 MS SWEET: And you will see child's strengths and needs  
11 assessment. In terms of section 1, strengths and needs  
12 behaviour:

13  
14 *The child is said to have significant or*  
15 *frequent problems. The child has been*  
16 *observed to be demonstrating challenging*  
17 *behaviours which occur in the form of*  
18 *at-risk choices to access things to chrome*  
19 *or that are illicit drug related. The*  
20 *child also displayed a decline in his*  
21 *mental health, which he has been*  
22 *communicating through social media.*

23  
24 Now, this gives us no idea what the content of that is. We  
25 don't know how that is being shown on social media.

26  
27 *Is reported to engage in sniffing glue,*  
28 *alcohol use, smoking cigarettes (dumpers),*  
29 *engaging in marijuana use and chroming*  
30 *behaviours. The young person has chromed*  
31 *to the point where he has blacked out and*  
32 *has been transported to the hospital by*  
33 *ambulance.*

34  
35 COMMISSIONER: Chroming is sniffing paint - can somebody  
36 help me what --

37  
38 MS SWEET: My learned friend from Queensland Health is  
39 nodding but perhaps - could you assist the Commission?

40  
41 MS McMILLAN: I believe it's aerosols, yes.

42  
43 COMMISSIONER: Yes.

44  
45 MS McMILLAN: It could include --

46  
47 MR HASTIE: Any product like that.

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MS McMILLAN: Yes.

MS SWEET:

*... has chromed to the point where he has blacked out and has been transported to the hospital by ambulance. This has occurred on multiple occasions. The child has shown improvements in behaviours during the time that a family member was in detention. The child has a negative reputation in the community for his criminal behaviours. The child has a number of stealing and public nuisance matters currently before court. A lot of the child's stealing has been for food or other essential items to meet a basic need.*

Which tells you, Your Honour, on Child Safety's own assessment, Child Safety is not meeting this child's basic needs and he's stealing because of it.

COMMISSIONER: So under the heading "Strengths and needs", the third dot point, (c), "Significant or frequent problems" --

MS SWEET: Yes.

COMMISSIONER: -- they are the problems described under the comments, I assume?

MS SWEET: That's how I read the document.

COMMISSIONER: Yes.

MS SWEET: And my learned friends from the department can tell me if we're reading it wrong.

COMMISSIONER: Yes.

MS SWEET: It looks there's a number of stealing and public nuisance matters currently before the court. If I take Your Honour to - and the witness does not have this document, but, Your Honour, if you go to page 6, which is the criminal history --

1 COMMISSIONER: Is there any reason why the witness can't  
2 have that document?

3

4 MR HASTIE: Acting for the police department,  
5 Commissioner, they're concerned about the release of  
6 anything to do with a person's criminal history, for  
7 obvious reasons, but in particular for a child.  
8 Commissioner, you would be aware that even in a Childrens  
9 Court it's usually closed, apart from the confidentiality  
10 provisions that apply to the police department and indeed  
11 children's services.

12

13 COMMISSIONER: Does that mean that where a child who is  
14 subject to a child protection order, as is the case with  
15 this child - that the department doesn't have access on a  
16 confidential basis to the criminal history of the child --

17

18 MR HASTIE: In a --

19

20 COMMISSIONER: -- via the police?

21

22 MR HASTIE: There's an exception for the Childrens Court  
23 for a children's services officer to be present during a  
24 hearing involving a child. So the answer to, Commissioner,  
25 your question is that as a matter of routine they wouldn't,  
26 but in the case of a child before the court, as  
27 I understand it, normally the children's services officer  
28 would be aware of the history.

29

30 COMMISSIONER: Isn't it problematic that from the  
31 perspective of the Child Safety Department in respect of a  
32 child under their care for the department not to be  
33 informed of the criminal behaviours and criminal history of  
34 the child?

35

36 MR HASTIE: Yes, the department's aware of the criminal  
37 history because there's an interrelationship between where  
38 the child is at any particular time and when the child  
39 might be subject to a charge or due to appear in court or  
40 at the watch house. So, yes, they certainly are kept aware  
41 of that information. It's just as a matter of course they  
42 wouldn't normally be provided with a criminal history. But  
43 I'm now informed that - my instructions are that they have  
44 no objection to the witness seeing the criminal history,  
45 though the police department would prefer that was in a  
46 closed hearing. But the way - it's a matter for you,  
47 Commissioner. The way that my learned friend's conducted

1 things so far, and there would be - like it's difficult to  
2 see where there would be a problem, this witness being seen  
3 and in a very sensitive but difficult way taken to  
4 particular entries.

5  
6 COMMISSIONER: I'll leave it to Ms Sweet whether she  
7 wishes to take the witness to this particular document.  
8 But, following the highly circumspect course we've been  
9 taking in relation to sensitive material, we have avoided,  
10 except through occasional slip, identifying the individual  
11 or any other facts that could reasonably disclose material  
12 that is protected from disclosure. So we'll continue - and  
13 Ms Sweet has taken that course, as you've noticed, and  
14 we've generally taken that course. We'll just wait and see  
15 if it is necessary for the witness to be taken to this  
16 criminal history report. My question was really a broader  
17 one, which was, well, as I stated, I would think that the  
18 criminal behaviour of the child in the care of the State is  
19 something that the department should be apprised of. Now,  
20 you've said, well, they attend court hearings and that's -  
21 Childrens Court hearings and that's how they become aware.  
22 But I'm wondering whether in respect of children in State  
23 care the criminal history shouldn't be provided of course  
24 on a confidential basis to the department in respect of a  
25 child who's engaging in that behaviour.

26  
27 MR HASTIE: Perhaps I could put it this way. They would  
28 be aware and the department documents demonstrate that the  
29 particular children's services officers are aware of the  
30 child being charged and the consequences of that, but  
31 that's different from the supply of a whole criminal  
32 history, perhaps.

33  
34 COMMISSIONER: In the case of this child, the whole  
35 criminal history occurred while the child was in the care  
36 of the State. So they can piece it together, I suppose,  
37 from attending court hearings.

38  
39 MR HASTIE: Yes, Commissioner

40  
41 COMMISSIONER: Yes. All right.

42  
43 MS SWEET: Thank you. At this stage I will - my  
44 assessment is I don't need the witness to see this  
45 document.

46  
47 COMMISSIONER: All right.

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MS SWEET: But, if in the course of my actual questioning of the witness the witness needs to look at it, as a matter of fairness I would show it to the witness

COMMISSIONER: Yes. Thank you.

MS SWEET: If you see page 6 down the bottom --

COMMISSIONER: Yes.

MS SWEET: -- you'll see that there's a Childrens Court appearance which starts with possession of a knife in a public place or a school. Just to recall, Your Honour, I'm taking you to this because in the behaviour section of the strengths and needs the department notes that the child has a number of stealing and public nuisance matters currently before the court.

COMMISSIONER: Well, that makes good Mr Hastie's point, doesn't it, that the department is made aware through its involvement with the court process of these facts?

MS SWEET: Yes, and sometimes the child safety officer is in attendance either in person or on the phone when the child appears in the Childrens Court.

COMMISSIONER: Yes.

MS SWEET: But, as I say, you'll see that there are various offences. They range from that possession of a knife in a public place through to nuisance; on the next page, obstructing a police officer; failure to appear in accordance with an undertaking; entering premises and commit indictable offence; commit public nuisance; trespass, entering or remaining in a dwelling or yard. It goes on, further trespasses towards the end of page 7; over the page, attempted enter premises with intent to commit an indictable offence; further trespass; wilful damage; and then others that I've already repeated but there are further instances of them. You'll see the date at the bottom of page 6. That is a few days after that child assessment needs and - assessment is done, and so it's likely that's what's being referred to. You'll see up the top of the page on page 6 those are those 12 wilful damage charges from the year prior, and, as I say, the offending escalates.

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So moving on from the behaviour assessment then you look at the emotional wellbeing and resilience assessment, and this is where - Your Honour could be certainly forgiven for the question. When you see, under the heading "Emotional wellbeing and resilience", "Significant instability" and the comments:

*The child demonstrates significant resilience and coping skills.*

Now, the coping skills seem to include stealing food or other essential items to meet a basic need. If you read the behaviour section with the emotional wellbeing and resilience section:

*He is currently self-placing with no stable accommodation but shows ability to cope in significant adversity ...*

And his coping seems to include engaging in a great deal of substance abuse. Moving on to quote:

*The child manages to find support and access resources in the community.*

Which tells you that he's not accessing those resources and support from the department but from within the community.

COMMISSIONER: Where are you reading from there?

MS SWEET: So does Your Honour have page 106?

COMMISSIONER: Yes, I'm on page 106.

MS SWEET: Right. So, yes, I have been oscillating between commentary --

COMMISSIONER: Yes.

MS SWEET: -- and I apologise for not being clear. So:

*The child demonstrates significant resilience and coping skills. He is currently self-placing with no stable accommodation but shows ability to cope in significant adversity. The child manages*

1           to find support and access resources in the  
2           community. However, the increase in  
3           outbursts and verbal abuse within the  
4           community. And the child refuses to engage  
5           in therapeutic supports.  
6

7           So that's the emotional wellbeing and resilience. I don't  
8           need to repeat the drug and alcohol section because it's  
9           really - it repeats the above, except to say that:

10  
11           *The child reports he generally engages in*  
12           *substance abuse with a family member and*  
13           *friends, however since residing with his*  
14           *aunt has been working hard to reduce his*  
15           *use. The child refuses to access support*  
16           *around his substance abuse.*  
17

18           Then moving onto family of origin relationships, "adequate  
19           relationships with some or all family members" is the  
20           rating, and I take you to the second paragraph in the  
21           comments, the second sentence, halfway across:

22  
23           *Child safety officer is worried that a lot*  
24           *of the child's family connections have been*  
25           *fractured by his mother's relationship with*  
26           *her family members. Family have reported*  
27           *to the child safety officer that they are*  
28           *unwilling to have the child there due to*  
29           *them not wanting to have to "deal with the*  
30           *mother's drama".*  
31

32           That it says "Peers and social relationships",  
33           "Non-family", the rating is "Expected level of social  
34           skills". However, in the comments we see at the top of  
35           page 107:

36  
37           *Since the child's self-placed the child has*  
38           *disengaged from all social and sporting*  
39           *activities. The child is able to develop*  
40           *relationships and make friends easily and,*  
41           *however, has a negative reputation within*  
42           *certain community. The child tends to*  
43           *connect with peers who are engaging in*  
44           *substance misuse with him, and the child is*  
45           *in the process of signing up to play a*  
46           *particular sport on the weekends.*  
47

1 Then if I can take you down to - I move to "Physical  
2 health". The rating is "Health issues with no impact on  
3 daily functioning". But, again, if you look at the  
4 comments:

5  
6 *Little is known regarding the child's*  
7 *physical health due to his high transience.*  
8 *There are concerns around the potential*  
9 *harm that the child's unsafe and risk*  
10 *substance using is having on his physical*  
11 *health.*

12  
13 Then if I take you over to the next page, 108, you'll see  
14 that there's a heading "Education, vocation and  
15 employment". The rating is "Some school, vocation or  
16 employment problems"; when you look at the comments, "The  
17 child has been disengaged from school for a number of  
18 years."

19  
20 Then there's the heading "Preparation for independent  
21 living", and the rating is:

22  
23 *Age-appropriate life skills. The child*  
24 *demonstrates significant resilience and*  
25 *coping skills.*

26  
27 And again it repeats much of what has been said above, but  
28 it notes that the child has limited skills around money  
29 management and budgeting.

30  
31 Then if I take you to the results section, Your Honour, on  
32 page 109 --

33  
34 COMMISSIONER: Just before you do, I noticed on page 107,  
35 "Cultural identity", that there are some observations made  
36 about that.

37  
38 MS SWEET: Yes.

39  
40 COMMISSIONER: Including that the child is supported by  
41 his aunties and that attempts are being made to link the  
42 child with a particular school and a particular school  
43 program?

44  
45 MS SWEET: Yes.

46  
47 COMMISSIONER: Yes.

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MS SWEET: And in the results section you'll see on page 109 strengths that are identified, including cultural identity, including physical health, including preparation for independent living, the needs in particular being the behaviour, the emotional wellbeing and resilience, the drug and alcohol use, and the education, vocation and employment.

COMMISSIONER: How does it follow in the circumstances that a strength is noted to be family of origin relationships? When the child appears to be self-placing otherwise than with his family, I'm not sure how one should read that comment, which is unexplained on its face as a strength. But perhaps the witness can assist us with what that is intended to convey.

MS SWEET: Yes.

MR HASTIE: He's not staying generally with his mother but some of the other family members in the particular - some of the self-placements are with extended family.

COMMISSIONER: So the self-placements were generally with family members?

MR HASTIE: Well, with an extended family or kin.

COMMISSIONER: In that context I suppose it does make sense, so thank you.

MR HASTIE: Yes.

MS SWEET: Before there was a document - and I'm not sure what the address is. I do think there is certainly some self-placing with an aunty. So perhaps it's an overstatement. There is some self-placing, and you'll see later on that there's issues, that that becomes a problem, and there is a comment in here that in respect of family there are worries by the CSO that a lot of the family connections have been fractured by the relationship with the child's mother.

COMMISSIONER: And there was a comment or observation that the drug-taking activity was undertaken in company with family members. That's under "Drugs", under "CSN3" in the document.

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MS SWEET: Yes. But it was both that drug taking was occurring with one particular family member but, on the other hand, since residing with the aunt there was a report by the child that he had been working hard to reduce the use. So it's --

COMMISSIONER: Yes, yes, that's on page 106.

MS SWEET: Yes. So perhaps a mixed bag is the best way to describe that.

MR HASTIE: The family member being referred to I think is a sibling.

COMMISSIONER: Yes, I noted that, Mr Hastie.

MS SWEET: So you'll see the date of that, you'll see that on page 110, which, as I say, is several days before the court appearance with those multiple charges that I took you to just before - just in respect of - yes, and, just reorientating ourselves with the table, this is occurring at the time of row 29, when we have this period of self-placing.

COMMISSIONER: When the child is nearly 15 years old?

MS SWEET: Nearly 15, that's correct. Your Honour, if you go to page 103, you'll see there's "CP case note" and there's a reference to a court appearance, "The child has court today for a trespass"; Your Honour has that?

COMMISSIONER: Yes.

MS SWEET: Yes, and this is about a week after the last court appearance. Then if we go over to page 101 there's another reference to a court appearance about a month later which relates to one stealing charge, stealing a chocolate bar, and there's an attempt to get the charge dismissed. As it said: The

*Police didn't question the child with an adult present, but the police prosecutor wasn't willing to remove the charge today.*

And the matter's adjourned off. Again, just to orientate ourselves, this is in the 13th year that the child is in

1 care that this is all occurring, and then if we move to  
2 page 96 - I should say in between, and my learned friend  
3 may go to it, but there are attempts to get the child  
4 re-engaged in school. I'm not taking Your Honour to it,  
5 but there are attempts by Child Safety to do that.  
6

7 And here we have at page 96 there's a reference - this is  
8 about two further months on - an appearance at a  
9 courthouse, the CSO is appearing by phone, there's a lawyer  
10 there and the child appears in person. It's an early  
11 morning courthouse appearance. You see there there's a  
12 bail address. The police oppose bail. The lawyer says  
13 there's a weak Crown case for all charges. There's a note  
14 here - again, this is a Child Safety case note. It's said  
15 that there is no link to the child with any of the charges.  
16 The child has not been on a conditional bail before, and it  
17 gives some reference to the allegations the subject of the  
18 charge, which included robbery with violence causing harm  
19 to a man who is semi-disabled, who was then taken to - is  
20 found unable to call for help, is attended by his carer's,  
21 the victim that is, the next morning, taken to hospital  
22 with a possible brain bleed, and there's a reference that  
23 the person's been assaulted to the level of hospitalisation  
24 and it is an unprovoked violent attack on an elderly  
25 disabled man; that there were three cars involved in the  
26 incident; that there's currently a curfew in place, and the  
27 police advised that the child is a risk to the community  
28 and if bail's granted he's to reside at that particular  
29 address; that the child was seen putting fuel into a stolen  
30 car in a particular town, but there's no current strong  
31 evidence against him for the most serious crime.  
32

33 *There will be submissions made for other*  
34 *violent crimes. There's no like offending,*  
35 *and the outcome being that bail is granted.*  
36 *There was an agreement to engage in a*  
37 *conditional bail program, to reside with an*  
38 *aunt at the bail address, and have a curfew*  
39 *of 7 pm to 7 am.*  
40

41 To orient ourselves, you'll see in the table, Your Honour,  
42 there's a watch house placement in row 28, and then this  
43 is - this case note is taken during the period that's  
44 referred to in paragraph 27, and, if one counts that with  
45 29, the child has been self-placing at this time; the only  
46 time he wasn't self-placing was when he spent the night in  
47 the watch house.

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COMMISSIONER: He had been self-placing at that time for 203 days, according to line 29?

MS SWEET: Yes, yes, that's correct, 203 days, that's correct. It also seems clear that when the - the child is being bailed to these addresses with one or more aunts, but it is not clear that and I think in the circumstances given the document it's unlikely that those aunts have been assessed as suitable kinship carers, otherwise one assumes they might be - they might be kin carers, but it's unclear what is known by Child Safety at the time about those aunts, who's living with the aunts, what the issues might be there. But that is the self-placing address. So he's not being bailed to a kinship care placement.

COMMISSIONER: Yes.

MS McMILLAN: Can I ask what page is Counsel Assisting on?

MS SWEET: This is just commentary, my learned friend. But I have been on page 96 --

MS McMILLAN: That's right. I'm there.

MS SWEET: -- and we were talking about the spreadsheet between rows 27 and 29, and referring to the fact that he's been bailed to reside with an aunt. So this is during the 13th year of care.

Then you'll see - and then we move into the 14th year of care, which starts at around about line 23, and again we've got - about 15 years and six months. The self-placing days just keep adding up and adding up. Then if we go to look at what's happening on the ground according to the Child Safety case notes, let's go to tab - sorry, not tab. Let's go to page - if I take you to page 90, Your Honour --

COMMISSIONER: Yes.

MS SWEET: -- do you see there's a case note there in respect of this child?

COMMISSIONER: Yes.

MS SWEET: You'll see the date there when we have moved into the 14th year of care, and you'll see on the next page

1 there is a series of discussions. These are discussions  
2 between Child Safety, who is receiving phone calls from a  
3 person at - I assume it's a police officer but somebody  
4 from a particular police station, and what is said is that  
5 the child is currently at this police station sitting in  
6 the foyer. The police came across him and two other young  
7 people. They had travelled from a particular town to this  
8 particular town with someone who dumped them there -  
9 "dumped them here" - and I'm reading directly from the case  
10 note:

11  
12 *The young people are not advising the*  
13 *police who it was who brought them there.*  
14 *Police have contacted the child's aunt with*  
15 *whom he's currently self-placing.*  
16

17 I should say this is at 11.22 pm at night.

18  
19 *She has advised she's unwilling to come and*  
20 *collect him because she's unwell. Child*  
21 *Safety advised that the likelihood of*  
22 *locating a placement at this time of night*  
23 *is low. The person from the police station*  
24 *[I'm just going to call them "police*  
25 *officer"] advised that the police were*  
26 *happy to let the child hang out in the*  
27 *foyer until morning. The child has*  
28 *blankets and food, so he is fine. The*  
29 *child safety officer to review ICMS [which*  
30 *is the pre-Unify document system] to see*  
31 *whether there are any other family options*  
32 *who might be able to collect them.*  
33

34 The CSO goes on to review that system, ICMS, and the case  
35 note says as follows:

36  
37 *The child appears to have moved around*  
38 *between family members (self-placing).*  
39 *Given [that's the acronym for Child Safety*  
40 *After Hours] have minimal knowledge of*  
41 *whether these family members are*  
42 *safe/appropriate. Decision made to allow*  
43 *the child to remain at the police station*  
44 *until relevant child the safety service*  
45 *centre can follow up in the morning and*  
46 *source accommodation during business hours.*  
47

1 Then about an hour and a half later there's another call  
2 from a different police officer - sorry, this is the child  
3 safety officer calling the police station. The safety  
4 officer explains it would be highly unlikely that a  
5 placement would be located for the child at this time of  
6 night. The police officer confirms that it's still okay  
7 for the child to sit in the foyer, however he's not under  
8 arrest so he can leave at any time. The child safety  
9 officer asks what the circumstances were for him coming to  
10 police attention, and again there's the explanation about  
11 being dropped at the station by an unknown associate. The  
12 CSO advises that the child safety centre will follow up in  
13 the morning, and the police officer expressed concern that  
14 the child was unlikely to wait until 9 am and will likely  
15 leave before then, and the child safety officer agreed to  
16 contact the on-call number for the child safety centre  
17 earlier than 9 am to see whether something was able to be  
18 organised to start earlier.

19  
20 Then there's a call from the police station to Child Safety  
21 stating the child has provided more information about where  
22 he's been staying for the past few days, and the child  
23 advises that he and his friends have been staying with a  
24 particular person. The police contact that person. She  
25 advised that a couple of days ago they showed up, they had  
26 nowhere to go and were cold and hungry, so she took them  
27 in. She advised the police officer that she had met the  
28 children before, unsure how she knows them. The police  
29 officer advised that the particular - the person who - this  
30 person seemed nice, no concerns about her. The child and  
31 his friend both stated she is lovely and takes care of  
32 them. The police officer advised that this person had  
33 agreed to collect the child and his friend at 9 am  
34 tomorrow, and she's dropping off someone at school first.  
35 The police officer advised that the child and his friend  
36 are going to stay at the police station until 6, then  
37 they're going to go somewhere else and charge their phones  
38 an use wifi, and the police officer believes they will  
39 return to be collected by the lady at 9 am. The police  
40 officer has given the child and his friend some fruit and  
41 blankets and they are fine, and there's a reference to the  
42 lady's phone number.

43  
44 Let's then move to about - less than two - about two weeks  
45 later, page 88, Your Honour, and you'll see there's a Child  
46 Safety case note. Page 88?

47

1 COMMISSIONER: Yes, I have it. Thank you.

2

3 MS SWEET: Yes, thank you. The description is that the  
4 CSO has received a call from a lawyer, that the child has  
5 been arrested for wilful damage charges, will be held in  
6 custody if he doesn't have a place to stay. The child  
7 safety officer to contact the lady from the previous case  
8 note to see if he can be bailed to her house, and that that  
9 is a reference to - the next line is the aunt has been  
10 contacted. So this is the period, Your Honour, if we look  
11 at - going to the table, this is the period - line 22, the  
12 arrest for wilful damage. You'll see then coming up are  
13 some stays in the watch house.

14

15 Then if we move to tab 18 this is a week after that case  
16 note where there's the arrest for wilful damage, and if  
17 I can take you to page 83, Your Honour - do you see that?

18

19 COMMISSIONER: Yes, I have it.

20

21 MS SWEET: You'll see the description: "Contact with Child  
22 Safety After Hours. Placement is needed." And if we move  
23 to page 85 you'll see at the top of page 85 "7 pm"?

24

25 COMMISSIONER: Yes.

26

27 MS SWEET:

28

29 *Phone call received from child protection*  
30 *investigation unit about the subject child.*  
31 *He is on long-term guardianship and*  
32 *conditional bail. He is burning through*  
33 *placements and may not have any options*  
34 *left in this particular town. The police*  
35 *said he has a relative in a certain*  
36 *location, an aunty, who he has previously*  
37 *stayed with and is listed on his previous*  
38 *locations that he may be able to stay with.*  
39 *Has been self-placing since December.*

40

41 And this is now, as Your Honour will appreciate, many  
42 months later. But prior to this he was with a particular  
43 residential care provider.

44

45 *He's currently at a hospital voluntarily as*  
46 *he has been trying to jump in front of cars*  
47 *and was extremely angry. Not on a*

1           *emergency examination order. Young person*  
2           *on bail from [this particular police].*  
3           *Bailed address is not appropriate now. Has*  
4           *been at the hospital for 20 minutes. Not*  
5           *sure when he will be released but police*  
6           *said they could assist in transporting him*  
7           *somewhere. Advised after hours youth*  
8           *justice team leader.*

9  
10          And there's a name and - I'm not sure what that is,  
11          "seeking assistance to identify a placement for the child",  
12          and then there's the number for the hospital. Then there's  
13          the phone - then there's a reference to the CSO, Child  
14          Safety After Hours for 20 minutes later. This is a phone  
15          call again to the woman who agreed to pick the child up  
16          from the police station that night when he slept overnight  
17          with the blankets and the food, and:

18  
19                 *This woman says she can't have him to stay*  
20                 *tonight. He has stayed with her on various*  
21                 *occasions and she has tried to support him*  
22                 *but he continues to make bad choices and*  
23                 *she can't support him any longer because*  
24                 *the child doesn't want to help himself.*  
25                 *The child has stayed at her house a couple*  
26                 *of nights a few weeks ago. He was quiet*  
27                 *and respectful for the first two days, then*  
28                 *he made some bad choices and was locked up*  
29                 *for stealing a car and other things. The*  
30                 *woman goes on to say she feels that the*  
31                 *child needs a good male role model to*  
32                 *invest some time in him. The child was at*  
33                 *her house this afternoon. Her neighbours*  
34                 *called her and said you'd better come home*  
35                 *because there are 10 people at the house.*  
36                 *The police were there. The woman says she*  
37                 *can't do this with the child anymore, he is*  
38                 *unable to come and stay. She knows that he*  
39                 *has other relatives in this particular*  
40                 *area.*

41  
42          And the CSO thanked her for her time. The CSO then peruses  
43          ICMS, noting that the child has two aunts in this area with  
44          these addresses and notes with respect to one aunt that the  
45          aunt had refused to have him stay on a recent date, and  
46          then it refers to the address of the other aunt.

1 Then again 20 minutes later there's a message from the CSO  
2 saying:

3  
4 *The police are going to pick the child up*  
5 *from the hospital now. They were asking*  
6 *where he wants to go and may take him*  
7 *there. They will keep me posted as to*  
8 *where he ends up, and Child Safety can*  
9 *follow up tomorrow if it's not appropriate.*  
10 *He's 15 and he's going to do what he likes*  
11 *anyway.*

12  
13 Then we see over the page there's a reference to somebody  
14 from the particular town's child protection investigation  
15 unit. The child - sorry - well, the child's been dropped  
16 off at a particular address which is not the address of  
17 either of the aunts. They say a certain woman is at the  
18 house. The child is advised he won't stay there, but that  
19 this person has agreed he can as needed.

20  
21 If you then go to page 9, Your Honour, you will see that  
22 around this time, perhaps about a month later, the child  
23 appears in the Childrens Court. It's the second main row  
24 on that page; Your Honour has that?

25  
26 COMMISSIONER: Yes.

27  
28 MS SWEET: Yes. You'll see that there's an appearance for  
29 burglary and commit indictable offence and receiving  
30 tainted property occurring the month prior. Again, this is  
31 during the period of self-placement, including around the  
32 time of the arrest for wilful damage.

33  
34 COMMISSIONER: Does that item record a conviction?

35  
36 MS SWEET: No, it just says, "On all charges no evidence  
37 to offer." That's all the information that's had in the  
38 record. If you remain on page 9 you'll see that there's  
39 another appearance about three weeks later, including  
40 reference to unlawful use of a motor vehicle, entering a  
41 dwelling with intent to - by break at night, uses  
42 threatened violence in company, assaults occasioning bodily  
43 harm whilst armed, and you'll see that those - although  
44 this appearance is on the date that is in the first column,  
45 those charges are not finalised for another year and a  
46 half, and they are finalised in a higher court.

1 COMMISSIONER: Does that mean they were referred to a  
2 higher court because they were indictable offences, not  
3 triable summarily or something of that kind, I'm assuming?  
4  
5 MS SWEET: I don't think I can answer that with any  
6 certainty.  
7  
8 COMMISSIONER: No.  
9  
10 MR HASTIE: That's a fair assumption, Commissioner, and  
11 it's --  
12  
13 MS SWEET: It sounded right, Commissioner, but --  
14  
15 MR HASTIE: That would mean the District Court sitting as  
16 the Childrens Court. Either someone with an appointment or  
17 in this - in an area where it didn't have a - someone with  
18 an appointment would be a District Court judge.  
19  
20 COMMISSIONER: Yes.  
21  
22 MS SWEET: Just to follow that through, Commissioner, if  
23 you go to page 16 --  
24  
25 COMMISSIONER: Yes.  
26  
27 MS SWEET: If you go to page 16 you'll see - the other  
28 page refers you to a date. It's the one where there's the  
29 comment in the final column. It's the second row down, "On  
30 all charges no conviction recorded and a probation period  
31 of two years"; Your Honour sees that?  
32  
33 COMMISSIONER: Yes, I see that.  
34  
35 MS SWEET: Yes, thank you. Just to remind we're in the  
36 child's 14th year in care while this is going on. Now  
37 I want to take Your Honour to - you'll see that we move up  
38 from - I think we've been on row 22. We've then got some  
39 stays in the watch house at rows 21 and 20. We then have  
40 the first period of - we have the first period of detention  
41 in row 18; Your Honour sees that?  
42  
43 COMMISSIONER: Yes.  
44  
45 MS SWEET: Yes. And then you'll see from detention -  
46 you'll see - row 18, the third row, there's a date there  
47 when the child is or the young person is released from

1 detention. He's released, you'll see, into this grey -  
2 this dark grey, which indicates it's a commercial  
3 placement. So this is the child being released from  
4 detention into a commercial motel, and you'll see it's a  
5 stay of 14 days between those two dates.  
6

7 Then let's have a look at Child Safety checking in with  
8 the child when he's in this commercial placement, and to do  
9 that we need to go to tab 16, which commences "CP case  
10 note" and, again, you see - you have that, Your Honour?  
11

12 COMMISSIONER: Yes, I do.  
13

14 MS SWEET: Yes. "Prescribed home visit"; let's take that  
15 with a small grain of salt. But it's the child --  
16

17 COMMISSIONER: "Home" meaning motel.  
18

19 MS SWEET: "Home" meaning the commercial motel to which  
20 he's been released from his detention. Excuse me one  
21 minute.  
22

23 MS McMILLAN: What page is it?  
24

25 COMMISSIONER: Seventy-eight.  
26

27 MS SWEET: Now on 78.  
28

29 MS McMILLAN: Thank you.  
30

31 MS SWEET: We know from the table at row 17 when this call  
32 takes place the child has been in the placement for two  
33 days, he's been in the motel for two days. So there's a  
34 call from the CSO in that afternoon. The child states he  
35 is okay and the motel is good. Child stated he has just  
36 been cruising around. I don't read the third dot point.  
37 The fourth dot point is that he requests his phone. The  
38 CSO advises that she would make arrangements to get his  
39 phone to him as soon as possible, and the child then makes  
40 a reference to wanting to get his Centrelink sorted, and  
41 there's reference to starting by getting the bank account  
42 and tax file number, so things in relation to transition to  
43 adulthood. So that is the check-in when the child is in  
44 the motel, and, in fairness, I need to point out that it's  
45 a phone call because it records in this case note that  
46 "unable to face-to-face visit due to COVID".  
47

1 So if I can again draw Your Honour's attention to row 17  
2 and the between dates for that stay?  
3  
4 COMMISSIONER: Yes.  
5  
6 MS SWEET: Can I then get Your Honour to go to the  
7 criminal history record at page 15?  
8  
9 COMMISSIONER: Just remind me what tab the criminal  
10 history --  
11  
12 MS SWEET: Well, I'm frightened to say. Mine is 3 --  
13  
14 COMMISSIONER: Okay.  
15  
16 MS SWEET: -- but I'm not sure if our tabs align.  
17  
18 COMMISSIONER: Okay. Yes, it is 3. Yes, good.  
19  
20 MS SWEET: Thank you, yes. So if Your Honour has that  
21 page 15 --  
22  
23 COMMISSIONER: Yes, I do.  
24  
25 MS SWEET: If you go down to the last column you'll see  
26 there's a Childrens Court appointment on a particular date,  
27 page 15?  
28  
29 COMMISSIONER: Yes.  
30  
31 MS SWEET: But you'll see - I don't refer you specifically  
32 to that date. What I'm asking you to look at is actually  
33 in the second column where it refers to "offence", and  
34 you'll see that the offences are dated - so it's attempt  
35 burglary and commit indictable offence, and you'll see the  
36 date. That date is in the between dates. This is when the  
37 child is in the commercial hotel. When you go you further  
38 down to the trespass, entering or remaining in a dwelling  
39 or yard, again it's the same date; stealing, same date;  
40 again, another trespass on the same date; over the page,  
41 attempted burglary and commit indictable offence, that's  
42 the day before, again still in the between dates of the  
43 commercial stay; and then attempted burglary and commit  
44 indictable offence is on the second date and --  
45  
46 COMMISSIONER: So that's what the child meant when he said  
47 he'd been cruising around.

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MS SWEET: Well, he says that before this, but, yes, it does put the - it does put that phrasing into - up in lights, doesn't it?

Okay. So then we move from - if Your Honour - so during the motel stay you'll see at row 16 in those between dates there is obviously an arrest and the child is in detention, because the offending occurs on one date and then the second date, and by the end of that second date he spends the night in detention.

COMMISSIONER: Yes.

MS SWEET: He is then several - you'll see there's an end date to detention. He then is moved into a residential placement four days after being released from detention. You'll see that residential placement lasts 27 days, and again the child's just about to turn 16. In fact, he may be 16 by - I think he's 16 by the time the placement ends, and you'll see in the reason for the placement ending:

*Child experienced significant escalation at the placement, including threatening to steal the placement vehicle or a neighbour's vehicle, and advised that they were unwilling to return.*

So the child advises he's unwilling to return to the placement, and we can see this if we go to page 58. It's my tab 13, page 58.

COMMISSIONER: Yes.

MS SWEET: So you can see here there's a closure of placement note - child safety note. You'll see that the child is in a fee-for-service arrangement with that particular caring facility. The reason for closure is unplanned, but that's where - and it effectively repeats what's in the table. He's been transported to somewhere else after the significant escalation.

So after the residential placement comes to an end we then have a period of - you'll see in row 14 that there is - we enter another period of self-placement, which itself only ends when the child ends up - row 13, watch house; row 12, watch house, a six-day stay; which then is converted into

1 row 11, a 19-day stay in detention; followed by 94 days of  
2 self-placing. I'll just pause there.

3

4 Then if we go to - so the residential placement ends, and  
5 if we go to - and there's some self-placing. Let's go to -  
6 if Your Honour goes to page 55.

7

8 COMMISSIONER: Yes.

9

10 MS SWEET: There's a child safety case note there, "After  
11 hours contact". So this is roughly two weeks after the  
12 residential placement ends. The CSO receives a phone call  
13 from the police.

14

15 *The child's been arrested today after being*  
16 *located in a stolen car that had crashed*  
17 *into another vehicle. Taken to the police*  
18 *station, entered into the watch house,*  
19 *whilst the police determined who or what*  
20 *address he can be bailed to. He's been*  
21 *charged with unlawful use of a motor*  
22 *vehicle. He'll appear in the Childrens*  
23 *Court tomorrow.*

24

25 Then you'll see there's the dot point that starts,  
26 "I informed the officer"?

27

28 COMMISSIONER: Yes.

29

30 MS SWEET:

31

32 *... that the child does not have an open*  
33 *placement at this time. The placement at*  
34 *the fee-for-service residential was closed*  
35 *on that particular date two weeks earlier.*  
36 *As he stated to Child Safety, he was*  
37 *unwilling to return to the placement. The*  
38 *child was transported to the address of a*  
39 *certain person. This is her contact*  
40 *number. It appears to be where he's*  
41 *self-placing. The officer advised that he*  
42 *also has details of [and this is an aunt]*  
43 *listed as a point of contact as he was*  
44 *recently bailed to her address. I confirm*  
45 *that we, Child Safety, have the aunt's*  
46 *contact details. This is the point of*  
47 *contact for the child. I was unable to*

1           *comment further upon whether the aunt is an*  
2           *appropriate person to care for the child.*  
3           *The police officer asked if Child Safety*  
4           *would assist with transportation for the*  
5           *child. I [that is the CSO] explained that*  
6           *he is without a departmentally approved*  
7           *placement and therefore we are unable to*  
8           *arrange transport by a youth worker.*  
9           *I suggested police continue to make*  
10           *attempts to contact the person with whom*  
11           *he's self-placing as this is the last known*  
12           *address that Child Safety has recorded for*  
13           *him.*

14  
15           Later that day the CSO recontacts the police officer and  
16           obtained the following information: that the police  
17           attended the address, the self-placing address; that that  
18           lady agreed to have the child returned to her care; the  
19           police are transporting the child there. It was confirmed  
20           that court was the next morning, and then the child safety  
21           officer contacts the on-call manager at the child safety  
22           centre to say that:

23  
24           *The child is appearing in court tomorrow,*  
25           *that he was arrested today for the unlawful*  
26           *use of a motor vehicle, and that she*  
27           *explained that he had been released on bail*  
28           *and transported to a particular address,*  
29           *which is the same address he was dropped*  
30           *off at by Child Safety staff when he left*  
31           *the residential care placement.*

32  
33           Then we move a couple of months down the track. The child  
34           is sighted, so let's go to page 30, which is my tab 8.

35  
36           COMMISSIONER:    Yes.

37  
38           MS SWEET:        The CSO visits the child - I think this is a  
39           different address to the last address - and the CSO  
40           provides the child with a \$50 food voucher.

41  
42           *The child says this wasn't enough. Child*  
43           *Safety advised the child that he needed to*  
44           *complete his Centrelink application and the*  
45           *child safety officer could assist to do*  
46           *this. The child safety officer advised*  
47           *that the child would be able to cover his*

1           *own costs if he was receiving youth*  
2           *allowance. The child safety officer*  
3           *provided the child with information on DGT*  
4           *courses.*

5  
6 I don't know what that is.

7  
8           *The child safety officer provided* [REDACTED] *--*

9  
10 Sorry, that's a slip. If that could be removed from  
11 the record?

12  
13 COMMISSIONER: Yes.

14  
15 MS SWEET:

16  
17           *The child safety officer provided the child*  
18           *with a new phone and a copy of his Medicare*  
19           *card to set up the SIM with.*

20  
21 Then we move only - less than a week later. If we go to  
22 tab 9 - sorry, page 32. Tab 9, page 32, this is - does  
23 Your Honour have that?

24  
25 COMMISSIONER: Yes, I do.

26  
27 MS SWEET: Yes, thank you. There's contact with After  
28 Hours, Child Safety After Hours. This is 1.45 in the  
29 morning.

30  
31           *The child's been located after attending an*  
32           *address today whose carer said he can't*  
33           *stay there. The carer overheard the child*  
34           *saying he was planning to steal a car. She*  
35           *called the police. The child is currently*  
36           *having something to eat in the station, but*  
37           *there's nowhere for him to go. The child*  
38           *is able to remain at the station for the*  
39           *next couple of hours, however police are*  
40           *hoping for him to be able to go somewhere*  
41           *else as the sergeant is not agreeable to*  
42           *the child staying there overnight. The*  
43           *child safety officer discussed the*  
44           *difficulty in locating a placement at this*  
45           *time of the morning in addition to the lack*  
46           *of availability of placements in this*  
47           *particular area. Further discussed the*

1 possibility of the child going to the  
2 hospital to request a social admission  
3 until the morning if they are agreeable to  
4 that. The police officer opined that the  
5 child is unlikely to remain at any location  
6 as he usually absconds and self-places.  
7 The police expect he may sleep there in the  
8 station temporarily, then choose to leave.

9  
10 Then there's a phone call at 2 am to the hospital.

11  
12 Hospital are happy to have the child on a  
13 social admission and can provide a meal for  
14 breakfast in the morning whilst he awaits a  
15 placement.

16  
17 Then there's another phone call to the police station.

18  
19 The police advised the child decided to  
20 leave the station and insists he requires  
21 no further assistance, but the child was  
22 told that he can attend the hospital as  
23 needed. The CSO spoke to a person in the  
24 emergency department at the hospital and  
25 advised that the child is aware he can  
26 attend the hospital as needed, otherwise  
27 he's chosen to leave the police station.

28  
29 So we then move into - we see that there's been - this is  
30 around the time there's self-placing, at row 10. Then we  
31 have row 9, which is during the period of self-placing  
32 there are these three stays in the watch house amounting to  
33 four nights. Then you see from - if you go from row - at  
34 the end, placement of row 10 to the placement in row 6,  
35 there is another period of self-placing which lasts for  
36 133 days, and that ends when there is a kinship care  
37 placement found, and it is during this kinship care  
38 placement that this significant act of offending occurs.  
39 So the end date of the kinship placement is the day the  
40 child is arrested for the offence - or offences. You'll  
41 see then there's a 15-day stay in the watch house, which is  
42 row 4, and then the remainder of the top three rows are the  
43 stays in detention, and you'll see in row 1 the end date  
44 signifies that the child's turned 18 and has aged out of  
45 the system.

46  
47 COMMISSIONER: Is the child sentenced to detention?

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MS SWEET: I'll take Your Honour - sentenced effectively with the time served. If one goes to tab 3, and I take Your Honour to page 16.

COMMISSIONER: Yes.

MS SWEET: So it's not until that date in that column, in the first column, where these offences are finalised, and you'll see in the third column, "On all charges no conviction recorded", there's a reprimand, "declare that time spent in pre-sentence detention be deemed as time already served under this sentence", and you have the figure there, which is the between dates from the time the child is arrested to the date of that court appearance.

COMMISSIONER: The serious offence didn't result in a conviction; is that right?

MS SWEET: No conviction is recorded. That is what the police history report says. There's a reprimand. There's a reprimand. And the remainder of that police record relates to matters following. So that's why you'll see there's a move to the Magistrates Court because it relates to adult offending.

COMMISSIONER: On page 17 --

MS SWEET: Yes.

COMMISSIONER: -- it's indicated that the time served, that is pre-sentence detention, deemed to be treated as time already served --

MS SWEET: Yes.

COMMISSIONER: -- is [REDACTED] days?

MS SWEET: That's correct.

COMMISSIONER: Yes.

MS SWEET: So by the time the child commits this offence it's his 15th year in care, and then the entirety of the 16th year in care until he ages out is spent in youth detention. He's been in care since he was two and a half years old, and it ended in that way. Your Honour, that's

1 my opening --

2

3 COMMISSIONER: Thank you.

4

5 MS SWEET: -- of the youth justice - of the dual order  
6 case study.

7

8 COMMISSIONER: Thank you.

9

10 <EXAMINATION BY MS SWEET

[12.08 pm]

11

12 MS SWEET: Now, Ms Black, thank you for your patience as  
13 I took the Commission through those documents. So you've  
14 obviously been in the Commission room hearing that. Can  
15 I ask, based on that history, did the department fail this  
16 child?

17 A. I'm not sure --

18

19 MR HASTIE: That's a very broad question that's being  
20 asked of an employee of the department, Commissioner.

21

22 COMMISSIONER: It's true it is. But Ms Black has heard  
23 the outline of the events relevant to the child. It is a  
24 broad question. She's asked to offer an opinion.

25

26 MR HASTIE: Well, she's being asked to make an admission  
27 on behalf of the department.

28

29 COMMISSIONER: Well, it could be so characterised, but  
30 she's been asked to offer an opinion about whether the  
31 events as described in the course of Ms Sweet's account or  
32 opening of the youth justice case study in her view amounts  
33 to a failure. Now, the question can be broken up,  
34 I suppose, into further parts. But, even if it were  
35 characterised as calling for an admission, what's the  
36 objection to that?

37

38 MR HASTIE: Well, an admission by a person who's not  
39 authorised by the department to make an admission.

40

41 COMMISSIONER: Well, Ms Black is the senior officer of  
42 the department who the department has put forward as the  
43 responsive witness on behalf of the department in relation  
44 to the matters the subject of this case study and, given  
45 her role as a very experienced, longstanding officer of  
46 the department who has risen to the level of regional  
47 executive director of the relevant region, I think she can

1 be fairly asked her view about whether she regards what the  
2 department has done or not done in connection with this  
3 child as amounting to a failure. So I would allow the  
4 question, Mr Hastie.

5

6 MR HASTIE: Well, I just respond in part to that.

7

8 COMMISSIONER: Yes.

9

10 MR HASTIE: That the notice required certain things, and  
11 this was the witness who was, as, Commissioner, you've  
12 said, was put forward to respond to the notice. But that's  
13 a different proposition from being asked to respond to a  
14 question like this. It would be one thing, for instance,  
15 to ask the witness in detail about certain aspects of the  
16 way in which events unfolded in these two years that we're  
17 talking about and what was meant by self-placement and  
18 whether or not something better could be done in respect of  
19 that. But to launch into a request straightaway for, as  
20 I said, an admission is, in my respectful submission, a  
21 very onerous question that's being asked of an employee of  
22 a government --

23

24 COMMISSIONER: Who would you say, Mr Hastie, would be the  
25 officer of the department qualified in the sense of having  
26 authority to make an admission on behalf of the department?  
27 Is it the Director-General or the minister?

28

29 MR HASTIE: Well, either of those occur to me as  
30 possibilities, but certainly not this witness. This  
31 witness could give her opinion about what might have been  
32 done better or what would be a better system than unfolded.  
33 I note that this witness from her experience - you could  
34 have no objection and I have no objection to that.

35

36 COMMISSIONER: All right.

37

38 MR HASTIE: But it's the fulsome nature of the question.

39

40 COMMISSIONER: I think your point is that the question  
41 cast in that way asks for really the giving of an opinion  
42 that could also amount to an admission without the  
43 assumptions upon which the opinion might be founded being  
44 put to the witness in order that the factual basis for the  
45 expressed opinion is clear, the sort of Makita test for the  
46 eliciting of opinion evidence; is that essentially embedded  
47 in your objection, Mr Hastie?

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MR HASTIE: Yes, Commissioner.

COMMISSIONER: All right. Well, I'll ask senior Counsel Assisting me to perhaps break up the propositions that she would like to put to Ms Black in order to elicit the component parts of any opinion she is prepared to offer.

MR HASTIE: Thank you, Commissioner.

COMMISSIONER: Ms Sweet.

MS SWEET: Thank you, Your Honour.

I'm going to put that question to one side for the moment. I'd like to ask you about some correspondence you sent around the time of the event. Now, can I take you to page 21, which should be tab 4. Ms Black, just halfway or three-quarters of the way down the page there's an email from you to a certain person; do you see that?

A. Yes.

Q. And the subject matter of the email is "YP", meaning young person, "in care charged with a serious offence"; do you see that?

A. Yes.

Q. Yes. Now, what is the position of the person that you wrote that email to?

A. The Deputy Director-General for Child Safety.

Q. The Deputy Director-General for Child Safety at the time?

A. Yes.

Q. Yes. And you say, "As you're aware, there was a significant incident in [a place] last week," and you refer to that there was a tragic result to that incident, and you're advising him about matters that QPS have told you about who was responsible; you'd agree that's a fair summary?

A. Yes, yes.

Q. You say, "This information was originally briefed up through YJODG," and that's the Youth Justice office of the Director-General; correct?

A. Yes.

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Q.

*However, given this updated information  
I also wanted to bring this to your  
attention. I understand that [a person who  
I won't name] has already advised the ODG.*

When you say "the ODG" there do you mean the Office of  
Director-General for Child Safety?

A. I'm - the sentence above that, YJODG, I suspect that  
should have been ODDG. So the Youth Justice Deputy  
Director-General. And then the second - the sentence  
underneath that says that, "I understand [another person]  
has already advised the Office of the Director-General."

Q. Right. So that refers to Youth Justice, not Child  
Safety?

A. If it helps to understand, at the time of this  
situation and at many times over a number of years, due to  
various machinery of government changes, Youth Justice and  
Child Safety were part of the same department, and in fact  
had one Director-General. At the time that I wrote this  
email that was the case.

Q. So there was only one person to advise; they weren't  
separate departments?

A. Sorry?

Q. There was only one office to advise because Youth  
Justice and Child Safety came under the one department?

A. Correct.

Q. Is that what you're saying?

A. Yes.

Q. What do you understand was advised about this incident  
to the ODG?

A. I don't know, I didn't see the advice to the ODG, but  
my email infers that the incident was what was advised.

Q. Yes. Just taking you to your statement for a moment -  
do you have a copy of your statement there, Ms Black?

A. Yes, I do. Yes.

Q. You'll see, if I can take you to page 2, you refer to  
the various items that were asked to be produced under the

1 notice to produce 269; you see that?  
2 A. Is that paragraph 10?  
3  
4 Q. Yes. So you start with 10, and then at - and then  
5 there's the heading "B. Any case notes pertaining to" these  
6 people, which included the subject child we're talking  
7 about today, and what was asked for was not only the case  
8 notes but communications with residential care providers  
9 for the subject child?  
10 A. Yes.  
11  
12 Q. Yes. And some of the case notes that you have  
13 produced are ones that I've read out in the hearing today;  
14 you'd agree with that?  
15 A. Yes.  
16  
17 Q. Yes. Now, would you agree that there were no  
18 communications with residential care providers that were  
19 produced?  
20 A. I'm aware that there were none that you read out  
21 today, but I understand what you read today was only a  
22 selection of the material provided to you under this  
23 notice.  
24  
25 Q. Yes.  
26 A. And it was a large volume of material, I understand.  
27 So I couldn't actually tell you. I'd have to take on  
28 notice whether there was anything in that material that was  
29 a communication with a residential care provider.  
30  
31 Q. Yes, thank you. And you'll see just above  
32 paragraph 15 there was a request to produce all complaints,  
33 issues or concerns received about people, including that  
34 child?  
35 A. Yes.  
36  
37 Q. And you say, "The department conducted a search of the  
38 complaints record-keeping system Resolve for" the time  
39 period, which is really the two years prior to the  
40 significant event?  
41 A. Yes.  
42  
43 Q. You say, "The department was unable to locate any  
44 complaints records pertaining to the subject child"?  
45 A. Yes.  
46  
47 Q. Yes. Does that mean that - does "unable to locate"

1 equate to there weren't any?

2 A. I think that's a reasonable assumption, yes. That  
3 would be how I would read that, yes.

4

5 COMMISSIONER: Can I ask, going back to the communication  
6 on page 22, in which you refer in the penultimate sentence  
7 to advice given by a person to the ODG, do you know if that  
8 advice has been produced as part of the bundle of material  
9 in answer to the notice, because it would appear to be  
10 captured by item C on the top of page 3 of your statement,  
11 "all communications with the department of youth justice",  
12 understanding now that they were - there wasn't a separate  
13 department, it was part of the same department, as  
14 I understand your evidence? Are you able to say whether  
15 the report or communication referred to on page 22 of your  
16 email to the ODG has been produced? We can look over lunch  
17 to find out whether it has, but I just wonder if you know.

18 A. I could offer something for you, Commissioner.

19

20 COMMISSIONER: Pardon?

21 A. I could offer an answer for you.

22

23 COMMISSIONER: Yes, please do.

24 A. That second last line in my email on page 22 refers to  
25 a person in Youth Justice, Office of the Deputy  
26 Director-General, who I state in there has then conducted  
27 the briefing to the Office of the Director-General, and  
28 I note in my statement on paragraph 12 that ICMS records,  
29 so our case recording system, that were provided under this  
30 notice were the child protection records and not the youth  
31 justice records. So perhaps - to answer your question,  
32 Commissioner, perhaps that wasn't included.

33

34 COMMISSIONER: Well, I see that at the time - and this  
35 notice may have been drafted on a misunderstanding that at  
36 the time there were separate departments and separate  
37 directors-general of separate departments. I now  
38 understand that at the time there wasn't, and so that might  
39 be an explanation. It would be useful to know what  
40 information was provided to the singular Director-General  
41 at the time for both Youth Justice and Child Safety as to  
42 these lamentable events.

43

44 MR HASTIE: Yes, Commissioner, I'll see whether we can  
45 assist the Commission in that respect.

46

47 COMMISSIONER: Thank you, Mr Hastie.

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MS SWEET: Ms Black, at the time of the significant incident you held the office of regional executive director?

A. Yes.

Q. You'll see there on the last page of your statement paragraph H just above paragraph 20. Do you see:

*The notice requested any review of processes or procedures triggered by the offending behaviours and any details of any subsequent changes to legislation, policy or procedures that resulted.*

You see that?

A. Yes.

Q. Yes. And you say:

*As the incident was not a child death or a serious injury to a child or a young person, there was no review of processes or procedures triggered by the offending behaviour, nor any subsequent changes to legislation, policy or procedures that resulted.*

A. Yes.

Q. Yes. So it's also the case then that you didn't instigate any review in your position as regional executive director as a result of these incidences?

A. No.

Q. No.

COMMISSIONER: Do I take it that your expression in that sentence "as the incident was not a child death and/or serious injury to a child or young person" is an explanation of the reason that the department or conjoined departments at the time decided that it was not necessary to review the process or procedures?

A. Commissioner, the way that paragraph 20 - I think it's stating that the trigger, so to speak, for a child death or - for a systems and practice review would be a child death or serious injury to a child.

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COMMISSIONER: Yes. So should I understand that sentence, because it's put somewhat in the passive voice, as saying that the reason there was not a review is because the qualification for a review or condition precedent for a review, namely the death of a child or serious injury to a child, did not occur?

A. Yes.

COMMISSIONER: And that is notwithstanding that at the time the department was a single department concerned with both Child Safety and Youth Justice?

A. Yes.

COMMISSIONER: Yes, I see.

MS SWEET: Ms Black, having now been taken through in some detail the events of this child's life in care and particularly the last two years prior, including incidences of self-placing, including an incidence of being in a commercial hotel, including an incident where there's a breakdown in a commercial - in a residential fee-for-service placement, do you think that that decision was wrong not to instigate any sort of review into this event and what led up to it?

A. Can I - well, I guess what I can answer is the answer I gave in my statement, was that there was nothing requiring a review. Now, any practice reflection opportunity would always be available in our work, and that would - that could still be available or may have been available at the time or may have been done at the time. I don't have any reports to say that that was done at the time.

Q. So you don't have any information to suggest that even there was a reflection on - for practice review as a result of this incident?

A. That information may be recorded in our record-keeping system. I couldn't say whether it - I don't know if it is recorded and I don't know if it occurred.

Q. Yes. And you didn't make those enquiries yourself before coming here today?

A. I did not.

Q. Okay. Do you think that the triggers for a review of processes or procedures should be widened to include when

1 there are significant injuries or deaths caused by children  
2 in care to members of the community?  
3 A. I think that, while there are a lot of possible  
4 triggers for events involving young people subject to child  
5 protection orders that may be subject to review or may be  
6 useful to be subject to review, for this particular  
7 incident I guess I turn my mind to at what point you would  
8 conduct the review given a criminal process is already  
9 occurring immediately following that incident. So I'm just  
10 in my mind thinking there may be some time delay until it  
11 was appropriate to conduct a review.  
12  
13 Q. The child has now been sentenced, and there has been  
14 no review; correct? The criminal process has come to an  
15 end?  
16 A. Subsequent - yes, now, yes.  
17  
18 Q. And there hasn't been any suggestion from the  
19 department that, "All right. Well, now that there's a  
20 criminal proceeding that's come to an end, let's conduct  
21 even a reflection about our practice review"?  
22 A. Not that I'm aware of.  
23  
24 Q. Yes. And the fact that there is criminal processes  
25 involved, none of those processes will have any effect on  
26 Child Safety's practices or procedures, will they?  
27 A. In this particular matter a young person being charged  
28 with a criminal offence or any other - sorry, I'm just -  
29 can you repeat the question?  
30  
31 Q. Yes. So the fact that there are criminal consequences  
32 for a child who's committed these offences, none of that  
33 then will be reflected in any change - is a requirement as  
34 part of a criminal process that Child Safety review its  
35 practices?  
36 A. Correct.  
37  
38 Q. Or even reflect on its practices?  
39 A. Correct.  
40  
41 Q. Or make any changes to its practices?  
42 A. Correct.  
43  
44 COMMISSIONER: Ms Black, the question of principle is  
45 one - let me put it this way. One can understand that the  
46 death or serious injury to a child in State care would be a  
47 trigger for a review of the department's processes and

1 practices in relation to the care of a child. That's the  
2 present policy?

3 A. Correct.

4

5 COMMISSIONER: If the conduct of a child in care results  
6 in the serious injury or death of a member of the public,  
7 while it is not the injury or death to the child, it is the  
8 conduct of the child under the care of the State that has  
9 led to serious harm and/or death to a member of the public.  
10 Now, as a matter of logic and/or commonsense, do you not  
11 think that an event such as that, whether it is presently  
12 part of an express policy or not, should lead to a serious  
13 inquiry on the part of the department as to its processes,  
14 practices and procedures that bear upon its parental  
15 responsibility in relation to the child who has caused the  
16 serious injury or death to a member of the public; that's  
17 the question?

18 A. Commissioner, if I can be clear, I'm not opposing that  
19 there would be value in having any review of any  
20 significant outcome involving a child in care. I'm just -  
21 I was responding to say there's no requirement to.

22

23 COMMISSIONER: Yes. No, I understand that. I understand  
24 that. And that seems to be the implicit reasoning stated  
25 in the first part of the sentence that appears at  
26 paragraph 20 of your statement. It's merely a factual  
27 statement, well, the policy presently doesn't require it?

28 A. Correct.

29

30 COMMISSIONER: And that may be accepted. But my question  
31 is either should the policy be altered to require a view in  
32 such circumstances and, even if it was as it was at the  
33 time, do you not think that it would have been appropriate  
34 to conduct such a review notwithstanding that there wasn't  
35 a formal trigger for it according to the policy that  
36 existed at the time?

37

38 MR HASTIE: I take it, Commissioner, you're asking this  
39 witness's opinion of what --

40

41 COMMISSIONER: I am, yes.

42

43 MR HASTIE: As a matter of policy what could happen in the  
44 future?

45

46 COMMISSIONER: Yes, I am, yes.

47

1 MR HASTIE: Yes. Thank you

2

3 WITNESS: If I answer on that basis, Commissioner, my view  
4 is that any review/reflection of our practice can only  
5 improve our practice into the future. So I think that's  
6 healthy for any system: to be open and subject to review,  
7 and to learn from such reviews.

8

9 COMMISSIONER: Well, that's a very diplomatic answer.  
10 A. Pardon?

11

12 COMMISSIONER: That's a very diplomatic answer.  
13 I understand that. But I'll break the questions down  
14 again. I think there are two questions. Mr Hastie has  
15 assisted in defining my question to mean what should happen  
16 in the future. So let's just stick to that assumption for  
17 the moment. Do you agree that in future the department's  
18 policy should require a serious incident such as the  
19 serious injury or death to a member of the public to be  
20 subject to a review of processes and procedures of  
21 the department to ascertain whether the care of the child  
22 according to those processes and procedures may have had an  
23 impact on the event that occurred?

24 A. Commissioner, I wonder if the specific circumstances  
25 and the role that young person may have had in that  
26 incident may be relevant to the extent of the review that  
27 would be required.

28

29 COMMISSIONER: What do you mean by that?

30 A. And it was probably to my point earlier about whether  
31 the review would occur or be triggered until we knew the  
32 outcome of the facts of the matter. But --

33

34 COMMISSIONER: Do you mean that it --

35 A. -- if the trigger is at the point of getting arrested  
36 or charged, I think is what the suggestion is.

37

38 COMMISSIONER: No, I understood your point that the  
39 department couldn't be undertaking a review that might  
40 impinge upon the criminal proceeding, though it's difficult  
41 on the face of it for me to understand how an internal  
42 review of the department's conduct would in any way  
43 prejudice the criminal proceeding because the criminal  
44 proceeding is concerned with something else, namely the  
45 conduct of the child and proving that the child had been  
46 guilty of a serious criminal offence?

47 A. Yes, yes.

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COMMISSIONER: So that's quite separate?

A. Yes

COMMISSIONER: But even allowing for some constraint on inquiry because of a pending criminal proceeding and perhaps even some delay in completing the inquiry --

A. Yes.

COMMISSIONER: -- as a matter of principle do you agree that where there is such an incident the department should as a matter of course conduct a thorough review of its processes and procedures bearing upon its own conduct in discharging its parental responsibilities to the child in question?

A. I agree that any significant event, including the one you've described, that it would be important and useful for the department's policies and procedures and intervention with that young person to be reviewed and learnt from.

COMMISSIONER: So should I conclude that in this case the express reason that you've given or perhaps it's implicit reason you've given in paragraph 20, namely that the policy did not trigger the need for such a review, that that was the reasoning that led to the department not undertaking a review?

A. Correct.

COMMISSIONER: All right. Thank you.

MS SWEET: Ms Black, can I ask you about in a general sense the use of placing children or young people in commercial motels. Why is that occurring?

A. It may occur - if I perhaps give an example of where it might occur - that's your question, why is it occurring or why --

Q. Why is the department placing children, including children being brought out of youth detention, in commercial hotels and motels? Why is that occurring?

A. So it may be that - when we're trying to source a placement for a young person, especially at short notice, for example if a bail application's been brought on and a young person is going to be released from detention, you know, that day or the next day, we would be attempting to seek a placement for that young person, and it may be that a provider who's able to provide care for that young

1 person, if we're thinking of a residential care provider,  
2 is not able to access at very short notice a house to  
3 accommodate that young person in, particularly in the  
4 current housing situation particularly in my region, that  
5 that may be a scenario that we have to manage, and one way  
6 then of achieving a placement for that young person with  
7 that provider may be for a very short-term arrangement  
8 where they might stay in an accommodation that's not a  
9 house, so a serviced apartment, for example.

10  
11 Q. In this particular instance the young person was in  
12 that placement for 14 days. Is that unusual that it would  
13 be a matter of weeks that the child is placed in the  
14 placement?

15 A. I think the Commission may have issued a notice in  
16 regards to emergent accommodation that will probably speak  
17 more directly about length of stay and give you that  
18 information more precisely, but in my experience the  
19 emergent accommodation can be up for - anywhere from a few  
20 periods of days up to a number of weeks, depending on how  
21 difficult it is or when the availability of a house may be  
22 made.

23  
24 Q. Do you foresee that there will be any change in the  
25 department's practices in respect of housing children in  
26 motels for days or weeks in the foreseeable future?

27 A. I think some of the reforms that are currently  
28 underway in the department are unlikely to mean that the  
29 use of emergent accommodation may be less relied on.

30  
31 COMMISSIONER: What do you mean by that?

32 A. That - about the reforms?

33  
34 COMMISSIONER: Yes.

35 A. So I think the Commission may have received  
36 information about the reforms occurring in the placement  
37 services area, and I'd have to take it on notice, I'm  
38 sorry, to confirm that, that you've received that. If  
39 not, we can provide you some information about some of  
40 those reforms. So, Commissioner, in particular what I'm  
41 talking about, particularly for my region, is increasing  
42 the number of available placements for the --

43  
44 COMMISSIONER: Sorry, I just didn't hear you?

45 A. In my region I'm referring particularly to increasing  
46 the number of placements that are available for my staff to  
47 place children.

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COMMISSIONER: And in which categories do these placements, as you understand it, fall? Are we talking about non-family based residential care?

A. Family based and non-family based.

COMMISSIONER: All right. Breaking that down, what is being done, as you understand it for your region, or being planned in relation to increasing the availability of family based care?

A. Can I be clear that the reform is being led centrally and not by my region. So I'll take it on notice to provide you the details of what that reform is and the impacts for my region.

COMMISSIONER: But as the regional director I assume - but please correct me if my assumption is wrong - that you are party to discussions, planning meetings, memoranda and emails concerning these planned reforms that you've mentioned? So you must have personal knowledge of it?

A. I certainly do, which is why I've raised them, Commissioner, and they relate to increasing the number of placements in both residential care and in family-based care, meaning foster and kinship care.

COMMISSIONER: So do you have an understanding of the essential elements of the proposed reform?

A. If I talk about family-based care, there is some new funding specifications that are being released in regards to ensuring we not only increase the number of placements that are available to be recruited and supported but also the type of support that kinship carers and foster carers receive.

COMMISSIONER: Yes?

A. And, in terms of residential care, it involves increasing the number of available placements and specifically focusing on the particular needs of certain cohorts; for example, children and young people with disabilities, children and young people with mental health issues, et cetera.

COMMISSIONER: Do these proposed reforms, as you understand it, include the provision of some form of secure care?

A. I understand that's a government election commitment; yes.

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COMMISSIONER: Yes, but are you privy to planning in relation to the introduction of --

A. I'm not, Commissioner; no.

COMMISSIONER: No. Well, just in relation to secure care, do you agree or disagree with the need for some form of secure care as part of the mix of available placement options, having regard in particular to the events that you've heard senior counsel outline and you're familiar with in relation to this particular case study?

A. I can say that certainly in my career I have seen cases where there may be a need for secure care; yes. But I can't comment about this particular case and whether secure care would have even been available for this young person. But I am certainly aware of cases, and the cases that come to mind, Commissioner, are those young people with significant disabilities, significant drug and alcohol issues, or significant mental health issues.

COMMISSIONER: You understand pretty well the facts, the essential facts, concerning this particular case study because --

A. Yes.

COMMISSIONER: -- you've responded to the notice, you've looked at the documents, and you have sat there this morning very patiently, thank you, and listened to senior counsel outline the material facts concerning this case study, including the correlation between the child in question's offending and being essentially self-placing during those periods. Firstly, let me ask you do you agree that there is a correlation, in the sense of a greater likelihood, of the child committing criminal offences if the child is in a situation of this child, namely self-placing at various locations without the day-to-day support of the department?

A. Commissioner, if I can just understand the question. Are you asking me if I believe there's a correlation with children and young people that are self-placing and then offending?

COMMISSIONER: I'll break the question down a bit.

A. Thank you.

COMMISSIONER: Firstly, you accept, I take it, that on the facts of this case, the case study, there is a correlation

1 at least in terms of the timing of the offences and the  
2 child being in a position where ■ was self-placing?

3 A. I can see material that counsel's presented that at  
4 times when ■ was self-placing ■ was committing offences.  
5 I can also see that ■ was - when ■ was placed in approved  
6 placements, particularly kinship care placements, there was  
7 also offending occurring.

8  
9 COMMISSIONER: Right. But it does seem that - I think if  
10 I've understood the facts properly - that, apart from the  
11 very latest and most serious offending that led to very  
12 serious consequences for a member of the public, the  
13 offending correlated and commenced from the time that the  
14 child began to self-place; so if one goes back to line 44,  
15 for example, in the table.

16 A. Yes, Commissioner.

17  
18 COMMISSIONER: Right. Now, at the time of these events  
19 there wasn't any secure care available, was there?

20 A. No.

21  
22 COMMISSIONER: Indeed, there isn't any secure care option  
23 presently available?

24 A. Correct.

25  
26 COMMISSIONER: So, having in mind the facts of this case  
27 study which in terms of the objective facts are not open to  
28 debate - the table and the record is what it is - do you,  
29 in your opinion, believe that had secure care of some form  
30 been available during the period that this child commenced  
31 to and continued to engage in criminal behaviour would have  
32 been advantageous in potentially abating or avoiding and/or  
33 preventing that conduct from occurring?

34 A. Commissioner, as I said before, whilst the secure care  
35 is part of the reforms, I think I said before that  
36 I actually don't have the details of what that proposal  
37 will be. And I gave some examples of some cases that I can  
38 think of where secure care may have been necessary.  
39 I don't see those in this case study, but I'd like to just  
40 remind the Commissioner that I haven't seen the full  
41 history for this young person, only the matters that we've  
42 been discussing today. But I'm not sure that an  
43 application to have this young person admitted to a secure  
44 care facility to stop his offending behaviour - I can't  
45 comment if that would fit in the current proposal for  
46 secure care.

47

1 COMMISSIONER: All right. Let me reframe it, my question.  
2 How long have you worked for the department?  
3 A. 35 years.  
4  
5 COMMISSIONER: 35 years. And you're the regional director  
6 for the south-west region?  
7 A. The regional executive director.  
8  
9 COMMISSIONER: Yes. You regard yourself as having, after  
10 30 years - or 35 years, did you say?  
11 A. Correct.  
12  
13 COMMISSIONER: Substantial experience and understanding of  
14 the child protection system and the way it operates?  
15 A. Yes.  
16  
17 COMMISSIONER: And, in all of its dimensions in terms of  
18 constraints and other matters that might impinge upon the  
19 ability of the State to care for a child, you regard  
20 yourself as knowledgeable about the way it operates?  
21 A. Yes. Yes.  
22  
23 COMMISSIONER: Well, against that background, I'm asking  
24 you the simple question as to whether you believe, based on  
25 your experience, that it would be desirable for there to be  
26 as part of the mix of placement options in appropriate  
27 cases that secure care is one of the options?  
28 A. I agree that secure care should be one of the options  
29 and it would be good to have it as part of our suite of  
30 options; yes.  
31  
32 COMMISSIONER: And are you aware that one of the  
33 recommendations of the Carmody Inquiry was the introduction  
34 of secure care?  
35 A. Yes, I am aware of that.  
36  
37 COMMISSIONER: Are you aware since the Carmody Inquiry of  
38 any actions taken by the department to introduce secure  
39 care as an option among the suite of placement options  
40 available to the department for appropriate cases?  
41  
42 MR HASTIE: Commissioner, maybe the better expression  
43 might be the government, because it's a matter of  
44 government policy.  
45  
46 COMMISSIONER: Well, yes, that's true. The government in  
47 this area, as I would understand it, relevantly acts

1 through the department. But I'm happy to rephrase it as  
2 the government.

3

4 MR HASTIE: It's probably a cabinet decision, for  
5 instance, Commissioner.

6

7 COMMISSIONER: Well, indeed. No, I accept that. I accept  
8 that.

9

10 But your answer, if I use the expression "the government",  
11 would be the same; you think it's a good idea?

12 A. Sorry, can you repeat that, Commissioner?

13

14 COMMISSIONER: Yes. Mr Hastie has objected to me, as it  
15 were, laying the responsibility at the feet of the  
16 department for the introduction of secure care.

17

18 MR HASTIE: Or the lack of it, I think. I think your  
19 question, Commissioner, was the lack of it.

20

21 COMMISSIONER: Yes. Let me approach it a different way.  
22 Since the Carmody Inquiry have you participated in any  
23 planning or policy meetings within the department  
24 concerning the possible introduction of secure care as an  
25 option?

26 A. Commissioner, I haven't. And if I can just add that  
27 my career has been spent in service delivery, and such  
28 discussions would normally be occurring in our policy sort  
29 of environment.

30

31 COMMISSIONER: Yes. Taking Mr Hastie's point that the  
32 introduction of such a model of care would require  
33 government approval, is it your understanding of the way  
34 child protection policy is developed that the department  
35 develops policy and procedures and, where necessary, those  
36 policies and procedures are conveyed by the usual processes  
37 up to the minister for consideration by Cabinet, or is that  
38 the general way in which policy is developed?

39 A. It can happen almost the other way as well. So the  
40 government makes a determination of a policy position and  
41 then the department will implement that.

42

43 COMMISSIONER: Are you aware of views within the  
44 department by senior officers that are opposed to the  
45 introduction of secure care as one of the potential suite  
46 of placement options?

47 A. No, I'm not aware.

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COMMISSIONER: Are you able to say whether in your experience based on discussions you've had with senior officers of the department that secure care as a model of care within the suite of options is supported by senior departmental officers?

MR HASTIE: Commissioner, of course under the traditional model that the government decides policy and the department implement it.

COMMISSIONER: Well, I think the witness has just said it can go both ways. It can be top-down or policy might be developed internally and recommended upstream to the government.

MR HASTIE: Yes.

COMMISSIONER: I think it's pretty clear it works both ways.

MR HASTIE: Yes, Commissioner.

COMMISSIONER: So what I'm trying to find out is whether there is internal departmental resistance as far as you are aware to the introduction of secure care as one of the suite of options for placement of children in appropriate cases.

A. Commissioner, I can say I'm not aware of that resistance.

COMMISSIONER: And you personally are not opposed to it?

A. Correct.

COMMISSIONER: All right. Thank you.

MS SWEET: Ms Black, based on the history that I've set out today with respect to this child and the context of the department taking this child into care at two and a half years, becoming his guardian when he's approximately - before puberty, and taking into account he then spends his 18th birthday in detention, youth detention, based on what I've outlined to you today do you accept that the department's conduct in respect of this child is open to criticism in any way?

MR HASTIE: Commissioner, the difficulty with that is, as

1 we've heard, this case study was to be modelled on the last  
2 two years. We don't know anything about what happened from  
3 that two and a half year period until the two years prior  
4 to him becoming 18, it would seem. So it's a bit hard for  
5 this witness to attempt to judge the way in which the  
6 response was made to obviously the issues that arose when  
7 this child was identified as being in need of foster care.  
8

9 MS SWEET: I'm happy to restrict it to the last two years  
10 that I've outlined, the question.  
11

12 COMMISSIONER: I think that Ms Black can offer an opinion,  
13 if she has one, as to any shortcomings that she might think  
14 exist in the conduct of the department in relation to the  
15 last two-year period and as against the facts that have  
16 been outlined.  
17

18 On that basis are you prepared to offer an opinion as to  
19 the actions on the part of the department in relation to  
20 the care of this child?

21 A. Commissioner, I would like to state that based on the  
22 material that we've covered today and has been presented  
23 that the - I want to acknowledge that the outcomes for that  
24 young person have not been what our best hopes would be for  
25 that young person. But I do also want to acknowledge that  
26 it's difficult for me to comment comprehensively on  
27 shortcomings of departmental actions given I'm not privy to  
28 the extent of what those interventions and actions of the  
29 department have been over the course of our intervention  
30 with this young person.  
31

32 COMMISSIONER: Well, I think, Ms Black, that the  
33 department's actions and interventions over the two-year  
34 period which have been the subject of the notice and the  
35 facts as outlined by senior counsel in the account of the  
36 case study can be assumed to be comprehensive, unless the  
37 Commission has either not been provided with all of  
38 the material or has inadvertently overlooked some relevant  
39 material. Making the assumption that relevant material  
40 indicating action by the department over the two-year  
41 period is comprehensive as outlined by senior counsel  
42 taking us all through the events by reference to the  
43 documents and the table, assuming that is the universe of  
44 material that discloses the department's actions, on that  
45 basis are there matters that you can identify that should  
46 have occurred which didn't in terms of action by the  
47 department?

1 A. Commissioner, as I understand it - sorry.

2

3 COMMISSIONER: You're free to object to my question,  
4 Mr Hastie.

5

6 MR HASTIE: Well, the problem is really this. What we  
7 have is some notes in the department about events that have  
8 occurred, meetings that have occurred. What we don't have  
9 is anyone really expressing an opinion or a view, an  
10 alternative view, about whether other orders should be made  
11 or whether or not - or why not or why they weren't made or  
12 why the Chief Executive, for instance, shouldn't have made  
13 some other kind of arrangement with respect to the child  
14 rather than let them self-place. What we have is a piece -  
15 with the greatest of respect, these are the documents that  
16 are provided. But what we don't have is someone from - who  
17 is responsible at the time explaining why the system of  
18 self-placing was allowed - if that's a criticism, was  
19 allowed to continue. There might have been a whole lot of  
20 reasons --

21

22 COMMISSIONER: Well, in that regard, Mr Hastie, the  
23 Commission is in your hands because it is your client who  
24 is best placed to come forward and explain why it is that  
25 its conduct was appropriate or whatever it wants to say  
26 about its conduct in relation to this child. The  
27 interrogation has been focused on trying to elicit the  
28 material that bears upon the events and circumstances of  
29 the child. If the department wishes to say that the  
30 material thus far produced by it confined to its response  
31 to the notice presents only part of the picture and that to  
32 have a better understanding, a more full and contextualised  
33 understanding, further explanation should be given, then  
34 I invite the department to provide a statement explaining  
35 what further matters I ought have regard to in forming a  
36 view about the conduct of the department in relation to  
37 this particular case study.

38

39 MR HASTIE: Well, Commissioner, I'll have to get  
40 instructions on that.

41

42 COMMISSIONER: Yes.

43

44 MR HASTIE: But why I rose to my feet was to ask this  
45 witness about it, not having had contact it would seem in  
46 relation to this child or anyone - or direct relationship  
47 with anyone who was responsible for the child, it would be

1 hard for this witness at her level to answer the question  
2 that's been posed by you, Commissioner, with the greatest  
3 of respect. I can understand, Commissioner, immediately  
4 why, Commissioner, you might ask it. But, in my respectful  
5 submission, it is unfair to ask the witness to make that  
6 comment at her level simply based on the documents that  
7 she's been provided with this morning.

8  
9 COMMISSIONER: Well, I accept that and I welcome  
10 objections to my own questions. You are entitled to object  
11 to a question I ask. And it's actually helpful because,  
12 frankly, it helps narrow the focus of the questioning. So  
13 I find it of assistance. Therefore, I'll not press this  
14 witness further on that line of questions, but I will  
15 invite the department to put forward in a very short  
16 timeframe, please --

17  
18 MR HASTIE: Yes, Commissioner.

19  
20 COMMISSIONER: -- any further explanations that it  
21 considers or evidence that it considers is relevant to an  
22 assessment of the conduct of the department in connection  
23 with this particular case study. And I'll leave it to the  
24 department to determine on advice what further matters  
25 should be put forward by way of a statement by somebody  
26 directly involved, that would be preferable, so that I can  
27 consider anything further the department may wish to say  
28 about this particular case study. If you get instructions  
29 on that basis, I'll cease my questioning of this witness in  
30 relation to those matters.

31  
32 MR HASTIE: Thank you, Commissioner

33  
34 COMMISSIONER: I notice the time. We'll adjourn to 2.15.

35  
36 MS SWEET: Yes, Your Honour, we are interposing a witness  
37 at 2.15.

38  
39 COMMISSIONER: Yes.

40  
41 MS SWEET: I don't have any further questions of this  
42 witness in-chief, as it were, and I thought it might be  
43 worth getting an idea of where the rest of the Bar table  
44 stood before we break for lunch.

45  
46 COMMISSIONER: Yes, indeed. That's a good idea.

47

1 MS McMILLAN: Not from me, Commissioner.  
2  
3 MR KIYINGI: I don't have any questions, Commissioner.  
4  
5 COMMISSIONER: Now, do we have - yes, Ms Greenwood?  
6  
7 MS GREENWOOD: Sorry, Commissioner, it's very slow to come  
8 back on. I would have about three or four questions.  
9  
10 COMMISSIONER: Well, so that we can let Ms Black return to  
11 her duties, we'll sit on for a bit and deal with your  
12 questions.  
13  
14 MS SWEET: My instructor also reminds me I need to tender  
15 the bundle of documents.  
16  
17 COMMISSIONER: Yes. The bundle of documents relating to  
18 the case study will be CA-62.  
19  
20 **EXHIBIT #CA-62 - BUNDLE OF DOCUMENTS RELATING TO THE CASE**  
21 **STUDY**  
22  
23 COMMISSIONER: Ms Greenwood.  
24  
25 MS GREENWOOD: Thank you, Commissioner.  
26  
27 **<EXAMINATION BY MS GREENWOOD** [1.08 pm]  
28  
29 MS GREENWOOD: Witness, I'm looking at your paragraph 10  
30 and, as you indicated in your letter, there were [REDACTED]  
31 persons, probably still children at that point, involved.  
32 I take it all of those children were in fact under child  
33 safety orders?  
34 A. No, that's not correct.  
35  
36 Q. Okay. So only one was or how many?  
37 A. [REDACTED] were that I understand.  
38  
39 Q. Okay. This happened in [REDACTED]  
40 [REDACTED]?  
41  
42 COMMISSIONER: Ms Greenwood, out of abundant caution in  
43 terms of avoiding --  
44  
45 MS GREENWOOD: I'm sorry, Commissioner.  
46  
47 COMMISSIONER: That's all right. We'll just strike from

1 the recording the reference to [REDACTED].

2

3 MS GREENWOOD: Thank you.

4

5 COMMISSIONER: We're being very circumspect in this case  
6 not to identify --

7

8 MS GREENWOOD: Yes, sorry, Commissioner.

9

10 COMMISSIONER: No, that's all right. That's all right.

11

12 MS GREENWOOD: So this particular incident that led to the  
13 charges occurred in a particular place. Did the [REDACTED] child  
14 safety children come from that place or did they come from  
15 elsewhere?

16 A. I can only answer for [REDACTED] of the young people.

17 I don't know the answer for the [REDACTED] of the  
18 young people they were in an area - a smaller regional area  
19 closer to that location.

20

21 Q. We've already heard at what age - maybe, Commissioner,  
22 this could be better dealt with by written questions and  
23 written answers.

24

25 COMMISSIONER: Yes, well, that would be welcomed, given  
26 the time, and it is a complicated story, as with all of  
27 these. There's a lot of detail. So I'm sure that  
28 Mr Hastie's client would accommodate receiving some  
29 questions in writing and responding to them.

30

31 MR HASTIE: Yes, Commissioner.

32

33 COMMISSIONER: There you are, Ms Greenwood. Then we can  
34 proceed on that basis. I think that would be useful.

35

36 MS GREENWOOD: Thank you, Commissioner. I think that  
37 would stop us all tripping over our feet --

38

39 COMMISSIONER: Yes.

40

41 MS GREENWOOD: -- trying to get to the nub of this.

42

43 COMMISSIONER: Thank you.

44

45 Ms Black, I just had one final question I wanted to ask you  
46 about which is whether you have thought about and, if so,  
47 whether you have an opinion as to what might be better done

1 in the future in relation to the care and supervision of  
2 children when they self-place as exemplified by the child  
3 in this case study? I think it's pretty clear from a whole  
4 body of evidence I've heard about self-placing that it's  
5 not easy to deal with. I mean, you've got children who are  
6 adolescents. They're asserting their independence. They  
7 have, no doubt, multiple different motivations for their  
8 self-placing and what it leads to. But self-placement does  
9 seem to be an acute risk factor.

10  
11 You may have heard the evidence given publicly by Aimee on  
12 Monday. A lot of harm came to Aimee in the context of  
13 self-placement on her part. Do you have any ideas to  
14 assist me about how the department might better reach out  
15 to children who are self-placing and what sort of services  
16 might assist in engaging with children who are  
17 self-placing?

18 A. Yes, Commissioner, and you describe the challenges  
19 well and certainly for my staff children or young people  
20 that are self-placing is an area of deep concern for them  
21 and one that they focus on intently. I note for this case  
22 study that it appears at least in the information presented  
23 today that a number of the places where this young person  
24 was self-placing were actually family and extended family,  
25 which leads me to think that that would be an obvious point  
26 of - to answer your question about additional support or  
27 what more could be done; what more could be done to safely  
28 support young people that are choosing family to stay with.

29  
30 The second part of my response in response to your question  
31 about programs would be in regards to high quality outreach  
32 programs where we can regularly have a program that  
33 visits - reaches out in whatever location young people  
34 might be, because it's not always with family, and provide  
35 outreach support to those young people which will probably  
36 need to include at different times of the day and weekend  
37 and evenings, with the ultimate aim --

38  
39 COMMISSIONER: Can you help me with what a high quality  
40 outreach program would look like?

41 A. It might look like workers who are able to go and  
42 visit young people, provide supports, and importantly using  
43 relationships to connect the young person and to continue  
44 to encourage that young person to access safe placements,  
45 but of course all of the other range of things that we want  
46 for young people, education, good health support,  
47 et cetera.

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COMMISSIONER: And is an outreach program in respect of Aboriginal and Torres Strait Islander children a program that might be delivered in partnership with an Aboriginal community-controlled organisation?

A. Absolutely. That would be best practice.

COMMISSIONER: Yes. As things presently stand I've understood based on the material that we were taken to in the case study, and I think some other evidence, that once a child self-places the department's present policy is not to continue to provide the sort of financial supports that would be available if the child had remained within an authorised placement. I mean, there was some evidence, for example, in this case that the child in question was offered on a few occasions a food voucher of \$50 and I think some sporting equipment. But my impression of the material - and I want you to tell me if it's wrong - is that where a child votes with their feet, as it were, and self-places that adversely impacts the availability of services that the department is prepared to provide to the child while the child is outside an authorised placement. Is that understanding correct or not correct?

A. Perhaps if I can explain it best. The financial supports for a child in a placement come via the placement, so via a foster care allowance or an allowance paid to a residential care provider. So then obviously when the child is not accessing that placement they have to find - there has to be another means to access financial support, and that might be I think what you're seeing in - and the comments you made in this case in terms of --

COMMISSIONER: Well, here the financial support seemed to be very minimal.

A. Yes.

COMMISSIONER: And some of this child's offending was for survival purposes, stealing food. That was also the case with the evidence given by Aimee. And I'm just wondering what the present position is in terms of providing financial support to children who self-place?

A. I also note, Commissioner, in some of the material presented this morning, like, we could see the attempts made to try to secure a regular payment for the young person through Centrelink et cetera as well. So, depending on the age of the young person, that might be part of the solution. In terms of --

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COMMISSIONER: What's the age limit cut-off for youth allowance through Centrelink? I think it's not - it's not as low as 14, is it?

A. I might have to take that on notice, Commissioner.

COMMISSIONER: Yes.

A. As well as your question about the policy position as well, Commissioner.

COMMISSIONER: I accept it's a difficult issue but, as you say, at present the financial support to a child is offered via the authorised placement.

A. Correct.

COMMISSIONER: And if the child is below Centrelink age, is nevertheless under the care of the State and has no means of support while self-placing, then it's not hard to draw the conclusion that the child is likely for reasons of a survival imperative to engage in criminal behaviour. So I'm wondering how a child in that position might best be supported by the department?

A. I'm happy to take that on notice and provide you with our current policy position on that.

COMMISSIONER: Yes. But as a general - and please do, but as a general proposition is it right that financial support to a child who is self-placing is not offered except in a most limited way, and you can tell me what the limitations are in due course, and if that child is not of Centrelink age the child really has no financial means of support provided to it?

A. I don't want to give you the wrong information, Commissioner.

MR HASTIE: I'll be able to get instructions on that.

COMMISSIONER: Yes, all right. Thank you very much.

Ms Black, thank you for coming along and thank you for your assistance. And I think you can be excused. Thank you.

We'll adjourn until 2.15.

**LUNCHEON ADJOURNMENT**

**[1.21 pm]**

COMMISSIONER: Thank you. Ms Sweet.

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MS SWEET: Yes, thank you, Your Honour. I call Sarah Brodie-Fraser.

COMMISSIONER: Yes, thank you.

**<SARAH BRODIE-FRASER, AFFIRMED [2.17 pm]**

COMMISSIONER: Thank you, Ms Brodie-Fraser. Please have a seat.

A. Thank you.

**<EXAMINATION BY MS SWEET**

MS SWEET: Now, Ms Brodie-Fraser, in front of you you should have a folder that should have a document that is titled "Outline of evidence"?

A. Yes, I do.

Q. And it's dated 13 February, is it?

A. Yes.

Q. And if you go to the back it's four pages long?

A. Yes.

Q. Yes. And that's the outline of the evidence you'll give to the Commission, is it?

A. Yes, it is.

MS SWEET: Yes, thank you. I tender that, Your Honour.

COMMISSIONER: Yes, thank you. Ms Brodie-Fraser's outline will be exhibit CA-63.

**EXHIBIT #CA-63 - MS BRODIE-FRASER'S OUTLINE OF EVIDENCE**

MS SWEET: Now, Ms Brodie-Fraser, you're a Toowoomba resident?

A. Yes.

Q. And you say you've been engaged with the child protection system for approximately 14 years?

A. Yes, that's correct.

Q. And you're the current long-term legal guardian of four children.

A. Yes.

1  
2 Q. And you've previously served - before becoming a  
3 long-term legal guardian you served as a foster carer?  
4 A. Yes.  
5  
6 Q. And before that you also operated child-care centres  
7 for around a decade?  
8 A. That's correct.  
9  
10 Q. And during that time you had frequent interactions  
11 with both children and carers involved with child safety?  
12 A. Yes.  
13  
14 Q. And you say you've familiarised yourself with  
15 the Child Protection Act?  
16 A. Yes, I have.  
17  
18 Q. And the Child Safety Practice Manual?  
19 A. Yes.  
20  
21 Q. Which is no mean feat.  
22 A. Needed a bit of time.  
23  
24 Q. And you say that you've done that not only to prepare  
25 for your evidence to this Commission but also to support  
26 your advocacy?  
27 A. Correct.  
28  
29 Q. And what are the matters about which you advocate in  
30 respect of the child protection system?  
31 A. Specifically that children are afforded the long-term  
32 stability. Currently the practice is usually short-term  
33 orders - or has been; that was my experience. The child  
34 would be on short-term orders and that would get extended  
35 quite often to, well, in one case five and a half years and  
36 the other case seven years, or the department bypassed what  
37 the legislation provided in that they would seek kinship or  
38 another suitable person to take on the long-term  
39 guardianship for the child. And the idea of adoption is  
40 just completely ignored. So children need that  
41 long-term --  
42  
43 COMMISSIONER: Did you say "ignored"?  
44 A. Yes, ignored. It's not really a part of the mix. It  
45 tends to go from short-term to long-term guardianship to  
46 the Chief Executive. So I'd like to advocate for the child  
47 to - you know, those two options of long-term guardianship

1 to suitable persons or kin before the child - before it  
2 sort of goes over to the Chief Executive; and also that the  
3 idea of adoption is brought forward because everyone knows  
4 the child needs to belong before they're going to develop  
5 and to relax into learning and to becoming the best person  
6 that they can be.

7

8 MS SWEET: Okay. We'll come back to some of those ideas  
9 later in your evidence.

10 A. M'hmm.

11

12 Q. Moving to your experience as a foster carer and a  
13 guardian, so you first became a foster carer in early 2012?

14 A. Yes.

15

16 Q. And you say you initially cared for two sibling groups  
17 as a respite carer?

18 A. Correct.

19

20 Q. And you say you later cared for a young child whose  
21 reunification order never eventuated and that child remains  
22 with you today?

23 A. Yes.

24

25 Q. Yes. So, with respect to this particular child, when  
26 did that child come into your care?

27 A. In March 2012. And in December 2018 we got long-term  
28 guardianship for that child.

29

30 Q. Okay. And you say that there was a reunification  
31 order that never eventuated. Can you tell the Commission  
32 about effectively the reunification journey the child was  
33 on and how it came not to eventuate, and the child then  
34 ultimately ending up with you as his or her legal guardian?

35 A. So the child had been with four different carers in a  
36 matter of two months. And then we were asked to take the  
37 child, who was currently getting looked after within the  
38 Child Safety Department during the day and going to a  
39 respite carer during the evening.

40

41 COMMISSIONER: How old was the child?

42 A. Well, when he was taken into care he would have been  
43 just under one, so about 11 months. And so he came to us  
44 at 13 months. So it was a short-term order. It was just  
45 until they were finding someone else. And we said, "Just  
46 leave him. He's had a lot of changes. Just leave him.  
47 It's a reunification order anyway."

1  
2 COMMISSIONER: What do you mean by a reunification order?  
3 A. It's back to the mother - back to the parent. So they  
4 give the parent time to adjust their lifestyle to take the  
5 child back on.  
6  
7 COMMISSIONER: I understand that. But it might be that  
8 the - referring to it as a reunification order might not be  
9 correct. I don't want to get bogged down in terminology.  
10 A. I think that's how --  
11  
12 COMMISSIONER: But they're generally placement decisions.  
13 Sometimes there's a reunification that requires the  
14 abolition or the revocation of a long-term guardianship  
15 order to the Chief Executive. But --  
16 A. The child was on a short-term order at that time.  
17  
18 COMMISSIONER: A short-term guardianship order?  
19 A. No, just whatever the first child protection order is  
20 where they --  
21  
22 MS SWEET: My instructor tells me that at least around  
23 this time short-term custody orders were referred to  
24 sometimes as shortened as reunification orders. So just  
25 the reunification --  
26  
27 COMMISSIONER: Just to further confuse the idea of  
28 reunification. Okay.  
29  
30 MS SWEET: There's a short-term custody order. Then  
31 there's a planned reunification.  
32 A. There's a plan for reunification; yes.  
33  
34 COMMISSIONER: Yes, all right. I know what you - I just  
35 wanted to get that clear.  
36 A. Yes.  
37  
38 COMMISSIONER: Thank you very much.  
39  
40 MS SWEET: All right. So the child comes to you at  
41 13 months and at that time is subject to a short-term  
42 custody order --  
43 A. Yes.  
44  
45 Q. -- with plans to be reunified with the mother?  
46 A. Yes.  
47

1 Q. Okay. And let's go on from there.

2

3 COMMISSIONER: What happened next is the traditional  
4 question.

5 A. Sorry. Okay. So that went on for a couple of years.  
6 It didn't eventuate. And, to be honest, with this case  
7 I haven't looked at the orders. I can't remember if it was  
8 still a short term or if it was a long term to the Chief  
9 Executive. But it certainly bypassed any kinship or  
10 suitable person planning. So we - my husband and I -  
11 actually looked - we had a good relationship with the bio  
12 mother and did put together a genogram, and there weren't  
13 any suitable or kin that could take on the child. So we  
14 did offer when he was about three to be guardians, or  
15 certainly at the time when it was known that he wasn't  
16 going to go back to his parent.

17

18 MS SWEET: Yes. So, just stopping there, is there  
19 anything you can say publicly about why the reunification  
20 could not proceed or why the child could not be reunified?

21 A. The mother was unable to change certain habits that  
22 just, yeah, meant that she couldn't take the child on.

23

24 Q. When you say when the child turned three you offered  
25 to be the child's guardian, who did you make the offer to?

26 A. To the CSO, the child safety officer. We put it  
27 through there.

28

29 Q. Yes

30 A. And --

31

32 Q. And what happened next?

33 A. Nothing for a very long time. So then in 2015 - or  
34 actually in - I'll stick with this case. So, yeah, we kept  
35 asking about it. The CSO said she was doing the paperwork  
36 for it. And then we were told that the paperwork had to be  
37 changed because there was a change in department, or there  
38 was the - the Youth Justice was coming in to the  
39 department, so they had new forms that they needed to fill  
40 in. And so nothing really progressed. And then we spoke  
41 with the bio mother again. All in this time we keep in  
42 contact with the bio mother and other extended family  
43 because then we also found the paternal side of the family  
44 in New South Wales, and we took him to see them so that  
45 they could meet, you know, their nephew and grandchild  
46 and --

47

1 COMMISSIONER: You mentioned that the mother couldn't  
2 change certain habits. Were they drug or alcohol  
3 associated habits?  
4 A. Yes. Yes. And so, yes, then we sort of - well,  
5 I think we were misled in terms of what was actually  
6 happening with the guardianship. We spoke to the mother,  
7 and she then rang the department and said that she wanted  
8 us to be guardians and then it progressed after that.  
9  
10 MS SWEET: Okay. And so how old was the child by the time  
11 the mother made that call to the department?  
12 A. Well, it was a good couple of years, I think, before  
13 we actually got it. So he must have been at least five or  
14 six. I'm trying to think years now. He was born --  
15  
16 Q. Yes.  
17 A. Yes, something like that.  
18  
19 Q. And so I think you say then you ultimately were deemed  
20 suitable?  
21 A. We were.  
22  
23 Q. And what was the process that you went through in  
24 order to be deemed suitable to be guardians of the child?  
25 A. Well, with that one there wasn't really a lot - it  
26 wasn't very in-depth. I think because the mother had said  
27 she wanted us to be guardians and she - it just kind of  
28 went through. So they would have had to have liaised with  
29 the Aboriginal or recognised entity. But, yeah, we weren't  
30 really sort of a part of it. You're not really kept in the  
31 loop.  
32  
33 Q. Yes. And so this child is Indigenous?  
34 A. Indigenous, yes. He's - and he also said to the  
35 Public Guardian visitor that he wanted to be - wanted us to  
36 be his guardian, which is - he just knew it as he wanted to  
37 stay here forever.  
38  
39 Q. How old was he when he said that?  
40 A. Around that sort of age as well, six or seven, or  
41 something like that.  
42  
43 Q. And do either you or your husband identify as  
44 Indigenous?  
45 A. No.  
46  
47 Q. And once you had the guardianship order did you see -

1 well, I'll withdraw that. Did you observe the child to be  
2 affected by the lack of certainty around his placement and  
3 did you observe any changes after you obtained the order in  
4 the child?

5 A. That child was a lot more aware. And so he had been  
6 with us for three years on his own. So he already had a  
7 lot of certainty. He felt very comfortable there.  
8 I probably didn't see the biggest difference in him,  
9 because he was always pretty relaxed. And it was more with  
10 our sibling group of three that we did notice a big  
11 difference.

12  
13 Q. Okay. Well, let's talk about that group. So in  
14 I think 2014 you became aware of a sibling group of three  
15 girls who had been placed by Child Safety with an elderly  
16 carer?

17 A. Correct.

18  
19 Q. And how did you become aware of that?

20 A. Through the Public Guardian visitor. And they said  
21 that - she said that they were looking for a permanent  
22 placement for this three sibling group. So I wrote to the  
23 department. She told me who the CSO was at that time.  
24 I wrote to the department and offered our home for the  
25 three sibling group, said we would be prepared to take them  
26 on a permanent basis, and also almost immediately we said  
27 we'd be happy to be their guardians.

28  
29 Q. Yes. And you say that they had been placed with an  
30 elderly carer. Was that carer kin?

31 A. I don't know because we weren't given any information.

32  
33 Q. Yes. So you were told that the carer was elderly  
34 and --

35 A. We suspected maybe.

36  
37 Q. Yes.

38 A. But, yes.

39  
40 Q. It's all right if you don't know.

41 A. Yeah.

42  
43 Q. But you were told the carer was elderly and relied  
44 heavily on respite?

45 A. Correct.

46  
47 Q. And that the elderly carer was often poorly?

1 A. Correct.  
2  
3 Q. And so then you say the girls were placed with you in  
4 early 2015?  
5 A. Yes. In March they came for a week respite, and then  
6 that got extended to 10 days or so. And then we took them  
7 back. And I got a phone call from the foster care support  
8 agency. They said what did I think about the children.  
9 I said, "Well, they're very poorly. They're not very well.  
10 They're all very underweight." They had bad  
11 conjunctivitis/blocked ducts. They had grey faeces in  
12 tight balls. They had a particular smell coming out of  
13 them. When I asked about it at a child-care centre they  
14 said - because it sort of had like a horse urine-y smell to  
15 it, which probably means dehydration. Yeah. So, anyway,  
16 nobody seemed to be aware of it until I had them for the  
17 10 days and said, "I don't think the girls are in good  
18 condition at all."  
19  
20 Q. Yes. Just see at paragraph 7 of your outline you  
21 refer to sort of growth milestones.  
22 A. Yes.  
23  
24 Q. Did you have the girls measured?  
25 A. Yes. So when they brought the girls to us a week or  
26 so later and placed them with us, and we took them to the  
27 doctor, to the Aboriginal and Torres Strait Islander  
28 medical centre, just we wanted them to assess them. So  
29 they marked their milestones on their health records for  
30 me, and they were all around the third percentile.  
31  
32 Q. The third percentile?  
33 A. Yes.  
34  
35 Q. And was there anything else that you were told as a  
36 result of that assessment?  
37 A. Well, the doctor didn't like to bandy the word  
38 malnourishment around, but he said some others might call  
39 it that.  
40  
41 Q. Some others might call it malnourishment, but he  
42 wasn't prepared to use the word?  
43 A. Well, he did to us, but not to - he didn't want to put  
44 that on the record.  
45  
46 Q. Yes. And then you see at paragraph 8 you talk about  
47 where the girls had previously been placed.

1 A. Yes.  
2  
3 Q. Is this with the carer, the elderly carer?  
4 A. Yes. And then they've taken the girls from there  
5 without sort of any transition. It was all done very  
6 quickly. And I don't think that carer knew about it. So  
7 there wasn't sort of discussions around it. They've  
8 brought the children over. They've gone back to get toys  
9 and clothing, and it's turned up there's mildew over all  
10 the toys and all the - there's clothing that are soiled in  
11 packets. And I just said - yeah, we obviously couldn't use  
12 any of that. But that was brought over by the foster care  
13 support agency staff.  
14  
15 Q. And at this time did the girls - was a CSO assigned to  
16 the girls or one or more CSOs, were they assigned?  
17 A. By this - so they did have a CSO who had been with  
18 them for a while. That was the one I contacted in 2014  
19 offering to take the sibling group on.  
20  
21 Q. Yes.  
22 A. But I was told at that time in an email that the  
23 children were getting looked after beautifully and there  
24 was no intention to change them at that time.  
25  
26 Q. That was when you contacted the CSO in 2014?  
27 A. Yes.  
28  
29 Q. All right. And then I think you say almost  
30 immediately when you took the girls in you offered to  
31 pursue long-term guardianship of them?  
32 A. Yes.  
33  
34 Q. And what was said to you by the department when you  
35 made that offer?  
36 A. They asked me why I wanted to do that, and they said,  
37 "Do you not just want to have to deal with us?"  
38  
39 Q. What did you say in response?  
40 A. It's a little bit more than that when you take on  
41 guardianship, but that was their first reaction to me.  
42  
43 Q. "Do you just not want the department in your life,"  
44 sort of thing?  
45 A. Yes. Well, did I? No, well, it's --  
46  
47 Q. Is that, sorry --

1 A. Nobody wants the department in their life, because  
2 they are very difficult to deal with quite often. We had a  
3 couple of good people over the time. But of the 50 that we  
4 had in five years for all of the different support  
5 agencies, most of which were departmental, you know, child  
6 safety staff, there was over 40 in that time, yeah, there's  
7 a handful that you can say worked very well with us.  
8 Because foster carers are not - it's supposed to be a  
9 circle of care, and they're not - they're not really put  
10 into that circle of care. You're quite often not included  
11 in any discussions.

12  
13 Q. Okay. So you say when you made the offer to be the  
14 girls long-term guardian you were asked by the department,  
15 "Why do you want to do it?"

16 A. M'hmm.

17  
18 Q. "Do you just not want to deal with us?"

19 A. Yes. And I said, "Look, we have the ability to  
20 provide the children with a loving home with opportunities  
21 for education." My husband and I are both professional in  
22 terms of, you know, we've had great careers and what have  
23 you and we did what we did. We saw all of the signs on the  
24 buses saying, you know, "Foster carers needed," and all  
25 that. But you don't really know about those other things  
26 because they're not saying that they're looking for long  
27 term. But once we found out that of course we want to give  
28 that stability to the children. And if they can't be  
29 reunited with their biological parents then, you know, we  
30 would have - very happy to be able to fill that spot for  
31 them.

32  
33 COMMISSIONER: May I ask what your professional background  
34 is?

35 A. I'm an accountant.

36  
37 COMMISSIONER: Yes.

38  
39 MS SWEET: And your husband?

40 A. He's a project planner.

41  
42 COMMISSIONER: Yes, thank you.

43  
44 MS SWEET: And you now currently - you're also now  
45 effectively a school teacher; you home school?

46 A. Yes, yes; one of the four, yep.

47

1 Q. And so after that initial conversation where you  
2 explained what you and your husband were able to give the  
3 children what happened then?

4 A. Nothing. So we kept asking about it. And then we  
5 were told by the CSO - so we had had a change in CSO over  
6 this time, because initially the department gave us two  
7 CSOs because one - we lived in - Toowoomba is split in two.  
8 We lived in one half of Toowoomba and the three sibling  
9 group - three child sibling group were in the other half,  
10 and they didn't combine it. We had to request for it to be  
11 combined to one person coming in and seeing the children.  
12 So, yeah.

13  
14 Then we've - once we had this CSO they said they were doing  
15 the paperwork for it but she needed help. And then she  
16 told us that we have to wait because the departments are -  
17 the Youth Justice is coming in under it and there's going  
18 to be new paperwork. But, having seen later on with the  
19 three child sibling group what needed to happen, I think  
20 there's things that could have been progressed.

21  
22 They couldn't really progress anything because they hadn't  
23 found any kin or any suitable kin. And they hadn't done a  
24 genogram for the girls either. So we had meetings about  
25 getting a genogram put together. And then one of the  
26 Indigenous agencies was tasked with doing that. They  
27 couldn't find anything. And at that time I thought, "I'm  
28 going to look for somebody who I think we can contact  
29 potentially to see if I can find out anything, and I was  
30 able to find an entry in Facebook and I contacted what  
31 turned out to be a maternal great aunt of the three sibling  
32 group; yep. So I was able to get the genogram from the  
33 maternal side there. I think the paternal side was a  
34 little better known. So they had that, but there wasn't  
35 anyone suitable on that side.

36  
37 Q. On the paternal side?

38 A. M'hmm.

39  
40 Q. And then was there anyone suitable on the maternal  
41 side?

42 A. No, or nobody willing either because they're in a  
43 different state as well.

44  
45 Q. So you need to be suitable and willing.

46 A. Of course. It's a big undertaking.

47

1 Q. When the girls came to you was the concept of  
2 reunification with the parents - so what we call now in  
3 this Commission reunification strictly speaking - was that  
4 on the cards?  
5 A. No. So when we were told about the children they said  
6 that the parents were mentally disabled; they didn't really  
7 visit the children; they had - you know, they won't be able  
8 to do, you know - they won't visit very often, that sort of  
9 thing. That's what we were told. That really wasn't the  
10 case. There are sort of - there's low education; there are  
11 mental health issues. I think mental health issues was  
12 also in that list. But they were very interested in  
13 staying connected, which we have made sure has happened.  
14  
15 Q. Yes. So you've maintained connection with --  
16 A. Yes, with everyone; yep.  
17  
18 Q. Maternal and --  
19 A. Paternal.  
20  
21 Q. -- paternal side?  
22 A. M'hmm.  
23  
24 COMMISSIONER: Just on that, in relation to adoption --  
25 A. Yes.  
26  
27 COMMISSIONER: -- which I understand you advocate for --  
28 A. Yes.  
29  
30 COMMISSIONER: -- do you see adoption as an impediment to  
31 maintaining connection?  
32 A. No, because today adoptions are open. So you can  
33 still --  
34  
35 COMMISSIONER: Well, they can be.  
36 A. I think that's the preference, that they are open and  
37 that you can still share information, you can still keep  
38 connection, and that I think - I think that's definitely a  
39 viable option. It provides more stability for the child,  
40 more certainty for the child. They know where they belong  
41 for their entire childhood.  
42  
43 COMMISSIONER: What about changing the name of the child?  
44 A. Look --  
45  
46 COMMISSIONER: You know, the legal name?  
47 A. There are complications with not changing the name,

1 but you can also live with not changing the name which is,  
2 you know, what happens on a long-term guardianship to a  
3 suitable person. You know, questions are always asked  
4 about circumstance when you've got different names. So it  
5 opens up questions for people that people don't - you know,  
6 you don't necessarily want to share. So the child's always  
7 sort of got a flag, I suppose.

8  
9 COMMISSIONER: I'm wondering what the difference in  
10 substance is between a long-term guardianship order to  
11 other, another suitable person such as yourself, and what  
12 we might call open adoption without a name change. What is  
13 the substantive difference; never mind the sort of legal  
14 technicalities?

15 A. Well, with a long-term guardianship other it ends when  
16 the child's 18. So depending on the circumstance I  
17 think --

18  
19 COMMISSIONER: Doesn't that occur whenever a child attains  
20 the age of the majority, as they call it, when they become  
21 18 and they can vote and make their own life decisions  
22 without intervention by their natural parents?

23 A. It's true. However, when it's your natural parents  
24 you will keep coming back, backwards and forwards, until  
25 you properly settle, I think. So I certainly did until  
26 I made myself leave at 24. So I had gone different places,  
27 but you do come backwards and forwards. And I think the  
28 child needs to know that they've got a forever home,  
29 they've got people who want them around. And I think a lot  
30 of guardians may act in that manner and we certainly will,  
31 but not all of them do that either. The --

32  
33 COMMISSIONER: This is the phenomenon known as the  
34 helicopter parents or the helicopter children that fly in  
35 and fly out.

36  
37 MR HASTIE: The children might be younger for helicopter  
38 parents, Your Honour.

39  
40 COMMISSIONER: Pardon?

41  
42 MR HASTIE: The children might be younger for helicopter  
43 parents.

44  
45 COMMISSIONER: Yes, but we're now talking about when they  
46 become young adults, aren't we?

47

1 MR HASTIE: Yes, there's probably another expression for  
2 it that's equally pejorative.  
3  
4 COMMISSIONER: What is the right expression, Mr Hastie?  
5 Because I'd like to use it on my own children. Please tell  
6 me what it is.  
7  
8 MS SWEET: I think the term is actually boomerang.  
9  
10 COMMISSIONER: Boomerang; right.  
11  
12 MS SWEET: Because it keeps coming back.  
13  
14 COMMISSIONER: But the song said it wasn't coming back, if  
15 you recall; but anyway.  
16  
17 MS SWEET: Your Honour has the advantage of me there.  
18  
19 COMMISSIONER: Don't you know the song about the boomerang  
20 won't come back? Anyway, I'm sure Ms McMillan would  
21 remember it.  
22  
23 Anyway, what I'm trying to understand is the substantive  
24 difference. So take the case where the child reaches 18,  
25 and a child is subject to a long-term guardianship order.  
26 There's nothing to prevent the sort of boomerang like  
27 relationship continuing, whether it's a long-term  
28 guardianship order or an adoption order, is there?  
29 A. It doesn't have to be. But I think there's, like, an  
30 invisible wall at that 18 years of age for many. I've  
31 heard of many - you know, many kids just being told they  
32 have to go because the allowance stops. So then that's -  
33 you know, they can't stay there anymore. They have to go  
34 and do their own thing. I don't know. That's not my -  
35 that's not going to be our experience. But, yeah, I've  
36 heard others --  
37  
38 COMMISSIONER: But there's nothing to require the child to  
39 leave the home at 18 if the long-term guardian is happy to  
40 have the children once they become 18 stay on.  
41 A. That's right. And certainly our children have been  
42 told, "You can stay. This is your forever place as long as  
43 you need;" yep.  
44  
45 COMMISSIONER: Is perhaps part of your point as to the  
46 difference between adoption and a long-term guardianship  
47 order that adoption is a more solid declaration of

1 commitment to the child --  
2 A. Yes.  
3  
4 COMMISSIONER: -- because you adopt the child as your  
5 child; is that the --  
6 A. It is.  
7  
8 COMMISSIONER: And what that means for the child,  
9 potentially?  
10 A. I think so. I think it is part of it, Your Honour,  
11 yep.  
12  
13 COMMISSIONER: Yes. All right. Thank you.  
14  
15 MS SWEET: Thank you. For either the first child or the  
16 sibling group did you ever raise the concept of adoption  
17 with the department?  
18 A. No.  
19  
20 Q. And why did you not do that?  
21 A. Because it's so hard even just getting long-term  
22 guardianship for the children. So I just didn't ever think  
23 that even to go there, to be honest. One child definitely  
24 - the first child definitely would like to be adopted. But  
25 also the other part of it, which I only recently found out,  
26 is that Aboriginal and Torres Strait Island children, it's  
27 never the preference for them to be adopted. So, yeah.  
28  
29 Q. You're then speaking about the permanency principles  
30 and the priorities within the Act?  
31 A. That's right, yeah.  
32  
33 COMMISSIONER: I take it you could adopt a child post the  
34 age of 18 without anybody's permission other than the  
35 child's?  
36 A. I don't think you can be after 18, can you?  
37  
38 COMMISSIONER: You can't? Well, I don't see why not, but  
39 perhaps you can.  
40 A. I don't think you can.  
41  
42 COMMISSIONER: Mr Hastie might tell me the answer to that.  
43 A. No, because you're an adult then.  
44  
45 MR HASTIE: Well, it's a question of legislation. It only  
46 applies to children --  
47 A. I think it's because they're an adult.

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MR HASTIE: You adopt a child. You wouldn't adopt an adult as your child, conceptually as well as legally, I should say.

COMMISSIONER: Well, okay.

WITNESS: Yeah, because they don't need a - they don't need a guardian. They're an adult at 18.

MS SWEET: Now, you say at paragraph 11 for the first child you were deemed suitable but it took almost seven years to get the guardianship order granted?

A. Yes.

Q. Yes. And then you say for the three girl sibling group you say that you were initially - you and your husband were initially deemed unsuitable?

A. Yes, we found out through - it could have been the CSO, I can't remember who told us, but I got a memo about it in my file about one of the recognised entity staff advising that we were unsuitable. And then I raised for the three child sibling group of Torres Strait Islander descent, and yet, yeah, we raised how were we suitable for one Indigenous child and not for the other Indigenous group.

Q. And so when you found out about this around what year was this, where you found out that the recognised entity had said you were not suitable?

A. It was 2020 when we got their guardianship. So it would have been probably a year or two before that, probably maybe early 2019, something like that.

Q. And what were you able to learn about why you were deemed by the recognised entity you'd be unsuitable?

A. You don't learn anything. This is all - things are discussed and decided without the foster carers being involved, without the people who are going to be the guardians really being involved. A lot of people are having meetings from the foster care agency, from the department, from recognised entities, but we're not included in those meetings.

COMMISSIONER: How were you informed that somebody had taken the view that you weren't suitable?

A. I think there was maybe a CSO who told me. I can't

1 remember who told me, but I found out somehow; yes.

2

3 COMMISSIONER: So in the process of being evaluated as to  
4 your suitability do you get to make representations and  
5 meet any arguments put against you?

6 A. No.

7

8 COMMISSIONER: You merely indicate your interest and then  
9 it's entirely over to the department to decide whether  
10 you're worthy to be appointed?

11 A. Yes. Yes.

12

13 COMMISSIONER: All right.

14

15 MS SWEET: Thank you, Your Honour.

16

17 And what then is the process by which that assessment is  
18 turned around?

19 A. Okay. So once I'd discovered the maternal side for  
20 the three child sibling group I let the department know  
21 about them. Then they were able to - we also met with the  
22 new manager. There was also a number of managers over that  
23 time, and they did start progressing the guardianship. So  
24 then they have to do an assessment on us. And they speak  
25 to all of the bio family, just get their views on it, and -  
26 yeah. So the bio family were supportive of that on the  
27 maternal side, and so that was also included in the  
28 assessment. Yeah, so a big report gets put together to  
29 make a recommendation.

30

31 Q. And when you say the manager do you mean the manager  
32 of the child safety centre?

33 A. Yes, the child safety centre for the area that we're  
34 in.

35

36 Q. And why was the biological family supportive of you  
37 with respect to that three sibling girl group? What did  
38 you learn from them?

39 A. Well, the great aunt had said that - she told me their  
40 life story. Her mother had - was the Torres Strait  
41 Islander woman who had been adopted down to an area in  
42 another state. And it wasn't a very nice childhood, she  
43 wanted stability for these children, and because they had  
44 been with us for quite a while she thought that was  
45 probably a good option. And then there was - there's some  
46 half-siblings of the bio mother who also - they couldn't  
47 take on the children but they were supportive of them

1 having a good stable life with some opportunities; yep.

2

3 Q. And they didn't see your lack of indigeneity as a  
4 hurdle?

5 A. No. Well, that particular side - if you look in the  
6 case notes for the children prepared by the Child Safety  
7 Department it actually says that they don't really know  
8 their background, they don't know their culture because  
9 it's so far back, and they were very happy with whatever  
10 Alistair and I were doing. So the bio mother said that,  
11 and that's what's recorded in the case plan.

12

13 Q. And you say in your statement that that process from  
14 start to finish was five years for the sibling group?

15 A. Yes, or a little bit over; yes.

16

17 Q. A bit over five years.

18 A. But those children were actually incorrectly recorded  
19 as Aboriginal in the case plan, until we found that they  
20 were Torres Strait Islander. And it was a bit of a  
21 challenge to get it changed, but they got changed to the  
22 Torres Strait Islander.

23

24 Q. Okay. And I'll ask you a similar question I asked you  
25 before in relation to the single child. Was the lack of  
26 certainty affecting them and has there been a beneficial  
27 change post getting the order or the granting of the order  
28 to you? Can you speak to that at all?

29 A. Yes. So there was a lot of interruption to our lives  
30 for the first five years of the group coming to our home.  
31 And, as I said, we had over 50 or around 50 people from  
32 different departments coming in and out. So you've usually  
33 got three people every month at least, if not four. And so  
34 that's - and then because of all the changes within the  
35 staff and different people coming to see them it makes the  
36 child very unsettled.

37

38 And really until we got guardianship of the girls and there  
39 was - that all stopped, that was when the children were  
40 able to properly know that they were staying with us and  
41 that they - and then they started to settle into their  
42 schoolwork. Really for that five years it was a very  
43 unsettling time for them.

44

45 Q. And so the ages of the girls when you initially took  
46 care of them?

47 A. So nine months, 19 months and two years seven months.

1 But we had offered, as I said, six months prior to take  
2 that group on; yeah.

3

4 Q. So I'll just take you over to - in your statement,  
5 page 3 under the heading "Impact on the children"; if I can  
6 just take you to that?

7 A. Yes.

8

9 Q. And when you - these points here, you're referring  
10 here to the impact on the girls, the three sibling group?

11 A. Yes. Well, they all have it to varying degrees but,  
12 yes, particularly the girls.

13

14 Q. Okay. So you say the children suffered from  
15 developmental delays, emotional instability and  
16 difficulty forming secure attachments due to early trauma,  
17 unstable and inconsistent placements, and departmental  
18 instability?

19 A. Correct; yep.

20

21 Q. That was your observation about the girls?

22 A. Yes. So obviously the earlier you get the child the  
23 more settled they are more quickly. But because of  
24 the constant interruptions into our life with all these  
25 different people asking questions in front of them, trying  
26 to be their new best friend every time they came in, it  
27 just really - there's a lot of heightened emotion all the  
28 time. So, yes, they were very needy. When they've had a  
29 lot of changes they're very needy. All of the children  
30 have been needing a lot of affirmation, reinforcing, just  
31 because they can - I think the changes just brings out a  
32 lot of heightened emotions. But, yes, also then they don't  
33 settle in. And for school work it's been - the three  
34 sibling group have been very behind. One's extremely  
35 behind. A combination of all of those interruptions from  
36 the start, probably a bit of the lockdown periods as well  
37 hasn't helped, and then - yes, so we have - I would say all  
38 of them are, you know, one or two years really behind where  
39 they need to be.

40

41 Q. And you say at paragraph 28 assessments of the three  
42 girl sibling group showed low receptive and expressive  
43 language abilities requiring significant educational  
44 support?

45 A. Yes.

46

47 Q. Now, who was doing these assessments?

1 A. So there was a local psychology group that did one,  
2 and then we had another two done in Brisbane. Yeah, so  
3 they're psychologists who basically go through certain  
4 tests with them. Yeah, so they all have this low receptive  
5 and expressive language abilities, but good processing  
6 skills which they're a little bit stumped by. So, yes.  
7 But what it means is that there is a lot of repetition that  
8 has to happen to reinforce any concept because the  
9 understanding's not there and, whilst - and sometimes the  
10 expression, especially when they're put in sort of a  
11 situation where they become a little bit anxious, then that  
12 also is very evident as well.

13  
14 Q. Okay. And you say their progress improved  
15 significantly once long-term stability and certainty were  
16 established.

17 A. Yes.

18  
19 Q. How were you measuring that progress?

20 A. Mostly with, you know, their ability to concentrate  
21 and to - and just in their being, instead of being always  
22 unsettled and, like, you can see it in their body, and they  
23 just find it very difficult, easily distracted, looking at  
24 what's going on, wondering what's happening next.

25  
26 Q. They become less heightened?

27 A. They had all become less heightened, much calmer, and  
28 also they were able to concentrate on their schoolwork a  
29 lot more after that as well because they had that certainty  
30 of belonging. I mean, I certainly couldn't say to them,  
31 "Yes, you're going to be here forever," because - if they  
32 didn't have the guardianship because another decision could  
33 be made at any time, you know, that I'm not a party to.  
34 So, yep.

35  
36 Q. Is that a question any of them would ask you? They  
37 did. They did ask me, and I'd have to say, "I don't know."

38  
39 Q. How often was that question asked of you?

40 A. Look, once they sort of heard - you know, cottoned on  
41 to it, the girls are good at repeating themselves often.  
42 So often.

43  
44 Q. I'll move on now from the issue of long-term  
45 guardianship and the impact on the children, unless there's  
46 anything further you wanted to say about that?

47 A. No, that's fine.

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Q. Okay. So we'll move back in the statement back to item 3, which is issues encountered with the department --

A. Yes

Q. -- which is paragraph 14.

A. M'hmm.

Q. And you've alluded to this over a five-year period more than 50 departmental and agency personnel were engaged with the children's cases?

A. Yes.

Q. And so when we say the children we mean all four of the children?

A. It was more so with the sibling group but, yes - it didn't seem to affect - but, yes, it was all of them because they come to see all of them.

Q. And so when you say 50 personnel engaged with the children's cases you mean different people came to the house, came to your house?

A. Yes.

Q. These are just the people who were arriving at your house?

A. Yes.

Q. Right. Okay. So:

*Staff regularly changed [and we have heard a lot about that], were often inexperienced, did not have the requisite skill set to be competent in the role, had not read the files, and repeatedly asked questions that should have already been documented in the children's case files, causing disruption and distress to the children and frustration to us.*

When you talk about not having the requisite skill set, what skills were you looking for in these personnel that you considered weren't there?

A. The ability to document what was being discussed at meetings on the file so that when there was a change or there's no sort of hand-overs happening to staff taking on files. They didn't know how to progress the guardianship,

1 which is why we were told that it was happening but it  
2 wasn't really happening. And many came in wanting to be  
3 over-friendly with the children and have a great rapport  
4 with the children. So I found that completely  
5 inappropriate because, you know, the child should have a  
6 natural wariness to adults and, if you look at most  
7 children, they do. Having been in early childhood for  
8 quite a long time, most children will not engage that  
9 readily. Even if it's an aunty or an uncle, they'll be a  
10 little bit wary. So they're trying to get these children  
11 to tell them everything about their life, just be complete  
12 public objects, and I very much objected to that.

13  
14 Q. And you've spoken about the genograms and the family  
15 mapping and how you ultimately did that yourself?

16 A. Yes.

17  
18 Q. And then you refer to poor kinship decision-making.  
19 You say the department for over two years - continued for  
20 over two years to pursue a kinship placement with an  
21 unsuitable paternal uncle who had unstable housing, limited  
22 literacy, unemployment, and associations with individuals  
23 with criminal histories?

24 A. Yes.

25  
26 Q. And how were you aware of these things that made the  
27 paternal uncle unsuitable?

28 A. So, because we had contact with the bio parents, they  
29 would share information. So we would gather information  
30 from there, but also Facebook was a great source of  
31 information. There was a lot of information always getting  
32 posted about current situations or whatever. But, yeah, it  
33 was just through communication with the extended family and  
34 the bio parents.

35  
36 COMMISSIONER: So you were aware that the department was  
37 making efforts to ascertain whether the children, the three  
38 sibling group at least, could be placed with kin as opposed  
39 to being reunified with the biological parents; is that the  
40 case?

41 A. So the eldest child was already on a long-term  
42 guardianship order to the Chief Executive, and had just  
43 been placed on that recently, like, a month before they  
44 came to us. And, no, we did not find out about the kinship  
45 until they had been placed to us, and they told us about a  
46 week or two later. And, had we known that and been given  
47 the full information, we might have made a different

1 decision.

2

3 COMMISSIONER: What, not taken the children, you mean?

4 A. Probably not, because --

5

6 COMMISSIONER: What I'm trying to understand is this. You  
7 said that you learned through the child's family, natural  
8 parents; is that the case?

9 A. Yes.

10

11 COMMISSIONER: That efforts were being made by the  
12 department to find kin; is that --

13 A. Not through the parents. We found out about the  
14 unsuitability of the paternal uncle through them. But, no,  
15 the department child safety officer told us about the  
16 kinship application about a week or two after the children  
17 had been placed with us.

18

19 COMMISSIONER: Right. And that --

20 A. But we were told in previous emails that they were  
21 looking for a permanent placement for them because they  
22 couldn't go back to the biological parents.

23

24 COMMISSIONER: So the department had, it would seem based  
25 on what you were told, formed the view that the children  
26 could not be reunified, strictly speaking, so they were  
27 looking for kinship carers?

28 A. Yes, although they were saying that's what they were  
29 starting to look for, kinship carers; but this is on the  
30 paternal side, and they've got a well-documented history  
31 known to the department.

32

33 COMMISSIONER: But they didn't say to you at the time  
34 they asked you to be the carer - the carers, yourself and  
35 your husband - that that's what they were doing, and you  
36 would have liked to know that?

37 A. I would have, yes.

38

39 COMMISSIONER: Yes.

40 A. In most - well, in all instances with the children  
41 we've been given false information and false circumstances.  
42 It's not very clear or it's completely wrong.

43

44 COMMISSIONER: All right. We can come back to that.

45 A. M'hmm.

46

47 COMMISSIONER: So at least you were aware that the

1 department was looking to find kinship carers after you had  
2 taken the children into your care?  
3 A. Yes, we were aware of that.  
4  
5 COMMISSIONER: Were you asked to cooperate in terms of  
6 facilitating the children's contact with kin in the course  
7 of your time as a carer?  
8 A. Yes, and we have done that.  
9  
10 COMMISSIONER: Yes. As events turned out, a suitable  
11 kinship carer was not found --  
12 A. No.  
13  
14 COMMISSIONER: -- in the case of these children?  
15 A. That's right.  
16  
17 COMMISSIONER: Were you at any time asked to discuss with  
18 the department, the relevant decision-makers within the  
19 department, what you thought about the placement of the  
20 children with suggested kinship carers who might be  
21 suitable?  
22 A. They didn't ask for my opinion, but I did ask for  
23 meetings with the department about it and I met with the  
24 manager and the regional director, who ended up being the  
25 regional director for the day; but, yes, it was an acting  
26 regional director for the day. Anyway. But this is - yes,  
27 I did raise it with them because we had been - we sort of  
28 knew some information. We were raising that with them.  
29 And they just still would not make a decision, and they  
30 just wouldn't - so we put it to them. And in the end what  
31 we needed to do to get a proper decision made about this is  
32 we raised it with our local MP, and then that was escalated  
33 to the minister.  
34  
35 COMMISSIONER: Yes, I see. We can come back to that.  
36 A. M'hmm.  
37  
38 COMMISSIONER: Did you convey to the department the  
39 information that you had --  
40 A. Yes.  
41  
42 COMMISSIONER: -- via the family about the unsuitability  
43 of the suggested kinship carer?  
44 A. Yes. And we had meetings about that with the  
45 department, with managers, with the regional director.  
46  
47 COMMISSIONER: Yes. And did you consider that the

1 department had taken your concerns about that matter  
2 seriously and --  
3 A. No.

4  
5 COMMISSIONER: -- taken it into account?  
6 A. We were told that kinship was always the best option.  
7 And we asked what - on what basis they were saying that,  
8 especially in a case like this, and they said - they gave  
9 us a 10-year-old document from - on Native Americans.  
10 Yeah, so that was their reasoning behind why kinship was  
11 always best no matter what.

12  
13 COMMISSIONER: And what were the particular objections, as  
14 you understood it, to the proposed kinship carer; I think  
15 you said an uncle, paternal uncle?

16 A. So he had moved five times that I knew about in a  
17 matter of a year. And he had two young children himself  
18 with a partner who - one was around one, one was around -  
19 similar ages to the three sibling groups. So there would  
20 have been five children under the age of three. He -  
21 unemployed. He was - very limited literacy. It just isn't  
22 going to be a great environment in which to raise a child.  
23 I think there's got to be a little bit more there.

24  
25 COMMISSIONER: And did, as you understand it, the  
26 department eventually accept that view?

27 A. Only after I raised it through an MP, yeah. Yes. And  
28 then the minister obviously intervened, and the department  
29 accepted that view then.

30  
31 COMMISSIONER: And is it your view that, but for the  
32 intervention of the local member of parliament and the  
33 matter being escalated to the minister, the children would  
34 have been removed and placed in the care of the uncle?

35 A. It's possible because that seems to be the - the  
36 departmental view that kinship's always best. But this  
37 paternal uncle also had interactions with other family  
38 members with known criminal history as well. It's - yeah,  
39 so --

40  
41 COMMISSIONER: Do you think it's appropriate for a carer  
42 in your position to have a formal channel for consultation  
43 with the department when it comes to the question of  
44 reunification of children in their care, and by  
45 reunification I include the broader idea of placement of  
46 the child with kin?

47 A. Yes. I think it's very difficult to deal directly

1 with the department because they don't - even though the  
2 foster carer is supposed to be in the circle of care, they  
3 don't really regard the foster carer, who knows the child  
4 inside out usually because they've been mostly with them,  
5 they don't really take anything they have to say into  
6 account.

7  
8 COMMISSIONER: What causes you to form that conclusion?  
9 What has been said to you --

10 A. My experience.

11  
12 COMMISSIONER: Well, that's what I want to unpack. You've  
13 concluded that the department doesn't give weight to or  
14 doesn't take into account the views of foster carers such  
15 as yourself.

16 A. M'hmm.

17  
18 COMMISSIONER: I'm just trying to understand what it is in  
19 the interactions that you've had with the department that  
20 have caused you to form that view.

21 A. So at every step we've had to be the advocate. The  
22 advocacy is not coming from the department which is, you  
23 know, the parent, the legal parent at that time quite  
24 often. So, you know, every step of the way we're having to  
25 raise, "What about this? What about that? Have you looked  
26 at that?"

27  
28 COMMISSIONER: Has no CSO ever said to you, "Look, we'd  
29 like to understand what you think about the needs and  
30 wellbeing of these children as part of our deliberations  
31 about what to do," something of that kind? Have you never  
32 been invited to express your opinion?

33 A. Yes, for certain things. Like, when you're reviewing  
34 the case plan you can put in, you know, some things around  
35 needs and what have you. But --

36  
37 COMMISSIONER: I'm talking about the decision to remove  
38 the child from your care --

39 A. No.

40  
41 COMMISSIONER: -- and place the child somewhere else.

42 A. The foster carer is not in the decision-making circle  
43 whatsoever.

44  
45 COMMISSIONER: Yes. That seems to be the consistent  
46 evidence I've heard on this topic.

47

1 Thank you, Ms Sweet.

2

3 MS SWEET: Thank you, Your Honour.

4

5 In terms of - you refer to at paragraph 20 the placement  
6 practices. You say the department frequently implements  
7 abrupt placement changes without notice or transition  
8 planning. Is that coming from your experience or the  
9 experience of other carers you've previously spoken with?

10 A. So with the first child we picked him up from a  
11 respite carer. And then the three sibling group we picked  
12 up from a child-care centre, and just got told to go and  
13 pick them up from there. That was the first - that was for  
14 the respite week. And then when they were brought over to  
15 stay with us on the short-term/one of them was on a  
16 permanent order to the Chief Executive, they were just  
17 taken from the previous carer and brought over. So, yeah,  
18 there wasn't sort of a hand-over or - so experience.

19

20 Q. And you say at paragraph 22 this must have created  
21 significant trauma for the children?

22 A. Yes. Well, I mean, it's like any of us. If somebody  
23 just came and took me out of here and said I'm going over  
24 to another home, anyone would feel very traumatised. You  
25 don't know where you're going. They don't know me. You  
26 know, they've never seen me before; that sort of thing. Of  
27 course they - when the second time it happened for the  
28 three sibling group they had had a week with me. So, yes,  
29 that wasn't as probably traumatic. But still, you know,  
30 they've been with this other person since birth for two of  
31 them, and the other one for at least a good year or a year  
32 and a half or something like that.

33

34 Q. Yes. And so your evidence is, in your experience,  
35 that abrupt placement change adds to the difficulty of  
36 forming secure attachments?

37 A. Yes. Well, I mean, it takes them a long time to trust  
38 because when is that - when is it going to happen again?  
39 And in many instances - well, you know, the first child, he  
40 had four different placements in two months. So they take  
41 a long time to trust that they're really going to be there,  
42 and they probably never really trust that.

43

44 Q. And then under the heading "Cultural requirements",  
45 this is paragraph 25, "Expectations around cultural  
46 connection were inconsistently applied and often did not  
47 reflect the children's actual cultural circumstances or

1 their parents' own knowledge." Is this partly what you  
2 were referring to before?

3 A. Yes. So the last visit - so you still have an annual  
4 contact from the department as a guardian, as the legal  
5 parent, and at the last one I was told that I was - they  
6 needed to assess if I'm meeting the cultural needs of the  
7 children, and yet if you look at the case plan it - as  
8 I said before, it states that the parent didn't really know  
9 about their cultural heritage, they were happy with what  
10 Alistair and I were doing, and yet a CSO thinks they can  
11 come in and assess whether that's being - well, try to  
12 assess whether that's being met or not.

13  
14 So the other - yes, I just don't think that - it comes back  
15 to reading the case files, knowing the case files, knowing  
16 the child. I think there's a - if you look in the practice  
17 manual it does tell them certain questions to ask - the CSO  
18 certain questions to ask, what they need to gather. So  
19 I know they're being led that way by the practice manual,  
20 but it's not - it's clear that the child's not known, the  
21 circumstances aren't known, because there are so many  
22 changes.

23  
24 Q. Okay. And you say, "Despite parents being supportive  
25 of my approach" --

26 A. M'hmm.

27  
28 Q. -- "staff continue to try and apply rigid and  
29 impractical requirements."

30 A. Well, just in terms of how do I prove that I'm meeting  
31 the child's cultural needs.

32  
33 Q. And is part of what your evidence is - is part of your  
34 evidence that the requirement for cultural connection  
35 should not rise any higher than what the parents themselves  
36 would be satisfied with for their own children?

37 A. Well, we've - we go a step further of course. We've  
38 got lots of books from, you know, the areas that they're  
39 from. The schools actually do a lot now in terms of  
40 Indigenous education within the curriculum. It's sort of  
41 linked in to most things. So, you know, we've taken the  
42 child to their - where they came from, where the parents  
43 come from. We do do a lot of running around.

44  
45 We haven't been to the Torres Strait. It's not that  
46 I wouldn't like to go. It's actually not that easy to get  
47 there. But, yeah, so, you know, we feel like we try to

1 keep them - you know, give them knowledge about their  
2 heritage and - but obviously, yeah, we can only do what's  
3 available and it's probably more than what they would have  
4 got from a bio parent because they didn't know it  
5 themselves, or at least the same; yep.

6

7 Q. Okay.

8

9 COMMISSIONER: Was there anything in particular suggested  
10 to you by the CSO when reviewing your cultural competence  
11 about what you should do that you weren't doing?

12

13

14 COMMISSIONER: So --

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16

17 COMMISSIONER: How were you to meet the interrogation  
18 without being told what it was you should be doing?

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1 your dealings with the department that you described  
2 earlier in terms of consultation with them about important  
3 decisions. Does your experience with the department in  
4 those respects have an impact on your preparedness to  
5 continue as a foster carer --

6 A. Yes.

7  
8 COMMISSIONER: -- and to undertake that obligation  
9 potentially in future for other children?

10 A. Yes. Well, we decided we wouldn't take any more  
11 children because it's just too difficult with the way the  
12 department is managed, the way the case files are managed,  
13 the way the children are dealt with, and we just - I might  
14 have taken another child, but I just couldn't go through  
15 that again. It's very, very harrowing.

16  
17 COMMISSIONER: What would need to change, in your view, in  
18 the way in which the department deals with foster carers  
19 such as yourself in order to encourage rather than  
20 discourage ongoing participation?

21 A. I think the department finds it difficult to see what  
22 a good placement is. So they couldn't - they find it  
23 difficult to know when to pull back a bit, when to maybe  
24 look a little bit further into something. So they can't  
25 see when there's a good thing. And I got the --

26  
27 COMMISSIONER: Staring them in the face, as you would say?

28 A. Mmm-hmm. We got the feeling that they wondered why my  
29 husband and I would take on the children in the first place  
30 because, you know, we've worked hard, we're reasonably well  
31 off, and I did think they wondered why we would do that.  
32 But, you know, coming from child-care I felt a little bit  
33 guilty thinking, "I don't have any children. There's  
34 children that need a home," and then I thought, "Well,  
35 let's try it."

36  
37 But then, once you sort of get the situation of  
38 the children, you don't want to mess the child around  
39 because you see that they can easily get messed around with  
40 lots of placements. And so then we wanted to give them  
41 stability. So you do take on that emotional burden  
42 yourself. You take on the financial burden quite often  
43 because it's very hard to get things approved within the  
44 department. But we thought, "Well, we can do that. Let's  
45 do that. If we can do it for four, then hopefully - you  
46 know, and hopefully get successful, you know, well-rounded  
47 adults at the end of that road, then that's a good thing.

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COMMISSIONER: So you said in answer to my question effectively what should change in order to encourage foster carers such as yourself --

A. Yes. So --

COMMISSIONER: -- that the department has a difficulty in appreciating a good thing when they see it, if I can phrase it like that.

A. Yes.

COMMISSIONER: Do you have any explanation as to why that should be the case?

A. Well --

COMMISSIONER: Or why that occurs?

A. A decade ago when I was looking at the job advertisements for a CSO they got paid \$60,000. I think you get what you pay for. I know it's improved. I know it's around 100,000 now. I'm hoping it's more improved. I deal with one person every year. So my last experience wasn't that great. I do think it's a little bit to do with not having enough experience around them. So everyone says they're overwhelmed with lots of files and they struggle to keep up with everything. But when there is a good situation they still have to tick all the boxes. And I've heard that sometimes they prefer someone like us to come and visit with because it's an easy option rather than take on the harder options of dealing with children with, you know - or parents with more difficult behavioural whatever it is. So I think that's a part of it.

COMMISSIONER: What, from your observation, was the apparent standard of experience and judgment, if I can put it that way, of the child safety officers that you have encountered? Were they young, fresh from university? What was the profile to start with?

A. So the young, fresh from universities were more reasonable and approachable. I think there's some very hardened hearts within the department who have been around a long time and they just have lost any empathy and any willingness to really look at what is in the best interest of the child and look at their wellbeing, which is the --

COMMISSIONER: What are they interested in then, in your view?

A. I think the overarching thing that we kept hearing

1 about was kinship was always best outcome. And if you're  
2 not Indigenous then that's just - they don't want to go  
3 there, even though the Indigenous biological parents were  
4 very happy and are still very happy working with us. And  
5 we do, you know, keep connections with them. I mean, we  
6 made sure we built up a rapport and, you know, it's  
7 positive for the child and - yeah. So I think that's part  
8 of it.

9  
10 COMMISSIONER: So would you characterise that attitude as  
11 being an intractable ideological position not centred upon  
12 an evaluation of the child's best interests?

13 A. I think the best interest and wellbeing is ignored by  
14 the department quite often.

15  
16 COMMISSIONER: All right. Thank you.

17  
18 MS SWEET: Ms Brodie-Fraser, I want to take you to a  
19 couple of systemic issues that you identify in your outline  
20 on page 4 and, just following on from your conversation  
21 with the Commissioner, at paragraph 34 you say that,  
22 "Legislation preventing adoption of Indigenous children  
23 prevents self-determination." What do you mean by that,  
24 because I think the intent behind the legislation is that  
25 by preventing adoption you are - it is a move towards  
26 self-determination, and you seem to be saying actually it's  
27 doing the opposite?

28 A. So, as mentioned before, the recognised entity is  
29 involved. They don't necessarily know the child. They  
30 don't necessarily know the family because they can be from  
31 different areas. In our case - in both cases of ours they  
32 are from different areas; they're not from this locality.  
33 And they tend to have a practice of saying "no" to any  
34 request for adoption.

35  
36 Their input needs to be given under the legislation. So,  
37 for example, we do have a child who would like to be  
38 adopted, but it's - the legislation says, you know, the  
39 preference is never. We know how the recognised entity  
40 performs, so, yeah, or normally reacts to questions of  
41 adoption. So, yeah, we just think that that  
42 self-determination for that child is completely removed  
43 because he's got other people making decisions who don't  
44 even know him or know his circumstance, know his biological  
45 family. His paternal side would be very supportive. The  
46 maternal side maybe not, but we'd have to see. We've never  
47 even, you know, approached the subject because we didn't

1 see there was any point.

2

3 COMMISSIONER: I think the recognised entity no longer  
4 exists, as I understand it. So you're speaking of a time  
5 when there was still that --

6 A. Well, it's a number of years now. So it's six years  
7 since we were foster carers.

8

9 COMMISSIONER: Yes.

10

11 MS SWEET: So there now aren't recognised entities. There  
12 now is the concept of the independent person.

13

14 COMMISSIONER: That's right.

15

16 MS SWEET: And then, Ms Brodie-Fraser, you speak of the  
17 burden of providing additional financial support to  
18 properly address the emotional and educational needs of the  
19 child is often transferred to the carer or guardian due to  
20 delegate - who I assume you mean Child Safety delegate -  
21 pushback or slowness in approving additional funding.

22 A. Yes.

23

24 Q. And that's been your experience?

25 A. Yes. So when we first got the three child sibling  
26 group I did work full time, and the children had been  
27 getting full-time child-care support with the other carer,  
28 but when they came to me they said I could only have two  
29 days. So, not only do they take your career away, you also  
30 have to fund it - or otherwise you fund it yourself.  
31 Remember we're talking about short-term orders here or not  
32 orders to yourself. So you think, "Okay. Well, then I'm  
33 not even a party to any conversation. You haven't got any  
34 legal standing, and yet you're happy to take on or have me  
35 pay for everything for this child, other than the  
36 allowance," which I can't remember what it was then but it  
37 certainly wasn't enough to cover anything much. So, yeah,  
38 so that sort of thing happened.

39

40 So there was slowness to pay when things had been agreed.  
41 So I think we got high needs for a couple of months for one  
42 of the child - one of the children. But, you know, really  
43 to support them they needed lots of allied healthcare, they  
44 needed lots of speech therapy, occupational therapy. But  
45 it's just almost impossible to get anything out of them.  
46 So you actually stop asking because it's just too much of a  
47 hassle going through it each time, having to say, "We're

1 having to do this." Most - well, certainly we just  
2 thought, "We'll just pay for it," because the pushback was,  
3 "Oh, do they really need this? Do they need that?"  
4

5 We made the decision to send them to private school because  
6 it just was going to be a better environment, smaller  
7 classes, what have you. So, you know, we happily took on  
8 that cost. But certainly with the other costs it's almost  
9 like you having to justify every small thing. But they  
10 also, yeah, told me how often I could work and how much the  
11 child-care support they would give. And because we were --  
12

13 COMMISSIONER: What do you mean told you how often you  
14 could work? What do you mean by that?

15 A. Well, they said that I could - that they would only  
16 pay for two days of child-care. So the department's  
17 responsible for paying for the gap fee for the child. But  
18 it is actually something that I raised with another MP, and  
19 I said that - because having come from that system I said  
20 that, "Really foster carers should be treated or every  
21 foster child should get their child-care subsidy covered  
22 throughout the country; it shouldn't be - they're currently  
23 using the foster carer's income to assess child-care  
24 benefit." And it did get changed as well so that it was  
25 eventually covered. But that was another thing that --  
26

27 COMMISSIONER: It got changed in your case, you mean?

28 A. No, it got changed around the country. But I didn't  
29 find out from the MP. I found out about a year or so later  
30 through the manager of the department that that was coming  
31 in. I thought, "Okay, well, that was good."  
32

33 COMMISSIONER: So, on your understanding, the child-care  
34 subsidy is no longer based on a means test of the foster  
35 carer but --

36 A. No, but I don't know how - I mean, I don't know how  
37 that got communicated to people. I found out through a  
38 manager. But I don't know if it's - and it was very  
39 difficult for the child-care centre to claim for it. It  
40 was a hassle. It wasn't easy.  
41

42 COMMISSIONER: Well, I've heard other evidence from foster  
43 carers about that very point. So I'll ask the department  
44 in due course to clarify what the position is in relation  
45 to the means testing of child-care allowances and whether  
46 it is in fact now not based upon any means test of  
47 the foster carers. Perhaps you could --

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MR HASTIE: A lot of this is Commonwealth, but we'll do our best to inform the Commission about that situation.

COMMISSIONER: That will be helpful, Mr Hastie.

MR HASTIE: And it's not always easy to track, but we'll do our best.

COMMISSIONER: Yes, thank you.

WITNESS: Commissioner, I was told by the minister of the day, Federal minister, that it was based on the family - what's the family Act? What's the name of that one? So it came back to - under that Act it classified the foster carer as the parent, but you have no legal standing as a foster parent, and yet they want to take your income into account.

COMMISSIONER: They want to assess - yes, it is incongruous that the foster carer, as a volunteer effectively, should be the basis for any means test assessment for benefits when it's the State that is the legal guardian of the child.

A. Yes.

COMMISSIONER: And if you were to use the State as the means tested party, well, that will create a different set of problems. Anyway, we'll find out. But, as you understand it presently, allowances of that kind are not any longer based on the income of the foster carers?

A. Well, that's when I used child-care and that was a while ago now.

COMMISSIONER: Yes, we'll find out. Thank you.

A. Yes.

MR HASTIE: And it's all subject to change under the current Commonwealth Government as well, Commissioner, just to confuse things.

COMMISSIONER: Indeed.

MR HASTIE: We'll see what we can find out.

COMMISSIONER: Thank you very much, Mr Hastie.

1 MS SWEET: Ms Brodie-Fraser, the last point under systemic  
2 issues identified you say:

3  
4 *The annual carer allowance is inadequate*  
5 *and represents only 4.3 per cent of*  
6 *the annual funding needed for one child in*  
7 *a residential care home or 19.5 per cent of*  
8 *the funding needed where the child is in a*  
9 *specialised foster care placement.*

10  
11 A. Yes.

12  
13 Q. Is this your accounting skills coming to the fore  
14 here?

15 A. That is. I thought I'd make it easy to see the  
16 difference.

17  
18 Q. And when did you do those calculations?

19 A. They're the current - that's the current figures.  
20

21 Q. Yes.

22 A. So the current foster carer allowance is \$19,500 a  
23 year. That does not even pay for a year in secondary  
24 school. It's very - I know that's if you're in a private  
25 school. They give another \$1,500 if your - towards  
26 extracurricular activities. One curricular activity for  
27 one day a week costs \$2,000 a year on average per activity.  
28 So, yes, it's very - it's a very token amount that's given.  
29 And so therefore, you know, unless the foster parent can  
30 fund all the rest, the child will be not able to do very  
31 much at all.

32  
33 COMMISSIONER: Can I ask you in that calculation of  
34 4.3 per cent, what is the figure you have assumed for a  
35 presumably average cost of the --

36 A. That's 19,500 a year. And it costs about \$450,000 per  
37 year, if not a little bit more now, in residential care.  
38 And it costs - I've seen the adverts for a specialised  
39 foster carer, and it's \$100,000.

40  
41 COMMISSIONER: Yes, no, what I was trying to get at is  
42 your assumption about the presumably average cost of  
43 residential care per child.

44 A. Yes. I've been informed it's around 450,000, and  
45 actually I've heard higher amounts than that, but I went  
46 for the 450 --  
47

1 COMMISSIONER: Yes, thank you.

2 A. -- per annum, per child.

3

4 MS SWEET: And, Ms Brodie-Fraser, in section 6 of your  
5 outline you do make certain recommendations, which I have  
6 read and the Commission has read and people at the Bar  
7 table have read those. Is there anything particularly you  
8 wanted to speak to with respect to any of those?

9 A. I think, yes, the long-term guardianship needs to be  
10 pursued/adoption. To do that they need to get on to the  
11 kinship genograms, family trees so that they know what's  
12 available or not available as the case may be. This is  
13 simply left for years and years and years, as was in our  
14 case. And I think a big part of it - I know that the  
15 departmental staff are very busy and they will have a lot  
16 to do and I think they need some expertise, and I worked in  
17 a department many years ago where they had an expert call  
18 line for people who were new to the department that they  
19 could talk through things and ask about situations.  
20 I certainly think in the case of progressing guardianship  
21 or how to go about developing a genogram or where to look  
22 they should have people who can direct them.

23

24 And I think nothing will progress for the child until these  
25 things are done because they have to follow their  
26 processes, but they're just ignored. I think the staff -  
27 I think most of the staff - when I look at the  
28 advertisements they're from a psychology, counselling,  
29 social work background. I think you need business  
30 administration in there. I think you need people who are  
31 good at writing, who have got good investigative  
32 capabilities, business in terms of helping with budgets and  
33 progressing payments in a timely manner to the foster  
34 carers.

35

36 Yeah, and the carer allowance, look, you know, I mean,  
37 I know it goes up with inflation, but it's extremely low.  
38 And when you - if you fail in the foster caring side you're  
39 going to be spending 20 times more than, you know, if a  
40 child is with a family. I think we need earlier  
41 investment. If you get that investment into the child in  
42 the early years it's going to be - everyone knows that,  
43 it's in every report on early childhood, that's going -  
44 you're going to see a more successful outcome for the  
45 child.

46

47 COMMISSIONER: What would you regard as a reasonable

1 period of investigation by the department of the  
2 opportunity available to the particular child for either  
3 reunification or placement in the case of Aboriginal and  
4 Torres Strait Islander children in particular with kin?  
5 Your account is that the process went on for quite a few  
6 years. How many years, just remind me?

7 A. Well, in New South Wales it's 12 months. I would say  
8 no more than two years. Two years is a long time in a  
9 child's life.

10  
11 COMMISSIONER: Because of the uncertainty it creates for  
12 the child and the effect that it has on the child's sense  
13 of attachment and belonging?

14 A. Yes. Absolutely. You know, they end up being  
15 detached. They don't belong anywhere. You know, they're  
16 sort of there with the foster carer; they're sort of there  
17 with their extended family. You know, it's just very - you  
18 know, biological family. But they don't really feel like  
19 they're anywhere. They're constantly feeling uncertain.  
20 And once the child misses that sort of early education it's  
21 a very difficult road. You can try and get them engrained  
22 in the child - in the education later on, but they're so  
23 far behind they just can't follow anything. Their literacy  
24 is probably quite poor. So it's very difficult. If  
25 they've only got a grade 3 standard to go back in at grade  
26 9 and try and fit in again, it's very - and there's not  
27 really any school that I've found - even though they have  
28 learning support centres in most schools, a lot of these  
29 children need one-on-one to - and then tutoring costs a  
30 lot. It's, you know, \$120 an hour now. So, you know, your  
31 child-care allowance wouldn't cover that. So, you know,  
32 it's very, very hard for the kids once they've missed those  
33 early years. If you haven't got them pretty settled by,  
34 you know, the start of primary, it's going to be a hard  
35 road.

36  
37 COMMISSIONER: So you draw a significant connection  
38 between the child's ability to learn and the sense from  
39 the child's perspective of stability and permanency?

40 A. Definitely. If you don't --

41  
42 COMMISSIONER: Based on your observation of the children  
43 you've cared for or wider observations?

44 A. Yes, yes. So I think the children, the girls  
45 especially, didn't start learning until they had that  
46 certainty around their situation. The first child was a  
47 little bit different because he had had three years of

1 undivided attention from my husband and I. So he was a lot  
2 more settled. Yep. I think keeping sibling groups  
3 together is also nice, but it can be - well, our three  
4 sibling group, there's only 22 months between them. It's  
5 like raising triplets. You know, and you've got triple  
6 time heightened emotions and having to help, intensive help  
7 with learning, having to sit and explain every single  
8 thing. It does become - it is a big effort. It is a  
9 really big effort.

10

11 COMMISSIONER: But would you agree as a general  
12 proposition at least that it's a good idea to keep sibling  
13 groups together; it's good for the children, I mean?

14

A. It is. They're very close, yep.

15

16 COMMISSIONER: But very --

17

A. They're very close. But then there's - it is good to  
18 keep them together if you can. But then the support that  
19 their needed - it's more difficult to give them the  
20 one-on-one that they typically need because of - well, in  
21 our case every one of them need a lot of help with their  
22 education, although as they're getting older it is getting  
23 easier with that. But certainly in those early years it  
24 was, yeah, tricky, because they all need a lot of  
25 attention.

26

27 COMMISSIONER: But presumably also it's more difficult to  
28 find foster carers prepared to take on three as opposed to  
29 one child?

30

A. Absolutely. Very difficult

31

32 COMMISSIONER: Yes, thank you.

33

34 MS SWEET: Thank you, Your Honour. Those are my questions  
35 for this witness.

36

37 COMMISSIONER: Thank you, Ms Sweet.

38

39 MR HASTIE: No questions.

40

41 MS McMILLAN: No, thank you.

42

43 MR KIYINGI: Excuse me --

44

45 COMMISSIONER: I should ask, sorry.

46

47 MR KIYINGI: Commissioner, I only have one question.

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COMMISSIONER: Please.

MR KIYINGI: I believe Ms Greenwood takes rank over me. She might have some questions.

COMMISSIONER: I don't know; you're here in person. If you've only got one question, I'm sure Ms Greenwood will not mind.

MR KIYINGI: Thank you.

**<EXAMINATION BY MR KIYINGI [3.52 pm]**

MR KIYINGI: Ms Brodie-Fraser, thank you for coming along and providing oral evidence and your written outline. I'm appearing on behalf of an organisation, Queensland Indigenous Family Violence Legal Service. So I just have one question for you. In the section on cultural requirements you mentioned cultural connection expectations inconsistently applied. I wanted to ask was any support provided to you in relation to accessing cultural practice advisers within the department?

A. Not within the department. Mercy or the foster care agency did put some cultural workshops on which the children went to. But that was the only thing that's ever happened. There are some general get-togethers, morning teas, things like that. But once the children are in school they're sort of engrained in that rather than going to morning teas and what have you; yep.

MR KIYINGI: Okay. Thank you. That was my only question, Commissioner.

COMMISSIONER: Thank you. Ms Greenwood.

MS GREENWOOD: Thank you, Commissioner.

**<EXAMINATION BY MR GREENWOOD [3.53 pm]**

MS GREENWOOD: Just a little bit further on that same topic - and, I apologise, the sound is very bad, so I only heard a bit of the question and a bit more of your answer. But, just picking up on that, I gather you didn't have access to a cultural liaison officer who could advise you on more aspects about the children's culture or Elders that you could be in contact with who could help?

1 A. I did speak to Elders at Mercy - the foster care  
2 agency again, the support agency. There was cultural  
3 liaison officers at the departmental offices that would  
4 come into some meetings. But, no, they didn't offer any  
5 further advice or - no.

6  
7 Q. So it would have been helpful, for example, for those  
8 children to have greater contact with their particular  
9 language or island group?

10 A. They don't know their island group. That's the - they  
11 don't know it. And we do know one child's Aboriginal and  
12 we do know a lot about that, and we've met kin and been  
13 there. It's not in this state; it's in a different state.  
14 So he has made connections with other family in the area  
15 with the cultural centre there. He's had the cultural  
16 identity affirmed from that area; yep.

17  
18 Q. Okay. Just coming back to the Torres Strait Island  
19 again, the group will know them even if they don't know the  
20 group. Are you aware that it's very important to attend  
21 tombstone openings, to be included, part of the greater  
22 group?

23 A. What I do know about Torres Strait Islander children  
24 is often they're raised by someone appointed by their  
25 family. So there's something that's been decided before  
26 birth. And in terms of there's quite a lot of Torres  
27 Strait Islander groups and, as much as the history has -  
28 it's sort of - it stopped once the great-grandmother came  
29 to Australia. They don't know anything more than that  
30 grandmother was adopted. So, yeah, it's a very difficult  
31 case to go back any further. So --

32  
33 Q. Okay. And, Commissioner, we'll provide a link to the  
34 Meriba Omasker legislation which governs Torres Strait  
35 Island traditional rearing practices.

36  
37 COMMISSIONER: And adoption.

38  
39 MS GREENWOOD: One more question. The interstate issue  
40 has arisen a few times. Are there any suggestions you can  
41 make to the Commissioner about, because families do travel  
42 and move interstate? Is there anything that would help you  
43 in terms of being more flexible around crossing borders?

44 A. So as a foster carer you have to get permission to  
45 leave the border. The other thing that came up when we  
46 were researching the genogram and the family, the extended  
47 family, is that information was not shared. All of our

1 children are three - third generation foster children. One  
2 might - well, if you count the adopted great-grandmother,  
3 that's a fourth generation. So, the agencies where I've  
4 contacted, they would not share any information with me as  
5 a foster mother at that time or with the department,  
6 because I know one of the CSOs did try to contact the  
7 agency to get information, and they just couldn't get  
8 anything. That was prior to me finding the great-aunt.

9  
10 So they did try, but their interagency communications -  
11 well, actually, interoffice communications don't even  
12 happen because within Toowoomba there's two areas and they  
13 did not communicate very well with one another. So, yes,  
14 I mean, if you can open up some communication channels  
15 somehow to help research the history and the heritage of  
16 the children, I think that would be helpful. Cross-border,  
17 wonderful.

18  
19 Q. And even for that within Queensland. So you were  
20 never put in touch with, for example, the [REDACTED] community  
21 of Torres Strait Islanders?

22 A. I know some of them. I worked in the Aboriginal and  
23 Torres Strait Islander Commission back in the '90s. So  
24 I do know quite a few people; yes.

25  
26 Q. Okay.

27 A. But they weren't - yeah, anyway. I wasn't put in  
28 contact with an agency there; no.

29  
30 Q. Yes. All right. We've heard a little bit about  
31 delegated authorities throughout this Commission. So would  
32 that have been helpful if there was a delegated authority  
33 that could help you establish these links and help these  
34 children with their long-term identity?

35 A. I think that kind of did happen with what they were  
36 calling the recognised entity when we were doing that.  
37 It's the local Indigenous agency. But at that time they  
38 thought that the children were Aboriginal, not Torres  
39 Strait Islander; yep.

40  
41 Q. Okay. It doesn't help at all, does it?

42 A. No. So when I talk about unverified information in  
43 the case plan that's the sort of thing.

44  
45 MS GREENWOOD: Okay. Thank you very much, Commissioner,  
46 that concludes my questions.

47

1 COMMISSIONER: Thank you, Ms Greenwood.

2

3 Thank you indeed for coming along and giving evidence about  
4 your experiences. It's essential that the Commission hear  
5 from people such as yourself who are directly involved in  
6 providing much needed care for children in State care and  
7 to learn from your experiences. So I very much appreciate  
8 your preparedness to come forward and give such a thorough  
9 account in your case and based on your direct experience.  
10 So thank you very much.

11 A. Thank you, Commissioner.

12

13 COMMISSIONER: We'll adjourn until Monday.

14

15 **THE HEARING WAS ADJOURNED AT 4.02PM UNTIL MONDAY,**  
16 **23 FEBRUARY 2026**

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