



OUTLINE OF EVIDENCE OF JOHN**

FEBRUARY HEARINGS 2023

1 MARCH 2023

I OVERVIEW

1. I am a Gunditjmara man from [REDACTED] We have a strong community in [REDACTED] our uncles and aunties were like our parents. We all looked after each other.
2. I currently live with my wife – we've been together for 11 years. I have 5 children, 2 with my wife and 3 from 2 former relationships.
3. I have been forcibly separated from 3 of my children through the Family Court System.
4. I also have no access to my 2 eldest children who live interstate as I could not afford the legal process to gain access.
5. I was separated from my third child when he was 1 year old. He is now 10 years old. These years have been a constant fight to remain in my son's life.
6. Koori people are strong in our family ties and connection. You can ask any blackfella what country they and their family are from. However, I'm not getting the opportunity to give my children this same experience of community that I had when I was growing up.
7. I believe my story reflects a common experience across many Aboriginal men and fathers. Of course, I don't speak on behalf of every Aboriginal person, but rather, want to share my story because I know there are a lot of other people experiencing the same thing.

II EXPERIENCE WITH THE FAMILY COURT PROCESS

8. I found the process of going through the Family Court system incredibly challenging. Attending Court and getting in front of a judge as an Aboriginal person is hard. The Court system was not set up to support us and does not consider the way blackfellas live.
9. When my son's mother and I separated, my son was one year old. I asked to see him every day for four months and was constantly denied. I had to wait six months to go to Court and was not able to see my son in this period.

Financial barriers

10. I've been to Court three times and this has come at a huge emotional and financial cost to me. Each time, I felt like I had no voice in the Court room. Despite explaining my situation to my solicitor for hours, she did not express what I wanted to say in front of the judge. I've been told by my lawyer to shut up and to avoid making any facial expressions. Every time, I have left the court room feeling powerless, upset and crying. This process led me to have suicidal thoughts.

11. The Family Court system makes money from misery. The cost of going to Court amounts to my yearly wage. However, when I applied for assistance, I was told I made too much money and was denied. I am concerned for people on lower pay brackets, as they would not be able to afford any effective representation.
12. Despite my lawyer costing a large portion of my income, I did not get the result I wanted and I felt like I didn't have a voice in the court room. People I know who could afford more expensive lawyers than me did get better lawyers and a better outcome in court than me. This doesn't seem right that people who can pay more get better outcomes in Court. We have grass roots mob who are struggling and just getting by. I worry about the men in the same situation as me who don't have a good job, can't get a good lawyer and then don't get good representation in court.
13. I have been through the same process with my children interstate. This process involved a simple mediation on the phone. At mediation, the other side didn't even participate in a meaningful way. I couldn't afford to go interstate to attend court hearings. As a result, my children were taken from Victoria. I can no longer see my children or remain in their lives. I've been told to wait until they're 18 – and then they might come looking for me.
14. The cost involved in keeping our kids in our lives makes me feel like they think our kids are for sale. Family structure, community involvement and culture are more valuable than how much you earn. But this is not reflected in the Family Court system.

Problems with Court orders

15. When I was at going through the Family Court process, even though I have no issues with drugs or alcohol, I was forced to undergo drug and liver function tests. There was an assumption that this wasn't necessary for my former partner but that I needed to provide clear screen drug and alcohol tests. I felt like this was a tool used that works hand-in-hand with racism. Given there was no evidence to suggest drug and alcohol screening was required, it felt like stereotyping led to this requirement being put upon me.
16. The Court required me to attend a Parenting Order Program. I found this process frustrating and ineffective. You can complete a Parenting Order Program without engaging or saying a single word – there are no consequences or disciplinary actions if you don't engage. This process was highly emotional, draining and belittling. The Court System makes you feel like you are incapable of looking after your own child, and then they take your child away from you.
17. I've never had any serious trouble with the police. Since the Family Court became involved with custody over my son, the police are used against me to try to find anything that can be used in Court. I've had the police at my door in the middle of the night because they get called to do welfare checks on me. I've felt the need to protect myself so much that I now have a GoPro sitting on my desk and in my car for when the police come. The embarrassment of it all. Embarrassing and belittling.
18. One time, I was two minutes late to dropping off our son. The police called me and told me to come to the police station. I refused, explaining that I had my son in the car, did not want to bring my son into that environment and that we had already arrived at the drop off destination. The fact the police get involved in this is ridiculous.

19. My former partner also placed an intervention order on me to keep me away from my son unless she invited me. One day she invited me to come and pick him up but then when I was on my way there she must have changed her mind. When I got there, she started arguing with me and telling me to leave. So I left but then made accusations that I'd breached the order and physically and verbally assaulted her. I had never been in trouble with the law so I was ignorant about how these things work. I got representation on the day at the court house and was told by the lawyer 'don't do anything, just sit there'. I ended up with a \$5,000 fine because no one listened to me and the Judge said he had a court room full of students and he wanted to teach everyone there a lesson.
20. The Family Court system does not give us an opportunity to reach a fair arrangement for parenting our children unless we have the money to pay for expensive lawyers. Even though I was parenting my son every single day up until my partner and I separated, once we did separate, there was suddenly a presumption that I wasn't a fit parent and that I have to prove that I can be a parent to the Family Court through drug and alcohol screening, parenting programs, and incremental increases in contact. There is nothing culturally safe about this system. Being removed from your kids is heartbreaking enough already. But being dragged through a court system that does nothing for you is even worse. The Family Court system is a modern day system of forcible removal.

III COURT OUTCOME AND PERSONAL IMPACT

21. The orders made by the Family Court have no regard for Aboriginal cultural values. The Family Court orders specifically prevent me from involving my son in cultural activities without me giving my former partner 2 weeks' notice beforehand. To me, this feels like I have to get approval from someone else to teach my own son about our culture.
22. For about two years, the Family Court orders meant I could only see my son for four hours per week. Then I could see him overnight on Thursdays. I couldn't take him home until he was 10 years' old. Now I have my son Thursday to Monday every second week.
23. Even now, the orders of the Family Court mean that even when I have my son with me, I can't do cultural activities with him unless I've given 2 weeks' notice to my former partner beforehand. This is completely impractical because there are so many activities in life where it isn't possible to give 2 weeks' notice. This means that even when my son is with me, much of the time we miss out on doing these cultural activities together. When I was growing up, I could join in with activities my uncles, aunts and cousins were all doing – a 22-seater bus would get around town picking people up. My son doesn't get the chance to take this type of opportunity to get involved in things as they arise.
24. The Family Court orders mean that I am unable to teach my son about important values, such as the importance of being involved in mob and speaking up for mob. I also want to teach my son values such as being proud of who you are, growing up as a man and preparation for life. For example, my son has only danced once in his life. The last time I took him to the [REDACTED] Festival in [REDACTED] he absolutely loved it. He couldn't stop talking about it for two months - he was always asking me when we were going to go back and do it again. It makes me sad that I will have to wait until he's a teenager to teach him, especially when he is already years behind and loves it so much. He doesn't have access to any of these cultural activities through his mother.

25. Only having my son Thursday to Monday every second week means I feel like I miss out on everything. My son performed clap sticks in front of his whole assembly. I was not informed about it, so I missed it. I was proud of my son and I wish I could have been there.
26. When I was young, there was one man in our community who brought our dance, language and culture to us. We learnt so much from him – all the kids were dancing, knew some form of language and knew where specific places on our country are. They also know the value and importance of what we do. We would regularly visit our uncles and aunties and sleep at our cousin's on the weekend. My children lack these relationships and culture.
27. The Court Orders require that I give written notice if I take my son to [REDACTED] our home country. I can take him anywhere in the world except for [REDACTED] I also have to do all the travel – it's about a 2 hour round trip to pick him up and drop him off.
28. I am saddened by the fact that I would probably have more of a chance to going to my son's school and asking to teach culture there than directly teaching my son. I've been overseas multiple times representing our culture – to Amsterdam and Los Angeles. I've spoken at universities, UCLA, and represented my community everywhere I've been. I feel like I can teach the whole world about my culture, everyone except for my own son.
29. When my children turn 18, they will come looking for me. But I will have no influence on how they grow up and on how they treat people. I'm just a name that might pop up. We will be sitting there when they are 18 with nothing much in common. This Family Court system does not align the way Aboriginal people live and bring up children.
30. If I wasn't stronger and didn't have a strong community, I probably wouldn't be here.

IV SHARED EXPERIENCE WITH OTHER ABORIGINAL MEN

31. I have been outspoken about these issues on social media, which has allowed me to connect with other Aboriginal men and fathers in similar circumstances. These men have also been forced out of their children's lives. I have been contacted privately, as many men aren't willing to talk out about what we go through. They message me confidentially because they need someone to talk to. Some of these men have been suicidal.
32. I work at an Aboriginal Health Service's Men's Shed which aims to support men with their mental health. I tell them that you have to go out bush and scream and let it out. As Aboriginal men, we come from warrior backgrounds. But I've spoken to many men who have been broken by the Family Court system. Being told that you can't look after your own son is demoralising and humiliating. But talking to other Aboriginal men in the same circumstances helps as you know that you are not alone.
33. These issues go largely ignored in our society, leading us to deal with the problems as individuals. We go home and cry. Some people hit the grog, others turn to other substances. This could all be prevented if we felt like we were dealt with fairly.

IV PROPOSED REFORM

34. The history of forcible removal of children has impacted where we are today. Amongst all this destruction of our country, our family group has remained strong and has continued to break the barriers. But the system is still managing to take away our culture and take our kids off country.
35. We don't want our kids in care, we want them with family. It is even more important for us to have our family together because of our history. We thrive off large family groups, we love talking about how we have a thousand cousins. This will allow us to gain more knowledge and bring back our culture.
36. Aboriginal people should be able to manage our own family affairs, but there is currently no opportunity for us to explain what's not working. The Family Court system does not work for us and our families.
37. Cultural sensitivity is taught in every organisation, but not within the Family Law system. I am motivated to encourage change in this area.
38. The Family Court should adopt an approach similar to the Koori court. It should be a space where we can go and talk directly to decision makers, instead of talking through someone else (for example, a roundtable discussion).
39. My experience of the Family Court system was that I had no voice and there was no understanding of our situation. We should have elders, single fathers, single mothers on a panel to listen to us. This would allow decision makers to understand what's really going on. This would avoid a judge we have known for only an hour decide what is best for us, our family, our learning and our culture. If someone is going to make judgment on us, they should know us. Including our family and our people is an important part of these decisions as they know our culture and our history.