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TRANSCRIPT OF DAY 9 – PUBLIC HEARINGS

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

FRIDAY, 12 MAY 2023 AT 9.00 AM (AEST)

DAY 9 – HEARING BLOCK 5

MS FIONA McLEOD AO SC, Senior Counsel Assisting, with MS SARALA FITZGERALD
MS GEMMA CAFARELLA, for the State of Victoria
MR GREGORY BUCHORN, for the Commissioner for Children and Young People

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5 COMMISSIONER HUNTER: Firstly, I would like to say that the Chair has had a long-standing engagement, so she will be unable to be here today. So, I am stepping in as the Deputy Chair. So, today is the ninth day of hearings in Hearing Block 5 where we are hearing from government witnesses on priority areas of child protection and criminal justice. Today we will hear from Meena Singh, the Commissioner for Aboriginal Children and Young People, and the Honourable Lizzie Blandthorn, Minister for Child Protection and Family Services. Before we start, I would like to invite Commissioner Walter to give an Acknowledgement of Country.

10 COMMISSIONER WALTER: (Indigenous language spoken). It is my honour to do the Acknowledgement of Country, and as a grateful Palawa guest on Wurundjeri lands, I pay my respects to Elders past and present and all the Aboriginal and Torres Strait Islander people in the room and also those online, and I pay my respects to your ongoing and unbroken connection to Country and culture and note that we draw on these strengths of both to guide us in our task, which is truth-telling, so the systemic injustices so long experienced by Victorian First Peoples and First Peoples right across Australia can be exposed, recorded and eliminated.

20 COMMISSIONER HUNTER: Thank you, Commissioner Walter. Counsel, appearances.

MS MCLEOD: Thank you, Deputy Chair, I appear with Ms Fitzgerald to assist today.

25 MS CAFARELLA: Thank you, Deputy Chair and Commissioners. I appear on behalf of the state of Victoria. I would like to thank Commissioner Walter for the acknowledgement and to acknowledge on behalf of the state, the Traditional Owners of the land on which we are on, the Wurundjeri people of the Kulin nation, and pay my respects to Elders past and present. I would also like to acknowledge all First Peoples who are here today and those watching online and acknowledge that sovereignty has never been ceded. I finally wish to acknowledge the pain and grief that comes from the topic that we're going to speak about today, and acknowledge the resilience of First Peoples family and community. Thank you.

30 MR BUCHORN: Commissioners my name is Gregory Buchorn, I appear for the Commissioner for Children and Young People. I too would like to acknowledge that I make this appearance on Wurundjeri lands and pay my respects to (indistinct).

COMMISSIONER HUNTER: Thank you. Thank you, Counsel.

40 MS MCLEOD: Thank you, Commissioners. Today's witness is Meena Singh. Before Meena commences her evidence, can I also thank Commissioner Walter for her Acknowledgement of Country. I acknowledge that we're on the lands of the Wurundjeri people. I acknowledge their ancestors and Elders and acknowledge that their lands have never been ceded. I too acknowledge all Aboriginal people here in this room today and following online and acknowledge the pain and grief and the bravery that comes with sharing their stories with this Commission.

COMMISSIONER HUNTER: Thank you, Counsel.

50 <MEENA SINGH, CALLED

MS MCLEOD: Commissioners, Meena - I'm sorry, Commissioner Singh, you have returned to resume your evidence. Do you undertake to give truthful evidence today?

MS SINGH: I do, yes.

5

MS MCLEOD: You have a supplementary statement provided to the Commission. The reference number is BAL5.1000.0004.0001 dated 10 May 2023. Is that statement true and correct?

10 MS SINGH: It is, yes.

MS MCLEOD: I tender that statement, Commissioners, including the attachments. That will be provided with a tender number in accordance with the usual practice. Commissioner, I wanted to ask you some questions about that statement.

15

MS SINGH: Counsel, sorry to interrupt.

MS MCLEOD: Yes, I'm sorry.

20 MS SINGH: Can I make a brief statement.

MS MCLEOD: Yes, of course.

MS SINGH: Thank you. Commissioner Walter, thank you very much for your
25 Acknowledgement of Country, and I too would like to begin by acknowledging the
Traditional Owners of the land on which we are meeting and we are holding this hearing
on, the Wurundjeri people of the Kulin nation. I pay my respects to the Elders past and
present and acknowledge that wherever we are in this Country, so-called Australia now,
we are on stolen lands over which sovereignty has never conceded. And I do this as part of
30 my cultural protocols as a Yorta Yorta woman from my mother's side, and out of deep
respect from my migrant heritage from my father's side as an Indian woman.

I'd also like to take a moment to acknowledge the incredible creativity, intelligence,
brilliance of Aboriginal children and young people on this Country and across the
35 Countries of Victoria and Australia. And in watching the hearings over the last two weeks,
the focus has been necessarily but sadly on the deficits in their lives. And so I also
acknowledge the resilience that sits on their young shoulders because of the failures of
adults and the failure of systems run by adults.

40 Aboriginal children and young people are quite literally our future, and a part of the future
of Victoria and Australia, and they are fully deserving of the investment of time, energy,
love, resources, necessary so that they may live strong and safe in culture with community
and see their dreams fulfilled. Thank you.

45 MS MCLEOD: Thank you very much, Commissioner. You are the Commissioner for
Aboriginal Children and Young People in Victoria?

MS SINGH: Yes.

50 MS MCLEOD: And your office sits within the office of the Commission generally?

MS SINGH: Yes.

5 MS MCLEOD: You don't, as we discussed on the last occasion you were here, have a specific legislative basis for your office.

MS SINGH: That's correct, I do not.

10 MS MCLEOD: Your first witness statement, for the record, is dated 2 December 2022 and you gave your evidence on 5 December last year.

MS SINGH: Yes.

15 MS MCLEOD: Can I take you to your statement, which now - I think does appear on the screen. Do you have a copy in front of you?

MS SINGH: I do, yes.

20 MS MCLEOD: In the early parts of your statement, you discuss the functions of the Commission under the *Commission for Children and Young People Act*, including matters relating to out of home care and reportable conduct. Can I ask you to turn to paragraph 31 of your statement.

25 MS SINGH: Yes.

COMMISSIONER BELL: Counsel, the statement is only on one screen.

30 MS MCLEOD: I see. I think that's manageable if the Commissioner has in front of her, thank you, Commissioner Bell. So, in response to the question:

"In your view, what are the key systemic issues or areas of concern for First Peoples children and young people who are in or at risk of entering or have been in the child protection system, including out of home care and/or the Youth Justice systems as are identified in completed reports..."

35 That's the question you were asked.

MS SINGH: Yes.

40 MS MCLEOD: "Completed reports" is a reference to reports that you make as Commissioner?

MS SINGH: That the Commission for Children and Young People make, yes.

45 MS MCLEOD: Yes, and could you just explain what those reports are and what - both systemic and individual?

50 MS SINGH: Certainly. So when we refer to completed reports in the notice to produce, they're defined as reports that relate to First Peoples children and young people, Aboriginal children, and they have been given by the Commission for Children and Young People to

the Minister and to the Secretary. Depending on which type of report, they may have also been tabled in Parliament as well.

5 So they are reports that come under section 34 of the *Commission for Children and Young Peoples Act*, relating to Aboriginal children and young people for the period between 1 July 2017 to 30 June 2022. They are inquiries - reports from inquiries conducted under sections 37 and 38 of that same Act between 1 July 2017 and 30 June 2020, and they are also reports from inquiries conducted under sections 39 and 40 of the same Act between 1 October 2016 and 30 June 2020. That last category are the systemic inquiries, most of
10 which have been tabled in Parliament.

MS MCLEOD: You mentioned the legislative basis for those reports. I take it that they are confidential for very good reasons.

15 MS SINGH: Yes.

MS MCLEOD: If Commissioners please, what I propose is to invite the Commission to, after the conclusion of Commissioner Singh's evidence in open session, move to a private session so that she can discuss two of those reports in particular at the conclusion.

20 Commissioner Singh, in paragraph 26, as you've just read, there is a reference to what completed reports are. Can I invite you now to turn to paragraph 31, if we can bring that up on the screen. You offer a summary of systemic issues and areas of concern for Aboriginal children and young people for the six-year period 2016 to - well it's probably
25 five-and-a-half - to June 2022. Can I just step through those with you. Are some of those key issues or are they all interrelated and important?

MS SINGH: They're all interrelated and important. I think, you know, classic analogy, if you start pulling at a string you start to unravel things, and I think a lot of these are
30 particularly connected to one another. If you would like me to highlight a few that would be most pertinent but they are all absolutely important issues to highlight.

MS MCLEOD: In your statement, you do discuss each of those, so can we start with those you would like to highlight.

35 MS SINGH: Yes. Well firstly, I'll just simply say obviously the fact that Aboriginal children and young people are over-represented in the child protection system and in the Youth Justice system is a failing of our systems, not just of child protection and Youth Justice but other systems that Aboriginal children and young people are engaged with and
40 their families are engaged with. But I'd also like to highlight in particular that, with reference to subparagraph (2), we do not see enough early intervention or appropriate responses to harm that is experienced by Aboriginal children and young people. So if I can elaborate on that a little bit further.

45 What we see when Aboriginal children and young people - when any child comes into contact with child protection, is that their family is likely to have had a number of engagements with other services - health services, child and maternal, education, a whole range of other services. And every interaction with these services is an opportunity to work with families and to support these families, build relationships so that if a need arises
50 or a need already exists, a family can get assistance for them.

What we see is that interactions, once child protection becomes involved, are lacking. And I refer to a couple of - a few specific reports, systemic inquiry *'Lost Not Forgotten'* from 2019 which is when we looked at 35 children who had died by suicide and were known to child protection. If I highlight specifically there finding number 2 around that related to the lack of engagement for all of those families when they were referred to early intervention services.

We specifically looked at six Aboriginal children in that number of 35, and in my statement I refer to what experiences these six children had had. All of them had experienced the four forms of child abuse and maltreatment, grew up with intergenerational trauma. Five of the six children had had their first contact with child protection by five years of age.

Also in *'Lost Not Forgotten'*, what we saw was that many cases - in many cases, reports were closed without any further action - so referrals to child protection, other services that would help the families. I also refer to, in regards to that specific issue, around - sorry, from our report also in 2019 *'In Our Own Words'* which was talking to Aboriginal - sorry, children and young people including Aboriginal children and young people in out of home care. Talking about some of the findings that we found from that was that there disproportionate government expenditure on out of home care services. So for every dollar spent on out of home care services, only 55 cents were spent on intensive family support and family support services combined.

So what we're continually seeing from those systemic inquiries but also from the other completed reports referred to is a number of times when Aboriginal children and young people, their families are engaged with child protection, and they are not getting the appropriate supports. It's our view that they - or my view that every sort of interaction with the statutory system should yield some positive or better outcome or leave a family or a child or a young person in a better position than before that interaction, and unfortunately too often that's not what we see.

In terms of a second systemic issue I'd like to highlight, so back on subparagraph (3) of paragraph 31, many Aboriginal children and young people experience further trauma and harm in out of home care settings. When a child is removed from their family, what is being said is that the government can do better. Child protection can do better. That they can put the child in a better place where they will not experience further harm.

And, unfortunately, what we see, not only in these completed reports but I also refer to this in response to question 2 and what we see in our reportable conduct scheme and also what we see in reference to question 3 when I talk about our monitoring activities under section 60A of the *Commission for Children and Young Peoples Act*, we see too often that Aboriginal children and young people experience harm once they are removed.

This harm has been highlighted in reports such as *'In Our Own Words'* from 2019. It's also been highlighted in *'Out of Sight'* which was an inquiry into children and young people going missing or absent from residential care and the exposure to sexual exploitation, exposure to abuse, to other criminal behaviours by adults.

Our reportable conduct scheme talks about the spaces where Aboriginal children and young people experience harm and that the highest area for them is in out of home care. When we look at our 60A - sorry I'm jumping on ahead in questions. I've got it all - it's all relevant to these issues. When we look at our section 60A data which allows us to look at incidents that happen in out of home care, we see there's still further harm that is happening and that's set out in the annexures.

MS MCLEOD: I'll come to those in a moment.

MS SINGH: I'm racing ahead, my apologies. But we see a lot of evidence of this, that children are still experiencing harm and that children are not getting the appropriate responses to that harm. Firstly, to the harm that's - or the risk of harm that has caused them to be removed. That's one set of harm that needs to be responded to, but when they're going into out of home care, too often we are seeing that they are experiencing greater harm in those spaces. And so that needs to also be addressed. And, unfortunately, with an inquiry such as *'Lost Not Forgotten'*, that deals with child suicide - sorry. We see that's the most horrible outcome for a child who hasn't had that trauma or risk of trauma addressed. Sorry, it's something close to home.

MS MCLEOD: When you are ready, we'll come to that appendix.

MS SINGH: Thank you.

COMMISSIONER HUNTER: If you need a break at any time, please.

MS SINGH: No, no, thank you.

COMMISSIONER HUNTER: It's difficult.

COMMISSIONER BELL: I've also got personal experience of this, and so I reach my hand out to you.

MS SINGH: Thank you.

MS MCLEOD: From a health and wellbeing perspective, of course, Commissioners should take a break at any time that seems appropriate. Thank you, Deputy Chair. Commissioner section 60A of the *Commission for Children and Young People Act* - as you've just mentioned that -states that:

"The Secretary must disclose to the Commission for Children and Young People any information about an adverse event relating to a child in out of home care or a person detained in a Youth Justice centre or a Youth Justice residential centre if the information is relevant to the Commission's functions."

And the sort of things we are talking about there in terms of adverse events include the client being absent from residential care, dangerous actions, death, psychological or physical abuse, inappropriate physical treatment, inappropriate sexual behaviour, injury, self-harm, sexual abuse, and in terms of self-harm, that includes attempted suicide.

MS SINGH: Yes.

MS MCLEOD: So just to come back to the high-level discussion we're having in paragraph 31, where you say:

5 *"Many Aboriginal children and young people experience further trauma and harm in out of home care."*

I just want to pick up on your theme, or your evidence that there is an assumption that government will do better than the parents, which is a justification for removal.

10

The Commission heard evidence from Mr Alisandratos who, as you would know, is a senior official at the Department of Families, Fairness and Housing, in terms of how the risk assessment processes work for individual workers and the use of the MARAM tool, the risk assessment tools. And Mr Alisandratos - I'm paraphrasing his evidence - agreed that the risk of harm caused by removal and known harms in the child protection system, including the exposure to the Criminal Justice system and interactions with police, were not factored into that risk assessment process. Can I invite your comment on that fact, that evidence, in terms of how child protection workers are guided by the systems to make decisions about forced removals?

20

MS SINGH: So in my role and at the Commission for Children and Young People we don't get to see those real-time assessments. We look at - so with the reports from inquiries under section 34, we see what happens after a child has passed away. So we could be looking at a number of years of child protection engagement, access to services. I understand that the SAFER framework is the framework that has been used since November 2021 to make these risk assessments and that there's a whole layer of processes to go by.

25

I understand that the department are looking specifically at the harm and the risk of harm that's already been experienced. But it certainly must be a factor of - it's difficult to comment on, because I don't see the actual risk assessments.

30

MS MCLEOD: But your -

MS SINGH: I'm sure it is in the mind of people what sort of environments children are potentially going into when they are removed from their families and put into out of home care. You know, we have so much evidence about what some of these environments are like and as I say in my supplementary statement, the fact that kinship carers aren't appropriately supported.

40

So there's a lot to tell us what the environments are like that children can potentially go into. But, you know, whether - the fact that that's - I can't comment on how the government decides to - but what I do know is that we still see cumulative harm not being assessed appropriately. We're still seeing experiences of children, of harm being assessed in isolated ways, in isolated incidents as one-offs as if they don't cumulatively together represent a burden of harm.

45

And we have made recommendations about that and they need to be improved as early - no, I won't say as early as. I need to check my records, but it's been a number of years.

50

MS MCLEOD: Just to be clear, you do have power to conduct thematic analyses of child death inquiries - of children's death.

5 MS SINGH: Yes.

MS MCLEOD: And as I follow what your evidence is, there's a limitation on the ability to which you can scrutinise individual decision-makings by child protection practitioners at a thematic level.

10

MS SINGH: So we don't have any current powers that allow us to advocate on behalf of individual children in out of home care.

MS MCLEOD: Yes.

15

MS SINGH: We can look at our individual child death inquiries. We can also run individual child inquiries for a child who's living but is experiencing certain things. And we take it upon ourselves, for Yoorrook's purposes, to do a thematic analysis of what we see with the child death inquiries for that particular period that I talked about.

20

MS MCLEOD: So, given the role of the Commission for Children and Young People would it be useful for you to have that input to the department on an ongoing basis?

MS SINGH: Well, the advocacy role for individual children.

25

MS MCLEOD: Yes, and thematically considering such issues as the risk assessment tools?

MS SINGH: Yes, it would be - and part of our recommendations from systemic inquiries have looked at risk assessment, yes.

30

MS MCLEOD: And so what would need to happen to give that you power, would that be legislative change or a matter of practice?

35 MS SINGH: I imagine it would be legislative change, but I would probably need to explore that further, specifically, yes.

MS MCLEOD: Just on that, your reports go to Members of Parliament, including the Ministers? Or are they tabled in Parliament or do they just go to the Ministers?

40

MS SINGH: So systemic inquiries -

MS MCLEOD: Yes.

45 MS SINGH: - that are under section 39 and 40 of our Act can be tabled in Parliament once they have gone through the appropriate processes. Our child death inquiries and our individual inquiries, obviously because they are dealing with individual children and young people, do not get tabled obviously. They are very sensitive data. They go to a Secretary and Minister of the relevant department. So that would be for child protection

but it might also be for Youth Justice, it might also be for housing - sorry, for health or education as well.

5 MS MCLEOD: You have mentioned a few of your key reports: *'In Our Own Words'*, *'Lost But Not Forgotten'*. Is there a process by which you can follow up or monitor the department's response to those reports?

10 MS SINGH: Yes. So we have processes in regards to recommendations that are made in individual child death inquiries and also individual inquiries. That's an agreed process with the department. That involves communications back and forth. With regard to systemic inquiries, the ones that are not specifically about Aboriginal children and young people, those we report on have been reporting on in our annual reports over the last couple of years. So our most recent for non-Aboriginal specific inquiries, the status of those are reported in our annual reports.

15 With regards to the systemic inquiries that were conducted by the first Aboriginal - the first Commissioner for Aboriginal Children and Young People, Uncle Andrew Jackomos, *'Always Was, Always Will Be'* and *'In the Child's Best Interests'*, those recommendations are monitored through the Aboriginal Children's Forum and we liaise with the department about the status of those.

20 And then with regards to *'Our Youth, Our Way'*, which was the systemic inquiry into Aboriginal children and young people's experience of the Youth Justice system by my predecessor, Justin Mohammed, those recommendations are monitored through the Youth Working Group which is a subgroup of the Aboriginal Justice Forum and that - so those two, or those three inquiries are different because the inherent idea is that Aboriginal Community Controlled Organisations are involved in this, that community are involved in it. There's a community oversight about how these recommendations are being implemented.

25 MS MCLEOD: So, as I follow, you would deliver a report on various issues or themes to the Secretary and the Minister. The department would then internalise its response to your report, including with oversight by the Forum.

30 MS SINGH: Yes, for those particular ones, yes.

MS MCLEOD: Yes, and then you would get a report back? Or how does it work?

35 MS SINGH: So with regards to *'Always Was, Always Will Be'*, and *'In the Child's Best Interests'*, reports of where recommendations are at and how they've been implemented go to the Aboriginal Children's Forum. However, in my going back through the records of Aboriginal Children's Forums, I don't - I've had updates outside of the Forum about where recommendations are at. Within the Forum, I don't believe there has been a presentation since March 2020 of the status of those recommendations.

40 MS MCLEOD: The Aboriginal Children's Forum and your office are clearly closely connected to these reports and the nature of the systemic flaws that you're highlighting in these reports. What do you think would be needed in your opinion, to improve the monitoring and continuous improvement processes as a result of your reports?

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MS SINGH: Well, for all of our systemic inquiries and our individual children's inquiries, we do our monitoring in-house. We are not evaluation experts. We simply do not have the resources for that sort of undertaking, and it can be a complex process to monitor - we have a recommendation. A department will say that this is the response to it. We will
5 analyse that and see whether it's, you know, among other things, implementing the - I guess the ethos of the recommendation, what's, you know, and that it's not, "Oh, this looks good, we will put this to this". We really analyse and interrogate what the action is and how it gets implemented. We have agreed processes in regards to how that's done, but
10 honestly, greater resourcing, greater, I guess, accountability in terms of what - how governments will respond to our inquiries.

COMMISSIONER HUNTER: What level of authority do you have in making sure these - alongside the Aboriginal Children's Forum, for example - do you have to get these
15 implemented?

MS SINGH: We have no enforceability powers. Our - as the words say, they're recommendations. So we can only recommend what needs to be done, what we believe needs to be done to address individual issues that we identify. I make a note in my
20 statement that even though we could see a recommendation set as implemented, we could still see a systemic issue ongoing.

So, you know, we - we continue to push with departments and around implementation. And policy landscapes change, so, you know, often there's changes in what is focused on and what is focused on. We sometimes see recommendations that we've made in past
25 reports get subsumed by later reports. Often because the systemic issue is still happening. And so we've made further recommendations about addressing those things, but -

COMMISSIONER HUNTER: Isn't that frustrating? These are children, right?

30 MS SINGH: It's - it's a difficult process. It's -

MS MCLEOD: And these reports are confidential?

MS SINGH: Not the systemic inquiries but the written inquiries relating to individual
35 children and young people are confidential, yes.

MS MCLEOD: Yes. So where are the accountability mechanisms?

MS SINGH: So my understanding is that departments would take the inquiries regarding
40 individual children and they would determine who is appropriate within the department to be able to respond to the issues that we've raised and the recommendations that we've raised.

COMMISSIONER WALTER: Commissioner, we have heard repeatedly in these last two
45 weeks of reports and strategies where the promised monitoring and evaluation that is written proudly at page 34 of whatever, has not been implemented even three, four, five years into the strategy. And you would know - not being an evaluation expert, you don't need to be an evaluation expert to know that the standard practice is that you build your monitoring and evaluation in at the start. That that is part of the process.
50

MS SINGH: Yes.

5 COMMISSIONER WALTER: We have also heard repeatedly the State refer to the
Aboriginal Children's Forum and the Justice Caucus as somehow the accountability
mechanisms. But from my understanding, like you, they actually have no authority to
directly hold to account. So is there an abyss, a big black accountability hole here where,
despite all these reports and findings and everything else, there is a risk that nothing will
ever change because there's no way of actually making sure that all this work that's being
done and all these children's lives that are on the line, it's being followed up? I'm
10 gobsmacked at what I've been hearing.

MS SINGH: One example is - and I have it in the supplementary statement, is that cultural
support plans were made part of legislation in March 2016, and we still don't see 100 per
cent of Aboriginal children in out of home care having those support plans, having them in
15 a timely manner, having them as a resource that is current to their needs and
supports - their placement supports of them and their identity. Looking at the child death
inquiries that we - that we have for the period between middle of 2017 to middle of last
year, we see the same issues occurring and we repeatedly identify those issues in our
systemic inquiries as well.

20 COMMISSIONER WALTER: Does there has to be some sort of formal accountability
mechanism and that would just be seen to be basic good state governance to have that in
place to stop these things - these issues just going on and on with - and the pattern that
we've seen. It's not an accident that there is no accountability or mechanism set up. It
seems to be - to me it seems to be quite deliberate that there is a lack of accountability
and -
25

COMMISSIONER HUNTER: Well it's passing the buck and we have heard it throughout
the Commission that no one is actually accountability for these children, and particularly
30 the recommendations out of all the thematic systemic change from child death inquiries is
disgraceful, because I'm sure you've seen it and I don't need to tell you, time and time
again, that you're probably coming up against the same issues of why this is happening
with those children.

35 MS SINGH: Yes.

MS MCLEOD: What are the accountability mechanisms that should be in place to ensure
that your reports are taken seriously, embedded in practice and that there's a mechanism to
ensure that what is occurring is not repeated? What do we need to do with the system?
40 Does there need to be a process of de-identification of those individual reports so that the
public can hold the department to account?

MS SINGH: So we, in our annual reports, we will raise - we will talk about the child death
inquiries that we have received notifications for in that year - sorry, the child deaths that
45 we've received notifications for in that financial reports and also the reports that we have
actually completed for children. So there's not a precise overlap because the reports take
time and they are very detailed, and they're quite - honestly the saddest part of my work
but also the responses to it are the most important because you want to make sure that no
other child experiences the thing that these children experience. But in our annual reports,

we do - and they're tabled in Parliament. We do set out case studies that highlight the specific issues that children and young people have had in their short lives.

COMMISSIONER WALTER: And yet it hasn't led to change, that mechanism alone.

5

MS SINGH: No.

COMMISSIONER WALTER: Which must also make you sad.

10 MS SINGH: As I said before, you see the same issues coming up again and again. And, you know, the numbers of our children going into out of home care keeps going up. At the Commission, we focused on the tertiary end of systems. That's our remit. That's our focus. We are about - we are looking at the circumstances of vulnerable children and young people and under the Act, vulnerable children and young people is defined as
15 children in the child protection system, out of home care, Youth Justice, the families of those children.

But we are looking at what happens when everything else has gone wrong, effectively. We are looking at the children who are falling through the gaps of other service failures and
20 how they're experiencing the child protection system after a whole lot of other things have happened and also the Youth Justice system, after a whole lot of other things have happened, and the fact that those two interact with each other is, in my mind, appalling.

So we can only look at what happens at a very late stage. We can do systemic inquiries that talk about this is what the child and young person isn't getting before child protection gets engaged. We see that in our child death inquiries. We see that in our individual children and young people inquiries. But, you know, we're identifying the problems and the experiences of Aboriginal children and young people in out of home care but we are not - as a Commission we're not able to diagnose why the children are coming in, in the
30 first place. We can point to things like racism. We can point to things like colonisation and its legacy. We can talk about how, you know the Royal Commission into Family Violence in Victoria has meant a significant focus on responses to family violence.

We can talk about a whole range of things, but until we do that deep analysis of what is specifically happening to those Aboriginal children and young people through their lives and with their families that are getting them to this point of removal and then experiencing more harm, in lots of ways we are tinkering around the edges with the things that we say. And it makes it difficult to understand - sorry, not makes it difficult. We only get a specific section of viewing of the system.

40

MS MCLEOD: So would it be useful for you to have a broader system or access to the ability to undertake longitudinal research?

MS SINGH: I think without the resources to do that, obviously - I mean, partnerships with other agencies that have those sorts of resources and such. But, you know, the Commission is an independent statutory body. So we are, you know, in a very unique position that we can look at these things without any other hindrances around what we see, and we can make those recommendations without those other hindrances.

45

5 So to be able to do that sort of longitudinal study and see - particularly in the five years, say since - the last five years and we have seen the increase of Aboriginal children going into out of home care, just to understand that phenomenon in greater detail would be of a huge help. But right now we are sort of just - you know, you have heard all the reasons in these hearings and such, but, you know, there needs a greater analysis of resourcing, of decision-making of a whole range of things in the lives of these children.

10 COMMISSIONER HUNTER: Even if you were given the resources for the longitudinal study, you would need some authority for those recommendations out of that to be taken up; am I correct?

MS SINGH: Yes.

15 COMMISSIONER HUNTER: So it doesn't just come with one bit because you're going to have another set of recommendations that will sit there and probably not be picked up like all those reports you went through before. A lot of them say the same thing.

20 MS SINGH: I think, Commissioner Hunter, that's the most frustrating thing of our work, that nothing I am saying is new, nothing I am saying has not been documented before somewhere in some place. Extremely frustrating.

COMMISSIONER WALTER: We share your frustration.

25 MS MCLEOD: Would it make a difference for you to have powers at the primary end? The government has been talking and Mr Alisandratos was talking a lot about early interventions. Would it make a difference if the Commission had powers to look at that early intervention end and the primary contact end?

30 MS SINGH: So there's a few different understandings of early intervention.

MS MCLEOD: Yes.

35 MS SINGH: And, you know, if you look at it from a health perspective, early intervention is these people going for regular check-ups and before you get to the emergency department of a health issue getting worse. In lots of ways, child protection involvement and removal of children into out of home care is the emergency department. So to look at the other aspects of what's happening in health services, what's happening in education, what's happening with housing. I mean there's so much other factors that contribute into it. It really requires a whole-of-government focus on how families are moving through
40 systems.

MS MCLEOD: Can I just come back to -

45 COMMISSIONER BELL: I have a question arising out of that.

MS MCLEOD: Yes, thank you, Commissioner Bell.

50 COMMISSIONER BELL: There's wide support within the Commission for early intervention and wraparound services preventive model.

MS SINGH: Yes.

5 COMMISSIONER BELL: And it stands to reason, just as a proposition on logical grounds. But is there empirical evidence of it being successful either here or elsewhere in the Indigenous context?

MS SINGH: Nothing is springing to mind right now.

10 COMMISSIONER BELL: Yes.

MS SINGH: I have stories that - not stories, people tell me about their experiences and experiences where early intervention of someone paying attention, someone doing things a little bit differently, someone trusting a relationship that has been established, has made the world of difference to child protection getting involved or not getting involved.

15 COMMISSIONER BELL: Yes.

MS SINGH: And, you know, I have this idea that you need - this theme that plays around that you need to build the relationship before the need arrives, arises. And some of the best 20 places to have those relationships happening for families is in universal systems such as education and that you can see when there's supports in environments that children feel safe in, that children know, they can go to those supports when needs arise without feeling stigma or shame about those sorts of things. And I've heard some amazing examples.

25 We're currently doing our inquiry into the educational experiences of children in out of home care and just on that resourcing issue around the resources, we have one person full-time doing that inquiry. Other people collaborating as such, but we really only have one person full-time on that inquiry.

30 But some of the examples of positive early interactions, interventions that come out of that are really unique ideas that have come from people thinking differently about what is needed and, you know, I could certainly - sorry, I've strayed off your initial question - can certainly, you know, there's always - you know, you often hear about for every - of this much money spent in prevention, you save this much money, three or four dollars for 35 every dollar that you spend. You know, there's lots of research around that - that says that sort of thing but specifically with regards to Victoria and Aboriginal children and young people, I'd have to do more research into that, yeah.

40 COMMISSIONER BELL: Your answer is sufficient. Thank you.

MS MCLEOD: Just coming back to that item number 3 in paragraph 31, your statement is many Aboriginal children and young people experience further trauma and harm in out of home care settings. To bring you back to an earlier point in the discussion, if child protection practitioners are not factoring in to their decisions which may result in removal 45 of a child to out of home care, if they're not factoring in to those decisions the fact that the State may cause harm into the risk assessment equation, would you suggest that they should?

50 MS SINGH: I think it should be a factor that's considered.

MS MCLEOD: Yes.

MS SINGH: Sorry.

5 MS MCLEOD: No, please.

MS SINGH: But the fact of that consideration says something in and of itself, doesn't it?

MS MCLEOD: Yes.

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MS SINGH: About the system that our children are going into.

MS MCLEOD: Yes. Could I ask you this general question. In many cases, would you accept that the State is a bad parent?

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MS SINGH: A lot of the evidence that we see, yes. Sadly.

MS MCLEOD: If a child protection practitioner is not factoring into that risk assessment process protective factors such as culture, community, family, would you agree that those factors should be taken into account for our First Peoples?

20

MS SINGH: Absolutely, yes.

MS MCLEOD: Just coming back to paragraph 31, we got down to number 3. Are there other issues there that you wish to highlight before we turn to the specific discussions?

25

MS SINGH: The other issue I just wanted to raise, which we've talked about in some part, is around that we see many Aboriginal children and young people's rights to Aboriginal culture not being upheld and we have talked that about a bit with the cultural support plans.

30

MS MCLEOD: Have you followed Mr Alisandratos's evidence about lack of cultural plans that's being picked up by the Victorian Auditor General in his reports which Mr Alisandratos acknowledged?

35

MS SINGH: Yes, I've seen some of the evidence, yes.

MS MCLEOD: So, as a general comment, do those numbers, do those figures shock you in terms of the failure of the mandatory obligation to provide cultural plans for children in the care of the department?

40

MS SINGH: It doesn't shock me, unfortunately. You know, creation of cultural support plans can be a time-consuming process for some children who particularly don't have a lot of knowledge about their Aboriginality, don't have a lot of understanding about their Aboriginal heritage. So some of the work that I know that some Aboriginal Community Controlled Organisations do, often without resourcing, is to do basically do family genealogies and find out where the Aboriginal child fits and where they're placed. There's the Kinship Finding Program, there's records held by Koorie Heritage Trust. There's a whole range - there's public records office, places people can go but that sort of research can be often time consuming.

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COMMISSIONER HUNTER: Can I also add, for children who are under 18 and sometimes those records aren't easily accessible.

MS SINGH: Absolutely, yes.

5

COMMISSIONER HUNTER: So I guess we've heard and acknowledge that it takes time because you've got to - but in that meantime, there is some stuff you can do.

MS SINGH: Absolutely.

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COMMISSIONER HUNTER: So these reports could be interim in the meantime for these children to have some form of connection but to not have anything - it's their cultural right; would you agree?

15 MS SINGH: Yep. Absolutely. And I've seen some beautiful supports of Aboriginal children and young people in out of home care from some Aboriginal organisations who do amazing work to create whole living documents and resources. I've seen some really good work from non-Aboriginal organisations with Aboriginal staff who really work hard to make sure that the Aboriginal children in their care have connection to culture in some way.

20

But sadly, and I refer to it in my statement in question 3, some of the quality of cultural support plans that I've seen don't provide very much by way of culture or by way of supports for either the child or their, you know, their kinship placement or in residential care. You know, in *'In Our Own Words'* in the section My Culture that focuses on experiences of Aboriginal children and young people, you know, there's statistics in there about children not knowing who their identity is or not knowing who their mob is, and not being supported to find out who they're connected to or make those efforts.

25

30 MS MCLEOD: It may be self-evident: why is that important to Aboriginal children?

MS SINGH: So you will have heard a gazillion times, culture is a protective factor for our community.

35 MS MCLEOD: There are people following this Commission who are not Aboriginal who may not have lived and worked with Aboriginal people. Can I ask you just to say to them why culture is important.

40 MS SINGH: When you are lucky enough - and I say lucky because of the history of this Country. When you are lucky enough to grow up with culture, it is a seamless part of your life. It wraps around you. It's connected to family. It shapes your values, your ideals. To be Aboriginal is to know that you're from strength, that you're from resilience, that you're part of the oldest cultures in the world. So culture is so vitally important. And what's happened in this Country is that culture has been tried to be destroyed in so many different ways, through removal of people from Country, which is the source of culture; break-up of families; denial of language, of cultural practices - a whole range of things. And yet in spite of that, our ancestors have been able to maintain culture and have been able to adapt and develop culture in response to these external forces that want to break it down.

45

For me, growing up with my mother who was strong in culture - she didn't get to grow up with lots of family, with her parents so much with her siblings, but she grew up connected to culture because she was always with family. And she didn't have an easy life growing up. One of the hardest lives you can imagine. But she always was with family, she always
 5 was with community, she always was with culture and it kept her strong and it keeps her strong. You know, a lot of us - you know, if you're not Aboriginal you can take culture around you for granted because it's all around you.

If you're a white Australian person who has grown up seeing your history reflected in the news, in movies, in TV shows, in media, everywhere, your culture is around you all the
 10 time. And unless you have that experience of it being taken away from you, sometimes you don't appreciate how important your culture is. And so for so many people who might be watching and are listening to this, who aren't Aboriginal, who don't understand this, the idea that this could be taken away leaves a huge hole for people. And, you know, this
 15 Commission has heard the evidence about what it means to not grow up with connection to culture and connection to family and they're so intertwined, they're so connected.

For children and young people it is so important to know who you are and your identity is, especially as you get older and you get - everyone knows as you get into a teenager and
 20 you're questioning everything. At least if you have got your culture and your identity that's something to be strong with and to fall back on. But if that's missing from a child's life, it's a huge gap that you can't understand, and it's a huge hole. And it's why, when we look at the experiences of the Stolen Generation, and when we see their experiences and the experiences of their descendants why we do see such high issues of mental health and
 25 mental illness in our communities, why we do see earlier - or shorter life expectations, because culture is such an inherent part of life for us and when it's not there, it's devastating.

MS MCLEOD: Thank you for that answer. You've mentioned genealogy and you have
 30 also mentioned what we might call really good examples of cultural plans. Would it be useful to have the State invest in that genealogical project to make it easier for child protection workers to have resources to look to?

MS SINGH: I understand there's some investment but, I mean, if you look at the numbers
 35 of Aboriginal children going into out of home care over the last however many years, the numbers are going up. So, you know from last year's data we have 2,600 Aboriginal children and young people in out of home care. That's a lot of kids that need cultural support plans, that often need that extra work around genealogy and identifying where they fit, who their mob are, connecting them with those things. So absolutely it always need
 40 resourcing. Sadly, it needs to be increased resourcing because the numbers keep going up.

MS MCLEOD: In terms of those cultural plans that you have identified in very positive terms, if this doesn't happen already, would it be useful for child practitioners to have
 45 access to those as a teaching tool?

MS SINGH: My understanding is that there are - you know, there has been forums where people can come together and share knowledge about cultural support plans and such. You know, I think the ones that I have seen done beautifully really are created by people who inherently understand culture and understand what a child - and understands it from the
 50 child's perspective. So much - so many of our systems are sort of created and then children

and young people are added in later. But, you know, the cultural support plans I see are for the child, from the child's voice. They include the child's voice in what they want, what their aspirations are, what their connections are. Yeah.

5 COMMISSIONER HUNTER: Would you say that it's more often than not that it's not a great cultural support plan?

MS SINGH: Of the ones I've been able to see?

10 COMMISSIONER HUNTER: Yeah.

MS SINGH: More often than not, sadly.

COMMISSIONER HUNTER: More often than not.

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MS SINGH: Yeah.

COMMISSIONER HUNTER: We have heard that it's a cut and paste off Google or off a sibling's without changing names and we have heard some of that as well.

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MS SINGH: Yes.

COMMISSIONER WALTER: So mandating cultural support plans and now actually making sure that that mandate is actually followed doesn't necessarily lead to better outcomes if the quality of those cultural support plans is not monitored and staff incentivised to make sure that they are actually doing what they're supposed to do.

25

MS SINGH: Yes. I mean, yeah, there's two parts to it, isn't there. It's the fact of having a cultural support plan within the required time but it's also what's in the cultural support plan and how appropriate is it for that child and how supportive is it.

30

COMMISSIONER HUNTER: You may not know this but there's a bit of a disconnect because everybody is talking about doing them and having a good one and obviously that's not common, but it's implementation because unless it's implemented correctly, the child's not going to - could you speak to the implementation at all?

35

MS SINGH: So it depends on what's in the cultural support plan itself for it to be implemented and how, you know, realistic it is. But I think, you know, certainly in some of the cultural support plans I've seen, there hasn't been a lot to implement in terms of maybe what activities the child should be engaged with or connections with Aboriginal organisations, or maintaining relationships with family members who it's appropriate to maintain relationships with.

40

You know, there's - it feels like there's such a gap between the wonderful ones and the not wonderful ones.

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COMMISSIONER WALTER: Yes.

COMMISSIONER HUNTER: Yes, okay. I just worry that whoever is charged with implementing it may not be Aboriginal and you may have had this brilliant cultural support plan that just goes nowhere as well.

5 MS SINGH: I mean, you know, we've got Aboriginal children currently in community service organisations, so non-Aboriginal organisations. We have got Aboriginal children in Aboriginal Community Controlled Organisations. You know, Victorian Aboriginal community is a small population. Our people cannot be everywhere overseeing. So there needs to be that cultural knowledge and cultural training that helps people understand the importance of these resources, understands, you know, who to speak to, where to even start. How do you make those connections and such, yeah.

COMMISSIONER HUNTER: There's the accountability mechanism that's not there, is -

15 MS SINGH: Well, the accountability - well, no. It's in legislation but, you know, legislation all comes down to how well something is implemented. What are the policies on the ground, the practices that support the legislation to be fulfilled.

COMMISSIONER HUNTER: So if it's in the legislation and the government is not fulfilling that legislation for particular children -

MS SINGH: Well, I mean, from the evidence of Mr Alisandratos, you know, talking about the percentages of Aboriginal - of cultural support plans by their own words yes.

25 COMMISSIONER HUNTER: Who holds them account to that, their own law, really?

MS SINGH: Well, I mean this is - okay, so this might be going off on a tangent a bit but there are so many decisions that are made about any child in out of home care, that you need to look at administrative law and see what sort of decisions can be reviewed, but we are talking about children and young people. We are talking about families often who are experiencing some of the worst things in life and to expect, you know, families and children and young people to advocate for themselves, and - but at the same time, so many kids try to and try to advocate for themselves.

35 You know, there's a quote in my statement around, you know, an Aboriginal young person saying, "I tried to get people to support me and I tried to get answers. I had to do it all myself". There's so many different decisions that get made around these children and young people's lives that can go without scrutiny, I imagine, unless you've got the mechanisms to review those decisions, and reviewing those decisions takes such a long time. We know what our courts and processes are like.

COMMISSIONER HUNTER: Yes. Do you get complaints directly from young people.

MS SINGH: We can do, we do, yes.

MS MCLEOD: Just in terms of those complaints -

COMMISSIONER BELL: Back to cultural support plans, I was at a lecture given by Professor Muriel Bamblett on Monday night. She spoke about cultural support plans and a

particular challenge that is, taking metropolitan Melbourne as an example, a very low minority of children are Bunurong or Wurundjeri.

MS SINGH: Exactly.

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COMMISSIONER BELL: Most of them are off Country. Some of them are off Country because they come from community in other States, and it strikes me that a very large majority of Aboriginal children the subject of cultural plans in Victoria are probably off Country.

10

MS SINGH: Absolutely, yes.

COMMISSIONER BELL: I wonder if you could talk about the need for the cultural - for cultural plans to take account of that fact and speak of the specificity of the culture that needs to be reflected in the plan?

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MS SINGH: So, I mean, partly it's a legacy of colonisation, right, so that so many of us haven't had the opportunity to grow up on our Country. I'm Yorta Yorta from my mother's side. So many of us haven't gotten that connection with being on Country. It doesn't mean a connection with countries cannot still be supported.

20

COMMISSIONER BELL: Yes.

MS SINGH: That you still can't get that learning from you're off Country. I mean, wherever we are in this Country, we are on Aboriginal land. That should be the first and foremost feature. But, you know, for me - again, I use myself as an example, but as a Yorta Yorta person, you know, my connection to culture came through my mother and from her stories and then through other relatives and such. So for these children who are in out of home care we really need to think about what sort of supports they need to maintain their culture, whether that's visiting Country, actually seeing that connection, whether that's being able to meet with people who also are from their Country or of their mob, just a whole range of ways Aboriginal children can be supported to maintain that culture.

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MS MCLEOD: In terms of the complaints that come to you, how do children know how to contact you?

MS SINGH: So there's a few different ways, depending on the environments that children and young people are in. We simply promote ourselves, I think, partly. We have what we call approaches which is when people get in contact, approach the Commission for Children and Young People, and I've got a statistic in my statement that I can't quite call to mind right now, but a significant proportion of our approaches each year are from Aboriginal children and - sorry, Aboriginal people. It could be from Aboriginal children and young people and their families, people who are concerned about them.

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So I think there's two ways you could read that, that we are looked at as a place where people know they can come to and seek some assistance, or that there are just so many children and young people and their families who are needing assistance, and that they're coming to us with that need.

50

What we're able to do is quite limited depending on where the child is. If a child's in - if there has been an incident about a child in out of home care or in Youth Justice, our section 60A monitoring legislation can come into play and we can request information about an incident. That's happened in those environments. But often we could get complaints often
 5 from adults that are worried about the way children are being looked after, that are worried about the interactions that they've had with child protection, a whole range of different things.

Specifically from children and young people in Youth Justice detention, we have - I'm
 10 going to get the name wrong, that's really terrible, but we have a dedicated phone line that children can call us on. And they do. They call us about incidents that have happened to them in Youth Justice. We also can do residential care visits where we go into residential care and talk to children and young people and hear what they are experiencing. So voices of children and hearing what they are experiencing in their lives is very much central to the
 15 work that we do.

COMMISSIONER HUNTER: What happens with those? Like, what authority do you have for those complaints? Like, where does it go?

MS SINGH: So it will depend on the nature of the complaint. Sometimes we have to - it will be - the majority of our responses are often referrals or information. We - as I said earlier, we don't have an actual individual child advocacy power. It's something that the Principal Commissioner has long advocated for. It's currently in legislation before
 20 Parliament that we are hopefully getting an advocacy power for individual children, and in regards to child protection and out of home care. So that would mean that we could effectively in real-time receive a complaint, receive information about what's happening to
 25 a child in out of home care, and we could make inquiries with the department about specifically what's happening and advocate for that child.

30 But currently a lot of our work is limited to, depending on what the situation is, referrals, referring people to other complaint processes, such as with Department of Families, Fairness and Housing to child protection.

COMMISSIONER HUNTER: But they come to you because, basically, there's an
 35 Aboriginal person there.

MS SINGH: Yes.

COMMISSIONER HUNTER: That they know and they can trust, but you don't really
 40 have that power.

MS SINGH: It depends where the child is. If they're in an out of home care situation and there has been an incident, or if they're in a Youth Justice setting and there has been some sort of adverse event, we can make inquiries. But that's a very limited, you know, scope
 45 for how many children are engaged and their families are engaged with child protection.

MS MCLEOD: Commissioner, can I come back to the first topic, which is overrepresentation and bring up paragraph 32 of your statement. There, you set out publicly available data to show overrepresentation, which has been mentioned in your

evidence before in December last year, and your previous report. Can I just touch on some of those.

MS SINGH: Yes.

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MS MCLEOD: Paragraph 32, you note:

"Aboriginal children and young people are increasingly overrepresented at every stage of the child protection process."

10

MS SINGH: Yes.

MS MCLEOD: Now, we heard some evidence from Mr Alisandratos in relation to unborn child reports, and the data that he provided the Commission with yesterday indicated, following an unborn report - you may or may not be aware of this - following an unborn report in 2021, First Peoples children, the percentage of children who entered care following a report within three months of age was 21.5 per cent. The number of children, by comparison, for non-Aboriginal children following a report was 13.5 per cent. So more than one in five Aboriginal children being removed at under three months of age following a report. Could I invite your comment on that?

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MS SINGH: So unborn reports - obviously for a child who's not yet born - present an opportunity for early intervention, referral to services, ports for an expecting mum, for an expecting family. What kind of supports can we put in place before the child is born to address any issues? Now, unborn reports can only trigger - there can only be voluntary engagement from mums, from families. So the relationships are really important. You want to have good relationships that will support someone to be able to continue to engage and address whatever protective concerns there are, whatever issues they're having.

25

Once a child is born, then the statutory intervention system can kick in. Legislation can kick in - not legislation but actual action can happen. You can then have a formal report, an investigation and all the rest that goes with it. So in lots of ways, it represents - that statistic represents lost opportunities to engage with Aboriginal families before the child is born. But it also suggests - suggests a lot of things, but it simply means that our - our bubs are coming into contact with the child protection system at such a young age, at such a vitally vulnerable age, when, you know, that connection to mother is so important in those, in their first year - however long.

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35

So I'm sorry, can I clarify, the 21 per cent, was that removal of children or was that -

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MS MCLEOD: Yes.

MS SINGH: It's actual removal.

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MS MCLEOD: Following a report.

MS SINGH: Yeah. So, yeah, you know, I'm not a biological mother. I have dogs, but I don't have human children. I've had the pleasure of being able to have a hand in raising my nieces and nephews. I can't imagine the absolute horror of having that happen to you, having your child taken away.

50

COMMISSIONER HUNTER: Would you agree that more money needs to go into those early intervention services, Aboriginal-specific early intervention services, that are able - that already have - we've got and we've heard from organisations out there that
5 currently go above and beyond - aren't funded - to keep these families together. Would you agree that's where the money needs to go and that the department needs to engage those services early? You know our mob as soon as child protection knock on the door and you're pregnant, aren't going to open it. Like, we know that.

10 MS SINGH: Yep.

COMMISSIONER HUNTER: Why - and we have told them again and again and I'm sure your office has and in recommendations. Why are we not seeing the money going into those services to stop those statistics? This is our next generation. I'm sure I'm not telling
15 you anything new as an Aboriginal woman. But they go above and beyond, and we have all seen it, as do all our services. But that point there is where our families get ripped apart. What you just spoke about, about that cultural connection, about that bond with their family, with their mother, that is just heart breaking, absolutely heart breaking.

20 MS SINGH: Yep. Completely agree. There needs to be far greater investment in those early intervention, in the prevention services, in the family strengthening services, and protecting children shouldn't just be the job of child protection. Absolutely should be their role if a child is removed. Absolutely that should be their responsibility. But protecting children is a whole-of-government responsibility. It's a whole-of-government
25 collaborative necessity.

COMMISSIONER HUNTER: It's also mob. It's just what we do. So why aren't we paying the services that do it anyway and do it so well?

30 MS SINGH: In my statement, I refer to conversations with, you know, Aboriginal people, or people working in Aboriginal Community Controlled Organisations, leaders, employees, who are often frustrated by what it is that they can - that they want to do with families but they're constrained by what their funding arrangements are. So they can see that a family might need something like a decent car to get around or just equipment for
35 the home or even a home, all of these other things that would make a significant difference, and they want to work with families in in family strengthening ways.

You know, so many don't want to have to, you know, see or be a part of removing children. They want to keep families together. They want to work and support families
40 and what their needs are.

COMMISSIONER HUNTER: I probably shouldn't do this but I just want to honour Aunty Lisa who just walked in who does that work.

45 MS MCLEOD: Commissioner Singh, in paragraph 38 and 39 of your statement, just picking up on these themes, you note that:

"Whenever reports to child protection are needed each interaction should result in positive lasting change."

50

You've just made that observation:

5 *"We too often see short engagements with a family or the closure of cases at the intake or investigation stage where risk of actual harm is still continuing, resulting in inappropriate or unchecked referrals."*

And in 39 you note:

10 *"The disproportionate government expenditure on out of home care services, every dollar spent on out of home care services, only 55 cents was spent on attempts at family support and family support services combined."*

So there needs clearly, I suggest, to be some front loading of these services in order to produce positive results for children and their families and savings down the line.

15

MS SINGH: Yes, absolutely. I mean, our goal should be preventing the requirement for child protection in families' lives. And, you know, if you - I sort of - I'm sorry, I have to use my hands for this. I kind of think of it like a V and at the top the most resourcing goes into the family strengthening, the prevention work, in health, in education, in all those sorts of ways. And then, you know, you tighten down so that hopefully that the intensive supports at the very bottom that involve only when absolutely necessary having to remove a child because of that safety and wellbeing factor.

20

25 But you have intensive services and, you know, I've made some recommendations about what out of home care needs to be supportive of Aboriginal children and young people. But our greatest investment should be - we know it from health settings. Prevention is the best way to address issues down the track, because - you know, too often what we see in our child death inquiries, because we see the life of the child, is, as I said at paragraph 38, these short interactions with families that see Aboriginal children and young people left without any supports, and then when a decision is actually made to remove a child, by that stage, the cumulative harm is so significant for that child and so that when that child is getting some sort of support in some sort of way, if they are, there's so much that the child has to deal with.

30

35 And, you know, we wonder why we see children and young people acting out in residential care settings. We wonder why we see an overlap of, you know, residential care and Youth Justice spaces. You know, the unaddressed trauma that so many of these children and young people are dealing with creates so many problems down the track and requires years and intensive services to address.

40

MS MCLEOD: Touching on some of the figures you have there, can we look at paragraph 35. You note in your own words in that report:

45 *"Between the years of 2008-9 and 2017-18, the number of Aboriginal children removed from their parents and living in out of home care had tripled from 687 to 2,027."*

Is there any causal factor or factors that you would highlight in the tripling of the number there? This comes before the introduction of bail reforms that led to an increase in numbers of women on remand. So is there anything in that period of time you could point to as being causal?

50

MS SINGH: Well, I mean, this is what I was alluding to earlier. Our work at the Commission for Children and Young People is focused on the tertiary, and it's focused on when child protection gets involved and when children are removed. So the lead-up to those children and the issues that they're experiencing and the reasons for their removal are somewhat out of our remit to comment on. And a bit earlier I said we could point to things like legacy of colonisation or systemic racism or the Family Violence Royal Commission which put a specific focus on family violence in this State and what responses we want to have to that.

I mean, there's any number of - any number of - there's a number of factors that would contribute to that tripling of issues. It would require a lot of analysis specifically of what was happening with those kids, I think.

COMMISSIONER WALTER: To your knowledge, has any of that research and analysis been done? Has the department - I mean, they must have been staggered by this tripling. What has been done within the department to try to get to the bottom of why this is such a huge increase? Surely that's -

MS SINGH: That would be a question for the department. I couldn't - I wouldn't -

COMMISSIONER WALTER: Perhaps we can ask the Minister that this afternoon.

COMMISSIONER HUNTER: I would wonder if some of it comes to bail laws being changed as well and mothers going into custody.

MS MCLEOD: If those bail law changes, Deputy Commissioner, were in 2018, this is before that period of time.

MS SINGH: So just by way of timeline, Uncle Andrew Jackomos's two reports were tabled at the end of October 2016. We - sorry, the Royal Commission into Family Violence was tabled 2016, or '15. So certainly towards the tail end but -

COMMISSIONER HUNTER: Would that make a difference? I know you don't have facts and figures, but we see these recommendations come out implemented. Do you ever get asked whether - how that would adversely affect Aboriginal people or Aboriginal children and young people?

MS SINGH: So the Commission makes submissions about, you know, legislation that impacts on children and young people. We - you know, we make submissions about what we so from our work and how we believe the impact of these things would play out. So I'm sure I could access previous submissions that would relate to those sorts of things. But, yeah, we do - because we see - but we also see children, as I keep saying, in a very specific environment. We're not seeing what's happening in other spaces for children and young people. And it really is a whole of - it's a whole of child journey that needs to be analysed.

COMMISSIONER HUNTER: But would you say that the government departments are siloed and so those wraparound - because you talked about health, you talked about

education, early years and then sort of where you sit, would you see them siloed, that we don't get the wraparound effect that's required?

5 MS SINGH: I would agree with that, yes. Certainly from the experiences of Aboriginal families and trying to navigate some of these systems and services, it's really difficult for them to understand on the ground. Sometimes it's difficult for me to understand how all the different services interact with one another. You know, we need services, or we need systems that revolve around the child, that place the child at the centre, that respond to the child's needs, that doesn't have the child and their family trying to navigate a maze of
10 systems and services.

MS MCLEOD: So, for a major reform project such as followed the Royal Commission into Family Violence and the *Bail Act* reforms - this may be a question for the Minister, but in case you know, I'll ask you, do you know whether there was any planning around
15 the expectation that this would have adverse impacts on Aboriginal people and their children?

MS SINGH: I know - well, from - not from my Commissioner role, but from certainly other work in other areas, other legal work, you know, Aboriginal community, lots of
20 communities made submissions, advocated against the reforms because - bail reforms in particular because they knew the impact that it would have on Aboriginal children and young people and on Aboriginal women in particular.

MS MCLEOD: So the very laudable aims of addressing family violence potentially have
25 not flowed through to the impacts in the child protection system; is that -

MS SINGH: Well, sorry, my previously comment was specifically around the bail reform.

MS MCLEOD: Yes.
30

MS SINGH: And, again, I would be not speaking from my - so, no, sorry. In my statement, I do talk about how we see in our child death inquiries, the prevalence of family violence for the children that we see. So our responses need to be - for families that are
35 dealing with family violence, need to be culturally appropriate, culturally safe, and they need to also understand that the child or young person, the Aboriginal child or young person has their own specific experiences of family violence separate to an adult and that they need to be addressed; that they need to be responded to. And, unfortunately, what we see is not too much - we don't see very much evidence of that.

40 COMMISSIONER WALTER: Counsel, I think that's a really good point, the idea that somehow all these inquiries and things are really - they're addressing really serious problems like family violence, the Bourke Street incident - tragedy.

MS SINGH: Absolutely.
45

COMMISSIONER WALTER: But the way the departments and the siloed departments respond is in a reactive way that more often than not leads to more Aboriginal families suffering. And what do you do to make sure that that is always something that has to be thought about and directly addressed before you put in maybe politically driven responses

to be seen to be doing something without thinking maybe through the unintended or the not sufficiently regarded consequences?

5 MS SINGH: Yep. There can always be more consultation on laws that are proposed and the implementation of them. But that's not to say that the views of Aboriginal community, of the advocates and such, will necessarily be taken on board. Things such as, Commissioner Bell, you will be able to help me with this with your human rights lens and background. There's compatibility statements that happen around the *Charter for Human Rights* that look at what's the impact of this legislation in terms of human rights and how
10 the Charter operates; whether there are other things such as, you know, child impact statements, vulnerable community impact statements that really say have we properly addressed what the impact is going to be on a particularly vulnerable community?

15 COMMISSIONER WALTER: I think that's a really important point because it seems at the moment every change that happens, Aboriginal people suffer. And not meaning that to happen is not an excuse, you can see that pattern again and again.

MS MCLEOD: Are you ever asked to -

20 COMMISSIONER BELL: A really good example would be the permanency amendment, surely.

MS MCLEOD: Yes.

25 MS SINGH: Exactly, yes.

MS MCLEOD: Are you ever asked to have input into parliamentary scrutiny through statements of compatibility into changes to laws, legislation?

30 MS SINGH: I would have to check specifically, yes. I know often we make submissions and we're called upon to make submissions into proposed legislation. One example relatively recently was the *Youth Justice Act* or bill. There was a lot of work that, prior to my time that I know the Commission did in terms of providing input and feedback around that.

35 MS MCLEOD: Can I come back to your statement now and the comments you make at paragraphs 43 and 44 in relation to the *'Lost Not Forgotten'* report, and I want to ask you particularly about self-harm. The *'Lost Not Forgotten'* report considered six Aboriginal children who died by suicide.

40 MS SINGH: Yes.

45 MS MCLEOD: And the six Aboriginal children considered represented a much higher substantiation rate for Aboriginal children than non-Aboriginal, suggesting child protection systems have failed family supports, as you note in those paragraphs.

MS SINGH: Yes.

MS MCLEOD: Can I invite you to turn - I want to just touch on the issue of experience of trauma and harm in out of home care and ask you to bring up, please, annexure 4. These are your section 60A reports.

5 MS SINGH: Yes.

MS MCLEOD: Which is page 66 of the document. So under the heading Incident Monitoring Out of Home Care Table 2 on page 67, if we could just bring that up on the screen, you set out there the number of incident types by Aboriginal status of children and young people in out of home care for a three-year period, 2019 to 2022.

MS SINGH: Yes.

MS MCLEOD: So just on the next page, thank you. We see there for Aboriginal and Torres Strait Islanders on the next page, Table 2. Can we just zoom down on the boxes on the left in the bottom of the page. Inappropriate physical treatment, the numbers of incident types by Aboriginal status of children in out of home care, 439 reports of inappropriate physical treatment of Aboriginal children in care or 23 per cent.

20 MS SINGH: Yes. So that's over that three-year period.

MS MCLEOD: Yes. So do I follow this, as a percentage of all incidents reported, 23 per cent of those reports, or 439 in total, of them related to inappropriate physical treatment of Aboriginal or Aboriginal and Torres Strait Islander children?

25 MS SINGH: Well, yes, but noting that reports might have more than one type of - type of experience.

MS MCLEOD: Yes, so -

30 MS SINGH: Yeah.

MS MCLEOD: - there might be inappropriate physical treatment but also emotional and psychological abuse. Just staying with that page, in terms of injury, does injury have to meet a threshold of injury to qualify as injury or could it be -

35 MS SINGH: I would have to check that, yes. Do you mean whether it would require a hospital admission?

40 MS MCLEOD: Yes, or is it something more minor such as -

MS SINGH: My understanding is it could be something much more minor.

MS MCLEOD: But it's the child's report.

45 MS SINGH: Yes. So the child isn't - the child would speak about it or the protection worker or the out of home care worker or the kinship carer or whoever would make that report.

50 MS MCLEOD: The reports are made by the organisations?

MS SINGH: Yes.

5 MS MCLEOD: Okay. So the organisations who are required to complete these incident reports would report each of these against each of these matters?

MS SINGH: Yes.

10 MS MCLEOD: And in that period of time, the reports included 331 reports of injury to a child.

MS SINGH: Yes.

15 MS MCLEOD: Physical abuse, 400. Self-harm or attempted suicide in that period of time, 578. Just pausing there: that's a staggering number.

20 MS SINGH: It is. It's - it's - it's a terrible number. These are children who are in out of home care because they have already experienced - they have already had a risk of harm or experience of harm, often cumulative. So they are going into out of home care potentially with unaddressed trauma because of that harm. So many of them are coming into - all of them are coming into out of home care with significant needs that can manifest in these - the most horrible possible way.

25 MS MCLEOD: And in terms of physical, psychological harm or injury, these are largely children who have also been removed for the purpose of they're exposed to physical harm or injury.

MS SINGH: Yes, that could be a factor of their removal, yes.

30 MS MCLEOD: We're removing them, for the reasons set out under this column, into state care where they're being subjected to these very factors that they're being removed for.

MS SINGH: Yes.

35 MS MCLEOD: In paragraph 56, if we just leave that up on the screen for a moment, but in paragraph 56 of your statement, you note by way of example:

40 *"Report of one child death inquiry documented that a report was made to child protection of the child having been assaulted again by a step parent. This report was classified as a child wellbeing report, and closed without requiring further action because the child was considered old enough to self-protect."*

MS SINGH: Yes.

45 MS MCLEOD: A statement was made that a child was old enough to self-protect against family violence?

MS SINGH: That a child should be able to self-protect against an adult.

50 MS MCLEOD: What does that even mean?

MS SINGH: I hate to think what it could - what it is meant to mean.

MS MCLEOD: Was the child meant to leave out of home?

5

MS SINGH: I mean, often children do leave home and become homeless because of family violence. I'm - you know, not certain what self-protect for a child is meant to mean in the context of an adult.

10 COMMISSIONER LOVETT: In out of home?

MS SINGH: No, this is the child in the home; that the child was experiencing family violence.

15 COMMISSIONER LOVETT: Yeah, in out of home care?

MS SINGH: So this particular report related to - this particular context related to the child experiencing family violence in the home and so - you know -

20 COMMISSIONER LOVETT: Are they in out of home care or not, this data?

MS SINGH: This is - paragraph 56 is from - so the table is from out of home care, but at paragraph 56 -

25 COMMISSIONER LOVETT: Okay.

MS SINGH: - that is in regards to a child death inquiry and the particular example that is referred to is the experience of the child living in the home and child protection doing a child wellbeing report and closing the report without requiring further action because the child was considered old enough to self-protect.

30

COMMISSIONER HUNTER: Did child protection make that decision that they can self-protect? Is that correct?

35 MS SINGH: That the child could self-protect.

COMMISSIONER WALTER: So the child was with their parents.

MS SINGH: The child was with a parent and a step parent.

40

COMMISSIONER LOVETT: Okay,

MS MCLEOD: And a report is made that the assault is by a step parent.

45 COMMISSIONER LOVETT: Yeah, all right.

MS SINGH: I wouldn't want to go any further than what's in there without going into a different - a closed hearing, potentially.

COMMISSIONER HUNTER: Yeah, look, can we find out what self-protect - like, what is the assessment for self-protect? Is there a level of tolerance there?

5 MS SINGH: So the way we do child death inquiries is that we receive a notification of the passing of a child. We make the appropriate notifications that we are going to conduct, as required, an inquiry under section 34. There are engagements with the Coroner's Court. We then have access - are given access to data from child protection about the child. So we get information from the CRIS system, the client record information system, which has -

10 COMMISSIONER HUNTER: Is that case notes as well?

MS SINGH: There would be case notes in there. We can also request - sorry under the Act.

15 COMMISSIONER HUNTER: A child has died. Shouldn't they just hand that over for the inquiry?

MS SINGH: Yes, we get - there's information that we must get and there's information that we may be able to access as well. So under the legislation, it talks about what sort of information we can get. We may also get information from health services that were providing services, schools, a range of other organisation services that were interacting with the child or family.

25 COMMISSIONER HUNTER: Can I ask a question. With each child, do you have some thematic recommendations or recommendations that come out of that go back to -

MS SINGH: So, to be specific, with our - under section 34 of our Act, we - our inquiry must relate to the services provided or omitted to be provided to the child before his or her death. So the child death inquiries relate to a child or young person who was a child protection client either at the time of their death or in the 12 months before their death. So we have a very specific focus on the services provided or failed to be provided to a family.

35 So when we make recommendations, we can make individual recommendations that are quite specific to that child's environment, circumstances, regional area, you know, the DFFH office, or - sorry, not or - also we highlight systemic recommendations that we've made in other systemic inquiries that are relevant to that particular child's circumstances.

MS MCLEOD: Could I just ask you, looking at that table, the number of incidents reported for the period 2019 to 2020, we see down the bottom of the page:

"Sexual abuse, sexual exploitation."

45 And the numbers of 232, of 24 per cent, and 173, or 22 per cent, for sexual exploitation. That is sexual exploitation by a carer?

MS SINGH: Sexual exploitation by someone outside of the care environment.

MS MCLEOD: I see.

50

5 MS SINGH: Yeah. So our inquiry *'Out of Sight'* talks specifically about the experiences of children and young people who are missing or absent from out of home care - sorry, from residential - give me one second, let me make sure I'm getting that right. Residential care. So we're talking - so in terms of where children are placed in - when they go into out-of-home care, the the majority of children are in kinship care.

MS MCLEOD: Yes.

10 THE HON. LIZZIE BLANDTHORN: And then foster care. Residential care is where the least, the smaller numbers. So we're talking about a relatively small group of children.

MS MCLEOD: And, again, this is one of the risk factors that triggers the removal from the parents into care?

15 MS SINGH: Yes.

MS MCLEOD: Can I just ask -

20 MS SINGH: Sexual abuse, physical violence family violence, could all be factors.

MS MCLEOD: Could I ask you to look at page 164 just to clarify some of these numbers, and we will just leave that table on the screen for a moment.

25 MS SINGH: Sorry, is that page or paragraph?

MS MCLEOD: Sorry, paragraph 164 at page 39. The numbers we have just gone to in the table which is on the screen are self-harm, attempted suicide, 578 or 18 per cent of the reports for that period of time, 2019 to 2020. In paragraph 164, you note for that period:

30 *"During this period, there were 193 incidents of self-harm and attempted suicide incidents, and of these 90 attempts."*

Sorry, I'll wait till you've got the -

35 MS SINGH: No, sorry, I'm looking between the - at the table.

MS MCLEOD: In your statement you say:

40 *"During this period, there were 193 incidents."*

So just stopping there: is that a different number from the number in the table?

45 MS SINGH: So in - yes, I see what we've done there. Sorry, I think this should be a - I just need to come back and double-check that.

MS MCLEOD: That's alright. We can do that.

MS SINGH: I think what's happened is that the table represents the data from 2019 to '22.

50 MS MCLEOD: Yes.

MS SINGH: I believe this particular period may relate to a particular year. But I will double-check that for you.

5 MS MCLEOD: Okay.

MS SINGH: Sorry, I think something has been omitted there.

10 MS MCLEOD: That's okay. But I then wanted to pick up on the next phrase in your statement at paragraph 164:

"Of these..."

That is of the 193:

15

"...90 attempts related to one child."

MS SINGH: Yes.

20 MS MCLEOD: So what does that tell us about the availability of mental health services to a child in that situation?

25 MS SINGH: I think we know that mental health services particularly for children and young people, are stretched, that there simply isn't enough. And I think particularly after having experienced COVID, there are a lot more children needing an experience like that. So we know the services are stretched. For children and young people in out-of-home care, unfortunately, we often not do see referrals to, or engagement with, mental health services that would be appropriate to their needs.

30 COMMISSIONER BELL: Has the headspace roll out assisted or is it not used much by Aboriginal children?

MS SINGH: I couldn't - I couldn't say, sorry.

35 COMMISSIONER HUNTER: 90 attempts by one child. That's just heartbreaking.

MS SINGH: Yes.

40 COMMISSIONER HUNTER: How can we not get reform when these numbers for one child are so high? We're obviously not addressing the underlying needs of these children. I would say that's a bad parent and a child would be removed from home for that, let alone in this State's care. Look, there's no words.

MS SINGH: No. No. I agree with you on that: there's no words.

45

MS MCLEOD: Can I come back, please, Commissioner, to paragraph 71 of your statement. This is a reference back to your first statement, article 12 of the UN *Convention on the Rights of the Child* which, as we know, are picked up in the legislation in the obligation to protect the rights of the child which states:

50

"That all children and young people have the right to participate in protections affecting their lives."

That's actually a mandatory requirement of the Act. You say:

5

"I also refer to the ways that the Commission helps children and young people exercise this right as part of its work."

In your view, paragraph 72:

10

"The completed reports reveal there is a failure to incorporate the voices of Aboriginal children and young people in the decisions that impact their daily lives and long-term development and learning."

15 Just pausing there, it is your understanding of the Convention that these rights don't suddenly kick in at age 10 or 12 or 14, do they? They are rights that are owed by all children. And if there is a practice that children are not consulted about their preferences, their desires, their fears and concerns until after age 10, that would be in breach of the Convention rights?

20

MS SINGH: It would but obviously the Convention needs to be implemented into law in various States and Territories.

MS MCLEOD: As we have seen with the Children and Young Persons - the *Youth and Families Act*.

25

MS SINGH: There's also a Charter about the provision of out-of-home care -

MS MCLEOD: Yes.

30

MS SINGH: - for the rights of children as well that talks about what rights they have in that.

MS MCLEOD: The Charter is intended to reflect the *Convention on the Rights of the Child*.

35

MS SINGH: I would have to double-check. I haven't read the Charter in a little while. I would have to go back to it.

40 MS MCLEOD: Perhaps as implemented in Victoria amongst other things in the *Victorian Charter of Human Rights and Responsibilities*, and also the legislation, the key legislation, Children, Youth and Families, which mandates that the voice of the child is an important consideration in determining the best interests and placement of the child.

45 MS SINGH: Yeah.

MS MCLEOD: This overarching consideration, the best interests of the child, is it your observation over many reports and the way those reports are received and acted upon, do you - it is your opinion that the best interests of Aboriginal children are being protected appropriately?

50

MS SINGH: Sorry, just to clarify, when you say "reports", do you mean the thematic reports that we -

5 MS MCLEOD: Your thematic and individuals reports, the conversations you have with children who are ringing you directly or speaking to you directly, is it your observation that the rights of those children meet the best interest principles set out in the legislation?

10 MS SINGH: In specifically getting - hearing their voices and their right to participation, don't see enough evidence of that.

MS MCLEOD: And in terms of decisions about placement and care of those children when they're in State care, are their rights protected?

15 MS SINGH: I don't see enough evidence of it. Or I see minimal evidence of it. We hear about children being removed without any notice, any discussion. We hear about children having numerous placements in their time in out-of-home care without any warning, decisions about where they will or won't go to school. They're often not engaged with on those whole range of decisions that impact on their lives, that they don't get involved in.

20 MS MCLEOD: Deputy Chair, I didn't intend to go specifically to these topics. They are addressed in Commissioner Singh's statement. But in case there are questions, at paragraph 76 to 79, the topic of kinship care is not been adequately supported; at 80 to 83, high rates of crossover children, the overrepresentation in the Youth Justice system, 84 to 25 86; Aboriginal children and young people disproportionately experiencing specific types of harm in youth detention; and lack of appropriate data collection and recordkeeping.

I was proposing to next ask about key systemic areas derived from mandatory and public notifications but if there are questions Commissioners have now or at some point, I should 30 pause to let you ask those questions.

COMMISSIONER HUNTER: I think the questions I have on those are for the Minister rather than the Commissioner because this is about a level of authority of who sees this data and who acts upon it. So I can see the Commissioner's frustration as much as we have 35 had this week. So I don't know that any -

COMMISSIONER WALTER: My questions are for the Minister as well, especially around kinship carers and the stated - the department what the ideal is as opposed to what the reality is as revealed by the VAGO report in 2022, and it's that gap, between ideal and 40 reality that is increasingly the focus here.

COMMISSIONER LOVETT: My questions are about self-determination. Do it now? Self-determination, child protection system. Has government really transferred power and resources to community? 45

MS SINGH: I think that's a discussion, or an answer - a question. All of those things are question and discussion, yes, for department and Aboriginal Community Controlled Organisations to have that discussion of. What my focus is, as Commissioner for Aboriginal Children and Young People is how do Aboriginal and young people get to 50 exercise their self-determination in these systems? So when I think about what a different

child protection system, a different system of protecting children looks like, children and young people are at the centre, and for Aboriginal children and young people, their self-determination is demonstrated by their ability to express their wishes, to be heard, to have consistent relationships with workers who will be able to advocate for them, to connect to culture, a whole range of things.

COMMISSIONER LOVETT: And do you think that's happening now?

MS SINGH: I don't see enough evidence of it, no.

COMMISSIONER LOVETT: That's a no?

MS SINGH: No.

COMMISSIONER LOVETT: I just couldn't hear it properly. I won't ask any more self-determination questions then.

COMMISSIONER BELL: Would you go to paragraph 199 of your statement.

MS SINGH: 199?

COMMISSIONER BELL: 199.

MS SINGH: So many paragraphs. Okay, yes.

COMMISSIONER BELL: This is a bright fire stick on the hill. I wanted you to give you the opportunity to read it. Could you read it for the record.

MS SINGH: Yes:

"With the ongoing impact of colonisation, entrenched disadvantage and poverty that too many Aboriginal people experience, the Victorian government must ensure that all Aboriginal children and young people, as for all Victorian children and young people, have the opportunity to flourish and reach their full potential. In my view, this requires recognition of and redress for historical injustices, as well as a whole-of-government approach that addresses the various domains of wellbeing including social, economic and cultural factors. Only through comprehensive and collaborative action driven by self-determination can these systems begin to improve and facilitate better outcomes for Aboriginal children and their families."

COMMISSIONER BELL: Thank you for bringing that statement to the Commission.

MS SINGH: Thank you.

COMMISSIONER BELL: Just one question on a matter of detail. Article 25 of the *Convention on the Rights of the Child* requires that there be a periodic review of the conditions of children placed in care. It would appear that there is no review whatsoever of children placed on permanent care orders. Am I correct in that or incorrect?

MS SINGH: So permanent care orders are effectively where the child or young person is placed in a stable home that addresses their needs and, effectively, my understanding is that the department steps out.

5 COMMISSIONER BELL: Out of the picture?

MS SINGH: Yes. So if - I mean, if there were concerns, I imagine, about risk and harm that is in that permanent care placement, that would, I imagine, trigger another report looking at what's happening for that child, yes.

10

COMMISSIONER BELL: Yes, someone other than the department would need to bring that about?

MS SINGH: Yes. Yes. So a mandatory reporter could raise that, yes.

15

MS MCLEOD: Just on that question of periodic reviews, does the Commission contribute to a State government contribution to the periodic reviews under the Convention?

MS SINGH: Periodic - sorry, I'm lost, sorry.

20

COMMISSIONER BELL: They're specific, Counsel. They're specific to the child. They're not system related.

MS MCLEOD: Thank you, Commissioner. Commissioner, paragraph 200 of your statement, you make reference to hundreds of recommendations to improve the child protection system and Youth Justice system and its systemic inquiries. You say - this is page 47:

25

"In my view, there are some key outstanding recommendations from these systemic inquiries which remain relevant steps that can be taken to prevent or mitigate the systemic issues and areas of concern..."

30

That you have identified.

35 MS SINGH: Yes.

MS MCLEOD: And you set out a list of those key recommendations at annexure 5.

MS SINGH: Yes.

40

MS MCLEOD: Could we just bring up annexure 5, please. These are recommendations that are outstanding from your systemic inquiries, and insofar as they represent matters that you think are still relevant for the department to respond to - can I do this universally to start with. Would you suggest that the Commission, this commission, this Yoorrook commission, should, if appropriate, support those recommendations?

45

MS SINGH: Yes.

MS MCLEOD: Are there any that you wish to highlight on that list that you think are most urgent?

50

MS SINGH: Well from *'In Our Own Words'*, recommendations 1 and 4 relate to giving all children and -

5 MS MCLEOD: Just pardon me for a moment, it's page 70 of the document.

MS SINGH: Recommendations 1 and 4 relate to participation opportunities for children and young people and listening and responding to the voice of children and young people. That there are appropriate mechanisms that allow that to happen. What we see is that
10 children don't have regular engagement with child protection workers, and so there's often no particular person that they can express what their needs are.

MS MCLEOD: Perhaps unfair to ask you to pick and choose winners on this list.

15 MS SINGH: They are all my babies.

MS MCLEOD: But they include recommendations around strengthening families.

MS SINGH: Yes.

20

MS MCLEOD: Around early intervention responses.

MS SINGH: Yes, absolutely.

25 MS MCLEOD: Improving tertiary responses.

MS SINGH: Yes.

MS MCLEOD: Ensuring the voices of Aboriginal children and young persons are at the
30 centre of decisions that affect them and should also, might I suggest, be at the centre of all action -

MS SINGH: Yes.

35 MS MCLEOD: - taken by the State.

MS SINGH: Yes.

MS MCLEOD: In caring for these children.

40

MS SINGH: Yes, absolutely.

MS MCLEOD: Consistent and adequate resourcing to the ACCOs.

45 MS SINGH: Yes.

MS MCLEOD: Reforming data collection, redesigning residential care homes. Perhaps you could just expand on that point?

MS SINGH: So with regards to that, a lot of our recommendations in *'In Our Own Words'* which focused on experiences in out-of-home care, we specifically talked about what residential care homes should have in them, and I - in my statement I set out -

5 MS MCLEOD: 221.

MS SINGH: Thank you so much. So what children and young people are telling us. *'In Our Own Words'* was literally the words of children and young people. So residential care workers who are caring and genuinely engaged with each child and young person, that they
10 are therapeutically trained to identify and manage complex behaviours and reduce the need for involvement from police to de-escalate behaviours. Who are responsive cultural needs of Aboriginal and young people.

That there's a high ratio of workers to children and young people. That when we are
15 placing children in residential care homes, we're considering the individual experiences, the needs, the ages and other characteristics of those children. So, for example, we're not placing incredibly young children with late teenage - sorry, 16 year olds. Physical environment. We want it to have a feeling of home and safety. Children - Aboriginal children and young people have said to me that experiences of out-of-home care did not
20 feel like home. They didn't feel like it was their home, that they would they would want to bring people home to, like lots of us want to. Access to pets and other therapeutic responses. Facilitate connections with education and support participation in recreational activities.

25 MS MCLEOD: Two things I want to highlight. The first is that you mention in paragraph 222 and 3 that your role needs to be clarified and expanded legislation.

MS SINGH: Yes.

30 MS MCLEOD: So what needs to occur? You mentioned this the last time you gave evidence, but just to give you another opportunity to say what needs to occur here.

MS SINGH: To explicitly mention the role of Commissioner for Aboriginal Children and Young People. There's nothing in the legislation to talk about why the role is needed, and
35 the role is needed because of the overrepresentation of Aboriginal children in out-of-home care, in child protection and in Youth Justice. So as I said the first time I gave evidence, there's nothing in the legislation that all that refers to my role.

So to clarify - the reality is that I work very closely and collaboratively with the Principal
40 Commissioner to run the Commission and exercise functions and powers, and my work is related to Aboriginal children and young people, but there's nothing specifically explicit about that. That's the way it's been developed.

45 COMMISSIONER BELL: And your statement and the positions advocated come with your authority and also with her authority.

MS SINGH: The Principal Commissioner's yes, as well, also agreeing to this. So, as I've got there in that paragraph 222, what's the clarification of my role in regards to vulnerable
50 Aboriginal children and young people, children who are in the child protection system and Youth Justice system. What's my role in regards to Aboriginal Community Controlled

Organisations who are delivering services for child protection but also community service organisations that are looking after Aboriginal children. So greater clarification of what the role is meant to do.

5 MS MCLEOD: Could we go back to page 72, the summary of your recommendations in appendix 5. At the foot of page 72, the recommendations of '*Our Youth, Our Way*', we haven't specifically talked this morning about Youth Justice.

MS SINGH: Yes.

10 MS MCLEOD: But I wanted to highlight the foot of the page, recommendation 8 and 10. So the Commission has heard evidence from the Attorney-General a week ago, and on Monday the Commissioner and Minister for Police in relation to these changes. Your recommendation outstanding from '*Our Youth, Our Way*' is that the Children, Youth and
15 Families Act be amended to increase the minimum age of criminal responsibility in Victoria to 14 years without exceptions.

MS SINGH: Yes.

20 MS MCLEOD: We understand that the proposals, according to the Attorney-General, are to raise the age this year some time to 12 and then, in 2027, 14, subject to safeguards.

MS SINGH: Yes.

25 MS MCLEOD: What those safeguards are yet, we don't know.

MS SINGH: No.

MS MCLEOD: Or how they'll be resourced.

30 MS SINGH: Yes.

MS MCLEOD: So can I invite your comment now in relation to the proposal to delay until
35 later this year the raising of the age to 12 and then delay until - for four years or so, potentially more, the raising of the age to 14 without exceptions.

MS SINGH: So the voice of the Commission for Children and Young People is one of a
40 chorus of voices calling for raising the age to 14 years without exception. The Commission itself first raised raising the age in 2016 and then subsequently backed that with calls, obviously, from '*Our Youth, Our Way*'. There's so much evidence that says why the age of criminal responsibility should be 14. There is evidence from around the world in other jurisdictions about how this works, about how we can have responses to particular behaviours that do not involve a criminal response but involve a therapeutic response.

45 And I think sometimes what's missing from the conversation around this is that there's a fear that if we suddenly raise the age, that there will be nothing else put in place, that suddenly we'll have young children, or children between the age of 10 and 14 just running amok. We're not talking about an absence of services and supports. We're actually talking about greater investment that is responding to behaviours of a child and understanding how
50 and why children are behaving in particular ways. As we've talked about from this

evidence, a lot of the children we see are acting out because of traumatic backgrounds, because they haven't developed the skills to be able to respond to the traumas that they've experienced.

5 So there has been a lot of time and a lot of advocacy from a lot of people around the country to raise the age. It's disappointing because it's not clear what the evidence basis is for doing it in this way. There could be a commitment now to raising the age and seeing work done. There has been so many recommendations, so many submissions that set out what could be done in response to it.

10

I hope that there is reform sooner rather than later in regards to raising the age to 14.

MS MCLEOD: Is it your evidence that the system at the moment is punishing children for their trauma?

15

MS SINGH: Yes. The children that we see at the Commission for Children and Young People, who are some of the most vulnerable children in Victoria, we see them experience certain traumas that lead to their being removed from their families. We see them in environments where further trauma is - further harm is experienced and we see those children then becoming engaged, at the age of 10, if they've been - and remembering that specifically for Aboriginal children and young people, our children enter out-of-home care in the child protection younger than non-Aboriginal children.

20

So needs are going - traumatic experiences are happening earlier. The needs are not going - needs are not being addressed, are not being met. And then as soon as the age of criminal responsibility comes in at 10 years old, we suddenly find these children who have experienced these traumas are acting out in ways that demonstrate clear connection with their traumas, also becoming entangled with the Youth Justice system.

25

MS MCLEOD: Mr Alisandratos yesterday said he expected the current framework addressing the criminalisation of young people in residential settings, he expected those numbers to come down as that framework was implemented. Are you familiar with the framework?

30

MS SINGH: I am, yes.

35

MS MCLEOD: Does the Commission have input into that framework?

MS SINGH: So we are not a signatory to the framework, but we are part of - I don't have the exact word to hand - we are involved in meetings that (indistinct) the implementation.

40

MS MCLEOD: A collaboration?

MS SINGH: Yes.

45

MS MCLEOD: Can I ask you to look at the next recommendation, and that is the amendment to the Act to prohibit children under the age of 16 being sentenced to or remanded in youth custody - sorry, this is page 72.

MS SINGH: Yes.

50

MS MCLEOD: Under the age of 18 being sentenced to adult imprisonment. So this relates to the ages of incarceration.

5 MS SINGH: Yes.

MS MCLEOD: And incarceration in adult facilities.

MS SINGH: Yes.

10

MS MCLEOD: Now, there hasn't been much focus on that thus far in the Commission. What would you like to say to the Commission about the minimum age of incarceration and the minimum age of incarceration in adult facilities?

15

MS SINGH: So we know that the earlier a child goes into Youth Justice detention, into prison, the more likely they are to stay connected - connect, the more likely they are to return and then to potentially progress on to offending as an adult. So we want to see reforms that address what the needs are for children and young people and address what is - what is - what their behaviours are, but with jail being the absolute last resort.

20

When it comes to children under the age of 18 being sentenced to an adult prison or to adult imprisonment, adult prisons don't cater for children. That's the simple fundamental - they're for adults. We are - we are effectively treating children as if they are adults. And for the children that we see, they have been often through traumas that have led to them being removed, that have led to them engaging in behaviours that bring them in contact with the Criminal Justice system with no actual response to what those behaviours are or the causes of those behaviours or the trauma that's experienced.

25

And then for children who are then going into the adult imprisonment system, there is only so much that can be done to try to keep these children connected with therapeutic responses and rehabilitative responses. But ultimately they're in an adult situation. And so it means that because there's few children in adult prisons, the idea of being able to - sorry, connect with peers, that vital peer connection is not there.

30

35

So many of the supports that you can get in Youth Justice centres - and I'm not advocating for Youth Justice centres at all, but there's certain things that are available in Youth Justice centres that aren't available in adult prisons. And children should not be in adult prison.

40

MS MCLEOD: Is it your view and the Commission's view that placing a child in a custodial setting under the age of 16 and placing them in an adult prison under the age of 18 are not in the best interests of the child?

MS SINGH: No.

45

MS MCLEOD: Commissioners, I suggest a short break. There may be some matters that we wish to proceed with in closed hearing. Just to - if we have a short break and then we can decide on the best way forward.

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COMMISSIONER HUNTER: Yes. Thank you. 10 minutes enough? Thanks.

<ADJOURNED 11:11 A.M.

<RESUMED 11:20 A.M.

5 MS MCLEOD: Paragraph 164 if I can just go back to that paragraph and the statistic mentioned there.

MS SINGH: Yes.

10 MS MCLEOD: During the period you say there were 193 incidents and I asked you about the discrepancy with the appendix. I understand the reference there in paragraph 164 is to incidents in Youth Justice. That might explain the discrepancy.

MS SINGH: Yes.

15

MS MCLEOD: Sorry, looking for clarification from somewhere. But that would explain the discrepancy in the numbers.

MS SINGH: Yes, it is.

20

MS MCLEOD: Thank you. Can I ask you to turn to paragraph 205 of your statement and the concept of better off overall.

MS SINGH: Sorry, which paragraph?

25

MS MCLEOD: Paragraph 205.

MS SINGH: Yes, thank you. Sorry.

30 MS MCLEOD:

"Earlier intervention will ensure the experience or risk of experiencing harm by Aboriginal children and young people and their families or other places is addressed appropriately at the first indication."

35

So this is the discussion around early intervention and risk, and:

"Early intervention response must promote self-determination..."

40 And Commissioner Lovett asked you some questions about self-determination.

"...including by enabling Aboriginal children and young people and their families to choose from where they receive services, be evidence based, intensive and culturally appropriate."

45

And ultimately you say in the last dot point:

"...leave the child or young person and their family better off overall."

50 So the goal of any intervention in a child's life should be that they are left better off overall.

MS SINGH: Yes.

5 MS MCLEOD: Can I ask you to talk about that concept a little bit. Should the aim of every interaction between child protection and a child or their family be guided by this principle; that they are better off overall as a result of that?

10 MS SINGH: It's - it would have to be very carefully articulated because better off overall should be from the perspective of the child and young person and their family, not necessarily from - which could be a different perspective compared to what the department thinks is better off overall. So -

15 COMMISSIONER BELL: Where do human rights come into this generalised statement? How do people work out how to balance competing interests? It sounds very utilitarian to me.

20 MS SINGH: Yeah, I mean the better off overall is an idea that whatever the engagement with child protection, whatever interaction child protection is having with a family, with a child or young person, that there's some benefit to it. There's some sort of positive outcome that comes from it; whether it's the beginning of a relationship that's going to continue, whether it's the idea of, you know, this - "I will be the person that you can call when things go wrong", whether it's the, "I can get you to an appointment", these sorts of things that will actually support that relationship that will enable children and young people and their families to be able to engage with the supports and services that they need.

25 COMMISSIONER BELL: I get that, yes.

30 MS SINGH: But what we have right now is a system that, in lots of ways, sees what's happening with the child but doesn't do anything.

COMMISSIONER BELL: Yeah.

35 MS MCLEOD: I'm talking about individual interventions. The aim being to leave the child and their family better off, better off overall. Can I take you to some evidence that the Commission has heard. The first is some evidence of Sissy Austin, BAL4.0004.0001.0051-R, and page 182 - paragraph 182 to 186 of her statement. And I'll just give you a summary of that. This concerns the return of a child into her care. She says:

40 *"Even though we were happy, child protection weren't happy with us all being in my little two-bedroom house with a child sleeping on the couch. They imposed a requirement that we get a three-bedroom house by a particular court date. They doubted our ability. It was almost like they set us up to fail, but the ancestors and Bunjil helped us. We got a three-bedroom house just before the court date. I had to let go of my deadly little house.*

45 *We sacrificed all for the kids and all with a vision to have child protection out of our lives. Aunty Rieo organised a crew of cleaners to help make it smoother because we were on such a tight timeframe. We moved in, had only one day to set up the house because court was going to be in two days. They needed help to put the beds together and tick the boxes for the department."*

50

She says at paragraph 186:

5 *"The department was so shocked that we got the three-bedroom house, but they didn't congratulate us. They came in and did an inspection the day before the court and asked "Where's the washing machine?" It was like, are you serious?"*

10 So they had moved house, managed to procure a suitable three-bedroom house to meet the department's requirements within a very tight timeline, busted their proverbials to get the house ready in time and when the protection worker walked in, no question except for, "Where's the washing machine?"

15 Now, many of us don't have washing machines. So what does this indicate to you about the attitude of child protection workers in terms of supporting and building up those families, supporting them in this process rather than taking a punitive approach?

20 MS SINGH: That was going to be my comment in regards to that situation, is that it's a punitive response, that, as Sissy Austin says, feels like they were set up on fail. It reminds me of - if I can take a little side step, but it's so interesting, that - my mother grew up a little bit on the Mooroopna Flats and I understand the Commissioners and Yoorrook staff got to visit Mooroopna Flats and hear some of the stories, and there's the wonderful video The Flats with Elders talking about their experiences. And I think it's Aunty Fay who talked about her mother filling up empty cans and putting the lid back on and stacking in the houses - in the house so that when welfare would come and check, they would look like they had food and such. And -

25 MS MCLEOD: She gave that evidence to the Commission as well.

30 MS SINGH: I hear that story and there's a part of me that thinks what's changed in terms of the punitive approach to, you know - I am certain that in that little two-bedroom house there would have been love and care and support and a demonstration of kinship caring values that have sustained Aboriginal community for thousands and thousands of years but instead, is met - I wonder in that interaction where was the support for finding a house. Where is the offer for finding the house or at the least a washing machine?

35 MS MCLEOD: There is no place in a child protection system for a punitive response, is there?

MS SINGH: Correct.

40 MS MCLEOD: There is no place for a child protection practitioner to take the role of oversight that this reported child protection practitioner has taken, is there?

MS SINGH: No.

45 MS MCLEOD: The job of the child protection practitioner is to support the family and child in the best interests of the child to ensure they're better off overall; do you agree?

MS SINGH: Agree, yes.

MS MCLEOD: And just finally, you might be aware of evidence the Commission has previously heard from Aunty Rieo, who I just mentioned, Aunty Rieo Ellis, her evidence at HB10001.0010.0001 at paragraphs 17 and 18. Just by way of comparison, she says in paragraph 17:

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"If we can get there as soon as possible, we can understand what's really going on. Build them up. Help keep that family together. If a family member relapses, we don't kick them while they're down. We pick them up and support them."

10 That is the approach, I suggest, that should be being taken by all child protection practitioners; would you agree?

MS SINGH: Absolutely. There's so much to learn from Aboriginal cultural practices of working with families, working with kin, being supported, so much to be learnt from practices of Aboriginal community.

15

MS MCLEOD: On a related topic, although child protection decisions have to be made in the best interests of the child, the Act does not apply that principle to decisions about children in the Criminal Justice system.

20

MS SINGH: No.

MS MCLEOD: So that's a clear failing, is it not?

25 MS SINGH: It shows that the Youth Justice system puts something other than the best interests of the child first.

MS MCLEOD: Yes. And then it's up to the court to remember that, in sentencing decisions.

30

MS SINGH: Yes.

MS MCLEOD: Surely it would be of benefit to have that principle embedded in the Criminal Justice system in relation to all youth and particularly the Youth Justice system?

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MS SINGH: Yes. If our goal from the Youth Justice system is to stop offending behaviour, then there must be a focus on rehabilitation, on what is in the best interests of the child. If they're in youth detention, what's going to happen when they come out and re-join community? There must be a focus on what supports are both happening inside and outside of Youth Justice centres.

40

MS MCLEOD: Deputy Chair, they are all the questions I have. There may be questions from Commissioners.

45 COMMISSIONER BELL: No, I'm good, thank you.

COMMISSIONER HUNTER: I just want to firstly thank you for your earlier opening statement around the strengths and resilience of our children and young people. It can get easily lost in this topic so thank you for that. I just want to say we also share in your

frustration. Thank you for the hard work that you do, particularly around those child death inquiries, to honour those lives and try and get change. So I'd like to thank you for that.

MS SINGH: Thank you, Commissioner Hunter.

5

MS MCLEOD: Commissioner, is there anything you wish to say in closing?

MS SINGH: Just thank you for the opportunity to speak with you all again. I know that these hearings and hearing so much about what's wrong for children and young people in our community - at the Commission we just keep working to - to raise the stories of children and young people, for me specifically, for Aboriginal children and young people, raise their voices in places where they can't be heard directly. So thank you for the opportunity to allow me to do that.

10

MS MCLEOD: The decision has been taken not to continue with closed session at the moment. So that may be something we can discuss further with the Commissioner or she may have further information to provide to us. So that is the evidence of the witness at this time. Thank you, deputy Chair. I would recommend another short break before we resume with the Minister.

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COMMISSIONER HUNTER: Yep. Thank you. Is she going to be 11.45, am I correct?

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MS MCLEOD: Yes, if that's suitable.

COMMISSIONER HUNTER: Yep, that's suitable. Thank you.

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****<THE WITNESS WITHDREW**

<ADJOURNED 11:38 A.M.

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<RESUMED 11:56 A.M.

COMMISSIONER HUNTER: I'd like to invite Commissioner Lovett to Acknowledge Country.

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COMMISSIONER LOVETT: (Speaks Dhauwurd Wurrung language). Can we stand for a minute's silence, please.

(Video played during minute's silence) .

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MS MCLEOD: Thank you, Commissioner Lovett, for your Acknowledgement of Country. Can I invite Ms Bennett to announce her appearance, please.

MS BENNETT: If it please the Commissioners, I appear with Ms Cafarella for the Minister. In appearing, Commissioners, I would like to pause to acknowledge the Traditional Owners of the land on which meet, the Wurundjeri of the Kulin nation, and I pay my respects to their Elders past, present and future, and I extend that respect to all First Nations people present here today. May it please the Commission.

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MS MCLEOD: Commissioners, I call Minister Lizzie Blandthorn, Elizabeth Blandthorn.

50

****<THE HON. ELIZABETH BLANDTHORN, CALLED**

MS MCLEOD: Minister do you undertake to give truthful evidence to this Commission?

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THE HON. LIZZIE BLANDTHORN: I, Elizabeth Anne Blandthorn, swear by almighty God, recognise that the evidence I shall give will be the truth, the whole truth and nothing but the truth.

10 MS MCLEOD: I understand, Minister, that you wish to make some opening remarks?

THE HON. LIZZIE BLANDTHORN: I do, thank you.

MS MCLEOD: Yes, please.

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THE HON. LIZZIE BLANDTHORN: Thank you also, Commissioner, for the welcome this morning. I acknowledge the Traditional Owners of the land on which we meet today and the lands on which I work and live, the lands of the Wurundjeri people, and I pay my deepest respects to their Elders past and present. I also acknowledge all Traditional

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Owners of the lands throughout Victoria, including those in the room today and those who may be joining us remotely.

I acknowledge that the connection of First Peoples to these lands and waterways is tens of thousands of years old and that the sovereignty of these lands and waters was never ceded.

25

Further, I acknowledge all Commissioners and Counsel Assisting and support staff for the work you are doing in this historic commission. I acknowledge the sacrifices that you and your families are making as you dedicate yourselves to this important truth-telling process.

30

With sincere gratitude, I pay my deepest respects to the First Peoples who have already shared their experiences with this Commission. I am constantly inspired by the gracious way in which First Peoples are prepared to share their experiences, time and again, retelling often traumatic evidence in forums which were not established by them or for them in the hope of realising justice for themselves, their families, their community and their Country.

35

I truly hope that this Commission is a turning point. I am a relatively new Minister for Child Protection and Family Services. I was privileged to be elected to the Victorian Parliament - the Parliament of Victoria in 2014. In my first term, I chaired the Scrutiny of Acts and Regulations Committee, Parliament's joint investigatory body committee with responsibility for ensuring that bills introduced to Parliament do not breach the *Charter of Human Rights*. In my second term I chaired the Public Accounts and Estimates Committee, Parliament's joint investigatory committee with responsibility for ensuring the accountability and transparency of government expenditure.

40

45 Last year, I was appointed to the Victorian Cabinet. In all my Parliamentary endeavours, I have been motivated by an absolute belief that all life is sacred and that every person has a fundamental right to a standard of living that is consistent with human dignity. And that fundamental to human dignity is the right to, wherever possible, be cared for by one's family, the right to know one's identity and the right to practise one's culture and religion.

50 Therefore, it is my now greatest privilege and I feel solemnest responsibility to have been

Minister for Child Protection and Family Services and Minister for Disability, Ageing and Carers. In that spirit, I am humbled to be with you today.

5 I hope that I can provide evidence that is of real assistance to the Commission and which can inform recommendations that will influence a more accessible, just and culturally safe Child Protection and Family Services system. At the outset, I acknowledge the grave injustices inflicted by the State and many state-funded organisations on First Peoples since colonisation. The Yoorrook Justice Commission provides an opportunity for us to formally reckon with both past and ongoing injustices. It also provides an opportunity for
10 us to consider the ways in which our contemporary systems and practices impact the lives of First Peoples.

15 As the Chair explained earlier this week, the word "protection" has a long and tragic history for First Peoples. The *Aborigines Protection Act* was legislation that had significant impact on Victoria's First Peoples. It enabled so-called protectors to attempt to control First Peoples through missions and reserves. It also provided for the forceable removal of children, what is better known as the Stolen Generation.

20 It is well documented that the predominant aim of the forceable removal of First Peoples children was the clear and explicit intention to eliminate First Peoples by ensuring that their unique culture and identities would disappear. The legacies and trauma created by colonisation and subsequent laws, systems, practices and beliefs, continue to pervade our contemporary child protection system.

25 We know that risk factors which are closely correlated with child protection involvement such as family violence, substance abuse, homelessness and poor mental health, statistically present with greater frequency in First Peoples families and contribute to Victoria's shameful rates of overrepresentation of First Peoples in our child protection system.
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35 As the Minister for Child Protection and Families Services, I acknowledge the profound impact of Colonisation and associated assimilation policies. I acknowledge the shameful history of the removal of First Peoples children who were taken under the guise of protection. And I note that from the time of Colonisation, there were many agencies involved in the removal and assimilation of children.

40 I have only held my position as Minister for Child Protection and Family Services for five months. In that time, I have sought to better understand the impact of the system, historically and currently, on First Peoples families and children. I have heard the evidence that this Commission has received. As a Minister and as a mother, I find that it is truly heartbreaking. I take this opportunity as Minister to apologise formally and unreservedly for the harm caused by historic removal of First Peoples children from their families, their communities and their Country.

45 For the harm caused by historic practices that infringed on the rights of families and children to live free from violence, abuse, racism, deprivation and discrimination. And for the harm caused by historic practices that infringed on the rights of families and children to practise their culture safely and happily. On behalf of the State of Victoria, I say sorry.

I believe that the staff who work with children in the current Department of Families, Fairness and Housing work hard. They have the best interests of children foremost in their mind. As Minister, I appreciate and value their commitment and dedication to assisting families live healthy, happy and fulfilling lives. Of course, the impacts of the structures and systems built following Colonisation are not so easily undone, and I acknowledge that there are real and lasting legacies in the form of unconscious bias and systemic racism that need to be identified and removed.

While we have made some progress and improvement in recent years, particularly in relation to transferring decision-making for some First Peoples children to Aboriginal Controlled Community Organisations, these have not yet had the intended effect of reducing Victoria's shameful rates of overrepresentation of First Peoples in the child protection system. I know the Victorian government must do more.

I understand there is much we can do together now to keep children safe and connected to family, to culture, community and Country. We have committed to work with First Peoples leaders and organisations to address systemic issues where child protection legislation, policies and procedures are driving interventionist approaches and not enabling true connection and engagement with First Peoples children and families.

Focusing on developing and increasing the limited number of First Peoples-led and designed early help and prevention programs currently operating to divert vulnerable First Peoples children from the child protection system. Resourcing ACCOs to flexibly deliver place-based holistic services, improve the cultural safety of our services and how we identify conscious and unconscious bias and racism and their impacts on decision-making. Enabling the development of a culturally-attuned child protection and community services workforce, both in ACCOs and in general services so that First Peoples children and families have a choice of appropriate service options.

Consider how to best culturally support the long-term care arrangements and exit pathways from child protection for First Peoples children when they cannot be safely reunified with their parents. Developing First Peoples-led research and evidence. I am conscious that there is an increasing sense of urgency and a desire to understand how change will happen. This approach must be built on the foundations of self-determination. I have been grateful for the advice of so many First Peoples-led organisations, particularly ACCOs.

In conclusion, I am motivated by the work of this Commission and by the opportunity to meaningfully grapple with the legacies of colonialism and dispossession. First Peoples children have the right to live safely with their family, connected with their community and Country. First Peoples children have the right to know their identity and practise their conversation. First Peoples families rightfully expect the support of government to uphold their fundamental human rights.

I am reassured that the partnerships that exist between government and First Peoples-led organisations will enable us to progress necessary reforms. Reforms to both improve the immediate supports and services provided to First Peoples children and families, as well as design and implement a First Peoples-led children and families services system.

I thank the Commission for the opportunity to make this opening statement and I welcome your questions. Thank you.

5 COMMISSIONER HUNTER: Thank you, Minister. Your apology today is significant, and you've apologised for the actions of governments and the harm they have cause add continue to cause Aboriginal children, families and communities across generations. An apology without action is not enough. The real test will come in the actions that you and your government take after today.

10 Our children should be able to grow up healthy, happy, strong, connected, knowing their culture and who they are in themselves. But for thousands of our children involved in the child protection system, this is not the case. It has been heartbreaking over the past few months to sit in this room and in rooms across this State and hear story after story of how our child protection system is failing our Aboriginal children.

15 We are here 26 years since the *Bringing Them Home* report and some 16 years after the Prime Minister's apology to the Stolen Generation. Seen shameful child removal statistics that show things have gotten worse, that show that Victoria is removing children from Aboriginal families at the highest rate in this country. Every single statistic, every single number is a child removed from their parents. A child that is too often also removed from their siblings, their culture, and their community.

20 Victoria's child protection system is causing devastating, long life impacts on our children, our families and our community. It is creating trauma that is passed on to future generations. We sometimes make the mistake of talking about the child protection system as if it's a thing that exists and runs itself. We need to remember that the laws, the policies and the decisions that make up this system are made by people; people charged with this power by the State. People like you who have the power and the responsibility to protect our children, our families and our culture.

25 There are three things that everyone who has come before us in this inquiry has agreed upon. The current system is failing Aboriginal children and families. It must urgently change. This change must involve self-determination for Aboriginal people. And when we talk about self-determination, we don't mean a tokenistic transfer of inadequate resources and limited authority within a failing system. We mean giving Aboriginal people genuine control of the issues that affect our lives.

30 Giving us the power, the resources and the authority to design a system that enables our children and families to thrive. Minister, this is the action that must urgently follow this apology. Thank you. Thank you, Counsel.

35 40 MS MCLEOD: Minister, for the record - this is just a bit of housekeeping - your apology is DFFH.0008.9999.0001. Just turning to your statement, you have provided a signed statement which was signed on 24 March 2023, and I understand there is a couple of corrections to that. Just for the record, DFFH.0008.0001.0001. So can I ask you, do you have that statement in front of you?

45 THE HON. LIZZIE BLANDTHORN: I do, thank you.

50 MS MCLEOD: Can I ask you to turn, please, to paragraph 30 of your statement. Could you read, please, on to the record the paragraph that you wish to replace this current paragraph.

THE HON. LIZZIE BLANDTHORN:

5 *"In 2023, the Department of Premier and Cabinet and my department will work with the Partnership Forum on the approach to updating Victoria's Closing the Gap Implementation Plan '21 to '23, particularly target 12 as it relates to the actions to achieve priority reforms and socio-economic outcomes in the national agreement on Closing the Gap national agreement."*

10 MS MCLEOD: Thank you. So the effect of the change is to make mention to target 12. There's also a typographical correction to be made to paragraph 70(d). If you have that in front of you, the reference to the Aboriginal Innovation Fund in paragraph 70(d) should be a reference to the Aboriginal Innovation and Learning Fund; is that correct?

15 THE HON. LIZZIE BLANDTHORN: That's right.

MS MCLEOD: With those changes to your statement, is that statement now true and correct?

20 THE HON. LIZZIE BLANDTHORN: It is.

MS MCLEOD: I tender both of those documents. The opening statement and the witness statement of Minister Blandthorn. Those documents can now be posted on the website.

25 COMMISSIONER HUNTER: Thank you, Counsel.

MS MCLEOD: Minister, I want to ask you about the opening statement you made and the apology that you made. You would be aware that - of the significance of that apology to this Commission and to Aboriginal people in this State?

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THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: You would be aware that in 1997, then Premier Jeff Kennett apologised to the Stolen Generations, and as has been mentioned by the Deputy Chair, in 2007, Prime Minister Rudd also apologised to the Stolen Generations.

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THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: This Commission has heard evidence from the Wright family that Aunty Eunice Wright was a champion of the reforms and protections and compensation for the Stolen Generations and attended Prime Minister Rudd's apology in Canberra. So bearing those things and the apologies to the Stolen Generations specifically, I want to ask you about your opening statement.

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45 The Premier in his letter to the Chair of this Commission, providing the government response on these issues, child protection and criminal justice, DPC.0005.0001.0002, noted the ongoing injustices in both those systems, criminal justice and child protection, and he described the overrepresentation of First Peoples in those systems as a source of great shame for the Victorian government.

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He acknowledged the conditions and injustices that have caused the overrepresentation and noted responsibility for ensuring that racism and injustice are confronted and addressed. Minister, we have heard evidence over the last two weeks or so, including two and a half days of evidence from senior officials within your department, the Department of Families, Fairness and Housing, acknowledging the failings of the department for those caught up in the system; the children and their families.

He has acknowledged racism and discrimination in the system. He has acknowledged individual instances of children and their families caught up in a cycle of despair and trauma, compounded by the child protection system and their subsequent interactions with the criminal justice system. So bearing that in mind and the Premier's comments, can I ask you, is your apology intended to respond to historic practices and present day failings?

THE HON. LIZZIE BLANDTHORN: The apology relates to historic failings. I also note the evidence given and the letter from the Premier which also notes the shameful situation of the current day.

MS MCLEOD: Can I ask you, does your apology extend to the ongoing injustice, to use his words, and racism and injustice that are confronted in the system today?

THE HON. LIZZIE BLANDTHORN: The apology that was part of its opening statement certainly related to historical situations. Of course, we acknowledge that the situation as it currently stands is not acceptable, and for that we remain sorry.

COMMISSIONER LOVETT: Thanks Minister. Can I ask what does truth-telling mean to you and truth-sharing mean to you in the context of your portfolio?

THE HON. LIZZIE BLANDTHORN: Thanks, Commissioner, for the question. I would hope that all of the - that in every aspect of all work that my department does within my portfolios, and specifically in relation to the child protection portfolio, is done openly, transparently, honestly and that, as part of that, the truth is always told. And certainly my commitment in taking on these portfolios - and, as I said, I've been in these portfolios for five months now but I've been inspired by the extent to which people have openly shared with me their experiences and how they think the truth can be told better. And it's certainly my commitment within the portfolios that we're open, honest, accountable and that the truth is - is told.

COMMISSIONER BELL: Minister, could I just ask for some follow-up answers in relation to the distinction you drew between past injustice and present injustice. Counsel was really inviting you to say quite clearly whether you apologised for both, but you seem to persist in drawing a distinction. I could be misunderstanding you. Are you apologising for both or not?

THE HON. LIZZIE BLANDTHORN: I'm absolutely sorry for any injustice that occurs, any injustice in this - in any system but in the one for which I am responsible is unacceptable, yes.

COMMISSIONER BELL: Yes, and I take it that you therefore accept that the present system is operating shamefully and in an unjust way for which you apologise, as well as for the past?

THE HON. LIZZIE BLANDTHORN: I - there certainly are aspects of the system that are unjust and certainly for where there is injustice, I apologise.

5 MS MCLEOD: Minister, can I turn to your statement - and just before I leave that, Minister, you would understand the significance of your statement of apology in this country at this time - not just for Victoria but in this country; you would appreciate that significance?

10 THE HON. LIZZIE BLANDTHORN: Yeah.

MS MCLEOD: Can I invite you to turn to your statement, please, and ask you a little about your role. You mentioned your professional - you mentioned your ministerial responsibilities and responsibilities before your appointment as Minister for Child
15 Protection and Family Services, including chairing the Scrutiny of Acts Committee and the Public Accounts and Estimates Committee. Before I come to that, would you please give the Commission a brief outline of your professional and academic background as now appears relevant to your portfolio as Child Protection Minister.

20 THE HON. LIZZIE BLANDTHORN: So I completed a Bachelor of Arts at the University of Melbourne, and in particular, concentrated on subjects such as history, economics and public policy and management. Prior - immediately prior to being elected, I was an employee of the Catholic Education Office and I've also worked as a trade union official for the union that represents retail workers, some of the lowest paid workers in our
25 community.

I have also worked as a chief of staff and an advisor across both the federal and State systems and in portfolios such as childcare, youth, sport, multicultural affairs. Relevantly - not paid work but as a volunteer, I have worked in a number of - volunteered
30 in a number of community service organisations but of particular relevance, I served two periods of time on the Caroline Chisholm Society, a family support organisation, one period as president. That organisation, in particular, is relevant because it's about providing holistic family support services from material aid like nappies and prams through to counselling, parenting education and support to disadvantaged across
35 Melbourne's western suburbs and in Shepparton. And obviously my parliamentary service has been already recorded.

MS MCLEOD: Is there anything relevant to your time pre-appointment as a Minister for Child Protection in your parliamentary work that has led you to understand aspects of the
40 child protection system that you wish to highlight?

THE HON. LIZZIE BLANDTHORN: Certainly as - given the other things that I did before I was elected, the children and families has always been a particular interest to me. So within my parliamentary work, it's been an area that I have taken an interest. I've also,
45 as has been said on the record already, served as the Chair of the Scrutiny of Acts and Regulations Committee which is responsible for ensuring that bills that are presented to the Parliament are compliant or that they're not in breach of the *Charter of Human Rights*, the *Victorian Charter of Human Rights* and I've also chaired the Public Accounts and Estimates Committee and the Public Accounts and Estimates Committee assesses

government expenditure and whether or not government expenditure achieves the outcomes that it is designed or said to achieve.

5 And I was also Parliamentary Secretary for Sport, Carers and Volunteers at one time, so carers and volunteers is obviously also an area that touches across my portfolio responsibilities now.

10 MS MCLEOD: In that work or any other parliamentary role as an MP, have you considered prior to your appointment as Minister, the changes to the permanency objectives of the *Children, Youth and Families Act*?

15 THE HON. LIZZIE BLANDTHORN: I have, yes. As I've said these portfolio issues were of interest to me before I was appointed to the portfolio. So when the Bill was presented to Parliament that included the changes that we now refer to as the permanency amendments, that was a particular interest of mine and I was particularly qualified in my support, if you like, in the sense that I wanted to ensure that the permanency amendments didn't operate in a way that was - that caused harm to disadvantaged people.

20 And that fundamental to that is my view that some people need more support than others to be able to achieve equality and that people who - that the permanency amendments created a one instrument of 24 months for reunification and that some people might need more assistance than others in order to meet the requirements for them to be reunified with their families so I was concerned it was a blunt instrument.

25 MS MCLEOD: More assistance, I would suggest, but also more time.

30 THE HON. LIZZIE BLANDTHORN: Yes, I think the two things go hand in hand. And as some people may not be able to get access to services until further on, so it's also about when people can assess services, as well as the time taken to get the support that they need to be able to be reunified.

MS MCLEOD: Since you've been appointed Minister, have you seen any of those concerns come to fruition in terms of the permanency outcomes and objectives?

35 THE HON. LIZZIE BLANDTHORN: Since I became Minister, and certainly because of my interest in this matter previously, it's an area that I have turned my mind to. I have asked my department to look at the permanency amendments as they stood and the implications and, I guess, consequences of those over the last few years. And to do a review and to provide me with some options.

40 MS MCLEOD: This Commission has considered those objectives and will no doubt make some findings around them. I don't want to presume anything, of course, but no doubt you would welcome the Commission's input on the review of those objectives?

45 THE HON. LIZZIE BLANDTHORN: Of course that would be appreciated.

MS MCLEOD: Now -

COMMISSIONER BELL: Can you tell us more about the scope of the review? Is it just about the blunt instrument of the two years and its effect on families or is it about other things?

5 THE HON. LIZZIE BLANDTHORN: Any issues, really, which arise within the context of permanency.

COMMISSIONER BELL: Permanency. Thank you.

10 THE HON. LIZZIE BLANDTHORN: So, yes, I'm interested in it and to know whether my concerns of several years ago have come to fruition, and obviously there has been other reports and whatnot. But, yes I've asked the department to review the entire setting, if you like, and to consult and to provide me with some options in relation to how they could perhaps be -

15 COMMISSIONER BELL: And the timeframe?

THE HON. LIZZIE BLANDTHORN: I haven't got a specific timeframe but it's certainly a matter of urgency.

20 COMMISSIONER BELL: This Commission is due to report on this critical issue at the end of August. Where does your review and what we're doing fit together?

THE HON. LIZZIE BLANDTHORN: As indicated -

25 COMMISSIONER BELL: I guess I'm really asking, to be blunt, will the results of your review come out before our report does?

30 THE HON. LIZZIE BLANDTHORN: If it would please the Commission, we would be also happy to hear the Commission's views about that prior to coming to a determination as to what that looks like, yeah.

35 COMMISSIONER BELL: And involvement of Aboriginal organisations in your review, any?

THE HON. LIZZIE BLANDTHORN: I've asked the department to consult with relevant organisations, so I would imagine that, and expect - sorry not imagine, expect that that would happen, yeah.

40 MS MCLEOD: Minister, at the time that you were appointed, were you the fourth Minister in the role in approximately 15 months. With a portfolio of such complexity, if I can use that term, this would not have assisted, I suggest, progress of critical reforms in the portfolio.

45 THE HON. LIZZIE BLANDTHORN: I think it's - the Premier himself has made quite clear that child protection and particularly child protection for First Peoples children and families, is a - is a priority, and that priority has extended across all of the ministers that have been in the portfolio in recent time. It's absolutely a complex portfolio, and as I can attest, as a Minister of five months, there is - even for an area that you - that I am interested
50 in, passionate about and came to the role with some level of experience, there's always

more to - to know and, you know, a great part of taking on this portfolio has been the consultations that I have had with community members, with ACCOs, with community organisations to ensure that, from my perspective as the Minister now, that I'm well versed in the issues as they currently stand.

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MS MCLEOD: Thank you for mentioning that. I was going to ask what meetings you had - not individually, but in a general sense with Aboriginal-led organisations, both those providing services and those providing broader services to family, including legal representation as well as service providers. What meetings, generally, have you had in the last six months?

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THE HON. LIZZIE BLANDTHORN: I've had a number of meetings, as I'm sure the Commission would expect. But of particular note, because this is such a priority for our government as a whole and certainly for myself and for the Premier. Both he and I have met with ACCOs on - both when the government was first re-elected back in December, early January. And then subsequent meetings as well with ACCOs in relation specifically to issues around child protection for First Peoples children.

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We've also - I've had further meetings myself with ACCOs about those issues as well. I have also met with the obvious legal stakeholders, with VALS, with Djirra, with the Children's Court. So we have sought to, in this short period of time, consult quite broadly. Of course, there's more that can be done. Of course, with also the Commissioner for Children and Young People and the Indigenous Commissioner who I know you've spoken with this morning. So we have consulted quite broadly thus far. And we have also set in place regular consultation periods as well, and particularly in relation to the legal stakeholders, we've also set up a reference group or invited legal stakeholders to be part of a reference group to ensure that that consultation is more broad going forward.

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COMMISSIONER LOVETT: You have apologised this morning for the systemic racism within your portfolio, historical and current. Can you tell us about the systemic racism Aboriginal people are subject to within your portfolio with child protection?

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THE HON. LIZZIE BLANDTHORN: If we look at the system as a whole, and my opening statement referred to the lasting and continuous impacts of Colonisation, the subsequent assimilation policies, dispossession and things -

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COMMISSIONER LOVETT: Let me be more specific, sorry. Systemic racism Aboriginal people are facing today.

THE HON. LIZZIE BLANDTHORN: Yeah, sorry, I understood the question. I was coming to that. I just don't think it can be considered in isolation of the historical context, and I think the systems that we have - or the system that we have today is - contains structures that have been set up over that historical period of time to the present day, with a particular construct of family, of care, of community in mind, and those structures are perhaps at times reflective of that and pervade the current system today.

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So that provides - that means that we still have some level of systemic racism within our contemporary systems. It's completely unacceptable, but I guess the historical context and how that has fed into the structures that make up our system today has - I think it's been

well recognised in this Commission thus far, that that has led to the systemic racism that we experience in the system at the moment.

5 MS MCLEOD: Can I invite you to look to paragraph 20 of your statement and ask you about principles of self-determination. You indicate in paragraph 20:

10 *"Most commonly, leaders and organisations have advised me that what is needed is a genuinely self-determined approach that includes additional investment in early intervention and prevention..."*

That's a common theme that we have heard emerging from the evidence:

15 *"... as well as greater and more flexible arrangements that provide for First Peoples-led decision-making and support for First Peoples children and families."*

So is it your plan and intention to follow the advice that you've received in that respect?

20 THE HON. LIZZIE BLANDTHORN: Certainly our consultations, particularly with the ACCOs around the future of the child protection systems, has acknowledged that there needs to be a - and government has acknowledged that there needs to be a more, or a self-determined approach. Self-determination is obviously a human right. It's not for government to define self-determination in that sense, but it's certainly for government to enable it. And the purpose of our conversations with ACCOs has been for them to tell us what the system looks like and the extent to which they want us to be involved. And the answer isn't the same across all of the ACCOs. There's different levels of - different ACCOs have different views about what their needs and aspirations are in terms of their involvement with the system.

30 And some are telling us that they would like to be able to deliver a system, and others are telling us that they don't, and there's some that are in the middle. In my view, self-determination is allowing those ACCOs to make those decisions for themselves and for government to enable those decisions.

35 MS MCLEOD: And would you agree with me that enabling them to make those decisions and deliver those services requires a genuine commitment by a government to provision of resourcing so that they are not set up to fail?

THE HON. LIZZIE BLANDTHORN: Yes.

40 COMMISSIONER HUNTER: Would you also say that the laws that stand, as - we use section 18 as an example and we talked about permanency. So given that you acknowledge that the transfer of powers to ACCOs has not yet reduced the overrepresentation, do you concede that who exercises the power is not enough? It's also the laws that are being exercised that need to be changed. So, in particular, I'll note that at around - about the same time that section 18 was operationalised, the permanency amendments also become operational. And I suggest that work against the benefits that come with section 18. Although you've given power under section 18, the amendments to the permanency act actually work against that for our - for -

THE HON. LIZZIE BLANDTHORN: As I've indicated in relation to the permanency amendments, yes, I find them - that they're a blunt instrument and they are very limiting in the capacity for - to work within and to ensure that there is self-determination; that there is an opportunity for people to make the decisions and the choices, access the services and the supports that they need in order to be reunified with their families. So I would agree that the permanency amendments are limiting that way.

COMMISSIONER LOVETT: Minister, just so we are on the same page, can you explain your understanding of self-determination?

THE HON. LIZZIE BLANDTHORN: Self-determination is a human right, and self-determination means that First People decide for themselves what is in their - what they need, what is in their best interests and the best interests of their children, their families, their communities.

COMMISSIONER WALTER: But to achieve self-determination there has to be a genuine transfer of power and a genuine transfer of resources and a willingness to let First Peoples make those determinations without interference or being circumscribed. And we have in section 18, I think is all responsibility, no power. Can you explain to us what the path from section 18, where ACCOs are just given responsibility but no power, is to actually a self-determined system. How will we get there?

THE HON. LIZZIE BLANDTHORN: To take the first part of your question, I agree with that, and that's part of the conversation that we've been having with ACCOs and that myself and the Premier have been quite clear with ACCOs, you tell us what you need in terms of resources, in terms of authorisations, in terms of powers. Section - the amendments - the *Statement of Recognition Bill* that is currently before the Parliament that would amend section 18 will have the effect of giving the power to - if passed, will give that power to the ACCOs to be able to not just at the pointy end of when there's a permanent care order but at the investigation and intake stage as well, be looking at - and with the full authorisation to make those decisions.

So, yeah, so need the legislative settings to be right and we also need the resources and funding, workforce, etcetera, to also - and the other thing that we've heard from ACCOs as well is that that funding needs to be flexible and the solutions need to be place-based, that it is not the same answer everywhere for every organisation in terms of how to achieve that.

COMMISSIONER WALTER: With respect, Minister, we have heard repeatedly that the system at the moment is almost - perhaps I'm overstating but fatally flawed. I'm wondering how you - you can't just hand over a flawed system to Aboriginal people, even if you give them some power and some resources, and expect them to be able to work from there. And so I'm - I guess I'm just thinking of the statistics that were in the VAGO report last year that sort of - 98 per cent of kinship carers had not had their mandatory six-week follow-up to see the resources that they need. So they couldn't, the most poorest people in the state trying desperately to look after their children, were not being supported by the department to actually do that. So if I was an ACCO I would be pretty scared of what's coming. How can we - yeah. I'm worried about that. Unless you've got to do something to fix the system, it's just handing the responsibility for failure to Aboriginal people.

THE HON. LIZZIE BLANDTHORN: I understand your concern and your worry. The purpose of the conversations we've been having with the ACCOs is, one, to ensure that any decisions that are made about transfers of powers are what the ACCOs are asking for, not what we're - if you like, just handing over. It's a question of the extent to which ACCOs do or don't want to be involved in that space. And, as I indicated earlier, there's a difference of - we're hearing that there is a difference of views about that.

Some ACCOs are really ready to, and want to take on those responsibilities now and are quite clear with us about what they need in order to be able to do that: Flexible funding, support with workforce and training, place-based solutions. They are the sorts of things they are telling us they need.

And, of course, at the other end there are ACCOs who express exactly the concern that you are now. And there are some that are somewhere in the middle and who, with certain resources and support, feel that they could take on that responsibility. Others who just don't want that responsibility. So to go to, I think, Commissioner Lovett your question earlier about what is self-determination, from my perspective, I want the ACCOs to tell me what it is that they want, what they need, and that I will be their advocate within government to ensure that if it's more funding, we can get more funding, that if it's more resources, if it's workforce support and that it's - the number one thing that myself and the Premier have heard is that it needs to be flexible and place based.

COMMISSIONER LOVETT: So the power and resources you have transferred to date, in your view, do you see that as self-determination?

THE HON. LIZZIE BLANDTHORN: In terms of - at the moment we are very much in the listening phase as to - so, while I've been Minister, it's not as if there have been resources that have been transferred, to take your words. But I'm certainly advocating on behalf of the ACCOs to government about the approach that they would like, and the Premier and I have heard them tell us that they need more funding, they need flexible funding and they need place-based solutions, and that's what I'm advocating for.

COMMISSIONER LOVETT: But there has been, under section 18, transfer of some power and resources, elements of power and resources to ACCOs to deliver this work? Do you see that as self-determination?

THE HON. LIZZIE BLANDTHORN: Whether - I mean, if it was what the - if - where it aligns with what the ACCO has asked for and what the ACCO wants and they have self-determined that that's what they need, then, yes, I think it would align with self-determination. If it was inconsistent and not necessarily what the ACCO was asking for or wanted to do, then I don't think that would be self-determination, no.

COMMISSIONER LOVETT: Right. So we've transferred a broken system over to ACCOs to deliver because that's all we've kind of offered them, or the government's offered them. That's not self-determination. We're handing over a colonial system that's broken. It's not self-determination where they've designed the system. They're implementing a system that has been broken that you've already apologised for here today. It's not self-determination. Would you agree with that?

THE HON. LIZZIE BLANDTHORN: We've been working with the ACCOs that have wanted to take on those elements of the system and to implement those elements of the system. We're expanding the legislative powers so that, for example, the ACCOs have told us that they would like to - particularly those that are already involved in the section 18 that you refer to, that they would like the capacity to be more involved at investigation and intake stage. So we're making those amendments.

We're working in partnership with what those ACCOs who are implementing the section 18 would like to see happen. There's always more that can be done. I acknowledge that.

MS MCLEOD: So in response to your answer, do you accept that self-determination is a pathway?

THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: That involves, on the part of the State, both listening, political will, accountability and resourcing?

THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: I said both, but I mentioned four things there. But all of those things are critical; would you agree?

THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: In your statement, you refer to, under the heading Moving Towards Greater Self-Determination, a number of agreements and frameworks that are in place so far. Paragraph 21.

THE HON. LIZZIE BLANDTHORN: Sorry, which paragraph?

MS MCLEOD: Paragraph 21. You mention a number of frameworks, including the Self-Determination and Reform Framework, the Wungurilwil Gagapduir Aboriginal Children and Families Agreement, the commitments of government through those agreements. And in paragraph 23:

"...Victorian government's recognition of the critical role of self-determination in addressing the overrepresentation of First Peoples children in the child protection system and in meeting target 12 of Closing the Gap targets."

So as you say in paragraph 25:

"This leads to the implementation of governance structures and co-designed approaches."

My question is really around the need for structural reform not just at the minutiae level but also in terms of the oversight, structural reform to enable self-determination to progress; would you agree with that?

THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: And that this has to occur continuously and not be kicked down the road to Treaty. Would you agree with that?

THE HON. LIZZIE BLANDTHORN: Absolutely.

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MS MCLEOD: So at the time we come to talk about Treaty, and negotiation with organisations, community representatives, the assembly and others, the system is in the best possible place it can be for the transfer of power and resources; would you agree with that?

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THE HON. LIZZIE BLANDTHORN: Yes.

COMMISSIONER WALTER: I guess the one thing that's come to me again and again and again, as we've - is the lack of accountability and the lack of accountability mechanisms built into the system, and so we've looked at framework after framework, strategy after strategy which proudly proclaim in their thing that under evaluation and monitoring, what they're going to do, and yet when we ask departmental officials what has been done, the answer is "Nothing". That they're still working on it, three, five, and longer. So can I ask whose responsibility is it, the current child protection system, and who is being held accountable for what is happening, and how is that accountability - yeah, how is that passed out? Because I just see a lack of urgency. Will heads roll? Will KPIs brought in? What will happen to make the department accountable for change?

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THE HON. LIZZIE BLANDTHORN: Ultimately, I sit here before you today as the Minister for Child Protection and Families, and so I am accountable as Minister. I'll agree with you that there are - and it's one of the things that has struck me since I took on the portfolio, there are so many reports and so many frameworks and so many different tools for measurement and assessment. And I share your frustration with that. I'm someone who likes to get things done rather than see the production of more and more documents all of the time.

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That's not to say there is a place for it, because it is important that we have risk assessment tools and we have policies and procedures and manuals and accountability frameworks. It is something that I am committed to ensuring that we put in place a - mechanisms to make sure that we, as we look at the way ins which, and we talk to communities about the way in which we can improve the system, that we come up with real meaningful achievable metrics, and rather than just another series of framework documents.

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So I think as we consider the ways in which to reform the system, it's really important that we are put anything place achievable metrics.

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COMMISSIONER WALTER: And that those metrics be publicly and transparently reported against?

THE HON. LIZZIE BLANDTHORN: Absolutely, yes. And we have done some of that through things like the VAAF, through the KPIs at the Children's Forum. But as you correctly identified we are doing it in lots of different places across government at all levels, but all of the frameworks are not leading to - obviously, we have, as we explored at the beginning of this session, shameful rates of overrepresentation and perhaps some of the frameworks are at the expense of actually getting things done on the ground.

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5 COMMISSIONER WALTER: And I did ask Mr Alisandratos in his first appearance why - who had KPIs built into their - the executive level, there's a lot of them - KPIs for ensuring that the number and proportion of First Peoples children in the child protection system goes down; that cultural plans are both done and that are quality and that they're monitored, and his answer was that there were no KPIs. And when I asked why, his answer - and I am paraphrasing him and I don't want to put words in his mouth, but was basically that if they had that, then some executives might game the system to make it look like they had successful outcomes when they didn't.

10 I was a bit shocked by that answer. I would have thought that executives within the department would have KPIs built in where they would be responsible and held accountable for making sure that changes in areas of their portfolio actually happened.

15 THE HON. LIZZIE BLANDTHORN: Ultimately, the accountability sits with the government. It sits with me as Minister. It sits with whole of government. Many of the issues that I'm sure we will continue to talk about today are whole-of-government issues, and they're issues that require a whole of government approach across multiple portfolios, from Education and Health to the specific ones that I hold.

20 Our budgets have accountability measures within them. Certainly, in terms of expenditure we have accountability measures within them. So, ultimately, the government will be held accountable for whether or not we achieve those metrics.

25 COMMISSIONER HUNTER: We've heard a lot about funding but at the end of the day this is children's lives and families' lives. Sorry, it gets a bit much when we are sitting here and we're saying we don't have funds for this, we don't have funds for that. We have got a report that we put out for this and a framework for that, but nothing is working and the rate is going up. Could I ask you what would be the three things, right now as Minister, that
30 you're working on that would change the overrepresentation of Aboriginal children in out-of-home care?

35 THE HON. LIZZIE BLANDTHORN: I think the first one is early intervention, and I know that has been something that the Commission has considered across multiple witnesses. But the earlier we can provide meaningful assistance to families and to the whole of the family, then those early intervention services will hopefully assist the family to get the support that they need at that early stage and prevent a trajectory into the - well, referred to as "the system". So early intervention is, in my view, a key thing, and I spoke earlier about the voluntary work that I had done with the Caroline Chisholm Society over
40 many years previously, but that was certainly one of the key things that we found there. Things like supported play groups, things like parenting assistance and education early on really helped the family on their journey forward.

45 Diversion, making sure that families are - that we provide the service that, even once a family comes into contact with the child protection system, that that contact with the system is about assisting them to get - again, get the support and services that they need to ensure that they're not on a trajectory that sees them go deeper and further into the care system.

And, thirdly, I think when families are further within the system, that we're providing the support that they need in order to reunify their family. That's the ultimate objective and it's one of the reasons why I find the permanency amendment so difficult, is that they put that time limit and have a blunt - it's a blunt instrument, if you like, which kind of - well, which does close off the capacity at a 24-month mark to provide those services that are about reunifying families. So early intervention, diversion and the services that ultimately help families reunify where the family has in some way been separated from each other.

COMMISSIONER HUNTER: Thank you for that. Just on the permanency, has that review started, that you were talking about before?

THE HON. LIZZIE BLANDTHORN: No, I've asked the department to do it, and relatively recently, and that will get underway. As I indicated to Commissioner Bell, more than happy to take the feedback from the Commission in relation to that as well.

COMMISSIONER HUNTER: Thank you.

COMMISSIONER LOVETT: Minister, we have heard that - no one, from witnesses, particularly this DFFH representative that was nominated, nobody is accountable for child protection. Can you - are you accountable for the overrepresentation of Aboriginal children in child protection?

THE HON. LIZZIE BLANDTHORN: Well, as I indicated earlier, I'm the Minister. I'm responsible and accountable for the child protection system.

COMMISSIONER LOVETT: Yes. I just want to ask that so then people - this is important we are asking questions as well, that we have a lot of people listening in and part of our Terms of Reference is a public education piece, so we are hearing from witnesses reminding us that they've already said it. We will continue to ask the same questions because we are educating the public at the same time. So whilst it may be frustrating, at the same time, I just want to be clear that we do have an education piece that we are trying to undertake as well.

THE HON. LIZZIE BLANDTHORN: Apologies, I wasn't frustrated. I just wasn't sure if - yeah.

MS MCLEOD: Minister, in paragraph 31 of your statement, you refer to the implementation plan and reporting mechanism for the National Agreement on Closing the Gap, paragraph 31.

THE HON. LIZZIE BLANDTHORN: Yep.

MS MCLEOD: You say:

"This report takes a holistic, outcomes-focused and transparent approach to reporting, enabling the community to hold the government to account to ensure meaningful progress."

So I take it that would be the goal, not just for the Closing the Gap Implementation Plan, but all actions, and all frameworks undertaken by the government to improve the child protection system.

5 THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: And if the missing piece is - if we have now political will, as indicated by the Premier, as indicated by yourself, what's missing is an accountability piece. So can I offer this Commission any undertakings in respect to improvements for accountability that you would be willing to undertake?

15 THE HON. LIZZIE BLANDTHORN: Accountability - achievable metrics as I was talking about before, and accountability for those, for whether or not we meet those metrics is fundamental to the reform of the system - the system from the perspective of First Peoples children, albeit the general system. Certainly, we've indicated that the whole of the child protection system needs to be considered and looked at and that we are talking to ACCOs in relation to First Peoples children in the system, and that there are other pieces of work underway in other parts of the system as well. So we're not just looking at the system in relation to First Peoples children but the whole of the system.

20 There is ongoing work about what that looks like and as part of that, we'll absolutely build into it what are those achievable metrics and the accountability framework for meeting them.

25 MS MCLEOD: So if we were to call you back next year, this time next year and have a bit of a report card, would you be content to come back and update the Commission on progress?

30 THE HON. LIZZIE BLANDTHORN: Of course.

MS MCLEOD: Can I turn to the *Statement of Recognition Bill*. One of your actions - first actions as Minister - this is paragraph 40 of your statement.

35 THE HON. LIZZIE BLANDTHORN: Paragraph which, sorry?

MS MCLEOD: 40. One of your first actions as Minister - I'll wait until you have turned that up - has been to reintroduce the *Statement of Recognition Bill*. Can you give the Commission - we understood it was intended to be presented last week. And was not reached. Can you give the Commission an update on the Bill and its current progress through Parliament.

40 THE HON. LIZZIE BLANDTHORN: Sure. So the Bill has passed the Assembly and is yet to be debated in the Council.

45 MS MCLEOD: And will that come back on the Council agenda at the post-budget first possible opportunity?

THE HON. LIZZIE BLANDTHORN: It remains on the notice paper currently and so will at some point in the very near future - I can't give the Commission an exact week, but at

some point in the near future will be debated by the Council and hopefully will receive the support of the Council.

5 MS MCLEOD: There was some criticisms that the Commission has heard about the lack of consultation or the brevity of that consultation with certain groups in relation to the Bill. Will there be time to go back to those specific groups for consultation? Or is the legislation locked in now?

10 THE HON. LIZZIE BLANDTHORN: The consultation occurred at the stage of the development of the Bill. So the *Statement of Recognition Bill* was first introduced in the previous Parliament before the Parliament was prorogued last year and didn't make it - didn't complete its she journey, and it was an election commitment of the government to - and the previous Minister, Minister Brooks made this commit at the Aboriginal
15 Children's Forum that the bill would be brought back to the Parliament as soon as possible in the new year. With that in mind, the consultation to bring - or the process of bringing it back relied on the consultation that had been completed when the first Bill had been developed.

20 That said, I did also ask the department, though, to ensure that there was some consultation, and I'm aware that some people will feel that consultation was insufficient. But that in our commitment to bring it back as soon as possible that we also consulted with stakeholders about the fact we were bringing it back, but we didn't reopen consultation, if you like, in relation to the detail of the Bill in the same way as we had in the time previous.

25 MS MCLEOD: Leaving that Bill aside, I take it you would assure organisations representing Aboriginal people, including legal representation, that your door is open to them?

30 THE HON. LIZZIE BLANDTHORN: I've absolutely made that assurance to all organisations that have had an interest in the Bll, and it is my standard practice, when I meet in any organisation, to assure them that I have an open door policy and they should always feel free to contact me. Some have. The Bill stands as it is presented and will be debated and considered as it has been presented. But the door is always open.

35 MS MCLEOD: Can I invite you to look at paragraph 41(a) of your statement.

THE HON. LIZZIE BLANDTHORN: Yep.

40 MS MCLEOD: And I wanted to ask you a question about what a statement of recognition is, and what accompanying binding principles are and will achieve, in a broad sense.

45 THE HON. LIZZIE BLANDTHORN: Yep. So the statement itself is an acknowledgement of past practices and history, if you like. So it certainly acknowledges the role of the State in relation to colonisation, in relation to assimilation policies, dispossession and so forth of First Peoples. And it also acknowledges that the laws, the practices and policies of the former child protection systems have resulted in the forced removal of Aboriginal children from families and disconnected them from their country and their culture.

50 There's also then a series of principles that then guide us through that.

MS MCLEOD: And in 41(d), you note that the intention is to legislate all five elements of the Aboriginal Child Placement Principle: Prevention, participation, partnership, placement and connection.

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THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: So they're the principles. Are you aware of the evidence heard by this Commission that the protections already in the legislation, that is best interests of the child, the Placement Principles, the specific Aboriginal Placement Principles in the legislation, are currently not being complied with 100 per cent of the time?

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THE HON. LIZZIE BLANDTHORN: When you say aware of the evidence, as in -

MS MCLEOD: Evidence before this Commission.

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THE HON. LIZZIE BLANDTHORN: I'm aware of the extent to which they have been discussed in the Commission.

MS MCLEOD: So those mandatory requirements of the Act, if they are not being met, I imagine that would be of great concern to you as Minister with ultimate responsibility for the system.

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THE HON. LIZZIE BLANDTHORN: If elements of the Act weren't being met then, yes, I would be concerned.

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MS MCLEOD: An example of that is the requirement for cultural plans for Aboriginal children. The evidence of Mr Alisandratos was that, as at 31 December 2020, only 52 per cent First Nations children had a cultural plan. I make reference to DFFH.0007.0001.0051, paragraph 24 of Mr Alisandratos' evidence. So given the legal requirement that children have these plans and the evidence this Commission has heard about how important those plans are to those children and their families, do you accept that just legislating things doesn't seem to be sufficient to make things happen?

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THE HON. LIZZIE BLANDTHORN: Really, from the evidence that the department gave in relation to cultural plans, there is some work to do in terms of ensuring that the plans are completed in a timely fashion. The legislation requires that the plan be completed. The policies of the department require that the plans be completed within 19 weeks. My understanding is that that can be quite complex. A child doesn't necessarily come into care with a complete picture of their family history, of their family connections, of their communications to Country and that it sometimes take some time to develop those.

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But, yes, it is ultimately a requirement of the legislation that there be a cultural plan, and my expectation is that, as the department do, they work with families to ensure - and the care teams to ensure that children coming into care develop a cultural plan.

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COMMISSIONER BELL: Minister -

THE HON. LIZZIE BLANDTHORN: Or have one for them.

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COMMISSIONER BELL: Minister, your statement is quite strong on human rights and you've mentioned human rights a couple of times today. Do you accept that cultural plans have an important human rights dimension?

5 THE HON. LIZZIE BLANDTHORN: Yes.

COMMISSIONER BELL: And that dimension is derived from the fact that children and families indeed have a right to culture?

10 THE HON. LIZZIE BLANDTHORN: Yes.

COMMISSIONER BELL: And that you have an obligation to promote their access to culture, the maintenance of their culture now and into the future.

15 THE HON. LIZZIE BLANDTHORN: Yep.

COMMISSIONER BELL: And that a principle measure through which that is done, that's to say through which you fulfil that human rights obligation, is the cultural plan system?

20 THE HON. LIZZIE BLANDTHORN: Yes, I would agree with that, and I think it also supports other fundamental human rights such as right to know your family, your identity, etcetera, yeah.

COMMISSIONER BELL: Yes. Indeed.

25 THE HON. LIZZIE BLANDTHORN: Yep.

COMMISSIONER BELL: Indeed. So that the problem here, isn't it, is not just one of administrative failure but human rights violation?

30 THE HON. LIZZIE BLANDTHORN: So the - I would be concerned if a child didn't have a cultural plan. Some of the reasons why it may be taking some time to develop a cultural plan for a child maybe complex or valid, but I agree with your proposition, yes.

35 COMMISSIONER BELL: I really - proposition, yes.

THE HON. LIZZIE BLANDTHORN: Yes.

COMMISSIONER BELL: You did just start to give me an administrative answer.

40 THE HON. LIZZIE BLANDTHORN: I didn't mean to I'm sorry.

COMMISSIONER BELL: I'm talking about law. I'm putting to you that the problem is not just administrative failure but one of a human rights violation.

45 THE HON. LIZZIE BLANDTHORN: Yeah, I mean, like you say - correctly, in my view, say, the cultural support plan is fundamental to upholding the right to cultural identity.

COMMISSIONER BELL: Yes.

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THE HON. LIZZIE BLANDTHORN: And also to enabling the right to practise one's culture as well.

COMMISSIONER BELL: Yes.

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THE HON. LIZZIE BLANDTHORN: So, yes, they are fundamental and if someone doesn't have one, then it does have the impact of restricting their human rights, yes.

10 COMMISSIONER BELL: Thank you. Now, would you accept that it's the State's responsibility, and you representing the State, to put in place the necessary procedures and arrangements and resources in order to have this right fulfilled?

THE HON. LIZZIE BLANDTHORN: Yes.

15 COMMISSIONER BELL: Yes. It would seem you have got some work to do in that regard.

THE HON. LIZZIE BLANDTHORN: I think we do have some work to do in that regard, yes.

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COMMISSIONER BELL: Thank you.

25 MS MCLEOD: Not just cultural plans required by the legislation, but other requirements including the obligation to consult with an Aboriginal-led organisation, the obligation to confer with the child and ascertain their interests. There are numerous examples where there has been a failure to comply with the legislative requirements, and I take it, following your discussion with Commissioner Bell, that you would accept this is a violation of those children's and their families' fundamental rights?

30 THE HON. LIZZIE BLANDTHORN: Yeah, I would certainly be very concerned where there hadn't been the - the - and I preface what I say there are sometimes reasons why legitimately a child doesn't come to care with a cultural plan attached to them, for want of a better word and that sometimes these are complex plans to make, and to establish things like identity and connection to Country and community and family and so forth.

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But notwithstanding that, yes, I think it would be very concerning if there were breaches of the legislative requirements that were preventing children from having their cultural plan.

40 MS MCLEOD: Not just plans, the obligation to consult with Aboriginal-led organisations, the obligation to have Aboriginal family-led decision-making meetings, the obligation to ascertain the child's wishes. These are all legislative requirements.

THE HON. LIZZIE BLANDTHORN: Yes.

45 MS MCLEOD: We have heard evidence of the failure of the system to ensure that those things are in place.

THE HON. LIZZIE BLANDTHORN: Yep.

MS MCLEOD: We also know the figures of overrepresentation of children in the system. So, following Commissioner Bell's questions, do you accept that just piling on more laws, more administrative processes, doesn't seem to be working and there is still breaches of those children and their families' fundamental human rights? So what do we do about that?

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THE HON. LIZZIE BLANDTHORN: Like you said, I think there's some work that needs to be done in terms of ensuring that we have processes in place to make sure that the legislative requirements are being fulfilled, and whether it's from consultation with families through to the delivering - the building of the cultural plan, there is clearly work that needs to happen in relation to that.

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MS MCLEOD: I've just noticed the time. Could I just check that the Commissioners and the Minister are happy to press on.

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THE HON. LIZZIE BLANDTHORN: I wouldn't mind a comfort break, if that's okay?

MS MCLEOD: Yes, a five-minute break. Deputy Chair could we take a short break?

COMMISSIONER HUNTER: Yes.

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<ADJOURNED 1:11 P.M.

<RESUMED 1:23 P.M.

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MS MCLEOD: Minister, I want to turn to the topic of risk assessment for removal of children, and there has been a considerable body of evidence from Mr Alisandratos and others about the way these risk assessment tools work in practice. We have - the Commission has considered evidence about the risk assessment tools, the guidelines, the SAFER guidelines or principles around how those are applied and the MARAM tools that are actually in place. And can I just summarise, evidence over that period of time suggests that the risk assessment tool on the risk side factors in many factors that have Aboriginal people start already behind in terms of the marking of risk, namely, intergenerational trauma, contact with police and trauma.

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On the other side of the equation, there is no recognition of the harm that is caused by the State by removal and those harms are well documented and well recognised. Nor is there a recognition in terms of protective factors and controls of the importance of culture, family and community. So that's a broad explanation of the - a broad summary of the evidence we've heard.

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This suggests, does it not, that those risk assessment tools which are fundamental to child protection practitioners exercising a discretion to recommend removal of a child must be reviewed?

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THE HON. LIZZIE BLANDTHORN: I would agree that the tools need to be reviewed. I would say that child protection workers are making very complex decisions on a day-to-day basis and they're always - in the same way that we talk about the permanency amendments being a blunt instrument, we also don't want another blunt instrument. We don't want any blunt instruments, really, at any point in the system. We want to be able to apply discretion and address those complexities that exist.

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5 But, yes, absolutely, I think we need to ensure that the tools, the risk assessment models that people are - workers are using to make these decisions to give due weight to the protective factors as well as the risk factors and that they include culture and family and identity and connection to Country and all of those things. Indeed, if we were to go to some of the earlier conversations we have had about upholding human rights it's also fundamental that those things are included in the assessment so that there's a real - the discretion is being applied to a real weighing of the balance of the - of rights in terms of the risks as well.

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MS MCLEOD: So this is a level of the application of the principles that is protected by the Act. So the legislation requires that all decisions are made in the best interests of the child, including protection of the child's rights.

15 THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: This is a question of the application of those principles and the degree to which child protection practitioners are exercising a discretion which can be infected by racism and bias, conscious and unconscious.

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THE HON. LIZZIE BLANDTHORN: Yes. Yeah.

MS MCLEOD: So the aim, I suggest, is to have those practitioners supported in the best way possible to make good decisions.

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THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: And to support them to make good decisions in terms of the subjective components of their decisions, they must be informed about those protective factors, mustn't they? And there has to be recognition that the State can harm these children and their families by removal.

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THE HON. LIZZIE BLANDTHORN: Yes, there's always the question that removing a child can cause harm, and irrespective of the circumstances can cause a degree of harm irrespective, and it's that discretion that needs to be applied in the weighing up of the balance of rights, the rights to safety, to protection, to care, versus the weight that is then put on the rights to culture, to identity, to family, to wherever possible being cared for by your parents, or your biological parents. So, yes, the tools that assist child protection workers to make those decisions and to apply that level of discretion need to ensure that - we need to ensure that they are adequate. They need to be reviewed, as you suggest, for that adequacy.

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MS MCLEOD: And not just the decisions they're making but the reports they are providing to the court to assist the court to reach the correct decisions have to reflect those components, I would suggest.

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THE HON. LIZZIE BLANDTHORN: I would agree.

COMMISSIONER WALTER: Have a look at the form that case workers fill out when they're making an assessment whether to remove a child or not. And I was quite struck by

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the fact that actually there wasn't anything on that form to indicate all those First Peoples-specific parts of the legislation and to draw the case workers to that. There was a vague reference to culture but it wasn't anybody's culture. I mean, everybody has got culture, so it wasn't necessarily First Peoples. So I was stunned that given what we've got,
5 that the new forms that they're completing still don't ask them to specifically think about the First Peoples specifics relevant to when they're making a decision. So I would think that there seemed to be an absence as if somebody had forgotten that Victoria has a First Peoples population.

10 THE HON. LIZZIE BLANDTHORN: I obviously agree that they need to be reviewed. I believe, without seeing the form that you're referring to, is that it was a generalist form, yeah.

COMMISSIONER BELL: That's the problem.

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THE HON. LIZZIE BLANDTHORN: Yeah. And often a child protection worker isn't necessarily going to know at the point at which they're meeting a child or coming into contact with a child whether or not they are First People. That is part of what needs to be established. But, yes, I completely take your point and the forms need to be reviewed to
20 address those issues.

COMMISSIONER WALTER: And if they only find out the child's First - they can't retrofit once they have already completed that form and possibly made recommendations.

25 THE HON. LIZZIE BLANDTHORN: No, I understand where you're coming from and I hear the criticism.

COMMISSIONER HUNTER: Minister, could I ask you have you been online to have a look and navigate the Child Protection Manual?

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THE HON. LIZZIE BLANDTHORN: The Child Protection Manual is a constant topic of conversation in my office. It is a very cumbersome document. I have looked in parts of it. I haven't read the tome from top to bottom. But I have been online and seen it, yes.

35 COMMISSIONER HUNTER: So going through, I guess, for my understanding for this Commission, if I was a child protection worker, it's terrible. I mean, that's all I can say because you are going back and forwards and if it's an Aboriginal child and you click something else open. It's very hard to navigate and, if - of course, then you've got is it an
40 Aboriginal child. Yes, you've got to go over here and then you've got to come back here. I personally, as a qualified social worker, could not navigate that. So I think that needs to be reviewed in the way the form it is, because it's so hard to navigate.

THE HON. LIZZIE BLANDTHORN: I hear what you're saying and I did it myself last night yep.

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MS MCLEOD: So just picking up on those questions, the point at which a child is identified as being an Aboriginal child should be a trigger or a flag for a child protection worker to then consider other systems and options; is that - we agree on that?

50 THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: And would you agree that there needs to be an improvement to the MARAM assessment tools generally to make sure that direction is in there at the moment of identification?

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THE HON. LIZZIE BLANDTHORN: Yes, generally speaking. Obviously the MARAM framework is the responsibility of the Minister for Family Violence but to the extent that it relates to us and the SAFER framework, then, yes, I think that's right.

10 MS MCLEOD: I'm just trying to find the name of that tool that the Commissioners looked at within the SAFER child -

COMMISSIONER HUNTER: The SAFER?

15 MS MCLEOD: Yes, within SAFER. SAFER is the volume but these were the risk assessment tools and I took - anyway, I'll come back to that if needs be. I just wanted to find the reference. The SAFER Risk Assessment Snapshot, I think, is the thing we're talking about, DFFH.0005.0001.0974, just for the transcript. So just staying with that risk assessment tool, and this topic generally, it's possible - and from what I understand you
20 were saying to Commissioners, a willingness to consider a bespoke system of risk assessment for First Nations children.

THE HON. LIZZIE BLANDTHORN: On the specifics of that I would have to take advice, but certainly I'm open to what the options are in terms of the way in which these
25 forms can be improved to address exactly the issues that we're talking about, yes.

MS MCLEOD: I'm not just talking about the form. I'm talking about the SAFER tool itself, the guidelines, and the framework that sits behind that, the SAFER framework, and the Child Protection Manual to ensure that when an Aboriginal child is identified, they use
30 specific bespoke risk assessment tools that pick up the balance of those harm factors, the proper balancing of those and protective factors.

THE HON. LIZZIE BLANDTHORN: Yes.

35 MS MCLEOD: Yes, okay.

COMMISSIONER BELL: Minister, we are moving towards a self-determining system in the long run, but in the meantime, have - is the idea of the operation of a system with respect to First Peoples as a specialised function got any attraction to you? Because at the
40 moment, the functions are being exercised, as I understand it, by general staff who may be sent to a family or address a child as part of their entire work. That's correct, isn't it? Yes.

THE HON. LIZZIE BLANDTHORN: And it would be slightly - like, if it was a child who is authorised under section 18 -

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COMMISSIONER BELL: I'm wonder being the idea of dedicated workers, some of whom - you may well increase the number of First Peoples in this function if it's a specialised function. And I'm just wondering whether that could be part of the solution.

THE HON. LIZZIE BLANDTHORN: Yeah, we are open to what you're suggesting, as we move - hopefully, as we said, the *Statement of Recognition Bill* passes the Parliament, much of that work will be done specifically by ACCOs in the first instance anyway, in which case it will be First People primarily who are themselves making -

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COMMISSIONER BELL: Themselves or people working for them.

THE HON. LIZZIE BLANDTHORN: Or people working for them, that's right. But we also need to make sure that the general system and - is working in a way that is culturally safe and appropriate as well. So there is still potentially an opportunity for what you're suggesting.

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COMMISSIONER BELL: Yes.

MS MCLEOD: Are there any other questions, Commissioners, on the risk assessment processes?

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COMMISSIONER HUNTER: No.

COMMISSIONER BELL: Yes. We know that there are systemically unequal outcomes, and so there may be a degree of direct discrimination, but it's largely indirect. I think you know what I mean when I say that. So the system, although seemingly neutral, is actually operating in a systemically discriminatory way. Individual people make up the system. There is a body, not insignificant, of individual people producing this result, it would appear. That means that those people have attitudes which you might regard as stigmatised or discriminatory towards Aboriginal people. They're not understanding them. They're bringing values to bear which are judgmental and not respecting of culture.

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This has quite serious human rights implications, this phenomenon, doesn't it, because we are talking about discriminatory attitudes which are also human rights violations or can lead to human rights violations.

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THE HON. LIZZIE BLANDTHORN: No, I would agree with that, and it goes to some of my earlier comments about the system itself being - from colonisation to today, being - has evolved but with a particular construct of family of care and connection to community as part of that. And that ultimately leads to that systemic problem that you're talking about. And whilst it is, and we are here today talking about it being a particular problem which impacts First Peoples children, it also can be - lead to judgmental decisions being made in relation to non-First People as well.

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COMMISSIONER BELL: As well, yes.

THE HON. LIZZIE BLANDTHORN: In terms of other types of disadvantage and what somebody may see as the right constructive family and of care, as opposed to acknowledging that different families, different communities - everyone is unique. They all look different and their cultures are different. So obviously we are here today talking about it being a particular problem, and obviously the numbers suggest it is a particular problem in relation to First Peoples children. But my concern in relation to the permanency amendments at the time -

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COMMISSIONER BELL: At the time wider.

5 THE HON. LIZZIE BLANDTHORN: - was, yeah, broader and First People were obviously, if not the significant part of that, but also people in prison or people in particularly impoverished communities for other reasons or whatnot. Those judgments can pervade elsewhere too.

10 COMMISSIONER BELL: So if we've got a human rights problem and you're responsible for upholding and making sure your systems respects human rights, where to with this one?

15 THE HON. LIZZIE BLANDTHORN: It's a difficult question. That's why I said in my opening statement, while it's a great privilege to be appointed to those portfolios, it's also a very solemn responsibility because these are important questions, things which I personally value very dearly, and the answers are not easy. But I think one of the values that can come out of this process is that the focus is put on these issues and our obligations to uphold fundamental human rights in the delivery of a range of services.

20 COMMISSIONER BELL: Cultural rights.

THE HON. LIZZIE BLANDTHORN: Including cultural rights. Needs to be better thought out.

25 COMMISSIONER WALTER: And can I just say that, yes, there are other groups that are impacted, but Yoorrook is about First Peoples.

THE HON. LIZZIE BLANDTHORN: Yeah, absolutely, yeah.

30 COMMISSIONER WALTER: And sort of extending it out to include others doesn't sort of dissipate the level of injustice that accrues to First Peoples.

35 THE HON. LIZZIE BLANDTHORN: Absolutely, and that is why I said we are particularly here talking about First Peoples children and also the numbers of overrepresentation suggest that it is particularly a problem for First Peoples children. So I don't mean to in any way take away from that.

COMMISSIONER BELL: Thank you. They are my questions.

40 MS MCLEOD: The systemic reforms that would benefit First Nations children and their families may have a flow-on effect to benefit the whole of the community?

THE HON. LIZZIE BLANDTHORN: Yes.

45 MS MCLEOD: The reforms that this Commission will be focusing on and asking your department and you to focus on are specific to First Nations; that's understood?

THE HON. LIZZIE BLANDTHORN: Yes.

50 MS MCLEOD: Yes. Can I move now to the topic of reducing criminalisation of young people in residential care. There is a current framework and action plan committing the

department and various departments and other stakeholders to the reduction of criminalisation of young people in residential care. Are you aware of that framework?

5 THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: And we've heard evidence of child protection - we've heard evidence of carers, particularly in residential settings, reporting children to police for relatively minor offences, and having a significant number of those interactions with police arise from minor offences. So are you aware of that data - those data generally?

10 THE HON. LIZZIE BLANDTHORN: Generally, and I'm aware it was explored, yes, by the Commission.

MS MCLEOD: Okay. So in terms of that reporting, overreporting of minor offences to police and the attempts to bring those numbers down, do you have a sense of what's really driving this? Is it that the State is not able to look after these children in a way that a parent would? Is it that those in charge of residential care facilities don't have other options available to them or are not sympathetic to the needs of the child and why they might be acting out with antisocial behaviour? What are the drivers at the moment, in your view, of criminalisation of young people in these facilities?

20 THE HON. LIZZIE BLANDTHORN: To take your point in relation to the children themselves and the staff, by way of example, I recently visited with a number of residential care homes within the area I represent of western metropolitan region and visited and spoke with a number of, both young people in those homes, as well as with the workers themselves. And certainly everyone that I - both the young people and the workers that I met with were all inspiring people. It was a pretty amazing experience, if not an exhausting afternoon, but it was definitely a worthwhile experience in terms of being able to speak with those workers about the issues they deal with on a day-to-day basis and the way in which they care for the kids.

25 I mean, it would be fair to say that I think there probably needs to be more resourcing and support and training for both the workforce and for the young people themselves, and it's certainly an area in which I've been advocating for us to, as a government, provide more therapeutic care. The models of care in residential care differ across the homes from four-bedroom homes to two-bedroom homes, etcetera.

35 And I think we can do better, and I think we have to do better in that space. We have to provide more therapeutic care for the young people who are living in residential care. That said, in terms of the actual drivers themselves, there's a not necessarily the causation, I think that the - that being in care is what amounts to any criminalisation, for want of a better word. But I also think there's sometimes wrongly a stigma attached to the children who are in residential care, which can mean that, for neighbours, for authorities, they become of particular interest which, in many respects - which in every respect is unfair.

40 MS MCLEOD: Can lead to overreporting.

45 THE HON. LIZZIE BLANDTHORN: Yes, I think so, yeah.

COMMISSIONER HUNTER: Can I just go back to children in residential care. We really need to go back to the root cause of why they're in residential care. They can't sustain foster care or kinship care. So these workers need to be armed with the proper resources, and these children and young people need to have services that enable them to not act out. I mean, these are our most vulnerable that will, if not intervened, end up in the Youth Justice and end up in adult. They're under your care. The State is the parent. We need - once a child is in resi care, it's terrible.

THE HON. LIZZIE BLANDTHORN: I completely agree with you, and in addition to the issue of overrepresentation of First Peoples children in care, residential care as a whole has been a particular focus of mine since I was appointed to these portfolios, and I'm advocating very strongly for there to be a more therapeutic model applied to all children in care for exactly what you're -

COMMISSIONER HUNTER: Therapeutic model has been going around for a long time, that word.

THE HON. LIZZIE BLANDTHORN: I was going to say that word.

COMMISSIONER HUNTER: If we don't get mental health services or trauma informed services, professionals in there, this is when it progresses. And we have seen - you know, in my time in those, working in those systems, I've seen some pretty horrible outcomes for our children and it's just not good enough. We need to somehow figure this out. It's all complex, but we're the adults so we need to figure this out for those kids.

THE HON. LIZZIE BLANDTHORN: Yeah, I agree, and the word "therapeutic", we have a forum, a group that advises me as Minister of young people who have been in care, including a number of kids in residential care, and they had one of those artists that draws the thoughts that the kids were basically describing therapeutic care, and it is what is therapeutic care. And it's a big word that we use to describe some pretty basic services, like you suggest. You know, family supports, counselling. But also like the sorts of things that were drawn on that picture was their capacity to make their home a home, to hang things on the wall. So, yeah, there were some pretty fundamentally basic things within that diagram that represented what we mean when we use the word "therapeutic care" and I've used that diagram to advocate to my colleagues in relation to the sorts of services that we should be providing for young people in residential care.

COMMISSIONER HUNTER: You are right, there is a stigma. When they go to school, they can't bring kids back. There's a lot to it. They are our most vulnerable, so I think - within the care system. I just wanted to point that out.

MS MCLEOD: And also in the Youth Justice system, the basic principle should be to protect the rights of the child, recognising that there has been a decision to deprive them of liberty, if they're in detention, or to control their behaviour if they are under supervision with conditions. Nevertheless, the obligation of the State is to uphold that child's rights to education, to access to family, and their other needs, would you agree?

THE HON. LIZZIE BLANDTHORN: Absolutely. Yes.

MS MCLEOD: We've heard evidence about the pipeline from child protection to Youth Justice as a significant component of a child's expectations of outcomes once they enter the system and the impact that has on families and their lives, ongoing beyond interactions.

There's no opportunity or little opportunity for children to age out of antisocial behaviours.

5 So can we just take a step back. If you were designing a system to care for children who had been exposed to trauma, violence, intergenerational trauma, you wouldn't create a system that locked them up and deprived them of their rights, would you?

10 THE HON. LIZZIE BLANDTHORN: No.

MS MCLEOD: What should the State be doing to care for those children?

15 THE HON. LIZZIE BLANDTHORN: Just to clarify your question, do you mean children who are in Youth Justice?

MS MCLEOD: Who move from child protection to Youth Justice.

20 THE HON. LIZZIE BLANDTHORN: Obviously, this Commission has already talked about, and the government has made announcements in relation to raising the age and an alternative service model. And I think the alternative service model is what is key to ensuring that young people who might otherwise have been on such a trajectory are getting the services and supports, and their families are getting the services and supports that they need, to ensure that they don't end up on that pathway.

25 MS MCLEOD: In terms of the implementation, the framework action plan, Mr Alisandratos gave some evidence about that, and where that was up to. Yoorrook has heard other evidence that while that action plan looks good on paper, there has been no implementation - no one on the ground applying it. I don't have that reference handy, but I refer, for example, to Mr Alisandratos' evidence at transcript page 431. So if this is to be successful, it requires that the various departments involved, Victoria Police, the Children's Court and other partners who are working to implement this framework, including the Children's Commissioner, take this seriously and look for concrete impacts in the framework. Would you agree?

35 THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: Do you have a mechanism presently for your monitoring of this framework and the action plan to enable you to be satisfied that it's being applied in the spirit as intended and it's achieving results?

40 THE HON. LIZZIE BLANDTHORN: I've sought some clarification on this following the discussion that was had with the Associate Secretary yesterday. But my understanding is that the plan is in its - is in progress of - is in the process, sorry, of being finalised, but that it will include improved oversight of the frequency of things like police call-outs to

45 residential care homes and the outcomes of police contact with the home, that it will have minimum expectation guidelines for local areas of governance, and that it will also can key data indicators for monitoring to the extent that, in the future, we can provide anyone with an update on that, we're more than happy to.

50 COMMISSIONER WALTER: Isn't it three years old already?

THE HON. LIZZIE BLANDTHORN: The implementation plan is currently being finalised, is my advice.

5 MS MCLEOD: I want to ask some questions about custodial settings. Do Commissioners have any more questions in relation to the framework reducing criminalisation?

COMMISSIONER WALTER: Again to follow it up in 12 months to actually see what has happened and how it's being monitored and the metrics and the outcomes.

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COMMISSIONER LOVETT: When was it launched again, sorry? When was that framework launched? And we're doing an implementation plan now?

THE HON. LIZZIE BLANDTHORN: 2020, I believe.

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MS MCLEOD: '20 is the number that comes to mind.

COMMISSIONER HUNTER: 2020.

20 MS MCLEOD: We're in the action plan, the 18-month action plan at the moment. It took some time, I understand it, for the action plan to be developed. In terms of custodial settings, Minister, I take it you would accept that it's imperative for the health of a mother and the health of her baby that they stay united for as long as possible.

25 THE HON. LIZZIE BLANDTHORN: Yes.

MS MCLEOD: Including in a custodial setting.

THE HON. LIZZIE BLANDTHORN: Yes.

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MS MCLEOD: We know there are two women's prisons where custodial access is accommodated. We are talking about Dame Phyllis Frost and Tarrengower. There are limited places for that to occur and there are other criteria such as age criteria. Given the evidence that this Commission has heard about children - sorry, mothers in a custodial setting having their children removed at birth and around birth, would you agree the State needs to do more to enable families to be united in a secure setting, if necessary, but certainly to accommodate the family and child's needs?

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THE HON. LIZZIE BLANDTHORN: Yes, absolutely.

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MS MCLEOD: Now, would you say this is a matter for Corrections or is there something that you would say to Corrections to ensure that this happens?

THE HON. LIZZIE BLANDTHORN: In part, it's a matter for Corrections, but I think it obviously touches on any portfolios that are interested in health and wellbeing of the child and the mother, as well as upholding the human rights of the child and the mother, and particularly the right of the child to be cared for by their biological parents wherever possible and to know their family and know their parents and, to go back to right to their culture and their identity, all of that is critical.

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But, yes, from the perspective of Minister for Child Protection and Families, I would absolutely have a view that mothers and children should be united wherever possible.

MS MCLEOD: And not just mothers who are, of course, so vital, but also fathers.

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THE HON. LIZZIE BLANDTHORN: Absolutely.

MS MCLEOD: In terms of your input on these topics, are you a member of the justice task force, that's the inter-ministerial portfolio task force, the overarching task force? Justice task force?

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THE HON. LIZZIE BLANDTHORN: I just question whether that -

MS MCLEOD: No, no, we're allowed. Some anxiety along the table, the Justice Reform Task Force.

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THE HON. LIZZIE BLANDTHORN: I'm not a standing member but I have an invitation for matters that are relevant to my portfolios.

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MS MCLEOD: And that's supported by an interdepartmental senior officials meeting, or working group?

THE HON. LIZZIE BLANDTHORN: That's my understanding, but, again, as I said I'm an invitee at times, not a standing member of the task force.

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MS MCLEOD: I'm interested in suggestions for reform from various groups representing women, including legal groups, for decarceration operations and minimum security options when it comes to women remaining united with their children in a custodial setting. So a broad range of recommendations that women who have given birth or have very young children, their best interests suggest that they should be decarcerated or placed in low-security options, including community housing and the like. Now, if we're to fulfil the requirements of the best interests of the child and the - provide services to the family and the child that allow that to happen, would you, as a general statement, support concepts of decarceration and low security options wherever possible?

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THE HON. LIZZIE BLANDTHORN: As a general statement and from a personal perspective, yes, I would, but I would clarify also that many of these matters would fall within the portfolio of the Minister for Corrections. So, yes, I would have a view but these are not matters that have been determined.

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MS MCLEOD: So we'll take that up with him on Monday. Commissioners, are there questions that you wish to follow up with in terms of mothers in prison and child removal?

COMMISSIONER HUNTER: I think for me one of the things - and we spoke to Mr Alisandratos about that - is the legislation says that the child protection worker will consult around permanent care. That means if the parent is incarcerated - and we have heard this from parents, men and women - they are not hearing from child protection, so they are not knowing what's going on with their child and the child protection workers aren't contacting them if they are not on a reunification order. So how do we get those accessed happening so the children - I mean, there are Zooms now. We heard from several mothers who didn't

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even know they existed and another woman had to tell them and then figure out how to get it. We need to be active if they can't get to their children. So how can we make that happen?

5 THE HON. LIZZIE BLANDTHORN: I don't disagree with your sentiment. I think the logistics of it are probably a question for the Minister for Corrections on Mondays.

COMMISSIONER HUNTER: But it's child protection workers.

10 THE HON. LIZZIE BLANDTHORN: In terms of their access to the people within the prison, there's obviously a key interaction there at the Corrections end and I suspect that is where it needs to be explored on Monday.

15 COMMISSIONER HUNTER: I also think there's a role in there for child protection workers working with these children.

THE HON. LIZZIE BLANDTHORN: There's absolutely a role for child protection workers.

20 COMMISSIONER HUNTER: If we are looking at the best interests of the child to have contact with their parents, that, for me, would fall under the portfolio.

25 THE HON. LIZZIE BLANDTHORN: I completely agree in that respect but in terms of Corrections giving the child protection workers access to make -

30 COMMISSIONER HUNTER: They're not even getting - there's no phone calls. They are not getting anything. The one thing and particularly there's one male that stood out to me. The first and only time he has heard was around a permanent care order and, heartbreakingly, he said, "I'm probably never going to see my daughter again" because no one reached out to him.

35 THE HON. LIZZIE BLANDTHORN: To the extent that it's a child protection worker issue, I'm happy to - committed to exploring it. There's also, and like you say, could be a phone call or not, but -

COMMISSIONER HUNTER: I will be (Indistinct) Corrections.

40 THE HON. LIZZIE BLANDTHORN: Yeah, there's two sides to that conversation, obviously, and yes, but I completely agree with where you're coming from, which is that the contact should be made with the parents. Children should be having access to their parents, and we need to be doing everything we can to make sure that we facilitate that.

COMMISSIONER HUNTER: Thank you.

45 MS MCLEOD: Minister, I want to finish with a question about the whole of government responsibility. You have offered the Commission today and those following the Commission, if I may say so, a profound statement of apology and recognition of the role of the State and its failings in child protection. The obligation to protect the interests of the child and Aboriginal families does not end at the end of your ministerial portfolio, does it?

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THE HON. LIZZIE BLANDTHORN: No.

MS MCLEOD: This is a matter for the whole of government that must be taken to heart by Corrections, by police, by Justice, and all other relevant departments, would you agree?

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THE HON. LIZZIE BLANDTHORN: Absolutely.

MS MCLEOD: Commissioners, those are the questions I have. Are there questions from the Commission?

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COMMISSIONER LOVETT: Is that it after this?

MS MCLEOD: I beg your pardon?

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COMMISSIONER LOVETT: Last questions?

MS MCLEOD: Yes. So if those are the last questions, can I invite Commissioners if there is any final remarks they wish to make, and, Minister, I would invite you to make any closing remarks you would wish to make as well.

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COMMISSIONER WALTER: I just really wanted to draw your attention to something that has been raised repeatedly, which is the lack of cultural competence amongst staff in the department, which goes to those systemic racisms, the fact that in Mr - the supplement response to questions, it reports a major non-conformance against criteria 4.4, people maintaining and strengthening connection to their Aboriginal and Torres Strait Islander cultural community, which was in August 2021, and the other things we have heard about, but the very, very short and very small amounts of training that staff get in this absolutely critical area.

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So I'm not going to ask you a question on it. I'm just going to raise it with you as something that what is happening now seems wholly inadequate, and I would also put it to you that it's not just a responsibility of your department; that maybe you need to look at what universities - how universities are training the staff that you're bringing into your organisation to make sure that they have the skills on board before they get there.

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THE HON. LIZZIE BLANDTHORN: I followed that evidence in the Commission and I've obviously made subsequent inquiries from what I've heard as well in addition to what I already knew. It will be a priority to look at those issues.

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COMMISSIONER LOVETT: In the Treaty context, what power and resources - what thought have you given around the power and resources that could be transferred to community in the child protection system through the Treaty process?

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THE HON. LIZZIE BLANDTHORN: As a starting point - and we have talked a lot today about the need, or the urgency. So both the Premier and myself have made it very clear many of these things are things that need to be worked on now. They can't wait for Treaty, as such. But they need to be compatible with Treaty. So they need to be able to - any changes that are made now need to be consistent with where - the direction that Treaty might be heading in and at the very least be in a form that, as is determined through the Treaty process and by the First Peoples' Assembly, in a way that is appropriate for these

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matters to, if necessary, be picked up and put into Treaty, if you like. They're conversations that - and negotiations that will happen through the - through those processes. But we need to act now to fix some of these issues. We can't wait, but at the same time, the solutions, the reforms need to be consistent with the objectives of Treaty.

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COMMISSIONER LOVETT: Thanks. You've made a historic apology today, and part of our Terms of Reference is exploring options around redress and reparations for the ongoing historical injustices that the State has perpetrated against our people. What kind of thoughts have you put in that regard?

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THE HON. LIZZIE BLANDTHORN: That would be something that will need to be considered by government. Obviously, an apology is - I'm aware of the significance of the apology and that's why I wanted to make it, certainly, in coming to this forum today on behalf of the government, and the government will consider those sorts of issues as a whole.

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COMMISSIONER LOVETT: Have you given any thought yourself to it, though?

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THE HON. LIZZIE BLANDTHORN: Insofar as - I haven't come up with any solution, if you like. Of course it's a thought, but, yeah, it's something that will need to be considered by the - by the government as a whole.

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COMMISSIONER BELL: I was just going to say that we are looking at system reform issues at the moment, but I want to endorse Commissioner Lovett's reference to the bigger question of reparations, which involves several parts. So I wouldn't want the current emphasis upon system reform and critical issues to distract from what will be quite fundamental engagement with that question further down the track.

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COMMISSIONER HUNTER: I would just like to say, I guess, one last thing is that an apology without action is not going to cut it, and we would like to see as many of our recommendations particularly for this area with our overrepresentation of our children, which is heartbreaking and continuing for our community, we would like to see the action, and it's urgent. And we have heard and we are still going to hear after this from evidence continually about what's wrong, and we know the system doesn't work for our people.

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So we need urgent action. So thank you for coming here today.

THE HON. LIZZIE BLANDTHORN: Thank you.

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MS MCLEOD: Minister, is there anything you would like to say in closing?

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THE HON. LIZZIE BLANDTHORN: Thank you, yes, I would just like to thank the Commission and Counsel for having me here today. These are, I completely agree, urgent issues. And it's why they can't wait. It's why we have to act on them now. And I'm deeply concerned, as we have talked about, to the extent that any child - that any child's human right would in any way be limited or infringed by the system. That is a fundamental failing and needs to be urgently addressed.

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In preparation for this hearing, I was rereading the Uluru Statement and I was particularly struck by the line in it that said:

"When we have power over our own destiny, our children will flourish. They will walk in two worlds, and their culture will be a gift to their Country."

5 And I really think that that's the essence of what we're talking about. Allowing people to determine for themselves what's in their best needs, in their best interests, expecting that government will do what they need to do to facilitate that self-determination and that, in so doing, we give every child the opportunity to be the best person that they can and to make their contribution to their country and to live a safe, happy and fulfilling life.

10 So it's certainly why I went into politics in the first place, and I give my absolute commitment to you, Commissioners, and thank you for the work that you're doing, that that is my objective. So I hope to be able to continue to work with the Commission and community to ensure that we deliver on that.

15 MS MCLEOD: Commissioners, that -

COMMISSIONER LOVETT: Please keep that in your heart when you are thinking about this space. That's what I ask of you, please.

20 MS MCLEOD: Commissioners, that concludes the evidence of Minister Blandthorn. It's proposed to adjourn now to Monday, 9.30 am. There will be a tender list which we will come back to on Monday, if that's okay. We won't deal with that this afternoon. There are some documents to add, and we will deal with that on Monday.

25 COMMISSIONER HUNTER: We will adjourn to Monday, 9.30 am. Thanks, Counsel.

****<THE WITNESS WITHDREW**

30 **<ADJOURNED 2:08 P.M.**