



TRANSCRIPT OF DAY 4 – PUBLIC HEARING

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MS SUE-ANNE HUNTER, Commissioner
DISTINGUISHED PROFESSOR MAGGIE WALTER, Commissioner
PROFESSOR THE HON KEVIN BELL AM KC, Commissioner

THURSDAY, 8 DECEMBER 2022 AT 10.02 AM (AEST)

DAY 4

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Yoorrook Justice Commission


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CHAIR: Good morning, welcome, Charmaine. Welcome to this first week of the two weeks of public hearings on the priority areas of child protection and criminal justice. Before we start today's proceedings, I would like to invite Commissioner Hunter to do the Welcome to Country.

COMMISSIONER HUNTER: Thank you, Chair. I acknowledge that we are on the land of the Wurundjeri lands and pay our respects to our ancestors and Elders, past and present. I acknowledge all of those that come before us so we have a voice here today. May Bunjil watch over us as we conduct Aboriginal business. Wominjeka.

CHAIR: Thank you, Commissioner Hunter. Counsel, appearances, please.

MR McAVOY: Thank you, Chair. I can indicate that the first witness this morning is Aunty Charmaine Clarke, then followed by evidence from Karinda Taylor and Dr Jacyntha Krakouer, followed this afternoon by evidence from Ian Hamm. I propose now to call Aunty Charmaine Clarke who is on the screen. Aunty Charmaine, could you just tell the Commission your full name, please?

AUNTY CHARMAINE CLARKE: Charmaine Clarke.

MR McAVOY: Do you undertake to tell the truth in relation to the evidence that you are about to give to this Commission?

AUNTY CHARMAINE CLARKE: I do.

<AUNTY CHARMAINE CLARKE, UNDERTAKING

MR McAVOY: There is a document headed '*Outline of Evidence of Aunty Charmaine Clarke*' dated 7 December 2022; have you seen that document?

AUNTY CHARMAINE CLARKE: I have.

MR McAVOY: You have read through it.

AUNTY CHARMAINE CLARKE: I have.

MR McAVOY: To the best of your knowledge that document is true and correct?

AUNTY CHARMAINE CLARKE: It is.

MR McAVOY: I will tender that outline of evidence at the completion of this witness's oral evidence. Aunty Charmaine, you are well known in Victoria but I would ask you if you could introduce yourself to the Commissioners for the purpose of the Commission.

AUNTY CHARMAINE CLARKE: Do you want me to start reading my evidence?

MR McAVOY: No. I'd just like you to introduce yourself.

50

AUNTY CHARMAINE CLARKE: My name's Charmaine Clarke, I'm a 55 year old Gunditjmara woman, I'm turning 56 on the 28th of this month. I'm coming to you from Warrnambool on Gunditjmara Country. I work as a researcher in both family violence and mental health, for both Federation University and Monash University and for various community organisations. I have a passion for working with my mob directly around our healing practices and I also am a representative for the South-West on the First Peoples Assembly and also the co-chair of the Interim Elders Voice with the First Peoples Assembly, along with Uncle Andrew Gardiner.

10 MR McAVOY: It's correct that you're a Senior Practitioner at the Aboriginal Family Violence and Primary Prevention Innovation Project?

AUNTY CHARMAINE CLARKE: ... powerful stories and experiences around family violence. It's a report that I hope will lead to more programs delivered in the area, and also around a number of issues that community wanted raised in that particular field. And importantly it's about highlighting and elevating their voices around family violence. Aboriginal communities are more aware, they want to talk about family violence, they are not shying away from it, and they want to actually take the lead on a lot of programs and delivery of programs around that space.

20 MR McAVOY: Thank you. I just wanted to ask about your academic experience.

AUNTY CHARMAINE CLARKE: I'm a bit of a mature-aged student. I left school when I was 16 to start work as any young kid gets a bit eager to do so I went to uni as a mature-aged student and I did a Bachelor of Health Science specialising in mental health - Aboriginal mental health and that was with Charles Sturt University in Wagga Wagga.

MR McAVOY: Thank you. You've also held positions in the Department of Family and Community Services in relation to regional family violence?

30 AUNTY CHARMAINE CLARKE: Yes. I was the first regional family violence coordinator for the Grampians region when the program was rolled out, gosh, 20 years ago. I have been around for a while and I have worn quite a few hats. My CV is pretty long.

35 MR McAVOY: Yes (indistinct) Aboriginal Liaison Officer at the Magistrates' Court?

AUNTY CHARMAINE CLARKE: Yes I was actually Aboriginal Liaison Officer for all the Magistrates' Courts across Victoria but I was based at the Magistrates' Court there in Melbourne. I also worked at County Court and Children's Courts as well, as the ALO for both of those.

MR McAVOY: You have been at the (indistinct) racial vilification, and the effects of that upon Aboriginal people?

45 AUNTY CHARMAINE CLARKE: (Indistinct) Victorian Parliament, they asked for participants. So with Aboriginal Legal Aid and Vic Legal Aid I was the representative, representing the State, actually, because I had a case that I tried to pursue around racial vilification here in Melbourne. I did it publicly, tried to bring it out. I have featured in a couple of articles here locally in the local newspaper, the Standard. It showed me all the

challenges, and failures, I think, of that - the current legislation at the time. So I gave my evidence as part of their inquiry.

5 MR McAVOY: And that evidence in your outline, you say that you are passionate about creating positive change. Just for the Commission's benefit, what are you talking about when you are talking about positive alternative change? (Indistinct)

10 AUNTY CHARMAINE CLARKE: I want to really deliver self-determination for us as Aboriginal people. You can do it in various ways, particularly with my role at the Assembly, and fashioning the framework for a Treaty process - I have just got to consent to recording. There we go - so I have been an advocate around reconciliation. I give talks here. I have done smoking ceremonies and Welcome ceremonies here in the community. I walk proudly around with my Treaty T-shirt on. I get quite a few looks. I get quite a few people wanting to - prompting conversation. I want to reach out across the gap, so to speak, with the general
15 community.

I've also been an artist. I had an art exhibition here, looking at the history, particularly of our massacres. I did an animation piece and also did a spoken words piece as well and then a healing piece. That was up for about six weeks and had a good attendance from the local
20 community, and it also some interesting reflections by non-Aboriginal people when they came to see that exhibition. I find, as many ways as I can and many pathways as I can, to try to engage in positive interactions, challenge the status quo and also strive for self-determination across all sectors, particularly my research work.

25 I really push in my recommendations that we have the solutions - the Aboriginal people have the solutions, that communities do, around those issues. All issues. The governments need to actually cut those little purse strings around our funding, and let us get on with the work.

30 MR McAVOY: Self-determination, I take it from your answer to the question, is it your view that self-determination is enhanced or delivered by the Treaty process?

AUNTY CHARMAINE CLARKE: It underpins the entire Treaty process and its frameworks, because of the United Nations, the UNDRIP is actually our foundation. The work that we are doing is built on UNDRIP, which is self-determination.
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MR McAVOY: Thank you. I'll come back to some of your recommendations regarding the matters under consideration by the Commission at the moment a bit later. You have spoken in your outline in some detail about your life experience as a Stolen Generation survivor. Would you like to speak to the Commissioners now about that part of your life?
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AUNTY CHARMAINE CLARKE: Yes please, and there's also a photo I want shown.

MR McAVOY: Yes. I understood that you'd like to have that photo shown at the end of your evidence but we can do it now. So it's on the screen now.
45

AUNTY CHARMAINE CLARKE: Just the photo of my siblings and I.

MR McAVOY: Yes.

50 AUNTY CHARMAINE CLARKE: You can't see it, though, unfortunately.

MR McAVOY: No. We have got the two photos side by side on the screen and the Commissioners can see that now.

5 AUNTY CHARMAINE CLARKE: The one of my siblings is the one I actually wanted shown. Thank you. That's me in the ... in a dress. I don't wear dresses any more. That's me and my siblings. We are at Joseph's Boys Home, Sebastopol, Ballarat, we were all wards of the State and that's the only photograph of us all together, the only existing photograph of us together, because we were separated, we were taken, straight away. So I was taken at two and
10 a half years of age by social workers, along with five of my siblings, four brothers and one sister. I will introduce the people in that photo though.

MR McAVOY: That would be wonderful if you could.

15 AUNTY CHARMAINE CLARKE: Yes. So from left to right, or my left to right, starting with the young fella in the shorts and the yellow top, that's the second youngest brother, his name's Peter. The next is my beautiful baby sister, Selina, she's deceased. The next, at the front, is the youngest brother, that's Laurie, he's embarrassed by this photo, by the way, and then behind him is the eldest brother, his name is Paul. He suffers from schizophrenia
20 because of extreme child abuse.

Next is me, in the dress, and then my beautiful beloved brother, George, who I was very close to. He's deceased. He died in a car accident at 18. So there is only a little handful of us left. We have already lost two of them.

25 MR McAVOY: That photo holds a great deal of emotion for you. Is there some resentment on your part that this is the only photo you have of your siblings and yourself?

30 AUNTY CHARMAINE CLARKE: (Indistinct) they don't have these sorts of memories, you know, these things that they can hold on to. I'm very lucky that I do.

MR McAVOY: Even that single photo is something that other people don't have; is that what you are saying?

35 AUNTY CHARMAINE CLARKE: Yes.

MR McAVOY: Thank you. We will tender that photo with the outline of evidence at the completion of the evidence. Now, if we can take the photo off the screen. Aunty Charmaine, did you want to talk about your removal from your family?

40 AUNTY CHARMAINE CLARKE: Yes. So I was taken at two and a half years of age. And I know this evidence because I got my file. I don't possess it anymore because I've moved so much, I'm actually applying for it again but I have read through it some years ago and some very particular things stood out to me. I was taken at two and a half, my parents Eliza
45 Elizabeth Saunders and Lawrence James Clarke, my father, were itinerant. They followed the picking seasons and they had us little ones in tow, so to speak. So they came back from the Murray picking season to Melbourne, to stay with family, extended family, immediate family at that, and had some (indistinct) of their own, of course, and the welfare did a check and they deemed us, as the reason for removing us, without informing my parents, by the way, was no

fixed abode. So I looked at it and I was like, “No fixed abode?” That’s pretty interesting sort of reason. Don’t have a fixed house is what it actually meant.

5 That’s the only reason you took us and didn’t tell my parents. We were taken without my parents’ consent. We were taken without them being informed either. Then I was taken to - we were taken to an institution there in Melbourne. There is an existing photograph of me, I have lost that as well, because, you know, you move around a lot.

10 We were transferred down to Ballarat. Once in Ballarat we were separated. Boys one station, girls in another, Laurie had not been born as yet. When he came later, when he was born, he was immediately taken. I didn’t see my brothers, I probably saw my brothers occasionally waving at each other from balconies, and various other things, but then at the age of five, at St Joseph’s, you age out, so then you get transferred to Nazareth House, which I was. So then I was further separated from my siblings. So I was aged out at five and then sent over to
15 Nazareth House where I lived without my siblings, didn’t see my siblings, didn’t see Selina, my sister, for a whole year. Didn’t see anybody for a whole year until she then turned a particular age because she’s only a year younger than me. She was transferred and that’s when I finally got to be reunited with her.

20 It wasn’t until I was about six or seven that I finally got to see my parents. I tell you, that was a remarkable day. That’s burnt into my memory, the first time I got to see my parents. The nuns came and said, “We’ve got a surprise for you”, they took myself and my sister, Selina, they took us aside, “We’ve got a surprise for you”, and we’re going, “What is it, what is it?”, and they led us down this corridor and then took us into this room and as soon as they opened
25 up the door, there were these two absolutely beautiful well dressed, beaming ear-to-ear smiles on their faces, Aboriginal people, adult people, and I knew straightaway, and I ran. I ran to them, yelling, “Mum, Dad.” We cried. I thought I was going home but I wasn’t. That was the first time we ended up, my parents then ended up negotiating with the welfare to be able to take me out and Selina out. Selina didn’t react very well to it, she’d already been taken out
30 for visits or weekends by a white family and she started going out with them and identifying with them. So when she did see our Aboriginal parents. She freaked out. She had a bit of a crisis of - it stopped making sense to her. She said know, “No. That’s not my Mum and Dad, I’ve got these other people”, where I knew, I’d been waiting for them. So I got to go and spend - it was Easter with them. It was the best, best time.

35 That was the last time I ever got to spend time with them because, as much as I held on to the dream of my parents, I ran away at 14, I have in my testimony, I ran away at 14 because I had to, because that’s when my father died, and he died, the dream of us ever getting together died with him. So I ran away. I said, “I can’t do this anymore” when the dream’s over, the
40 waiting’s over.

So there was a lot of trauma and stuff that I had to cope with during that time in care. Ironically, called “care”. Abuse from holiday parents. One particular holiday parent took - I
45 couldn’t understand why she would - she’s a Catholic woman, a Catholic family, used to come and get me and take me to Horsham, that’s where they resided and it was like I was some little pet. They showed me off to her friends, this little brown girl, little piccaninny and she made me do things that were really quite uncomfortable.

50 One particular thing I won’t forget was that, for some reason, even though I was only around seven, she made me swim. She insisted that I get my certificate of the 50-metre pool swim at

seven and she was cheering, she had all her friends who were white friends, they were all cheering me on and I'm almost drowning saying, "I don't want to do this, I don't want to do this", but I had to do it because I knew she'd be mad if I didn't, so I did it, even though I've been terrified of deep water ever since.

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She also didn't like me forming an attachment to her. She had two other daughters, they were wonderful, and her husband, he was very supportive, but I was her project. But she didn't want this project, this child, forming an attachment to her. I mean, her kids could bounce around the house, saying, "Mum this, and my mum this, and mum that", but not me. I said, "Mum" because I was slipping into the vernacular of kids, and I was forming an attachment to this woman, and she said - she then - "I'm not your mum", and then I called her mum once too often so she just grabbed me by my arm, dragged me to the bathroom, brought out a hair brush, bristle down, bare arm, and proceeded to hit me across the bare arm, drawing blood, because the bristles are breaking my skin, and then saying to me, "Repeat after me, you are not my mother." So she'd go whack, whack, whack, and I'd have to say, "You are not my mother", then she'd whack me again, "say it again", "You are not my mother", and she said, "And don't forget that." There were other abuses that she did, physical abuses, which I don't want to go into detail of but it really scared me off people, especially white people.

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20 MR McAVOY: Did you --

AUNTY CHARMAINE CLARKE: Then we were fostered out and it was Selina's - the people that Selina had been seeing for quite some time. I did not have the similar relationship - the same relationship she did. I was nine when they came and I didn't want to go but these institutions, these particular institutions, were starting to close down. So they needed to move a lot of the children on. You either went into foster care or you went into group housing. So I went into - so I went with Selina, you know, we were the package deal.

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I wasn't welcome there. I remember my first day there, getting my suitcase out, and whatever else, and being told by, I think it was their niece - this is a much more mature family, you know, so the parents were in their 50s, mid-50s or so, and they had adult children living at home, so the youngest adult child was 18. I was nine, Selina would have been about seven and a half, and they had nieces and they had people, you know, welcoming us, except me, of course.

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She came up to me and nonchalantly said, "You know this is not your house, you know we didn't want you, you know we had to take you because we want Selina and we don't want you to forget that." I said "I won't." And they didn't let me forget that the entire time I was living there. I was given separate brushes, I was treated very differently, indifferently, and I was also psychologically abused and also sexually abused in my time there.

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Whenever my parents would come and see us, it was this huge dramatic thing for these folks. We spent time with our parents, you know, half a day or so, but whenever my sister and I came back, we'd be sat at the table and interrogated by them. Interrogated about what our parents said. Everything. There were discussions about how they looked, quite disparaging, constantly disparaging of my parents and constantly disparaging Aboriginal people.

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Frankly, they were bigots and that's one of my criticisms, that they don't vet people appropriately, because I was sent to some horrible people, frankly. I'll never forget a day too - when my parents came to see us, with the 18-year-old answering the door, this hat, my

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dad is beautiful groomed, both beautifully groomed, had his hat, took it off, sort of begging and asking permission, I was standing behind her and watching, asking permission to see his children of an 18-year-old, who quite snobbishly and arrogantly said, "I'll see." And then walked off, and I saw my parents looking really ashamed. It broke my heart watching that, it really broke my heart. It didn't make me angry, it just made me broken for then.

When I reunified with them, that shame translated around the reunification. So I remember once walking down the street and Dad wanted to hold my hand, his big hand and my little hand, I still remember it, we're walking and I thought, "I'm walking with Aboriginal people, I'm with my family, wow, this is my belonging, this is me." But as soon as some white folks came towards us, I moved my hand away from that, moved away and my Dad responded and I remember him saying to me, "You don't ever have to be ashamed of yourself." He gently took my hand again and we kept walking. That's when it started for me. That's when that fight, instead of feeling ashamed I wanted to fight this.

So I - yes, when he died, that's just it, I had to run away because of unification. We were almost - by the way, we were almost there. My parents got a house in Ballarat there. They got us all out for the day, they got the boys out, they got us out and we, for one day, for one day, we were under the same roof in our home, Mum, Dad, me, my brothers, my sister, in our house. We ran around the rooms. We could say that's my bedroom, that's mine, that's mine, we started going bagsies on all the spaces. We started making plans to be a family. We almost got there. We saw the finishing line and then dad died from a heart attack at 38. You know, it fell apart, it never happened.

MR McAVOY: Aunty Charmaine, you've talked in your outline of evidence about being told that you're not like other Aboriginal people. Can you just talk about the effect of that and the circumstances of it?

AUNTY CHARMAINE CLARKE: There's always this peculiarity that you somehow have to impress non-Aboriginal people, you know, you have to win them over, so to speak, and it's about that privileging, that somehow them saying that sort of thing, they assume that they are giving you their privilege. You have to earn it, to have access to it. I've been not like other Aboriginal people. I got that a lot whenever I had any successes, had a good reasonable discussion or argument with a white person, both professionally, and both personally when we're socialising, and I always know that it's not a backhanded compliment, in a sense, it isn't. It's not really a compliment at all, really. It's a way of people saying, "I give my approval", white people saying "I give my approval."

Seeing that sort of effect on the Stolen Gen mob because, psychologically, is it, you give it either all or nothing. You either accept this privilege or you reject it. When are raised in white families, particularly, and you are raised around their environments, and such, you walking away from them to join your own family can be perceived as a rejection of them, and a rejection of that privilege. I have seen a number of Stolen Gen who had been raised, because we talked about it, feel really, really torn between not so much the loyalties, but the identity, in one sense, and sense of obligation, in a sense, because that was one of the things, the features of that sort of psychological manipulation, from my own experience, was this obligation, you know, "We're feeding you, we're housing you, you know, we give you a stable home environment."

When I ran away and was taken back to them briefly to grab what meagre stuff I would grab, they just completely - that, "You're ungrateful." They didn't swear at me but they were telling me - lining up, telling me how ungrateful I was, how rude and, you know, what they'd

5 And it's really quite hard for those who have been raised in a much more loving environment, unlike mine, you know, to connect with their Aboriginal family while being, you know, sort of torn between that and the experiences they have had and gone and had with their white family.

10 There are also some other elements to it as well and that is identity. People see existential angst and stuff like that, humans tend to have that, I mean at various ages, you know, mid-life crisis, etcetera, but for young Aboriginal kids raised in these white environments, you know, so young, there's identity issues. I went through it. Trying to learn about what is an Aboriginal in isolation through books. I used to experiment, I used to read books,
15 encyclopedias - this is before the computers and stuff and Google - so it was books, I watched documentaries, if I could get it, you know, sneak around and watch them on TV, because there wasn't the internet either for that, it was mainly books for me.

I dragged my sister out into the sandpit and we'd play Aborigines. I'd make up Aborigine
20 games. So I was always striving to stay connected to my Aboriginality but I didn't know where to put it. There was no roots because I was being upheaved and put into this weird landscape, this non-Aboriginal space. I was trying to find my way through that.

MR McAVOY: Aunty Charmaine, as a part of finding your way through that, you've sought
25 access to your files and records.

AUNTY CHARMAINE CLARKE: Yes, I did.

MR McAVOY: What can you say about obtaining access to your welfare files?
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AUNTY CHARMAINE CLARKE: Well, I did - I actually went to - it was in Ballarat. I went
and searched where the institutions were and I went back there. I was working at the Department of Human Services initially, and I went and got my files and they actually provided them quite quickly, and for free, and when I started reading through it. There were
35 some things that really struck out at me. The way the welfare officers portrayed my Mum. There were some really disparaging comments, which I thought was really - extremely offensive, and racist, really overtones of racism. The fact that they were even in the files - these are - you know, this is legal files, you know, this is supposed to be written by professionals.
40

But these were really deeply racially loaded and opinionated. These were all comments
written about my Mum, Mum's character, from an opinion piece, they called her a sly fox, "Be careful of her, she's a sly one, that one." Now, that's opinion. That's slurs and opinions. I thought, "Why would you put that in a file? Why would you write such, you know" - and
45 that's verbatim, by the way - such disparaging things? My Mum was intelligent. My Mum had the mind of a philosopher. My Mum was not a stupid person. So, yes, maybe she got the better at the times, of some of these social workers, you know, conversations, and such, but she didn't have the power to change things, they did.

If she somehow bent their ego or (indistinct) it to some extent, yes, they'd put it in their files. You could see. It was more than just reading between the lines, it was there in the lines, their opinions of her. They were personal opinions too which shouldn't have been in there.

5 MR McAVOY: How important was it for you to get access to those files in terms of understanding your own and your family's history?

AUNTY CHARMAINE CLARKE: It's my story. You got to know why. When you are a young kid, two and a half, until I was given a telegram because I was over in Adelaide at the time, when I got a telegram telling me that I was no longer a ward of the State, when I was 10 17, we had a little celebration. So from two and a half to 17, a ward of the State. But you don't get control. It's what really frustrate me is that you don't get to control your life. You don't get to say anything about what's happening to you, you have to be quiet, you've got to let people, you know – the adults take control.

15 I wanted to know why people made the decisions they did, I wanted to know what was their thinking. I wanted to know what my parents were doing. They never told me the efforts my parents were going through. What my parents were going through, the hoops, and the hoops that they had to jump through, the stress on them, when you are a child and you think your 20 parents - you don't know what your parents are doing, you can come up with all sorts of thinking around that. Talking to my siblings, before even, finally got out of the welfare groups, we all - you all had somehow formed an opinion, a sense of abandonment from Mum and Dad. Mum copped a lot. Dad had died already. So Mum copped a lot when we were at home at various times and had yarns with her. She copped a lot.

25 When I finally sat down with her and asked, "Where were you?" I heard her, she was there. She'd never left. They'd never left. They were always there. But what was between her and her kids was the welfare. They didn't convey to us the efforts they were making. So the file, to me, shed a lot of light on that. It was not just my story, it was their story too.

30 MR McAVOY: No doubt it is difficult to read the contents of those files with the bias that you've identified in the commentary. Was there any assistance to you at that time when you got access to the files to help you navigate that?

35 AUNTY CHARMAINE CLARKE: No. I didn't need outside assistance. The assistance I got, the only support I got, was my siblings, we all got our files and read them, like book club a bit like that. We read our files and we shared what we shared amongst ourselves and looked at the picture.

40 MR McAVOY: I'll just ask you: you've been a strong advocate for the Stolen Generation survivors, and spoken to many --

AUNTY CHARMAINE CLARKE: As has my brother, my brother as well, Laurie.

45 MR McAVOY: -- other survivors. How important is it, from your understanding, for Stolen Generation survivors to get appropriate access to all of their files?

AUNTY CHARMAINE CLARKE: Absolutely. Unredacted, the full. But support as well. I mean, there is - you can - you will - not "you can", but you will, it will retraumatise. But it's 50 about seeking the truth of your own life because, in there are all the decisions that affected

you, that affected your family, and the decision made by people who really didn't - they went to their own homes and their own families, and whatever else, and left - and you're the one who had to live with these decisions.

5 So it's sort of, for me - was it liberating? I wouldn't call it liberating. It's not something to celebrate or feel liberated by it. But it felt that it settled some issues, it settled some grey areas, it gave me clarity. It gave me clarity around my parents, gave me clarity around the system itself, and although there's a lot of information in there that's really uncomfortable, and unfair, or unjust, it gave me clarity around where and how those things actually came about. It's weird seeing people's opinions of you too, you know, who you're are, there are psych reports and all sorts of things and, you know, how people actually measured you.

15 MR McAVOY: Later on in your statement, at paragraph 27(d)(ii), which is on page 9, you talk about, in terms of reform, the need for departmental files to be reviewed on behalf of Aboriginal families. Can you just talk - I just want to take you to that for a second and just ask you to explain that recommendation.

20 AUNTY CHARMAINE CLARKE: I'm recommending that because I have worked - two reasons, or maybe three: number one, I saw my files, the effects it has, there is a lot of power in it, there are decisions made in those files, there's a lot of leakage of personal biases and racism of the individual person who puts the words and their opinions in those files and their decisions in those files. There's no vetting of that. There's no sort of - like I know when you work in mental health, you have a supervisor, when those words affect families and individuals, where's their way of actually looking at that and making sure it's, number one, accurate, correct, and being able to challenge it as well because there is power in that stuff. There's power in those words that are put in files. I know that first-hand.

30 There's a lot of biases that could actually then be set down and then passed on to the next worker and the next worker because when you read a file, I have worked in mental health, your clients who are long-term, there's files, right, there can be biases there that can leak into that particular material. The next person reads it, they pick up that bias immediately, unquestioned because it's unquestioned in that material, those are read in a particular way, that has clarity, professional integrity in it, etcetera.

35 So it passes on to the next worker or person who reads that file to review. They then pick up their bias as well, and, you know, when you have statements in there that, "She's cunning, she's sneaky, don't trust her", the next worker is going to read those words. And what do you think? They've already formed an opinion.

40 MR McAVOY: The practices that you saw with respect to recording details about your mother and your father, you've seen that sort of bias repeated in reporting in current day circumstances?

45 AUNTY CHARMAINE CLARKE: Yes. Mental health particularly, because that's the field I have worked for about 15 years in, both in the hospital setting, so I've worked in hospitals, mental health hospitals, and general hospitals, but in the mental health units. Also I have been a practitioner myself in mental health and also a counsellor in AOD and sexual assault. The hospitals, these are huge, large systems, is the hospital systems, I've seen when working with clients, I have briefly looked at someone's file and looked up particular things in the systems,

and they have little warnings, “Violent person”, or whoever, and I look at it and I go, “Oh, I got to make sure that this is correct”, sort of thing.

5 In general, whenever I see a client, I don’t look at their file. That’s the past stuff, I want to see you now, it’s now that’s important, and then it’s the relationship now and it’s how they are feeling now and how they are dealing with it right now. That’s the important thing and that’s the focus because I have seen a lot in reports particularly with misdiagnosis, with some clients I have worked with, I’ve gone, “How did they come up with this diagnosis, it doesn’t really match.” I have taken it to other colleagues, like another psychologist or a - yes, I even spoke to a psychiatrist about it as well, but they said, “Yes. Unfortunately, you can’t change it.” I said, “But that then follows this person around for the rest of their lives.”

10 But you can’t change it, because these are all - they don’t want to change another professional’s - or challenge another professional’s diagnosis, so the diagnosis just stays there in their files.

MR McAVOY: There’s no --

20 AUNTY CHARMAINE CLARKE: So that bias is really quite dangerous, the bias of these words, racist slurs or certain innuendos, they’re biases that actually do damage.

MR McAVOY: And there’s no capacity in the system at present for challenging those records?

25 AUNTY CHARMAINE CLARKE: No. There’s a lot of advocacy around it. But because they are legal documents you can’t go back and change them.

MR McAVOY: I might pause there, Aunty Charmaine, and ask if any of the Commissioners wish to ask any questions about that particular issue.

30 COMMISSIONER BELL: Maybe if I could just contribute something: the *Freedom of Information Act*, the Victorian legislation, as does the Federal legislation, contains provisions permitting the amendment of personal records. The Commissioner of Information has the power and application to amend personal records, and there are appeal processes in which I have been engaged. I suspect that Aunty Charmaine knows about this, and maybe it doesn’t apply, I’m not sure, but I think this needs to be noted.

40 AUNTY CHARMAINE CLARKE: Absolutely. But also what Aboriginal family knows that? How are they to know their rights to be able to do that? What I’m saying is when we do - in the practice of child protection and working with a social worker, you meet - you meet the family, you do your meetings and such. It should be there that those recordings and that should be at least accessible, if asked for, because you’re writing about individuals, you are writing about the person who is in front of you, so to speak, I’m working in mental health as a counsellor, I provide that for my clients.

45 “What are you writing about me, what are you writing about me?” Because it’s about power and the imbalance of power. Self-determination. There’s a lot of stuff written about blackfellas, a lot of stuff, I did archaeology as well, a lot of research - there’s lot of legislation across the country around Aboriginal people. We are the most legislated group in the whole country. We have stuff written about us, “about us” being the emphasis. I would like to see

while there is that freedom of information in real time in the relationship between child protection and families, be in real time more transparent, at that level.

5 COMMISSIONER HUNTER: Sorry, can I just - Aunty Charmaine, it's Sue-Anne, I'm a social worker, so I'm thinking about those - I can relate exactly to what you are saying. My thoughts go back to the professions you are talking about are actually professions that need qualifications. Should we be looking at those universities or those training and what does it entail? Do you have any suggestions around, or have you had any thoughts around that?

10 AUNTY CHARMAINE CLARKE: Actually it is in part of my testimony as well about education because with Federation University, we're doing a review right now, we did a pilot course Graduate Diploma in Community Services, unoriginal, but captures the essence of what it's about and it's tailored to Aboriginal students, a lot of mature age students actually get it from around the State. Looking at the resource material and stuff, because it was
15 borrowed from another course, and myself and my colleague, we looked at the material, and it was all Eurocentric information, it was all sourced, all the material actually came from the repeat studies, particularly philosophical processes and narratives and such and I was like, "This isn't particularly nice. I don't like this." So we threw most of it out and just rejigged it with more Indigenous course work and resource material from Indigenous academics and
20 researchers and such like that.

It also made a more cultural safer space for the students to actually learn in an environment because they need to challenge things as well, they don't need just to be a parrot, people took us through experiences and reality of their lives into the classroom and challenged some of
25 these particular things as well, which makes it a more active learning space and a lot of students enjoyed that process and the way we actually worked collaboratively together around the learning activity.

The thing about social workers is that it's really - there's a lot of theory, as such, you know, scaffolding and all those sorts of things, but if they are - because there is a lot of Indigenous
30 work out there, a lot of Indigenous research has been done. That's my favourite thing is research. So I'm getting all this material and this evidence, and such, and our voices into that arena, where they can do their studies.

35 That needs to permeate into some of these really long traditional-type degrees, like law, like social work. Social work is a very powerful degree. It's a powerful association. They have a lot of scope politically and, fundamentally, they are necessary, I mean, I don't - I respect social workers, and I have quite a few friends who are Aboriginal who are social workers as well, Commissioner, and they find it challenging to do the degree, not just academically but
40 philosophically and culturally doing the degree. That's also with doing a psychology degree, a lot of it is Eurocentric based, a lot of the similar work is based on findings from wide perspectives.

45 MR McAVOY: Aunty Charmaine, can I ask whether the difficulties that you've just referred to in the study also extend then into the workplace for Aboriginal people in social work and psychology to your observation?

AUNTY CHARMAINE CLARKE: Yes. In my experience, you know, working in - being the only Aboriginal person in a mental health unit, on staff, as part of the staff, and you've
50 got a really stressed Aboriginal client, eyes are darting around and they look straight at you

and they lock on you and they are pleading to help them. And you have got this system and this hierarchy. It's challenging but I do step in and I do advocate, even though sometimes it might not seem the right thing to do by my colleagues, and they are not used to that either.

5 I mean, when I worked over in WA, it was the first time that they were embedding Aboriginal mental health workers in the health system. So it was a bit of a pilot. It's a pilot, really, my job at Narrogin was the first time it was being done. So we are all learning.

10 COMMISSIONER WALTER: Can I ask a question: I just wanted to follow on from Commissioner Hunter's question. I'm a qualified social worker as well. As you would know, the Australian Association of Social Workers is required to approve courses in universities. Universities cannot run their training without this approval. So what do you think is their responsibility there to actually make sure that these courses are turning out workers, social workers, who can provide culturally safe, culturally humble workers to interact safely with
15 Aboriginal clients?

AUNTY CHARMAINE CLARKE: A friend of mine is reviewing it. University of WA , she's reviewing their social worker course, she's a social worker herself, for 35 years, but works - and has worked for years in the field over there in Western Australia. She's doing a
20 full review. She is a pretty staunch woman herself. Her surname is a Collard and that's, I think, is a great step because a lot of this stuff is a little bit creaky, a bit old. It's not - as much as we understand intersectionality, we have got to go a lot more further than just the theory of intersectionality as well.

25 She allows Aboriginal practitioners to come in and actually rewrite the curriculum from an Indigenous standpoint of view. So I would suggest reviews, won't change everything just like that but it's a good start. It's a great experience. I have had at Federation Uni, you know, recently, this year.

30 COMMISSIONER HUNTER: I just wanted to go back to Commissioner Bell's point about the Privacy Act that we spoke about. I'm thinking about Stolen Gens and the experiences - I'm thinking about, I'm not, but given the experiences you just told us, Aunty Charmaine. So, from your experience, and trying to get things changed while you're processing it, is it accessible? Would you - well, not - in your experience of other Stolen
35 Generation people, is it accessible to get things changed about your mother or your father or yourself; is that another traumatising process?

AUNTY CHARMAINE CLARKE: It is. It is. But you've got - because something's traumatising doesn't mean you don't do it.
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COMMISSIONER HUNTER: But you're a strong woman and I'm thinking about --

AUNTY CHARMAINE CLARKE: I understand that, but it doesn't mean you don't do it. You find ways to actually make it safer for the person. For me I had to, because I had to
45 understand what was going on. I wanted to be able to tell - to have the full story.

COMMISSIONER HUNTER: Aunty Charmaine, I was talking about the changing of documents. So case notes, for example, and how accessible that would be to - I'm thinking about the Act. It's obviously great if you can do it but, as an Aboriginal person who has been
50 through what you've been through, is it accessible to do --

AUNTY CHARMAINE CLARKE: Well, it's two things to this - Commissioner, sorry, to respond to it quickly. One is past tense. I can't unwrite what was written. It's a process of - number one, it's fostering a better relationship between Aboriginal families and the welfare system itself. The practitioners need to foster a much more better relationship. This can be a part of that, and that is about being transparent as well.

It's about developing a co-authorship of what the work's going to be. I have worked with - similar to here in Victoria, but over there in Narrogin, they're a little town, a population of 600 Aboriginal mob of 2000, and a vulnerable families program, when you are co author, they set the goals, and such. So it's about you need to shift the relationship from this leaning too hard into this legislation and authority towards actually more around, like, community justice type - community sort of relationship where actually you are working side by side with each other, than one having more power and one being with less power and privilege.

That sort of transparency stuff can also correlate with - you know, so can I get - you know, whenever I do counselling, I always, you know, you say back to the person, so you actually have a clear understanding, you say back what they said, "So as I hear you, did you say blah, blah, blah; is that correct?" And they either confirm or say it's not. So it's about having absolute clarity as well, better communication and understanding, and also having more collaboration and advocate than this sort of, you know me against starts. It's about let's shorten that gap that.

COMMISSIONER HUNTER: Thank you.

MR McAVOY: Thank you, Aunty Charmaine, just following on from that, do you have any view as to where the current state of the relationship has originated from with the Department, I think you said, looking down on the families?

AUNTY CHARMAINE CLARKE: The workers in departments, bureaucrats, there's a lot of power, and it's not just individual, it's systemic power. I have been a public servant for - with both State and Federal, so I know what it's like to be a public servant and the power that comes with that. We are human, we are all human, but it does, whether you like it or not, bring you - you have privileges, and you walk into a room, you walk into a meeting, you're walking in with your - you know, with your title, an entire institution that you work for behind you, and that is so obvious, especially to families who are called to these meetings, and they know that what's behind them, they are just this family, and here comes the Department.

MR McAVOY: In your statement you made a number of observations about your concerns about the child protection system. I just want to take you to some of those, if that's okay.

AUNTY CHARMAINE CLARKE: Okay. Whereabouts was that?

MR McAVOY: Paragraph 19.

AUNTY CHARMAINE CLARKE: Key concerns about the child protection system, yes.

MR McAVOY: At paragraph 20 you list out some of the particular concerns. The first of those is the lack of Aboriginal families and children being fostered into non- Aboriginal families. Can you just explain your concerns around that issue?

5 AUNTY CHARMAINE CLARKE: I know that there is a real lack of Aboriginal families. I mean, there's huge callouts constantly out there by ACCOs and stuff to try to encourage families to be carers and such, when I was in Darwin I was a carer, I loved it. It's really rewarding. But we also went through the training, and stuff, which was interesting. I think our training for carers also needs to be reviewed as well or at least have a lot more of a cultural lens put over it as well. There are roles actually being advertised now for people to - Aboriginal practitioners to look at that as well.

10 You need to provide greater incentive for mob to participate, and to put their hand up, to be carers and foster carers as well. A lot of families, statistically, we know the facts are out there, families are struggling, they are impoverished, they have welfare issues as well, and poverty comes into it as well. It's a big ask. So I don't think it's because they don't want to, I think it's more around what capacity there is, capacity for communities to do that, to be able to be a part of the - you know, participate more in putting their hands up to be carers and foster carers. I don't think there's a lack of wanting to. I think it's just mainly around capacity.

15 MR McAVOY: Thank you. The next point I want to take you to is an observation you make about antagonism between government departments and Aboriginal community controlled organisations, and you've said that there's --

25 AUNTY CHARMAINE CLARKE: Disparities.

MR McAVOY: Disparities. And you've suggested there is a bullying-type relationship.

30 AUNTY CHARMAINE CLARKE: That can come from, as I said, the systemic nature of power. You know, I have got the whole government behind me and to be able to leverage your way through a particular, your way of doing it in meetings, and such that leave even the advocate feeling somewhat bullied. Also, you know, when it comes to the pointy end of certain engagements around child protection issues with families, it's the one with the most weight behind them that gets their way, which shouldn't be the approach or the response to the pointy end because then you are just pushing families. They are not with you any more, you are just shoving them along, you are shoving them and you also, again, are re-traumatising families, we tend to think we know what's best because you say, "I did it with that family, it worked with that family, it should work with that family, this is my way of doing things, this one size fits everybody". And it doesn't. Every family is unique. Also, we are not focusing on people's strengths as well in giving people appropriate time.

35 There's always someone's timeline and it's never really the real timeline but it's somebody's, and usually with departments and stuff, they need to close off cases, they need to have it done in a particular timeline. That, as well, comes into the mix. There's all these little things that come in that builds up the social worker interactions with the family. It's really loaded.

40 MR McAVOY: You've mentioned that there is an overreliance of the legalities or formalities.

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AUNTY CHARMAINE CLARKE: That's around who's going to do what, and such like that, and this is from anecdotal talk with those who work in that space here, and also observing their frustrations when they come back from meetings with department.

5 MR McAVOY: But there's another observation you made in relation to Aboriginal community controlled organisation staff not being paid on par with government officers.

10 AUNTY CHARMAINE CLARKE: Well they're not, no. The ACCOs do an extraordinary job with half the budget basically. Yet they're the ones on the ground, doing it every day. I know there's a lot of upskilling, a lot of ACCOs have gone through that their staff actually have done courses, etcetera, which is fantastic. So it's not as if academically, you know, because that was the excuse before, not the excuse, but that was some of the reasons why people were not necessarily paid appropriately, what I feel was appropriate. There's a lot of skills there and experience and this is their community, these are their extended families, 15 some of them - or most of us, actually, we are working with our own people. So we know these things, we know - we are intimately - there is a much more intimate knowledge around the issues for the families and we do a lot of work that isn't necessary on paper either. They do a whole range of other things for family that's not just the title. The work is everything else that you don't get paid for either.

20 The fact that governments, you know - if you wrote a table, a social worker is probably on 90,000 to \$100,000, or whatever, and there's the equivalent who is on 54 or 45, or whatever, you know, it's really unfair and it's actually, I think, really - it makes it - it's unfair in a lot of ways. Number one, it really doesn't respect the work that they do. Number two, we're doing 25 some - they do a lot more load of other - all the other stuff that these other professionals don't do.

30 Also there's a lot of burnout in that space for our workers and it's hard to retain staff, or even encourage young people to get in, you know, come and work for us in this field. So to attract and retain is absolutely difficult.

MR McAVOY: And that's because once an ACCO has trained up somebody, they are then poached by government?

35 AUNTY CHARMAINE CLARKE: It might be. Not necessarily just poached, either, families want to, you get a career and stuff like that, you're passionate about it, you want to earn more money and you have the opportunity to do so now, yes, you have every right to pursue that.

40 COMMISSIONER HUNTER: Sorry, Counsel, the Chair wanted to ask a question.

CHAIR: I just wanted to ask a question about review, if I may, Charmaine, and thank you very much for your testimony, it's very moving and it's very hard to hear your personal experience in the first person like this.

45 AUNTY CHARMAINE CLARKE: Thanks, Commissioner.

50 CHAIR: I just want to go to the point about review. You've talked about an individual social worker doing review. You've talked about different kinds of things in relation to the pay, the status, the authority, my question goes to: are we, through these existing structures,

collaborating with the status quo in that people are used within these organisations to participate in some agreement, you know, whether it's through interdepartmental committees or through Aboriginal frameworks to the government, do we need to change that kind of concept of review, consultation, agreement and then a new program?

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AUNTY CHARMAINE CLARKE: I actually like where you're going, Commissioner. I completely - I actually agree. I think let's seek a bit more autonomy in that space and actually have our own authority as well in that space but autonomous. And one that's actually more grounded in Indigenous practices of healing and various other things. They do actually have - in the mental health space, they have really, interestingly in Western Australia, integrated - the existing European style practice around mental health but they have brought in, quite strongly, and put it in - put legislation around it, policy around it as well, an Indigenous way of seeing mental health and practices around that, as well, in the Department of Health up in the Kimberley there, where they actually have an actual mental health ward, if you want to call it that. It has been completely redesigned. It doesn't look like a mental health ward. It actually looks like how one would be in someone's home.

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So it's more about having an environment that's not too foreign, and it's for the Aboriginal mob to reside in, it's only staffed by Aboriginal staff, who are bilingual, etcetera, and also have a cultural understanding around mental health and the way it's perceived and perceived by the Indigenous people themselves. So they have integrated it. It's a hospital but it's really almost like bringing the outside in bringing the culture very much in that particular facility, and embedding it there, and that that embedding is not just what the place look like, but staffing, it's policies and it is practices as well. We are wanting to look at maybe some similar models, that sort of idea, in the welfare space as well, bringing more Indigenous - I mean, we are always trying to get there, but we are still coming through that same door.

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We are going through that same door and it's not that door - we should close that door nice and quietly and create another door for ourselves, one that comes through our culture first.

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CHAIR: Absolutely. Thank you very much.

MR McAVOY: Just on the issue of practice, Aunty Charmaine, in your statement you talk about there being an obvious lack of reflective practice. Can you just explain what you mean by that?

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AUNTY CHARMAINE CLARKE: My bias there - no, it's actually my pet hate is when people don't actually do that. It's in reflection to some of these notes I have seen, case notes written, and interactions I've seen, and even just at my file, too, we all know a few of the Commissioners are practitioners themselves, we know exactly when we say reflective practice what we mean. Biases, all of them, we all have them whether we want to admit to them or not, and it is something that should be constantly done on a regular basis. Once you put something in writing, in a file, you can't just go back and change it because that's illegal. And it's permanent then.

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So some may feel - when you feel frustrated, I don't think there's enough of that reflective practice by practitioners - and I'm talking about non-Indigenous practitioners when dealing with Aboriginal families - and they think they have a little control here, because they need to hold onto that control for some reason. They have authority still. If they are starting to have those reactions, they need to do a lot more reflective practice and I think that should be part

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of their - that should be something that although we are told that's what we should do, it should be something that should be a constant thing. It should be part of their supervision, it should be part of our education and it should also be part of, I think, a review. If you are working with an Aboriginal family, I think the practitioner needs to also undergo cultural review on a regular basis.

MR McAVOY: Thank you. I might ask you to turn to paragraph 20(b), and then subparagraph (ix) on page 5 of your statement. It starts with the words, "In a nutshell"; could you just read that paragraph for us?

AUNTY CHARMAINE CLARKE: Verbatim, okay:

"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 and 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."

MR McAVOY: In light of the question asked by Chair Bourke about having an Aboriginal system or door to enter into, would you see that many of those complaints or observations about the failings of the system could be alleviated by that Aboriginal door?

AUNTY CHARMAINE CLARKE: Yes. Also checks and balances should be also independent and Aboriginal. This is only going to be applying to when they are working with Aboriginal families. It's not that going to impact anywhere else, but when they are working with Aboriginal families, when they are going through a particular process, it has to be different, there has to be checks and balances and the power with them is shared and the responsibility is shared as well, with the families at the centre of it and they are the only concern and they are the most important people in the room, not the social worker. The family.

MR McAVOY: Thank you.

AUNTY CHARMAINE CLARKE: And the child.

MR McAVOY: I just want to take you to some of your comments around health and education. You've already given some evidence in relation to the training of welfare students. I just want to ask your observation in relation to the medication of Aboriginal people.

AUNTY CHARMAINE CLARKE: This is from my experience and observations around working in mental health over in Western Australia in the hospital system with my colleagues. I was based at Graylands, which is - it's aptly named Graylands - I think the last existing mental health hospital in Australia. It is going to be closed at some stage. Beautiful grounds, but horrible history, horrible history. It even has a cemetery there and there are quite a lot of Aboriginal people buried there, who were patients, because that's where they died. They were incarcerated. They lived there, medicated to the eyeballs and died there, so they were buried there as well.

Now, these are mob that come from not just urban Perth, but they come from all over. These people come from remote semi traditional communities. English is not their first language. The observations I made in regards to the medication is that - and working and having spoken to other colleagues around this, because it's observed by them as well, is that there is a particular sensitivity to medications, and because they already have existing chronic conditions and diseases, when I was at Graylands there, one of my colleagues pointed out, "Do you see that there?" I said, "Yes." There's mob walking around with the most distended, huge stomach, like they are fully pregnant, male and female, like they are 10 months pregnant, they said, "That's the medication doing that to them". And they have all got diabetes. They all have diabetes because of medication. They are only in their 20s or 30s and they won't live long. They won't live until 40.

It's not just - it's usually the psychotropic drugs. I had a client when I was in Narrogin, her first ever, a beautiful mum, worked at Safeway - worked in the supermarket, really happy human being and then, unfortunately, she did, just recreationally, smoked some dope but it was laced with a particular psycho - a particular drug, caused psychosis, she had a psychotic break, and usually dissipates when the medication leaves the system but, unfortunately, for her it didn't. It changed her brain and left the door open for psychosis. So it became a permanent feature.

I was the one who had to deliver the news to her as well because, you know, she would stabilise, we'd reduce the medication and then symptoms should have - you know, she should have gone back to normal, and I was her worker, and when I saw her just before Christmas, I took her out for lunch and I had to tell her that it's permanent, that she actually is schizophrenic now, and will be for the rest of her life, and we'll have to find ways to manage this condition.

So they put her on medication and she became almost catatonic. It caused permanent damage that way as well. She ended up having this droop, half her face looked like - it looked like she had a stroke. She started to lose control of her face, she became disorientated, etcetera, and just having blackouts. We quickly got her off of it, but it was too late. Some of those features, the side effects, become permanent, those adverse side effects. I said where are these drugs coming from and who are they testing them on, because they are really doing a lot of damage to Aboriginal people and patients. They either come from Europe or they come from Asia, and they're not tested on Aboriginal people at all.

So these are quite dangerous medications and they do cause exceptional harm, and we have documented, researched sensitivity, to a whole range of mental health applications, and it doesn't still change the way they are dispensed. So we are vulnerable in that sense. I know a lot of advocates have been trying to find other ways to actually change things because we are - you know, there's a lot of vulnerability around that and it's very concerning because you can - like, one of my patients - we can cause harm, permanent harm.

MR McAVOY: Are you aware of children in the child protection system being medicated to help with behavioural --

AUNTY CHARMAINE CLARKE: I was working with children over in WA as well. I have worked with children here and as a youth counsellor, the first ever we had, drug and alcohol rehab out at Hastings there. They tend not to give a diagnosis to a child. Unfortunately, they do give certain diagnoses of ADHD, certain disorders, we were throwing too much

medication at everything. As you can tell, even though I love the profession, there are things about the profession that I think need to dramatically change - this is my opinion, by the way, shared by others but they can speak for themselves - just medicating what can actually be, and more than likely is, trauma. Trauma. Human behaviour to trauma can come in all sorts of forms in response to trauma.

And for men, the majority of men, I know this because I have worked in all the spaces, including family violence, mental health, it can be violence. Anger. For young people and women it can be violence but it can also be shutting down, self-harm, and a lot of young people self-harm. Western Australia as a State has one of the highest youth suicide rates in the world amongst Aboriginal children. Guess who is also - it used to be young men, actually women are now starting to, statistically, their rates are going higher and higher, and it's trauma. So we medicate the crap out of kids and we don't deal with the trauma. That's what medication does. It just buffers but it doesn't deal with the trauma. I am a big fan of narrative therapies. Things that are around nurturing and talking and healing through our oral practices of yarning and sitting with each other rather than popping pills into kids' mouths.

MR McAVOY: I just want to take you now to some of the possibilities for reform that you have mentioned in your statement. One that comes up early is the use of Aboriginal healers.

AUNTY CHARMAINE CLARKE: I love that. I want it here in Victoria. I want it across the country, yeah, I have seen it in action, and it works. It's probably been around, gosh, for about six years, six/seven years. It's in Western Australia. The Department of Health, they're registered under Medicare as well, you can claim Medicare, and seeing an Aboriginal healer. And they're nominated, it's a process where the community nominates their traditional healers, they are registered by the Department, and registered with Medicare, and they have their own, you know, number, etcetera, and the Department, you know, we ring them and they're listed as part of the Allied Health team. They can come into the hospitals and do herbs and whatever their practice is, that are part of their cultural practices, around a distressed patient who is distressed by a particular - I'll walk you through a particular patient. It wasn't my patient, but a patient that I've heard of. It was relayed to me by a colleague.

A young fella really stressed by the dingo that lived in his belly and was howling and howling and howling, an Aboriginal fella out in the desert, howling and howling, and he would be awake, distressing him, so he came in, and usually one would say that's psychosis. That's a feature of it, but it has a really strong health component to it as well. So they brought in this healer, and the healer, while not removing the dingo, calmed the dingo. And so the young fella didn't hear the dingo any more. If we had not had that sort of capacity to see it in a different framing, in a different framework. He would have been on psychotropic drugs, ending up with diabetes and probably dead by 40.

MR McAVOY: I want to also ask you about the recommendations you've given for much greater focus on cultural plans, including the monitoring of cultural plans; can you just speak about that?

AUNTY CHARMAINE CLARKE: Yeah we know about the cultural plans, the cultural plans are part of when a child is placed with a non-Aboriginal carer, the cultural plans have to be done. They are not monitored enough. Not all cultural plans are completed. Plus also it's a burden for them to be written and researched, etcetera, it falls on the ACCOs, on to the worker. Not necessarily given oversight to be implemented. So all that work can be on one

hand can really be arduous to actually put together, and it's a burden on an already under resourced, underpaid and overworked worker and they're pretty quick on the timelines as well set by the worker but by the departments (indistinct) we haven't got the cultural plan. Sometimes it's the last thing. So this is not all of it, but these are some of the faults that I have been told about.

And they are not actually supervised as to how they are being implemented by the carer as well. So that needs to be reviewed as well. It's a whole bunch of things. ACCO workers they need to actually be resourced, better paid. Also the - the Department needs to actually prioritise the actual cultural plan, it actually needs to be collaborated between the two services as well, with the family at the centre, the actual family need to co-write the cultural plan.

MR McAVOY: You made some comment about Aboriginal research, researchers and Aboriginal people being involved in the research and leading the research, and being involved in the development of the solutions and models that can be used. Is there anything more that you'd like to say on that point?

AUNTY CHARMAINE CLARKE: That's my big goal. I'm in research right now. I love research, and there's not enough. There's also not enough - most research goes through universities, universities. It doesn't have to be universities that do research. Communities can do their own research and should be doing their own research. I want to set up our own research institute down here, research ourselves, research issues that we prioritise. It's actually stuff that's actually localised, the solutions that are more localised, and that are actually coming from our souls. So we can come up with our own models and own ways of doing things and give evidence for that, get funding for it because there's power in that. And it also promotes that self-determination as well.

Because, yes, there's issues and there's problems, but guess who has the solutions? We do. We do. So, you know, with Dhelk Dja, they get funded around \$100,000 - each region gets funded around \$100,000 to disburse to the community for the community to access for programs, specific programs, and highlighted around family violence, or healing, there may be another area. But this is really small funding, short-term funding, to fill a little gap for a little while, instead of change things. Changing the entire generation. It looks look good, like we are doing something. But are we really doing something. I have told them they need to fund Dhelk Dja five, six times more than that each region and have funding that lasts three years for a project. You cannot map change. You have a project, you have a beginning, middle and end and you are trying to manage change, but it is too short.

We have really got to invest in spaces, of community involvement and self-determination. We need to actually invest in it long-term. Minimum three years. Minimum should be three years. Not your maximum, but your minimum, up to five years. You can even ask for 10 years funding, if you really want to see some change. That's where we need to think differently. Because communities can do this, we just need the resources to do it and the commitment from the government to let us do it our way.

MR McAVOY: Thank you. You've commented on a few other areas of possible reform in your statement, but one I want to draw your attention to is slightly removed from the child protection area and it's --

COMMISSIONER BELL: Just one second, if you wouldn't mind.

CHAIR: I'm just wondering with about whether Charmaine needs a break at all?

5 AUNTY CHARMAINE CLARKE: No, I am all right.

MR McAVOY: Aunty Charmaine, I have --

AUNTY CHARMAINE CLARKE: I want to get this over, to be honest.

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MR McAVOY: I have probably got five minutes left, if you are okay to hang on.

AUNTY CHARMAINE CLARKE: Absolutely, yes.

15 MR McAVOY: We have gone a bit over time, but.

AUNTY CHARMAINE CLARKE: Oh have we, I'm sorry.

CHAIR: Not at all.

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MR McAVOY: It's perfectly okay. We are not impacting any other evidence, and your evidence is fantastic, so I'm happy to --

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AUNTY CHARMAINE CLARKE: I would like to have my closing remark, and that photo, if you don't mind.

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MR McAVOY: What I wanted to give you the opportunity just to speak about, because it does cover - you do cover it in some detail in your outline of evidence, and I haven't asked you anything about it yet, and that is the nature of racial vilification and its impact on the community and what you think needs to happen in relation to that area of the law.

AUNTY CHARMAINE CLARKE: Okay. I will just look back to which part - which part of my testimony is it?

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MR McAVOY: You will recall that you gave evidence to a Parliamentary Committee --

AUNTY CHARMAINE CLARKE: Yes, I did.

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MR McAVOY: -- and that Hansard is attached to the statement, the transcript from that evidence, and you talk about your own experience pursuing a racial vilification case and that's at paragraphs 24 onwards.

AUNTY CHARMAINE CLARKE: Yes.

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MR McAVOY: We have got the transcript from your parliamentary evidence annexed to your statement. We have also got the articles that you've written about racial vilification, and they will go into the evidence. I just wanted to give you the chance to say anything else you wanted to say on that issue, or are you happy to rely upon the material that's already attached?

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AUNTY CHARMAINE CLARKE: I will just quickly say: that was in relation to that deliberate in your face racism. The thing about the legislation is that it relied way too heavy - and when I read it, I thought, "You are joking me, who wrote this piece of legislation?" Sorry, Government, if you're listening. You have to coerce, someone has to be coerced into being racist towards you by a third party, not by the antagonist being racist directly to you. No, no, that's not the racial discrimination. It's what somebody outside of that, that person in your face, joins in.

That was the only - that's what it was about. I was like, "What?" So this other person in my face doesn't matter, that's not racial discrimination under the racial vilification, and it's true it's about coercion. So, you know, when I saw that, I - you know, I very readily agreed to give my opinion and response to that as part of the submission by the Victorian Aboriginal Legal Service and Victorian Legal Service as well. But, yes, I mean, who hasn't, as an Aboriginal person, experienced racism? It's almost a pastime, which is what I said in my statement, my evidence to the inquiry. It's like an Australian pastime, racism, it's not just in your face stuff or the online commentary, but it's also that subtle racism which is something I raised in one of my articles, *'Media Misses The Point Around Racial Vilification.'*

Because to most white Australians racism is about, you know, the big blustering Neo-Nazi, white boy type thing, whereas racism is the small insidious stuff. You can be in a room when an Aboriginal family is talking to a social worker. It's the biases that creep around. It's paternalism. That's racist too, paternalism is a form of racism. That stuff around, "you're not like other Aboriginals". It's that stuff, that incrementally erodes to make sure we stay in our place. Know that we're othered.

That's an inferior othering. It's the backhanded compliments, it's the - it's the sort of sly, insidious that permeates and a lot of Australians don't see that - the legislation itself did not see that as racism, where it is, and it's that stuff that actually is quite - it's hard to grapple it, it's hard to pull it down, but when your life has been an endless array of bigotry and crap, you know it when you see it. I was walking home with some groceries, the supermarket with groceries, walking past, as soon as I turned the corner, young fellow in his 20s, well groomed, one of those hipster types, you know, with their beards and stuff, eyes on me, bang, his face just went to total snarly, like he was about to throw up, just by the sight of me. I went, "What the hell's going on here?" I didn't know how to react.

But, you know, internally, I just felt frightened and like, whoa. He didn't say anything, but still, his reaction to me told me that this person's racist. This person doesn't like me and has never met me. So it's that subtle stuff I want to really highlight as well because it's not - the legislation should also be capturing how it makes the person feel, not just the behaviours of the antagonist, but actually how it makes that person feel.

MR McAVOY: Thank you. Before we go to the final photo, I might just ensure that there are no questions that the Commissioners have for you?

COMMISSIONER WALTER: I have the one for you, Auntie Charmaine. It really triggered me when you were talking about these files, which can be full of these racially framed biases and assumptions and opinions and pejorative interpretations, this is just coming from the top of my head, but what if Aboriginal families had a right for an annual, supported by an ACCO, review of what is written about them in files to be able to challenge those. Do you think that would make a difference about what was written in the first place?

AUNTY CHARMAINE CLARKE: Yes. Make them think twice about how they frame things and be more reflecting in their practice.

5 COMMISSIONER WALTER: Thank you.

MR McAVOY: Aunty Charmaine, I'll just ask you to have a look then at the final photo that you've provided for us. If we could have that on the screen, please.

10 AUNTY CHARMAINE CLARKE: I just want to end with bringing it back to the personal and the journey.

MR McAVOY: The other photo, please.

15 AUNTY CHARMAINE CLARKE: I can't see it.

MR McAVOY: There we go.

AUNTY CHARMAINE CLARKE: Can I see it as well?

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MR McAVOY: You should be able to see it on your computer?

AUNTY CHARMAINE CLARKE: No, I can't.

25 MR McAVOY: It appears in your statement as Annexure 5.

AUNTY CHARMAINE CLARKE: There we go, okay. So, in closing, Commissioners, thank you for listening to me. I'd like to reflect on the journey it takes Aboriginal children in care, severed from their family, communities and identity, to fulfil their own life's aspirations to their fullest. What we do to a child will affect not just their trajectory in life but their entire sense of self-worth and identity. A journey - my journey is such a case, as depicted. I have had many challenges, some which were out of my control, and many of which had the most profound effect, not just on myself, but my brothers and sisters and my parents, the lives of Elizabeth Saunders and Lawrence James Clarke, who, without them, I would not be here today.

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We saw earlier that image taken when I was taken as a child with my siblings and a ward of State, in lovely clothes, in front of a lovely building, but still a ward of the State. But there is this image, taken now at the age of 55. It forms part of an exhibition around Stolen Generation by artist David James. When David sent me this image via email, when I saw it for the first time, I wrote back to him, "David, these are extraordinary. You have given me permission to actually see myself. Not how society sees me, constructs me, for either ridicule or pleasantries, but actually see me, myself, in such a poignant and autonomous way. This brings tears." And it still does. What a gift, a most precious gift as well.

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So many First Nations people are so tempered by the relentless negative discourse that permeated all aspects of our society, generation after generation, to the point we are vigilant, which is of defiance, and not palatable, or we retire bruised, worn out, and submissive to the point that we fall inside ourselves. I have lost my voice, my fire, my trust to believe in myself, to a profound degree, especially after I lost my dearest sister at the age of 33, but

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these photographs tell me many things, and among them, from my immediate response, is that we have beauty, we have stoicism, we have a real and deliberate presence and purpose. Thank you.

5 CHAIR: Thank you, Charmaine. If I may. I'd just like to thank you so much for the honesty, the compelling way that you have presented today at a distance. It has all come through the screen and we are very, very grateful for your honesty, the strength of your voice, and it is on the public record for all to know about.

10 AUNTY CHARMAINE CLARKE: Thank you, Commissioner, and thank you, Commissioners.

MR McAVOY: Thank you.

15 AUNTY CHARMAINE CLARKE: Thank you.

<THE WITNESS WITHDREW

20 MR McAVOY: Now, Commissioners, it is proposed we take a break before the next witnesses at 1 pm. So we can adjourn at this point.

CHAIR: Thank you.

25 MR McAVOY: One thing before we adjourn, I should tender the outline of evidence of Aunty Charmaine Clarke dated 7 December 2022, together with the annexures there too.

<EXHIBIT 2.4 AUNTY CHARMAINE CLARKE OUTLINE OF EVIDENCE DATED 07/12/2022

30 CHAIR: Thank you. I make those orders in the terms sought. Thank you, Counsel. We are adjourned until 1 pm. Thank you.

<ADJOURNED 11:55 AM

35 **<RESUMED 1:04 PM**

MS FITZGERALD: I will announce my appearance, Sarala Fitzgerald, Counsel Assisting.

40 MS CAFARELLA: Good afternoon. Ms Cafarella for the State.

MS FITZGERALD: We seek some orders we wish to make under section 26 of the Inquiries Act for sensitive evidence; namely, that any identifying personal details deemed sensitive in the letter from Karinda Taylor to the Department of Families, Fairness and Housing, dated 30 August 2021, tendered as an attachment to the witness's outline of Karinda Taylor not be published by Yoorrook.

50 COMMISSIONER BELL: We'll need to talk about the form of that because it's not possible to identify what the not to be published material is. You've relied on the idea of something being deemed sensitive. Is that obvious? I want to be sure that the order achieves its purpose.

MS FITZGERALD: Yes, your Honour. I think the intention is that it is the identifying personal details and there was just a lack of clarity in the way I described it. It is any identifying personal details, deemed sensitive. Sorry, your Honour, that was a bit of laziness. But it is just the personal details.

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COMMISSIONER BELL: Yes, thank you. That's clear.

MS FITZGERALD: The case studies and quotes from frontline practitioners set out at pages 24 to 39 of the submission from the Safe Start Coalition dated 5 December 2022. That is on pages 24 to 39, but Dr Krakouer has also provided a redacted version. So it is very clear that it is just the case studies on those pages. The third item is the doctoral thesis of Dr Krakouer entitled '*Journeys of Connecting: Understanding Cultural Connection for First Nations Children and Young People in Out-Of-Home Care Victoria, Australia*', dated April 2022. That is Dr Krakouer's PhD which remains embargoed.

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Then any oral evidence in respect of those matters, to the extent captured in a transcript or video recording, not be published. That last order relates to a very small amount of evidence that I will address separately at the end of all of my other questions so that we are not opening and closing a number of times. So at the very end I will ask that the live stream be ceased in order to accommodate that evidence.

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CHAIR: Okay. Thank you. So I make those orders in the terms sought. Thank you, Counsel.

MS FITZGERALD: Thank you, Chair. We will start with Dr Krakouer in terms of administering the undertaking.

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<DR JACYNTA KRAKOUER, AFFIRMED

MS FITZGERALD: Dr Krakouer, you made a written submission to the submission, dated 5 December 2022, along with other members of the Safe Start Coalition and have provided other academic materials in support of that submission, which you request the Commission to consider; is that right?

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DR JACYNTA KRAKOUER: That's correct.

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MS FITZGERALD: Doctor, will you introduce yourself personally and step through your professional history and academic qualifications.

DR JACYNTA KRAKOUER: My name is Dr Jacynta Krakouer, I'm a Mineng Noongar woman originally from southern Western Australia with family ties to Yunga Country. I have grown up and lived in Narm my whole life. My father is Bill Krakouer and we moved to Melbourne when he played football back in the 1980s and I remained here for my adult years and throughout my childhood. I have a professional background as a social worker and I previously worked in the out-of-home care system first as a child and family welfare worker in the family support and early intervention team at VACCA, and then in the extended care team as a foster care case worker at VACCA. I later re-entered system as a residential carer for ONCALL.

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I have a Social Policy Masters degree from the University of Melbourne in addition to my social work, a Masters degree from the University of Melbourne. I then pursued a research

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career and undertook a Doctor of Philosophy from the Department of Social Work at the University of Melbourne, and it is around the topic of cultural connection for Aboriginal and Torres Strait Islander children in out-of-home care in Victoria.

5 MS FITZGERALD: Thank you, Dr. Now, Ms Taylor.

<KARINDA TAYLOR, AFFIRMED

10 MS FITZGERALD: You prepared an outline of the evidence that you seek to give the Commission. Are the contents of that outline true and correct?

KARINDA TAYLOR: Yes.

15 MS FITZGERALD: If you could tell us - firstly, introduce yourself personally and professionally and, in doing so, tell us about the work that is done at First Peoples' Health and wellbeing.

20 KARINDA TAYLOR: I'm Karinda Taylor, I'm a Wamba Wamba woman born and raised on Country, North-West Victoria. I've lived in Narm for approximately 10 years now, raising my family with my husband. I have got a nursing and midwifery background. I have worked in the profession across both hospitals, acute and metropolitan hospitals, as well as out in the community in Aboriginal community controlled health organisations, which has led me to be the CEO of First Peoples' Health and Wellbeing, an Aboriginal community controlled health organisation with clinics in Thomastown in the Northern suburbs and also
25 in Frankston in the South-East of Narm. The organisation effectively provides culturally safe trauma informed wraparound preventive, primary health, social and emotional wellbeing care to local and Aboriginal communities.

30 MS FITZGERALD: Thank you, Ms Taylor. The first issue that I wanted to ask each of you is about the issue of racial bias, racism in the child protection system. Ms Taylor, in your outline of evidence, you say that the child protection system operates under the assumption that Aboriginal people are bad parents, and then interprets all their behaviour through that lens. What has led you to that conclusion?

35 KARINDA TAYLOR: I've got over 15 years experience as a nurse and, more importantly, as a midwife, which has brought me into contact with child protection. I've never deliberately worked within the child protection system from a social lens but certainly from a broader health and wellbeing lens and then managing First Peoples' Health and Wellbeing as the CEO has me dealing with child protection pretty much every single day.

40 Some of the cases that I wish to talk about today are not just from over the last 15 years but as recently as yesterday. So, you know, it's a huge question. I think we find ourselves having endless, exhausting conversations with child protection, both on the ground individually, with some of the practitioners that are assigned to some of the Aboriginal children's cases or files,
45 but also at the highest level in the region with the regional director around some of the concerns that we have around the system and wanting to address those. Effectively, what we find is that we get this misconception about what good parenting looks like. I know Dr Krakouer will like to speak about that further as well.

But we find that while the cases are somewhat different, and there is many of them to discuss, I think, you know, there's these common themes that talk about this expected standard about what good parenting looks like and we know that that doesn't necessarily meet the standards of the practitioners that are dealing with the cases.

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MS FITZGERALD: And how does the expectation that child protection practitioners have about what good parenting looks like disadvantage your clients?

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KARINDA TAYLOR: I think one of the things is that there is an expectation that the - well, the unrealistic expectations placed on families to meet. Sometimes it's the criteria to either keep a child in their care or whether it's to get their child returned home. There is an assumption that people have got the means and resources to meet all of those things, and one of the examples is, you know, sort of setting up a young family to live in the out of sort of West of Melbourne and then expect them to come back over to our clinic once, two, three

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times a week, and so there's these sort of hurdles that are unrealistic. They cause further financial disadvantage.

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DR JACYNTA KRAKOUER: If I can add to that, I think it's a really loaded question, right, why is there racial bias within the child protection system in Victoria? To unpack that and understand it, we firstly need to contextualise it within the history. So we know historically that Aboriginal parents had their families taken away from them because it was deemed that these children were not being given the standards that they should. What they should, based on the nuclear Western concept of what a good family looks like. So we had Aboriginal children taken away from families because of circumstances like poverty. We had them taken

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away from our families because culturally we were rearing our children differently. The reality is we are a different culture. Okay. So all cultures raise their children differently in accordance to their cultural values and what they think children should have rights to, how they think children should be raised.

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Historically children have been raised within European cultures very differently. So children have been raised to think - sorry, to sit and to not speak in the presence of adults, for example, if you look at Victorian era understandings of child rearing, children should be seen and not heard. We have evolved now. Historically we saw children in one light, now we see them differently. We want to see them as agents who are self-determining and have their own voice and their own power and own control.

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Aboriginal people also have a very complex and beautiful history, a very, very strong cultural kinship grounded connected history of rearing our children in line with collective styles of child rearing which don't fit with the Western understanding of the nuclear family. Now, that Western understanding of the nuclear family has been imposed on our families historically and it continues to be structurally imposed by the *Children, Youth and Families Act*, by the child protection system as a whole, because the principle underpinning that Act is the best interest of the child.

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That's understood through a very Euro-centric way of disconnecting that child from their family, from their community, and from their cultures. It sees the child as an individual, a child that is not connected. We see ourselves as interconnected. We have relationality as a beautiful complex interwoven system where our children are not just an individual, they are

child as future, they are child as community, they are child as belonging to a family, as belonging to a Country, as belonging to a community.

5 So when you separate that child, what you do is you actually disconnect all of those beautiful strengths and protective factors. You disconnect them from the whole, and the system actually struggles to see how our cultures differ and it operates on this kind of invisible assumption that families should rear their children like a white middle class family. I say a white middle class family because historically child protection in Victoria has actually targeted people on the grounds of class, it's targeted people on the grounds of disability as well, as well as race. We know that.

10 So it's not that the individual practitioner is necessarily racist, or is saying, "I think that this child should not be raised in this way because I just don't like Aboriginal people." This is actually a structural issue. It's a structural problem and that's what we are trying to get to.

15 The complexity of child protection systems is that behind every decision, behind every intervention into the private realm of family life, is a normative assumption about what constitutes good parenting. And that is subjective. That is a fact.

20 MS FITZGERALD: Dr Krakouer, you've spoken about this broader concept of Aboriginal conceptions of a child as being very much a part of their community and defined by their community. Can you provide some more practical examples at perhaps a more granular level of how the child protections construction of good parenting as middle class white parenting conflicts with an Aboriginal view of good parenting?

25 DR JACYNTA KRAKOUER: Absolutely, I can. I can think of examples where, from my case history, Aboriginal children have been placed with a non-Indigenous side of the family because the non-Indigenous side of the family is seen to be providing them with a house that looks more like a standard of good parenting. So the non-Indigenous side of the family might, for example, own their own home, have a spare bedroom with a bed for the child. They might

30 have the latest fridges and technology, right, they might have all of these financial resources at their disposal.

The Aboriginal side of the family might have mattresses on the floor because they can't afford to have each child have their own bed. So they are living in circumstances of material

35 poverty. So they have the mattresses on the floor and the kids are sharing the loungeroom and that's where they are sleeping. Or the door's been kicked in in the toilet and they can't afford to replace it. So when someone wants to go to the bathroom they chuck up a mattress and cover that door up.

40 For Aboriginal families - and I'm thinking like my own family - right, that's normal for us. We are used to living in circumstances of poverty because colonisation has created that poverty, that intergenerational poverty and that trauma that even though we have access to jobs now and we can go out and we can buy our own houses and we can buy our own cars, there actually some families out there, the reality of the child protection system, these

45 families are doing it real tough. They are out there and they are struggling. Then when they ask the system for help, what happens is they are met with punishment. They are not met with help. They are not wrapped around, therapeutically supported. We don't work with the whole family in a way that says, "Hey, what do you need to be able to look after this child. What support do you need, what can we put in place?" There are no poverty alleviation measures.

50 Child removal happens because of issues like poverty.

MS FITZGERALD: Dr Krakouer, do you agree that a child should be removed from their family if they don't have the financial resources to raise them?

5 DR JACYNTA KRAKOUER: That's a loaded question. My personal belief - and it's founded on a research evidence-base - is that it is one matter to deliberately withhold food and shelter from a child, it is another matter when you simply cannot afford to do so. I personally believe that the State has a responsibility to look after these families, given that the State has, through history, perpetuated the damage and put Aboriginal families into positions
10 of poverty through colonisation and hasn't resourced enough of the therapeutic holistic supports to enable families to get themselves out of the situations that they are in. So that's why I believe that the State has a responsibility to Aboriginal people in Victoria because it has ultimately created the issues.

15 To fix the issues we must respond to the scale and extent of the problem. So I don't think that we should automatically resort to removing a child because they financially cannot provide for that child. We should be doing things like raising the allowance of Newstart payments, putting in place child poverty alleviation measures, we should actually be trying to be support and help because Aboriginal families have shown that, you know what, some of us have
20 always lived in poverty. My dad grew up on a reserve in Mount Barker. He grew up in poverty and he would tell me that those were the best years of his life because he was surrounded by his family and his community, and he was provided with love. The power of love is something that this system, a system, cannot provide - but our families can.

25 MS FITZGERALD: One of the things you mentioned in your submission is this idea that child protection systems should not be removing children from poverty but, in fact, assisting them to flourish in poverty, that the idea that poverty of itself is not inherently detrimental to a child. How do you see the child protection system currently responding to poverty?

30 DR JACYNTA KRAKOUER: I think it responds to poverty through, firstly, referring children out and families out to child and family support services, relying on the support services to provide for the family. So, as an example, with housing, putting people on a public housing wait list, that could take two to 10 years to be able to secure a house. It then relies on the resources that are available within that organisation.

35 The reality is that these families are living in circumstances that are deemed risky by the child protection system, and they are struggling and they need help and support, and when they are on wait lists, when they are getting piecemeal support from child and family welfare services, because they are also bound to be resources they are allocated, and they have checks and
40 balances in terms of how much material support they can provide, the effect is that the risk compounds, it heightens and becomes more and more dire to the point that child protection then feels it's necessary to respond with removal. But those options prior to removal haven't been adequately explored.

45 MS FITZGERALD: Ms Taylor, I wanted to speak a little bit more about the assumptions that you see child protection making towards some of your clients. You've said in your witness statement that child protection takes a judgemental and patronising approach to Aboriginal mothers, which is mostly who you are working with, which you say takes their voices away. What does that look like in practice for you?

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KARINDA TAYLOR: I think a range of things. You know, one of them is being able to articulate, you know, the ability to look after a child, and I think, when we talk about protective factors, you know, of course, we need the resources to be able to support a child. What we find is when a child or when a family is looking for some of those support services, the organisations are under resourced. They struggle in a supportive way, both from a health perspective, but also a broader social and culturally determinative health support network.

There's actually very limited resources. So the supports actually aren't there and it's - you know, it's no different to mental health and AOD. We wait until people are in crisis. That's where all the backend tertiary dollars sit. So when I think about child protection, we see families reaching out to organisations, both Aboriginal and non-Aboriginal organisations, or mainstream organisations, and the supports just aren't there. People fall through the gaps all the time. So even articulating what's required to support, some of the more tangible things that seem really obvious around transport or food security, you know, clothing, schooling, education, health, literacy. There's a range of things.

In my experience child protection workers will often ask questions that, you know, they're fully loaded, they seem to trip up our families, I see them having a conversation with me and then a child protection worker walks in and they all of a sudden start stuttering. They are so frightened of saying the wrong thing, that actually they end up saying the wrong thing in the eyes of the system and, you know, I think there is a lot of goodwill with the majority of child protection workers. I've worked with some great people within the broader system and that's while the systemic sort of racism broadly, and it's a huge can of worms to open.

On an individual level, you know, I have seen these sort of expectations talking with a level of authority that is almost dictatorship around, you know, we are not going to meet in the middle and find an even keel here, we are going to tell you what you are going to do and you're going to jump through hoops and you will do it in an unrealistic timeframe that sets up the families to fail.

Then if you add the complexity of something like a disability, which is one of the cases that we have put forward, you know, in the witness statement and in some of the articles, you know, I can just see that there is - we should be scaffolding around our families that have got a range of other complex issues, whatever they are, and what we find is the more complex the family dynamics are, for whatever reason, the less help there is.

What frustratingly we see is that people ask and ask for help and then once they get into the tertiary end of the child protection system all the resources in the world are provided to often a non-Aboriginal carer and it's actually really frustrating because had all those supports been given to the family in the first place - and that's what sort of Jacynta was alluding to - we probably could have kept them together in the first place and done not quite so much harm.

MS FITZGERALD: Ms Taylor, I will just clarify that question. How could it be that the more complex a family's problems are the less supports there are; how could that be?

KARINDA TAYLOR: I think the education, in terms of, you know, awareness, you know, understanding bias, lack of understanding of - I mean, disability in this particular circumstance, but even mental health, drug and alcohol, a range of things, I don't want to be really negative, but I think the complexity of some of the families often we silo funding and programs down onto the ground, and it's not self-determination, we have been screaming for

a long time about what holistic health looks like, and we are somewhat trying to wrap services around, and I'm talking about us as an organisation at First Peoples' Health and Wellbeing but, broadly, Aboriginal community controlled health organisations, and other support services, will look at wraparound services.

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The reality is we are trying to manoeuvre this siloed funding, reporting burden and all of those things that we could get into, and the reality is that mainstream don't do complex care very well at all, actually, and often, you know, there is a remit of what the funding will be used for and you see organisations like ours constantly stretching them to ensure that we navigate in the background what those complexities are to support a family but with limited resources, it's actually really difficult. So we rely on the partnerships with other organisations, including mainstream, or social care services that actually know very little about health and broader wellbeing, in terms of holistic health.

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15 So we try to put some sort of the padding and buffering to support families to navigate a system and the complexity means that they're trying to navigate sometimes 30 different programs. It is really hard.

MS FITZGERALD: Dr Krakouer, there was something you wanted to say?

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DR JACYNTA KRAKOUER: I was going to add to what Karinda was saying is there are multiple service systems that come into contact with the child protection system. So I think what we need to understand is that there isn't just an issue with child protection, and the child protection system, there are issues with families with needing support from multiple different services. So you might need disability support, you might need support with family violence, you might need support with alcohol and other drugs or mental health, and you're going to different service systems for each one of those, and those services don't work very well together. The Royal Commission into Family Violence found that.

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30 There is actually not a very good level of communication and cooperation and transparency and connection between multiple different service systems and that's part of the complexity of child protection systems. Multiple different mandated reporters come into contact with the child protection system. The police, statistically, the highest group that make notifications to the child protection system. Nurses are up there as well as teachers - sorry, health professionals in general.

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So we had all of these people in society that have their own normative assumptions about good parenting, might see a child in a particular circumstance and might make a notification because they are concerned, legitimately concerned, but they don't necessarily understand how the system functions and the complexity behind those decision-making processes within the tertiary child protection system. They might not know of the available supports and how we could actually work holistically with wraparound support so that you're getting support within one place, like a one-stop shop, but for multiple different things. I think that's part of the challenge of child protection.

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45 The irony is that families might be struggling and they might not have enough material resources and the State might remove their child from them. But when our children end up in the out-of-home care system, the State acts as a negligent parent in some cases. I can give you an example of that: an Aboriginal kinship carer had a three-month old baby dropped on her doorstep at 10 o'clock at night with \$20, a bag of clothes and enough formula for two

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bottles. She had three other kids in the house. This is a registered kinship carer, an Aboriginal woman who is actually doing it tough, has these other children, one of which is actually in State care, so in the out-of-home care system, and then the State does that.

5 That's a double standard, isn't it? If the State were to act in a way that - if the State were upheld to the same standards that our families are held to, the State would have the children removed from their care.

10 MS FITZGERALD: Doctor, this idea that Ms Taylor was mentioning, which is almost the more complex things become, sometimes it gets tricky to get any funding for it, is that also because sometimes there are exclusionary criteria on certain bits of funding so that if you have a second problem, that excludes you from funds inform are your first problem?

15 DR JACYNTA KRAKOUER: I will defer to Karinda on that one because she's more familiar with the funding arrangements.

MS FITZGERALD: Is than an issue, Ms Taylor?

20 KARINDA TAYLOR: Yes. In my witness statement, you know, I talk about a case where we had this exact circumstance. We have a woman who is 27, biologically, but due to her disability is much younger and needing support. There are some systems where youth programs would accommodate someone like this mum. The thing was that when we went around to literally around about 30 different programs to get her support to try and keep her and her baby, new born baby, as a unit together while she worked through whatever the risk factors are that the department wanted for her to sort of tick off before they could leave her alone.

25 The reality was that everyone you rang, most of them were, like, "Well, we are only, youth so we can't look after her. We are adults but we can't support her disability. We can't take a baby. We can take a baby but the child protection have got 24-hour surveillance support across her and we can't accommodate absolute 24/7 support, so she can't come here because our resources won't allow it."

30 Now, that one alone was a real sticking point across a range of these services. This woman had her own little two-bedroom apartment. She was just so happy to be able to provide this home for her child and very little was done through her pregnancy, which was a beautiful window to address whatever the concerns were, so while they physically could not remove the baby, let's address them. She --

35 MS FITZGERALD: When you say that, is that what did happen or that --

40 KARINDA TAYLOR: Yes. So, no, during the pregnancy, there was very little involvement with child protection. Yes, there was the unborn notification. We were aware at our organisation that the baby had an unborn notification. So we absolutely - and this is rare, we rarely know about them, in this circumstance we did because mum was really engaged, and she went for an assessment through a mainstream early parenting centre. That did not work for her. So there was a range and this cascading level of intervention that anyone would sort of crumble under. She didn't last probably 48 hours or so. In the end, she came to my home and so, with my midwifery background, the agreement with child protection to keep them together - and it was extreme. I've done it once and I'm not sure how many times I would do

it - but it was really important that we demonstrated that the same assessment template used within this early parenting centre could be used with a different lens.

MS FITZGERALD: You took the assessment?

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KARINDA TAYLOR: I took mum, the newborn baby, and their assessment tool and did a 10-day assessment in my home. I gave her the breathing space that she needed to actually be able to relax and if she wanted to sing to her baby, I didn't go, "Oh, that's a funny song to sing." That was the level - I know that sounds really silly, this was the level of stuff that was written up.

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I remember looking at her talking to her baby, you know, those attachments, bonding, she was so attentive. I wrote attentive. They wrote intense. She was intense. They actually seen it as negative. Had she ignored her baby they would have wrote that up as well. She used common language like titty for breastfeeding, and they wrote her up for using sexual language towards her child.

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MS FITZGERALD: Is it your understanding that was the word they viewed as sexual language?

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KARINDA TAYLOR: Yes. The word "titty" was seen as using inappropriate sexual language towards her child. This particular case, you know, this woman, has her own - she had been in the child protection system herself and within that system, under the State's authority, was sexually abused repeatedly over many, many years.

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So to then be written up in this report, that she was aware of, that she'd used sexual language towards her child, parallel to that, with another health practitioner, she was breast feeding the baby, told to breast feed on demand - this is a woman with an intellectual disability, she takes it literally, she was told that, you know, if the baby's crying, like, is it wet, dry, is it hot, is it cold, is it hungry, you know, just keep going around that cycle, and so she's breastfeeding, you let - demand feeding, you let the baby feed - and I know I'm giving you lots of information, but this was sort of what was discussed with her. She was really clear about, you know, these sort of caring factors for her child, and she was breastfeeding, someone came in and said, "You're still breastfeeding, who is enjoying it more? You or the baby." This was the final point where she said, "I cannot stay here."

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So she has gone through these sort of - and this is what - the original question was around this sort of racist, negative, you know, talking down to her with a level of disrespect that no-one else would just put up with. She did that because she was fearful that if she stood up for herself or said, "I don't appreciate how you're speaking to me", that that's a black mark and we are going to take your baby away. She was always waiting and they treated her with a disregard that said, "We know you're going to slip up, we haven't quite got the documentation right now, but we'll get it eventually." Had she stayed there for a minute longer, they would have had it, and had the opportunity for me to go, "How about I take her and I do the assessment?" We provided her a safe space so she could look after her child, of course I supported her, you know, we did dinner together and had family meals and she really enjoyed it.

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She had a NDIS package that was grossly underestimated for what she required and in that 10 days, coincidentally, we went and got her NDIS package reviewed and her package went

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from about - I can't remember what it was, but it was minimal, like \$10 grand or something, and it ended up 100,000 over the next six month period, intense support, seven hours a day. It was a lot, but if it meant child protection got off her back, she was happy to do that. Again, she had her own unit. She paid her rent, she had her little place that she'd got ready. When I
5 went to her home, she was proud as punch of this little place.

Her baby by then was about three weeks old. She's been into court a number of times and to actually finally go home and just relax, you know, I mean, I barely slept that night thinking how is she going at home on her first night with her baby. I went back the next day and she
10 just looked refreshed and well rested. Child protection didn't get off her back, but they did get to stay together and the court thanked me for providing a culturally safe, supportive strength-based lens to this report that I wrote, a report that was so different to the previous report that it was just this evidence that said, "We need to do things differently."

15 MS FITZGERALD: How many mothers do you think would do that ad hoc service that you provided and how many times have you been able to provide that service?

KARINDA TAYLOR: I mean, I've done it once. You know, I have a family, and I want to keep my marriage, so I don't know how many times I would bring people into my home.
20 Having said that, we have written a significant report with Dr Krakouer and some of her colleagues from Monash University around the need for culturally safe Aboriginal-led early parenting centres.

The report overwhelmingly says it needs to have a health lens because - and I don't think
25 about health in a biomedical model and I think that's the misconception that we're not looking for health, we are looking for the broader social and cultural determinants of health to wrap around, but, from an Aboriginal lens, that's what a health and wellbeing response would look like. It's about going back to the preventive, you know, taking that window of the pregnancy and saying what a beautiful time in a woman's life. It's transformational. You see
30 women, when they are pregnant, we all go, "Oh, we are going to walk more when we get the pram and we're going to breastfeed and we're going to eat healthy." It is a time in a woman's life where they say, "I want to be the best mum ever."

Do they have absolutely all the means? Maybe not. Should they then, you know, not be
35 counted as a good parent or the intent to be a good parent? Should they not be provided the opportunity and get the support services? Of course they should. Aboriginal-led early parenting centres, First Peoples' Health and Wellbeing, have very proudly accepted an opportunity to establish the first Aboriginal-led early parenting centre in Frankston, and it wasn't by whim, by the Andrews Government to, you know, sort of pluck out an area, the
40 report that's led by Dr Krakouer outlines this overwhelming need and we know that there's a national crisis around child protection and, furthermore, here in Victoria, and then if we want it pinpoint more we go down to the Bayside Peninsula where one in three kids in our clinics at the moment are in some sort of child protection involvement. It's dire, and it's every single
45 day and it's relentless.

DR JACYNTA KRAKOUER: Can I just say too, kudos to the Andrews Government for making this investment because the report did a needs analysis where we looked at population growth and the need based on the existing service levels and demand. I did a systematic literature review to actually see what the evidence was saying about what an
50 Aboriginal-led early parenting centre could look like and how could we actually do things

differently. How could we do it with a health perspective. So in the broader sense of the word of what health means, social and emotional and cultural wellbeing.

5 The Andrews Government stepped up and they made that commitment and, with the election win, that is something that will be funded. I think this is part of the challenge with the Victorian child protection and out-of-home care systems is actually, within the Victorian Government right now, there is a lot of goodwill. I personally know a lot of great workers within the child protection and out-of-home care systems and I work alongside them as a researcher. I know people through practice connections and links with people on the ground.

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They have made this commitment to self-determination and it is a wonderful commitment. It is the right principle to enforce, I believe, and I think the evidence does show that self-determination can be transformative for Indigenous peoples. That's why it's enshrined in the United Nations Declaration on the Rights of the Child, it's why it's been pushed and advocated for within Victoria's out-of-home care system.

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The problem is that there actually is a disconnect between the policy and the practice on the ground. So we are struggling with self determination because within the *Children, Youth and Families Act of 2005*, what it states is that, under section 18, a child can - sorry, the statutory powers of the Secretary can be delegated to an authorised officer, I believe, of an Aboriginal agency. What that means, in practice, is that the CEO of an Aboriginal org, so an ACCO, such as VACCA, will have the delegated authority to look after that child when they are under a protective order, which may place them into out-of-home care. It may be a family preservation order. They might have those powers there.

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25 Then they can delegate those functions and those powers down to their employees within that organisation. We need to be thinking - self-determination, right, it's about power, control, agency and freedom, freedom to pursue your own interests, the freedom from government interference. So it's about control and agency but it operates at the individual and the collective level.

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When we transfer power to an organisation, we are thinking about collective self-determination. We are not giving the individual that power of self-determination. We are not saying to the child or the family, "Which service do you want to go to and get support when that child has gone into out-of-home care or is within the child protection system?" We are not saying, "Who do you want to work with?" We are not asking, "Who are those workers within that organisation and how supported do they feel or, you know, what cultural mentoring and supervision are they getting?"

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40 It brings up this whole host of other questions, right, and this is part of child protection and out-of-home care is they are so complex, they are so complex. I've seen cases from my time working in the field where you'll have workers go out where families are doing their absolute best to keep their babies. Pregnancy research has shown it's this transformational period where people just want to be able to look after their kid and they will go above and beyond to look after their babies. They are doing absolutely everything they can.

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One young Aboriginal girl I worked with, she had an intellectual disability. She had had a previous child removed, which is actually used as a risk factor to intervene into a subsequent child. She had a history of prostitution. So had been a sex worker and that was constructed as

a risk. She had substance use problems and she was currently on the methadone program. So she had multiple risk factors sort of interplaying in her life.

5 Because she had an intellectual disability, she had her payments actually quarantined and would get an allocation, so her payments from the disability - the disability payments, she would then get an allowance to spend on her baby, to spend on food. There were times where she put her baby's needs well and truly above her own. I would go out there and she'd have nappies and toys for the baby, if she could afford them, she would have food, everything for that baby, and I'd say, "When was the last time you've eaten?" "Three days or so ago." I'd
10 have to argue to spend brokerage within the organisation to buy this woman a feed to the point where I just used my own money in the end and I'd buy her food because how can someone live without food? Yet the system - and I remember this case worker saying, "Can you believe she didn't even have a monitor? She didn't even have a monitor? How can she know if that baby's sleeping right when she hasn't got a monitor?" That's an example of the
15 middle class standard. You don't need a monitor to see how the baby's sleeping overnight. It's a privilege. It would be nice. It's not a necessity.

I remember this case worker - and it was a white woman who had actually come from the Department but was currently working at the same organisation as me - and she said, "I can't
20 believe she had so many toys in that cot, that's a hazard, that's a smothering risk." I see that in a strength way. That's a mother showing love to her child. That's a mother wanting her child to have the best. That's a mother with an intellectual disability who is trying to learn how to parent because parenting doesn't come with a manual. But it's seen within the system as a risk and it's a function of the system because the system is highly regulated, which
25 makes it bureaucratic, which makes it authoritarian, which makes it so that if a case worker, an individual case worker, misses a potential risk and something bad happens, a baby dies in State care, that case worker is going to be held to account. So that case worker doesn't want to stuff up. That case worker has to have checks and balances. There must be multiple levels. So it's really a systemic issue that is very complex.

30 MS FITZGERALD: To what extent do you see this, well, I suppose, within the child protection system, but also, you know, in the general media and society, this blame culture, so that, as you say, there are headlines, very vitriolic headlines, vitriolic towards child protection, if something goes wrong, to what extent is that creating an unhelpful culture and a
35 risk averse culture within the child protection system?

KARINDA TAYLOR: I think it's massively creating a risk averse and unhelpful blame culture within the child protection system. It's not helpful at all. What we see whenever
40 there - typically at sentinel events, so responses to a child death, there is this automatic sort of emotive reaction to go and find what went wrong in that case. Who is at fault, who can we blame? There is often this knee-jerk response that's put in place to try to ameliorate and fix these issues quickly.

45 The thing with child protection is, because it's based on subjective interpretation of what constitutes child maltreatment, is there are no simple answers. There are complex answers and governments struggle to sit with complexity and deal with complexity, they struggle to implement complexity in policy and when it doesn't work out on the ground, sometimes we have the reaction where we remove the policy because we think that the policy's failing.

The policy may not necessarily be failing, it's just that, on the ground, we need to tinker and get things right because we can't predict the outcome. We don't necessarily know what's going to happen. I think, if you look around the world, we see different models of child and family welfare systems and different models of child protection systems. It doesn't have to look the way that it currently looks.

Scandinavia is an excellent example. They have more support structures put in place within their systems. They are focused more so on the side of providing support. If you look to New Zealand, the response with Māori communities is actually moving towards more of an orientation around the community, as opposed to the individual, whereas Victoria, we have a very individualistic orientation. It is bureaucratic and it is highly regulated.

If we look at some of the research evidence base around typologies of child and family welfare systems, they don't all have to look like that. That's one model. There's other ways we can do it. And the blame game is not helpful because the reality is that - and this is the bias need, the need bias debate - there are some families out there that are doing it tough and do have need, great need, for support - for support with family violence, for support with mental health, for support with housing, for support with substance use, and some of those factors do present a genuine risk for safety of the child. Okay. So that is true. That is something that is a reality of the system.

On the other side, some families also need the support and there is also a bias around that support that is given to Aboriginal families. There is actually bias infiltrated into the tools that are used for decision-making, the bias that is put behind the risk notifications and the way in which we concentrate on risk to the neglect of the strengths. There is bias inbuilt in that. So both factors are actually at play here. We have disproportionate need, yes, because of our history, because of colonisation. There is also structural bias embedded within the system, a function of the system historically, culturally, it reflects the culture where we are at in Australia, and that's something that we need to grapple with. Blame game culture, it's not helpful. It not helpful to it at all. But what we can do is imagine ways that we can do it differently. We can get excited about the possibilities.

MS FITZGERALD: I'm looking forward to hearing about that. We will touch upon that shortly. One of the things that you did mention, I was going to ask, Ms Taylor, it comes up in your outline of evidence, is the fact that child protection fails to recognise the support systems that Aboriginal parents already have in place or could put in place to keep their family together; what sort of support systems are you talking about?

KARINDA TAYLOR: I think one of the things that child protection neglects to find important is that putting in preventive support measures at the front end, so, you know, the further people go down the child protection system the more harm we do, then we try to undo that. Most of the work that we do in terms of the social and emotional wellbeing is about trying to heal some of the work that's been created, not 10 years ago, or three generations ago, but today.

I think communication is just so poor. So there is this misconception that the health professionals in an ACCHO, for instance, got their degree potentially at the same place that those that are working, say, in midwifery, you know, those working in the birthing hospitals and I went from working in a birthing hospital to working in the community in an ACCHO and it felt like overnight that my credibility as a health professional dropped off purely

because I was working in an Aboriginal organisation. I must have a Mickey Mouse qualification and no experience.

5 So the complete disregard of what the strengths and qualifications and experience and cultural knowledge, that the broader workforce brings within an ACCHO, is not considered as part of the help, you know, part of the broader system help. So we either find somebody that will reach out so much that they almost burden our system because we are not resourced appropriately, or you get the flip side, which is the majority, that actually do not even start conversations at all. So, of course, in the unborn space, we are not aware that cases, unless a
10 mum is aware of a case, we will, you know, find out after a baby's born that the first person on that woman's doorstep is a child protection worker before any of her family, which is just soul destroying to hear, and it's repeated.

15 Then, you know, the thing about the risk and the blame is that this sort of blame culture is also just shipping the buck. So in terms of accountability, at the absolute highest levels, and what happens when there is an event where, you know, something adverse happens, and often very tragic, is that, of course, the community from the ground up says this cannot happen. At the same time, make it a white baby, and the magnitude of that voice is so much stronger, but we get, you know, where that accountability should sit, whatever that looks like - and I don't
20 want to look like I'm doing the blame or the finger pointing - but the reality is: is it the system is broken, we know that, I'm sure you've heard it repeatedly and from some of the livestreams we have heard, people talk about this broken system. What does that mean?

25 The reality is that every single level - you talk to individuals, they say, "I am so overrun, I have such a full case." You know, yesterday I spoke to one of my GPs about a mum who was absolutely distraught and her entire consultation was about the fact that it's her son's birthday today and she's been asking for weeks and weeks and weeks to see her son on his birthday today and yesterday found out that it was a flat no and the excuse was, "I've got a full diary, you and your son are not the only people on my books, and I just cannot change my diary to accommodate you." That's the reality of what people are doing. There is no real humanistic
30 regard here. It is full case loads and the system is so overwhelmed that, on the ground, that means that we treat people without any great respect.

35 I mean, it isn't just this woman's son's birthday, it is the day she gave birth to that child and she wants to celebrate with him and that was denied. You know, like, that - it breaks your heart to hear these things. That was yesterday's conversation. So, you know, I think we need better supports. We know that Aboriginal children have cultural plans done. They are done by the majority of non-Aboriginal people. I have talked to child protection workers that go, "I'm Googling them, I'm looking online", I don't even know where to start.

40 To get a non-Aboriginal person to write a cultural plan that is a tick box, quite frankly, and an actual extra reporting burden, administrative burden, that people don't have regard for, care about, in the scheme of things, because when they look at risk around their broader case load, that is already overwhelmed, the risk is that, "I need to micromanage the crap out of every
45 person on my books so nothing happens to one of them children, because I am going to go down for it if it does." The shift in accountability and the responsibility around risk, we look at litigation and we disregard everything else.

50 DR JACYNTA KRAKOUER: What that means for the child protection practitioners on the ground, being completely overwhelmed with case loads that are way too high to manage, is

that they have to prioritise the risk in each of those cases. They need to make a judgment call about which family is more risky at this current point in time and which one requires my assistance right now because if I don't respond to this case this child might die, or this child might be in a situation where they are harmed.

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Now, that child protection worker then is feeling overwhelmed and stretched and they, despite their best efforts, are fighting against this system that's actually enforcing and putting all of these additional demands and pressures on them and expecting them to juggle these risks and make decisions about which risk requires more urgent response or, families, that means your phone calls can go unreturned when you are calling up and saying you need some help.

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For kinship carers that means that when you're needing support your phone calls might go unreturned or it might take days to get brokerage or some funding to help you buy something like school uniforms for kids in your care. For myself, personally, I have been - I was registered as a kinship carer for the Department of Families, Fairness and Housing just recently, we had a situation where we were doing respite and the placement had broken down. They put the young person in our care, an Aboriginal young person, and told us that it could just be a couple of days, "We don't really know, we are looking for an alternative placement option."

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We had this young person for a school holiday period and we were seen to be doing okay and managing okay. This young person had a lot of complex issues, including disability, and significant trauma, significant trauma, because they had grown up in the out-of-home care system their whole life and had some horrible things happen in their history. We were not fully supported to look after this young person for as long as we had to. We were a kind of at our wit's end after two weeks. It was really difficult and put a lot of strain on us.

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When we would call up and try to get a hold of the case worker, that case worker couldn't get back to us as quickly as we needed them to because that case worker was dealing with other high risk issues within their case load. We were struggling. We couldn't get that support. We had to then draw on the support of our family networks and bring them in and try to help us, but the system creates issues with getting that family support because it expects working with children checks for any child within the system. So if you have any kind of a history where you might have - you have a criminal record, it's so difficult to become registered as a kinship carer because that's a black mark on your name.

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You know, it wasn't that long ago where Aboriginal people, if they came into the out-of-home care system, were actually - because it was under the same Act - forgive me I don't actually know the specific legislation - but, essentially, it resulted in a criminal charge.

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MS FITZGERALD: Your own removal as a child was listed on your criminal record?

DR JACYNTA KRAKOUER: Yes, that's correct. That's historical. That's an example of how Aboriginal have been criminalised historically through no fault of their own. These issues are all connected with our history and to unpack them and get to the heart of them we need to reflect on that history and actually tell the truth about that history.

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MS FITZGERALD: That's an issue, Dr Krakouer, that you deal with in the submission that you made with some other academics that make up Safe Start. I wanted to look at that a little

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bit more closely. Whilst much of the Australian community view colonisation as a long distant historical event, your submission draws a connection between colonisation and the contemporary systemic injustice experienced by Aboriginal and Torres Strait Islanders in the child protection system. What's the connection you draw and how do you see that play out in practice?

DR JACYNTA KRAKOUER: So, firstly, the connection that I draw - and I don't want to go into the academic theory and sound all lofty and sort of sit up there with that theoretical knowledge base - but the connection that I draw is around this idea that colonisation is not an event, but it is a structure, and so, as a result, it continues and is implemented within our systems, such as the child protection system, such as the education system. It is ongoing.

So that's one connection that I draw. The other connection that I draw in that submission is that I contextualise the ongoing intervention into family life and child protection and out-of-home care systems historically by showing the intergenerational nature of child removals. So I talk about, for example, the Stolen Generations as being something historically that happened, for whatever reason you want to give it, and the reality that, statistically, those with a Stolen Generations' history are more likely to have their children come into contact with child protection systems today.

They grew up not receiving love, not learning how to parent in a loving way, because they weren't parented well, they were abused. I don't need to go into history. Our mob, and I think largely Australia know this history, right, but they experienced so much trauma that that trauma continues and, in our communities, that trauma intergenerationally continues. So we actually have communities that are living with this trauma and the effects of this trauma, the effects of the policies that are actually racially based, historically, and all of that actually impacts how well someone can kind of provide for their children right now.

If I can give an example: if you are growing up, right, and you've heard constantly that you need to be careful because child welfare are going to come in and take your kids if your house is dirty, you are then - you might kind of become obsessive about making sure your house is super clean and you don't want anything to be used as a potential risk factor when child protection comes along or if child protection gives you a call and says, you know, "There has been a notification received, we are coming out to do an investigation", that trauma response animates real fear and you don't actually want to talk to them because you are so scared that it's going to happen to you, what happened to our ancestors, what happened to our Elders, what might have happened to your mum or your grandma or your dad.

That trauma kicks off this kind of response where you are so fearful that you don't really want to have child protection in your home, you don't really want to cooperate. Child protection actually then put that as a risk factor, "Unwilling to cooperate." "Unwilling to work with child protection in a collaborative way." That is a risk factor for removal, that lack of willingness to engage with the process. It's not a trauma-based response; it's actually this response that just sees the risks. It doesn't understand how the history continues to impact the present, how it actually impacts our families right now, and that's kind of what I mean when I sort of talk about this we have got to look to the history and we have got to contextualise the current issues within the history. We need to understand how that history is actually still affecting Aboriginal and Torres Strait Islander people right now.

MS FITZGERALD: One of the other things you say in your submission is that, as a settler colonial State - and this is a little academic, so I'm going to say it and not put you through it - Australia has constructed First Nations childhoods, family life and cultures as problematic and that First Nations families are punished for not conforming to white Australian standards.

5 Why do you say this dynamic of constructing First Nations people and families, as a problem, happened in the first place and continues to happen?

DR JACYNTA KRAKOUER: Okay. To answer this question I'm going to have to talk a little bit about the theory. So settler colonial theory is used by Patrick Wolfe as a way to explain the differences in a colonial context where the settler came to stay, rather than to extract or leave. So by come to stay, I mean countries like Australia, Aotearoa New Zealand, Turtle Island North America. The purpose of colonisation was actually to come and settle the land, to say.

15 In other countries such as, you know, various countries throughout Africa, the purpose of colonisation was to come and extract the resources either from the land or the so-called native labour, to use up those people, but not to stay, not to settle in that colony, to extract resources and leave. So he uses this is theory to explain that difference. With settler colonial theory, in order for colonisation to be completed, essentially what Patrick Wolfe argues is that you need to eliminate the native. Okay. So you need to eliminate whoever was on that country.

25 When the British came here to colonise or invade, whatever you want to call it, Australia, they declared terra nullius and that was one act of erasing or attempting to erase Aboriginal and Torres Strait Islander sovereignty. That was one way of trying to clear the land and clear the problem. When that didn't quite work, we then saw - and I'm sorry to the Elders watching, I'm sorry to anyone who this is going to trigger - but we saw massacres, we saw frontier violence, we saw brutal, brutal acts, which you have in my submission, to attempt to clear the native from the land almost like pests to be exterminated.

30 When that didn't quite work, we - sorry, when that then turned into the policy of segregation, when we thought that the native was going to die out, we moved them onto missions and reserves out of the way of so-called civilised settler populations to get the Aboriginal people out of the way. We waited for them to die off, to smooth the pillow of a dying race, which the *'Bringing Them Home'* report found.

35 When we started seeing this apparent up rise of so-called half caste, Aboriginal and Torres Strait Islander children, we realised that the problem of the native had not been solved. So the answer was to actually remove that child from the influence of their family because how they were being raised within that family was seen as the problem. If this child was to have a good future, with a good education, good access to become like other Australians, as stated in the assimilation policies of the day, then that child needed to be removed from the tender influence of their family. Their family was the problem, the way that they were rearing the children was the problem because it was racialised.

45 We didn't want a future white Australia at the time, when we had the 1901 White Australia Policy in place, we didn't want future White Australia to look like how Aboriginal people raise their families, we didn't want Aboriginal people. We wanted to eliminate Aboriginal people. That's something that's hard to sit with but that's how assimilation links into this logic of elimination. Child removal was the policy that was used to enforce that assimilation

and that logic. We thought if we could remove them from their families and cultures they would start acting white, thinking white, and fit in and become like white people.

MS FITZGERALD: That's how we complete colonisation.

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DR JACYNTA KRAKOUER: That's how we complete colonisation. Yes. That's how we remove the problem of the native. We see this kind of anxiety that sits within the nation whenever Aboriginal and Torres Strait Islander people assert our sovereignty and assert that we are still here, that we are still surviving, you see it in response and in reaction to, you know, Invasion Day protests or Survival Day celebrations, you see this kind of response, this anxiety that comes out that says, "Hey, but we belong in this country too, this is our country too."

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Well, the Mabo decision found that Aboriginal and Torres Strait Islander sovereignty can coexist with Australian sovereignty. Both can sit there. As a nation, Australia is uncomfortable with this history and we haven't quite come to terms with it. So this anxiety plays out. What we also see with child protection systems because our families and our cultures have always been viewed in this deficit way, historically.

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There is still this assumption about Aboriginal people, this racialised assumption about what culture entails, about how Aboriginal people just don't quite parent right. There's this kind of bias that people hold, through no fault of their own, it could be unconscious, it could be just a product of the education system or a product of their exposure to what culture might entail. But it results in this assumption about Aboriginal families are somehow riskier, are somehow more deficient, that Aboriginality itself, then in child protection systems, operates as a prima facie risk factor for removal.

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MS FITZGERALD: Do you think we need to properly resolve this, we, as in whitefellas, need to properly resolve this sovereignty, this anxiety, and the sovereignty issue before non-Aboriginal people - before we can break the habit of viewing First Nations peoples and families as a problem to be solved?

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DR JACYNTA KRAKOUER: I think it's something that we need to do for all of Australia, together, in partnership, and that's part of what this process is about. The Andrews Government committed to this process and I totally want to commend the Andrews Government on that, willing to actually hear the truth and go through the Treaty process. I think we are on the way. But I think this takes partnership. I think this takes us working together and I think it's everybody's business. I don't think we should be passing the buck to Aboriginal people to solve the issues. I think it's something that we all need to take responsibility for. We need to all check our unconscious bias and actually check our privilege and do the work of actually interrogating whether or not we might actually hold some racialised assumptions. Whether or not we might look at Aboriginal families in a more risky way.

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There is actually a research paper from Aotearoa New Zealand that Associate Professor Emily Keddell did with her colleague, Dr Ian Hyslop, that provided vignettes, which are kind of case studies, of situations where there is a little bit of risk, so they were child protection vignettes. So you would start off with a little bit of a story, talking about the risk in a child protection case, you would then get fed a little bit more of a story, and then you would get fed the end of the story and with each level of the vignette the story became a bit more risky.

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5 What they did is they gave one sample, the story, the exact same story, with a Pākehā so a non-Indigenous white child as the feature of that story, and the other story, it was a Māori child, and they found in that paper that the Māori child was more likely to be seen as risky and more workers in that study would actually remove that Māori child from their families.

MS FITZGERALD: So we put up with less risk for Indigenous children than we are willing to put up for non-Indigenous children?

10 DR JACYNTA KRAKOUER: Perhaps. Or we see Aboriginal and Torres Strait Islander children and their families as more risky. It could be a combination of both. It's complex.

15 MS FITZGERALD: Thank you, Doctor. I will move on just to touch on - Ms Taylor, you were mentioning earlier unborn notifications, and they are really huge issues, and I just want to go back to that because both of you spend some time in your written submission, and outline on that issue, and it is obviously an incredibly important one.

20 Now, unborn notifications are when child protection receive a report about a pregnant woman's parenting ability before her child is born and, as I understand it, the legislation does not empower child protection to do an investigation until the child is actually born. So where there are issues, they will wait and arrive generally unannounced at the hospital just after the woman has given birth and take their baby at that point. Ms Taylor, this is an issue that you've raised, having previously practiced as a midwife and a registered nurse and now running a First Peoples' Health and Wellbeing organisation; what are the problems that you see in this area?

25 KARINDA TAYLOR: As a midwife working in a hospital setting, you will receive an unborn notification. I am aware that that same letter will go to every birthing hospital in the broader district. So working in the Swan Hill Hospital, it will go to Mildura, it will go to Bendigo, it will go to Swan Hill, and everywhere else that doesn't birth around the area that might have some sort of hospital facilities where the woman could turn up and birth her baby. It is filed away with the expected due date and they sit there and when the woman births, the midwife, whoever births that baby and pulls out the woman's details or anything that we might have on file, they'll see there is an unborn notification and they will ring child protection. Now, they are mandated to do that. There is no questions, there is no conversation with the woman, or her family prior to that.

30 What I find in the ACCHO sector, so within First Peoples' Health and Wellbeing, is there is no shared consent around that information. We will not be made aware. We are not considered as a key stakeholder in the care for a woman, even if we are providing some sort of shared care antenatal arrangement in her pregnancy. The Koori Maternity Services programs that sit in the ACCHOs are also - and we do not have a funded Koori Maternity Services program but I have worked in other ACCHOs where is - and it's, effectively, a shared care arrangement where you are providing the antenatal care and you will do, like, the booking in, and you send it to the birthing hospital, you will take them up, sometimes you run the antenatal classes.

40 So, you know, it can work really well where there is this sort of shared community. I mean, people - their entire pregnancy and post-natal journey the birth is, you know, this much of the journey but that's the key trigger point, where this notification goes, and it sits and no-one

talks about it until this baby is born. What we have seen, and what I understand with the clinic in the northern suburbs, is there is a Koori Maternity Services at one of the metropolitan hospitals, who have got some staunch Aboriginal leadership that just do not accept that.

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So what we find is that they are holding child protection to account in that particular area that says - and because they sit within the hospital, they are sitting in a birthing hospital and the midwives, because they are also held to account, are sharing that information in a really respectful, consenting way and so, with that knowledge, they are going to these women and saying, "There's an unborn notification", for whatever the reason is, sometimes they are substantiated and sometimes they are not. Just the conversation, and to bring the mum into the fold, can close out that unborn notification risk before the baby's born.

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MS FITZGERALD: What happens? How do you see that happening?

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DR JACYNTA KRAKOUER: Can I quickly explain the legislation because I think it helps contextualise what Karinda is saying. Under the legislation, the *Children, Youth and Families Act*, an unborn notification can be made to the Secretary of the Department of Health and Human Services. So what that means is somebody can say that, "There is an unborn baby that is at risk and we would like the Department and child protection to be aware of that risk." But under that legislation, child protection cannot substantiate a case while the baby is in utero. So while the woman is pregnant that case of potential, or alleged child maltreatment, cannot be substantiated.

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The power to substantiate that notification and to conduct an investigation that actually links in and enables the substantiation to take place has to wait until the child is born. So the result is on the ground that child protection, when an unborn notification is received, will defer to community support services, and they will make referrals to other services because they have that power within the legislation.

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So they might defer to a community support service, such as VACCA, to provide support for the mother and the unborn child during pregnancy and child protection will send out the letters to the hospitals to alert them to the birth of that child. So that when the child has been born they can investigate and they can potentially substantiate if they are concerned about the level of risk.

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What that means, in practice, is that we have mums who have child protection show up within hours of them giving birth and that is the first person that they see outside of the midwives. The first face that they see when they are holding their newborn is the child protection worker and because child protection actually cannot substantiate or conduct official investigations in utero during pregnancy, they are concerned with this concept of flight risk. They are concerned that if they tell the mother that there is a notification, she's going to do a runner, she's going to go to another State, and we know that child protection systems operate differently in each State and Territory, that there are different pieces of legislation, so they don't actually connect very well together. They're worried she's going to take off and they are not going to be able to protect this child.

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So they use this concept of flight risk as a way to justify not actually being transparent and not actually communicating the risk to the mum. The result is that the mum sometimes doesn't know that this is coming. The midwife legally is not allowed to tell the mum why the

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notification has been received. They can tell them that a notification has been received but not why and you have that information within my submission.

5 They will then need to - so the reality is that the support that is actually received during pregnancy is not from the child protection system, it's received by child and family support services and, quite often, the reality of what is happening on the ground is it's received by the health system. So people like Karinda and First Peoples' Health and Wellbeing are doing all the support during pregnancy and they are having to do extra things that they are not funded for to try to prevent child protection from taking this baby once the baby is born. They are not
10 funded to do that.

15 KARINDA TAYLOR: Can I add to that: the other thing around, you know, keeping the legislation around not working in the unborn space means they don't have to put money in the front end to that preventive stuff. I think, as an Aboriginal organisation, when we aim for culturally safe, trauma-informed genuine wraparound care, that is considered, that is calm, that is nurturing, this system in itself creates, after the baby is born, a sense of urgency and chaos. It is traumatising.

20 It's really frustrating because you can see that they use - I say "they", the Department, uses the legislation, depending on what their narrative is. They use it as an absolute restraint from going over and above. The reality is Aboriginal organisations go over and above all the time because there is no interest like self-interest and, as Aboriginal people leading this work - and we are supporting Aboriginal families - we will bend over backwards. Post-natal care in Koori Maternity Services, until six weeks will look after families forever and a day, the
25 funding will not restrain that. It is a minimum standard. It's not a maximum standard but it's actually used as, "No, we are not allowed to do that. No, the funding's not there to support that. No, we can't triage that."

30 I understand that - well, I mean, the legislation should support families that, you know, while she is pregnant, leave her alone, and you can't necessarily investigate. We're not asking for an investigation, we're asking for a conversation, we're asking for a genuine conversation. Even in terms of the flight risk, I can tell you, if I was pregnant and child protection came at me with an investigation while I was pregnant, I would probably run too.

35 Had my supported, trusted health care provider talked to me about a notification that is going to rear its ugly head when I give birth, I am going to engage, and I'm going to go, "What needs to happen?" I can give you an example of something that was - a case study where had there been a conversation, and an understanding of the woman's circumstances, the book would have been closed before the baby was born. But instead the first person she sees - and
40 this is the example - the first person that she sees, before any of her family arrive to meet her new baby, is a child protection worker to take her child.

45 She was unaware that the notification had been made. It had been made by the police at five weeks pregnant after a blue with her boyfriend because the neighbours rang up about the noise disturbance. For the other eight and a half months, it goes undiscussed, unrecognised. They turn up to take the baby. She is no longer with the partner because of family violence. She has a place of her own, she's getting help to work through the trauma of the family violence. There is zero risk here and she is absolutely embedded in this continuity of care at our service. Yet she had to go through that because no-one asked her what her situation was
50 now.

DR JACYNTA KRAKOUER: And you have that in our submission that we made that a lot of the risk factors, in the unborn and infancy period, are actually historical and static. So what that means is that, if you have an out-of-home care history yourself, you were in out-of-home care as a child, and then you would fall pregnant, that's a risk factor for child protection to get involved. If you have a mental health history, you have past suicide attempts in your history, that's a risk factor. If you have intellectual disability - and it might be present - this is a factor that you can't change. A lot of these factors are historical and static, meaning no matter how well motivated some families are to actually do their best to address any of the risk concerns, they can't change their past. You can't change the fact that you live with an intellectual disability. That just is.

The system is concentrated on risk in this infant period because babies are developmentally dependant. They are at the highest risk of dying through neglect or through child abuse because they are developmentally dependant on another for life and that vulnerability of a baby then creates this crisis response to come in and quickly investigate as fast as you can because if you don't that baby could die.

It then also means that the system is not willing to actually take a chance and maybe try something where there's a lot of strengths and there's a lot of protective factors. There might be a little bit of risk but it's not willing to try because, if it doesn't, if something goes wrong, someone's liable, a child's going to die, it's going to be awful. It doesn't want to take that chance and there is research literature that backs that up, that shows that, in the UK - and this is nothing to do with Aboriginal children - but social workers were more determined to - sorry, they were more likely to err on the side of caution and they would rather do that because the alternative is grave.

But as we have kind of been talking, for Aboriginal and Torres Strait Islander families, our Aboriginality is actually also used as this kind of unique risk factor in and of itself. In a research study published by Associate Professor Melissa O'Donnell, which you have in my submission, she contributed to the SAFeST Start Coalition, it was from 2019, she looked at administrative data in relation to Western Australia and found that even when she controlled, they controlled for all of the other risk factors, like substance use, or family violence, or a lack of stable housing, or disability. Aboriginal infants were almost twice as likely to be removed by child protection.

MS FITZGERALD: You say there is an undue focus on risk. It seems, in some ways, that there is really just an undue focus on certain kinds of risks because your PhD looks at cultural connection in out-of-home care, and it seems that the very grave risks that come with removing a child from their family don't really get a showing in this risk assessment, that it really is just a focus on the risks of staying in the family.

DR JACYNTA KRAKOUER: It's an interesting one. Child protection decision-making is inherently complex and what it does is looks at the most immediate and pressing need and the most - the risks that are most at play at that current point in time. What is required right now to keep that baby or that child safe, were prioritised on the best interests of the child, were prioritised keeping that child safe. So we respond to the immediate risks that might put that child at risk of harm in the now.

5 What it does, though, by its nature, is, in responding to those risks, and responding to those areas where there might be harm, it actually then trades off that for another form of harm and it's well-known, it's the harm of living in the out-of-home care system, that harm of being disconnected from your family, community and culture and the harm of that potentially being something that becomes long-term.

10 If you look at our history of the Stolen Generations and the harm that our community members felt, as a result of removal, it's these life-long challenges around identity and belonging and finding your place and learning about your culture, about knowing your mob, about knowing who you are and where you belong. It may not have been, you know - and this is the case, it's what I found in my PhD, it's still happening today. There are children in the out-of-home care system, where we take them out of their families because there is an immediate harm that needs to be responded to, so the child protection system removes them.

15 They then place them into out-of-home care, which is its own kettle of fish and a different system that has a lot of complexity behind it, and along the way, with the checks and balances and lack of transparency, and lack of accountability, the system is actually producing another form of harm. It's producing the harm, the risk, of cultural disconnection. That's a harm that's not just felt at the individual level; that's felt at a community level. For
20 us, our culture is our survival. That's our proof that we are here and we are thriving. Our children are our future. Our children are the key to our culture surviving.

25 Now, when you create the risk of cultural disconnection, what you are doing is you are fundamentally creating a system where you're perpetuating another Stolen Generation. That's what you're doing whether intended or not. Because these are complex decisions. They are so complex and I can't overstate that enough how complex it is.

30 What I do need to say is that because of the way the system operates, because of the funding allocation, because of the services that are in place to support Aboriginal and Torres Strait Islander families at the moment - and because of the legislation and the way in which the bureaucracy works - what we also have is a situation where it's not just the State that's perpetuating this harm against Aboriginal and Torres Strait Islander peoples, perhaps as individuals, perhaps collective, but it's our own organisations that are also perpetuating this harm.

35 MS FITZGERALD: In what way is that happening?

40 DR JACYNTA KRAKOUER: I'm saying that it's happening through the use of Aboriginal community controlled organisations, who are bound to the legislation and need to act in a certain way when children are placed in out-of-home care, they have certain checks and balances that they must respond to, they have high case loads as well and they have to respond in certain ways. They have carers that, you know, perhaps - and we saw it in some of the previous evidence that people might perceive or describe as racist or perhaps what I found in my PhD they just lack knowledge of the complexity of Aboriginal and Torres Strait
45 Islander cultures because we are so diverse. Perhaps they are not supported along the way, because the system's trying to respond to another risk or it's trying to respond to another child in a more dire circumstance.

50 So it's looking at these immediate harms that are happening and it's not able to respond to these potential longer-term harms. It's not able to actually wrap the support around the foster

carers and the kinship carers to ensure that our children are connected to their families, to their communities, to their cultures and have the right to continue connecting and find themselves to be supported in their journeys of culturally connecting.

5 You have the evidence in my PhD thesis which showed examples of where children's own - their own families, their non-Indigenous side of the family, because the Aboriginal and Torres Strait Islander Child Placement Principle places Aboriginal and non-Indigenous family at the highest level of the placement hierarchy, so it's compliant.

10 The non-Indigenous side of the family might hold very negative views. In the case of a few of the participants from my PhD study, the non-Indigenous family members actually held some very racist views about Aboriginal people and, fundamentally, we all learn culture through immersion in culture, we learn it from the people that are around us. So when you are hearing these negative perceptions about Aboriginal people or this media discourse that constructs
15 Aboriginal people in a particular way, you are internalising that, you're finding it difficult and it's challenging because, ultimately, when you are in a statutory system, the system has the responsibility to come in and to make sure that children are getting everything they need to be immersed in culture. But it can't because the system's in crisis.

20 MS FITZGERALD: I wanted to move on because there are a lot of really great issues that both of you cover. The third issue I want to ask you each about is strengths, about the strengths of Aboriginal women and families. Ms Taylor, in your outline of evidence, you state that there is a need to embed a positive strength-based approach to working with Aboriginal families. Firstly, what is a strength-based approach?

25 KARINDA TAYLOR: I think about unconscious bias. So I think, in terms of, you know, our individual upbringings and it probably goes back to that original first bit we talked about around what constitutes good parenting. In our case study with the woman that came and did the 10-day assessment, even just the language that was used, recognising the strengths in the
30 woman in terms of you might not necessarily not like or agree or you wouldn't necessarily act in a certain way, but to recognise that, within that family dynamic, you know, just being able to interpret the information. It's actually a really - it's a big topic.

I think having a genuine understanding about the importance of an Aboriginal culture within
35 a family, within the broader family, beyond the nuclear mum and dad and the child, there is actually very little regard for the broader network of family and the trend of what that collective can bring is rarely recognised because it looks at the one individual and it is often the mum as opposed to dad or nanna or an Auntie in the broader family and even just the language used, so being able to, you know, like, stereotypically sort of pigeonhole your
40 expectation, so as someone's talking to you there is very little demonstrated ability to use that information and then structure it in a way that would allow a strength-based outcome within the report. The reports are written in a really negative way.

45 DR JACYNTA KRAKOUER: If I can give a practical example of that: if you have a mental health history, right, and you have had past hospitalisations, in-patient admissions, past suicidal ideation, or past suicide attempts, instead of looking to the resilience and what it's taken for that person to survive, the fact that they are still here, the fact that, despite all this trauma of the past and all these challenges, instead of looking to how that actually could be conceived as strength of a person, the child protection system will see that as a risk. There is
50 a potential there for that person to have an exacerbation of an existing mental health

condition. They could potentially become overwhelmed, we could trigger them. That's a risk factor.

5 Instead of saying what are they doing today? They are still here, right? They might have been through some horrible traumatic stuff, but this is the difference, I think, between the health system and the child protection system. The health system comes from this strength-based perspective where it's focused on the holistic needs and wellbeing of the entire family, the family, the child, the parents and the family in the broader sense of the word, whereas the child protection system, as a result of the best interests of the child principle, focuses on the child as their primary client and focuses predominantly on the parents as those who hold the legal guardianship of the child before the child is - before that legal guardianship is contested within the court system.

15 MS FITZGERALD: The last question I wanted to ask before we go into closed session was one for Dr Krakouer: earlier this week the Premier indicated that the government will devise a new child protection system for First Nations children and families. Did you see the comments made by the Premier and do you have any response to them?

20 DR JACYNTA KRAKOUER: Firstly, I absolutely welcome and love that idea of creating a new child protection system. I think that's the right way to be thinking about this issue. What we don't need is reform after reform and recommendation after recommendation because we have seen that that doesn't work and it hasn't worked. So I think fundamental structural transformation of the system is exactly what we need and how can we do that structural transformation in a way that upholds the determination, paying attention to the rights of the individual, and the community, as well as the complexity of Aboriginal community politics, how we can do it in a way where the government works in partnership, not just with Aboriginal leaders and Aboriginal organisations, but how can we do things new, and innovatively and differently?

30 How can we reflect the lived experiences of those who have been in the system. How can we ensure that Aboriginal children and young people actually get a voice, and get to offer their solutions, and get to offer their new ideas, of what this new system could look like. I don't hold all the answers. Community knows what they want their child and family welfare system to look like. Community knows what's in community's best interests so we need to think about how can we get these grassroots level voices, how can we mix up funding, spread it out to a bunch of new, different Aboriginal organisations who might want to get into the child and family welfare space.

40 How can we think about young people actually coming up with creative solutions, driven by their own expertise of living in the system. If I can give an example, I was at the Queensland Aboriginal and Torres Strait Islander Child Protection Peak Conference last week, QATSICPP for short, and there was this amazing youth organisation called *'Deadly Indigenous Youth Doing Good'*, and these were young people who had experience of the system, who had grown up, and they gave their key note about how they were doing things differently, and innovatively, because they could imagine an alternative future, they could imagine something that worked differently. They were achieving these positive, fabulous outcomes. They were doing things really well.

50 But we need to tap into new ways of doing things. We need to actually tap into building up an Aboriginal-led evidence base. We don't really have a very strong Aboriginal-led evidence

base in Victoria. So we need to be thinking, okay, how can we actually create an evidence-base around, an Aboriginal-led evidence base around the concept of the best interests of the child. What might that look like from an Aboriginal and/or Torres Strait Islander perspective and how might that differ from a Western perspective of the best interests of the child.

What do community want in terms of self-determination? How do they want to be self-determining? What do they want to see and let's engage broadly because I think governments - and I know a little bit about how policy works - is when we are devising policies - and I'll say this as someone who was on an expert reference group for the creation of the National Framework For Protecting Australia's Children 2021 to 2031 - we engaged with this expert Aboriginal advisory group to advise decisions and to then sort of inform what that policy might look like, broader consultations, collect that, and then sort of come back to the table and try to devise a policy solution. I think we are not consulting widely enough. We are having often the same people come into those circles and making those decisions and doing those negotiations with government.

Let's think about how we can bring in new, fresh ideas and voices, into those arenas. Let's think about how we can mix things up. Because if we want to break this problem, we have known for a long time that the child protection system in Victoria is in crisis, and that it's not working properly. We know that the numbers of Aboriginal and Torres Strait Islander children in out-of-home care continues to rise. We have done inquiry after inquiry. We know it's not working so we need new solutions. We can't keep doing the same thing. We need to think how can we do things differently.

I think I really honestly believe that there is a lot of goodwill within the Victorian government and I think there is genuine commitment to the principle of Indigenous self-determination. I just think that perhaps they have been receiving the same advice, or perhaps they have been given solutions that don't work, that are not fit for purpose, place-based solutions generated from grassroots community members from the ground up. Perhaps they have been hearing things that just don't quite work.

It doesn't mean you should say that Indigenous self-determination and section 18 as a principle doesn't work. It's just that we haven't quite found the right way to do it because the system's so complex that we can't expect if we do one thing it's going to produce an outcome. We have to have a little bit of policy failure along the way and respond to that, and then mix it up, do things differently.

I think we can do that. I think we can think about perhaps taking a public health approach but I also think we can't do it in isolation, we need the partnership of the Commonwealth Government because the reality is that universal support services, poverty alleviation strategies, are also the remit of the Commonwealth. We also need the partnership of all Victorians. All Victorians. We need our allies. We need people to come on board and come on this journey and be open to challenge unconscious bias, to be open to reflect and think about if they are a mandatory reporter, how do they perceive Aboriginal children, do they perceive them somewhat differently? Do they not realise they are actually seeing this Aboriginal family in more of a risk focused way than a non-Indigenous family?

The problems within child protection are not just within child protection. Child protection intersects with a range of different systems. It intersects with the family violence system, it

intersects with the police, with the health system, with the school system. It intersects with any system that has a job of essentially surveying or monitoring or looking out for the wellbeing of children. That's all of society, so these are societal issues. They are not going to be fixed with an easy policy, quick fix solution.

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I can't give you a quick magic tool that's going to go boom, you know, fixed. It's something that's going to take time. It's something that's going to require complex thinking and new innovative solutions to generate solutions, but it's worth it ultimately, isn't it, because we all care about safety and wellbeing of our children, and I think that's something we need to say, that no-one wants to see something bad happen to a child.

10

No-one wants to see a child harmed. We don't want to see a child harmed. But it is how that is done, how that protection of children is done that is so hurtful and so damaging, because it's done in a way that's punitive, controlling, coercive. It's done in a way that feels like punishment and in a way - it's been written about in the research literature, it's being done in a way that makes families feel like this is not a child protection system, but it's a family policing system.

15

There are magistrates and court orders and police coming in and telling families your child is at risk of harm and therefore they are subject to removal. That's coercive. The full force of law is brought down upon these families and they are left powerless and without a voice in this system - without someone to advocate for them within this system, their hands are tied. The system holds that ultimate power to decide whether or not that child should be removed. That power is felt by families who are traumatised, who are struggling, who are really doing it tough. And they can't fight back. It beats you down. It beats you down. It beat me down as a worker in that system. That's why I got out of case work, because I felt beaten down by the limited amount of change I could affect as an individual in that system. I wanted to get out of that system, get to a position and I am so thankful for the educational privilege that I have now where I'm in a position to have my voice heard. We need to think about structural transformation, what can that look like, and the possibilities are limitless.

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MS FITZGERALD: Thank you, Doctor. We will very quickly go into closed session just for one or two questions about issues that were particularly sensitive. So we might just pause, Chair, I make a request that the live stream come down for a short period.

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COMMISSIONER HUNTER: Could I just ask a question? Dr Krakouer, you talked about or mentioned the best interests in the framework, it's in legislation, so the best interests of the child; is that self-determination?

40

DR JACYNTA KRAKOUER: That is a really loaded question. That is a complex question. I think the best interests of the child, the way it's operationalised, is a focus on the individual child and their needs and rights to safety and wellbeing. I think that self-determination for the individual child potentially, could be achieved through the best interests of the child, but the self-determination of the family and the community isn't upheld through that best interests principle.

45

That's because the best interests principle has its location in this idea of children's interests as being divorced from family, community, Country and culture. It has its traditions in this Euro-centric way of viewing children as separate to families, as an individual agent in and of themselves, whereas we don't see our children like that. We see our children as an individual,

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yes, but also our child as future, our child as community, our child as belonging, our child as interconnected to this complex kinship system.

5 I think that's where there is this kind of cultural misunderstanding of Aboriginal ways of child rearing and parenting that actually confound understandings within the system and limit the application of Indigenous self-determination. Because that's also a very complex concept as well. It's understood from a political theory kind of way, it's understood from a legal way. So there's a lot of tensions and a lot of complexity. But I don't think the best interests of the child principle actually enables full Indigenous self-determination.

10

COMMISSIONER HUNTER: Thank you. Thanks, Counsel.

MS FITZGERALD: Are the Commissioners content?

15 COMMISSIONER BELL: I just have one question of the many I would like to ask. Dr Krakouer, you mentioned that a reform system could take a public health approach. Could you just explain briefly what you mean by that.

20 DR JACYNTA KRAKOUER: Okay. So within the research literature, probably since about 2006, we have talked about this public health approach to child protection systems or child and family welfare. If I can give you an example, it was enshrined in the National Framework For Protecting Australia's Children, the previous version to the 2021 to 2031 example. It had this triangle of what a public health response could look like. So a public health response is about understanding those universal supports that are available to all families, such as
25 childcare.

30 So if we have free subsidised childcare, free or subsidised childcare, that's a universal that could be available to all families to help alleviate some of the stresses and hardships and challenges of child rearing. We would then have a secondary level of support. So when a family starts to become at risk they might need some help and go to a targeted service, such as a counsellor, for example, or they might see someone attached to the National Disability Insurance Scheme, and get some support around disability or a child who might be on the autism spectrum.

35 You then have your more targeted levels of support, so your families who are high risk, at risk, so you might have your family violence support services, you might have your intensive substance use services and then at the tertiary level is the child protection system, a tertiary level response. What I'm saying in terms of having more of a public health response is that we need to shift the investment and invert that triangle. So currently the expenditure, sorry,
40 I'm going on old data from 2019, that research report found that of the nearly \$6 billion spent annually on child and family welfare systems only 17 per cent of that went to early intervention, and the preventive measures. I'm saying what we should do is flip that investment to think about poverty alleviation strategies, ways we can actually prevent children from entering the tertiary end of the child protection system, and actually stay in
45 those lower levels of support, to actually build up the protective factors and the supports and wrap them around the families before the risk gets too high, where it gets to that threshold, where the system then feels like it has to intervene.

50 COMMISSIONER BELL: Thank you.

COMMISSIONER WALTER: I wanted to thank you for that extremely articulate and evidence-based and grounded in your community and your identity of - what you have done with families and I think the thing that really struck me that you actually put it in really - how the system is systematically stacked against Aboriginal families and children, with that
5 combination of the disproportionate need and that structural bias that is built in at every step along the way, and I just thought that was a beautiful way of encapsulating why we see what we do. So thank you.

DR JACYNTA KRAKOUER: I think, too, just to add on that, when we understand the system in that way we understand it as a systemic issue and we don't blame individual
10 people. It's not an individual's fault. They are actually part of this system and this system has an issue.

CHAIR: I don't have any questions.
15

MS FITZGERALD: I'm very happy to have all of the non-closed questions now rather than disconnect it at the end. So if there were any further questions about the open session issues?

CHAIR: No.
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MS FITZGERALD: Thank you, Commissioners. Could we bring the live stream down.

<CLOSED SESSION 2:59 PM

25 **<OPEN SESSION 3:23 PM**

MR McAVOY: I call the next witness, Mr Hamm. Mr Hamm is in the witness box.

30 **<IAN DAVID HAMM, CALLED**

MR McAVOY: Mr Hamm is in the witness box. Mr Hamm, can I ask you to tell the Commission your full name, please?

IAN HAMM: Yes. My name is Ian David Hamm.
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MR McAVOY: You have provided an outline of evidence to the Yoorrook Justice Commission?

IAN HAMM: Yes, I have.
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MR McAVOY: You have read that document recently?

IAN HAMM: I have.

45 MR McAVOY: To your recollection is the document dated 7 December?

IAN HAMM: To the best of my recollection, yes.

50 MR McAVOY: The evidence contained in that document, and your evidence here today, is, to your knowledge, the truth - will be the truth?

Yoorrook Justice Commission

IAN HAMM: Yes, it is.

MR McAVOY: Thank you. How would you like to be addressed, as Mr Hamm?

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IAN HAMM: Ian's fine or Mr Hamm. Whichever you would prefer.

MR McAVOY: I'll call you Ian, if that's okay.

10 IAN HAMM: That's fine with me.

MR McAVOY: Ian, could you just explain to the Commission who you are and where you're from?

15 IAN HAMM: Yes. So my name's Ian Hamm. I'm sitting here in the role as - or one of my many roles, many roles, but mostly as Chair of Connecting Home, Chair of the Board of Connecting Home, which is the Stolen Generation service in Victoria. I was in the public service for over 32 years for the State and Federal Governments across a range of portfolios, but mostly connected to Aboriginal affairs, and these days I'm a non-executive director
20 among other things.

MR McAVOY: Your traditional Country is where?

25 IAN HAMM: I'm a Yorta Yorta man.

MR McAVOY: From any part of Yorta Yorta country, in particular?

30 IAN HAMM: Yes. My family's from Shepparton. Although I grew up in Yarrawonga. I was one of the stolen children. So I grew up away from my birth family and grew up adopted to a non-Aboriginal family, the Hamm family.

MR McAVOY: Did you want to just describe for the Commissioners the circumstances of your upbringing as a Stolen Generation survivor?

35 IAN HAMM: Yes. Certainly. So I was separated from my family at three weeks of age, actually here in Melbourne, so I was born at the Royal Women's in Carlton, and I was adopted in September 1964 and grew up in Yarrawonga, one of four children, three of which were Aboriginal. My adopted parents adopted two other girls, one who is a year younger than me and one who was four years younger than me, no relation, as such, or actually one of
40 those girls - one of those girls actually turned out to be a cousin, our fourth cousin, which was one of those things when you realise you are related to someone, oh, we really are related. But, in any case, we grew up in a town, three Aboriginal kids in a town of about 3500 people, 3500, and the three of us were the entire Aboriginal population in Yarrawonga.

45 MR McAVOY: At what point were you able to meet your family?

IAN HAMM: That came around in - I was always aware I was Aboriginal. Mum and Dad, my adopted parents, had always encouraged our Aboriginality without knowing what that meant. I first started inquiring as my background in 1983 when I was 18 and a half and I
50 moved to Bendigo to go to teacher's college in Bendigo and met some people there and one

of them upon asking who I was, what I knew about myself, looked at me and said, “I think I know who you are, leave it with me.” Six months later somebody got back to me. That was when I first came across the concept of Koori time. It takes a while. It was six months later but eventually it was someone from VACCA, or the predecessor of VACCA, came up to
5 Bendigo and met with me and took me through my story of who I was and where I was from.

MR McAVOY: What did you find out about your family?

10 IAN HAMM: I found out that I was from Shepparton which, up until that stage, I didn't know where I was from. I thought am I from North Queensland, am I from Central Australia, perhaps Western Australian, and I was from Shepp, which was 50 minutes in the car. So it was about, I know, 35 miles away from Yarrowonga. So, in one sense, I hadn't gone
15 anywhere in my life, in another sense, I could have gone to the other side of the planet. I didn't know that that was where I was from. I only discovered that I actually had grown up on my traditional lands after I left Yarrowonga.

MR McAVOY: Looking back on that today, how do you feel about it? What emotions does it stir?

20 IAN HAMM: It probably doesn't - it stirs an emotion of what might have been rather than trying to describe an emotion of happiness or sadness. It's more an absence of what might have been. I do, from time-to-time reflect on that. I had my formative years somewhere else
25 to the rest of my family. That shows up at little times, you know, at times too, family celebrations, birthdays, and that, and people talk at those things about when they grew up together and what it was like. I grew up somewhere else. That's where it emotionally shows up the most for me.

MR McAVOY: So is it your experience that, try as you might, that the factual realities can't
30 be breached, that you weren't there for those things?

IAN HAMM: Yes, I can't change that. I think a way of coping with it is to do what I do or what I have done with my working life is a way for me of coping with it rather than letting it
get the better of me, trying to do something, trying to do something positive.

35 MR McAVOY: I might take that opportunity to ask you now about your work with Connecting Home, as the Chair of that organisation, can you just describe what that organisation does?

40 IAN HAMM: Yes. So Connecting Home is the prime Stolen Generations organisation in Victoria - support organisation in Victoria. It was established in 2010, when the previous organisation, Stolen Generations Victoria, ceased to exist. I was the inaugural Chair. I set it up, basically. It now continues and is, in fact, expanding in the service model it operates. We are primarily a client support agency. We look to provide a wraparound service to our clients
45 but we also provide a key - we look to focus on having influence across policy and advocacy and information and education to do with Stolen Generations as well.

MR McAVOY: Just to be clear, your clientele are Stolen Generation survivors?

50 IAN HAMM: Stolen Generation survivors and, in a lot of instances, also their descendants as well, particularly children and grandchildren, in some of our client's cases.

MR McAVOY: Whilst it might be the case that some of their - and often is the case, I imagine that some of their children and grandchildren are subject to the child protection system today, or have been, the role of Connecting Home is not providing services to the current cohort, it's only the Stolen Generation survivors?

IAN HAMM: Stolen Generation survivors, however, we do work with descendants in some capacity in some things, but it is primarily focused on survivors themselves.

MR McAVOY: I think at paragraph 5 of your outline is those people removed before 31 December 1976.

IAN HAMM: 1976. That was the date set by the group that developed the Stolen Generations redress package in Victoria.

MR McAVOY: Do you see a difference between the Stolen Generations, as described, and the people who are going through the child protection system today?

IAN HAMM: There is a difference in the beginning, if you like, of what individuals go through. So if I think about what we term the Stolen Generations, children were removed simply because they were born Aboriginal, rather, we were born Aboriginal. That was primarily what the Stolen Generations and the mass removal of children was being about. Being born Aboriginal. And it was not just a government policy, it was a societal expectation, governments only reflect the societies in which they operate.

It was a societal expectation that children would be removed so they could be brought up away from their family, culture, community and Country, so they could perform or be useful contributors to the dominant society. That's what it was. Now, children are removed for a range of reasons, but the prime one, it is not driven by, "They are simply Aboriginal, we have to take them." That's the fundamental difference. Having said that, the experience once they are removed can, in some cases, be not too different and the consequence of if that experience is not a good one, or one that is managed in an appropriate way, the consequence can be the same; that is, people who are disconnected from their Country, their culture, their community, their families and, therefore, they lose their identity, is just as much an outcome now as it was for previous generations.

MR McAVOY: Thank you. I can tell you that the Commission has heard evidence from a number of witnesses this week who are Stolen Generation survivors. At paragraph 7 of your statement, of the outline of evidence, it records that the loss of culture that survivors of Stolen Generations experience often leads to a loss of personal and social identity, many adults spend their lives not only trying to reconnect with their families, but also with their culture. That's a broad generalisation but it's one that holds fairly well for your clientele?

IAN HAMM: It's one that holds pretty well for pretty well the whole Stolen Generations community, not only in Victoria but around the country as well. So it's an ongoing process for virtually everyone.

MR McAVOY: Part of Connecting Home's responsibility or work is rebuilding those connections or helping people to rebuild those connections and find peace; is that the way it's put?

IAN HAMM: Yes. In my statement I referred to it as peace. There is no other way to describe it. At least getting people to a point where they feel their life isn't in a constant state of flux and change and turbulence centred around, "Who am I and where do I fit into the world", whether it's family, community, or connecting with other Stolen Generations people, that you have a common experience with. That's what we - that's, I guess, philosophically, what we try to do and the programs and things that we do go towards that end.

MR McAVOY: It's not the case, is it, that Connecting Home engages and provides services to clients and then they are off on their own, you don't see them again, it's more often that they have come back at times of need?

IAN HAMM: They do. We have some clients who have been with us for many years. We also have clients - and this would be a not insignificant number - they get to a place where they are okay and then we don't see them for six months, maybe a year, and then they'll come back because their life was not going as well as it was when they - when they were okay and they have become un-okay - excuse the poor English - and then they find they need our help again and that's okay for us. That's what we are about. Our approach isn't a treatment-based one, it's a support one when people need support.

MR McAVOY: Connecting Home has also picked up some other responsibilities?

IAN HAMM: We have. We have also become a registered NDIS provider as well because it doesn't take much logic to work out that people who have been through a life of trauma, quite often have a whole bunch of other issues, in this case, those which draw their eligibility to the National Disability Insurance Scheme. So we took the decision to become engaged in the NDIS directly to make it work best for the people who need our support.

MR McAVOY: You've also had - Connecting Home also has responsibilities in relation to the entire Victorian Stolen Generations Reparations Scheme, the National Redress Support Services and Stolen Generations Funeral Fund?

IAN HAMM: Yes, we have.

MR McAVOY: Could you speak briefly about the Funeral Fund and why it is necessary?

IAN HAMM: Okay. So the Funeral Fund was established upon the announcement by the Premier and the then Minister for Aboriginal Affairs, Gavin Jennings, that the State of Victoria was going to develop a redress scheme and it was the acknowledgement that Stolen Generations people, a lot of our people, don't have good - don't have any economic circumstances, and they were basically dying as paupers, and their families not being able to afford funerals.

The distress of people who have basically had a rotten life and then being buried as a pauper, it was put upon the government to establish a funeral fund, so if people didn't have a decent life, they could at least have a decent burial. That arrangement was worked out with the government and Connecting Home, and Connecting Home manages the program where we provide up to \$10,000 per funeral.

MR McAVOY: Thank you. I just want to ask you some questions about the Healing Foundation. You are a board member on that organisation?

IAN HAMM: I am a board member.

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MR McAVOY: You've done some work, particularly for that organisation, as Chair of its Stolen Generations reference group and Chair of the Historical Records Taskforce?

IAN HAMM: Yes, I have.

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MR McAVOY: They are discussed in the statement. The Healing Foundation, just for the record, could you just describe what The Healing Foundation does?

IAN HAMM: The Healing Foundation, if you like, is the national focal point for Stolen Generations people. It provides policy, research, advocacy, working with other entities around Stolen Generations mechanisms, Stolen Generations services, what it can do about influencing what other governments and other agencies do in relation to Stolen Generations. That's a really high level thing.

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MR McAVOY: So, in large, is it fair to say that primarily it's an advocacy?

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IAN HAMM: Advocacy body, yes. To be clear, the Healing Foundation doesn't do direct client service. As a national body our role is more a strategic one and we seek to provide the national focus, as I said, working with the Federal Government and, where appropriate, State Governments and also other Indigenous bodies and non-Indigenous bodies around supports for Stolen Generation people.

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MR McAVOY: In paragraph 12, in the last line, you talk about there not being a lot of data for Stolen Generation survivors and that really before 2018 the data wasn't there; could you just explain that a little?

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IAN HAMM: Yes. So up until 2018, it was actually in the lead-up to the 10th anniversary of The Apology by the then Prime Minister, Kevin Rudd, the Stolen Generations reference group of the Healing Foundation were asked by the foundation what should we do for the 10th anniversary. Should we have a dinner, should we put on a concert, and we actually said, while that's good, one of the questions that hadn't been answered was how many Stolen Generations people are there? Nobody had actually asked that question.

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So the Healing Foundation Commissioned some work through the Australian Institute of Health and Welfare to look through established data sets to see can we identify the number of Stolen Generations people in Australia, hence that's where that work came in 2018. I think it was updated in 2021, the data was updated, up until 2020.

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MR McAVOY: Thank you. I just want to ask you a couple of questions about the Stolen Generations Reparations Steering Committee. You've included in the statement some detail about that work, which is no doubt very important work, and following the recommendations of the report from that committee, in March this year the Victorian Government opened a reparations package?

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IAN HAMM: They did, yes.

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MR McAVOY: What was the nature of that package?

5 IAN HAMM: The nature of that package was, in essence, to provide financial compensation for an apology to be provided by a Minister or a departmental Secretary, a personal apology to each applicant, or each person who was deemed to be eligible for the settlement package. Also, it made recommendations around programs and services, and supports for descendants of Stolen Generations people as well.

10 MR McAVOY: Are those supports being provided?

IAN HAMM: I'd have to say we are probably still in the beginnings of expanding the services that we already have established, such as Connecting Home and probably beginning to identify what further services are needed, and how those are going to be resourced.

15 MR McAVOY: I just want to ask you quickly about the payment, the amount of the payment; what was that amount?

IAN HAMM: \$100,000.

20 MR McAVOY: What's your view about that payment?

IAN HAMM: That payment, I think, is significant enough in terms of - in terms of - I'll put this a different way. We live in a society and a community that puts a dollar value on people's distress and pain. Whether we agree with it or not, that's just how our society works. This is an amount of money which, in the view of the committee, given the budget that was available to us, was what we determined to be an appropriate amount of money, in recognition of a life not lived, of the complete dislocation, disruption, of people's lives from birth, in some instances, or from early childhood. So the \$100,000, while no amount of financial compensation can compensate for a life lost, this was looked at as significant enough people could see their experience had been acknowledged.

MR McAVOY: How did that amount compare to other jurisdictions?

35 IAN HAMM: It's the biggest amount compared to other jurisdictions. Tasmania's was around the \$10,000 mark. South Australia went \$15,000. New South Wales had a graded scale of impact of being taken, they not only looked at removal, they looked at what was your life experience and graded that and made a determination on how much you got as a result of that.

40 The Commonwealth scheme had \$75,000 plus an additional \$7000 for counselling support. So that came to about 83,000. The Victorian one is 100,000. The challenge for the two jurisdictions remaining to do it, Western Australia and Queensland, is to up the ante again, which may necessitate every other jurisdiction revisiting what we have done.

45 MR McAVOY: You have, over the years, given evidence in a number of inquiries?

COMMISSIONER BELL: Counsel, can I ask a question now on this very subject?

50 MR McAVOY: Certainly.

COMMISSIONER BELL: I think I understand the figure to be arrived at by dividing the approximate number of stolen people into the available budget.

5 IAN HAMM: Pretty much. It wasn't a great detail of mathematics but it was - we estimated the amount of people we had in Victoria who would be eligible under what we were thinking to be the criteria against the amount of money we had and other provisions we had to make and that's how we arrived at \$100,000.

10 COMMISSIONER BELL: I don't think that any attempt was made by you to, as it were, calculate, according to a compensation principle, the amount that would be paid if true compensation were to be awarded, say, by a court or tribunal?

15 IAN HAMM: No, not at all. Our job was to, with the available money, how far we could make it go but, at an individual level, which would be significant enough so people felt like it would be meaningful.

20 COMMISSIONER BELL: It would be meaningful. My understanding is that that exercise of estimating, according to a true compensation principle, would be the amount, has never been undertaken?

25 IAN HAMM: Not that I'm aware of in the Victorian jurisdiction. I don't think it has been anywhere else although there is a case in the Northern Territory. I'm not sure the outcome of that.

COMMISSIONER BELL: Thank you, Counsel.

30 MR McAVOY: I will ask the witness a further question along that line, Commissioner Bell. Are you aware of the decision in Trevorrow?

IAN HAMM: Yes, Trevorrow. Yes.

MR McAVOY: Do you know the amount of compensation paid in that matter?

35 IAN HAMM: It was more than 100,000. I'm not sure of the amount, though, but I remember at the time it was pretty impressive but I also was aware what the applicant had to go through to get that, and that took a lot, a lot of courage, but it was quite costly personally.

40 MR McAVOY: If I might take the liberty of reminding you a little, it was a South Australian matter, the Trevorrow family, the figure was something in the region of \$500,000 for damages, but he had a lengthy court case.

IAN HAMM: A lengthy court case, yes.

45 MR McAVOY: Does that raise any further matters for you, Commissioner Bell, before I move to the next topic?

COMMISSIONER BELL: No, thank you.

MR McAVOY: Now, you've given evidence in the Forced Adoptions Inquiry, the Joint Select Committee on the Implementation of a National Redress Scheme, the Royal Commission into Aged Care, Quality and Safety on the Stolen Generations, or have you made a submission in relation to that matter?

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IAN HAMM: A submission was made, yes.

MR McAVOY: And Connecting Home, together with the Victorian Office of the Public Advocate, made a submission to the Commonwealth - the Royal Commission into Violence, Abuse, Neglect and Exploitation of Peoples with Disability.

10

IAN HAMM: Yes.

MR McAVOY: Those submissions are attached to your outline of evidence?

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IAN HAMM: Yes, they are.

MR McAVOY: They are available for the Commissioners to consider?

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IAN HAMM: They are, indeed.

MR McAVOY: What I wanted to do is take you a little bit further through your outline of evidence. Commissioners, I'm moving to paragraph 37. You talk about the changing demand for housing and your knowledge of the housing needs of Victorian Aboriginal people.

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IAN HAMM: Yes.

MR McAVOY: You recall those sections of your statement?

30

IAN HAMM: I do.

MR McAVOY: Could you just explain to the Commissioners your understanding of the change in housing needs?

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IAN HAMM: So up until about three weeks ago I was on the board of Aboriginal Housing Victoria for a period of nine years. My term expired. It was a nine-year limit. One of the things which we had - clearly influenced us as Aboriginal Housing Victoria in the housing we provided and the things we developed was the demand that people wanted in terms of housing.

40

Our biggest housing request was for one or two bedroom units, townhouses, those type of things, which, at the time, when we really started to analyse it, or when you see the change over time, it is a distinct move away from people wanting four, five bedroom houses for large families. Most of our housing requests was from either older people wanting to have a smaller unit for themselves or, indeed, younger people who were just starting out or, indeed, starting a family, but it was clear that they didn't want to have huge families. They were looking more at two children.

45

That was actually a significant thing for us because, given the size of the housing requirement on Aboriginal Housing Victoria, it actually starts to be an indicator of what's going on in the

50

broader Aboriginal community. That's what we noticed is that there has been a change in the Aboriginal community, particularly from younger people, about where they are going.

5 MR McAVOY: Did that mean that the housing office had to go through a change of its stock?

10 IAN HAMM: We are turning over a lot of our stock, or they are turning over a lot of their stock now, because a lot of it has become aged, it's become worn out, we were actually were also - a lot of stock was transferred from the State of Victoria to our ownership over the past eight years to Aboriginal Housing Victoria, but really it was turning over stock that was no longer applicable or desired or in locations where no longer where Aboriginal populations were to the type of housing where it is needed, addressing the needs of the clientele who came to us.

15 MR McAVOY: How does that affect the ability of the community to pick up kinship care and foster caring needs?

20 IAN HAMM: It follows that, if people have smaller housing, and are unable to take more than - if they are in one or two bedroom units, maybe even the occasional three-bedroom house, their housing capacity is quite limited and that did - it did occur to me that, therefore, it has a flow-on effect, to can people take in others in times of need, for an extended period of time. I'm sure no matter what the size is, for a very short-term and urgent response, of course, it's possible to do that, everyone does it, but as an extended long period of time, semi permanent or permanent arrangement, it seemed to reflect that there was a much reduced capacity and ability to do that.

25 MR McAVOY: You also, in your statement, set out some views you have about people's changing socioeconomic status and that effect on willingness to engage in kinship care?

30 IAN HAMM: I do. And I say that, as I've seen so much - or a lot of what I do now is in the economic space. I see more Aboriginal people engaged in the economy, particularly younger people. I see more Aboriginal people are, quite rightly, having aspirations that the rest of Australia takes for granted. That not only has a changed economic outlook but also has a changed social outlook for us as a community too. And it comes to the point where perhaps people are doing okay and, in particular, their children may be doing okay, and the question then arises: do they want to disrupt their children doing okay by bringing in extended family who are not doing okay and what will that do to their children.

40 When you consider some of those people who, maybe parents, may have been brought up in those circumstances of disruption, do I want to bring my own children or expose my children to perhaps the same circumstances? The answer is maybe not.

45 MR McAVOY: Well, is it fair to surmise that people have, in this generation, something to lose, whereas their parents might not have had much?

50 IAN HAMM: That would be a very astute observation that previous generations - we were at the bottom of the pile, all we had was each other, and we depended on each other and, to be brutally honest, not a lot to lose. Now that is changing and people are making different decisions. That's not to say that they don't care, they don't have empathy, they don't have a desire to support the community, but they also take into account, "Where am I taking the next

generation that I'm responsible to, particularly my own children? Am I prepared to compromise that for the sake of others." That's a real and live question. It's not a judgment of anyone. It's just a real and live question that I think we perhaps don't contemplate enough.

5 MR McAVOY: When there is a growing rate of children going into out-of-home care, are there any solutions that you've turned your mind to that might assist in ensuring that children are able to be kept within the Aboriginal community?

10 IAN HAMM: I think we do have to look at two alternatives to what we have assumed is the best way or the only way and that is immediately family kinship care. If there is simply, (a), too many children; and, (b), not enough people prepared to provide that care, we simply can't go down that path. So we do have to think about what are alternative models but it's also thinking about how do Aboriginal children - what are the circumstances in Aboriginal children - that Aboriginal find themselves in to be the at the attention of the State in the first place? I don't think we pay nearly enough attention to that.

15 The focus is on when things go bad, what do we do, rather than what are the circumstances that lead to us getting to that point in the first place. That's even - that goes back to a not only early form supports, or interventions, but what are the broader circumstances that children and families find themselves in to start to go down that slope to begin with.

20 MR McAVOY: A further question arises from your observations about the change in demographics. If it's the case that there is a growing Aboriginal middle class, if I can call it, working class or middle class, is it fair to assume that there might be a reduction in children in need because of socioeconomic circumstances or can you not make that assumption?

25 IAN HAMM: I think you can make that assumption that if more people are rising up the socioeconomic scale, the assumption would be that their children are also rising with them. However, that seems to run counter to the figures we see in the growing population of children in care. So there is something that's not quite matching there.

30 MR McAVOY: You're not aware of any data that would indicate whether it's simply a lag or some other anomaly?

35 IAN HAMM: It could possibly be a lag. I'm not sure - no, I haven't seen any data, but if you apply a theoretical approach to it, you would assume, if you lift up this group of people, then this group down here should diminish. That's theoretically what should happen, yet that does not seem to be what's happening when you look at the amount of children going into out-of-home care.

40 CHAIR: Counsel, could I ask a question here. Just while we are talking about economic matters, I'm thinking of the committee, I think you were on the committee, I can't recall the name, Andrew Jackomos, I know it was represented when we spoke to the interdepartmental committees.

45 IAN HAMM: Victorian Aboriginal Economic Council?

50 CHAIR: That's the one. Can you tell us if you think that has made some difference and, in what way, in the context of what we have been discussing?

IAN HAMM: Yes. I think the Council itself is starting the journey of a real engagement of Aboriginal people in the economy. To date, if I go back to 2013, prior to that, the only engagement or thought by anyone of Aboriginal people in the economy was unemployed to employed, which is, in terms of economics, not hard to do. There's lots of job programs that do that. The difficulty, or the harder part, but the more substantive part is how do you lift people up the economic scale over a lifetime of employment where they have increasing incomes.

That's what has been going on since 2013 and the Council now is looking at we have an established base now, the exponential growth of Aboriginal people in the small business sector has been huge. I mean, in the past 10 years it's just beyond comprehension, and that's a good thing. The amount of our younger people who are now seeking employment, not just - they don't talk about a job, they talk about a career. They talk about having that increasing income. So we are seeing change in economic circumstances.

The Council's next iteration, what we are working on now - and we launched an Aboriginal strategy this year, I think it was - that's about how do we spend the next 10 years growing Aboriginal participation in the economy because a simple fact of life is if you are economically doing well, a lot of your social ills shrink.

COMMISSIONER WALTER: Is that growth in both professional careers and higher education being reflected in the Census data?

IAN HAMM: The Census data hasn't been analysed to that extent but I have seen data which represents more Aboriginal people in business, more Aboriginal people in employment, the one I'm really interested in, though, is the movement of where they are on their income scales, where they are on their employment scale, for example, and employment journey.

COMMISSIONER WALTER: The longitudinal --

IAN HAMM: That's really the longitudinal stuff. The problem with snapshot data - and it only tells you that day - is it's really the long-term stuff.

MR McAVOY: Continuing on the economic vein, is there any observation you can make about the impact of the Indigenous procurement policies that exist at both State and Federal levels on that small business growth and economic growth generally?

IAN HAMM: Yes. So those procurement targets have had their desired effect or are having; that is, to encourage Aboriginal people into business. Now, the reason they work is traditionally Aboriginal people are the most overtrained people in Australia - I mean, that's just a fact which I don't need to go into. There is plenty of evidence of that.

The problem was - and again with business, Aboriginal people being encouraged to go into business, the problem was no market. That was the issue. There was no market for Aboriginal people in business, so we had to create one. Hence, by getting governments to adopt procurement targets all of a sudden you have a market, government departments falling over themselves to find Aboriginal suppliers.

Now, in the beginning, there basically wasn't any and now you see people being attracted to that. How it works or why it works, the targets set for governments, Federal and State, around

procurement, were never designed to be met. They were never designed to be achieved. Not until you had a quantum so large that if they then went away, those targets, it wouldn't make a difference to the Aboriginal economic participation. Their job was to get it big enough so that an Aboriginal economy could exist in its own right, or Aboriginal economic participation would exist in its own right.

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So they have had a huge effect. If you look at the number of registered businesses in Victoria run by Aboriginal people, owned and operated and run, that that has exponentially grown over the past few years. It's a good outcome.

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MR McAVOY: Has that movement of people into the private sector had any discernible effect on the people available to work in the public sector, or the community sector?

IAN HAMM: Yes, it has. People moving into the private sector, both as - not only business owners, but as employees as well, it has meant, and this is not a bad thing, that people's opportunities aren't restricted to either the not-for-profit sector or government. That's actually a good thing.

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My own view, and I say this as somebody who was in government for over 32 years, the relationship between government and the Aboriginal community per se was far too close. Now, if we are helping to move towards the same relationship that non-Aboriginal people have with government, that is a good thing, and if through participation in the private sector that's happening, that's a good thing. We are not reliant on government. We are not dependent on government. Our relationship is normalised as the non-Aboriginal community's is.

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MR McAVOY: Which brings me to the last section of your outline of evidence in relation to the need for capacity to be built in the Aboriginal sector, to lead the work that has to be done. Would you like to just address the Commission on that issue?

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IAN HAMM: Yes. So in the Aboriginal community sector, there is a lot of work that needs to be done about simply building our capacity. When I look at the State of Victoria and I think where we were in 2005, our relationship with government, where we were as a people, we have come an extraordinarily long way in an incredibly short period of time, in not even a generation. We have gone from where the Aboriginal community's role was to sit and wait for government to come up with policies and programs that may or may not reflect what the need was, what the hopes and desires of the Aboriginal community were, notwithstanding government's and departments' genuine attempts to engage with Aboriginal communities. Look where we are now. In the space of less than a generation, we now have government policy primarily being driven by where the Aboriginal community wants to go, in most things.

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We now have a situation where government is backing out of that. I guess the issue that is still unresolved, because of that complete change of the focus - and quite rightly, the Aboriginal community wanting to step up to do things, to lead things, to respond to our needs rather than being government-led - that's a huge capacity leap that has to happen, too. So while we have got the principle right, the capacity investment, the capability need, hasn't been sufficiently addressed, sufficiently supported, or sufficiently understood.

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It's one thing to say, "I can do this"; it's another thing to look at yourself and say, "And this is what I'm going to need to be able to do this." I think we have come such a long way so quickly we haven't had time to take breath and take stock of what are the capabilities and capacities that we are going to need to be able to fulfil these things in the Aboriginal community controlled sector and all the things that flow in that sector and, indeed, in Aboriginal people working in government as well.

CHAIR: Can I just follow on from that. In relation to the training, you talk about ensuring that senior people are adequately supported in training. I have been out of the public service for 20 years, but I've been observing on the sidelines until more recently. One thing I wondered about is whether or not we do need something a little bit different. I know some people, if they are able, they go and do a course at a business school.

Not everybody's able to do that, but I'm seeing particularly young men that I'm concerned about, who wish to come into the public service at a more senior level and they don't have the background in many cases. Is there the potential for something like a Harvard style, you know those short programs? We used to send public servants over there. Isn't there something that can be done in the space?

IAN HAMM: There are two things to it, Commissioner. One is that there needs to be a greater focus on what people need in terms of training and education. The other one is just raw experience. The other one is just years of getting stuff under your belt, learning as you go on a graduated curve.

One of my deep concerns that I have seen, is younger people who are on an accelerated progression, where in the endeavours of agencies and government to have Aboriginal people in executive positions, some people are being promoted too far, too quick, and they have not simply had the experience. They have simply not had the miles under their belt. They haven't been exposed to, as I said in my statement, the dark arts of the public service, to know how to get things done, to roll with the punches, the buttons to push, and so forth, and they get into positions that, in my view, they are not ready for, and that's bad for two reasons: one, it's bad for the outcome, for what their influence and capacity to make great change is; and, two, it is enormously damaging to them as a person.

I worry that in the enthusiasm - and it's a matter of principle, of course - I want to see more Aboriginal people at the most senior levels in government, not only in the Parliament but in the public service as well - but not at the cost of too far, too quick, because that could in fact set us back. That's my real worry.

CHAIR: That's pretty much the concern I have, but there are some good people around who are strong culturally and not so strong in the appropriate ways that a public service would want. They do need something for a leg-up and if they do apply for something senior, there have been a spate of positions as you know, at the moment, their CV gets thrown in the bin because they haven't got a qualification even in some cases, and that's embarrassing and hard for them to digest, really, as young men who have worked their way up in the world, not necessarily in the public service though.

IAN HAMM: It's that qualifier. Government is a unique beast, for anyone who has worked in the public sector, there is nothing quite like it and you have to go on a learning curve. I have seen Aboriginal people and non-Aboriginal people come in from extraordinary careers

in the private sector, or outside of government, they come in at a high level and the meat grinder spits them out in six months. Because it's a unique beast in itself.

5 I worry that we don't invest enough time to get people the skills and capacities they need not only through more formal education or sending them off on executive courses, and so forth, but giving them the career structure to learn the arts that they need to be successful long-term senior executive in the public service, or in the Aboriginal executive ranks in the community sectors, as well, because that's becoming a far more complex sector in its own right.

10 CHAIR: Thank you.

15 MR McAVOY: To put it a little bit more bluntly, perhaps the role of leadership within government is one which is very competitive at an interagency level, and people outside the government probably aren't aware how competitive it is. People who come in underdone are less likely to be able to be competitive and therefore successful for their portfolio or agency; would you agree with that?

20 IAN HAMM: I would say to people who don't understand it, you are absolutely right. It is a competitive space. It is competitive but cooperative, and it can also be a very siloed space, unless you actively try to punch through the walls of the silo and try to make things happen horizontally instead of just vertically. Hence the question, or my response to your question you asked before, do we sufficiently understand the circumstances that Aboriginal children find themselves in to come to the attention of the State in terms of childcare?

25 It's often looked at simply as a childcare issue, which almost implies the assumption is that everything else is fine, it's just this one thing. That is in fact not - it is in fact never the case. There's usually a whole bunch of things, and if you try to fit it into government agencies, it would be across a number of silos going on in a personal family life. The trick with government is to try to look at that horizontally, not simply vertically, and you try and do that with strategic policy. The Victorian Aboriginal Affairs Framework is built around that concept.

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35 MR McAVOY: Thank you. Annexed to your outline are five documents: the Stolen Generation's Reparations Steering Committee Final Report 2021; the Inquiry Into the Responses to the Historical Forced Adoptions in Victoria transcript; Annexure 3, the Healing Foundation Submission to the Joint Select Committee on the Implementation of the National Redress Scheme; Annexure 4, the Healing Foundation and AAG's ATSIAG Submission to the Royal Commission into Aboriginal Aged Care Quality and Safety and the Stolen Generations; and Annexure 5, Connecting Home and the Office of Public Advocate Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People With a Disability.

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45 Commissioners, unless there are further questions of this witness, I would seek to tender the outline of evidence from Mr Hamm, together with the five annexures. Are there any other questions?

50 COMMISSIONER BELL: May I ask one, thank you. Actually, there are two. Unless I'm mistaken, your statement does not engage with the issue of Aboriginal control of the childcare system, or with issues arising under the present section 18 arrangements?

IAN HAMM: Correct.

COMMISSIONER BELL: Do you have views in relation to those matters or have you intentionally kept out of that?

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IAN HAMM: I have a view but I'm not intimately engaged in the sector but my view aligns with my wider view that we have come a very long way in a very short period of time. The transfer of responsibility from the State to the community sector is an extraordinarily good thing to happen. It goes with that whole ethos of, "We know what's best for our community."

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What I worry about is that transfer wasn't - hasn't been sufficiently understood in what it actually meant and, therefore, have the community controlled sector been given the resources, the capabilities and capacities it needs and freedoms it needs to be able to do that job. So there's actually positive outcome for Aboriginal people.

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COMMISSIONER BELL: I understand.

IAN HAMM: My worry is that has this transfer simply substituted the Aboriginal community sector for what the State previously did and the outcome for children is still relatively the same. It wasn't designed that way but by not understanding the full breadth of what we were doing or what was being undertaken is that potentially the result?

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COMMISSIONER BELL: Thank you. In paragraph 35 of your statement you list five key questions through which one can analyse the deficiencies of the system. I have noted those. I only want to ask you about the last one which is:

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"To what degree is there black cladding of the policies of government around the child protection system?"

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Could you just explain that a bit better so that I understand it?

IAN HAMM: Yes. Okay. So black cladding is a term that's probably used in the Aboriginal economic space more than anything and it started to show up in the procurement area first where it became, in the early days of it, there were companies that were being started that were "joint partnerships" - and I put that in inverted commas on purpose - where you would have one Aboriginal person who owned 50 per cent of a company and a large multi-national who owned the other 50 per cent. It was quite clear that all was not what it seemed. Fortunately, that's been dealt with.

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In this context, what I meant by that was while a lot of the policies and strategies that have been launched are, indeed, sound, and, look, to be honest, they have Aboriginal words on them and they have got artwork and their intent and purpose is quite good, how they practically roll out, how they practically apply to Joe Bloggs, compliant officer in Upper (indistinct) West who is just getting on with his job for Department X, Y, Z, even though the Secretary signed it off, the Minister launched it, we had a great celebration, how far does this go down the chain? That is a real problem that you can see.

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COMMISSIONER BELL: I understand. Thank you, I appreciate it. Thank you, Counsel.

MR McAVOY: Thank you, Commissioners. I tender the statement and annexures, Chair. That concludes the evidence for this witness.

5 CHAIR: Thank you. Those documents will be allocated the next exhibit numbers. Thank you.

EXHIBIT 2.5 STATEMENT OF IAN DAVID HAMM

10 MR McAVOY: Thank you, Chair. That concludes the witnesses for today and I thank the Commission for sitting a longer day. These are sometimes difficult pieces of evidence that we hear and it is important that we get to hear them and the fact that you've been able to sit longer to hear Mr Hamm's evidence should be recorded, thank you.

15 CHAIR: Thank you, Counsel, thank you, Commissioners, and thank you, Ian, for accommodating our timetable.

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