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TRANSCRIPT OF DAY 3 – WURREK TYERRANG

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

**WEDNESDAY, 7 DECEMBER 2022 AT 10.02 AM (AEST)**

**DAY 3**

**MR TONY McAVOY SC, Senior Counsel Assisting**  
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Yoorrook Justice Commission

  
**LAW IN ORDER**  
Where work flows.

CHAIR: Good morning. Today we continue with the hearing in the areas of child protection and criminal justice. Before we start, I would like to ask Commissioner Hunter to do the  
5 Welcome to Country.

COMMISSIONER HUNTER: Thank you, Chair. I'd like to acknowledge and welcome you to my ancestral lands, the lands of the Wurundjeri people, and pay my respects to ancestors and Elders, particularly here today, and acknowledge all those that come before us, so we are  
10 able to have a voice and speak at these tables today. May Bunjil watch over us as we conduct Aboriginal business, Wominjeka.

CHAIR: Thank you, Commissioner Hunter. Counsel.

15 MS McLEOD: Good morning Commissioners. I'm appearing for the panel this morning and Ms Fitzgerald is appearing to lead the evidence of Aunty Rieo after this panel. Before I call our panel members, we have some orders we wish to make under 26 of the Inquiries Act in relation to sensitive evidence. I hope they are on the table in front of you there, Chair. These  
20 orders are in respect of the case studies set out in the confidential attachment to the witness statement made by Shellee Strickland dated 6 December 2022, that those case studies not be published, that paragraph 19 and paragraphs 24 to 26 of the witness outline of Aaron Wallace dated 6 December 2022 not be published, and any oral evidence in respect of either of those  
25 matters, to the extent captured in a transcript or video recording, not be published and each order contains the usual warning in respect of contravention of the order. I seek orders in the form of those orders before you, Chair.

CHAIR: Thank you Ms McLeod. I make those orders in the terms sought.

30 MS McLEOD: So if the Commission pleases, I call today's first witnesses. We have Aunty Hazel Hudson, we have Felicia Dean, we have Shellee Strickland around the table in that order, and joining us in the body of the Commission hearing is Tracey Dillon. Online we have Aaron Wallace who is muted at the moment.

CHAIR: Hello Aaron, welcome.

35 MS McLEOD: For each witness, I might just check, we undertake a process where witnesses undertake to tell the truth and there should be a form of words in front of you. I will just check where those - yes, those laminated copies. Shellee, starting with you, could I invite you to choose which form of undertaking you would prefer and to read that out, please.  
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**<SHELLEE STRICKLAND, AFFIRMED**

**<FELICIA DEAN, AFFIRMED**

45 **<HAZEL HUDSON, AFFIRMED**

MS McLEOD: If Ms Dillon chooses to join us at the table, then we will administer the appropriate undertaking.

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**<AARON WALLACE, SWORN**

5 MS McLEOD: This morning's hearing, Commissioners, relates to the operation of section 18 organisations. I just wanted to remind you of the provision of the Act, section 18 states, this is the Children Youth and Families Act:

10 *“The secretary may in writing authorise the principal officer of an Aboriginal agency to perform specified functions and exercise specified powers conferred on the secretary, by or under this Act, in relation to a protection order in respect of an Aboriginal child.”*

So, I might just invite, starting with Aunty Hazel, each of our witnesses to introduce themselves to you.

15 HAZEL HUDSON: Hi, everyone. I would like to thank - sorry, I'm not too - thank you for your welcome to country and acknowledge that I'm on Aboriginal land and pay my respects to Elders past and present and any Aboriginal person within the room. My name is Hazel Hudson. I'm the director of family services at Njernda Aboriginal Corporation. I've been  
20 working with Njernda for the last five years in that area. So, I work with kids in out-of-home care, so kinship, Aboriginal children in Aboriginal care, the guardianship program and family services, intensive family services, homelessness and family violence area.

I'm a Kamillaroi woman. I have lived down on Yorta Yorta country for 58 years. I moved to  
25 the country with my parents. I have Yorta Yorta children and I've mostly worked as an accountant in the New South Wales Aboriginal Land Council Sector and had a career shift five years ago where I went into the community sector. So I had a massive learning around that. The reason I did that is because my parents and my grandparents had a belief that when you've had a privileged life, you pay back.

30 As you can plainly see, I'm in the last ends of my employment life. So, I'm paying back to community in an area that needs lots of support around children who have broken lives, because of one reason or another, and I believe in the village concept.

35 MS McLEOD: Thank you, Aunty. Ms Dean, would you prefer I use Felicia or Ms Dean?

FELICIA DEAN: Felicia is fine.

MS McLEOD: Thank you. Please introduce yourself to the Commissioners.

40 FELICIA DEAN: First I acknowledge and pay my respects to the Wurundjeri people and those Elders, past, present and emerging, and I pay my respects to you as Commissioners and thank you for your commitment to these really important roles. I'm a proud Yorta Yorta Taungurung woman, born and raised in Shepparton, and I'm the CEO Rumbalara Aboriginal Co-Operative. I have been working at Rumbalara on and off for about 20 years. So I have a  
45 background prior to that as a kindergarten teacher and hold a bachelor of education in early childhood. Rumbalara is a very large Aboriginal community controlled organisation and it provides whole of life services, from birth to death, and we try to provide services that honour and support our community.

MS McLEOD: Thank you very much. Ms Strickland, would you prefer Shellee or Ms Strickland?

SHELLEE STRICKLAND: Shellee.

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MS McLEOD: Yes. Shellee, would you like to introduce yourself?

SHELLEE STRICKLAND: I also would like to acknowledge the land on which we are meeting today, the Wurundjeri country, Elders past and present, and for your time to listen to what we have to say. I feel it's been a long time coming. So, I feel so privileged to be part of this to be able to give evidence. My name is Shellee Strickland. I was born and raised on Gunaikurnai country. I spent a predominant part of my early years working and being mentored and really lucky being mentored by some Elders, strong, opinionated women that I hope that I do proud, and I then want on to work at VAHS as quality and compliance manager and then on to Wathaurong in family services where I have found my passion in working with child protection and family services, perpetrators, family violence, etcetera.

I think that lived experience is something that I want to ensure that is a huge part of where we are moving forward to make sure that we are accountable for that and again I just want to say thank you.

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MS McLEOD: Thank you very much. Aaron, would you prefer Aaron or Mr Wallace in this setting?

25 AARON WALLACE: Aaron is fine.

MS McLEOD: Aaron, can I ask you to introduce yourself to the Commissioners, please.

AARON WALLACE: Yeah, my name is Aaron Wallace. My father is a Wallace and he is a Wurundjeri man and I was always identified as a Wurundjeri man and (indistinct) I would just like to acknowledge the traditional owners of the lands that we are meeting on today and I also just want to acknowledge that we are meeting today from Yorta Yorta country and I want to acknowledge Elders and ancestors as well, and also my Aboriginal colleagues in the room today.

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I'm the director of child safety and cultural support at (indistinct) and I have been there just over a year, prior to that I was the CEO at Njernda as well. My background is in the education sector. I started working in education when I left school and I also became the youngest ordained Minister of religion in Australia when I was 17 years old and I have been working in the community sector ever since.

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My area at BDAC at the moment is that I oversee section 18, we're fully authorised and I oversee the access around all of our child safety parameters as well, and I am really privileged to be here on behalf of my organisation, and would like to send regards from our CEO, as well. Thank you.

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MS McLEOD: Thank you very much all. I might just come back, in case there is anything Aaron and Felicia you would like to say about your organisations, but starting with you, Aunty Hazel, would you like to tell the Commissioners about the work of Njernda?

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HAZEL HUDSON: I'm privileged to work with an Aboriginal agency that's been around for over 40 years. We are a multi discipline centre. So, as with Rumbalara, we work from zero to the time that they pass. We have a number of services. I won't talk about the other services, which is health services, social and emotional wellbeing, youth justice, community justice,  
 5 Berrimba, Berrimba is our early childhood centre and our childcare centre. It's the crown in Njernda's - it's the jewel in Njernda's crown mainly because they look after our most precious possession, and that's our children.

10 My service looks after children who are in our out-of-home care space, children who are unable to be with their family, for one reason or another, and also with families that are struggling to keep their children within the home. That's in the out-of-home care space. We're in what's called pre-authorisation for section 18 and we are hoping to go to full authorisation by October '23. And then the other areas that we work in is that we've got  
 15 integrated family services, stronger families - sorry, we have had a reform. So integrated family services - and forgive me for all these names - family preservation, reunification and response workers.

We have housing officers, homelessness officers, and family violence workers. So, in my space, our work is around building the resilience of our families that are struggling and  
 20 vulnerable and at risk of losing their children, to ensure that they get their children. If the child's gone, it's about connecting them to the community because we all know that we grow up strong in identity, in culture, and on our country, and when - the unfortunate - sorry, I tend to have so much information I rush to get it all out and I miss stuff.

25 The unfortunate component of Njernda is that - and we've also have foster care - the unfortunate side of Njernda, is that we know that when a child is removed from their family, and if we can't get them family on country, and they are removed off country, they don't come back to us until they turn adults. That is crippling for our community, and one of the reasons why our community will remain unhealthy when we lose our children.

30 The Yorta Yorta children - and Felicia can probably confirm this - is the largest cohort of Aboriginal children in out-of-home care. I think it is significant and a real issue for Yorta Yorta people and for this community, the Victorian community overall. Our job is around connecting those children and making sure that they have been well cared for, and that they  
 35 get to dream and they get to achieve their dreams. When we take on our kids - the first time we took on kids - they hadn't seen a child protection worker for five years. They went from five years to seeing a worker every two weeks. They actually got sick of us and said, "We're not used to this."

40 But those kids got a concept of additional people outside of the carer and their family that cared for them. So, when I talk about the village, I talk about a responsibility of all community members that have around looking after children. You know, years ago, I can remember - and Felicia can probably and Shellee and other Aboriginal people in the room can probably remember - when we walked down the street as kids, and if an Elder seen us or  
 45 another older person seen us misbehaving or getting into trouble, they had permission from our parents to swiftly kick us up the bum and send us home. And by the time we got home, our parents usually knew that we'd been up to mischief and gotten into trouble.

50 But not only - so that's part of being in a village and having a village being responsible for you. The other part of it is about, you know, if your family were struggling, if there was a

death in the family or if there was an illness in the family, the community surrounded a who list particular approach and helped you care for your children. So that you could heal yourself or you could do what you need to do knowing that those children were being - they were safe within culture, they were safe within that family. So, it's a wraparound support.

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ACCOs now function, to a large degree, we wraparound supports in regards to the care of our families. So, but in some ways, that concept has been lost within Aboriginal communities and it's been lost for a number of reasons because our fabric was attacked. We had kids stolen from us, you know, and we had - we had - there's lots of trauma that occurs. I'm not telling

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you anything different, I'm not sure if I'm making - articulating this very well.

Those traumas have been formulated for things from being stolen generation or from families. If you can imagine what it would be like to have people come down and drill down on you and have your child being removed and you running after that child and you can see

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the child crying in the back of the ute or the car and you're crying as you're running down the road for that child and you have no power to prevent that from happening.

Or even if I take you back further, having babies buried in the grounds with their head exposed so that white people could have a sport and knock that baby's head off. So that level

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of trauma is infused in our very DNA and our bloodlines and our people have got to recover from that. That level of trauma also breaks down that village concept. So, for me, section 18, in our case, it's Walyaka, we call the program Walyaka, we become that village for those children that aren't privileged enough to have a healthy family and, unfortunately, there's more children out there than we would like to count that fits in that boat.

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They are not in a position where their families can look after them. So, from that perspective, we, as adults, and being a part of an Aboriginal community, and being an Aboriginal agency, have a responsibility, a duty, to step up and ensure that that child is wrapped around with whatever service that they need to achieve whatever goals they want to achieve in life. You know, that could be a doctor, that could be an astronaut, or a teacher, or it could simply be, being a loving parent, a loving father, or a loving mother, or a good brother or good sister.

They set their challenges in life and we support them in achieving those challenges that they want to achieve. For me, that's what section 18 does. That's what ACCOs do very well in

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regards to caring for our kids in out-of-home care and in child protection. The other aspect with section 18, I am aware that there are lots of community that consider that to be part of, or they don't want to go into that space because of the Stolen Generation, and that they don't want - the Stolen Generation is very negative concept. It was a disempowerment of our families in regards to the right to care for their children and when you - anything is tainted by that, it becomes very emotive for Aboriginal people, but for me, section 18 is the fundamental definition of self-determination.

What other definition of self-determination is more pure than the right to care for your own child or your children within your community. That's, to me, what self-determination is, and, as an adult, that's my responsibility to fill that in and allow those children to achieve their own self-determination by determining what they are going to become when they grow up to be an adult. Hopefully, we provide them with enough support to break that cycle where their children aren't removed, constantly. Sorry, did I answer your question?

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MS McLEOD: That's terrific. Thank you. Can I just ask you about a couple of the services you provide. Are they in and around Echuca, all of them?

HAZEL HUDSON: Look, when I talk about a holistic service with Njernda, all the services are provided within Njernda. There are some key points, key services that we all struggle to get. Like, we, for instance, you know we quite often have kids that are - their sexual identity is confused, is a polite way of putting it, you know, when I grew up, there wasn't an issue around whether you were he, she, their or them, and I still don't understand that concept. So I'm not really going to - but, you know, it is whether they want to be gay or whether they want to be gender neutral or, you know, that type of thing, and we have had - over the years we have had a number of children that tried to commit suicide because they don't know how to bridge that gap and they don't know how to identify what they are. Aboriginal people don't actually think of kids in terms of that. We don't think of kids in terms of disability. We don't look at that. We just see them as a child that deserves to be loved, irrespective of what their sexual preferences is, whether they got a disability.

So those kids need counselling and expert counselling and we can't get that. Our best advice from a specialist is to take them into hospital, get them assessed and when they have tried to commit suicide, that happens, and they say, "Oh, they are not dangerous enough, there is no real risk there, that risk has passed, we'll refer them to CAMHS", you can't get into CAMHS until about three months down the track. The moment's gone. When kids cry out by self-mutilating or trying to commit suicide or, you know, threatening people and preventing - coming across as violent to other people, that's their cry then, and that's when we need to get in counselling.

Not just any counselling. It has to be counselling that can communicate with young people, that can communicate with Aboriginal people, that understands trauma, that understands the level of intergenerational trauma that we have, you know, because we have - look, I've got a number of kids where people look at them and they say, "Oh, they are going to grow up to be criminals."

MS McLEOD: Is that an example Aunt of a service you aren't able to provide locally?

HAZEL HUDSON: We try to get counsellors in and we get them in but you can't get them in when you need it.

MS McLEOD: Ok. I just wanted to ask you about a couple of the other services you offer, there's the Berrimba Childcare Centre?

HAZEL HUDSON: Yep.

MS McLEOD: Do you want to say anything about that?

HAZEL HUDSON: So Berrimba Childcare Centre is a centre that takes on kids from six months to the time that they go into kindergarten. So out of there they run a number of services, so they have hearing tests, they have childcare, they have kindergarten, they have bush kinder, they have hearing tests, eye tests. So all their little milestones. They get a specialist into that service and they do the tests in-house in Njernda.

But they also do a lot of other activities. The kids go out in bush. Have you ever seen our kids go out in bush? And I'm sorry I'm a bit croaky, I haven't got COVID, I have come back negative, but I have some sort of problem with my voice. When our kids go out in bush, right, you see them in the town, they are all like this, jittery, and you can see they have already  
 5 picked up from their parents that they have got to observe their environment and find that escape avenue real fast. When kids are like that, the trauma in the brain is constantly working and it doesn't heal.

As soon as we take them out into bush, something flows up, something magical happens to those kids. Their shoulders down. It's not only kids, it's adults too, their shoulders get released, they feel a force that sweeps over their entire body, and that force gives them permission to relax. And I call it exhaling. So once they exhale, then they start to heal, and our bush has magical powers, not only for Aboriginal people, but for everyone that goes out to bush will be aware of the powers that come over them when they are out there.  
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When they take their shoes off, then their bodies, the force of that land flows up through the soles of their feet into their bodies, and they can run around and be something that they can't be in community, or in townships. They can be kids. They don't have to worry about who's watching them and they can run wild until their little hearts are content.  
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So Berrimba does that, but not only that, Berrimba does a lot more than that. If families are struggling and there might be something going on within the families, Berrimba provides a safe harbour for the children. So it's an environment they can come in, they can be kids, they can socialise with each other, they can be introduced to other Elders that are safe within community. They learn about their culture, they learn about language, they learn about interacting with each other respectfully, which is all social boundaries that we all need to learn but they build up their resilience so that when they go home to an issue that might have some family violence, or they might have a grandmother that's not struggling, who is the primary carer, they can deal with that. The level of damage being done to their brain lessens.  
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So Berrimba gives them enough strength to come home and deal with that and when they go back in, they get another dose of that positive outcome. People telling them, "Gee, you're beautiful, you're a smart little kid." You know, that's so talented, you know, and their eyes light up. Where you see a child that doesn't have access to that, their eyes are dull. Our kids' eyes should always be sparkling, because they have so much to offer. That's what Berrimba is.  
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I was privileged to go to - what was that Tracey? I think it was reconciliation, or one of the special days where we went to Berrimba and they did a flag raising at Berrimba, their kids did a dance. So they had the didj playing, and the kids were dancing around, and then they were singing in language, and to see their little faces light up and to observe them, you know, knowing that they were safe in that environment, that was an absolute privilege. All our kids should feel that every single day of their life.  
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MS McLEOD: Felicia, you touched on the work of Rumba, would you like to say more about its work and what stage it is at with the section 18 process?  
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FELICIA DEAN: Sure. So Rumba has a very broad service delivery and it is fairly, you know, it's pretty unique, working in the space of health, justice, family services, of course, aged care. In the aged care space we do everything from case management of to home care  
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packages to an aged care facility, a 30-bed residential centre. There are two of us in Victoria, where there's ASIS here in Melbourne and us in Shepparton and we also have a palliative care centre there, which is the only Aboriginal palliative care centre in Victoria - very, very special place, and the staff there, you know, they support families and walk that journey with Elders, and the families as they enter the Dreamtime. That's very special work.

We also have a women and children's accommodation centre and we are about to trial one of the sobering up centres, so Rumbalara, it never closes, there are many elements of the organisation that operate 24/7, every day of the year. We are in the pilot stage of section 18 similar to Njernda - pre-authorisation, or as if, however, we do contract case management of children and families that come over from the department and we have been doing that for quite some time.

There are challenges with that but we are looking forward to going through this journey around section 18, like Hazel said. Sadly, children on Yorta Yorta Woka, we have the highest numbers of children in out-of-home care, so there is a lot, a lot of work to be done.

MS McLEOD: Could I just ask you to explain to the Commission what it means to be "as if"? Is it the same as pre-authorisation?

FELICIA DEAN: Yes, it is.

MS McLEOD: How are you managed when you are in that "as if" stage?

FELICIA DEAN: The department, they walk alongside us, so - and support us through that process as we start to take on components of section 18 until we get to the stage where, you know, we are very confident of our ability to take it on, that we have put everything in place, that we have all the resources. There is a lot of stuff that needs to go to section 18 before you take it on fully.

That's making sure, you know, even that your governance structures are strong, and that they are solid, you know, they are grounded. Your organisation needs to be - and everything you do - needs to be grounded in culture, you know, to be able to take something like this on. And you need to have all your staff on board without any gaps. So, at the moment, we are recruiting, and that's going okay. But that's also challenging, because to work in this space you need staff who have strong case management skills and have been doing this sort of work for quite some time because our families and our children come with complex issues. They have experienced lots and lots of trauma. You have got to be - have a lot of skills to be able to support them properly.

MS McLEOD: Can I just ask, in addition to the trauma, do the kids come with complex medical needs or health needs?

FELICIA DEAN: Yes, they certainly do. And I think one of the good things about sitting section 18 in Aboriginal community controlled organisations, and particularly those that have got the health services connected to them, you can truly provide that wraparound service, like, you know, Hazel was saying. That's really important. You don't want people to - families to have to be traipsing all around the town trying to, you know, access a service, but also having to tell their story. Everybody is sick of telling their story lots and lots of times

to different people. So, in the settings of the community controlled organisations, it's vital to have those wraparound services.

5 MS McLEOD: Can I follow up on that: does that mean you can share information between the different services?

10 FELICIA DEAN: Yes. If you've got the right processes in place for doing that and that sharing of information. But everybody needs to get permission to do that. It's the same as - now we often have people - they might be a member of the Rumbalara Aboriginal Co-Op and they may also use the health service and be a client of the health service and the address on their membership might be wrong, you know, and they will say, "Can't you just get it off my medical file", "Well, no, we can't, because nobody can access your medical file." So everything is separate, but there are forms for sharing of the information.

15 MS McLEOD: Thank you. Shellee, would you like to tell us about GEGAC and the work that you do down there?

20 SHELEE STRICKLAND: So Gippsland East Aboriginal Cooperative, which is the full name but the acronym is GEGAC, was founded close to 47 years ago by women that felt that health care, education, and housing were so low that they walked from Lake Tyers to Bairnsdale to be heard, and I think of that often as to, you know, 47 years later, where are we in comparison to that? And, in some ways, we are still in the same spot 47 years later. The growth hasn't really changed a lot. Housing is at an all time low, you know, homelessness is huge. Our health outcomes are still not at the correct place where they need to be and, of course, education is still something I advocate for daily with literacy and attendance in schools from both youth, young adolescents, all the way through to adults.

30 GEGAC, like Rumbalara and Njernda, covers exactly the same area of services. So we have a health service, we have Dala Yooro, which is our kindergarten and early childhood, we have aged care, although we don't have the services for living arrangements but we have case contracting, we have family violence, out-of-home care, we have a women's shelter, which is, you know, something I'm extremely proud of, although still very difficult in the circumstances that we actually have it in such high demand.

35 We have youth. So we have what is called Nungurra, which is from 17 to 21-year-olds for a six-week program, although it comes with difficulties because after six weeks what then happens to these children - and they effectively are young adult children that we don't have any housing to for them to go in, so we create a bottleneck. The one area that I think that I'm constantly battling and advocating for, of course, is - and Felicia raised - was mental health. 40 And mental health in our community is so severe. Bairnsdale is still one of the highest rates of suicide in Victoria, along with Geelong, and yet we're unfunded.

45 When we talk about what can we do better, we are only just getting funding into our community down there now, and I mean pilot stages, writing the framework. It's not just to throw money at us, it needs to be a cultural framework. The framework that we are not, you know, doing what everyone's doing mainstream does not work for us as blackfellas. So whilst I see that 47 years ago these amazing strong women, that I look up to, walked for us, I still think that we are not heard 47 years later, to where we need to be.

So we offer great services for our community. We are predominantly based in Bairnsdale with quite a number of sites. But it is a battle every day. I wouldn't say at one point that we are not advocating and fighting. What I will say is that I'm really proud of - and it's exactly what aunt said - is that we're a village and, you know, children are raised by a village and I am proud every single day to see that, as Aboriginal people, that that cultural village is constantly there, and that might be because of end of life. It might be because children are going into care, it might be because they just need support because of mental health. We are still there. However, it's not recognised. So that cultural framework in our organisation, we are constantly fighting to be funded for to ensure that that's put across, and they're the battles. It does take a village to raise a child and we are that village and we advocate for that daily. But is it seen by others? No.

So I'm extremely proud. Everything that these both have said I concur. It's exactly what we are doing but it's never easy and it's still not easy and there are so many things that we are not heard for and still 47 years later.

MS McLEOD: Thanks, Shellee. Aaron, can I invite you to tell us about the work of BDAC, Bendigo and District Aboriginal Co-Operative.

AARON WALLACE: BDAC provides a range of service ranging from health and wellbeing to community justice and has just started to enrol for our kindergarten, which will start next year as well, we're moving to the early childhood space. We also provide - as was said earlier, in our area, a range of programs and services in the child safety space. So, obviously, section 18 is one of our programs, fully authorised to take up to 108 children within the Dja Dja Wurrung area and also the kinship case contracting space, and also we provide the ACSASS Aboriginal child support, child support service, to, obviously, the Bendigo area as well.

So we are dealing within the district and it extends probably down to the districts of (indistinct), Redesdale, (indistinct) more than half of the Aboriginal people living in Bendigo are under the age of 24 in our area. So we provide that holistic approach across our organisation and it ranges as per, you know, the other acronyms, we also provide the health services, the community services, and the early childhood services as well for our area.

MS McLEOD: Can I ask you, Aaron, where are you at in the section 18 process?

AARON WALLACE: So we are fully authorised and have been for a number of years. Yes. So we have pretty much got about 92 children authorised to us at the moment and we have some capacity for some more children and, obviously, we go through different processes to transfer more children to us, and sometimes there are some road blocks in doing that, which is why we're not at fulltarget. Yes. We have been providing this for a number of years in the section 18 space.

MS McLEOD: What are the sort of road blocks that you're coming across?

AARON WALLACE: Some of the road blocks, one of them is around Aboriginality so in order to transfer children over, we like to be clear on their Aboriginality, often times the department hasn't done some of the work or, you know, haven't been able to, you know, get more information about whether a child is Aboriginal or not. At different times the box gets ticked in terms of within child protection, at intake or, in at investigation phase, you know, a

family might identify but many a lot of the times there is some information missing that BDAC are not able to confirm some of those links.

5 At different times families are unsure as to whether they identify or not. Identification is a really big road block for us and some of our families in transferring children over to us. The issue is that, within the division, the child protection division, they may sit with X amount of Aboriginal children and a lot of those might be interstate or in other areas that we are unable to provide service to because of the geographical restrictions and our staffing.

10 MS McLEOD: Okay. Felicia, you've had that issue too with identity and confirming Aboriginality?

FELICIA DEAN: Yes. We certainly have.

15 MS McLEOD: Do you want to tell the Commissioners about your experience with those issues?

20 FELICIA DEAN: Yes. Like Aaron said, you know, we are not able to - it makes it very difficult for organisations to take on case management of children when Aboriginality isn't confirmed. I mean, you can't do - you simply can't do a cultural support plan if you haven't confirmed Aboriginality and, you know, that there has been lots of examples around Victoria where, you know, where it hasn't been able to be confirmed, and children have grown up believing that they are Aboriginal, and when they hit 18, and they are leaving care, they need to go and get confirmation papers to then, you know, access other things. They are unable to  
25 get it. That causes further trauma for somebody when that's not been able to be done. It can often be when the departments first go in and remove a child. It can be really simple as ticking a box. That's not good enough. Anyone can say they are Aboriginal.

30 COMMISSIONER WALTER: Can you tell us what you would like to see, or things that you think might help avoid these problems?

FELICIA DEAN: I think there's got to be a bit of a system or a process where, if somebody ticks the box and says, yes, they are Aboriginal, that there is additional support and resources available to both, (1), in the department but, (2), to the Aboriginal organisation to support  
35 trying to identify somebody. Now, we don't get funded. We don't have any funds for family finding positions in the organisation. We have got senior Aboriginal cultural advisers and we have Aboriginal family decision-making convener but that's a big burden for them to be able to do that.

40 There should be specific funds to support that work, and it should then only be for a period of time too. You can't leave a child in limbo saying, "You might be Aboriginal or you mightn't be", or get to the point where, "Oh, we just can't find it." That's not good enough.

45 COMMISSIONER WALTER: Yes. I will just finish off: should the department take more care, rather than tick a box, actually put in more information about why the family believe they are Aboriginal, so that you at least have a starting point?

FELICIA DEAN: Yes. Definitely. Well, they shouldn't tick the box at all. Maybe there's some special box there that says "possibly", further investigations need to be - but right at the

start, there's no telling people - if someone ticks the box, yes, you're Aboriginal, they can't do that.

5 COMMISSIONER BELL: Can I ask when and how is an Aboriginal child allocated to the section 18 system; how does that work?

FELICIA DEAN: I'm not quite sure. Maybe Hazel or Aaron might be able to --

10 AARON WALLACE: So we have regular consults with child protection in our division, where there is a list of children with child protection, who are on the system, with child protection who identify as Aboriginal or non-identified as being Aboriginal, and obviously it's based on their capacity but we regularly meet, child protection provide us with the list of children that are eligible for transfer, and that also might mean that, you know they're on an order, whether we are able to transfer them. So we go through that process around - a visit to  
15 the family and there's a conversation with either the carer or parents and, you know, there's a bit of work there, where everybody thinks about this and then my understanding is that once children are selected, it has to go to the secretary for (indistinct) of the department. So our CEO would write to them and there would be a formal process around, you know, approval, and that can take quite a few weeks to get through, and then we are provided with the  
20 outcome that, you know, the children have been authorised to us.

MS McLEOD: Aunty.

25 HAZEL HUDSON: There's specific orders. Children aren't referred into the section 18 unless they have got an order and it's a contractable order those are usually care by secretary, long-term orders, permanent orders, reunification or preservation orders. Is there any other order, Aaron?

30 AARON WALLACE: No.

HAZEL HUDSON: So once CPs achieve those orders, and the court's endorsed them, then they are eligible to be referred into a section 18 program, and what Aaron was describing was the process that occurs for selecting those appropriate children to go into that program.

35 COMMISSIONER BELL: I understand.

HAZEL HUDSON: Yes.

40 COMMISSIONER BELL: And the initial description of the person as the child as an Aboriginal child happens at the departmental level before the child gets to you?

45 HAZEL HUDSON: Yes. At intake usually it happens. They'll ask, or the person making the referral in the intake will indicate, "I think they're Aboriginal." As soon as that happens, then an inexperienced child protection, intake worker, will tick the Aboriginal box. Once that's ticked, it's very hard to get that unticked, rather than saying, "Reporter indicated may be Aboriginal, need further investigation", as Aunty Felicia said.

MS McLEOD: Shellee, did you want to add anything to that from your experience?

SHELLEE STRICKLAND: What I just wanted to reiterate was, in regard to having  
 Aboriginality - and it is not as simple as having Aboriginality because it is also accepted by  
 community. And so it's really tricky. If you just use your Aboriginality, I'm not saying just  
 5 anyone can do that by any stretch, you can't, you do have to go through a process. However,  
 what we are finding is that, if they are not accepted or known in community around - because  
 generally all Aboriginal people know all Aboriginal people of sorts and so it is very tricky as  
 well in that, you know, they might have their Aboriginality, in actual fact, they are not, and  
 they have received it very different means. It shouldn't come down to one aspect. We need to  
 10 make sure that their Aboriginality is done through, you know community, like, where they  
 are originated from, not just through paperwork. It's not as simplistic as that when you are an  
 Aboriginal person. I think that's what I wanted to add into it. It is more than just one tick.

COMMISSIONER HUNTER: Can I clarify: for section 18, the investigation is done by  
 15 child protection and the orders are made by the court. All that work to remove a child is done  
 before it goes to section 18?

HAZEL HUDSON: That's right.

COMMISSIONER HUNTER: Ok. You also talked before about having health services  
 20 attached. So when this child comes over and you obviously get funding to run section 18, is  
 there also funding for the health services to have a health model of treatment for these  
 children because - Aunty, you spoke about the trauma, you know, in-depth, so does it come  
 with the extra funding and support?

25 HAZEL HUDSON: No.

COMMISSIONER HUNTER: Ok.

MS McLEOD: Just so I understand - and following on from Commissioner Hunter's  
 30 questions - you have a section - you have the referral to you once an order is made in respect  
 of a child, and you've listed the different orders, Aunty, but the other services you provide to  
 community have to be funded from different sources; is that correct?

SHELLEE STRICKLAND: There are certain things that have to be effectively ticked off to  
 35 be done. So they must have their health check, like, a 715 health check, but it's not exactly  
 what you're saying. It's funded elsewhere. So they don't have to have all of that done to then  
 be handed over.

HAZEL HUDSON: That, in itself, is just highlighted a nightmare for Aboriginal agencies is  
 40 that, in my specific area, I have over 30 different funding sources that I have got to acquit. It  
 takes up a lot of my time that I could be utilising on program development. That's only in one  
 area. The other areas, if you look at health education, justice, there are lots of other areas that  
 have the same amount of funding sources that come in. So it's not easy keeping on top of all  
 those different programs, the funding, and the outcomes that are expected to be received and  
 45 then the reporting back on them.

In some funding programs, it's not - some report monthly, some report quarterly, some report  
 annually. Some of them report both monthly and annually. So it becomes an administrative  
 nightmare for Aboriginal agencies to obtain these grants, but if they don't obtain them, they

are not able to provide a service. So, you know, if anything comes out of this, if you can streamline that reporting mechanism, and how we are funded, that would be fantastic.

5 MS McLEOD: I take it from what you are saying, Aunty, that it would be more effective for you if that reporting and funding was all channelled together?

HAZEL HUDSON: Yes. Or, you know, there was one reporting mechanism.

10 MS McLEOD: Yes.

HAZEL HUDSON: Because we spend - my area does our chief financial officer's head in, and I can spend a day and a day and a half there once a month going through what I receive, you know, and I'm - so that's a lot of time when we could be producing different frameworks for our staff to operate in, you know, and making sure that our staff are dotting their I's and crossing their T's as far as service delivery to our clients, that they have all had their mental health checks - and I'm not familiar with these - but they have all had their 15 checks, that they have all been sighted. We have to sight our children once a week. It's very onerous, operating in our space across all the different areas that we operate in.

20 MS McLEOD: The resourcing and reporting, are they an issue for other panel members as well?

25 SHELLEE STRICKLAND: Massive issue. We are exactly the same. Everything that Aunty is saying exactly. We are bound by such strong accreditation and whilst I absolutely want to have best practice, we have just been through the accreditation process and I would go so far as to say that it was the most culturally inappropriate process that I have ever done in my 25 years of working in an ACCO, as a community member. I cannot believe that the accountability and disrespect for us, of what we went through, and I have got to say, from a CEO's point of view, who had to mentor the staff across and through that, I hope we never have to go through that again.

30 That was with the regulatory body as well as the accreditation for DFFH family services. So the QIC process. So we have to have that to be able to do all of what we're doing now in child protection. So it's mandated. I'm not opposed to that. What I'm opposed to is making sure that it is culturally appropriate for us to do it and to be able to ensure the safety of our children. We are spending so much time on paperwork and reporting that we have very little time to ensure that there's the cultural overlay and safety of our children that we so strongly believe in.

40 At what point did it come that we didn't get that safe for our children? Is there? Because I can honestly tell you I was completely disempowered from the moment that I met with the deputy secretary, and so forth, to the moment that we passed, with no not mets. So we did have no not mets and yet completely disempowered through the whole process. So, you know, I agree exactly what Aunt's saying, we need to do something about the reporting and the way that we are made accountable.

45 MS McLEOD: Can I just ask you to expand on that disrespect that you're talking about? Is that the no not met assessment or is it something else?

SHELLEE STRICKLAND: Yes. I guess it's all of that. So it's all the reporting that we had to do leading up to it and there was an element where GEGAC didn't meet accreditation and they come into us and have a discussion with us and effectively we have to make sure we are compliant. We had a six-month turn around, but at no point did they discuss it with us as to  
5 was it doable, was it able and what resources could they do.

So, yes, they put conditions on us, that we had to ensure that we followed and met, and at no point in any meeting with, you know, executive directors - sorry, I apologise, I'm speaking to the Commissioners - did they actually consult with us for our opinion. Could we do it? We  
10 were just told we had to do it and, if we didn't, we were at a very real risk of losing our funding which meant that our services. For the first six weeks of that, they actually stopped our service of children because we weren't regulated. Now, I don't dispute that, but you can imagine our children having to go out to other services. There was no discussion with us about that. They just made that decision. So they didn't say, "Shellee, the CEO, chair of the  
15 board of the board, what is it that you're capable or believe that you can do and we'll give you this time?" They made the decision for us.

So, therefore, we had six months to jump through every single hoop and to be fully accredited otherwise we were very strongly advised that we would lose our funding. That's not  
20 self-determination and that's not working for our children. I don't even think I'm at that stage to actually document it down of how appalling we were treated, to be honest. I don't want anyone to ever to have to go through that again.

That's what Aunt's saying. If we don't do that, these are the repercussions. If we don't comply with everything, and all the reporting that's happening, the repercussions are what we have  
25 just been through at GEGAC. We are now fully accredited again and we're now regulated but they gave us a six-month window to do all of that, making sure all of the governance, services, everything, was all sorted with no support from them. Just constant accountability.

30 CHAIR: Can I just clarify: this is a department that's had multiple changes over recent times, and I think it has another name now; is that right?

SHELLEE STRICKLAND: DFFH now, yes.

35 CHAIR: What does that stand for?

SHELLEE STRICKLAND: Department of Family Fairness and Housing.

40 CHAIR: Thank you.

MS McLEOD: Felicia and Aaron, is there anything you wanted to say as well about what's not working or what's working with your services with the funding reporting evaluation side of things?

45 FELICIA DEAN: Well, I actually gave a presentation with VACCHO a little while ago around - to the Health Minister around the overburden of reporting in the Aboriginal sector, and it's enormous. What I would like to say, in terms of, you know, that funding and support, we have to have holistic service and support for children, and every Aboriginal child that comes over from the department, that's handed over to an ACCO to case manage, should  
50 come with a targeted care support package. Every child should have it. It shouldn't just be a



specific program for some children because every child comes who has complex needs and for us to be able to then link them into all the services that they are going to need, some need counselling weekly before they can, you know, move through that, they are going to paediatricians and things. There are a high number of children that are being diagnosed with things like ADHD and autism and they are genuine health issues, but I question the high incidence of it in the last few years.

We have got little people who are taking medications like Ritalin, you know, and there are cases where children are acting out because of the trauma that they have experienced. Some don't need to be on this medication. Often the schools will place them in the too hard basket, you know, they are too difficult to manage, you know, the family unit isn't there, and then they are labelled, and that's wrong too.

There's still quite a bit of work to be done. Every child should come with this support package, targeted packages, so that those resources are there so we can put everything that's needed into place to support them.

MS McLEOD: Aaron, is there anything you'd like to add?

AARON WALLACE: I might just also - yes, I just want to echo what everybody on the panel shared as well in their organisation, it is the same for us in terms of reporting and the evaluation and the work that needs to be completed it's quite a (indistinct) for our organisations to complete and, you know, they are not really doing it in a safe way or a way that, you know, keeps our culture and self-determination sort of in mind.

One of the issues, in terms of services for us, is around, you know, at times we are unable to get our children into a paediatrician because, you know, we have one paediatrician who works across many different places. So is not always available and we had a case recently where a paediatrician was on holidays and we had children who, you know, had lost their medication and we needed a script to get them some medication and they were very high needs and we were unable to get that medication for them because the one paediatrician, who was the only person who could approve that script, was overseas, and there was no other paediatrician to contact.

So that was an issue, you know, for us that's happened a couple of times and, yes, that would be sort of an area that, you know, I think - we are given responsibility for Aboriginal children, they're transferred to us, and we have given that sort of authority but, at times, as other people have alluded to, we don't have that - you know, the funding to enhance the services that we have to actually cater for the responsibility that we are given.

MS McLEOD: I just want to focus now on child protection rather than the other services. The Commissioners are looking at whether the current child protection systems are working and I wanted to give you an opportunity to raise, in any way you see fit, your view as to whether the current child protection systems are working and, if not, what do you need to make them work? Would anyone like to kick off, Shellee?

SHELLEE STRICKLAND: You want me to go first? I just want to reiterate on top of - to the Commissioners about what we were just discussing just to finalise that. The way I believe and feel is we are constantly made accountable and jump through every hoop that we have to for the department, and because we are departmental funded, who makes them accountable?

5 So one of the things that they have said to me what that we give you \$13 million to run a service, it's a three-year accreditation cycle, and whilst I will put my hand up to say the organisation wasn't compliant, but where's their checks and balances and due diligence to make sure that we are. If you're going to give somebody \$13 million, you want to make sure that they are doing what they need. So whilst I'm saying that we don't want to overreport, there is also an element where they have got to be accountable, if we are accountable.

10 It didn't seem to be, at any point, did they put their hand up to go, "We are part of that and we'll walk with you", it was all accusations. If you want to give, you know, an organisation money, we need to make them accountable. As for the child protection, where do I start? One of my biggest issues with child protection is that, firstly, we need them at the moment until we can come full section 18 and have the full authority over our children. So we have to work as one.

15 I have to say that there are so many areas that are failing us and failing our children and, again, it's that voice. So they are there and they have to do all their checks and balances and their ticks and flicks but actually they are not hearing what we are saying. My biggest issue is that we are the authority of our children. We said it at the beginning, that we are a village. So we actually would know predominantly who all our children are. So we know the family line, we know where they come from, the issues that have happened behind the scenes.

25 However, we are not heard because we could give them the evidence, and I could go and sit in front of anyone that will hear me, but unless it fits into their box the way that they want it reported, it doesn't work. So I could say that there is a child that is in severe danger and they will go, "What evidence do you have?" It's almost like they have to see it physically themselves that the child has been perpetrated against for them to take notice. We don't have that authority. We are trying to get it, and we are trying to work really hard with section 18 but we are nowhere near that.

30 The battles that we are finding are constantly there in regard to the safety and wellbeing of our children and us, as Aboriginal people, don't have that authority over them because they are still under the child protection services.

35 MS McLEOD: What ability do you have to speak directly to courts, to the magistrates?

40 SHELLEE STRICKLAND: Absolutely none. I think it's one of the things working in this area for such a long time, I have tried many avenues to actually get through to the courts, to the magistrates, to even give them some sort of cultural education. So, yes, while we have the Aboriginal principles in place - and I'm not saying that they shouldn't be there, they are - I think that they are so - they feel so bound, child protection, by them specifically, that sometimes we need a little bit of movement. As we know, cultural law and cultural community are very different. We can't just write things down; we have to be moveable.

45 If not moveable - so if I present to child protection, I can't get to their magistrate in any way, even if it's a written document. It has to be submitted separately, it's not part of what child protection submit because they are, effectively, the authority, so for a long time I became part of the justice in the RAJAC and still really couldn't get through to the magistrate. So we have children that have been perpetrated against in homes that I could give the information and evidence to say that there was perpetration happening, but the principles say the best place is,

effectively, to be back in with the family and the family environment. However, that's not always safe.

5 COMMISSIONER BELL: I want to understand what you're saying and I'm not sure that I do.

SHELLEE STRICKLAND: Yes. Please.

10 COMMISSIONER BELL: Are you saying that, when you're the section 18 authority with respect to a child, in a situation where you fear that that child is coming to harm in an Aboriginal family, you can't get something done about that because the department is still running the show?

15 SHELLEE STRICKLAND: Bear in mind we are not completely there yet, we are at those early stages too. It's really the process we're up. Even at section 18, we still have to work with the department - and, I mean, Aaron would be able to vouch for that - it's still not completely our full authority.

20 COMMISSIONER BELL: Even when you have section 18 authority you do not appear at court in review hearings and the like?

SHELLEE STRICKLAND: You get a say but you still have to work predominantly with --

25 COMMISSIONER BELL: I see.

SHELLEE STRICKLAND: Yes. Aaron, do you have that same feeling?

HAZEL HUDSON: It's in pre-authorisation.

30 AARON WALLACE: Yes. It's in pre-authorisation. In full authorisation you have to do all the court work.

SHELLEE STRICKLAND: Predominantly pre-authorisations.

35 AARON WALLACE: In pre-authorisation you -- child protection, still there, they get the final say.

SHELLEE STRICKLAND: They get the final say.

40 COMMISSIONER BELL: I understand. Because if you have section 18 authority, then, presumably, you're making decisions with respect to that child, and if you fear the child is in a situation of harm, then you will do something about it.

45 SHELLEE STRICKLAND: It's still quite strict. You still have to follow some quite complex guidelines to actually get it across. For me, it's ensuring that the magistrates have that cultural training and understanding beforehand, which I'm not convinced that they have. So, even at section 18, you're still quite committed to the guidelines of whatever is in place for the section 18.

COMMISSIONER BELL: At the moment, magistrates are allocated by the chief magistrate, or is it by probably the president of the court? Anyway, there's no accreditation process for the magistrate to be qualified to be allocated to children's work or Aboriginal children's work. Do you see a place for accreditation as being part of that allocation process?

5

SHELLEE STRICKLAND: I'd love it. I think that's the only way we can move forward is to actually do a cultural accreditation effectively. I mean, I don't like that language, it's very mainstream, but, effectively, I believe that all magistrates need to have that cultural competency and learning before they can do their findings and hand overs and I think that any of us, as Aboriginal people in organisations, would love to be able to support them through that. So this is a way that we are putting our hand up saying, "We would want to support them through that, what can we do to ensure that they have cultural knowledge that is not there now?"

10

MS McLEOD: Can I just understand: is it the Aboriginal child placement principle that's the problem or the application of that principle by magistrates who don't fully understand the context of it or both?

SHELLEE STRICKLAND: I would say both, yes. I would say there's both errors of error in them. I think that the magistrates are following the child's principle - the Aboriginal children's principles but there's errors in both of them where we are not able to actually have the authority, as Aboriginal people, to give that to them, and then the magistrate don't have the cultural competency over the top of it.

20

MS McLEOD: To put it simply: are they not listening to you when they are making their decisions?

25

SHELLEE STRICKLAND: Yes. They are not listening.

COMMISSIONER HUNTER: Counsel, can I just - and Aaron would probably be able to answer this - I just want to understand: even if you've got full authorisation, can the department come in at any time and take the child back to the department rather than be under section 18?

30

AARON WALLACE: I believe that that would have to be approved by the Secretary for children to be sent back. We've never had that happen to us and I don't think it is easy for them to just come in and do that. I think you need to go through the secretary of the department.

35

COMMISSIONER HUNTER: To get a child into section 18 it has to go through the secretary and to get a child removed from section 18 it has to go through the secretary?

40

AARON WALLACE: Yes, to transfer them back.

COMMISSIONER HUNTER: My understanding is - and correct me if I am wrong - is section 18 supposed to be self-determination? Is it self-determination?

45

COMMISSIONER WALTER: Self-determination by secretary.

COMMISSIONER HUNTER: Is it self-determination?

50

HAZEL HUDSON: There are two programs operating here. There is one full authorisation and there's pre-authorisation. So the pre-authorisation, walk alongside, so child protection still have the ultimate responsibility to sign off all the decisions that are made. Once you go  
5 to full authorisation, child protection doesn't have a role to play. You take on that role. So they can't make decisions and they can't go in and remove.

COMMISSIONER HUNTER: But is it full self-determination?

10 HAZEL HUDSON: Yes. Because we are making decisions around our children and our families that normally - for instance, we have a different assessment of risk in Aboriginal agencies.

COMMISSIONER HUNTER: Can I just ask on that, Aunt, sorry to interrupt, you don't have  
15 to follow the risk assessment of the department or --

HAZEL HUDSON: You can follow a risk assessment but how we assess is different. For instance, if you get - and I'll give you an example - we have had a child in our pre-authorisation where, under a preservation order to the mother, the mother has lots of  
20 trauma, and in the space of three months, lost her mother and lost her grandmother. So she went totally off the rails, left the child with the father, who wasn't allowed to be left with on that order. Normally child protection would go in and remove straightaway, and they do an assessment of the father, the father had some criminal records. So that would prevent the child from going in and being placed with the father normally. At Walyaka, which is the  
25 name of the program - which is the Yorta Yorta name, but it's the name of our section 18 program, we went in and we assessed the father and we asked him some pointed questions about what was happening in his life when he had these criminal activities, and we assessed that he was okay to take on the child.

30 In our experiences, fathers aren't looked at successfully as primary caregivers for children. In our section 18, we have had three fathers become primary caregivers over the mother in that timeframe because the mother still had lots of issues that she had to have and we went from a preservation to an IOA, or is it IAO? Interim accommodation order, then to another preservation order to the father. So section 18 is self-determination because it means we are  
35 making those critical orders or decisions in regards to where that child's going to go.

COMMISSIONER HUNTER: Can I ask: would that depend on the region you're in and the relationship you have with the department; could that be a factor?

40 HAZEL HUDSON: It does. That's one of the complexities about working in this space. Both Aaron and I are lucky to work in the Loddon area, which has had section 18 since VACCA - the Nugel program came on board. So they are used to section 18. Whereas other areas are just learning that pathway and, the other aspect, it's not only in the section 18, it's in kinship, it's in a lot of things, like the child placement area. I find that other areas aren't - their  
45 approach to implementing the child placement principle is different to what we are used to because we are very lucky that we have had VACCA, BDAC, ourselves, and MDAS in our areas. So we tend to go in and fight rigorously in regards to it.

I'll give you an example: we had a child that was two years old, was placed in the care of her  
50 Aunt in Echuca, and then all of a sudden - and we were dealing with another division, which

is the east division, they came in and they removed the child, gave them a 20-minute notice that they were coming in to remove the child and placing the child with a non-Indigenous carer that was also an Auntie. They deemed that that Auntie was more suitable than the Auntie that - than the Aboriginal Auntie that she was placed with because the Aboriginal Auntie used marijuana. So - but they knew that when they placed her - initially placed the child with her, that she was a social user of marijuana after the kids.

So, you know, in one instance, that child was with an Aboriginal community - with the Aboriginal Auntie, in an Aboriginal community, went to school at Berrimba for the two years that she was on this earth and then, in the next breath, she was moved and placed down in Geelong, which is a long way from country for her, with her non-Indigenous family, had no access to her Aboriginal family, and that's not the Aboriginal child placement principle being implemented there. But that wouldn't stand in Loddon.

15 COMMISSIONER HUNTER: They were two different --

HAZEL HUDSON: Different divisions. North and east. That's one of the problems with having the four divisions. There's that, you know, we attend the Aboriginal Child Forum - that's why it wasn't flowing out of my mouth, was it - and they make decisions at this level, but it doesn't filter down to the operational level as effectively.

MS McLEOD: Is the forum able to respond when you raise issues of concerns; do any of you have a view about that?

25 HAZEL HUDSON: Look, they generally respond because the one thick I know about DFFH, they don't like looking at their warts, or their warts being exposed. I'm an accountant background, I love looking at my warts, because it means I can fix it and address it but they'll go in and try and address things so that they look good at that level.

30 MS McLEOD: Do others have the same experience?

SHELLEE STRICKLAND: I see what Aunt's saying but I would say that they don't address them. They don't like looking at their warts, so they cover it up. So that's what I would say. Sorry, Commissioners, I'm looking the wrong way. I would say that ACF had the best intentions of when it was set up for. So Aboriginal children's forum, which meant we could go and be at the level we need to be to be heard. I would suggest that the last four, we have been spoken to, and there was no interactive. Completely run by the department and, you know, attended by Ministers but in a tokenistic way. So, you know, effectively, Minister such and such is here for 15 minutes, that's all we have got, off they go, they walk around, smile and tap you on the hand and go nice to meet you.

It's irrelevant. If you want to actually be heard, come and speak to us, but give us informal sessions. We sit there for two days, which takes us two days away from our community, and we just listen and be spoken to. The whole time it's not interactive and then we have a dinner, which is a formalised dinner that the Minister will come, again, walk around the room for 10 minutes, smile and keep going.

CHAIR: Could I ask: if they didn't exist, would you miss them?

50 SHELLEE STRICKLAND: No.

CHAIR: Thank you.

5 HAZEL HUDSON: To be fair, though, ACF has driven a lot of the reform that's occurred over the last four years. Their level of transitioning of Aboriginal kids into Aboriginal agencies wouldn't have occurred without that ACF.

CHAIR: You say the last four years?

10 HAZEL HUDSON: Yes.

MS McLEOD: So the ACF is a forum that you can raise issues directly with the department and for a few minutes with the Minister. Are there other avenues for you to raise those concerns on an ongoing basis, Felicia?

15 FELICIA DEAN: Yes. I tend to agree with Hazel. There have been - I don't think there's any forum that's perfect but there has been some good outcomes come from the ACF and I think it still needs to continue. Another mechanism that we also now have is the Aboriginal Children's Alliance where all the organisations who are working in this space have got a member that sits there and that is fully managed - fully overseen and managed from a self-determination base. It is all Aboriginal CEOs or senior executives in those orgs working in that space and that's another mechanism now and will often have input into things that are being put up for legislation changes, you know, and having input into those sorts of things.

25 MS McLEOD: Shellee, can I ask: how could you make it work? What's needed?

SHELLEE STRICKLAND: That's the difference. The way it stands now, when the Commissioner asked me, I wouldn't miss it the way it - the format of it is now and we're speaking at the Children's Alliance changing the whole format and looking at the Terms of Reference and why and how it could move. So for me, at the moment, so I agree probably the last two years I found it very unappealing and spoken to and not interactive. For the two years previous to that, you're absolutely right, I do think we have actually got - and legislation has come through that and I have done a lot of work, in regard, as part of the legislation in the Children's Act.

35 However, they have got to change it. I think that's the format. How do we change it so it's actually more interactive. So actually meeting together, as in, high-level executives, CEOs and department ministers, etcetera, is great, but it's got to be interactive and they have got to listen to us and be heard, not just sit down and they speak to us. Data's very important, I believe in it and I think we can't get anywhere without it, but it also - not be spoken to about the data.

45 I could say one of the last ACFs, there was a conversation about referrals for our cultural support plans, and we are well below, but we are not getting any referrals and so that's a concern. We have had one conversation since about that, why is that happening. It needs to be more outcome-driven, not talk.

COMMISSIONER WALTER: With the agenda the point I was making before, do you feel you have the capacity to put things on the agenda and have them discussed in full or is the agenda more presented to you?

50 Yoorrook Justice Commission

SHELLEE STRICKLAND: We have the Children's Alliance which I think is a really good spot that we can get things on the agenda. But, again, it is very hard. It's run by the department effectively. I'm not sure whether Aunt and Felicia have a different opinion but I find that they do set the tone and how it's to be delivered. If I talk about the regulatory body that I have spoken to earlier, there is going to be a new reform on the accreditation for that. There was a discussion at the ACFs two ACFs ago but they spoke to us, they didn't ask for interactive. They want to make sure it's culturally appropriate. However, we have had offline where we have had communications where it's not one-on-one, it's actually in a group. So it's very intimidating to talk about your finding. I don't want to talk completely about what GEGACs business is in front of everybody but I do want them to be heard.

In some ways, so many of them are tokenistic. Yes, we have had discussions with the CEOs or executive managers of that area, so they have done that but it's actually not accessible for us to speak freely in regard to that.

MS McLEOD: Aaron, can I just bring you in here on the question of the forum and the contributions?

AARON WALLACE: Yes, my sort of feedback on the forums is that I agree that the last few years the work of ACCOs has been extended by the advocacy that's taken place at the forums, especially section 18, and also, you know, there's a piece of legislation that we're trying to get through to extend ACAC into the investigation phase and BDAC was chosen to be part of that, and we are waiting for the legislation so that we can actually enter – and do the investigation before section 18 because section 18, you know, we do great work but it's too late. By the time we get those children the families been through investigations, you know, there's a lot of damage that's been done, we need to get in prior and that's why we agree with this new Pilot to actually take on the investigations prior.

Which brings me back to the ACFs, the ACF, in my opinion, has extended a lot of the work of ACCOs and the things that we need to do, however, the data that's presented at the ACF, around the work of ACCOs - you know, I can speak for BDAC, our reunification rate is higher than child protection and if we look at our data versus the data that child protection present, I would say that, over the years, child protection's data has gotten worse, in terms of working with our children. So, my reflection is that ACCOs, the data, you know, shows that ACCOs are doing really well in this space and advancing in this sector and getting great outcomes for our kids.

However, it has increased how child protection work with our children in the system. So there is a focus on the resourced ACCOs, but not every ACCO is a section 18 ACCO and the substantiation rate across Victoria for Aboriginal children versus non-Aboriginal children is so high and that data – the data we get at ACF - has shown that the data - more and more Aboriginal children are entering the system than ever before. It's not getting better, it's getting worse, and when we do, you say, this needs to be done, that needs to be done, this is our feedback, often times we do get a blanket statements saying we have got a lot of work to do, you know, some of the general statements you get back at ACF about the department make about we have got a lot of work to do, that's something we need to consider, let's take it offline, let's go back to the division.



We are sick of hearing that. We want to see change and want to see that rate come down. It comes back to, you know, ACCOs are expected to perform and to get results, whilst child protection are allowed to just - allow the data to get worse.

5 MS McLEOD: Can I ask you all: are you all seeing a positive result in terms of your work, in terms of the rate of removals, and the rate of reunifications compared to mainstream department results; you are all seeing better outcomes for kids?

10 FELICIA DEAN: Yes. I think there's clearly a lot of data around, particularly for those like VACCA, Bendigo, those are already in doing full authorisation. The reunification numbers are quite high and they have had a lot of success. I mean, I'm really looking forward to that. I mean, the challenge across Yorta Yorta Woka, there are so many children in out-of-home care across there. That's what I want to see. That's why we are signing up for it because we want to see reunification happening.

15 Also that when all of these assessments are done, they are done by us with an Aboriginal lens across what we are assessing because that is one of the other problems is this white lens is used to assess everything. Often that white lens is grounded in a basis of prejudice and racism and unconscious bias. It's there. And there are lots of examples of that.

20 COMMISSIONER BELL: You go into this in your statement, this is an important subject to us, and you give some detail in your statement that goes beyond other statements that we have received, and I congratulate you on thinking about these matters, I wonder if you could give us some examples of the kind of bias that you think affect decision making in an unfair way towards Aboriginal families?

25 FELICIA DEAN: Okay. So recently we had a carer down home there, whose been caring - is a permanent foster carer, she's been caring for kids for quite some time. Anyway, she's got two or three kids with her. Recently a new gung-ho child protection worker was engaged to support one of the placements there. She had a little bub placed with her over 12 months ago, you know, rang up, short notice, emergency, can you take this baby. "Yep", she said. So they basically, yep - so the department have placed the baby with the foster carer. She's Aboriginal. And nothing else. No-one's been back. Over 12 months. Nobody's been there to visit that baby. Nothing. Visit that foster care. She how she's going.

35 All of a sudden, as I said, this new gung-ho staff member comes in and starts making contact with the - "I want to visit." "Okay." The foster carer tried to negotiate a time, can we do it here, blah, blah. They finally get to a visit, she comes there and her first comments are, "This house is dirty and your lawns need mowing." Then she sent her texts, "I'll be back next week to check." And she was sending to the foster carer, "Are the lawns being mowed? I'm escalating this up, I have concerns, you know, the child's at high risk." There's nothing wrong with your lawns not being mowed. That doesn't mean that child's not being loved. There was no cot or basinet or anything provided to her. She's asked for that, it's been knocked back by the department. So Rumbalara's going to have to - we have got to provide it out of our own funds, which we are happy to do, but that's not the point.

45 They've placed the little one there without the adequate support and, you know, this gung-ho child protection worker, in her mind, she thinks that house is dirty. We have had our own staff go around there and have a look. We personally know the foster carer. The house isn't

dirty. The house is cluttered. It's not dirty. That doesn't affect her capacity to love and provide a safe environment and care for that child.

5 It's in this background, you know, they are making this assessment, all blackfellas are dirty.  
That's not - we have lived with that. I grew up with that. My mum never let us - we didn't  
have any non-Aboriginal kids come around after school and play with us unless we'd cleaned  
the house. This is the generation my mum had grown up in, you know, because, you know,  
10 "These fellows will think we're dirty if the house isn't clean." Mum grew up - they grew up  
on their hands and knees polishing floors and things, that's no good. We don't need another  
generation like that.

MS McLEOD: Chair, did you have a question?

15 CHAIR: No. I was just thinking about a break.

MS McLEOD: Sure. Well, should we have a 10/15 minute break?

CHAIR: Yes. 15 minutes, yes.

20 <ADJOURNED 11:41 AM

<RESUMED 11:57 AM

25 MS McLEOD: I just wanted to - would you like to join us at the table? No - I just wanted to  
draw out some themes we talked about generally this morning or that you have talked about  
generally this morning and one of those themes is obviously the primary principle that  
whatever occurs to a child is in their best interests and the other is an important principle of  
self-determination.

30 I wanted to throw this open to all panel members - and you may have different views and  
experiences about this - is section 18 the best way to go in terms of outcome for children and  
outcome for communities or are there other ways to go, are there other ways, non-section 18  
ways, to go? And, as you are answering those questions, you might like to think about how  
do you improve it so it's the best service it can be. What do you need to have the services  
35 delivered the way you would ideally like to see them delivered. I just throw that open to  
anyone who would like to have a stab at it?

40 SHELLEE STRICKLAND: Thank you for that. I'm very torn, I have to say, and I know  
I - in that stance, it's quite political to be torn in that because section 18 is meant to be for true  
self-determination. I have worked at lots of different orgs and my true belief is children's  
safety, coming from the world and the life that I've lived. I have seen lots of - when I worked  
at Geelong, at Wathaurong, when I was their executive director there, we were very adamant  
that we were not to go down a section 18 path way and the reasons were that if you are the  
face and you are the ones, you know, that's true determination, you can get a lot of backlash  
45 in community so you can lose faith and confidence in them because you are meant to be there  
and so whilst there is the reunification and we have got high data that there is families being  
reunified more than in the mainstream services, it is still a risk and it's an educated risk that  
you can create the backlash because community don't always stop and self reflect and see  
that, they just think you are the ones doing the removal or taking the children away.

50

So it is an educated guess. Do I think that we could work better with child protection and the magistrates? Absolutely. So whilst I endorse section 18 and GEGAC is one of the ones that have accepted that and are doing that. I think that we still have a long way to go. I am one of those people that debates it for and against for lots of reasons for the safety of the children.

5

I'd like to see that we do have a better relationship with magistrates, if we are not section 18 and, therefore, with child protection because the child - the Aboriginal principles are that child first predominantly and I find that if we can't get heard by the magistrates, or work alongside child protection in the correct manner, then they are not hearing what we are having to say and, again, I'm probably that one that does also debate that too. There are times when I think I loved what Felicia said about, you know, don't judge a book by its cover, effectively, don't look at our lawns and our houses and think that we don't love our children because that is not relevant as to whether we love our children or not.

10

What I will say is this: is that also just because the principle state that children need to go home, make sure they safe before they go home. Don't just put them back because the principal stipulate that that's the best place for them. Make sure if you are aware there is perpetration going on with our babies, that you are making damn sure that those houses are safe to go back in, and it is over a long period of time, it is evident to me, that magistrates have seen that children are unsafe but they send them home anyway. That absolutely sends me spare. The fights, arguments and documentation that we have put in place to get to magistrates to say a child is unsafe back in their home at that point is huge.

20

So we need to make sure that they are actually checking that through all the balances and making sure that those children are safe to go home at that time. So I'm not saying they can't - there can't be reform and there's not supports in place we can get those children back into the care of their families, but sometimes it's not always the safest place. Who says that? Because realistically, when I sit around the table no-one wants to hear that from me. They want me to say, "Absolutely a child should go home tomorrow" to that family. It's not always safe. If the home is safe, absolutely. So I guess I've got - I'm a bit --

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30

COMMISSIONER HUNTER: If I can just ask: if it wasn't safe you would do the planning - the planning would still be there to make sure it becomes safe and you could still reunify?

35

SHELLEE STRICKLAND: Absolutely. I'm not saying it's not reunification. I'm just saying don't go home, if there is perpetration in the home, whatever form, physical, verbal, sexual abuse, they don't go home until that's been sorted out, there's been planning in place. So it's not an instant non-reunification. I'm just saying what I see more often and the work that I have done, and I have been at a very service delivery level as well, that children are placed back in the home because it's the fear of removal, the fear of the backlash, and I find that that is very frustrating, and children in severe trauma-based situations are being placed back in homes that are unsafe. Not everyone here, I'm not - I'm just saying that we need to be really aware of that.

45

COMMISSIONER HUNTER: Because what I'm hearing - and correct me if I am wrong - is that the area you're covering, is probably different to Felicia and Aunty. Am I hearing --

SHELLEE STRICKLAND: Right. I think we all need - right.

50

COMMISSIONER HUNTER: It's about the place-based type areas of what's needed?

SHELLEE STRICKLAND: Exactly. So everywhere is different. The needs are very different.

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COMMISSIONER HUNTER: Thank you.

MS McLEOD: Does that suggest there needs to be a focus on what the different areas need and what the families need in terms of their wraparound services as well?

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SHELLEE STRICKLAND: Yes. I don't think it's a one-stop shop. I don't think that's what we are doing for all Aboriginal people. I think we have to be really clear about that and have to look at it as an individualised capacity.

15

MS McLEOD: We have heard some evidence that suggests there might be some risk aversion coming from the department in their processes such that more children are ending up in care as an example of - as an explanation for why the numbers in Victoria are so high. But this would be an explanation as to why those individuals were risk averse, if they have a concern about serious harm. How do we navigate that as section 18 organisations or non-section 18 organisations when you are taking that burden on the organisation and the community might criticise you, as you've said?

20

SHELLEE STRICKLAND: Look, I don't know that I have all the answer, but you're right, it is very hard because either way you look at it, there is criticism. So I think that it has to be reflective of the community that you're from, as both Felicia and Aunt said, it works really well for them, but if I looked at the other areas that I've worked in, they were very adamant they wouldn't do section 18, which is actually against what the department is actually saying.

25

But I think we have to - if we get a choice to speak about it now, we have to say that. Like, we get one chance to talk to you guys, effectively, as the Commissioners to go, "It's not always as simple as one model fits everything." I think you're absolutely right, it is hard to be the voice and stand up and go against that but I just want to be clear that, yes, there are repercussions both ways. I think community can effectively come at us, as Aboriginal people, if we are the ones in section 18 having that full authority, and that's a concern because we want it to be also a safe place.

30

35

ACCOs is a safe place, that's their home, they have been brought up there as well. I'd be really interested to hear, you know, what effect that has on our end, for example, who is a full one and has there been repercussions around that. I continue think we are completely there yet.

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MS McLEOD: I should note, while I'm - before I ask Aaron to respond that Ms Cafarella joined us for the State. So, Aaron, would you like to comment on that, whether section 18 organisations are the way to go, whether there are other ways, and if section 18, what do you need to have to have it work?

45

AARON WALLACE: Yes. Look, I believe that section 18 is the way to go for our community and that's something that is not just my opinion but it is, that has come from our community, not to say that we haven't had any backlash for decisions that are have been made you know, obviously when it comes to people's children, you know, it's sensitive issue,

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and it should be, for our community and for families. So I think - you know, I remember  
 Auntie Hazel saying (indistinct), but I remember then the CEO of Njernda at the time and  
 approach Auntie Hazel and said "what do we need to do?". "How can we stop the department  
 from removing our children taken out of our community?", you know, back then we didn't  
 5 have section 18, we had case contracting, which had no decision making really whatsoever,  
 and Auntie Hazel's response was "we can't do anything". We can advocate, we actually can't  
 do anything because it's not - we don't have the authority and a lot of work since then has  
 gone on around (indistinct) we now have that responsibility, and that authority.

10 I think someone has to have it and it's better to be us than the government, I believe. So I  
 think it's the way to go, someone's got to make decisions about what happens when children  
 are unsafe or are safe, or when their safety is in question and I think there is no better person  
 or group of people to do that than the local Aboriginal community, which is what we  
 represent, we are an Aboriginal community controlled organisation, it's not myself, I'm not  
 15 the decision maker over all things. To do safety, that's a team effort. I believe the model is  
 self-determination, in some organisations and some organisations decide not to. Self-  
 determination isn't always clean and pretty, wonderful - there is an ugly side to that where  
 decisions are made and they're made in the best interests of our children.

20 We have had to make decisions to remove children from their parents in section 18, some  
 parents would question "where's self-determination in that?", (indistinct) but I know for our  
 organisation, in our experience, most of the time, because we have that - we relate differently  
 to our parents and our families, we are able to explain and were able to walk them through  
 that. For BDAC, section 18, we've had no contested matters at court whatsoever, since the  
 25 program started, and we have been able to work really, really hard with our families. So I  
 think section 18, you know, is the way to go. If not us, then who? I think that the Aboriginal  
 community will be making decisions about Aboriginal children --

30 MS McLEOD: What else do you think you need as an organisation to have those successes  
 more often? Is there anything that you would ask for on your wish list to set you up for  
 success?

AARON WALLACE: It's a bit of a contentious one, one thing, and I don't know if the other  
 panel members would agree, but BDAC is already going down this path. I'm not sort of  
 35 talking out of score or anything, we have, you know, we're up for the investigation phase  
 pilot. We are waiting for legislation to approve that we would then respond to notification, if  
 a notification comes to child protection about a family, we would have the team to respond to  
 those reports and investigate those reports and make the decision as to whether, you know,  
 that's substantiated or whether there needs to be some support for that family, and whether  
 40 there needs to be a protection application. Some ACCOs, like I said earlier, they say "that's  
 not us", but for BDAC we have said we want to get in before they're on an order, by the time  
 they're on an order it's a bit late we want to get in when the report comes in, we know that a  
 lot of the families ending up on an order shouldn't be on one, because of the bias in those  
 investigations, and because of the lack of support and links to appropriate services at that  
 45 investigation phase.

It's okay if at that time child protection will investigate and refer our families to services,  
 those services are not culturally appropriate, and then they substantiate harm because they  
 haven't engaged. As an Aboriginal person, why would you want to engage with a racist  
 50 service? A service that's not - that's bias towards your culture. We have some families that,

yes, you know, enter the system, and they shouldn't enter the system, so that's why we have taken on that investigation phase, because we want to get in early - that's the addition to our service for BDAC, as part of our community(indistinct).

5 We want to get in early. We want to assess the risk and avoid having kids enter the system, if we can. If there is harm, then there's harm and we will work out how we can work around harm. But oftentimes it doesn't need to result in removal. However, you know, BDAC have had to remove children from the care of parents and it's the ugly side where I think, you know for us, we're acting in self-determination as a community, as an organisation, for the parent  
10 they feel like, you know, that's not selfdetermination for them and sometimes that's the ugly end that we have to face every day.

MS McLEOD: Felicia and Aunty Hazel, can I ask you about that issue about the section 18 and what you need for success?

15 FELICIA DEAN: I think one of the - what needs to go hand in hand with section 18, because it should be grounded in self-determination, and there's enough evidence there to see with the VACCA model and Bendigo's, that reunification data is really good. That's positive and I'm keen to see that happen too. But, we have also got to be funded. That's the crisis stuff. When  
20 they are coming, that's crisis. We need early intervention and prevention money. So the same investment that's put in there at the end, has to go in early, in the start.

They are starting to fund these places, like, early year centres, where you put a whole heap of wraparound KMS programs, maternal child and health, mums and bubs programs, all at the  
25 start. We can identify, we have got Aboriginal Elders advisory groups, you know, that come in at that stage. We can identify families right there and then when you can see this potentially might be, you know, mum or the family's going to need some supports. You can start putting them in there so that before they even get to this other end, all the supports are there. Every community wants strong healthy families. Nobody wants to see this.

30 We all want that. We want all our families to be prospering and we would never put children in a family where we think that there's a risk. You know, we are the most accountable fellas going in our organisations. Earlier we were talking about accreditation, and - I know we have to do it, and we do do it, and we have got so many accreditations at Rumbalara because we  
35 are doing primary health, aged care, we have the Youth Act, but I tell you what, the most important accreditation to me is when an Elder or a community member comes up and says, "Thank you for the service that Rumbalara provided me."

40 That's the most important accreditation, to me, a tick from my mob to say, you know, the service we are providing for them, because it's for them, it's theirs, is good. That makes my day. That's the biggest accreditation, as a CEO, that I want.

MS McLEOD: Aunty---

45 HAZEL HUDSON: You might get an epic story here, sorry. I think section 18 is important to communities for a couple of reasons, and we talk about self-determination, right? Years ago I watched a video called '*First Australians*', I think it was, and it had a different series and different Aboriginal communities, and the impact of white Australia coming in, and one of the stories was from Coranderrk, I think, and I can't remember the Elders that they were  
50 speaking about, but it was a story about Coranderrk and they build up their beer companies

that they made a successful business, and then to break that community down the government went in and removed the children, and it was a story about mothers writing to the government of the day asking for permission to see their children, which was really powerful and the language that they used was eloquent, and more eloquent than any

5 Australian - non-Indigenous Australian that I have ever heard speak and they were refused because they couldn't teach them how to be good little white Australians.

10 If I reflect on that, in those days, Aboriginal people were fighting for the right to look after their own children. Isn't that what section 18 represents? You know, we talk about Stolen Generation, and that's an emotive term utilised by certain people within community to say, "We shouldn't be entering into section 18 because we are going to be forming part of the government structure that started Stolen Generation and we are going to continue working in that space."

15 I think what most people don't understand is that we don't actually remove children at section 18; they are removed by the investigation and response, once there is a recommendation. We are not in that area yet. I have a different view of whether we should be going into that, and I'll talk about that. Once we receive children - and what a lot of community members don't understand, or probably don't actually verbalise, they don't bring it to their mindset - when  
20 child protection goes in and removes, child protection, they'll remove my kids, they don't know why, it's probably just a white thing. But when an Aboriginal agency goes in and says to them, "You're" - and if they are in our programs - "We're hearing that there are some issues with the child and the care of the child. We are looking at that risk to determine whether there is sufficient risk to remove that child."

25 When an Aboriginal agency does that, then they can't blame it on the white sector, and people within community better step up because we don't go in and remove lightly. We go in and remove when there's real risk. For instance, we have had to remove a child when there was a threat - when there was a likelihood of sexual exploitation happening on that child. That's a  
30 real risk. That child's important and we needed to go and protect. We don't make any apologies to anyone in regards to that.

We investigate it as fast as we could we went through the processes. Like, we didn't determine it, we referred to SOCIT and SOCIT investigated those processes. Most of our  
35 removals have been with carers, not with parents, I think we have had four removals with carers and one removal with a parent. For instance, we have gone into a carer and said, "We noticed that your grandchild is actually roaming the streets, has been observed a number of times down at Coles or down at McDonald's" - and these are eight-year-old children - "talking to a known prostitute with one of her Johns there." So, you know, there's a real risk  
40 there that that child is being exposed and potentially exploited. "Can you tell us why that's happening?" And they just say, "Oh, we were having a drink, we didn't realise they were going down there, we passed out."

45 So, you know, then we have a conversation around, you know, "In your family, you know that there's been - or in community, you know that 90 per cent of the time when a child's been exposed to sexual exploitation or been abused, that occurs by a family member. If you're partying on and you're drinking, or you're allowing a child to have exposure to people that you normally wouldn't allow, because you've been drinking, that creates a risk. For that reason, Auntie, or Uncle, we are going to have to remove this child until we actually work  
50 with you to address that drinking problem and we work with you on developing strategies to

support those children when you want to go out and have a social drink with your friends and families.”

5 So, you know, we acknowledge that we have to do that, and the problem with that is that  
 people within community can't blame it on the whites being removed, they have to face the  
 fact that there's potentially a reason for someone that they know within community, for that  
 child to be removed. They can't whitewash it any more because we don't go in and remove  
 for any reason. So I think that's one of the factors that influences whether communities want  
 10 to go into it. Whether they articulate it that way or not, and they articulate it as a fear from  
 historical events that their kids are going to be removed and as part of the Stolen Generation,  
 it's not that.

15 It's the fact that they have been exposed by an Aboriginal community member that says that  
 their behaviour isn't protective enough towards their own children and there needs to be some  
 protection there for those children. That's what a village does. It steps up and it protects those  
 kids, whether it's easy to do that or not. It's not easy, but those children have a right to have a  
 community that stands up and says, “You are important, we are here, and we hear you, and  
 it's our job to look after you when your family can't.” And they can't always do that.

20 That doesn't necessarily mean that they can't correct the issues that they are facing. We can  
 walk alongside them to do that. We have had another - in Walyaka, we had a father, he took  
 on his child, he had a beautiful relationship with his child and he could read the child on what  
 her needs were better than any mother that I've ever seen, but every now and again the  
 mother would come back and disrupt his whole lifestyle and he'd slide back into old habits.  
 25 So we'd have to go in and remove that child for a little while or we'd have to go in and put  
 special protective measures in with that father to make sure that he was able to work on what  
 was going on in his life that made him slide back.

30 We did that over a space of 12 months, five times with that father and each time he had  
 that - each time the mother came in he had a little step backwards and those steps became  
 smaller and smaller and the length between the times that we needed to intervene with that  
 little girl, and put her up in circumstances where she was protected, became less and less to  
 now that we are closing on that father. So, you know, that's - that's one of the aspects.

35 The other aspect is that kids that are in non-Indigenous placements, they lose their culture,  
 they lose their identity. When Walyaka comes on, we make those carers expose their children  
 to - the kids that they are caring for to their culture and to their identity because we, as  
 Aboriginal people, know that if our kids don't grow up within culture, they don't have an  
 identity, they always come home to us, hey. White government or department can take them  
 40 away for so long, but when they age out, they come home to us and then they come home to a  
 foreign system that they are not able to relate to, and they get themselves into trouble.

45 They can't identify who the high-risk community members are and they usually get involved  
 with those high-risk community members, thus you have youth issues, and those high-risk  
 community members. They know that they are vulnerable and exploit that fact. Am I going  
 right off topic here?

MS McLEOD: No.



HAZEL HUDSON: So, you know, for us, around providing a holistic care for our children, it has to - there has to be healing practices that occur. So, you know, things that take kids out on to country a lot more, so camps that are cultural. Some of our education system needs to be adjusted to reflect - to happen within the forest and on country, you know, because that's  
 5 where our people learn. We don't learn in a classroom. The other aspect - if I say, everything that Aboriginal people have been asked to do has been asked of us with an overlaying white man's non-Indigenous lens which places us at a disadvantage. That's like putting a square peg into a round hole. You can't do that. It's not successful. Then you have the other thing, "Oh, look, we gave them the opportunity, they failed." Well, you didn't give us an opportunity. It's  
 10 like asking a man to be a woman for a day. The whole Venus and Mars concept.

So for us there has to be more community practice but not only just for the kids, but for the whole community. Some of the best programs that I have observed have been those cultural activities that occurs on weekends where families are asked to come out and camp and they  
 15 get to tell stories, they sit around the camp fire, they yarn, they take away the telly and they start yarning. They fish and they hunt and the women gather, or the kids will cook with the grandparents. You know, those type of days where we come together as a group of people, respect, have lots of culture, teach kids, show them which country they should be walking on, which country they shouldn't be walking on. Those are the types of healing programs that are  
 20 sadly lacking.

Also, you know, you look at the education system. The education is a classroom, you sit in a classroom, the kids are there for how many days - hours in a day now, eight hours. That's not helpful for Aboriginal kids. Our Aboriginal kids are designed to be out in bush and running  
 25 around. You'll see them in the classroom, they are like this, or if they are not like this, you got no visibility of a human person being there because they go off somewhere. Their eyes become clouded and they are not engaging.

The education system unfortunately has failed Aboriginal kids in out-of-home care and still continues today. Especially if those kids have disabilities. You know, I know of several kids  
 30 that go to school who are deaf but they don't get a hearing aid person, a translator there. So they are sitting up in school, can't hear the instructions given by the teachers, the teachers then wonder why they throw everything up in the air and walk out in frustration. It's because there's no-one there to translate those instructions by Auslan to them so that they can engage  
 35 in that practice. Those type of things still happen on a day-to-day basis for our kids.

MS McLEOD: You wanted to mention the training challenges for the staff?

HAZEL HUDSON: I think some of the challenges - and it's not just only in the section 18,  
 40 but also in kinship - when I first started this business, I came from an accounting background and I went into a community services background. But I was good for it because I'm used to change management in my previous organisation. We would go through change management every three years. It would take five years to roll it out but every three years there would be another legislation change and we'd have to do that change. So I was able to adapt staff to the  
 45 changes that we had to go through, to go from a five-person unit to a 30-people unit. So they were significant changes and also some of the requirements around, you know, we're dealing with the most complex children that you can potentially deal with.

We have constantly got to talk to people who look at a child that's misbehaving and, even in  
 50 the school system, they are saying they're a naughty kid, they have no boundaries, and I say,

“Excuse me, they are not a naughty kid, they are a kid with trauma. What you are observing is trauma behaviour, not naughty kids with no boundaries.” These kids are so used to being rejected that they reject you or they force you to reject them before you actually - before you actually do it because they think you're going to do that anyway. So it's a protective mechanism for them.

The other thing: our staff need to be highly specialised now in how they work but, not only that, we need to have staff that are specialised in interviewing children with sexualised behaviours. That's a skill, especially if we are entering into the section 18 space and child protection steps away. That's our responsibility to do that. I will give you an example of what happened to us when we - when there needs to be a process that transitions the clients over fully, where the organisation is fully informed, on what's happened with that child.

When I was new, I took on a family and they said, “Oh, the children have been exposed to sexualised abuse.” I come from a family that was loving and caring, the concept of abusing a child or sexually abusing a child wasn't in our vocab. So it just didn't translate to me and I didn't take it on as a mature woman but that's what's happening. My daughter worked in that space. So I sent her out and I gave her these clients as the first set of clients that she was going to take, and they went out there and this was a first - she's black, some people call me chocolate, but she's black, darker than Felecia, to give an idea. She went out there and these kids that had never engaged in Aboriginal culture before, seen this black girl, proud, strong, takes up a space, walks into the room and says, “I'm your carer, I'm your worker, I'm here to work with you.” Automatically they had a connection and these are kids that have never been indulged with their culture before because they didn't know what that looked like. And then she brought out this genogram, said I sit here, you sit there. So not only was she black, and strong and powerful, there was a visible connection that they were somehow related.

As soon as that happened, those children got diarrhoea mouth, and all their experiences - they told her all their experiences explicitly. So she knew how many times they'd been violated by their family member, you know, what that looked like. They were very open and frank with her - when she came home, she broke down crying. Sorry, I tend to do this when I get emotional. She broke down crying because she'd never been exposed to that, and it was unconscionable for her to have children who were exposed to that level of abuse.

We didn't prepare her ready enough to go out and be exposed to that. In her private life all she has had around her was a mother that was – “You got to go to school, you got to go to university”, and a father that loved her and grandparents that loved her, but she'd never been exposed to children being abused other than setting boundaries or expectations on what their education's going to look like.

So I think there needs to be a better process when we are handing over families from child protection to our workers so we fully understand the level of trauma that those children have been exposed to. Not only to prepare our staff, but also to ensure that we have the services lined up to better provide a service to those children. Those children now - the other day they hadn't seen my daughter for a while, next thing I turn around in Coles and here are five kids accosting her with arms wrapping around her saying, “We haven't seen you for a long time, where have you been?” She hasn't worked with them for three years but they still remembered the love and care and connection that she'd put into them.

That happens on a daily basis in section 18. Not only does it happen on a daily basis, we don't have white people making - sorry to use that term, I usually refer to non-Indigenous, we don't have non-Indigenous people making those decisions. The only people that can correct what's happening within Aboriginal communities is Aboriginal communities themselves. That's why it's critical that we get section 18.

I agree with Shellee, some communities might not be at that stage where they want to take on that program. That's fine. They might want to negotiate with a program closer to them. So say, "Will you care for my children?", and that's fine too. We can work around that. So, yeah, for me, that's what makes that section 18 such a critical program.

Now, as far as investigation and response, to some degree I agree with Aaron, you know, we need to get in a lot earlier. We took on a pilot program which was a CP diversion, AFLDM program, about 12 months ago. When we looked at the data - so AFLDM is Aboriginal Family Led Decision Making. There's a legislative requirement that families are referred into AFLDM. So we can find families that the children can be placed with. We wanted a pilot - to get that program earlier than when it was substantiated, when the grounds for removal were substantiated.

The data there said there were 80 families going through the system at any one time. So in Yorta Yorta country. We should have met our targets of 35 but within the space of six months, those targets were all being referred into child protection on a month - on, I think, the last data I heard they had 200 contacts on a weekly basis. That's a significant amount. That wasn't broken down into Aboriginal kids. But if you look at the fact that our Aboriginal kids are the majority of kids being referred in, it's not unrealistic to think at least half of those families, 200 families a week are Aboriginal, on the intake. I believe that, you know, we should also look the investigations.

The problem that we have is human resources plays a major factor in this and not all communities will have the human resources to run a section 18 program, as well as an investigation response, as well as kinship as well as the other programs that we run, given the level of complexities that we have got in those programs and the fact that a lot of the programs now, and a lot of the departments, are moving to a level of qualification of people employed within our space.

Yes. I'd like to see a lot more - the other beautiful aspect about section 18 is, yes, we have frameworks within the legislation that we have to operate in. How we operate in that is our decision. You know, and the culture lens that we apply to that is our decision and how we assess that risk, and whether that's a risk that we are prepared to take, that's our decision, rather than a government department making those decisions and saying, "This is what we have determined, you need to work within this structure."

MS McLEOD: I'm going to ask the Commissioners whether they have any questions and then invite you if you want to say anything by way of closing. So I'll just throw to the Commissioners if there's anything arising.

COMMISSIONER WALTER: A question for Aaron. You talked a little bit more about an investigation-based pilot, and you said it needed legislation, if I heard you correctly. Can you explain that a little bit more for me: what's happening and what legislation is needed?

AARON WALLACE: So it's an amendment to the Children, Youth and Families Act that hasn't made it, for the sitting of Parliament, there's been a few - I don't know what the correct terminology is - there's been a few sittings and it hasn't made it to the top of the list yet, and they are saying that next sitting, it should make it there. It's a piece of legislation we have worked on as ACCOs across Victoria, with the Department, and it changes the - or extends section 18 and it extends the decision-making authority that the Secretary can give and what it will do is give ACCOs the authority to investigate reports, as opposed to child protection. So ACCOs will be funded to investigate concerns that are reported to child protection, and will make those decisions around what needs to happen next with those families. So that's, we're waiting for that to come through and it's been a long process, and we were hoping that it would have been over a year ago, but because of the legislation, we have been held up. We have recruited, staff are trained, you know, in forensic interviewing and sexual abuse, training, all of those things. We've written our manual. All of those things are ready to roll, to take on our first home visit, it's the legislation that's been held up.

HAZEL HUDSON: Can I just add one thing: there is another piece of legislation that needs to change as well for section 18 to operate effectively. A few years ago the government went to and changed the legislation so that if a child is on a preservation or reunification order for more than two years, those orders - I'm not too familiar with the exact terminology but those orders are lapsed and they go to care by Secretary order because they won't keep them on, those orders where there is a likelihood that they'll go back to the family for longer than two years.

In Walyyaka we would like to see that change which will enable us to work with families for a longer period of time, that we feel reasonably needed to get those families back into any healthy condition - that's the wrong word - but where they can take the children on permanently. The reason I argue that is because this trauma's been around for 200 years, you know, it's developed and it's accumulated, it's not going to be healed - families aren't going to heal themselves within two years to be able to get themselves into a state where they can take on the children on a long-term basis.

If we are going to give families a real opportunity in the section 18 process of getting their kids back, we need those sections that say we can only have them on a preservation or reunification order for two years reversed to enable us to work longer if we think that the family are actively working towards getting their children back in their care.

COMMISSIONER HUNTER: Aunty, is that permanent care after two years - back on permanent care? We spoke about it yesterday.

SHELLEE STRICKLAND: That's what happens, yes.

HAZEL HUDSON: It flies in the face of the fact that we're happy to work alongside families that may slide back. You know, the trauma that they have been exposed to takes a lot longer than that to address.

SHELLEE STRICKLAND: Can I also mention I completely agree with what Aunt's saying about section 18 is at the end of it. We need to be proactive not reactive. We need to work with families really early on before we get to the stage that section 18 effectively or not section 18, the Department, are involved. I think it is also relevant at the last ACF there were discussions had and endorsed by VACCA, as it stands now you have to be an Aboriginal

CEO to be section 18 - of an organisation to have section 18, but they are bringing it in you don't have to have an Aboriginal CEO, which goes against what we are saying about true self-determination for Aboriginal people.

5 We need to continue. If section 18 is how we are going to continue and develop and make  
 sure we have true self-determination for our people, Aboriginal voices, as what Aunt and  
 Aaron have said, then we can't have a non-Aboriginal CEO, it needs to be at the moment  
 actually - because then it goes against what we are trying to say. So VACCA was endorsing  
 that at the last ACF, but I think we really need to take that into consideration if this is the way  
 10 that we are going. You can't not have an Aboriginal person at the helm of it.

CHAIR: It raises a lot of questions about education and training in this space, of course, but we'll leave that for another day.

15 COMMISSIONER WALTER: With that again, you said VACCA endorsement, where is the push coming from to change that rule that currently says --

SHELLEE STRICKLAND: I'm not sure where it's coming - obviously it was raised at the  
 ACF so it's coming from somewhere which is just - it goes - whether we - it works in  
 20 whatever community it works in or not, it goes against what we are talking about,  
 self-determination. So I'm not sure where the push and pull is coming from. If it's at the ACF,  
 it's come up from somewhere and, as I said, VACCA, at that stage, it's documented and  
 minuted that it was endorsed. So, I guess, I find that really contradictory to what we are  
 trying to achieve.

25 I'm not saying we are all there with section 18 but the whole point is everyone one of us here  
 on this panel, our true belief is safety for our children as Aboriginal people and ensuring that  
 there's cultural overlay there. So whether it's section 18 or not, that's our true belief. If you're  
 going to do a section 18 - without being offensive you don't want a non-Aboriginal person  
 30 leading it, because that's the whole point, is true self-determination for Aboriginal people.

HAZEL DEAN: It does raise an interesting question. It was actually coming from  
 communities that already have a non-Indigenous CEO in place, but they have an appetite for  
 section 18. So, I won't - it does raise an interesting question in regards to Njernda, had section  
 35 18, or pre-authorisation section 18, and we went under administration with a non-Indigenous  
 administrator. So, you know, it raises the question what happens to those section 18 programs  
 in the event or unlikelihood that they do get a non-Indigenous worker, you know, as the CEO  
 in place.

40 So does that mean they lose those programs and lose all of that good work and traction that  
 they had or do we come up with another mechanism where that program still is able to be  
 managed by those ACCOs. I think it was endorsed in principle, and there had to be additional  
 work done with it because there hasn't been full discussions at this stage but there is a lot of  
 issues there that have to be considered.

45 COMMISSIONER BELL: I've asked the one question I had, thank you.

COMMISSIONER HUNTER: I'm just going to go slightly off track, if that's okay. Shellee,  
 you mentioned before that you guys have a sobering up centre.

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SHELLEE STRICKLAND: We don't. That was Rumbalara.

COMMISSIONER HUNTER: So is that new or is that - so when was - if you could explain that?

5

FELICIA DEAN: So many years ago we used to, it was called Gowa House. The Department defunded those, or a number of them across the State. As a result of the changes to - and the Royal Commission and the detoxification rulings, they are trialling some sobering up centres throughout Victoria. There's two Aboriginal ones: one here in Melbourne, and it's been run by Dardi, and we were going to trial the other one down home. So the building's just about completed. Staff have been recruited and hopefully it'll be operational in a couple of weeks.

10

COMMISSIONER HUNTER: Sorry to go off track, I'm going to ask a question that I asked yesterday. We had Minister Gabrielle Williams and she gave evidence to us that the government remained committed to the abolition of public drunkenness offence but there was delay due to COVID but also while the government put appropriate health services in place. So given that was back in May, and given the commitment made after the death in custody of Aunty Tanya Day in 2020, what would you say about the government sitting on that reform?

20

FELICIA DEAN: I have to agree with everything that you just mentioned, which Gabrielle spoke about, is correct, but, yes, the old models never had a clinical response. These have a clinical response. Trying to recruit clinical nurses to this has been a nightmare and taken much longer because that workforce is, and still is, continues to be furloughed but, yes, there have certainly been some delays.

25

MS McLEOD: Aunty Muriel also talked about the night patrols. And instead of respite, or rolling out the facility, use of night patrols, is that something that you would see as useful?

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FELICIA DEAN: You could use physically the resources of the night patrol but, technically, no, you wouldn't. Night patrol tends to - for us down home, it has a youth focus, and sobering up centres are for adults. They are a combination of male and female, so - and night patrol focuses, yes, on youth.

35

MS McLEOD: I might ask, before we let the panel go, whether there is anything burning that you feel you haven't - I will tender your outlines as evidence, and there is an opportunity, if you wish, to supplement those outlines if there are things you think of beyond today. Just to do a quick whip around and see if there is anything that hasn't been said that you'd like to address?

40

SHELLEE STRICKLAND: I guess I really want to talk about the funding for foster care and kinship. This is a little bit of a tangent that I'm on every panel I can get on or any forum that I can get at. We are talking about most vulnerable people that have - we suffer our own traumas a lot of the time and, as we have spoken about many times, we are a village and it takes a village to raise a community. This is where we are at. I think, in the proactive way, if we can get children into kinship and care, you know, before they actually go through the full child protection process, and it gets that bad, we want to be able to do that.

45

However, if you are a kinship carer the process is really short. You have to effectively be above 18, working with children check and police check and it's done within five minutes.

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Then you go and you can be funded to support that child at a really low rate. You automatically go in at a particular level. If you think about our most vulnerable families they are - we have got risk of homelessness, we have got financial burdens because of the extra children.

5

If you go through the accreditation process to be a foster carer, you go in at a different level than the level that actually has been sought after for you, so you - I have put in my evidence, the different scales. Now, the issue that we have here is that we have very few accredited Aboriginal foster carers? Why, because the accreditation process is not accessible for our community.

10

We have talked about education. It is a process of six months, less than 1 per cent of Aboriginal people go and actually succeed in it. Because it has not been structured, exactly what we have said earlier about schools, it's not been structured for Aboriginal people. They can't complete it because of our low literacy but also the way we learn. We don't always learn sitting in front of a person listening so it's not tactile. At what point do we change it and look at it and go, "It's not working, we are only getting 1 per cent of foster carers of Aboriginal people", and that data has been for years now, yet we have got kinship carers and they are prepared to do it but they often decline because of the financial burden of taking on a child.

15

20

At what point do we actually look at the accreditation process to get them into foster carers to make sure they have got the training set out for them so they can be funded well enough to do it. We all put our hands up to look after our own children. However, the burden at the moment is enormous. Nothing is changing. This has been going on for years.

25

CHAIR: Thank you. Another thing to add to the list.

FELICIA DEAN: Aboriginal families are getting paid much less.

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SHELLEE STRICKLAND: Unless they become accredited and, of course, becoming accredited is a six-month barrier.

HAZEL HUDSON: It is a little bit more than that because part of the assessment is they have to look at their own trauma. So they can ascertain what their triggers are, because children are very good at finding your weak points and pushing that button. So, if they - not all of us know about our trauma. I came into this fairly strong person, my child had never - I had two children that had never seen me cry. But when I talk about our children, you usually see me cry, because, I'm passionate about it, but also because I have got traumas that I have never recognised. These kids trigger my trauma.

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So, you know, I'm fairly strong. If you have got someone that isn't as strong, and you are asking them to review their history, review their history, and tell us what triggers your trauma, that's a challenge for any healthy person to do, not to mention someone who's never lived with that. It's the norm for them.

45

COMMISSIONER HUNTER: Really quickly, and it's probably yes or no, because I'm aware of time, do the agencies assist the carers?

HAZEL HUDSON: If you are a foster care agency.

50

COMMISSIONER HUNTER: You'll do it. Otherwise, does the Department do it?

HAZEL HUDSON: If it's kinship, the Department do it.

5 MS McLEOD: And you say the function that will shift to section 18 organisations or not? It will still be --

HAZEL HUDSON: We run a foster care - we are in the early stages of foster care, and that's a really difficult arena to get into. We've been doing it for three years, and we have still only  
10 got four foster carers, you know, we have done a massive big advertisement for it. We have got something like 12 people interested, but when they go through the information session, and realise what commitments they have to make to do the training and then to do the evaluation process, it's too burdensome for them.

15 The other thing that we haven't touched here is homelessness. You know, our kids that age out, we have got to have sufficient accommodation for them to go into, and there needs to be programs that teach those children or young people at that stage how to pay their bills, how to look after those houses, and how to maintain it and how to keep their door closed.

20 MS McLEOD: Most of the children in exiting care, are they having those services dropped off at 18 or are they eligible for those flow-ons?

HAZEL HUDSON: No. They get leaving care and I forget what the other program - I think I  
25 mentioned it the other day, better homes or - so they get those. But, you know, if you've got extremely traumatised children, like, we have got one that's ageing out now, she's had lots of trauma, she came in the other day broken down and crying, she said, "I don't want to leave you", and we said we are always going to be here but you're 18 now so you won't be officially part of our program. You've been referred into Better Futures and that's another - I think it's something else. They will work with you. But any time you need to come in or you  
30 need additional support, come in and talk to us, because we are perceived to be their family and family don't shut their door.

But there is a lack of homelessness and there is education. So you got to make sure that these kids don't exit and then go and sit in the gutter and wonder where they go to, their life has got  
35 to be set up, on an apprenticeship, some sort of employment. It's not good enough to put them into Centrelink payments, youth payments, and they have got to have some sort of accommodation. Most importantly, which a lot of people don't understand, how do you close that front door and be responsible for you. We have those conversations with a lot of our vulnerable people who open their doors up and then they are in trouble. You've got to  
40 regulate who comes in and out of that door.

Some people, yes, they might be homeless. If they are not going to be good for you, then you shouldn't let them in. The same has to happen with our young people.

45 MS McLEOD: Chair, I tender the outlines of evidence, Shellee Strickland, Felecia Dean, Aaron Wallace, Tracey Dillon and Aunty Hazel Hudson, 3.1 to 3.4 respectively.

That's the evidence of the panel this morning. We have asked Aunty Rieo to be available at 2  
50 o'clock, if that suits.



CHAIR: Thank you, Aaron, look forward to meeting you some time in person in Bendigo, perhaps. Thank you all very much.

<THE WITNESSES WITHDREW

5

<ADJOURNED 1:00 PM

<RESUMED 2:01 PM

10 <AUNTY RIEO ELLIS, CALLED

MS FITZGERALD: Welcome, Aunty Rieo. Do you undertake to provide truthful evidence to the Yoorrook Justice Commission today?

15 AUNTY RIEO ELLIS: I do.

MS FITZGERALD: You have prepared a witness statement today, which is dated 7 December, are the contents of that statement true and correct?

20 AUNTY RIEO ELLIS: Yes, they are.

MS FITZGERALD: Aunty, will you introduce yourself to the Commissioners and introduce yourself and give them some background about who your mob are?

25 AUNTY RIEO ELLIS: For those who don't know me, I'm Rieo Ellis, community member of Naarm, Victoria, I have been living off country for over 54 years, showing my age now, but proudly I'm here to support people who don't have a voice against the injustices that have been done to them today via the child protection services, by being a volunteer for GMAR Victoria, which is Grandmothers Against Removal. That's just as a volunteer capacity, we  
30 just got incorporated. We operate just from phones and all that, but hopefully we're getting known in the Community.

MS FITZGERALD: Thanks, Aunty. I might go a little further back and just start with your own personal experience, in your witness statement, in your outline, you've mentioned that  
35 your parents were Stolen Generation, and could you tell the Commissioners a bit about that and about the impact that had on them and on your family?

AUNTY RIEO ELLIS: Absolutely. I guess what happened to them has made me what I do today, I guess, them being the Stolen Generation, then keeping us in the bush, them being  
40 seasonal workers of course, but more so keeping their children in the bush because, in those days, if you were paper bag brown of skin colour, you'd be taken, so that you could be assimilated and maybe through marriage and all that, easily turn white. So that's why mum and dad kept us in the bush for. We have been told, you know, it was a hard life and all that, but I see it as, our backyard was the mountains and waterfalls and our pets were the  
45 kangaroos, the goannas and all that. Growing up it wasn't a hard life for us, but we've learnt by it.

MS FITZGERALD: You mention in your outline that while you were still relatively young, your mother passed away, and that brought child protection into your life to some extent.  
50 Could you tell the Commissioners about that period?

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AUNTY RIEO ELLIS: Yes. Well, I was only 17, turning 18, '77, pregnant, ready to have a baby, and mum passed, and when mum passed, we took on the - our four siblings, when I say we, I talk about my darling sisters, before me, we had a - she was called a welfare worker  
 5 then, and to stop - I don't know what it was called - to stop child protection taking the brothers from us. So she helped us. And that's where we - very humble, you know, respect the people that help you. But, yes, that was the start of us looking after or fostering children, four brothers, you know, siblings.

10 MS FITZGERALD: And can you talk about your own personal experience of fostering children and how the Aboriginal culture does deal with that when other people can't look after their kids, when you've stepped in?

AUNTY RIEO ELLIS: Yes. It sort of goes back to how we want to bring back that saying, or bring back the village that raised a child. If anybody is having problems, somebody will put their hand up and say, "I'll help out." That's what I've done, and I sort of fostered seven children, plus more. There's about three or four I raised that actually had - were put in my care through child protection, but the others, like, five or six of the others, just came and stayed, "Aunty, can I stay with you?", and mum allowed it, things like that. So that's how we  
 15 was. I wasn't questioned by a department or anything like that because there was an Aunty looking after her children, you know?  
 20

MS FITZGERALD: In those circumstances, where your care for those children was not overseen by the Department, did those kids stay with you forever or did they come and go  
 25 back to their parents when they were ready?

AUNTY RIEO ELLIS: Yeah, went back to their parents. One didn't, but now she's a registered nurse and, you know, good guidance from me, I suppose. Very proud.

30 MS FITZGERALD: She stayed with you the whole time?

AUNTY RIEO ELLIS: Yes, absolutely. My Mandy. I got to mention her. Yeah. That's what we do, you know, and I guess probably down - along my statement you'll notice that we do it because that's what we do. But I think nowadays, with the introduction of so-called child  
 35 protection, that's changed. It's sort of taken away and, again, I'm feeling, in my mature age years, that this is another way of oppressing us into submitting to being the so-called norm, in a white society, which we are not. That's what I take on.

MS FITZGERALD: And your outline talks on that issue about applying white middle-class  
 40 standards to Aboriginal families. So how have you seen that? What are the kind of comments that you hear from child protection workers which have made you think, "Well, that's just not how we do things, or that's applying a different standard"?

AUNTY RIEO ELLIS: Well, just that we are different and you can feel them thinking that  
 45 because you're different you're wrong, you know. I feel that, okay, well, they ask a question, like, what can we do to fit your mould, the only thing that I can think of is not be black, because we didn't grow up in a middle class home where, you know, we had supports around and all that. We actually subscribed to be where we were but at not one time was a child at risk, you know, or maybe subjected to, whereas the Department would just - nowadays

remove a child on that big say-so and under the guise of protection, may, with no substantial evidence, you know, to say the child was at risk.

5 MS FITZGERALD: One of the comments you make is that you are aware that a child protection worker, one of their criticisms was that a child had dirty feet.

AUNTY RIEO ELLIS: Yes.

10 MS FITZGERALD: Is it your experience that those signs of a child who is maybe spending time outdoors without shoes - those things that you might say are things that your mob do without thinking about them, giving them a second thought, are viewed as children not being cared for or being neglected?

15 AUNTY RIEO ELLIS: Well, the inference in that case was that, "You're not looking after this child properly, he's got dirty feet." Commonsense in the Department is not so common. You'd think that, you know. We'd say, "Well, there's mud outside." That's not neglecting the child. He's come inside from a muddy backyard. I got to say that, if they are doing this by the book, having a dirty foot or a child having dirty feet is not in that book that they are following, you know. It's just sometimes their made-up version and that's got to stop because  
20 it's denigrating a parent, questioning parenting skills, you know?

25 There's instances where they have done a check on a house, assessed the house with me on the phone to them, and found that everything was okay but there was a big pile of clothes on the lounge room floor. I said, "What is the concern, then?" They said, "Well, the child might fall over those clothes." I said, "Well, no, the mother's going to fold those clothes." That's how we got to speak to them. Who's training them to do this, to say those kind of things. It makes the Department look silly, you know?

30 MS FITZGERALD: Aunty, I want to step back and get you to explain a little bit about how GMAR got set up in Victoria and a bit more about the nuts and bolts of who GMAR is and what you do.

AUNTY RIEO ELLIS: Okay. GMAR started in Victoria through --

35 MS FITZGERALD: Sorry, Aunty, I've just jumped into calling it GMAR.

AUNTY RIEO ELLIS: GMAR Victoria.

40 MS FITZGERALD: That's Grandmothers Against Removals?

45 AUNTY RIEO ELLIS: That's right. It's Grandmothers Against Removal, Victoria, just use acronym GMAR Victoria, and we are getting known all around the State in Australia by that name. But we got established in 2018 when, I think, Lidia brought - our founder of GMAR in New South Wales down to start a chapter in Victoria, of Grandmothers Against Removal, because they started one in 2014 up in New South Wales. I don't know whether I'm right or wrong, you can correct me if I am wrong, but I see us down here at Grandmothers Against Removal Victoria going in, providing support to families on the grassroots level, and being with them, like, supporting them in courtrooms, holding their hands, maybe writing letters for them, because we are going in just as grandparents, we are not lawyers or academics, you

know, we're just a grassroots mob - I shouldn't say "just" because, you know, a lot of people are thanking us for just being there with them. That's what we do.

5 Sometimes we question why the Aboriginal Child Placement Principles are not being implemented. We question what is, I guess, the cultural plan being written up by the child that's in out-of-home care, we question why somebody's having supervised visits as opposed to they shouldn't be, they should just be having contact without supervision. We recommend or sometimes we endorse that we will actually do the supervision in the home. So they're not at clinical offices or in parks or in libraries or in shopping centres, just to make it more  
10 culturally appropriate and homely for that child and parent and probably family because grandparents have access with their babies too.

15 There are a lot of things we do. I guess we do it because it's just a normal thing that we do on a daily basis, and who would question supporting a parent with some petrol to go and have access, or supporting a parent with going doing their drug screens as part of the conditions. We support them all the way because, (1), that child knows that parent, and knows only one parent. If we can put things in place and support the parent, we will do it. It's just by referral process too.

20 MS FITZGERALD: You talk in your outline about how important the Koori grapevine is to you keeping your eye on what's happening with families or getting a hold of families. Some of the things you do, it strikes me, that only mob could do. Are these things that a child protection practitioner could be trained to do, even if they wanted to?

25 AUNTY RIEO ELLIS: There are some child protection practitioners out there who are receptive to learning what we do, you know, and making it more, I guess, not as clinical as it is because, at the end of the day, we are working with children and we need to look at their emotional - what do you call it - traumas, that may come along with being removed from mum and dad or even grandparents.  
30

But, yes, we do a lot of work with some workers, some practitioners. Some are, you know, really hard-headed they don't want to think that we are better than them, or whatever, and I say, "Well, we are the professionals because we are the Aboriginal people who want to do this", it's important that we keep families together, even if it means picking up a mum or a  
35 dad who has maybe relapsed, instead of kicking them while they are down, you know?

MS FITZGERALD: If a family member does relapse, how does GMAR deal with that?

40 AUNTY RIEO ELLIS: We treat them, you know, like they're family. If they think that we are going to growl at them or tell them off, we say, "You know, you can tell us the truth, you know, we are here to help you up, we are not here to knock you down again, darling." If it's called self-medicating, it means you're sick somewhere, you know, and let's look at that. I think because we, as grandparents or Aunties, and we do have some Uncles, it looks like they are being brought into a family and we are not judging. So, yes, that's part of our, I guess,  
45 wellbeing for our - I don't want to say clients, just, you know, family members.

MS FITZGERALD: It's not a 9 to 5 service, is it, you've received phone calls at 11 o'clock at night. What kind of demands does that place on you?

AUNTY RIEO ELLIS: It's a lot because I have my daughters and my grandchildren with me, but we take the calls. I take the calls. There was one instance where I took a call at 11 o'clock at night and she was frantic. She was saying, "Aunty Rieo, they are here to take my babies", at 11 o'clock at night with the police. I said, "All right, darling, that's okay, don't let them in  
 5 until I talk with them." And they actually spoke with me through the phone, you know, I said, "What's your concerns?" They said, "We heard - it was reported that there were children crying." I said, "Well, ask the mum, talk to the mum." She said, "Well, can we come in, Aunty Rieo?" I said, "Well, go in and have a look if you're worried about the house." She said, "We just want to assess the house then." Go ahead, because mum's - I just had a talk  
 10 with mum and she didn't mind, as long as the babies weren't taken.

But at the end of the assessment, I said, "Do you have any concerns about the house?" And she goes, "Oh, no, not really. There's the clothes on the floor", and that's how that came about. So you see how we get the calls. It turned out okay, they went away and the police  
 15 officer rang me the next day and they shouldn't have even been involved in that case. That's how we get the calls. Sometimes on a Saturday, I took a call at 7 o'clock in the morning, whereas they are wanted to - these are the words he said, "Line up and sight the children", seven children, from two months up to 12? That's how ridiculous it sounds, and it was, until I spoke to the police officer.

20 Just asking is the Department there, "Is Lakidjeka there?" Lakidjeka is a program from VACCA that sits behind the Department. I said, "Well, you don't have a right there, really." He goes, "We're just assessing the house and sighting the children." I said, "Well, no, we done that. We done that yesterday." He apologised and left. But it's that thing that it's there,  
 25 that they can do that, you know?

MS FITZGERALD: In your outline, you talk about systemic racism and the fact that you call - you don't call it child protection, you call it child removal. Why do you use that phrase?

30 AUNTY RIEO ELLIS: Well, they are removing our children, and you notice I said the guys are protection, a lot of our children are not being protected. They are not protected from the traumas, you know, like, loss and grief. They are not being protected from being sexually abused. We are working with about five and over cases right now. They are working with -  
 35 well we are working with that, they're not protecting them from harm.

They might say removal is the answer but it's not. We found that it's not. We get - and I'm sort of staying away from - one harm that they do is the emotional harm to young mums. There was two suicides and we know that it was because of their intervention. There was no  
 40 need for their intervention when we have heaps of support around the community. You probably heard the saying Koori kids in Koori hands, they are not allowing it to happen. Just seeing Aunty before using the word "authority" for section 18. Who the hell are they to say, "You haven't got authority yet?" Authority to bring up our children? Authority to be the village that raises a child? It's those kind of things that if we are not talking about it, is there an inference that it's not happening?  
 45

We have got to talk about it. We shouldn't be sitting back and waiting for, say, Invasion Day to fight/march for our kids. We shouldn't be waiting for a certain day, whatever, it's every day that this is happening. It's every day that I'm not accepting colonised mob to tell us that we are bringing up our children wrong. Colonised people to tell us that, "You don't know about

child protection, you don't know about protecting a child." We do. We have done it well before colonisation and we will keep on doing it.

5 The thing is: let's protect our children collaboratively because we are not dismissive of concerns. We go and have a look at it in a more culturally sensitive way. We have parents who know they are not able to have their children back, but the children are with grandparents, the children are with Aunties or Uncles. So they are in that space, you know, they're in that community space, they are with family. That's why I wear this shirt, that children belong with family, doesn't mean our children belong with mum and dad, with family. Let's start doing that.

10 MS FITZGERALD: What's your experience of how well child protection are investigating the possibility of extended family placements while mum and dad can't look after the kids, how well they are investigating that extended family?

15 AUNTY RIEO ELLIS: You probably see I don't have any respect for the way they're saying investigating because when they investigate, they don't investigate and they don't point out the good that mum and dad are doing, or they point out all the bad things. I have to ask them, "Is there anything good that these parents do?" And then they'll bring it up, you know, but in the court reports, it's always not good until we start writing a report ourselves and we go in and we see it. You know, I just think the authors of such reports need to be educated more. That's just me. It's - if I'm thinking that, we know that it's effecting our children in the community.

20 MS FITZGERALD: One of the things your outline touches upon your evidence that these problems could be addressed with support so that families can stay together. What supports would you like to see child protection able to or required to provide before they consider removal?

25 AUNTY RIEO ELLIS: Well, if they are concerned that - a lot of removals are because mum has a history, you know, and - look, when they say that about our mob, you know, mum has a history of being with the Department of Child Protection, and they are using that to keep a child out of mum's care, I just say, "Well, Australia's got a white history, you got to remember that. You know, think about that first." But they are dismissive of our concerns. They are not taking our concerns into consideration and I feel that is it because - well, one organisation, one office, child protection said, "We don't have to tell you anything because your group's not incorporated." That gets your back up and you say, "Well, we're the professionals because we are Aboriginals, you know, you have to take that into account", but they don't. Yes. That's us, I guess. I mean, I'm not I learned person, darling. I'm not - we just do what we do.

30 MS FITZGERALD: I'm sure there are cases where, knowing your mob as you do, you're looking in and thinking if child protection could get this mum this support, she might be okay. What are those sorts of things, where you think - what kind of supports do you think they could do?

35 AUNTY RIEO ELLIS: I question the reunification order because the judge places them on a reunification order but what is the Department doing to reunify this family? Are they set up to keep families apart? If they are, they shouldn't have that reunification order there, or the preservation order, you know, that kind of stuff simply because they don't provide any

support to mum and dad. They will tell them, “You got to do your screens, you got to do this, you got to do that, you've got to do your” - what's that, mental health training, or whatever, and I ask the question, “Why are you asking that? Are you - do you have a medical background to ask that?” You know, apparently, it's all reported back to the magistrate and, if  
5 it's not done, it's not done.

The reunification order is up to the parent, apparently, and yet, as soon as the child is removed and they find a carer, they actually give a carer - get a carer a house, or get a carer a car, which means, to me, it's widening that gap of reunification. It's - you know, it doesn't  
10 stand. I'm always questioning it and I do say - I get smart sometimes and say, “Look, you have got a big barrel of money, you can do this to keep families together, if that's the case”, because sometimes mum and dad may need that bit of support to come good. I know I needed it when I was a young mum.

15 MS FITZGERALD: Do you see child protection using that big barrel of money? Do you see them using that to address the concerns they have raised when they remove children?

AUNTY RIEO ELLIS: No. I fight with them over a Met card, a Met ticket.

20 MS FITZGERALD: You've talked a little bit in your outline about the Aboriginal Child Placement Principles. Is your experience that those principles are followed in practice?

AUNTY RIEO ELLIS: No. I'm asking that question too much, same as our other volunteers around Victoria, they are asking that question and they are not getting answers. Why is this  
25 child with a non-Aboriginal family? Have you checked out the grandmother and all of this. Some will say yes, but the grandmother hasn't got a working with children check, and she hasn't got a working with children check because this was a crime when she was 15. She's 55 now. That's just one case and it's still a barrier for kids to remain with family.

30 MS FITZGERALD: With relatives that are deemed unsuitable, what do you think about the requirements that are put in place for a relative to be able to care for an Aboriginal child?

AUNTY RIEO ELLIS: Well, it's like the person who is putting their hand up is going to be scrutinised, then they look at their past record with the police checks, if something comes up,  
35 they will say, “Well, we don't see that as suitable, we have concerns about you being a carer”, you know?

MS FITZGERALD: Those past criminal histories related to issues to do with violence or issues that put the child at risk or are they unrelated crimes?  
40

AUNTY RIEO ELLIS: Well, when the crimes occurred, there was no children around and there was no children in that grandparents' care, so why is it relative now when the grandmother wants to care for their grandchild?

45 MS FITZGERALD: Have there been instances where you are aware of there being extended family that child protection haven't contacted who would be suitable?

AUNTY RIEO ELLIS: Yes. They accept that - we actually went around and said, “Well, look, you've never looked for family.” So we have done that, we have looked for family. in a  
50 couple of cases we got family to look after - sometimes it's brothers and sisters that have

grown up, take care of their sisters and brothers. Sometimes it's grandparents and sometimes they happen to have a working with children check. Of late, when I think working with children came in, a lot of people don't have it, so they said you can't have your grandchild.

5 MS FITZGERALD: Are child protection supporting extended family members to jump through those hurdles to figure out how to get the checks?

AUNTY RIEO ELLIS: No, we have to teach them. We are not learned, but we are learning, Funnily enough, we had a case where an Aunty had her 6-month - the baby was placed in her  
10 care when he was two weeks and then later on he was six months, she said "Aunty Rieo, they're are trying to take him," and I said "Well, what for?" "Because I haven't got my working with children check y et." I said, "But they placed him in your care without a working with children check", and she goes "Yeah, but they have come back now" and it just so happens that we were there at the right time and we said "What are you doing here?"  
15 They knew why we were there. "We're here to take your baby" and I said "Well, what's your concerns?" I said "Baby is being looked after, yeah she's really good, the Aunty, so why do you want to take?" "Well, working with children hasn't come back yet". I said, "That's not her fault, that doesn't make her a bad carer". I said, "You need to get on to working with children," because they were the ones who were really slow in giving her the working with  
20 children check. So that worked out. The baby is still with her and now mum's having sleepovers with him.

MS FITZGERALD: So that placement would have been interrupted because of processing times for checks.

25 AUNTY RIEO ELLIS: That's right, yes.

MS FITZGERALD: You talked a bit about this focus on individual children and not the family as a whole. How do you think this focus just on the child and not on the broader  
30 family, how do you see that having negative impacts?

AUNTY RIEO ELLIS: I see separation as a part of - I don't know whether I'm being radical or not, but that's another - I think that's the start of genocide, or continuation of trying to cause genocide, because we are splitting up a family when it's not necessarily so. Okay, if a  
35 parent cannot have their child, and we might agree to it, again, we will say, "Where's the grandparents, where are the Aunties and Uncles?" We will get – lately people are starting to put their hand up because they have got our support, because people are saying, well, I don't want to put my hand up, because they question me and I don't want to compromise the other children with me, because that's how it seems now.

40 MS FITZGERALD: Is there where mob are afraid to put their hand up to have child protection come and assess them?

AUNTY RIEO ELLIS: Yes. The sad thing is, we have done - we have gone to houses and  
45 done assessments with child protection, we expect - we expect Lakidjeka to do something like that, if that's the case in metro, I think we've got VACCA up in other areas, we want to look at VACCA and say, wait a minute, where is Lakidjeka, and if they are under resourced, what is the government doing? Is the government allowing this to happen under that section 18? I don't know what comes under that section, but really, it's not allowing mob to look after  
50 mob.



MS FITZGERALD: Looking at the legislation, you mention section 18, which we'll touch on self-determination in a second.

5 One of the issues you've raised is the breadth of the discretions under the legislation, uses terms like "unacceptable risk", and you've said that it uses open-ended words that leave a lot of discretion, that's really vague. When it is left vague like this, what is the result for Aboriginal people, do you think?

10 AUNTY RIEO ELLIS: We become. There is a feeling despair, they've written that about us, is it true? Until, we come in and say, wait a minute, 80 per cent of our children that are removed are removed because of that big word "may." May be subjected to this, may be subjected to that. Again, there is no evidence, so I say to them, was that child ever harmed in the parents' care? If they come back and say no, why is it necessary to remove the  
15 child? You know, it just doesn't make sense.

MS FITZGERALD: In your experience, are these removals - is there a lack of concrete evidence of harm and neglect before a removal?

20 AUNTY RIEO ELLIS: It just looks like it's an inference there will be something going on, or that they will be subjected to this. Why would you ask that? Let's put something in place, if you have concerns, as, you know, removal should be the last resort. Let's look at what we can do prior to removing the child. If we are not here to keep children in dangerous places. I think that's what we fight to let the Department know, you should look at us as working  
25 collaboratively with you, you know, because we want mob together, we want a good outcome for the child, and, you know, just - and the family. Let's bring back the village that raises the child. There's been a lot of good.

To just take the child because this is happening with mum, this is happening with dad. Don't  
30 send them away, give them to grandmother or grandfather, something like that. We, the community, the whole community will know what's happening with our mob. We get instructions, we get endorsements or recommendations from community.

MS FITZGERALD: When these concepts are left really vague in the legislation, it must  
35 leave a lot of - a lot of discretion to the individual worker. It must make a big difference which individual worker you get?

AUNTY RIEO ELLIS: Yes. Is that the worker with child protection?

40 MS FITZGERALD: The child protection worker.

AUNTY RIEO ELLIS: Yes. Like I said, you can see them coming. Oh, what a term. You can see a good worker as opposed to one that has an air of entitlement about themselves. They will speak down to you, they won't even look at us as if we - like, I'm a  
45 community engagement officer at VAHS, they still talk down. Until they are pulled up, you know, very nicely, but they are still pulled up and said, "Listen, don't need to speak like that." But they do.

I just think that, again, they need education in - sometimes it's human relations, really, when  
50 you think about how they speak to people, and all of that, they need a little course in human

relations, not to mention Aboriginal culture and, you know, then we talk about being diverse, well, you would be diverse, if you learn about the people that you're working with.

5 MS FITZGERALD: You've also raised an issue about turnover with child protection practitioners and experience with one very young child who had a really large number of workers in their short life. What issues does that lack of continuity of worker create for a child?

10 AUNTY RIEO ELLIS: I just think of all the strangers that are being placed in this child's life, and it's done legitimately, but they are still strangers, you know, they are not mum and dad, they are not Auntie and Uncle. But to have that many workers in that child's life, and that worker, the first worker not moved from the office, they are still in that same office, what is the reasoning? Why are they removed from that child's life? There is no continuity. And today I've counted, not five workers, I've counted seven. I was on the phone to them  
15 yesterday. But they are not budging in - they are applying for an order by Secretary under the grounds that they are not telling me, because they don't have to, the information belongs to the child.

20 MS FITZGERALD: This issue about GMAR not having any status or ability to require the Department to tell you things, you've raised that and you've raised a desire to be able to intervene so that you could speak in child protection proceedings.

25 AUNTY RIEO ELLIS: Yes. Well, in a deadly world, we would like to be made automatic party to proceedings, but, at this point in time, they are putting up this barrier where you've got to be close to the child or you've got to be either the mother, father, or the carer. We say, "Well, we are there for the parents, you know, like the lawyers are there for parents, we are the support. I don't see why it should stop." There is one instance where we are party to proceedings, and that's in the Broadmeadows Court, but there's - and that only relies on whether the Department will allow it. So we can't go ahead - the Magistrate may say, "Yes,  
30 but you've got to ask the Department for permission." I think that's, you know, a set up to fail type of thing.

35 MS FITZGERALD: You've also - when talking about proposals for the future, another reform you would like to see is when there is going to be a child removal of an Aboriginal child, you are notified of that.

AUNTY RIEO ELLIS: Absolutely.

40 MS FITZGERALD: What would that allow you to do, if you were notified before a child removal decision was made that that was likely to happen?

45 AUNTY RIEO ELLIS: Well, we'd go in. If that's the case, we'd go in and say what are the concerns of the Department? Why is a report going? If there is such thing as child abuse, we'll put a stop to that and say you may have to leave the home, or whatever, and address this, and talk with the Department and say look at other avenues so that the child is not removed. What can we put in place, you know? But if it's cases like clothes on the floor, I'd say come on, let commonsense prevail.

50 MS FITZGERALD: When the departments raise concerns, can you provide some examples - of where you have also shared those concerns, can you provide any examples of

where you have been in the home to sort people out and speak to people about, you know, what's not working?

5 AUNTY RIEO ELLIS: Sometimes when we see a parent who does - you know, fail to cease drinking or taking drugs and stuff like that, we say, "Okay. If you want your children, do you want to do something?" We put the, I guess, onus on them, and they go, "Well, Aunty, we don't know what to do, I want to give up." We say, "Well, let's do this." Sometimes we contact Dardi Munwurro and we do - like I said, we're still there to make sure that family member don't feel judged and things like that.

10

Again, the child hasn't been harmed. It's just that it's interrupting the family dynamics. There's been good rapport with Dardi Munwurro. They have a men's behavioural program and they have women's behaviour program. So we know all the links to keep the children in the home and the parents in the home. I'm hoping sometimes the Department will come to us and say, "What can we do", meaning to keep children in the home.

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MS FITZGERALD: I wanted to talk a little bit about self-determination. Some say that's already in the Act. Does Aboriginal Family Led Decision Making provide self-determination for Aboriginal people in this space?

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AUNTY RIEO ELLIS: No. Because at the end of the day, from what I've seen with some AFLDMs, that's the Aboriginal Family Led Decision Making, we are put in a room thinking okay, we as professionals will leave the room and let you talk. We, the family, come up with an outcome, take it back and we let the professionals know, the Department will say, "Well, oh, we don't think that's right, we have a concern with this." We say, "Well, why is it called that?" You know, I mean, could be seen other ways.

25

But when we do that, we get the false - we get a false belief that - or false hope that we are allowed to have a say. You know. Sometimes that's not the case and that's not self-determination. Same as when the Department, I guess, dictates to ACCOs that hold the section 18, they are actually telling that Department that - ACCO what to do. Where's the determination in that? We know what we are doing. We're mob.

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MS FITZGERALD: Doesn't section 18 put Aboriginal controlled ACCOs in charge?

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AUNTY RIEO ELLIS: Yes. But they'll say that they walk beside them but they dictate to them. VACCA has some awesome, awesome programs that will keep families together but, again, that's at the discretion of the Department worker. So I can't refer to Noogal House, I can't refer to the Restoration House. Even, I guess, the Victorian Aboriginal Health Service, no-one can, it has to be the Department. So, you know, I think that's two steps forward and one step backwards in self-determination for that ACCO.

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MS FITZGERALD: The other aspect that some would say provides for a measure of self-determination is the requirement to have cultural plans under the Act. What do you say about those plans?

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AUNTY RIEO ELLIS: Is that legislated?

MS FITZGERALD: The cultural plans? Is it your view that it should be mandatory?

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AUNTY RIEO ELLIS: It should be mandatory because it's not happening. It's just not happening. We know who the culture plan officer at Njernda - we know what the cultural plan officer say at Meedac and when we want to make a report on it - and because we believe that that person has to make a report and give it to the Department - but also give that report to the parent so that the parent can say, "Okay. That's right, that's from my family line, that's part of my family tree." It's not happening. We may have missed something, as GMAR workers, but we don't see it happening and we do get around to actually visiting mob without, you know, just over the phone type of thing. We know, you know, six degrees of separation, I suppose, we can put that down to.

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MS FITZGERALD: Another aspect of self-determination you raise is courtrooms. You've attended Marram-Ngala Ganbu at the Broadmeadows Children's Court. How is it different than the normal Children's Court; how does it work?

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AUNTY RIEO ELLIS: Well, it takes into account the cultural aspects of the families that are going there. When you walk in, you don't feel overwhelmed, you don't feel like, "This is quite confronting", and it doesn't look like a courtroom. You have the possum skin on the table, you have the magistrates sometimes sit down at the table with you, not sort of up there and looking down. It relaxes - it doesn't frighten parents. I mean, sometimes the Department and their lawyers frighten, you know, the families, but it's not as clinical as a courtroom. You know, it encourages families to talk, to have a say.

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MS FITZGERALD: What role has GMAR been able to play when proceedings are happening in that court?

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AUNTY RIEO ELLIS: If they have any questions they can ask us. We will answer in a layman's term, you know, I don't know - probably because I don't know the big jargon, but just hold hands, hold their hands, let them know that this is part of the process and, you know, at the end of the day, the big picture is the babies are going to come home.

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MS FITZGERALD: You speak in your outline about the impacts on families, on children and families, of having a child removed and you spoke a bit earlier about some mob that have been lost as a result of that. What other impacts have you seen on families who lose a child?

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AUNTY RIEO ELLIS: We don't like that term, "lose a child." We say when a child is removed. It can lead to alcoholism, it could lead to drug use. You know, it's that way of self-medicating, again, because that person's going through a lot, and that's the only way they know to - what would you call it, to get by, I suppose, self-medicate. Then we come in and, you know, it's not as simple as I'm sounding it is, but there is that hope, you know, give them hope and stuff like that, "Okay. Let's deal with your self-medicating. We know that self-medication, you're looking for medication, let's fix it somehow", and sit and have yarns, and things like that, "We are here to hold your hand, we are here, your children love you, you know, you're the best one in their eyes, so you have got that with our support."

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MS FITZGERALD: Is that something you've ever seen child protection do?

AUNTY RIEO ELLIS: No.

MS FITZGERALD: In your witness statement you talk about wanting to know what the Department means by reunification when they keep moving the goalposts and putting up

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barriers. When the Department has a reunification goal in their documentation, in the report they put forward to the court, they will say, "Our goal is reunification", to what extent do you see them actively working to bring that about?

5 AUNTY RIEO ELLIS: They actively, by telling the parents, "Do this, do that, jump through this, jump through all these hoops, your child will come back to you." 12 months is up, "Oh, well, no, we are going to go for a preservation order" - not preservation order, "We are going to go for an order by Secretary, because we really have concerns." Those concerns have been addressed, so what made them more concerned? They didn't answer. They don't answer. But  
10 they are going to go for an order - order to Secretary, I think it is, and mum and dad have been jumping through hoops. What else do they have to do? And he goes, "Well, continue doing their screens", which is, you know, drug screens.

I said, "Have they had a dirty screen in the last nine months?" And they say, "No." So why  
15 are you being - so that kind of thing. They do it because they can and the magistrates listen to their reports, not ours and not - well, VACCA won't write a report because they tell us that their client is the child. So they are acting on behalf of the child and the best interests of the child is to stay away as the Department is saying, be kept away from mum and dad. That's what the Department is saying. So this is why I know that section 18 is not working. It's not  
20 working.

MS FITZGERALD: You have raised concerns about the supports that are being provided to children after they have been removed, counselling and things like that, what are your concerns and what have you seen is lacking when kids are removed?

25 AUNTY RIEO ELLIS: They are lacking reports in getting that child counselling because when you lose somebody, you go through that trauma, that trauma of loss and grief. Why is it not - why are they not taking it on board that this child is grieving for mum and dad, and mum and dad can't have contact, and they have to leave the child? The child is fretting for  
30 mum and dad. That's another form of emotional trauma that they are not addressing. There's a lot of cases where children are actually being - well, you know, left in motel rooms, I guess, unsupervised, and all that, they call that safe. It's not.

This is children on the spectrum. You know, no sensory things, whatever involved, just left in  
35 a room with a game and all that. And we speak that, because mum's shown us evidence and we are wondering why, and why do they call it protection?

MS FITZGERALD: So these cases where you are in contact with mum, and she's had an access visit, and is upset about the circumstances in which she's found her child?

40 AUNTY RIEO ELLIS: That's right, yes.

MS FITZGERALD: I want to talk a little bit about your funding.

45 AUNTY RIEO ELLIS: What funding?

MS FITZGERALD: Yes. I was going to say do you get any funding?

50 AUNTY RIEO ELLIS: No, not at this point in time. We did have a funding body that did help us but that ran out. We reapplied but until things happen we just have to wait.

MS FITZGERALD: How do you operate?

AUNTY RIEO ELLIS: We operate as we do.

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MS FITZGERALD: Voluntary?

AUNTY RIEO ELLIS: Yes. We are a voluntary group. We refuse to get government funding because of the strings that may be attached, you know, if they don't attach any strings, we may take their money. Donations, which is far and few between. But hopefully, later on when we have a website, we build this, we get data collection, maybe some things can come into place, like our usual donating or philanthropic money. But, like, at the moment, we are rich in pride and culture. We are poor in the bank but, you know, we are still there to take a phone call, we are still there to go to court, things like that. It's a \$2.50 tram ticket or train ticket, you know, and what's that to us? Sometimes you just want to support people.

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MS FITZGERALD: When you did have funding, what were those - I'm assuming the grandmas were still working voluntarily. What was that funding being used to do?

AUNTY RIEO ELLIS: The funding was being used to ensure that mum and dad have petrol to go and have access, maybe to furnish a bedroom when a child got returned home. Maybe back to school packages and, you know, just to support mum in that little way. We have bought washing machines for mum who has never had her kids in her care for four years. Yes. Just tickets to get them to court or get them to places where they have to do their drug testing, you know, which is - they won't allow - they won't allow them to attend the Victorian Aboriginal Health Service, and I asked that question because that's the other place that's not culturally appropriate and some people do have stage fright, so to speak.

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MS FITZGERALD: So they can't do their drug screens at the Victorian Aboriginal Health Service?

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AUNTY RIEO ELLIS: No, they can't.

MS FITZGERALD: Is there a reason? Do they not perform --

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AUNTY RIEO ELLIS: They did say some sort of training is required but I said we've got medical nurses, we have got registered nurses. They go, "Yes. But they are not trained in that kind of thing." I said, "Well, we were doing it three years ago." Victorian Aboriginal Health Service was - I've actually done supervised screens, you know, but since three years ago, they have stopped that. I said, "No, we'll have to do it", so I spoke with our boss and said "let's do some training." But the ball's in their hand.

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MS FITZGERALD: In terms of funding, you talked about strings being attached. What's the concern for you about having funding with strings attached to it?

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AUNTY RIEO ELLIS: Well, you're not allowed to have, you know, somebody working with you who don't have a working with children check. Sometimes that - if a person wants to get a job with us and things like that, they'd have to have their working with children check or, you know, it's just - you can't - oh, what's it called. You can't be radical, or whatever. I don't know what the word is. You can't be radical and go against the government, stuff like that.

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MS FITZGERALD: You have to have complete control over how you spend your budget?

AUNTY RIEO ELLIS: Yes. Absolutely.

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MS FITZGERALD: It sounds as though there was a lot of flexibility in how you were using that, it was just whatever you thought would support parents having their kids in the home.

10 AUNTY RIEO ELLIS: Absolutely. We are actually governed by a seven-member committee, which is a president and directors and treasurer and secretary, so we are not willy-nilly in saying, "Okay. Well, this is our rules." We are governed by a committee and directors.

15 MS FITZGERALD: You were also talking about things to do with money. A little earlier you touched on the fact that, after children are removed, the carers who they go with get a lot of financial support. Is your experience that the family before removal is considered get that same kind of support?

20 AUNTY RIEO ELLIS: Yes. Those resources on the family who you are concerned about, you know --

MS FITZGERALD: Is that happening now?

25 AUNTY RIEO ELLIS: No, no. Because we see it very often now that children - again, this will go back to the individual worker having a say, one worker actually put two grandchildren in the care of their grandmother, which, all good, the grandmother was homeless and living in her car, that was okay, because she kept going to her daughter's place so they gave her the two grandchildren. Yet, you know, they stopped kids from going with their grandparents who already have a house, got this and got that, and they'll give it to somebody else who  
30 gives - give a child to somebody else who hasn't got a car, hasn't got a house, and they will provide that car and they will provide a house, which means they talk to the managers of housing, the managers will say, well, them two houses there are allocated for women and/or families who are caring for children in the Department's realm, I suppose.

35 That's how we know because we are getting closer with the manager of housing and she said, "Any time you need, come to us and we will see if we can expedite a house for one of your clients", which - how is that going to help with us? Help the Department. I don't know.

40 MS FITZGERALD: Aunty, I don't have any more questions for you. The Commissioners might have some questions. Before then, was there anything else that you wanted to say?

45 AUNTY RIEO ELLIS: No. I just want to acknowledge that I sit here very, very privileged, a very privileged woman, because I know my culture, I have my children and I have my language. I want the mob that I'm going to look after, that I'm here looking after, to have that, and not lose that, and to know that there are people out there that care. There are people out there that want to push this envelope of so-called child protection to the back-burner because let us look after our children, you know, we know what to do and, yes, that's me. Thank you.

50 MS FITZGERALD: Thank you. Commissioners, any questions for Aunty Rieo?

COMMISSIONER BELL: Thank you, Aunty Rieo. I have just got one question and it's about section 18: I heard you say that section 18 wasn't working and I wonder is it just the way the system is set up now that it's not working or are you opposed to Aboriginal people taking children away from Aboriginal families in principle?

AUNTY RIEO ELLIS: Look, if it has to happen, it has to happen, because, at the end of the day, I am going to remove a child from a dangerous situation. It's unrealistic if we say, no, we don't want Aboriginal people to take our Aboriginal children away. We are going to ensure that if we do, we leave them with family. We can identify our problem within our community.

I say that section 18 is not working because we don't understand it. I don't understand it. I'm led to believe that section 18 allows mob to look after mob. It's not happening. It's not happening when you - like I said, when you hear them say, "Well, you can't go to Noogel, you can't go to Restoration House until you get the authority off the Department." For them to say VACCA hasn't got authority or Njernda hasn't got authority, even talking pre-authority and authority, who are they for us, proud Aboriginal people, to get authority from? They are not the professional in Aboriginal space.

They are laying down a law like 230 years ago. They're doing that right now and we are against that. If it means that we have to listen to them and do that to get money, are we using that money to look after our mob? Are we using that money to ensure that families are being well looked after? Just because a person becomes an alcoholic, we need to look at why, because in our mob there's oppression. They need to understand the oppressive side of it, they need to understand that some crimes have been done because of poverty, things like that.

They need to understand too that we are not - we haven't lived in a white space that they want us to. That's what we have to do. But, again, I really don't think section 18 is working. When we heard it was coming back, we thought - we felt all warm and fuzzy, oh, good, it will be Aboriginals looking after Aboriginals. Then we thought, well, what do you think about Aboriginal taking Aboriginal, well, if we are, it's because we have to. It's not like we are going in and we are doing this because we have concern. We are going in looking at the family, looking at why, we are actually going to place that child with other Aboriginal families.

I don't know why the penny hasn't dropped on many of the magistrates that keep making rulings to keep our children away. Not all Aboriginal parents are bad parents. Some are circumstantial, you know. Thanks.

COMMISSIONER WALTER: Thanks, Aunty. Look, listening to some of the evidence today from you and others, it seems to me there are an awful lot of petty bureaucratic barriers put in the way of Aboriginal people being able to look after their own. So there's the working with children report, there's the use of decades-old brushes with the law, there's the difficulty about getting an accredited foster carer, the vagueness of what unsuitable is and the - I just wanted your thoughts on, sort of, this legacy of barriers that still seems to be there despite the nice words around things like Aboriginal Family Led Decision Making. They don't seem to be - they seem contradictory.



AUNTY RIEO ELLIS: It's contradictory, it's farcical, it's not giving anybody time to speak. Again, the outcome of an AFLDM depends on a worker. If there's a good worker, and I say good worker, common sense, look at what we have done insofar as investigating, insofar as assessing homes, assessing anything that they assess, we do it as an Aunty or as a  
 5 grandmother, or sister girl going in, you know? We do it non-judgmentally. That's okay. But for them to enforce their authority is going back to, I guess, when they wrote the White Australia Policy and it hasn't changed, you know. Sadly.

10 COMMISSIONER HUNTER: Aunty, I've got quite a few questions. I just want to clarify some stuff. You mentioned the police being involved as well as DFFH, in your experience in GMAR, how often would the police come to a home with DFFH, in your experience?

15 AUNTY RIEO ELLIS: In my experience, since 2018, I've had six cases, that's six cases too many, but, you know, there's some police officers that have said that, you know, "We shouldn't be here." I said, "Well, move away", and they did. The thing is when they - like, 2018, we didn't get off the ground until 2019, then COVID happened, and all that, but there was confusion with the police going in, and this is what I'm told by the sergeant, but it's just - you know, there's that police scare tactic. The scare tactic.

20 When you want to remove a child, why is police involved? Get the Aboriginal people there and talk with families, and find out, because a lot of these children are taken unnecessarily. Look at the resources, if someone said to the police, why don't you go and catch some murderers, coming here taking kids. Why don't you do that. There is no reason why police  
 25 should attend, really. If there's combative behaviour, then bring them. But they actually come with the workers on the assumption that there may be combative behaviour.

By this time, all the things that we have dealt with, there wasn't, because we were there and it was just a shame that the police did attend.

30 COMMISSIONER HUNTER: You also mentioned hotels.

AUNTY RIEO ELLIS: Yes.

35 COMMISSIONER HUNTER: How often, in your experience, do children end up in hotels?

AUNTY RIEO ELLIS: Unfortunately, we have got three cases now where - and it's about - when I say the motel, the children that are placed in those motel rooms are children that have got ADHD or they are on the spectrum. So they haven't found a carer for that child but they still see the need to remove - or they just see there is a need to remove that child  
 40 from a routine that they have known and I think if everybody here knows how a child on the spectrum, you know, needs routine, well, that's taking them out of their routine.

COMMISSIONER BELL: Can I ask the age of the children?

45 AUNTY RIEO ELLIS: Seven.

COMMISSIONER BELL: In the motel?

50 AUNTY RIEO ELLIS: Yes, seven, nine. There's one that's seven, one that's nine - yes, in the motel. When that was questioned, they go, "We can't talk about that because that's a child."

COMMISSIONER HUNTER: Aunty Rieo, who's looking after them in that hotel?

AUNTY RIEO ELLIS: A respite worker. A staff member of the Department.

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COMMISSIONER HUNTER: Thank you. You said before that you wrote some reports as GMAR; who do those reports go to?

AUNTY RIEO ELLIS: The magistrate.

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COMMISSIONER HUNTER: Is it a certain court or is it any court?

AUNTY RIEO ELLIS: It's the court where the mum and dad have got to go. That's the letters that we write is called a letter of support.

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COMMISSIONER HUNTER: And they are able to go to the magistrate?

AUNTY RIEO ELLIS: Yes. I don't know. I don't trust lawyers. So I send the report to the magistrate, their lawyer, and the parents' lawyer, because it's - in the past, we have given lawyers these support letters to the magistrate to read and they haven't been up to the magistrate. We have had some lawyers that are - GMAR has actually paid some lawyers and they have not - you know, they are not represented. They misrepresented our client or their clients, which was our family member. So, I said, "Well, I'm not trusting them. I'll give my letter straight to the magistrate so we know it's getting read."

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COMMISSIONER HUNTER: I just want to clarify: the AFLDMs you talked about, that's Aboriginal Family Led Decision Making?

AUNTY RIEO ELLIS: Yes.

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COMMISSIONER HUNTER: Is it Aboriginal family led?

AUNTY RIEO ELLIS: Well, they pretend to go out, the professionals. What it is: we are in a big room, we will talk about this, talk about that, and then they go, "It's time for you to make your decisions and have a yarn about where to from here." That's the family making that decision. So we will - and the family always invites me in as part of their family and the professionals leave and then we discuss this, discuss that, and I point them in a practical way now, because I have sort of an idea of what they will accept, and there it goes again, what they will accept and what they won't, but that's only --

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MS FITZGERALD: When you say what they will accept, is that the Department?

AUNTY RIEO ELLIS: Yes. We are there talking about information we take back to the Department so that they can accept it. If they don't accept it, well, what's the use of having an AFLDM? What's the use of that? It's giving the parents false hope that they have a say in the return of their child, or their grandchild, whatever. Yes, that's how it is.

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COMMISSIONER HUNTER: I just look up the cultural support plans you were talking about. There are two orders, guardianship to secretarial order or long-term guardianship to

secretarial order and then you have a culture support plan. It does say in the planning of that, in the manual, that family that is to be a part of that. Have you --

5 AUNTY RIEO ELLIS: No. Family do have to be a part of that but they fail to - in our work, in the time that - you know, since 2018, 2019, and the cases that we have worked, they fail to provide to us, the family, information or they failed to provide the report from the person that's doing the cultural plan. The cultural plan goes to a cultural officer in Njernda or a cultural officer in Bendigo, whatever, that report has not been given to the parent, it's actually been given to the Department and when a parent asks for it, they go, "Well, that belongs to the child." Wait, that child's only three years old.

COMMISSIONER HUNTER: They are not a part of planning it?

15 AUNTY RIEO ELLIS: No.

COMMISSIONER HUNTER: One last thing: why do you think the numbers are going up every year of children in out-of-home care?

20 AUNTY RIEO ELLIS: I don't know. I asked that question why is it going up, given that we have got this section 18. Since section 18 started, it has risen. I presumed that it would come down because that's - again, my assumption was that Aboriginal children in Aboriginal people's hands with that section 18. Not working. It's rising. Again, a lot of the decisions of children to be put in out-of-home care sits with the magistrate too. So do we question the judicial system there? Do they believe? You know, do we question the magistrate? I don't know. How is that rising? It's not children are placed in out-of-home care because a decision was made by a judge or a magistrate.

30 So let's look at how - their way of thinking, too, because they are going on some reports that the Department give and some judges actually called some practitioners out for lying, and reprimanded them and that's what we have to put up with. We have to look at a whole lot of things.

COMMISSIONER HUNTER: I've got lots more, Aunty Rieo, but I won't --

35 AUNTY RIEO ELLIS: Yes. It needs to be heard. I don't know where it goes to from here, given the fact that we have had the Bringing Them Home report and how many recommendations got implemented out of that. Our story's getting told. A lot of the stories before me today is getting told and people are hearing about it. I just hope it moves forward and there's support out there for keeping our children in the homes, you know, not out-of-home care and away from family. We are a very proud mob.

45 With all the, I guess - what would you call it, not conflicts, when you say you are Aboriginal, you get all this trouble coming to you, you know, sometimes, you know, you don't get it if you're not Aboriginal but when the question gets asked do I think that there's racism in the system, I know so, because we are actually having this meeting today. If there wasn't, we wouldn't be sitting here today, I mean, do you see white fellows sitting around and asking questions? That's not this. And that's because we are waking up to the racist Australia. Thank you.

50 COMMISSIONER HUNTER: Thanks, Aunty.

MS FITZGERALD: Chair, I will now tender into evidence Aunty Rieo's outline of evidence dated 7 December 2022.

5 CHAIR: This document will be allocated the next exhibit numbers. Thank you, Counsel.

**<EXHIBIT 2.3 AUNTY RIEO ELLIS OUTLINE OF EVIDENCE DATED 07/12/2022**

MS FITZGERALD: We have now concluded today's evidence.

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CHAIR: Thank you. Thank you, everybody. Thank you, very much, Aunt.

**<THE WITNESS WITHDREW**

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**<ADJOURNED 3:20 PM**