



OUTLINE OF EXPECTED EVIDENCE OF AUNTY CHARMAINE CLARKE

DECEMBER HEARINGS 2022 (CHILD PROTECTION)

7 DECEMBER 2022

I BACKGROUND

1. I am a Gunditjmara woman and Elder.
2. I was elected to the First Peoples' Assembly of Victoria in April 2020 as a representative for the South-West region. I was then appointed as the Elders' Voice Co-Chair in July 2021, together with Uncle Andrew Gardiner. I am a Senior Practitioner at the Aboriginal Family Violence Primary Prevention Innovation Project, which is an initiative run by the Gunditjmara Aboriginal Cooperative in Warrnambool, Victoria. I am also the Co-Chair of Dhelk Dja Barwon South-West family violence regional action group.
3. In terms of my professional and academic experience, I hold a Bachelor of Health Science (specialising in Mental Health) and have a strong background in policy. I started my career in the family violence sector as a regional family violence officer with the Department of Health and Human Services. Prior to this, I held roles as a case manager for the Department of Justice and Community Services and as an Aboriginal Liaison Officer for the Magistrates' Court of Victoria. I have also worked in mental health in Perth and Narrogin (working with both adults and children), as well as in sexual assault counselling in Darwin.
4. Overall, I have more than 35 years' experience in community services, and I am passionate about creating positive change by empowering families across Gunditjmara Country, and Victoria more generally. I have given a testimony in Parliament in relation to racism and racial vilification. I discuss this testimony further below, and it is at **Annexure 1** to my witness outline.

II LIVED EXPERIENCE AS A MEMBER OF THE STOLEN GENERATIONS

5. I am a member of the Stolen Generations.
6. I was taken from my family by social workers when I was 2 and a half years old, along with four of my brothers and sisters. I have no recollection of being taken, but have seen photos from that time. I have included with this document a photo of me and my siblings as a child (available at **Annexure 2**) – it is the only photo I have of us all together. At the time I was stolen, I was being looked after by an aunt while my mother and father were looking for work. As soon as I turned 14, I ran away from the foster carers to re-join my mother. I find it hard to remember some details from that time. My brain has pushed away a lot of trauma as a way to cope with it all.

7. Living with a white foster family was an extremely isolating experience. They simply didn't understand what we went through and the disconnect I felt from my family. My white foster family tried to show support by buying me children's books on Aboriginal myths and legends (told from a white perspective), but that kind of thing doesn't help at all. I wanted and needed to go and have a connective experience with my own mob.
8. When I reflect on the removal of Aboriginal children from their families into white families, it all feels like an assimilation experiment. My white 'Holiday Parent' I went to for holidays would often show me off to her friends because I was cute, I was this little brown thing. I almost drowned when I was 7 years old because she insisted that I learn how to swim and – made my swim the length of the 50-metre pool. As children do, I became attached to her and would call her 'mum'. I did that one too many times and she beat me on my arm with a brush, drawing blood, yelling, *"repeat after me, you are not my mother"* over and over again. This abuse went on and on.
9. When my sister Selina and I were taken to visit our mum and dad, we were interrogated afterwards by our white foster carers about everything my parents did and said during the visit. They would critique my mum and dad. I will never forget when mum and dad knocked on my white foster family's door and asked to see us (my dad was standing there holding his hat in his hands) and this 18-year-old white girl (our foster sister) treated them with such disrespect and made them wait at the door outside. It really broke my heart.
10. Even when I was reunited with my family, I remember feeling a lot of shame around the reunification. I remember walking down the street holding hands with my dad and dropping his hand when a white person walked past. It was a really isolating experience – whether being part of a white foster family and even after being reunited. In the end, the majority of Aboriginal people are impoverished while white people are more privileged. Being raised in that environment myself, it was embarrassing when I would go and see my parents and watch the way people talked down to them. Racism experienced by Aboriginal people, like poverty, is deeply entrenched in Australia. Not all experiences are the same. Returning to my family as soon as I could worked for me because I really wanted to go home. I was desperate for it. On the other hand, my sister completely freaked out and ran away. She was only 6 years' old at the time and I believe her young age played a role in how she responded.
11. Over the years, I've been very fortunate to work with a lot of Stolen Generations survivors. Some are in their 60s and 70s, and still strongly identify with their white foster families. From my perspective, there is actually a lot of fear about leaving the white foster family and what they would think if they spent too much time away. I've seen a lot of Elders being shamed by the parents of their white foster family. I've been told many times, *"you're not like other Aboriginals"*. It makes you feel like a pet project. Unfortunately, all of these things become normalised for some mob – they simply don't want to put their white families offside.
12. I have also experienced difficulties in obtaining access to my own historical welfare files (dating back to the 1970s) as well as the trauma I experienced reading the disparaging and slanderous file notes in relation to my mother. These records, unless you can access and amend them for accuracy, will inform and shape the future interactions between Aboriginal families and the authorities. The records set the tone and are usually full of negative biases. It is critical that we have policies to access and improve transparency around these processes.

13. Despite all the apparent changes in the system, I still experience ongoing racism to this day.
14. I have written about my lived experiences and have published two articles on IndigenousX (a media, consultancy, and training organisation 100% owned and operated by Aboriginal people). The first is titled: *"I've stood up against racists most of my life"* and was published in December 2019. This is available at **Annexure 3**. In short, the article sets out my general reflections on systemic and structural racism in Australia, as well as my lived experiences of:
 - a. Standing up against racism (and taking legal action against racial vilification) in my hometown of Warrnambool. In 2019, I was subjected to vilification while having lunch at a bistro. A white teenager nearby was making racist remarks about Aboriginal people regarding the closure of Uluru to climbers. I approached the man to ask him to stop. Instead, I was smirked at and ridiculed. I tried taking legal action (under Victoria's Racial and Religious Tolerance Act 2001) through the police, who (as it turned out) lacked the experience or training to deal with the vilification and failed to keep proper records for an action to be pursued.
 - b. How my white foster family would often tell me to *"just ignore them"*, oblivious to the impact of racism towards me and my sister and the psychological harm that resulted over time.
 - c. Watching my sister pour bleach into her bath, desperate to make herself white and *"acceptable"*, and not *"a dirty Abo"*.
 - d. Doing exercises to make myself physically stronger to stand up against a gang of racist boys in primary school, who would regularly shout racist slurs at me and my siblings, like *"Abo... Abo... you're dirty Abo's"* which would follow me and my sisters through morning recess, lunch and in the afternoon.
15. I also wrote an article titled *"Media misses the point of Inquiry into anti-vilification protections"* published in March 2021. A copy of this article is available at **Annexure 4**. The article sets out my concerns of misdirected and sensationalist media reporting relating to the Victorian anti-vilification protections inquiry. Specifically, I raised concerns about mainstream media reporting (in sensationalist terms) on Neo-Nazi's and Swastika bans, instead of focusing on more subtle, frequent, and insidious forms of racism. These media releases would often neglect to report on the "polite" racism and discrimination that I, and many Aboriginal people, experience day-to-day. My hope is that Yoorrook will bring to light these subtle (yet just as damaging) forms of racism.
16. It is clear to me that racism is still deeply embedded in Australian society, particularly in country areas. During a recent dinner in Warragul, the prejudice towards me was really obvious. I simply walked into the restaurant, and everyone looked at me, which made me think, *"am I even allowed to be here?"*. Again, this form of racism is subtle but still very powerful.
17. I have been the victim of sexual assault and as a survivor I have experience of the various systems to which I can speak if needed.
18. While these experiences are hurtful and tough to think about, I want to be open about my lived experiences because I believe it helps others to remove the stigma of these topics that are too often ignored. Stigma and shame haunt Aboriginal people. To be able to push back against stigma and

shame around our lives and our experiences is critical. It shows that we can have functioning lives irrespective of those experiences. We have a right to have a life and to aspire to greater things.

III KEY CONCERNS ABOUT THE CHILD PROTECTION SYSTEM

19. I think there has been a real failure to learn the lessons from the lived experiences of the survivors of the Stolen Generations. It took us a long time to recognise the Stolen Generations. Even now, there has been an ongoing increase in the rate of Aboriginal children being removed without a focus on why that is. I think too much time has been spent looking at the pointy end of the stick and not the stick itself.
20. Some of the major concerns I have regarding the Child Protection System include:
 - a. There is a lack of Aboriginal people fostering Aboriginal children. The majority of Aboriginal children are being taken into care with non-Aboriginal families. The non-Aboriginal families don't understand the position of Aboriginal children. Even if there are cultural plans in place, they are rarely written up or monitored properly. The cultural plans are often handballed to the ACCOs to write up and (because of resourcing restraints and resultant backlogs) are often filed away rather than being fully integrated and acted on.
 - b. There is a weird antagonistic relationship between the Government departments and Aboriginal Community-Controlled Organisations (**ACCOs**), as well as between welfare and Aboriginal service providers. It is quite bully-ish. I think the relationship is antagonistic because:
 - i. The Department focuses too much on legislation in black and white terms. The Department throws around and leans on legislation without considering other cultural factors. The legislation is focused on Aboriginal services, but rarely does the Department follow that lead. There is also a real lack of consultation about legislation that affects our families and children.
 - ii. The work conditions, pay, and resources between the Department and ACCOs are not like for like. There are vast pay differences between community workers at ACCOs and those in Government. The obvious flow on effect is that ACCOs can't retain staff. They simply either burn out, or go elsewhere.
 - iii. The Department operates through only one lens of care, while ACCOs have to consider a lot more. ACCOs are required to wear so many different hats to undertake their roles and it seems like a lot of processes are dictated by the Government departments.
 - iv. There is still an attitude of authoritarianism from the Department. ACCO staff come back from meetings with the Department often very frustrated and angry. There is a real power imbalance and racism in the interactions between the Department and ACCOs. When you're having to meet at the opposite ends of the table, the power imbalance will always be there.
 - v. From the get-go, Aboriginal families often feel judged, vilified, and shamed. How could anyone have success in that kind of environment?

- vi. Child protection workers are often unskilled to deescalate a difficult situation in a culturally appropriate way. The kids are emotionally charged, and they just don't know how to handle it. In the end, it leads to a cross-over with the youth justice system.
- vii. There is also a distinct lack of reflective practice exercised by child protection workers, which is demonstrated by inaccuracies in the file notes and the culturally inappropriate interactions they have with Aboriginal families. This is critical because once their observations are written on the file, then that's the record and you can't simply change it. Similar to a medical record, it could be a misdiagnosis but cannot be easily changed, because no doctor will go against the recorded view of another. The issue therefore becomes systemic. As each social worker reviews the file (without proper reflection) their biases will remain. In my view, social workers must consider things with fresh eyes and observe exactly what is happening at that very moment. From my professional experience, I have seen workers being biased against particular families, saying things like, *"watch out for this particular mother, she gets angry."*
- viii. As some people suggest, simply putting more blackfellas into the Department (and within the system more generally) won't change it. The Department needs to act more like a community and develop a relationship with the community.
- ix. In a nutshell, my view is that the Department sees blackfellas as simply too much trouble and too complex a problem to deal with. Anyone who has worked in Aboriginal affairs knows the burnout rate is pretty high. Some become overly cynical of the work, while others take on a 'saviour' approach or have a superiority complex and believe they absolutely know what's in the best interests of Aboriginal families. These departmental workers don't realise that it's not about what is best for that family, but that it needs to be led by the Aboriginal family consistent with self-determination principles.
- c. Based on my own professional experience, the current model of care is reactive, rather than focused on prevention. By way of analogy, it's like someone is standing by a river and all these bodies keep floating down the river. The person on the riverbank is trying to pull them all out, but they can't. Lots of bodies just keep on floating by, down the river, and more and more keep coming. There are just too many for people to be able to pull out, but they do not think to go to the source of where the bodies are coming from. Instead, they're just trying to pull them out of the water. For me, that's how the system is operating at the moment.
- d. There is not enough done to properly vet non-Aboriginal families who foster Aboriginal children. These non-Aboriginal families receive a lot of money (compared to our kinship carers), and Aboriginal families have little to no input into the process. Despite receiving money for fostering Aboriginal kids, there is still a lot of racism there, particularly when the Aboriginal kids start getting older. We are cute when we're little brown kids, until we turn into teenagers and the attitude towards us changes.
- e. We need to resource and provide greater incentives for Aboriginal families to take part in the care of children. The system must accept that families are not always nuclear. The Aboriginal conception of family can extend to extended relatives and it is completely normal for extended

family to look after kids on a daily basis. Similarly, it's normal for a 12-year-old little boy to be pushing prams around while they also play footy and being entirely trusted at that age. We accept there is maturity enough for kids to participate in that way and share their capacity to raise children as part of the extended family model. There is a lot of strength in that.

- f. The system needs to be focused on self-determination. Aboriginal families need to lead the process for reunification (rather than being stigmatised and shamed). These families should be able to contribute to the process and write about their experiences to tell us what they need. The Department needs to operate more like a community, capable of taking on various points of view.

IV HEALTH AND EDUCATION

- 21. As Aboriginal people are the largest growing population in Australia (which is great), we need to continue to support our young people (the Aboriginal population is young, the median age is around 22). It is critical that support is there for young people before certain dysfunctions develop or the risk of incarceration arises. That said, many Aboriginal children are already traumatised and damaged by systemic failures from a very young age.
- 22. Some of my concerns regarding health and education include:
 - a. The education system for welfare students is culturally unsafe. The curriculum is grounded in a Eurocentric ideology and is not taught by people with knowledge or experience. I have reviewed the post-graduate diploma in community services curriculum myself and thought it was rubbish. I have already undertaken a review of it and changed about 80% of the content to make it more culturally appropriate and relevant. Educational programs and courses (especially those focused on topics affecting Aboriginal people) should fit around the students, rather than the students having to fit into the course. It is important to utilise the experience that mob already have and then shape the course to fit their skills and experience. It is important to run these courses flexibly, taking into account the realities of the students.
 - b. The impacts of medication and PTSD on the Aboriginal community. I am not a big fan of prescription medication as the only treatment. When I worked in Western Australia, there were patients in their 20s and 30s who had developed massive stomachs because of all the medication they were on since they were children. 99% of them die before they're 40. All the prescription drugs are antipsychotics, but they're not conducive to our biology. There is a range of very adverse consequences and I've seen people become catatonic.
 - c. Aboriginal children are over diagnosed with conditions such as 'borderline personality disorder' when, in reality, they are suffering from trauma. Putting kids into psych wards only adds to the level of institutionalisation. While I'm happy that chronic PTSD is finally being recognised (which a lot of mob suffer from) it is an environmental condition that has been brought on. Most people in institutions (including kids) have higher levels of stress cortisone, so PTSD will happen. In my view, there is a lot of misused power in being able to diagnose and label someone – you can't just change it once it's given.

23. All of these factors lead to increased sickness in Aboriginal people. We get sick more often because of the stress from intergenerational trauma. It is not genetic, but rather brought on by the environment we're in.

V PARLIAMENTARY TESTIMONY REGARDING ANTI-VILIFICATION

24. On 28 May 2020, I testified before the Legislative Assembly Legal and Social Issues Committee regarding the Inquiry into Anti-Vilification Protections. A copy of the transcript is available at **Annexure 1**.
25. I gave testimony regarding my own experiences and in my capacity as a Senior Practitioner with the Aboriginal Family Violence Primary Prevention Innovation Project. I wish to highlight some comments that I made before the Committee (but ask that Yoorrook have regard to the complete transcript when writing its report):
- a. A research report from VicHealth published in 2007 that interviewed 775 Indigenous Victorians about their experiences of racism found that 97 per cent had experienced racism in the last 12 months. Many of the reported experiences reflected my own personal experiences where I was spat on, almost run over by a car, refused service on numerous occasions and exposed to predatory behaviour and sexual assault due to my gender and race: Transcript, p 22.
 - b. Systemic racism and our relentless exposure to it has lifelong mental health impacts, such as anxiety disorders, depression, substance abuse, chronic PTSD, self-harm or suicide: Transcript, p 22.
 - c. In my hometown, curfews for Indigenous people were in place up until the 1940s. Blacks, as we were at times referred to by locals, were to be out of town and out of sight. Many of my elders remember well being chased by police or yelled at by the locals to get back to the mission. There is a palpable wound that festers in these places, and it is the generations who are raised here that inherit its attitudes and scars: Transcript, p 22.
26. I also made the following remarks regarding my own racial vilification experience at the local bistro (and my attempts to achieve some kind of justice) referred to earlier in my statement:
- a. My decision to pursue a case of racial vilification was not an easy choice. I live in a country town whose population is predominantly non-Indigenous. I am in a minority. But I thought of all the other Indigenous people who have suffered from racism, like my parents, sisters, brothers, uncles, aunties, cousins, nieces and nephews. When is it going to stop if it is left unchallenged, especially in places like my town? – Transcript, 23.
 - b. A local Aboriginal liaison officer recommended I speak with a senior sergeant who has close ties with the Indigenous community. Like me, he had never undertaken an application under the Act before. I provided him with my statement of the incident and CCTV footage from the bistro. I made a formal complaint to the management of the bistro and was satisfied with their prompt and sincere response. They apologised and worked collaboratively with both myself and Victoria Police in gathering information around the incident. When I discussed legal representation with the Aboriginal Legal Service I learned that very few cases have met the standards set out under this Act. To my understanding the Act currently requires the victim to

prove that racial vilification incited another person to engage in conduct that incites hatred, serious contempt for or revulsion or severe ridicule of the other person or class of persons. The word 'incite' has more weight than the act of racial vilification.

- c. This was a shock to me and a great disappointment and immense source of frustration. What is the point of a piece of legislation that is not interested in either you, the victim, or the offender but focuses only on the behaviour of bystanders? Why call it racial vilification when it is so lightly weighted? I put myself through the effort to pursue justice, to call racism to account in my small town, but like many other cases it was to no avail. I was told by the police in March 2020 that I did not meet the threshold in their opinion. I was gutted, disappointed, angry and felt betrayed.
- d. In the end, what I wanted myself really was not so much a criminal charge against him – I simply wanted an apology and wanted to share some education with the white teenager and his family. I wanted an acknowledgment that it was an inappropriate, offensive and damaging way to behave towards Aboriginal people and our community at large: Transcript, p 26.

VI POSSIBILITIES OF REFORM

27. I believe there are real possibilities for reform, for example:

a. **Health:**

- i. In Western Australia, Aboriginal healers are nominated by communities, so they are legitimately recognised and registered. It should happen here too.
- ii. There is a hospital based in Broome that has a ward only for Aboriginal inpatients. It is designed not to look like a hospital and families can also come and stay there.
- iii. There is the Vulnerable Families Project in Western Australia, which is a strength-based program that works with the entire family unit over 3, 6 and 12 months on a range of issues. The aim is to stop problems before they escalate and to treat families as a whole to keep them together. Families are given tools to deal with issues that come up in future while positively reflecting on the past (what they've done well together). We would help people by paying their rental arrears and provide financial counselling. The idea was to stop the problems before they escalated. I haven't seen programs like that here.
- iv. In NSW, there are entire Indigenous teams in the tertiary mental health space run by Aboriginal people and applied through their lens.

b. **Education:**

- i. In relation to education, educational programs and courses (especially those focused on topics affecting Aboriginal people) should fit around the students, rather than the students having to fit into the course. These courses all too often project a Eurocentric worldview.
- ii. At a secondary and primary level, more work needs to be done in relation to children's health and wellbeing. I have seen very successful programs delivered to Year 9 and 10

Aboriginal students relating to autonomy of body and around sexually appropriate behaviours to raise awareness among the young. However, these programs usually only run for a limited time and instead should be run again and again.

c. **Racial Vilification Law:**

- i. Following on from my unsatisfactory experience pursuing the racial vilification action, I would like to see police being trained around racial discrimination, around the legislation and laws that deal with it, and around the gathering of information to make sure a case can be made. If anything, police need to be trained and educated regarding the very real impacts of racial discrimination against Aboriginal people.
- ii. Law reform in this area should focus on the impact on victims of racial vilification, instead of requiring the victim to prove that racial vilification *incited* another person to engage in conduct that incited hatred. The legal focus on 'incite' ignores the real impact on victims, particularly long-term mental harm.

d. **Generally:**

- i. I think there needs to be more funding for ACCOs whose work is directed to strengthening Aboriginal families. They have the specific cultural knowledge and skills to directly assist Aboriginal families – the Department does not. ACCO workers should be paid significantly more to align with government workers doing the same role or similar work. ACCOs are currently doing a lot of work around upskilling their workers, and many of them already have academic qualifications and training which should be properly reflected in increased salaries.
- ii. Any departmental files that are reviewed by ACCOs on behalf of Aboriginal families should be made available for review, so that families can consider and comment on the accuracy of the observations and interpretations contained in the file notes. This level of oversight will improve accountability and ensure Child Protection workers exercise proper skill and judgment (and ensure a reflective practice is maintained) when recording their observations. This is not only common sense, but is reflected in the mandatory professional standards applicable to social workers as a matter of law.
- iii. Greater weight should be placed on accurately drafting, implementing, and monitoring cultural support plans. The drafting process should be undertaken in collaboration with the families and the principal worker so that clear goals and context are established. For example, simply suggesting to buy Aboriginal books and toys is not sufficient.
- iv. In terms of investing in families, Aboriginal families should be invited to invest in this process themselves and not to be dragged into it. Any support program should be family led. It needs to be broader than just dealing with social wellbeing issues and instead must adopt intersectionality principles. There will always be challenges, but it's about learning and having the tools to deal with them. As part of this process, I would like to see appropriate funding and financial support for family and kin taking on fostering and

family responsibilities. This would encourage a greater investment in connection to family and culture.

- v. Based on my professional experience, there is no one-size-fits-all program. Responses need to be informed by culturally relevant research on the experiences, needs and nuances of that cultural group. You can't simply walk into someone else's cultural experiences and make meaningful change. Aboriginal families would be greatly assisted by having access to an advocate – one person – who could assist them with banking, housing or with any interactions with the criminal justice system. That way, the family won't have to deal constantly deal with different people within the system. Instead, they have a person who walks beside them for a full 12 months and knows the family and can address their stresses and issues – focussing on strengths.
- vi. Indigenous people need to be empowered and given the opportunity to lead their own research and develop their own solutions. From my perspective, some of the most successful programs are the ones that are led by the communities. For example, there is an Aboriginal men's group in Portland run by a remarkable Aboriginal man who walks his own talk and leads by example. He's a proud Gunditjmara man and does not judge the men who attend his sessions. He sees their humanity and provides a space for the men to talk openly and candidly about their violence. He provides an opportunity for them to be heard and not shunned because of their past experiences and behaviour (e.g. drug use). In the end, many of them were frightened before attending the group and just needed to be listened to. A particular focus on Aboriginal men's groups and support programs (with self-determination as its focus) is critical – not just for women and children.
- vii. I am part of a photographic work by artist David Jones on the Stolen Generations. I have included a photo of me taken by Mr Jones, which is available at **Annexure 5**.

28. Fundamentally, any recommendations for reform need to involve strength-based, lateral thinking. In my view, we must steer away from the linear approach that is always taken and stop relying on traditionally white ways of thinking about solutions.

Documents annexed to outline:

Annexure 1: Transcript of Testimony of Aunty Charmaine Clarke before the Inquiry into Anti-Vilification Protections, dated 28 May 2020

Annexure 2: Photo of Aunty Charmaine Clarke as a child with her siblings at St Joseph's Boys' Home in Ballarat (see below)

Annexure 3: IndigenousX Article, *"I've stood up against racists most of my life"*, December 2019

Annexure 4: IndigenousX Article: *"Media misses the point of Inquiry into anti-vilification protections"*, March 2021

Annexure 5: Photo of Aunty Charmaine Clarke (taken by David Jones) (see below)



Annexure 2: Photo of Aunty Charmaine Clarke as a child with her siblings at St Joseph's Boys' Home in Ballarat.



Annexure 5: Photo of Aunty Charmaine Clarke taken by David Jones, as part of a photographic work on the Stolen Generations.