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TRANSCRIPT OF DAY 7 – PUBLIC HEARINGS

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**PROFESSOR ELEANOR BOURKE, Chair**  
**MS SUE-ANNE HUNTER, Commissioner**  
**DISTINGUISHED PROFESSOR MAGGIE WALTER, Commissioner**  
**PROFESSOR THE HON KEVIN BELL AM KC, Commissioner**  
**MR TRAVIS LOVETT, Commissioner**

**THURSDAY, 9 MARCH 2023 AT 10.53 AM (AEST)**

**DAY 7**

**MR TIMOTHY GOODWIN, Counsel Assisting**

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**<RESUMED 2.05 PM**

CHAIR: Thank you, Counsel.

5 MR GOODWIN: Thank you, Chair. At this afternoon's resumed hearing, I call Mr Damian Griffis to give evidence before the Commission.

**<DAMIAN GRIFFIS, CALLED**

10 CHAIR: Thank you, Counsel. Welcome, Damian, thank you.

MR GOODWIN: Damian, is it okay if I call you Damian for the purpose of your evidence?

DAMIAN GRIFFIS: Sure.

15 MR GOODWIN: Damian, do you undertake to provide truthful evidence to the Yoorrook Justice Commission today?

DAMIAN GRIFFIS: I do.

20 MR GOODWIN: Thank you. Damian, could you please introduce yourself personally and culturally to the Commissioners?

DAMIAN GRIFFIS: Sure. My name is Damian Griffis. I'm the CEO of the First Peoples Disability Network Australia, so we're a national organisation representing First Nations people with disability and their families, and I've been in that role since we began in about the year 2000. I'm a descendent of the Worimi people, of the Wallamba Valley, New South Wales. So about three hours north of Sydney, around Forster, Krumbach, Nabic, that part of New South Wales. Thank you for the opportunity to be here today.

30 CHAIR: Thank you for coming.

MR GOODWIN: And how long have you been CEO of the First Peoples Disability Network Australia?

35 DAMIAN GRIFFIS: Since about the year 2000. So we originally began as the Aboriginal Disability Network New South Wales before becoming a national body around 2010. So I've been involved since the very beginning. I was lucky enough to establish the organisation with Uncle Lester Bostock, who I'm sure you would know, proud Bundjalung man with physical disability. We established the New South Wales Network back in the year 2000, and then we evolved into a national body around 2010.

40 MR GOODWIN: So 22 years in that role, it's clear that you're passionate about issues relating to First Nations people with disabilities. Why are you so personally passionate about those issues?

45 DAMIAN GRIFFIS: Yeah, I grew up around a profoundly hearing-impaired grandmother, so watching her life and the isolation she experienced as a person who was profoundly hearing impaired certainly inspired me to try and be a voice for mob with disability, really. But I've

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also had my own personal experiences, like many of us do, with mental health, and I'm lucky enough that I can get good support for that, because I can afford to do it, but a lot of our mob can't, obviously. So they're the personal insights I've had.

5 MR GOODWIN: And what are some of the key activities that the network engages in?

DAMIAN GRIFFIS: Yeah, so we do several things. We do a lot of advocacy work, particularly systemic advocacy and policy work, so making representations to government and non-government agencies, being a voice for mob with disability. We also do increasing  
10 amount of training where we try and educate and inform our own community members about their rights and entitlements from a disability perspective. That's still not very well understood in our communities in many ways.

15 But we also do a lot of community engagement work, so we try and spend as much time as we can out in community hearing from people themselves about their situation so we can try and help them out. So, essentially, an advocacy organisation, not a direct service provider, but more a representative body advocacy organisation.

MR GOODWIN: And in that advocacy, you've been involved in a number of important  
20 policy work and provided submissions to various government or judicial agencies, including a submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and your organisation, and you appeared before that Royal Commission to give evidence. You've also put together a statement dated 2 March 2023 which attaches a number of things relevant to the Disability Royal Commission. Why was it  
25 important for there to be a First Nations voice at the Disability Royal Commission in terms of your submission and giving evidence before that Commission?

DAMIAN GRIFFIS: Yeah, sure. So we often say at the First Peoples Disability Network it's  
30 difficult to think of any more disadvantaged Australians than First Nations people with disability. Often because of the discrimination they face based upon Indigeneity and ableism, or disability, and we all have family members with disability. It's very unusual for us not to. We have very high rates or high prevalence of disability. And a lot of our people with disability are without a voice in the mainstream society.

35 So what we often see is that within the community itself, our people with disability are well supported, valued members of their own communities, but when they engage with external systems, education, health services, that's when discrimination really begins. So we were really anxious to ensure that we had a strong presence at the Royal Commission. Commissioner Andrea Mason was appointed as the Indigenous Commissioner at the  
40 Disability Royal Commission, which was a very positive development.

45 She established an advisory council structure and that was really well attended. But in the sense that, from a social justice perspective, we would say meeting the needs of our people with disability, or speaking up for the needs of our people with disability, has to be one of the most urgent social justice issues in Australia today, we would say.

MR GOODWIN: And you mentioned your organisation started in New South Wales but eventually grew to a national level. I assume that means that you've done work with and have connections to the Victorian Aboriginal community?

DAMIAN GRIFFIS: Yes, we do, and we've done a number of community engagement activities around the State. Unfortunately, the last couple of years with COVID's made that harder. But we do have strong connections, particularly in the Grampians. We sort of partner  
5 with the Grampians Disability Advocacy Service and BADAC in Ballarat, and we have spent time getting around the community.

One of probably the frustrations, I think, the observations we make is that there's been attempts for a long time now by mob with disability from here to try and grow their own  
10 State-based network. Unfortunately, the Department has been reluctant to support that in the way that we think it should. We would say there's an urgent need to have a well-resourced, formal network of Aboriginal people with disability from Victoria.

You have some very prominent leaders down here. Uncle John Baxter is a great example,  
15 other prominent leaders with disability from down here. But I think they are anxious to see a formal structure and I think that it's long past time that that happens. We'd be very happy to assist in any way, but we do have activity down there, and we do have staff located in Victoria. We have three staff down here.

MR GOODWIN: And I should say, Chair, I'll tender the statement of Damian Griffis and the  
20 three annexures to that statement as well.

CHAIR: That will be entered into the record with the next exhibit numbers, thank you.

25 **<EXHIBIT -- STATEMENT OF DAMIAN GRIFFIS AND THREE ANNEXURES  
DATED 02/03/2023**

MR GOODWIN: Thank you. In your statement, you describe the unique First Nations way  
30 about thinking about disability and about communicating about disability. Could you just explain that to the Commissioners?

DAMIAN GRIFFIS: Sure. So we're the thought leaders on inclusion. So as we know and as  
evidence shows, in traditional language there is no comparable word to disability, and that's a  
wonderful thing. So we tend to take people come as you are. So the way we describe  
35 disability in our communities is entirely appropriate. It's impairment based. So it might be  
brother can't move around too well, cousin is a bit slower than everyone else, uncle doesn't  
hear too well, not said in a negative way but more about that's what we need to think about  
this so this person can participate in community.

So we would say we are thought leaders on inclusion. And, in fact, some research shows that  
40 our own community members with disability feel that they are valued and supported  
members in their own communities. It's the problem when you go beyond your community  
and start engaging with external systems, discrimination comes into it. So we would say that  
we have a lot to share with the wider disability rights movement about appropriate ways of  
45 talking about disability, and it's funny, when you talk to most Australians with disability, and  
you share that story, that's what they want, is not to be labelled.

But, perversely, we're in a heavily label-laden world, so to get access to the National  
Disability Insurance Scheme, you have to go and get a label, or you have to talk yourself

down, really, to be able to get support. So the other thing that's been a really - I think is proof of this, is at Lake Mungo, a very significant archaeological site as we know, there's been a recent discovery of a single male footprint. And the archaeologists there have theorised that it's a male person, one-legged male person, who's using a stick and their theory is they may even be moving at pace, participating in a hunt is the theory.

But that shows that disability's always been an accepted part of the human experience, from our perspective, and even more than that, we actually made accommodations or adaptations so that people could participate. There's further evidence of that now with sign languages, with versions of sign language which have been in existence for a long time. And as we all know, it's not uncommon for a blind person to be a traditional healer, for example. That's quite common. Or any range of other things, or songman, or whatever it might be. So there is really strong evidence to show that we have always understood disability to be part of the human experience and that we are the thought leaders on inclusion.

MR GOODWIN: And I suppose from that you could take that a number of systems in Australia and in Victoria could learn from that ancient practice of inclusion in order to better their own systems for all people, not only First Nations people. Would that be right?

DAMIAN GRIFFIS: Absolutely. We want to see more of that, more respect shown of our traditional knowledges around disability. We had a way of supporting our community members with disability, and still do, that is basically based on a common humanity. Unfortunately, we live in a world, and when the colonisers, the invaders came, they brought with them their approach to disability, and their approach to disability was institutionalisation. So we're still seeing those realities play out today.

So it wasn't long, you know, in Sydney for example that, very quickly, institutions were built and they were for - the term of the day was "Idiot houses" and places like that. So - and even the prisons, you could imagine, were probably full of people that, in today's context, were probably people with cognitive impairment or psychosocial disability. So that approach was in conflict with our approach to disability, which is come as you are and everyone has a role to play, so -

MR GOODWIN: And the focus of the current hearings of Yoorrook Justice Commission focus on the Child Protection and Criminal Justice systems, and I want to ask some questions about that shortly. But I know that the intersection between disability, First Nations identity, Aboriginality and a variety of sectors would play out in different ways, but before turning to the Child Protection and Criminal Justice systems, you mentioned just now institutionalisation and that history of institutionalisation that was brought over to Australia. You mentioned some of those issues playing out in your statement. What's your knowledge about the history of institutionalisation of Aboriginal people with disabilities in Victoria?

DAMIAN GRIFFIS: Yeah, I think - so just to take that point further, yes, when the English came, they quickly built institutions. Melbourne, regional Victoria, significant parts of New South Wales had very notorious institutions built very early on. If I take the New South Wales experience, I'm thinking of Gladesville Hospital, Peat Island. Victoria had the Kew institution. There was another, I think, out perhaps near Ballarat, but all of them were designed so that people were separate from the rest of society. So I give the New South

Wales experience just for clarity for the Commission, but they were often built on top of hills or by rivers. So people couldn't escape.

5 The number of Aboriginal people that were placed in those institutions is unknown. There are - even within my own family history, I'm aware of family members who ended up - again, I'm referencing a New South Wales institution - but Stockton Hospital, which was a notorious institution. And they, in fact, died there. That wasn't uncommon. So we're talking about very secretive places where there were odd practices.

10 People often slept in dormitories. Their life was highly regulated. They were out of mind, out of sight. So back in the day, parents were often told, "There's no hope for your child". This would often happen at the hospital and the child would be removed. There is no doubt that happened to Aboriginal families. How many Aboriginal families that impacted on, I don't think we really know, to be honest.

15 There's also extraordinary revelations in some institutions of unmarked graves, for example. So you're talking about a highly secretive, out of mind, out of sight sort of experience. But there's no doubt there would be families here in Victoria that have been impacted by that. How many, I don't know. How many Aboriginal people died in these institutions, I don't  
20 think we really know that either.

But we have members of our organisation to grew up in institutions, some of the institutions. One of our former board members grew up in an institution down here in Victoria, and she was denied her culture. She didn't know of her Aboriginality. It's inconceivable that the  
25 institution would have even contemplated that, to be honest. So her story is a very typical one.

30 So some Aboriginal people with disability talk about themselves as a lost generation. So not a - well, they're stolen, but they also talk about how their stories aren't told, and I think that's something we need to understand better, you know, but there is a lack of data, a lack of research, probably even a lack of acknowledgement by these institutions that these practices happened. But they were notorious places, highly secretive and extraordinary violations of people's rights, really.

35 MR GOODWIN: And you mention in your statement that you know of some institutions in Victoria, such as those at Colac, Bendigo and Oakleigh. Are those the types of institutions you're talking about?

40 DAMIAN GRIFFIS: Yeah, absolutely, notorious. They were often referred to as - they often had a mental health sort of label to them, so psychiatric institutions. Some of them kept language from long ago, which were offensive in today's terms. But the reality with each and every one of them is that there were practices that were essentially about denying people's liberty, people congregating in dormitory-style accommodation, people very vulnerable to abuse by the people that worked there or even by people they lived with, and, you know,  
45 there's been inquiries about these institutions, but it's still an issue that is largely out of mind, out of sight, I would say.

MR GOODWIN: Turning to some of your evidence in your statement about the experience of First Nations Peoples with disabilities in Child Protection, you highlight that there is really

two potential engagements in the system. One, because First Nations parents themselves might have a disability, and then there might be engagement where a child, a First Nations child, has a disability. Just taking, first - and there might, obviously, be crossover between those things where you've got both parents and children with disabilities - but just taking the  
 5 circumstances of a parent with a disability, in your experience, how do First Nations parents with disabilities often come to engage with the Child Protection system?

DAMIAN GRIFFIS: Yeah, so they're often judged by the system as bad parents. And that's ableism. So we are certainly aware, amongst our membership, of First Nations parents with  
 10 disability who are almost flagged by the system, that the system more or less identifies them as someone to keep an eye on, and then they're far more likely to have their child removed based upon the disability aspect of their life. The view that the system would say, "Because you have a cognitive impairment, because you have physical disability, you can't parent".

15 There's never any evidence to show that. There's always perhaps an opportunity to perhaps learn some skills to perhaps better parent, perhaps, in some instances, but it's often a rush to judgment that because a parent has disability they are not capable of being a parent. That's a common experience that we find amongst our membership. And it could be sometimes, on some occasions, where the parent may need some extra support to parent.

20 It may be that they may have a physical disability that requires some adaptations in their house, for example, but it's never a question of whether that person is a loving parent, in my experience. It's always about the rush to judgment because they have a disability they can't parent. And we have incidents of that amongst our membership where that's a common story.

25 And also that - I guess it's a form of - the only way I can explain it in my own mind is it's a form of racial profiling that has the ableism element to it, if you get my drift. So it's almost like an ableism profiling that the system will put in place. So if you're a parent with a cognitive impairment and you're in the hospital system, it's probably likely someone's  
 30 gonna - informally, probably - make a note of that and likely to end up being surveillance on you as a parent.

MR GOODWIN: And you hinted at it in your answer, but I presume a lot of what you've said goes for all parents with disabilities, in terms of potential engagement with the Child  
 35 Protection system. Does that play out uniquely for Aboriginal parents?

DAMIAN GRIFFIS: No, I wouldn't say it's unique to Aboriginal parents with disability, but you can be assured that they've got two profiling elements there, if you get my drift. So the  
 40 Aboriginality and the disability makes it far more likely that you're going to be - surveillance will be upon you. It's a common experience for any Australian with disability who is a parent, but with the added extra element of Aboriginality, then you can be sure surveillance is coming your way, I would think.

MR GOODWIN: Turning, then, to the situation where a child or children might have a  
 45 disability, again, the same question. In your experience what issues do you see arising, particularly for Aboriginal families where children might have a disability, in terms of their engagement with the Child Protection system?

DAMIAN GRIFFIS: Yes, again, the system rushing to judgment, and the system not understanding the context. So I'm aware of families down here in Victoria, including in Victoria, where, say, a case worker may present at a house, check the fridge. There's no food in the fridge. There's no food in the fridge because there's poverty. It's not neglect; it's the reality of living in poverty. And then the system immediately jumps to these various conclusions and the child is removed.

The system often doesn't understand that having disability is inherently expensive. It's expensive to have a disability. You need - often need extra supports that are more costly. So if you have a child with physical disability, say, significant physical disability, there could be all sorts of added costs that - there could be anything from continence - incontinence pads to getting the right wheelchair to having access to meaningful painkillers or whatever it might be.

These are all added expenses that aren't easily managed. And the system doesn't understand that well. So that rush to judgment is an inherent problem in the system, and a lack of understanding of what is required when supporting a family member with disability. It requires extra funds. It requires access to different things altogether than what many families need, and I think we have a workforce in the out of home care system that doesn't understand those dynamics.

I almost could say that almost universally, I hate to say. That's definitely a reality, the system's lack of understanding, and, yeah, the lack of understanding of what's required in providing support to a family member with disability.

MR GOODWIN: And if poverty is a key driver and, as we know, poverty affects Aboriginal families more often than non-Aboriginal families, does that particularly exacerbate the problem for Aboriginal families who might have children with disabilities?

DAMIAN GRIFFIS: No question, no question. So, I mean, there's so many stories we deal with in my organisation. Things like the difficulty in getting to school. So if you have a young person with significant disability in your family in a school three/four ks away and you have no means of accessing transport - so let's take the example - and these are all too common, in our experience - where a young First Nations child with disability has significant physical disability, may be a wheelchair user.

If there's no means to get to the school - so we're aware of situations where people, young children are pushed two or three kilometres to the nearest school by another family member. Or you go to a school that can't accommodate your disability - common experience - more common in regional remote parts of Australia but would happen in regional Victoria. If you're in a town where there's only one school and that school can't accommodate the child's disability, well, the child doesn't go to school. So then the system would assume that you're failing as a parent because, you know, the computer says this many absences, when the reality is you've had to push your child for three kilometres to go to school.

So, again, it's this lack of understanding of how poverty plays out. I'm not aware of too many Aboriginal families across the country that have access to a wheelchair-accessible vehicle, certainly not a private one. Again, that's another example of not understanding the costs



associated with disability. So to get access to a wheelchair-accessible vehicle in Australia, you have to pay more money.

5 You know, you have to go get either a standard vehicle modified or there's a few vehicles out there on the market, but they're often 20, 30 per cent more than a - so again, these things are not well understood. And, again, the system will, I'm assuming, operate, say, off a computer and sort of say there's been 30 absences and parents are failing. Well, no, it's the reality that the community can't accommodate the child's disability or the education system doesn't accommodate the child's disability. That's quite a common story, quite a common story.

10

MR GOODWIN: Is the National Disability Insurance Scheme helping?

15 DAMIAN GRIFFIS: The National Disability Insurance Scheme has failed our mob with disability. One thing I can, you know, report on which is a positive development starting from tomorrow is we are co-chairing a First Nations Strategic Refresh, co-chairing with the CEO of the NDIA. So there has been some reform, but the NDIS has failed our mob with disability and needs to start over, frankly.

20 One of the big challenges there is that it takes a deficit approach, hey. So to get access to the scheme, you've got to talk yourselves down. So you're more likely to get access if you say how bad your life is. So it's in complete conflict with our world view that everyone has a role and everyone has a place, so, no, the NDIS needs to do much, much better. It's failed to date.

25 MR GOODWIN: Just before we leave the Child Protection system and discuss the Criminal Justice system, you mention in paragraph 13 of your statement that there is no reliable data about First Nations people with disability in out of home care, and you are not aware of any data that shows how many Aboriginal children with disability are in out of home care anywhere in the country. Do you think that data should be collected and, if so, why is it important?

30

35 DAMIAN GRIFFIS: Yeah, I do think that data should be collected. I'm happy to be proven wrong on that statement, but I believe that to be absolutely true; that we don't know of how many Aboriginal children with disability in out of home care anywhere. Yes, we absolutely need to collect that data to - the anecdotal feeling that we have at the First Peoples Disability Network is that number will be very high. It will be disproportionately higher than the rest of the Australian population. So we need to establish that.

40 When I speak of data, I get nervous, though, because we have to do it the right way. It's got to be collected by our people, not by a system where we're going to cause harm to people. So, many of our families are very reluctant to speak to authority about disability, authorities, for good reason. Again, amongst our membership, a common thing parents will say to us is, "We don't tell anyone that we have a child with disability, because, one, if we do every chance our child will be removed, or we know someone down the road that that's happened to".

45 Also why would you take on another perceived negative label if you're already experiencing discrimination based on your Indigeneity. So it's very, very loaded. So it's got to be done by us, because that's the only way it could be done safely. The worst thing I could imagine - and I sometimes worry that foetal alcohol spectrum disorder is a good example. Some of the ways that that's assessed is through things like facial features, size of the head. Jeepers, I'd be

nervous - you know where I'm getting to here, is if we went down some weird and wonderful eugenics thing where we start doing that sort of stuff, that would be the real worry. So we need to go and collect that data and do it in the way that we know how.

5 COMMISSIONER HUNTER: Counsel, could I just ask something on that.

MR GOODWIN: Of course.

10 COMMISSIONER HUNTER: With going to get some formal assessment to get a diagnosis, we have heard previously - and this isn't within the disability space - that they generally don't want to go to the doctors just in case of removal for Aboriginal families.

DAMIAN GRIFFIS: Certainly.

15 COMMISSIONER HUNTER: What would your response be to that on disability?

DAMIAN GRIFFIS: So that happens in disability, Commissioner, no doubt. So we need to be running the systems that get our mob into the NDIS, is a good example. So we need to be able to be having the safe conversations where we can talk in a way that - because a lot of our families won't disclose what they need. You know, they'll go - or the other one that we hear about a lot is, "Don't worry about it, we'll manage", because the fear that if they engage in the system, the risks are so high, why on earth would you do it? The assessment system, as you know, is not culturally appropriate at all.

25 COMMISSIONER HUNTER: My next question for you.

DAMIAN GRIFFIS: Yeah, it's ridiculous. So, you know, there are some interesting theories about things like cognitive impairment and IQ tests, for example. So, you know, it depends on the context, doesn't it. So a young person may be able to move round country very, very effectively and very safely, but they might do an IQ test written in English and the result might be of a particular result. Whereas you could argue, no, that young person has extraordinary cultural knowledge and in the context of where they live, there is no intellectual impairment there. You know what I mean? So there's some interesting dynamics there.

35 We also need to develop our own assessment tools. Because we do need to get access to the NDIS, no question, but the way it's set up at the moment is completely - there are some families that have got results out of it, but - and that's great, that's wonderful, but that's the exception. You know, it's only because they know how to work the system and, you know, know how to say the right things to get support in that area.

40 But the reality is - and then you've got the situation of assessments. You know, that in itself is so loaded, hey? So hang on a minute, you're assessing my child, you're making judgments about my child. Often the assessments - if I keep using the NDIS as an example - are done in short periods, 30-minute interviews, one-hour interviews. No real context, no poverty context and a real lack of understanding of what people's lives are really like. And then the cost associated with getting assessments. So I think FASD is still around \$9,000 to get an assessment.

COMMISSIONER HUNTER: Would you say - not that we want diagnosis, but you would say in out of home care would there be an underdiagnosis of some of our children's needs?

5 DAMIAN GRIFFIS: I would be absolutely floored if that wasn't the case, Commissioner. I would think to have to be - and this is why we need the data. So we've got - there is a lot of anecdotal data in this area but not enough of really robust proper data. But my fear would be how that's collected, you know?

10 COMMISSIONER WALTER: Can I just ask, so - First Peoples should be collecting the data and designing the measurements and all the other things that go along with this.

DAMIAN GRIFFIS: Yes.

15 COMMISSIONER WALTER: But whose responsibility is it, do you think, to actually support this, or pay for this, the appropriate data collection?

DAMIAN GRIFFIS: So the - oh, through the data collection?

20 COMMISSIONER WALTER: Yes.

DAMIAN GRIFFIS: I'm not a data collection person but I guess you've got your ABSs and Institute of Health and Welfare and things. Is that that you mean?

25 COMMISSIONER WALTER: No, whose responsibility is it to make sure that these data is collected. The fact that we are not being collected now means that the powers that be that pay for these things don't regard it as important to know.

DAMIAN GRIFFIS: Yeah.

30 COMMISSIONER WALTER: Because we always collect lots of data om things we think are important to know about Aboriginal people, like how poor we are, how unhealthy we are, but this does not seem to be important to know. Is that NIAA that has some ownership here?

35 DAMIAN GRIFFIS: Yeah, Commissioner, I think therein lies the problem, is who is responsible. So NIAA would be a logical, but then I would think State and Territory governments have a critical role to play because they're more likely to have closer access to the families, potentially. So DHHS, I would assume, needs to collect this data. The thing that I would want to be sure of, though, is how it's done, you know. That's the most critical thing, I think.

40 COMMISSIONER WALTER: Who is in charge, who is deciding what is important to know, how to measure it, and how to report and interpret it.

45 DAMIAN GRIFFIS: Yep. Absolutely, so you'd need to establish some sort of working group to get the questions right to begin with. So you wouldn't go in and say, "Do you have a disability?" But that's what's happened in the past. It's more around, "Do you have a family" - but you've got to have trust, though, so there's got to be people - and the best people to do this research, we would argue, is probably First Nations People with disability themselves. So them going out in the community and say, "This is my story. You know, we

want to have a yarn about disability or we want to talk about who has trouble moving around their community or who has trouble getting to school". It doesn't even need to be framed necessarily as a disability thing. It's more an impairment way of describing it.

5 So I think that's one of the problems, Commissioner, is someone needs to take ownership of it and leadership of it, and I think that therein lies one of the problems actually.

10 COMMISSIONER BELL: Can I ask a question, if I may? You've referred to mental health in the disability context. Firstly, is there a cultural way of describing that from a functional point of view?

15 DAMIAN GRIFFIS: Yeah, I'd probably refer to colleagues who've got a lot more expertise than me in that area, but people like Pat Dudgeon, Helen Milroy, well-known Aboriginal psychologists, often from Western Australia, who've done a lot of work on building cultural assessment tools. I think it would be really helpful, if I may, for the Commissioner to talk to experts in that area.

20 But one thing I would say is we would say at the First Peoples Disability Network it's pretty exceptional as a First Nations person if you haven't experienced psychosocial disability or mental health of some kind. So anxiety, depression, PTSD almost normalised in some of our communities. So when we have disability data in Australia now - so in our communities, it says - the data says 45 per cent of our people have some form of disability or long-term health condition, twice that than the rest of the Australian population.

25 What it doesn't include is a measure on psychosocial disability. So we don't really know. I mean, we could say - I think we could all say pretty confidently that it's pretty hard to get through life as a First Nations person without experiencing psychosocial disability. So - but I think there is some really reforming work happening in that area where there are attempts to develop culturally accessible assessment tools.

30 One other quick example I can remember is - so in a lot of our communities, it's not uncommon to talk about - we talk to our ancestors or we hear our ancestors speak to us. Now, you say that to the wrong person -

35 COMMISSIONER BELL: It's hearing voices.

DAMIAN GRIFFIS: It could be viewed as hearing voices. So there's incidents of that happening, definitely, so yeah.

40 COMMISSIONER HUNTER: Thank you. Thanks.

45 MR GOODWIN: Thank you, Commissioners. As a last question before we move on from Child Protection to the Criminal Justice system, already we've traversed quite a significant area of the gaps associated with services for First Nations People with disabilities, particularly focused on Child Protection, but are there any other reforms to the Child Protection system that you haven't mentioned that you'd like to tell the Commissioners about?

DAMIAN GRIFFIS: I think we need our fair access to the early intervention parts of the National Disability Insurance Scheme. So the National Disability Insurance Scheme

prioritises early intervention. We're not seeing enough young First Nations People with disability getting access to that part of the scheme. And one of the things we want to see reformed urgently is that. So all the evidence shows that the earlier you can provide support to a young person with disability, a different life trajectory they have. But all of these things have to be done in partnership with community in a culturally-safe way.

The overreaction on the part of government will be - I could almost imagine this would be happening where suddenly big disability service providers suddenly get funded to go into town and, you know, start providing services and whatnot is not the outcome we're looking for. It's about us owning the service side of it. But, unfortunately, we don't have a strong history in providing disability services. If we were talking about Aboriginal health, different story, obviously, but we don't - there's not many Aboriginal people that have a professional background in disability. That's not a failing. That's just a reality of a dominant health focus.

But, again, we don't want to - we've got ways of working that should be valued and acknowledged. We've also got plenty of community members that, by any other definition, are support workers already. So we've almost got things in place, but we just need to get our fair share of the NDIS, would be a good start.

MR GOODWIN: I can only imagine, that you mentioned a statistic to Commissioner Bell around 45 per cent of Aboriginal or Torres Strait Islanders suffering from some form of disability. For every one of those people, there is probably a carer involved as well, and that might be mob, that might be family. That's more likely for Aboriginal communities. I assume you'd agree with that?

DAMIAN GRIFFIS: No question. And there has been a real blockage - and I'll be raising this in this new advisory council. The National Disability Insurance Scheme won't allow family members to be paid carers. So that's not going to work. So not only is that wrong and a failing, but - because that's a derivative of a purist disability rights agenda which says there should be separation between service provision and the person with disability.

That's a different model altogether, and that's not the model we're talking about. That's entirely appropriate that family members be the carers or support people. In fact, they already are. But their ability to access some income or resources through that is really important. Plus, culturally, it's the only way we do business anyway. So, I mean, there's particular interpersonal relations that are cultural. So that's a way of supporting that. But that's another failing of the National Disability Insurance Scheme in recognising that.

MR GOODWIN: Moving, then, to the Criminal Justice system and your evidence in your statement regarding that system and its interaction with Aboriginal and Torres Strait Islanders with disabilities, it's interesting that when you describe the link between disability and interaction with the Criminal Justice system, you focus on young people and engagement at school and a lack of diagnosis, often, for young people with disability. Can you just take the Commissioners through why you focused on that when you really see a link between disability and the Criminal Justice system?

DAMIAN GRIFFIS: Yeah, sure. So at the First Peoples Disability Network through our major piece of research called 'Culture is Inclusion' that was written by Dr Scott Avery, who is a Worimi man also who has a hearing impairment, we identified this life trajectory where

young Aboriginal person with disability - often undiagnosed - might be arcing up in the classroom or, just as equally, be very quiet and not noticed. Then starts getting suspended or expelled from school.

5 Might start hanging around the local shops, copper might start saying, "Move on". Then they're into juvenile detention. Again, possibly don't have a diagnosis of disability, probably unlikely to have a diagnosis of disability. In the juvenile detention system, get no support for their disability because, effectively, they're, you know, a detainee or a prisoner. So you're not a person with disability in there; you're a prisoner, effectively. Then, you know, trajectory  
10 into adult prison. Very common experience.

There's a number of disabilities that come up in that context. Maybe cognitive impairment, perhaps borderline - this is not language I like to use - but borderline intellectual disability, perhaps, where you maybe don't get noticed so much or hearing impairment is very common.  
15 So with hearing impairment, you can get - so sometimes the authorities might view you as not being compliant when it could be that you just don't hear properly. Or psychosocial disability, so significant anxiety, whatever it might be.

But whatever's happened, very unlikely to have a diagnosis. So you're then probably feeling comfortable in your own community, probably well supported in that environment, but when you go to school, we call it - we've called it the bad black kid syndrome, actually, at the First Peoples Disability Network. So the low expectations. So another bad black kid mucking up, you know. Whereas we would then meet that family and go, "Hang on, is he hearing all right? Is he getting enough sleep or whatever? What's going on? Or does he come from  
20 poverty where he's just not getting opportunity like other people do?", again not failings of the community and not failings of the family, but failings of the system to recognise the context. That's a very common story.

So we did a lot of work with the Koori Court - again, I'm referencing Parramatta in Sydney, but the magistrate asked us to come out there because she was saying, on hearing days, she reckoned that every Aboriginal young person appearing before her had a cognitive impairment or some form of disability. And we would say absolutely that was true. But then when they go into juvenile detention, they're very vulnerable to abuse and even manipulation,  
30 sometimes.

35 So it's also not uncommon for people with cognitive impairment, even foetal alcohol spectrum disorder or some types of disability, to have a real desire to want to be compliant, or - I think that's the right word, but there's a lot of evidence to show that even in police interview situations, people can be coerced sometimes. There are some grey areas there that are always of concern, I think.  
40

MR GOODWIN: And you mention once people enter into the Criminal Justice system, there is a lack of disability support. Do you know what types of support are available for Aboriginal people who might have a disability in prison?  
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DAMIAN GRIFFIS: I'd say they're non-existent. So - including here in Victoria, largely. There are forensic support units which deal very specifically with people with very significant mental health, very serious mental illness. They're the people that, including Aboriginal people, who by the court system are viewed to be either a harm to themselves or

harm to others, so they have very significant psychosocial disability, very significant mental illness.

5 There are forensic support units that can provide support in that instance, but for people that have a cognitive impairment, when I say the forensic support units, I'm not necessarily being a flag waver and saying they are a good system either, but if you have cognitive impairment - essentially, what disability services relate to in prison are things like sedation, chemical restraint, isolation, even forms of solitary confinement. Not used - that term is not used so much, but versions of it.

10 I describe that as the way the system addresses disability, which is punitive. It's effectively criminalising disability. And we have a growing problem in Australia - not only do we know that we have increasing population of First Nations People across the country, but we also have an increasing population of people with disability in Australian prisons, for a whole host of reasons, but when you can't get access to meaningful mental health supports and if your behaviour deteriorates, if it happens in regional remote Australia, it's particularly acute, you better make sure you have your psychotic episode on the third Tuesday of every fourth month when the mental health team is in town or you're in the back of a paddy wagon.

20 So that's what happens a lot, including here in Victoria, where our people with significant psychosocial disability end up in the back of paddy wagons. So they're criminalised. And I think one of the big failings we have, again across the country, which to me is still a mystery and I can't describe it any other way than thinking it's weird, but police - most of their interactions, would be with people that have very significant psychosocial disability. In fact, most of their workload would be, or domestic violence situations, yet there really isn't meaningful training.

30 You need a lot of - you need good training to understand how to work with people that are in the middle of an episode, say, or how to de-escalate or, yeah, you need to understand those things. I think police sometimes are in a terrible position because they're not trained in these things, and their first reaction will be to take a punitive action, which will then likely escalate. So if you're a person with paranoid schizophrenia, often what you're paranoid about is authority. So it's quite common for people with serious mental illness like that to be fearful of police, for example. It's almost - yeah, so the de-escalation will be rapid and, yeah, that's a failing.

40 And this is a failing of mental health services more generally. So particularly in regional Australia. But not exclusively. It happens in our capital cities too. But these are the consequences of those lack of supports.

MR GOODWIN: And I assume there is a compounding effect from a number of the issues we've discussed.

DAMIAN GRIFFIS: Yeah.

45 MR GOODWIN: A lack of diagnosis based on a lack of culturally appropriate assessment tools -

DAMIAN GRIFFIS: Yes.

MR GOODWIN: - in order to access systems. Even if there is access to those systems, they're culturally unsafe, and so there's a community in which you have certain behaviours that play out that are then criminalised, rather than treated, and once you overlay issues of poverty and those types of things, you've got - and overrepresentation of Aboriginal people in the Criminal Justice system anyway, all of those things, I assume, can compound and are particularly significant for Aboriginal Torres Strait Islanders with disabilities.

DAMIAN GRIFFIS: Absolutely, and I think this is an urgent problem that needs some good thinking to address, and I think it's for us to think about the solutions, and the system's failed miserably and continuing to. We've got good ideas about how to support our own community members. There's always been psychosocial disability, it's not a new phenomenon, necessarily, but we had ways of supporting community members that was entirely appropriate. So we need to get back to owning the responses to it, you know. We've got the solutions always. The system doesn't - yeah, doesn't have the answers.

MR GOODWIN: You've pre-empted my next question. What are those solutions? What would you like to see as the reforms in Criminal Justice.

DAMIAN GRIFFIS: Yeah.

MR GOODWIN: Particularly for First Nations People with disabilities?

DAMIAN GRIFFIS: Yeah, I think one of the first easy fixes is to co-locate disability advocates with Aboriginal legal services. So Aboriginal lawyers that we spend time talking to are overwhelmed doing the lawyering, you know. That's a big job that they have to do, to do that every day. What they lack times is someone that has an understanding of disability to do the other things that they can't get to.

My understanding of the pressures on some of the Aboriginal lawyers are just phenomenal, hey? Like, their client may be homeless, their client may be, whatever it might be. So we need to co-locate disability advocates with Aboriginal legal services. I think that's a fairly easy fix, relatively quickly.

We also need a version of a custody notification service that recognises disability as a factor. So there's been good trials - I'm not so familiar with Victoria, but there's been good trials of custody notification services in New South Wales where aunty might get a call to say "There's someone down here tonight at the cop shop. Can you come down and help out?". We need a disability element to that, a mental health element to that. I think that's urgently needed.

The amount of people with - well, there is some research out of the University of New South Wales that says it is something like 70 to 80 per cent of Aboriginal prisoners have a cognitive impairment, or if you talk to some legal practitioners will say, "Every one of my clients has some form of disability, mild, moderate, extreme, doesn't matter". So we have to recognise that there needs to be something built into the system that provides protections to those people.



If you're someone who's having a psychotic episode - well, any Aboriginal person dealing with police there's going to be an element of fear of the power of the police. If you add another dimension of serious mental illness, then the situation can deteriorate so rapidly and these are the untold stories. Sometimes the untold stories of some of our deaths in custody, we would say, is that there's a disability component to it. Big time.

MR GOODWIN: Commissioners, those were my questions. I invite the Commissioners to ask any questions they might want to ask.

COMMISSIONER WALTER: Yeah, I do like the idea of - that you were talking about, the co-location of disability advocates with legal services, so that is something, of course, that the State could fund.

DAMIAN GRIFFIS: Yeah.

COMMISSIONER WALTER: And it should not only support First Peoples better but actually support services and mean the police and others don't have to get involved -

DAMIAN GRIFFIS: Yes.

COMMISSIONER WALTER: - unnecessarily.

DAMIAN GRIFFIS: Yeah, absolutely. It's a simple idea, really. It's - very simple idea really, that once the lawyering bit is done, go down the corridor and have a yarn with this person here and they might be able to assist you with your homeless situation, or get you on the DSP, could be anything. Yeah, I think that's a relatively easy fix, and I don't know that we'd be talking about a massive investment, necessarily. But I think co-locating in our organisations, though, is the critical part, hey, so.

COMMISSIONER WALTER: Thank you.

COMMISSIONER LOVETT: From an accountability or governance and oversight perspective, thinking about Victoria, there's not much going on in the sense of productive work here, what are your sort of thoughts on what opportunities are there?

DAMIAN GRIFFIS: So we need to really - so there are a number of people here who are leaders, but we need to give them the resources and build organisations around them. So tomorrow - it could be established tomorrow, to be honest. I think that's some of the frustration that some leaders from down here have had, is that they haven't had the opportunity to build their own voice. There's some very strong leaders down here. I think a pretty quick investment to build the Aboriginal disability network Victoria, whatever it wants to be, where they can then have a seat at the table with all the different meetings that go on.

We find at the First Peoples Disability Network that if we aren't at the table, disability doesn't get talked about: Like, it's one of those issues, hey, that's very - you know, still even in Australian society generally - mind you there's been a big shift. There's definitely more talk of disability, no question, but it's still an issue that doesn't get enough attention.

So people like Uncle John Baxter, other prominent leaders from down here, you know, they'd start up their own organisation tomorrow, I'd be confident. There is some great stuff that's happened at Thornbury and there's some really good local initiatives. BADAC does great stuff. So there's people around. They just need the commitment to give them some - you know, we are happy to help out any way, but I'd be really confident people would do that perfectly well themselves.

COMMISSIONER LOVETT: What kind of authority do you think that they need?

10 DAMIAN GRIFFIS: A formal organisation -

COMMISSIONER LOVETT: Sorry, authority in the context to government accountability.

15 DAMIAN GRIFFIS: Yeah, I think that's a really good question. I think it needs to have formal status. So the best example I can give you, Commissioner, is the way we're gonna start making change with the NDIS is if we have authority where we're straight to the board. You know, we don't want to be just little advisory council, you know what I'm saying, where you sort of meet couple of times a year and say the same thing you said last year.

20 We actually need direct lines into power. So in Victoria it'd be, you know, the Secretary of the Department knows that this group is going and it meets regularly, you know. I think we've all been frustrated by those things over many years, hey, like we know how these committee things work better than anyone, hey. So if we can have formal structures that go straight up into leadership, then that's the way to go.

25 COMMISSIONER LOVETT: And the reason why I asked that, because you referred earlier to a strategic governance forum being set up between yourself being co-chair with the CEO of the NDIS.

30 DAMIAN GRIFFIS: Yep.

COMMISSIONER LOVETT: So it's just more, yeah, what does that look like and also how would you enhance that?

35 DAMIAN GRIFFIS: Yeah, so that's taken a long time to get to that place. It's probably because there's a bit more of a reforming agenda there so that's helpful, but we've demanded it, really. Until - it's not fair dinkum any other way. So we kind of - we all know what it's like to be, you know, take your place there sort of thing, but we just demanded that it has to be - and it probably goes in line with the gradual change that seems to be starting to happen.

40 We're seeing - again, I'm talking about the Commonwealth level. There's been a bit of a shift. We have more partnership relationships with some agencies. Others are so far behind it's not funny. But, again, things like the Commission here are just so vital, I think, for setting a model. You know, I think sometimes the bureaucracy think this stuff is way too hard or something. I don't know what it is. But the power of Commissions like this, I think, set the scene. You know, certainly in my home State, we're gonna need this. But we might be some way off. But I think this shows partnership and that's really important, hey.

5 COMMISSIONER LOVETT: Yeah, I mean, because we - the government, sorry, has publicly committed quite strongly to self-determination here, which is a very different conversation to inclusion in a sense as well. So I think just thinking about, you know, what you've shared with us today, but also, you know, what does a self-determining model look like.

10 DAMIAN GRIFFIS: That's a great - I mean, self-determination has to be the aim. Inclusion is not enough, hey. Inclusion is - and inclusion can be different things to different people too, hey. Like, we invited you, so we included you, but whether we actually allow self-determination. It's interesting, self-determination is also the language of people with disability. So there's opportunities there for crossover. So in the international disability rights movement, the catchphrase is, "Nothing about us without us", which is kinda cool, you know. It's a good one. So that is a principle of disability rights too. So there's some nice opportunities for crossover there actually. So -

15 COMMISSIONER LOVETT: Thank you.

20 COMMISSIONER HUNTER: Just off the back of Commissioner Lovett's questions there, is there frameworks or strategies with accountability processes in place across the disability sort of within government specifically for Aboriginal and Torres Strait Islander -

25 DAMIAN GRIFFIS: No, not really, and that's one of the things we're looking to change. So Closing the Gap has identified disability as a priority area, so that's a move forward, that's a step forward, but not to a level where a lot of the other targets are. So our frustration is we need to now elevate that in to a standalone issue under Closing the Gap, for example.

30 In a Commonwealth - and then it happens in the States too. So at a Commonwealth level our frustration has been we've just been a paragraph in each, right? So you're a paragraph in the Australian Disability Strategy and you're a paragraph in Closing the Gap, but you are kind of neither in either, you know what I mean? So we need to develop our own strategy.

35 In Victoria there's really robust structures around disability. In a lot of ways, Victoria is sort of - from a disability rights perspective, is the heartbeat of where disability rights is in Australia, really. So a lot of the national peaks, a lot of the old self-advocacy organisations, most of them come out of Victoria. So there's a strong culture of that here, but what is lacking is the Aboriginal component.

40 So a lot of the leaders down here have to join in with - you know what I'm trying to say? And I think their frustration is that, "Well, no, no, we've got a whole lot of unique things we want to talk about, culturally appropriate services or culturally appropriate assessment tools, you know," so that's why there needs to be, you know, a network resource down here, you know. And, again, probably been having those conversations for a decade or more, to be honest, with DHHS. Comfortably for more than a decade. There's highly capable leaders down here, so what's the delay, you know?

45 COMMISSIONER HUNTER: Just with - you were speaking about police and disability. I just wanted to get your view on particularly mental health issues, which you spoke about, and the CAT team.

DAMIAN GRIFFIS: The CAT team is the assessment -

COMMISSIONER HUNTER: The Crisis Assessment which is sent out with police sometimes, yeah.

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DAMIAN GRIFFIS: I think - I think the whole area of mental health, particularly in regional Australia, is very fraught. So there's a lack of services in general, plus people only get support at crisis anyway. So you generally have to do something very, very serious to be even supported.

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So there's plenty of examples of, including our mob with significant psychosocial disability, even presenting at hospitals, for example, and saying, "Hey, I'm really not well. I'm really not well. I'm doing the right thing, actually. I'm coming to you saying I'm not well, I'm not travelling well", and then they get turned away is - and then some tragic things can happen. I think mental health is in such a crisis. I mean, everyone talks about how much of a crisis it's in, so it's not news to anyone, but I don't think we see any really meaningful change.

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So one of the really good programs that disappeared was there was this Aboriginal mental health first aid program which was a really simple idea where you train up local community members how to look out - how to provide support to our other community members when they're not travelling.

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COMMISSIONER HUNTER: It still around.

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DAMIAN GRIFFIS: It is?

COMMISSIONER HUNTER: It depends on the organisation who implements it. So it is still around. It's a good -

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DAMIAN GRIFFIS: It's got to keep - that needs to be rolled out across the country, to be honest. Because the value of that is you are hopefully supporting people before crisis, and you're keeping the response within community that way too. So you're hopefully going to avoid the involvement of police because you're learning how to support your own community member with their mental health needs. I think there needs to be more investment in those kind of things, definitely.

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COMMISSIONER HUNTER: In saying that, you spoke to Commissioner Walter's point before about disability advocates and you spoke about it in the legal setting. What about in all settings, in all Aboriginal organisations, that they have disability specific workers to work with -

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DAMIAN GRIFFIS: Yes. Commissioner, that would be where we want to get to.

COMMISSIONER HUNTER: And one last thing, I just wanted to ask - and you did mention it, but the association of disability and homelessness. I just wanted to ask.

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DAMIAN GRIFFIS: Yeah, common. So most - as you'd know, most people that are homeless have psychosocial disability, so no different in our communities. So, yeah, there's a

clear correlation there. And, again, that's a failing of the system. So, yeah, I think that's an area that we don't well understand either.

5 So the other - the general comment I'd make is that the lack of data in this area is really kind of a worry. So, to me, it's indicative of how out of mind and how out of sight this issue is of disability in our communities. But I just - we've just got to own the data, hey. Like, we've got to - I get nervous about saying that because I immediately go to - and maybe I'm being too pessimistic, but I immediately go to weird and wonderful eugenic stuff.

10 That's where my mind goes to. So as long as we're collecting it the way we know how to talk about disability, plus we'll get what we need because of the trust, yes. Whereas if someone comes in with a pen in their top pocket, you know -

15 COMMISSIONER WALTER: Can I just make a quick point there. This might be an opportunity for pressure, because I know that NIAA are currently looking at developing measures for Close the Gap targets, because you put all the targets in and then they found they didn't have any of the data to actually report on them. So this might be a sort of a good spot where -

20 DAMIAN GRIFFIS: Yes.

COMMISSIONER WALTER: That talk about proper First Nations-designed measurements to be included in those.

25 DAMIAN GRIFFIS: Yep, and disability is quite measurable. So the school one is a good example, I think, of - so there's always a reason behind - it's either the child doesn't feel safe in the school or their disability is not accommodated or it's culturally unsafe or whatever, but there's always a reason. So they're measurable things about - there are parts of disability that are easily measurable, actually, I think.

30 COMMISSIONER HUNTER: I think that is all for me. Just a comment, I really liked your comment about how - you talked about how disability is sort of a one paragraph in a -

DAMIAN GRIFFIS: Yeah.

35 COMMISSIONER HUNTER: You feel like, being Aboriginal, you get the one paragraph, and then you get the next paragraph with disability and being Aboriginal, so it's like this add-on, which I feel - yeah, just a bit of commentary there.

40 DAMIAN GRIFFIS: That's it. I think there is more and more of this othering going on. You know, there's just - it's usually First Nations People, CALD, disability, a few other groups. It's over in - yeah, yeah, yeah. It's the othering.

COMMISSIONER HUNTER: Thank you, thank you.

45 COMMISSIONER BELL: Thank you. In relation to effective advocacy, there is a strong lived experience movement in Victoria.

DAMIAN GRIFFIS: Yes.

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COMMISSIONER BELL: Of which you'll be aware, among people with lived experience of mental illness. Have you been able to tap into that as a way of increasing your power of advocacy?

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DAMIAN GRIFFIS: We will do more of that. We've had some discussions with those groups, and you're absolutely right. Victoria does have that strong self-advocacy history, and also the movement of, including people with cognitive impairment is very strong in Victoria too. So probably had more relationships with people like VALID, that organisation VALID, which is very much focused on intellectual disability, but lived experience of psychosocial disability, we need to do more in that area, definitely.

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COMMISSIONER BELL: If you go down that approach, the question immediately becomes what is the lived experience, and I think you seem to be saying that the lived experience of being of Aboriginal community and having a disability needs to be recognised as a thing in itself.

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DAMIAN GRIFFIS: No question.

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COMMISSIONER BELL: Could you expand on that, just briefly?

DAMIAN GRIFFIS: Yeah, so it's because our people with disability would say they are First Nations People first, but they are people with disability also. So where they find frustration, if I can speak on their behalf, is that it's that they need to have their voice heard in both movements.

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So - or the other example I can give, it's a bigger picture, one of the challenges we face at the First Peoples Disability Network is we have to be a loud voice in the disability sector and also a loud voice in the Indigenous rights centre - world, so that's very onerous. So it's the same at a micro level for a First Nations person with disability. So they want to be, you know, speaking up in the cerebral palsy sector, but they also want to be able to go to their land council and say, "Hey, I want to come to land council meetings". So it's really critical that it has its own focus, no doubt. And for also those reasons about if we want to talk disadvantage, then we're talking serious disadvantage here.

30

But, see, the system is still really confounded by - I don't necessarily like the term, but it's the term, intersectional discrimination, hey. So systems don't know what to do with that. See we grew out of the Disability Rights Movement because we were funded that way.

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COMMISSIONER BELL: Yep.

DAMIAN GRIFFIS: Because there is no-one that would know how to fund something that cuts off in two areas, you get my drift.

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COMMISSIONER BELL: Yeah, I do.

DAMIAN GRIFFIS: So it's still a huge problem that, I think.

COMMISSIONER BELL: Now, you - if I understand you correctly, you seem to be saying that there is widespread non-observance of human rights in systems relating to people with disability, as regards Aboriginal people and, indeed, generally. Do I understand that to be -

5 DAMIAN GRIFFIS: No question.

COMMISSIONER BELL: No question.

10 DAMIAN GRIFFIS: Disproportionately impacting on our mob with disability. So at the extreme end of human rights violations in Australia and the kind of things we've taken to the United Nations, we talk about - so we have indefinite detention of Aboriginal people with disability in Australian prisons. Not aware of a case in Victoria, but be interesting to see how you measure that. Like, in my home State, there's several Aboriginal women with significant disability who are in prison much longer than they should be, if they'd pled guilty to the - so  
15 I'd imagine there are scenarios like that in Victoria. I can't say that for sure, but we would call that indefinite detention.

And if you stop and think about that, if we stop and think about that, that's an extraordinary violation of someone's human rights. So that happens in Australia, and it happens mostly to  
20 Aboriginal people.

COMMISSIONER BELL: You've described situations where families are too fearful to disclose that their children may have a disability because of the attention that that might attract in the authorities. Another way of expressing that is that it's a discrimination, indeed, a  
25 very gross discrimination.

DAMIAN GRIFFIS: No question.

30 COMMISSIONER BELL: And human rights involve a duty to prevent that from happening. What would you say about the degree of knowledge among systems such as the child welfare system and other systems that have the capacity to impact on human rights, of the knowledge of human rights?

35 DAMIAN GRIFFIS: I'd say very, very poor, to be honest with you, Commissioner. I think that point is exactly right. So we're talking about a system that actively discriminates. So it has - it discriminates on the basis of - it's institutional racism and it's also institutional ableism. Institutional ableism doesn't get talked about as much, but institutional ableism is a growing movement, I think, globally.

40 So you could say, for example, Melbourne - parts of Melbourne, certainly parts of Sydney, are inaccessible to people that have physical disability; right? So - and that's just a fact. So you could make a case to say that that's - so some disability advocates would describe that as a form of apartheid. Because what they say is that you are creating spaces that I can't access. So you're creating a form of keeping me apart.  
45

And I would agree with that, actually. So - and, again, I refer to my home city, Sydney. If you - so Redfern train station, where our office was for many years, one of the busiest train stations in Sydney, one accessible train platform. And you had to make sure you came from the eastern suburbs. That's the only accessible train line; right? So very busy train station,

services Sydney University. In my 20 years there, never saw a wheelchair user get out of that train station. So, yeah, so that's institutional ableism. So we have still got a very long way to go, you know. Very long way to go.

5 COMMISSIONER BELL: Looking at it from the other perspective, which is the consumer perspective, if I can put it that way, is there awareness of the rights that they possess?

10 DAMIAN GRIFFIS: No, not enough. And one of our training programs, which we would love to see better investment of - and what the network here in Victoria could do is deliver the training that - you know, they could make their own version of it, but our training, which we call the Lester Bostock Human Rights Training Program, which is about educating our own community about disability rights.

15 So a lot of our families aren't aware that the education system is supposed to accommodate the disability of your child. That's very grey area though because it comes down to if you've got a good principal or not, really, to be honest. But anyway, we definitely need to educate our own community members definitely about disability rights. It's a real weakness. Not a lot of people know about their rights.

20 But, no, no, they can't build - the building shouldn't have steps there. You should be able to get into it. Simple things like that. But that would be the kind of thing the local network could do. You know, like, you have people with disability themselves doing the training, it's powerful you know. It's pretty powerful.

25 COMMISSIONER BELL: If lawyers were co-located with other services, then they could take legal action if that was possible.

DAMIAN GRIFFIS: Yeah, even better, yeah. Absolutely.

30 COMMISSIONER BELL: Thank you.

COMMISSIONER LOVETT: This is about economic empowerment. What about employment opportunities, you know, for our mob? Can you just sort of talk a little bit about that? Or I should say economic disempowerment.

35 DAMIAN GRIFFIS: Yeah. That's a great question. We don't - it's very uncommon, in my experience or the First Peoples Disability Network, for a First Nations person with disability to be in employment. So every one of our board members has - is a First Nations person with disability, and I can't report - even though each and every one of them are highly capable  
40 leaders, all of them have had problems getting a job, maintaining a job.

Most of our staff have some form of disability, which is great, but the - Australia, as you would know, Commissioner, I'm sure, is one of the worst employers of people with disability in the OECD. So for our mob - you know, like, so Australia does really poorly on employing  
45 people with disability. And for our community, yeah, it's very uncommon to find one of our community members with disability to be in employment.

I qualify that a little bit, though, and say that it's not that they're not valued in their own community, though. It's when they, you know, go outside, that's when the problem starts. But



there needs to be a strategy on that in its own right, because people with disability have much to offer, you know. So, yeah, that's a real problem. Big problem. Needs its own thinking, you know, its own strategy, but it's not something that happens really. Sad, yeah, it's not good.

5 COMMISSIONER LOVETT: Do you know of anywhere in the world that is doing relatively okay at that?

DAMIAN GRIFFIS: I think in the UK they go okay. Scandinavia definitely. Scandinavia big time. And as you would know, Commissioner, the Indigenous rights movement in  
10 Scandinavia is strong, and it got their own mechanisms there, so I think - I think that's where you'd see best practice, no problem.

COMMISSIONER LOVETT: Thank you.

15 MR GOODWIN: Thank you, Chair.

COMMISSIONER BELL: And maybe just a comment that Europe is highly regulated, not just from a discrimination point of view but a proactive employment point of view.

20 DAMIAN GRIFFIS: Yeah, right.

COMMISSIONER BELL: With wholly different outcomes to here.

DAMIAN GRIFFIS: Yep.  
25

MR GOODWIN: Damian, is there anything else that you wanted to tell the Commissioners before we finish with your evidence?

DAMIAN GRIFFIS: Just that, you know, the point we were making at the beginning that we  
30 were all talking about that, you know, we are the thought leaders on inclusion. You know, we've always had a way and I think if - like a lot of things, we've got a lot of expertise and the rest of the world needs to catch up sometimes, I think. So that's the only point I'd want to make, I guess.

35 MR GOODWIN: Thank you.

DAMIAN GRIFFIS: Thank you.

MR GOODWIN: Thank you, Chair. That concludes the evidence.  
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CHAIR: So we're adjourning until the morning?

MR GOODWIN: Yes.

45 CHAIR: Thank you very much.

DAMIAN GRIFFIS: Thank you.

**<THE WITNESS WITHDREW**

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**<ADJOURNED 3.26 PM**