



TRANSCRIPT OF DAY 2 – PUBLIC HEARINGS

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

FRIDAY, 28 APRIL 2023 AT 10.06 AM (AEST)

DAY 2

HEARING BLOCK 5

MS FIONA McLEOD SC, Senior Counsel Assisting, with MS JULIE BUXTON, Counsel Assisting
MS GEORGINA COGHLAN KC, with MR CHRIS HORAN KC, MS GEMMA CAFARELLA and DR LAURA HILLY for STATE OF VICTORIA

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MS MCLEOD: Yes, we're ready, thank you. Thanks for the time.

CHAIR: Good morning. Today we will continue to hear from Mr Argiri Alisandratos, who appears on behalf of the Department of Families, Fairness and Housing. This is the second day of the hearings in Hearing Block 5, where we are primarily hearing from government witnesses on the priority areas of child protection and Criminal Justice.

Before we start today, I would like to invite Commissioner Hunter to give the Welcome to Country and acknowledgement of country.

COMMISSIONER HUNTER: Thank you, Chair. So I'd like to acknowledge we are on my ancestral lands, the lands of the Wurundjeri and pay my respects to Elders past, present, all those that have gone before us so we're able to give voice to us, and we're able to sit in positions like this. And being on topic I'd like to acknowledge Stolen Generations, those that didn't make it home, those that did and those that are still searching. I'd also like to acknowledge those families lost within the child protection system today and honour those families and those children, and hope that they too make it home safely with strong cultural connections. So Wominjeka. Come with purpose. Thank you.

CHAIR: Thank you, Commissioner Hunter. Counsel, may I have appearances, please.

MS MCLEOD: Thank you, Commissioners. I appear with Ms Buxton to assist.

MS COGHLAN: Thank you, Commissioner. I appear for the State of Victoria with Mr Chris Warren and Ms Cafarella and Ms Hilly.

MS MCLEOD: Commissioners, we acknowledge the Wurundjeri people. We acknowledge that we are on the land of the Wurundjeri people of the Kulin Nation. I offer my respects to Elders and ancestors. I recognise the strength and the love of Aboriginal people for their families, and this difficult task we are facing yesterday and today, and throughout this hearing block, in dealing with the issues of child protection, the impact this has on Aboriginal people and the impact this has on those following this Commission. If the Commission pleases.

CHAIR: Thank you, Counsel.

MS CAFARELLA: Thank you, Chair, and thank you, Commissioner Hunter. We would also on behalf of the State like to acknowledge the Traditional Owners of the land on which we meet today. The Wurundjeri people's of the Kulin Nation and pay our respects to their Elders past, present and future. We further acknowledge all First Nations People and Traditional Owners here today as well as all First Peoples who have participated in this important inquiry. The State acknowledges in particular the importance of the topics being considered today and yesterday. The State acknowledges its role, its shameful role, in the treatment of Aboriginal people and their children.

CHAIR: Thank you. Thank you. When we acknowledge Country and ancestors past and present and emerging, the emerging means the people we're talking about now, our young people and the babies. So thank you for noting that. Counsel, thank you.

MS MCLEOD: If the Commission pleases, we resume the evidence today of Mr Alisandratos.

CHAIR: Thank you.

<AGIRIS ALESANDRATOS

MS MCLEOD: Mr Alisandratos, do you undertake to provide truthful evidence to the Yoorrook Justice Commission today?

MR ALISANDRATOS: I do.

MS MCLEOD: Can I finish the discussion we were having yesterday and your evidence in relation to the operation of the Act, the primary Act. Yesterday I was asking you questions about the best interests of the child and additional considerations required by subsection (10). And if we could bring up on the screen, section 11 which appears at page 42 of the Act. Just before, while that is being brought up, the best interest considerations and the principles set out in section 10 are relevant considerations mandated for all decision-makers in the system, are they not?

MR ALISANDRATOS: They are. Can I just, before I continue -

MS MCLEOD: Yes.

MR ALISANDRATOS: Can I also begin by acknowledging Traditional Owners of the land that we're all meeting on today, and pay my respects to Elders past present, and members of the Wurundjeri people and also acknowledge Traditional Owners throughout Victoria and those that are with us today. Thank you, Commissioner Hunter, for your welcome. And, yes, given the difficult circumstances that we're talking about today and the shameful history, I'm here again today to make a significant contribution to your work, Commissioners. So thank you for the opportunity.

CHAIR: Thank you.

MS MCLEOD: Thank you. So all decision-makers, that is the department, Aboriginal controlled organisations, community service organisations, and judicial officers in exercising the jurisdiction under these Acts, must adhere to and comply with the best interest principles and the matters raised in terms of the interpretation of those best interest principles; is that correct?

MR ALISANDRATOS: That's correct.

MS MCLEOD: Okay. They must also give consideration to two additional matters: the decision-making principles set out under section 11. That's the first thing; correct?

MR ALISANDRATOS: Yes.

MS MCLEOD: And the additional decision-making principles for First Nations children set out in section 12.

MR ALISANDRATOS: Yes.

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MS MCLEOD: So just starting with section 11, in making a decision or taking action, the secretary or a community service must also give consideration to the following principles. First (a):

10 *"The child's parents should be assisted and supported in reaching decisions and taking actions to promote the child's safety and wellbeing."*

So my first question is a general one about this provision in application. How well is the department meeting this principle, in your view?

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MR ALISANDRATOS: As I think I talked about yesterday, whenever child protection intervenes in the life of children and their families because of a report of concern, and through the process of assessment and investigation, the first order of priority is to provide any possible support to families so that families can be preserved and children can be enabled to remain within the family setting in the safest possible way.

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So, in that - in that regard, there are a whole range of supports that are developed and provided with assistance to the family to maintain and promote the child's safety and wellbeing within the family construct.

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MS MCLEOD: Are there - so my question was: how well is the department meeting the principle? Could there be room for improvement in the application of this principle?

MR ALISANDRATOS: I think the principle is embedded deeply into the practice of child protection practitioners and when they're determining the needs of a particular child and family, is there room for improvement? There is always room for improvement in terms of how that principle is applied. But when you think about, and look at the data in terms of how many children end up being removed from the point of report all the way through to removal, and it being notwithstanding the number of First Peoples children we have in care but relative to how many reports and investigations we undertake, it would suggest that we are preferencing that principle quite significantly in terms of maintaining children within their families.

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MS MCLEOD: So when you say there's room for improvement, bearing in mind that this Commission is looking for ways to make recommendations that improve -

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MR ALISANDRATOS: Yes.

MS MCLEOD: - the system for First Nations children, where can you point the Commissioners to those areas of room for improvement?

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MR ALISANDRATOS: I think probably in the realms of how we - how we strengthen provisions and guidance to practitioners to reinforce the need that ultimately parents and families are the binding unit that we are seeking to protect. And that - that's already in the legislation. It is quite profoundly built into our practice. But anything that we can do that
 5 brings a more significant cultural perspective to it, I think would be a useful way of continuing to maintain the focus and potentially improving our practice around it.

MS MCLEOD: So is that just a matter of reviewing the documents or is that a matter of embedding training (inaudible)

MR ALISANDRATOS: I think it can be all those things. I think it can be how - how do we translate that principle within the frameworks, the risk assessment frameworks, our operating frameworks. How do we reflect it in training of our practitioners and reviewing that and ensuring that we've got - we have that principle adequately embedded within every element of
 15 our practice.

MS MCLEOD: And what would need to happen to make that - to embed those principles in practice? And just, I'd appreciate your thinking at this point about is it could we do a policy review, for example, to ensure that the policies reflect those principles throughout each of the
 20 hierarchy of documents that guide a child protection practitioner's practice? Is it a matter of red flags and templates that provide checklists? Is it a matter -

MR ALISANDRATOS: Yes.

MS MCLEOD: - And I'm talking off the cuff here -

MR ALISANDRATOS: No, no.

MS MCLEOD: - is it a matter of training and ensuring that the training is sufficient and adequate and provided by appropriate people with themselves embedded cultural knowledge? I'm looking for examples.

MR ALISANDRATOS: Yeah, look, I think all of those areas are possible. I don't want to suggest that those things are not being done at the moment.

MS MCLEOD: Yes.

MR ALISANDRATOS: But in terms of how we look to assure ourselves even beyond what we've done to date, to ensure that they are deep - that the principles such as these are deeply
 40 embedded in our practice, would be useful considerations for the Commission in terms of further review, further assurance that the department could bring to these matters.

MS MCLEOD: So does the department have a regular audit and assurance process for checking on the principles?

MR ALISANDRATOS: We have a - it's a - what I would say is that it's very dynamic process, our office of professional practice. Its sole purpose, if you like, is around how we

bring - how we bring the practice dimensions and ensure that our workforce have the most up-to-date guidance systems and capacity to be able to undertake the functions of statutory protective intervenors. And that is a dynamic process. We look at research. We look at the evidence that is emerging, and equally we draw that evidence from our First People's organisations and communities who are so pivotal to driving some of the changes that we've been navigating over the last decade or so.

So you could see some of that already reflected in our processes, in our guidance to our practitioners. And I would say that we will continue to do more of that as more evidence emerges, as more models are put in place through our engagement with our First Peoples organisations.

MS MCLEOD: So four aspects of matters that arise from what you've just said that I want to touch on. The first is culture and the development of cultural safety plans. So how are you tracking in terms of the application of this principle and the development of cultural safety plans?

MR ALISANDRATOS: I think - on cultural safety plans, I think we still have a way to go, is probably what I'd say. I think there is a significant effort and improvement that has occurred over the last few years. We've invested more in cultural safety. We've got more cultural safety practitioners and advisors across the department and our Aboriginal community controlled organisations. We - we certainly have lifted our compliance with our Aboriginal cultural planning to about mid-60 per cent of children having a cultural support plan. But, as you can see, there is room for some significant continuing improvement for us to make in relation to cultural planning and -

MS MCLEOD: Sorry to interrupt. Do I understand what you're saying is that only 60 per cent -

MR ALISANDRATOS: About 66.

MS MCLEOD: - of children have that plan and the requirement or the policy is for 100 per cent.

MR ALISANDRATOS: 100 per cent, that's right.

MS MCLEOD: And why is there a gap? What's the lack of capacity there?

MR ALISANDRATOS: There are a range of factors that contribute to that gap. One of the factors is engaging with families, understanding family history, genealogy, being able to develop the appropriate cultural plans that are relevant for that individual child within the context of their family and their cultural background. There are workforce challenges in terms of just ensuring that we've got enough advisors who are providing that support to child protection. There are some challenges around how care teams come together to bring all of that intelligence together to formulate a cultural support support plan. So there's a range of barriers that we are working to overcome.

COMMISSIONER LOVETT: Is it the 100 aspirational or mandatory?

MR ALISANDRATOS: It's a mandatory requirement.

5 COMMISSIONER LOVETT: And you're saying that we're at?

MR ALISANDRATOS: 66 per cent.

COMMISSIONER LOVETT: That's mandatory?

10 MR ALISANDRATOS: Yes.

COMMISSIONER LOVETT: That's a concern.

15 MR ALISANDRATOS: It is.

MS MCLEOD: I can see Commissioner Hunter wants to ask some questions there, but can I ask first: the genealogy work that you mentioned, do you commission research about that?

20 MR ALISANDRATOS: We fund the Victorian Aboriginal Childcare Agency to provide that service for our practitioners.

MS MCLEOD: And so does it rest with them or is there more investment needed to map the entire State?

25 MR ALISANDRATOS: I think there's always room for more capacity and more scale to be brought to these things, yes.

MS MCLEOD: Okay. In terms of the investment in the workforce, you're talking about investment in First Peoples being within the workforce directly?

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MR ALISANDRATOS: Yes, that's right.

MS MCLEOD: And in terms of information-sharing, you're talking about enabling that workforce to participate in the sharing of information in a way that assists them to get to meetings, basically, and share information. Is that support for those meetings?

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MR ALISANDRATOS: Sorry, I don't -

40 MS MCLEOD: You mentioned the sharing of information before -

MR ALISANDRATOS: The care teams.

MS MCLEOD: Yes, care teams, sorry.

45 MR ALISANDRATOS: Yes. No, that's okay.

MS MCLEOD: Yes. And what is the problem with them getting together and sharing information?

MR ALISANDRATOS: It's the inevitable challenge of many of our practitioners, both in child protection and across our community service and Aboriginal community controlled organisations, trying to manage many demands and trying to get the right time dedicated to these important elements. There are always competing elements. So it's - it's a demand pressure.

COMMISSIONER HUNTER: I'm just going to say first off 66 is not acceptable. You spoke yesterday about how it's a protective factor, culture is - in your words and I'll paraphrase it - culture is a protective factor for our children and our families.

MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: Yet they're in a system that harms them. So wouldn't it be your first thing to make sure they're protected?

MR ALISANDRATOS: Absolutely. So, protect - so there are probably a number of elements to that. Our priority is to protect children. Our priority is to protect children within the context of their family, community and culture, and cultural support plans are absolutely critical to that. So you're absolutely right about saying the fact that we haven't got to where we need to be, that is 100 per cent of children having a live, valid cultural support plan, is clearly not good enough.

COMMISSIONER HUNTER: No, it's not good enough, and we've got time left so we will follow up those numbers and we hope, we seriously hope, they rise.

MS MCLEOD: Can I just clarify -

COMMISSIONER LOVETT: So you're asking all these families to jump through these hoops in order to get their children back ultimately, but then when the department doesn't do their job, it's okay. You just said it's mandatory 100 per cent, and yet 60s.

MS MCLEOD: Sorry, is the number 60 or 66?

MR ALISANDRATOS: It's 66 per cent.

COMMISSIONER LOVETT: 66, sorry, just to clarify. Either way, 66. It's terrible.

MR ALISANDRATOS: Yeah, it - it certainly not where we need to be.

COMMISSIONER LOVETT: Well, it's clearly not. Not certainly. It's not where the department needs to be.

MR ALISANDRATOS: Yep. And, again, there has been significant investment in more capacity, more funded capacity through our Aboriginal community controlled organisations,

because they are critical to assisting the development of cultural support plans. And obviously each and every one of those cultural support plans need to be signed off and approved by a local chief executive officer of an Aboriginal community controlled organisation.

5 COMMISSIONER HUNTER: Who writes the actual plan, just so we're clear on that?

MR ALISANDRATOS: Yeah, it's a - it's a joint responsibility between a child protection practitioner and the cultural support advisor from an Aboriginal community controlled organisation, with input from many others around the care team, including carers themselves
10 and family.

COMMISSIONER HUNTER: I think some of it comes back to what we were talking about yesterday about authority and that there is no one place that we can pin these on. And I've heard yesterday, and already today, you talk about improvement. You know, what changes
15 need to be made, specifically for cultural support plans, the improvements, because I don't want to hear "We know there's need for improvement." What are you doing? These kids will be lost to their families, to their culture. And if we have not learnt anything yet about the *Bringing Them Home Report*, I seriously recommend that the department all go and read that report because this is not good enough. 66, it's just - it's ridiculous. How many kids on
20 cultural support plans have no contact with their family? How many kids on cultural support plans are living off their cultural lands? How many have no idea which mobs they belong to? Like, these are the questions. You're the parent. You're the parent here. We have an obligation to our kids to make sure they know who they are, they're brought up correctly, they're doing everything. Who holds you accountable? Who holds the department
25 accountable? Because unless you're in there working on the coalface every day and see these children and these parents' tears, and it's probably out of frustration more than anything, but we didn't ask you here not to answer our questions and to shuffle around. The improvements - we want to know what these improvements are. This, what we are talking about, is nothing new. We are talking similar things to the *Bringing Them Home Report*. It is
30 not good enough. It's just not. Sorry. Thank you, Ms McLeod.

MS MCLEOD: In terms of those cultural plans, is there any sort of quality assurance tool or mechanism that is applied to the development of those plans by the department?

35 MR ALISANDRATOS: Well, the biggest quality assurance is the signing off of those cultural support plans by a chief executive officer of an Aboriginal community controlled organisation, local to that child's community.

40 MS MCLEOD: Okay.

MR ALISANDRATOS: That is - ultimately that is the - that is a process. It's not the department. Yes, the department absolutely has a role to play in driving and implementing those cultural support plans and developing them, but it's done with the assistance of those who've got cultural knowledge and it would be - it would not be accurate for us in the
45 department to do that in isolation without First Peoples' significant input into those cultural plans.

MS MCLEOD: Are -

COMMISSIONER BELL: You're not – you're not blaming Indigenous families, are you?

5 MR ALISANDRATOS: No, no.

COMMISSIONER BELL: No.

MR ALISANDRATOS: Not at all.

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COMMISSIONER HUNTER: Is there a gap - sorry Commissioner Bell - is there a gap of time between that - that's not being signed off on from, say, getting it done on the ground to getting up to, say, the CEO of an Aboriginal organisation?

15 MR ALISANDRATOS: I think - what I would say, Commissioner Hunter, is that the process of developing a cultural plan by the very nature of the complexity of getting the right inputs, takes time - the engagement with all the family members, the engagement with the wider community. And that engagement is through our cultural support advisors who are funded in our Aboriginal community controlled organisations. They lead much of that work, as they
20 should, because they are the cultural experts. And that takes some time to get that engagement.

COMMISSIONER HUNTER: What's the average time? What would be, say, the average time from a child -

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MR ALISANDRATOS: The requirement is to have a cultural support plan in place within 19 weeks of a child coming into care.

COMMISSIONER HUNTER: And is that being achieved?

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MR ALISANDRATOS: No, I think - I haven't got -

COMMISSIONER LOVETT: Is that a no?

35 MR ALISANDRATOS: No, no, I haven't got the numbers in front of me but it's my understanding that it's taking longer for a number of those cultural support plans to be developed. And there's - there are - and these are things that we're working through. There are barriers along the process all the way from the development phase to the endorsement and sign-off phase. And there are - there are also some barriers around identification of children's
40 Aboriginality as well. That means that it takes a longer process and a longer time to work through some of those issues; and there are tension points in some of that, particularly where it is not - there are different views about the genealogy of some Aboriginal children.

COMMISSIONER HUNTER: And who does that sit with - sorry, Ms McLeod to go off your
45 line - who does the identification sit with?

MR ALISANDRATOS: Well, it can sit - it sits with the department because we accept self-identification, clearly, as - as the only requirement that we have. But at times that may conflict with the local community's understanding about the history of some children and their families, and that takes some time to work through. So these matters can be complex. There are some organisations that require proof of identification. This remains an unresolved issue in terms of how we - how we arrive to an agreed approach for resolving identification.

COMMISSIONER HUNTER: How long has the Aboriginal Children's Forum been going?

MR ALISANDRATOS: Since 2015.

COMMISSIONER HUNTER: It's never been on the agenda?

MR ALISANDRATOS: It has been on agenda and there has been a position put but it is not resolved at this point.

COMMISSIONER HUNTER: I would suggest get resolved because that's a big issue for our mob.

COMMISSIONER LOVETT: How many out of the 34 per cent that haven't been done - you said 66 are - having the complexity around identity?

MR ALISANDRATOS: I don't have that information in front of me. I'm not suggesting it's a big proportion. It is a smaller proportion, but it is one element that requires a significant working through.

COMMISSIONER LOVETT: I come back to it's mandatory.

MR ALISANDRATOS: Yes, it is.

COMMISSIONER LOVETT: It's mandatory that these are done.

MR ALISANDRATOS: Yes, it is.

COMMISSIONER LOVETT: And I - I wonder how much weight are these really given in the grand scale of our kids, coming into contact with the system. It doesn't sound - like, 34 is a lot.

MR ALISANDRATOS: It is. It is. And just on the waiting, I think both from a policy and practice perspective, cultural support plans are seen as critical. They are fundamental to how we maintain connection to community and culture for children that are placed in alternative care settings.

COMMISSIONER BELL: That's true. Why are 34 per cent of cases not done? I don't understand that. Can I say, I don't - with respect to your evidence generally, and with great respect to you, I have a lot of difficulty squaring up language like "room for improvement" or,

"this thing is critical" or, "that thing is critical" with your concessions that the systems operate shamefully, with respect to Aboriginal children taken into care.

5 And if the system operates shamefully, then surely the system is shameful. And I don't get a sense from you that you understand that the system is shameful in these specific respects. I couldn't possibly describe a system that's shameful as being one in which there is room for improvement. It's one in which there needs to be root and branch structural reform. But that's not what you've been telling us for the past couple of days.

10 I would use this example as Exhibit 1. You heard Commissioner Hunter welcome children searching for themselves because they have been taken. And one of the reasons that they are searching for themselves is that they have lost contact with their country and their family. And if cultural plans were in place, that might not happen. They would not be searching. They would know who they are and what their connection was with their people and their
15 country.

MR ALISANDRATOS: I completely accept that, Commissioner Bell. I think we have been - and I have been very clear about the shameful nature of many elements of our system. I've been very clear about the need for significant reform, and government has been clear
20 about the need for significant reform. And that is a conversation that we are here to have. We are clearly wanting to do more in this space. But I - I do want to - I do want to also balance that with the reality of operationalising either this system or any future system.

COMMISSIONER HUNTER: In the reality, Mr Alisandratos, when the search comes
25 searching, they are not coming to you. They are not coming to the Department. They are coming to us as Aboriginal people and we have to answer those questions. So anything other than strategic changes of not only the Aboriginal child placement principle but how that's implemented on the ground is unacceptable. Because you've just said 66. I'm not going to let you explain that away. Not - it's just unacceptable. And you should know, because alongside
30 you I have worked on that frontline as well. They come back to us. They don't come back to the Department. They come back to us and we have to explain the actions of the State. It's not on.

MS McLEOD: Could I just ask that the Act be taken down for a moment. We will bring the
35 Act back up shortly. I just wanted to take it down for this conversation. Is there a need to incentivise the workforce who are doing this work, this critical work?

MR ALISANDRATOS: So I'm just struggling with the work - with the word "incentivise",
40 Ms McLeod, because we expect our workforce, both our child protection - child protection practitioners and our Aboriginal community controlled workforce, which are so critical to this effort, to do significant amounts and to juggle significant demands and that is - that is an operational challenge that we will face.

MS McLEOD: So given the pressures and the complexity of the system across the whole
45 workforce, including those First Nations members of the workforce -

MR ALISANDRATOS: Yes.

MS McLEOD: - what measures have you taken to support that workforce and encourage people to apply to those positions?

5 MR ALISANDRATOS: So we continue to invest more in that workforce, just like we've invested across the whole sector, but there's been such significant growth over the last few years that the challenge of workforce supply is a very real one.

10 COMMISSIONER LOVETT: So the word "growth" is our people overrepresented in the system. It's offensive to hear about the word growth.

MR ALISANDRATOS: But I'm talking about growth in - yes, you are right, Commissioner Lovett.

15 COMMISSIONER LOVETT: Yes, I am right.

MR ALISANDRATOS: But I'm talking about growth in the workforce that is - that government has invested in to support First Peoples across the state. And in investing so significantly, it requires a pipeline of people to be ready and be able to be recruited to deliver on those services. And the challenge that we all face across government and non-government is a short supply of workforce to be able to deliver those critical services. And that has an impact on how we can get to a 100 per cent target on - in this measure and many, many other measures. And, again, that - it's not an excuse, it's a reality when we have 10 per cent of your community services workforce not recruited to, because we just don't have sufficient pipeline. That is an operational challenge that we all have to face. Just like we have vacancies in child protection.

MS McLEOD: So I mentioned -

30 COMMISSIONER BELL: I have a question about this - and I'm sorry, I know you are being interrupted a bit and that's difficult. Would you accept that Aboriginal children have a fundamental human right to have knowledge about their own culture and identity?

35 MR ALISANDRATOS: Yes, I do.

COMMISSIONER BELL: How on earth can you say lack of resources is an excuse for breaching a fundamental human right?

40 MR ALISANDRATOS: I'm not - I'm not saying lack of resources.

COMMISSIONER BELL: That's exactly what you said.

MR ALISANDRATOS: I'm saying - so the resources might be there but our capacity to recruit to those resources, given the workforce challenges that we have, given the growth of investment and the need for more workforce, will be challenging.

COMMISSIONER BELL: Let me put it another way: Would you accept that it is the State's responsibility to give effect to - to respect, to protect and to fulfil the right of every person, especially Aboriginal people, with respect to their own culture, their own identity, their history, their land, their country, their families, their mob? Do you expect that's a State responsibility?

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: Well, how can there be an excuse for the state failing to put in place the system necessary in order to give effect to that responsibility?

MR ALISANDRATOS: So what I would say to that, Commissioner Bell, is the system is being put in place. Our ability to effectively resource and maintain continuity of workforce can compromise the delivery of that aspiration. And that's a reality -

COMMISSIONER BELL: Well, it's the State's responsibility to address that problem, isn't it?

MR ALISANDRATOS: Absolutely.

COMMISSIONER BELL: With respect to all other aspects of public administration, Education, Housing, Health. It goes on and on.

MR ALISANDRATOS: Absolutely. And there a range of workforce strategies in place across our organisation, our Department and many, many other departments and at the whole of government effort. We are all working to increase the supply of qualified capable workforce that can deliver these critical services that government and - has invested in.

COMMISSIONER BELL: On every occasion, when the Commission has gone on Country and received evidence from families, and received evidence from - from people, young and old, and gone to prisons, we have received evidence from people with tears in their eyes about this question.

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: And how profound has been the impact on them of losing contact with their country and with their families. And how significant a factor that was in drug abuse and in offending and other such behaviours. And I have in my own mind the precious gift on a number of occasions of speaking with people about these matters. And then the flip side to that is how empowering it was and how healing it was for them somehow to be successful in the search of which Commissioner Hunter spoke.

So this is not a question of room for improvement, this is absolutely fundamental. And I - with respect, I don't get the sense of urgency and pressing concern in your evidence about this matter, and I have already made the point about some of this. A system which produces shameful rates of removal of Indigenous people from their family is a shameful system, and it's shameful in this respect.

COMMISSIONER HUNTER: Can I just ask - thanks, Commissioner Bell - we spoke about the responsibility of writing up the plan and getting - whose responsibility is it then to implement that plan?

5 MR ALISANDRATOS: So the plan is that - the implementation of the plan is the responsibility of the care team and members of the care team. Because all of them will have a different contribution to make, including our Aboriginal community controlled organisations, who will implement elements of it.

10 COMMISSIONER HUNTER: So it goes back to their responsibility, and is there funding in the responsibility to make sure this child has the connection that it needs?

MR ALISANDRATOS: There is funding. Of course, the question about adequacy of funding is always an issue and a challenge.

15 COMMISSIONER HUNTER: As Commissioner Bell just pointed out, it's a human right, it's a cultural right, it's a right of First Peoples to be connected. So money, rights - it's just not adding up for me. So it's a - it's written out the responsibility then lays with the care team or maybe contracted to an ACCO. It lays with them. And there's probably - I would say
20 probably, maybe you can correct me if I am wrong, inadequate funding to be able to implement this.

MR ALISANDRATOS: At times there can be challenges, yes, inadequacy of funding. The only other element that I would add to that, as we move and transition more children to be
25 looked after by Aboriginal community controlled organisations - at the moment we are at nearly half of those children being cared for and/or case managed by Aboriginal community controlled organisations. By the very nature that they are being cared for and case managed by those Aboriginal community controlled organisations means that they are getting more cultural appropriate service delivery. They are by the very nature more closely connected to
30 their culture and community.

So that - so that there are some - if you - if you think about the transition that we have had, Commissioner Bell, and where we want to go, the aspiration of having all Aboriginal children looked after by their communities in their communities will absolutely fulfil in a more
35 tangible way their connection to community. Because they won't be looked after by non-Aboriginal services.

COMMISSIONER HUNTER: That's extra work on the caseload. That's a cultural load that you hold as an Aboriginal person as well. And I hope there is money going into that
40 Aboriginal staff with the load they have to carry to be traumatised by what's been happening to not only - we spoke about transgenerational trauma yesterday and how that's factored in as a risk. I hope the government is putting money in to make sure that Aboriginal staff have enough adequacy to be able to be cared for in these spaces of trauma.

45 MR ALISANDRATOS: Sorry, absolutely agree with that point, Commissioner Hunter. So if we think about - just to give you an example of the differences, we think about ACAC and the resourcing model that supports Aboriginal Children in Aboriginal Care providers, the typical

caseload or for ACAC practitioners is eight to nine children. The typical caseload for child protection practitioners is anywhere between 15 and 18 children.

5 And that gives you an indication of both the significance that we have applied to how we resource ACAC providers to undertake the work in a very meaningful way and to give consideration to both cultural load, work with families, and the intensity of that work in recognition of what it takes to get outcomes. That's why it's being resourced in the way has been resourced. So it goes to your very point about - and it goes to the conversation we had yesterday. This is not just a handballing exercise from the State to Aboriginal community controlled organisations. It is a carefully considered and transitioned approach that we will take.

COMMISSIONER HUNTER: Thank you, Counsel.

15 MR ALISANDRATOS: Sorry, and if you would - just to add, if you think about that difference in caseload then it goes to some of the challenges that we face in doing all those meaningful elements of practice that are so important and meeting critical targets. Now, again, it - it is an operational reality that we've got to - we've got to tackle. That's our reality that we've got practitioners with significant demand responsibilities, and we've got - we've got to continue to invest in that to make sure that we are bringing the right focus, the right resource, the right attention, and government has done that, incrementally increasing the number of our practitioners and, over time, bringing some of those caseloads down.

25 COMMISSIONER HUNTER: So if I can, Ms McLeod, sorry to interrupt you yet again. Just a quick question when you talk about investment and there was the Bring Them Home report which had 54 recommendations and then there was Always Was Always Will Be Koori Children, 77 recommendations. Out of that lot of recommendations, how many are implemented?

30 MR ALISANDRATOS: Let me just find that for you, Commissioner. So of the - so if I talk about the two significant reports post-Taskforce 1000: Always Was, Always Will Be, and In the Child's Best Interest. There was 79 recommendations for Always Was, Always Will Be. There were 54 In the Child's Best Interest. That's 133 recommendations, of which government accepted 128. Of those 128, 104 have been fully acquitted.

35 COMMISSIONER HUNTER: When you say "fully acquitted", to whose standard?

40 MR ALISANDRATOS: To the standard that was established between the Commission and - and the ACF, which required a collective view and assessment about acquittal - adequacy of acquitting each and every one of those recommendations. So there was a mechanism put in place by Commissioner Jackomos in his time to work through the determination of what evidence would support the acquittal of those recommendations.

45 COMMISSIONER HUNTER: Sorry, you said 104?

MR ALISANDRATOS: 104 of the 128 have been fully acquitted. There are a further 19 that the Department believes are to be acquitted but we are engaging with the Children's and

Young Person's Commission to determine an agreed view on that and there are 10 that are continuing to be progressed. A number of those recommendations that are in progress will be acquitted through the passing of the Statement of Recognition Bill.

5 COMMISSIONER HUNTER: We have seen numbers go up. So do you think they implemented - I mean, they might be acquitted but are they implemented correctly? Because the numbers of children have risen since those reports.

10 MR ALISANDRATOS: Yes, I accept that. Have they been implemented accurately? They certainly have implemented across the practice and operational environment. Are they having the impact that they were envisaged to have? That is a continuing area of examination for us.

COMMISSIONER HUNTER: So you're, I guess, evaluating those as - and is that internally or externally evaluation?

15 MR ALISANDRATOS: I think that the process of evaluation is an internal one, but there are - there are external inputs into that evaluation through the work of the Children and Young Person's Commission, through further inquiries that are undertaken where there is a focus on our work.

20 COMMISSIONER HUNTER: Thanks.

COMMISSIONER LOVETT: I think the question was also about the Bringing Them Home report and how many of those implementations have been implemented. You referred to Taskforce 1000 by Commissioner Jackomos, noted. And also Our Youth, Our Way? Was that -

MR ALISANDRATOS: No, In the Child's Best Interest.

30 COMMISSIONER LOVETT: The Child's Best Interest. So what about the Bringing Them Home report?

MR ALISANDRATOS: I don't have that in front of me, but that - that - I understand that those recommendations are much broader than the Children and Families system. These are more specific within the context of the delivery of Children and Families in the State.

COMMISSIONER LOVETT: There still would have been commitments for that Department to be accountable.

40 MR ALISANDRATOS: Absolutely. Yes. Yes. Sure.

COMMISSIONER LOVETT: We don't want to get into another VAAF conversation like yesterday where it is no one's responsibility.

45 MR ALISANDRATOS: Yes.

COMMISSIONER LOVETT: Yes.

MS McLEOD: A number of matters arising from that conversation, and I wonder if you would undertake to follow up for the Commission on a number of things. In respect of the 34 per cent of children with no care plan - no care support plan, can you provide information about the percentage who are not delivered within 19 weeks and the identification of any reasons, if the Department knows them, for non-delivery within time?

MR ALISANDRATOS: I could be wrong, Ms McLeod, but you may already have it.

MS McLEOD: Confirmation of the number.

MR ALISANDRATOS: Yes, certainly.

MS McLEOD: Can you provide any details of any research projects into genealogy that are in the pipeline and any plans for collaboration with academic institutions or other researchers. And you provide details of the Department's investment in the workforce, including any recruitment and retention plans, and can you provide information regarding any plans and timelines for the transfer of power to ACCOs and CSOs and any additional supports to accompany the development of cultural support plans and the Secretary's powers generally. All of those things, we -

MR ALISANDRATOS: Can you just repeat that last one?

MS McLEOD: Yes. So the question about the - you mentioned in one of your answers that you are transferring powers - sorry, you mentioned in your evidence the role of ACCOs in developing these cultural support plans. So in the context of the transfer of the Secretary's powers to ACCOs and community service organisations, if they hold those powers as well, can you provide us with information about the development of these cultural support plans and how the transition of power is being effected?

MR ALISANDRATOS: Yes. Right, okay.

MS McLEOD: All of those things.

MR ALISANDRATOS: Sure.

MS McLEOD: No problem.

COMMISSIONER HUNTER: Ms McLeod, can I just ask - and I don't know if we have already got this, but how many - of all the Aboriginal children in out-of-home care, how many of those cases sit with the Department and how many sit with ACCOs?

MR ALISANDRATOS: Yes, we have provided that. But we have got about 48 - 47, 48 per cent of Aboriginal children, First Peoples children, in care being looked after by Aboriginal community controlled organisations.

COMMISSIONER HUNTER: Thank you.

MS McLEOD: So that was just the first aspect of the consideration about section 11(a), the assistance and support to be provided for a child's parent to promote the child's safety and wellbeing. The second aspect I wanted to touch on was measures taken by the Department or planned to be taken by the Department to address racism and bias - conscious and unconscious. Now, you accepted yesterday that racism and bias in the Department and in its operations is intolerable. Can you tell the Commissioners, please, about what is currently done. And you might refer to not just policy references and policy documents, but I'm interested in mandatory or prerequisite qualifications that touch on those subjects. I'm interested in training, induction and continuous professional development measures. Commissioner Bell?

COMMISSIONER BELL: And not just - the racism is not just morally repugnant, it is a fundamental human rights violation is it not.

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: So the question, besides the ones that have been asked, is what are you doing to uphold the law with respect to that matter?

MR ALISANDRATOS: Yes, thank you. So there's a number of other elements to that question, I think, Ms McLeod. So if I can - if you can break it down.

MS McLEOD: Certainly.

MR ALISANDRATOS: So if we start with -

MS McLEOD: Let's start with - there is an acknowledgment that racism and bias in the operations of the Department is intolerable and contrary to law. What measures is the Department taking to address those biases and racism that you know exist?

MR ALISANDRATOS: Can we go with that one?

MS McLEOD: So start with that. I don't need you to take me to the policy documents, because I'm aware of where there's reference to those things in the written documents.

MR ALISANDRATOS: Yes.

MS McLEOD: I'm interested in how you actually address those biases held by your staff that infect decision-making.

MR ALISANDRATOS: Well, let me take you through some of the training that we obviously expect our staff to have. So all our staff are required to undertake cultural awareness training. There's a number of e-learning elements to that. Particularly at the commencement and through the orientation programs that are provided by the Department. There's cultural safety training for managers which is mandatory for all people managers, and

that is an important element of input, that we provide our managers so that they are - they have an understanding and are able to identify any bias, any racism and they can deal with it.

In child protection, staff are provided a more specifically with cultural awareness and cultural safety training and it's - it is an essential part of their professional development. This is undertaken through what we call the Beginning Practice Induction Program, which currently includes a Working with Aboriginal Children and Families session, that is developed and implemented and delivered by First Peoples to provide that direct input.

In the context of that training session, there are case studies that are used to support the way practitioners ought to engage and work with First Peoples families and use - the use of those case studies are an important way of creating and understanding about both history, context and a better understanding about the engagement with Aboriginal - with First Peoples families.

There are a range of child protection practice forums, and generally these are online practice forums that are designed and delivered for our practitioners to increase the proficiency and capability around working with First Peoples children and their families. And we did a - we did a number of these, particularly in the context of COVID as well, to bring much more sharpened attention during that period of time.

There is - there is input and training around cultural planning, and this is delivered by the Victorian Aboriginal Child Care Agency, First Nations staff members and our own First Nations staff members as well. It's a jointly designed and implemented and delivered module. And we've got a range of presentations and training that we offer to our after-hours child protection staff as well.

Through our - what we call our career advancement program - and this is a yearly mentored development program for aspiring practitioners who want to move into more senior roles - one of the - one of the six modules that we undertake training in focuses directly on unconscious bias and is delivered by Mahana Culture, a First Peoples organisation, and includes consideration of Aboriginal cultural safety within the context of those aspiring practitioners who want to progress, given the importance of how - how we want those practitioners and managers to be engaging, not just with families but with their teams and imparting their knowledge as well.

There are new programs focused on strengthening child protection practice with First People's children and families that are going to be offered and are starting to be offered through this year. So this is, again, a continued revision and addition of additional programs. We have a series of 30-minute child protection forums focusing on the Aboriginal child placement principle, and each of these sessions are presented and delivered by First Peoples staff members, and we record and we make them available to the broader workforce.

We are in the process of the procuring the development and delivery of a new cultural safe practice for child protection training program and that - that training program will be developed in 2023 and delivered to all our child protection practitioners over the course of the

next three years. And we have implemented a new e-learning module that is focused on asking the question around identification and that is currently being implemented as well.

There is a new Child Protection Practice Induction program that will replace the Beginning Practice program later this year, and our state-wide practitioner for Aboriginal Children and Families has overseen the cultural awareness and cultural safety curriculum of this program. There are four modules that relate specifically to child protection practice with Aboriginal children and families, and these modules will be delivered by Aboriginal staff and Aboriginal guest presenters. These modules focus on developing and understanding of Aboriginal and Torres Strait Islander families and communities, on practising with an Aboriginal and Torres Strait Islander lens, collaborating with First Peoples families and communities, and the topic that we were just talking about, developing effective cultural support plans for First Peoples children.

MS McLEOD: So the one you mentioned of the four modules, is that the cultural safety training curriculum?

MR ALISANDRATOS: Yes, that's right. Yes.

MS McLEOD: Now, it sounds like a lot of activity. Can I invite to you look at paragraph 115 of your statement?

MR ALISANDRATOS: Paragraph 115?

MS McLEOD: 115. Under the heading of Conscious and Unconscious Bias and Insufficient Cultural Understanding and Competence you state:

"Importantly, I acknowledge there is insufficient cultural understanding and competence across our system. While there has been an increased focus on professional development and training, discussed later in my statement, cultural competence of the workforce has resulted in failures to understand and respond appropriately to First Peoples families and is likely to be driving reports, higher rates of substantiation and intervention. While it is difficult to quantify, I do accept, given accounts by First People over my professional career and now increasing rates of overrepresentation, that both conscious and unconscious bias and racism still exist in our service system as it does in the broader community. As noted above, attempts should be made to research how these factors influence child protection decision-making, including seeking the views of First People directly."

And at 116:

"A pervasive impact of racism and unconscious bias on practices was highlighted by Ms Felicia Dean of Rumbarala. Her evidence was, 'One of the other problems is this white lens is used to assess everything. Often that white lens is grounded in a basis of prejudice and racism and unconscious bias. It's there and there are lots of examples of that.'"

You acknowledge the important truth of that statement and the important contribution of the white lens to overrepresentation, and in conclusion at 117, you say:

"All the factors combine and they build upon each other, so we see a compounding effect as children move through the child protection system, culminating in the high rates of First Peoples children in care."

5

Now, given the long list - and I do want to touch on some of those training and induction methods, given that long list that you've read, is it your evidence that you are on to it and what you're doing is sufficient? Is your evidence that you don't know yet whether you will be addressing racism and bias in the system until you see the results of all these programs?

10

MR ALISANDRATOS: I would say that we - we understand it is an issue that we need to tackle. It's an issue that has been - has been given even more prominence through the - through the additional focus that we have on training our practitioners, on providing them with the right input and ensuring that we stamp out any racism or bias that may exist across our workforce. Just - I should qualify some of that by saying that some of that commentary related to a number of other factors in the preceding parts of that statement, that talks to a number of drivers.

15

MS McLEOD: Of overrepresentation.

20

MR ALISANDRATOS: Of overrepresentation. So I know are you focusing more specifically in relation to this element, but when the sort of summary paragraph at the end talks about the compounding effect of multiple drivers, including systemic racism and bias, I just want to be clear about that.

25

MS McLEOD: But the programs that you've listed for us and the investment in the training, those go to the broader factors as well; correct?

MR ALISANDRATOS: Yes, absolutely.

30

MS McLEOD: They are intended to address the overrepresentation?

MR ALISANDRATOS: That's right.

35

MS McLEOD: Can I come to some of those factors, then, some of those programs. At 351 of your statement, you are addressing the question about cultural safety training provided to staff and at page 351 and 352 -

MR ALISANDRATOS: Are you talking page or paragraph, sorry?

40

MS McLEOD: Sorry, paragraph 351 and 352.

MR ALISANDRATOS: Yes.

45

MS McLEOD: There's a discussion about the qualifications required for a child protection practitioner, things like social work degrees, Diploma of Community Services and so on, but there's no specific prerequisite for an employee of the Department to have any sort of cultural

training. Is there any cultural understanding or any component of a prerequisite course that they come to you with that information? And, to be fair, if you look at paragraph 353 there's the reference to some tertiary providers incorporating Aboriginal and Torres Strait Islander studies within their major courses. It's not a prerequisite is it?

5

MR ALISANDRATOS: It is not a prerequisite. But we do - as we engage with our tertiary institutions, we do have an expectation that - that cultural elements are built into many of these curriculums.

10 MS McLEOD: As core components, mandatory components of the course?

MR ALISANDRATOS: As components - as - well -

COMMISSIONER LOVETT: How do you quantify that statement?

15

COMMISSIONER WALTER: How do you assess whether they are doing that?

MR ALISANDRATOS: We don't assess, but we rely on a number of qualifications that are relevant to the delivery of child protection practice and - and continue to have engagement with tertiary institutions about the curriculum make-up where we do talk to them about the need for cultural competency to be part of those curriculums.

20

MS McLEOD: So a person fresh out of those courses may have had no or very limited exposure to First Nations persons, cultural plans, cultural issues generally?

25

MR ALISANDRATOS: Yes.

MS McLEOD: They have nothing.

30 MR ALISANDRATOS: That is possible, yes.

COMMISSIONER HUNTER: Can I just - so you have mentioned all these - everybody has to go through. Which brings to mind two questions. Does DFFH have any reporting mechanisms for child protection staff to report racism they observe on their colleagues? And the second question would be how do you monitor and measure the staff proficiency in working with First Nations families and children? So you've got all this in place, but how do you make sure - they will be my two questions sorry.

35

MR ALISANDRATOS: I think I mentioned yesterday there are supervisory structures within the service. Those supervisory structures are important for professional development, for supervision of both practitioners, practice, or administration and the work that they do with families.

40

COMMISSIONER HUNTER: Is that safe enough? Just - sorry to interrupt, but is it safe enough? So if I - say I was a child protection worker and I saw some racism happening over here, and then I went to my supervisor to say, hey, that was pretty racist from my account, is it safe for a person to do that within this space?

45

MR ALISANDRATOS: It's hard for me to say whether that's safe, Commissioner Hunter. But all I can - all I can suggest is that those structures are important elements for how we ensure the quality provision and the cultural appropriateness of that provision. We have
 5 invested in putting in place a number of First Peoples practitioners within the service as well, so we have Aboriginal advisors now that are embedded within our child protection teams. We have AFLDM practitioners. We have a number of First Peoples practitioners who are now working alongside our child protection practitioners, and that has the effect of doing a number of things. One, it continues to raise awareness, it builds capability for our non-First Peoples
 10 practitioner base, but it also helps to identify systemic racism and bias that, in a supportive environment, can be called out and can be targeted and actioned where that - that is in existence.

COMMISSIONER HUNTER: So with all that training, the second question was do you
 15 monitor the staff proficiency of working with First Nations children and families?

MR ALISANDRATOS: Again, largely through the process of those supervisory structures, those - each practitioner reports to their line -

COMMISSIONER HUNTER: It's just through supervision. Is that what you are saying?
 20 Through the line supervisor?

MR ALISANDRATOS: That's the accountability structure. So that's where a practitioner's performance is assessed on an annual basis with a process for both supervision improvement
 25 and then any remediation activity that needs to be undertaken, if there are issues that are identified through that supervisory accountability structure.

COMMISSIONER HUNTER: Just with those First Nations workers, how many of them - and you've probably answered this, actually. I should go and have a look. But how many of them
 30 have actual authority in - in positions of just not being practitioners or advisors?

MR ALISANDRATOS: Do you mean how many of them are in senior -

COMMISSIONER HUNTER: Yes.

MR ALISANDRATOS: Senior roles?

COMMISSIONER HUNTER: Yes.

MR ALISANDRATOS: Yes, we have provided that information and I can find it for you. But we - about two per cent of our workforce is made up of First Peoples staff. It's not a big number, clearly. And it is something that we continue to be focused on, how we lift the number of First Peoples that are working within the service. That's been helped over the last little while because we have had it - some additional investment that have brought in those 18
 45 senior advisors, Aboriginal advisors within the service as well.

COMMISSIONER HUNTER: Two per cent. Your stats are getting lower.

COMMISSIONER LOVETT: You mentioned a bit earlier about the Aboriginal staff delivering some of the models in the train, the suite of training that you referred to. Is that the core roles to do that? Or is that something that they are doing on top of the roles that they have spread diversified across the Department?

MR ALISANDRATOS: No, that is a core role. So our Office of Professional Practice has an Aboriginal Principal Practitioner. It's that individual's core role to be both supporting, overseeing practice but also contributing to curriculum development and training development, and then there are numbers of people within our corporate and delivery service that support the development of those modules as well.

COMMISSIONER LOVETT: Yes. And, more broadly, how are we - sorry, how are you as the Department monitoring evaluating the effectiveness of cultural safety, cultural awareness training and things like that?

MR ALISANDRATOS: Yes. So there are periodic evaluations of each of our training modules. We obviously seek feedback from participants to those. We check in with our supervisory management structures to get input about whether these modules are hitting the mark, whether the training provided is fit for purpose and

COMMISSIONER LOVETT: You are asking the individuals who you are asking the individuals of cultural awareness training and cultural safety training if it's hitting the mark for them?

MR ALISANDRATOS: Well, we are asking a number of different parts of the organisation. Both individual participants, as well as their supervisors, managers, as well as our First Peoples staff across the organisation as well.

COMMISSIONER WALTER: Can I just ask, the current modules, the ones that they in induction and the others which are mandatory for management, how are they assessed?

MR ALISANDRATOS: How are they assessed?

COMMISSIONER WALTER: How do you assess whether people pass them or not? Is there any assessment of how people do in those modules?

MR ALISANDRATOS: Not they are not designed in that way, Commissioner Walter. They are designed for raising awareness, raising proficiency, and then the assessment goes back to the supervisory accountability structures that we have in place.

COMMISSIONER WALTER: So they just do the modules?

MR ALISANDRATOS: Do the modules, yes.

COMMISSIONER LOVETT: That's what I was trying to get to, an understanding, you know, how we're monitoring and evaluating that. Because the data is not changing. I keep coming

back to that yesterday and today. The data is not changing around the overrepresentation of our people in the system. And how we are quantifying that cultural awareness and cultural safety training is clearly not enough.

5 MS McLEOD: I suggest that the Commissioners will hold the fort for the moment. We will return to this topic. It's probably an appropriate time to have a break, 20 minutes.

CHAIR: 15 minutes?

10 MS McLEOD: 15.

<ADJOURNED 11.22 AM

<RESUMED 11.45 AM

15 CHAIR: Thank you, Counsel.

MS McLEOD: So before the break, there was consideration I want to stay with the various programs that you have raised about racial discrimination racism and bias and complete that. But I do want to loop back to the numbers of cultural safety plans in a moment because I know there's an issue about that. So in terms of the prerequisites, I asked you about prerequisites and I think you agreed or agreed in effect that a person employed fresh out of one of those prerequisite courses may have no or limited training or knowledge in respect to First Nations persons and culture.

25 MR ALISANDRATOS: Yes.

MS McLEOD: Would you consider that some sort of mandatory First Nations safety training should be a prerequisite for employment?

30 MR ALISANDRATOS: Yes, I think that would be desirable.

MS McLEOD: And the Department could work with the providers of the curriculum for those prerequisite qualifications to design those courses? With input from Aboriginal organisations, of course?

35 MR ALISANDRATOS: Yes. I think any any work that we can do to increase the cultural proficiency of future workforces will benefit First Peoples, absolutely.

40 MS McLEOD: Okay. Could I ask you to turn to paragraph 355 of your statement at page 83. Just got a bit of feedback on someone's microphone.

MR ALISANDRATOS: It's drilling.

45 MS McLEOD: Drilling. Great. Sorry about that. At 355 -

CHAIR: We need to let Chris know. Sorry, counsel, we might be able to get Chris on to that. Do you think?

COMMISSIONER BELL: She's got it.

5

MS McLEOD: It is probably bad enough for Mr Alisandratos without feeling like he's at the dentist. So at paragraph 355, you make reference to cultural awareness, cultural safety training provided to child protection staff, including all new employees required to complete an e-learn unit as part of orientation, all managers required to complete cultural safety for manager training, and cultural awareness and safety training is available for all staff. Those training packages were developed by Koorie Heritage Trust in line with Aboriginal Cultural Safety Network.

10

So the reference first to cultural safety training curriculum and learning - the learning outcomes for that course, which is DFFH.0005.0001.0778. I don't need to have that brought up on the screen. But just to let you know, the learning outcomes for that course are:

15

"(A) What is Aboriginal cultural safety and its importance in the workplace? (B) Why Aboriginal self-determination is important? (C) Key policies and procedures to embed Aboriginal cultural safety at work and in service delivery. And (D) What can you do to support Aboriginal cultural safety at work?"

20

Now, is this the e-learning course that has been implemented or is to still be implemented?

25

MR ALISANDRATOS: Without seeing the document you are referencing it is hard for me to - to make it - but I think it is the e-learning cultural safety.

MS McLEOD: Can Mr Alisandratos be shown the document at tab 36, please? Tab 16, I'm sorry. So this has been provided in answer to a specific question about cultural awareness, cultural safety training and the document sets out the curriculum for cultural awareness and cultural safety training. Do you see under the heading, the four learning outcomes that I've just read out.

30

MR ALISANDRATOS: Yes.

35

MS McLEOD: This is apparently an e-learning document - an e-learning course, I'm sorry.

MR ALISANDRATOS: Yes.

40

MS McLEOD: Is this one that is currently implemented?

MR ALISANDRATOS: Yes, my understanding it is currently implemented. This is as of February 2023.

45

MS McLEOD: And just to follow up on Commissioner Walter's question, is this one you don't assess competency for?

MR ALISANDRATOS: There are no formal assessment of competency.

MS McLEOD: Is there a record of completion for staff?

5 MR ALISANDRATOS: I believe there would be.

MS McLEOD: Yes. And to complete the e-learning program, do you have to click through various pages and answer questions as you go?

10 MR ALISANDRATOS: Yes, that's my understanding.

MS McLEOD: And is there a mechanism -

MR ALISANDRATOS: Both content and questions, yes.

15 MS McLEOD: So is there an internal mechanism in the program that you can't proceed unless you get a question right? Or is there feedback if you get an answer wrong?

20 MR ALISANDRATOS: Typically there is the opportunity to answer the question. You will get feedback about whether you've answered the question correctly or not. More information will come up. But - that sort of process is undertaken.

MS McLEOD: And is there any other - apart from the question and answer, is there any other test for competency following completion of this e-learning?

25 MR ALISANDRATOS: I don't believe that there is a formal test for competency, if that's what you are asking me.

MS McLEOD: Yes. You say at paragraph 357 -

30 COMMISSIONER WALTER: Excuse me, Counsel, can I just - how long would this take for a person - a worker to do? The average worker? How long would they take to get through this module?

35 MR ALISANDRATOS: I wouldn't have the precise time, Commissioner Walter, but an hour, an hour and a half.

COMMISSIONER WALTER: That's quite a short -

40 MR ALISANDRATOS: Yes, yes.

MS McLEOD: So that's an hour-long course to cover those four topics?

MR ALISANDRATOS: Again, without having precise information in front of me.

45 MS McLEOD: We are not talking about days and weeks.

MR ALISANDRATOS: But having done a number of them myself, they take anywhere between an hour, two hours, yes.

MS McLEOD: You say at paragraph 357:

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"All child protection practitioners and managers who are new are required to complete the Beginning Practice Induction program which includes components on First Nations family."

10 Now, the document that you have in front of you, as I understand it, describes cultural safety training curriculum as well. You address, first of all, cultural e-learn, then you address cultural safety for managers and then you come to Aboriginal cultural awareness -

MR ALISANDRATOS: Yes.

15 MS McLEOD: - and Beginning Practice in child protection program.

MR ALISANDRATOS: Yes.

MS McLEOD: That's the one we are talking about now?

20

MR ALISANDRATOS: That's the one.

MS McLEOD: Okay. That is presented, as I understand it, as a single module and it's presented by First Nations staff.

25

MR ALISANDRATOS: Yes. Yes.

MS McLEOD: It discusses the importance of culture, context and history - I'm down towards the bottom of the page, Aboriginal placement principles and cultural plans.

30

MR ALISANDRATOS: Yes.

MS McLEOD: Is that module also of similar length, an hour or so?

35 MR ALISANDRATOS: No, because that is - that is not an e-learn module.

MS McLEOD: Right. That's presented live.

MR ALISANDRATOS: It's a delivered - yes, that's right.

40

MS McLEOD: So how long does that take?

MR ALISANDRATOS: I don't have that information.

45 MS McLEOD: Right. If it's presented live, do you assess competency as a result of completion of that module?

MR ALISANDRATOS: I don't believe there is a formal assessment of competency on any of these modules.

5 MS McLEOD: Would you agree there should be a periodic requirement for staff to undertake continuing professional development that covers cultural safety delivered by VACCA or some other similar organisation?

MR ALISANDRATOS: Yes, I do.

10 MS McLEOD: Do you agree that there should be some measures of proficiency of staff competence in cultural safety put in place?

15 MR ALISANDRATOS: I think it would - it would be desirable that the effect - how you would manage something like that within a workforce of 2500 would have to be worked through.

MS McLEOD: So you need some input from educators and trainers?

20 MR ALISANDRATOS: Yes.

MS McLEOD: Have you had any conversations with the VEOHRC or the Australian Human Rights Commission Race Discrimination Commissioner about the design of surveys of the workforce, those 2000-plus people, and ways to address race in the workplace? Racism in the workplace?

25 MR ALISANDRATOS: I'm not aware of any specific conversations.

MS McLEOD: Do you think that would be a good idea?

30 MR ALISANDRATOS: Well, there are - there are a range of engagements that we have with VEOHRC through the Department on a range of different matters. I'm happy to go back and understand whether there's been a specific engagement and conversation on this matter.

35 MS McLEOD: Okay.

COMMISSIONER LOVETT: But even if there has, or hasn't, I think the original question was to you, do you think that that should happen?

40 MR ALISANDRATOS: Yes.

COMMISSIONER LOVETT: Was that the question?

MS McLEOD: Yes. Thank you.

45 MR ALISANDRATOS: Yes.

COMMISSIONER LOVETT: Yes. So I just want to get an answer, yes or a no?

MR ALISANDRATOS: Yes. But I qualify that because it may already have been put in place. I'm just not aware of it, Commissioner Lovett. So yes.

5 MS McLEOD: I said under the discussion about section 11A that there were four things to address. One was the cultural support plans. The next was racism and bias. The other two were evaluation and research, and we may have already covered the Commissioners' questions about those things. So just to come back to -

10 COMMISSIONER WALTER: I just have one more question there. I'm really bothered that there is no assessment of cultural competence, that the courses that are given are put with no assessment attached to them. And I just wonder is that how you approach all topics treated the same way or is cultural safety treated differently to other requirements that you have with your workers?

15 MR ALISANDRATOS: My understanding, Commissioner Walter, is that any of the training that we provide our workforce is treated in the same manner, and the competency and the performance of the practitioner is assessed through the accountability structures that we have in supervision and management.

20 COMMISSIONER WALTER: Is there a specific cultural competency measure within that that you use so that supervisors know that they need to assess cultural competency with their workers or assessments?

25 MR ALISANDRATOS: I would have to have a look at that and see whether we've got something like that in place.

COMMISSIONER WALTER: Would it be a good idea if -

30 MR ALISANDRATOS: Yes, it would be.

COMMISSIONER HUNTER: Have you done this training?

MR ALISANDRATOS: I've done some of it.

35 COMMISSIONER HUNTER: You've done some of this training?

MR ALISANDRATOS: Some of it.

40 COMMISSIONER HUNTER: This one?

MR ALISANDRATOS: Not this one specifically. Not recently.

COMMISSIONER HUNTER: Well, it's only been out since - is that 20 -

45 MR ALISANDRATOS: This is as of February. That's what's in place at the moment.

COMMISSIONER LOVETT: How important to the - if a board is this training? Or training in general about this?

MR ALISANDRATOS: I think as I said yesterday, Commissioner Lovett, it is - it is - the cultural proficiency of our workforce is extremely important. It is something that we are very, very focused on and driving improvements. And as you can see from what I've outlined, we are looking at ways for increasing that proficiency, bringing more input into the Department and into our workforce, and we will continue to look at ways to drive this beyond what we've got in place at the moment?

COMMISSIONER HUNTER: So is this all mandated training?

MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: And so if you are not a practitioner, you don't have to do it? Because you haven't done it so I'm just wondering what the mandate is of who -

MR ALISANDRATOS: Some of it is mandated for practitioners. Some of it is mandated for all new entrants coming into the Department as part of an orientation. So it is tackling it at both levels because there are different requirements and different modules that we are providing our practitioners, vis-à-vis other parts of the organisation.

COMMISSIONER HUNTER: If you're doing -

COMMISSIONER LOVETT: Ultimately, to use your words, it is still desirable. You mentioned that word quite a lot today, desirable, which is not really committal, it is just desirable. Desirable.

MR ALISANDRATOS: Some of it is mandatory. So Beginning Practice is a mandatory requirement for our child protection practitioners.

COMMISSIONER LOVETT: But if it is not effectively evaluating and monitoring it, then it's - you know, you can just turn up. You don't have to be engaged or - you just be present but you are not engaged.

MR ALISANDRATOS: Yes. So the question -

COMMISSIONER LOVETT: To quantify that.

MR ALISANDRATOS: You rightly call out the question about how we determine proficiency, and that is something that we need to have a look at.

MS McLEOD: Just staying with this document, to be clear, the induction for new staff and managers is mandatory. That's on the first page of the document.

MR ALISANDRATOS: Yes.

MS McLEOD: Over the page, Aboriginal Cultural Awareness is available. So that's not mandatory.

MR ALISANDRATOS: That's right.

5

MS McLEOD: It is offered and people can pick that up if they have interest or time -

MR ALISANDRATOS: Yes.

10

MS McLEOD: Or any other constraint that might be - they have to navigate. Then the Beginning Practice is the new practitioners, that is mandatory.

MR ALISANDRATOS: That is.

15

MS McLEOD: And as noted, some of these courses, the e-learning ones might be relatively short, an hour or so in time.

MR ALISANDRATOS: And some of them much longer. That's right.

20

MS McLEOD: Depending how quickly you click through, it could be less than an hour or it could be more. Okay.

COMMISSIONER BELL: Can I just ask a follow-up question on that. I know this is infuriating, Counsel, and I do apologise.

25

MS McLEOD: I'm not infuriated, Commissioner. Thank you.

COMMISSIONER BELL: Would you accept that, as you did earlier - I think I'm repeating a point I made to you earlier, that a respect for culture and not just that, but promoting it, is a fundamental human right possessed by children?

30

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: And with respect to Aboriginal children, their Aboriginality, their connection with their place and their family, and their culture is a fundamental human right that they possess?

35

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: And this is protected by rights which you conceded existed yesterday, particularly CROC, Convention on the Rights of the Child, but also protected in Victoria by the Charter. Your witness statement concedes - properly - that your officers exercising child protection-type powers are bound by the Charter.

40

45

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: And one means by which you give effect to your obligation to ensure that that law is not violated is through education programs of the kind that you're presently discussing.

5 MR ALISANDRATOS: Yes.

COMMISSIONER BELL: I haven't got the document in front of me but I can't see anywhere there the - the instruction that it's a lawful obligation to have this knowledge and to act on it in the way that the Department interacts with children.

10

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: Is it there?

15 MR ALISANDRATOS: I'm not sure, actually, whether it's explicitly framed in that way.

COMMISSIONER BELL: Let's do this in order. You have the document in front of you.

MR ALISANDRATOS: Yes. You mean this document?

20

COMMISSIONER BELL: I do, yes. It's only two or three pages.

MR ALISANDRATOS: Just to be clear, Commissioner Bell, this is only a summary document. It's not a source document.

25

COMMISSIONER BELL: I see. Not a source document.

MR ALISANDRATOS: So it's a summary -

30 COMMISSIONER BELL: Let's deal with it at the abstract level then. I'm concerned to know whether this fundamentally important material is taught as a matter of good policy, which it plainly is, but also taught as a matter of binding law, which it also is.

35 MR ALISANDRATOS: Yes. I - I accept that. Whether we've made that explicit in terms of the way it is framed, I'm not sure and I -

COMMISSIONER BELL: Could you take that on notice?

MR ALISANDRATOS: Yes, I could.

40

MS McLEOD: Just to follow up on Commissioner Bell's question, you would be concerned that your workforce was aware of legislative and other legal requirements in the fulfilment of their duties, would you not? You would be concerned that those practitioners know what their legislative requirements are?

45

MR ALISANDRATOS: Of course, absolutely. Absolutely.

MS McLEOD: What the law requires?

MR ALISANDRATOS: Absolutely.

5 MS McLEOD: And there is a risk, if those practitioners are not observing the law, that exposes the state to civil litigation. Is there not?

MR ALISANDRATOS: I accept that. But just to be really clear, part of the Beginning Practice program is - it's having content that goes to those very issues. The legal mandate, the
10 legislative base -

MS McLEOD: Yes.

MR ALISANDRATOS: - for practitioners' consideration. There is - there is input that is
15 provided to our practitioners about what the legal basis of their practice ought to be. And that includes both provisions that are - all provisions that are included in a Children, Youth and Families Act as well as the Equal Opportunities Act as well.

MS McLEOD: So the average retention of your workforce is around two years?
20

COMMISSIONER BELL: Got to come in here. You are going on to another topic. I have to go just to one thing.

MS McLEOD: Yes, thank you, Commissioner.
25

COMMISSIONER BELL: I think we can say with certainty it's not a learning outcome that Departmental officers know their legal human rights responsibilities and the connection between culture and human rights. Because it's not there specified.

30 COMMISSIONER LOVETT: And you can't quantify it.

COMMISSIONER BELL: You can take that on notice, if you like. It's just that I had that much of the document there, and learning outcomes reflect curriculum. So I'm working back from the outcome, just to be suspicious of the content of the curriculum.
35

MR ALISANDRATOS: My only caution, Commissioner Bell, is, as I said, it is a summary document. You would have to go back and look at all the various source documents and -

COMMISSIONER BELL: Perhaps if you can take that particular outcome, that particular aspect on notice, thank you.
40

MR ALISANDRATOS: Sure.

COMMISSIONER LOVETT: Just back to the mandatory training, we get that there's no
45 monitoring evaluation mechanism for the Aboriginal component. Broadly in the Department, other mandatory training, can you give me an example around when you are monitoring and evaluating that training that's not Aboriginal-specific?

MR ALISANDRATOS: Well, Beginning Practice is - is for - is not - is all inclusive, if you like, in terms of what we provide our practitioners, in terms of the requirement for them - mandated requirement for them to undertake that training before they take on a caseload of families. And that is - it - the application is the same across the board for that.

COMMISSIONER LOVETT: So you have the ability in other areas to monitor and evaluate mandatory training, but are just not doing it in the Aboriginal component?

MR ALISANDRATOS: No, no, what I am saying is the opposite. That it is the same approach that we take for all our training.

COMMISSIONER LOVETT: Yes. Thank you.

MS McLEOD: Does the Department track the individual staff member's compliance with continuing professional development? Generally?

MR ALISANDRATOS: Part of a - part of the requirement is for staff to have a learning plan as part of their professional - development, and in the context of supervision, those - those elements are incorporated in the supervisory relationship and attention is paid to what - what professional development needs to be undertaken by each of the practitioners. And it is a core responsibility of the supervising officer to monitor that work with a practitioner, or any staff member for that matter.

MS McLEOD: It might be useful, do you agree, that there's some sort of red flag system for a supervisor to ensure that this optional training in Aboriginal Cultural Awareness is taken up?

MR ALISANDRATOS: Yes.

MS McLEOD: At regular points?

MR ALISANDRATOS: Yes.

MS McLEOD: You - to have a system where you have training and induction and then years could pass before you have a refresh on these things, which include the legislative requirements and the Charter requirements, is undesirable, I suggest. You agree with that?

MR ALISANDRATOS: Yes, if that were the case, yes.

MS McLEOD: Okay. Now, I just wanted to come back to the discussion we had before about the cultural plans. At 358 of your statement - paragraph 358 - sorry, not specific to plans. This is still on the question of education. You say:

"child protection practice discussions..."

Which is one of the things you mentioned in the list of activities:

"...are fortnightly half-hour online practice presentations on different topics, themes relating to child protection practice. Three child protection practice discussions relating to working with First Peoples children and families have been delivered since 2020."

5 So, so far, assuming that we are close to three years or around three years, only three sessions have been presented on that topic in those practice discussions. So is there some rationale for why only three times that the agenda has included those discussions?

10 MR ALISANDRATOS: No, I think the last sentence in that paragraph talks to the recordings of these being available on the child protection learning hub. The learning hub is the source of all training material that is provided to - for our workforce.

MS McLEOD: There's some requirement that staff require and check in and follow those discussions -

15 MR ALISANDRATOS: So that goes back to the earlier conversation about, through the process of supervision and through the supervisory structures and through the professional development elements of that structure, a supervisor would be talking to a practitioner about revisiting some of those training.

20 MS McLEOD: So do we know whether that's happening or not, that the supervisor saying, "Oh, I notice you haven't checked in on your review of this online discussion about cultural safety. You better get around to that."

25 MR ALISANDRATOS: I would say each supervisor would have knowledge of their team members.

MS McLEOD: Could you track that down for us and just tell us whether there is a mechanism to assist both the supervisor and the practitioner to ensure that those sessions are followed up?

30 MR ALISANDRATOS: I'm not sure that there would be a mechanism where we collate all of that data.

MS McLEOD: No, I just mean on the individual - the supervisor managing the development.

35 MR ALISANDRATOS: On the individual level.

MS McLEOD: Yes. Because as I understand your evidence, the supervisor is managing the child protection practitioner's compliance and continuing professional development.

40 MR ALISANDRATOS: Yes.

MS McLEOD: And is there some mechanism to assist a supervisor that says they haven't undertaken Cultural Safety training yet? They haven't looked at the online discussion that's been posted, that happens once a year. You better give them a nudge to make sure they do that.

45

MR ALISANDRATOS: Sure.

MS McLEOD: Thank you. Just to come back to the numbers of the cultural safety plans, the figure you gave the Commissioners was 66 per cent and I understand there's some issue about 66 per cent of what and what is the data pool you are assessing. In paragraph 204 of your statement, recognising this is a number that might change depending on the cohort you're measuring and so on, paragraph 204 of your statement, the figures from Taskforce 1000 of course do not include all first people's children in care. The sample there was only of 980.

MR ALISANDRATOS: Yes.

MS McLEOD: Thus title, Taskforce 1000. So 100 - sorry, 980 children in care were the cohort, and the figure that you give there at the last dot point on page 51 is First Peoples children with a cultural plan has increased from 18 per cent to 50 per cent there. Do you see that?

MR ALISANDRATOS: Yes, I do.

MS McLEOD: So as at 31 December 2022, of the 2365 First Peoples children in out-of-home care, 52 per cent of those had a cultural plan. Is that the effect of the - that paragraph?

MR ALISANDRATOS: I would have to check that just in light of the conversation that we were just having, because it depends on the timeline that that particular point relates to. There's a bit of variation between the numbers depending on what we are measuring, whether we are measuring compliance to the 19-week requirement or whether we are managing any children who - across the system who have a cultural support plan. And that varies from the 66 per cent that I was referencing anywhere to the 75 per cent, when you take the different measures. So we will come back to you on that.

MS McLEOD: That would be useful. And also could you indicate which data is regularly held and which data should be regularly held so we can make the comparisons and so that the Department itself can conduct, audit and assurance on these -

MR ALISANDRATOS: I could be wrong, Ms McLeod, but I think we had provided the full suite.

MS McLEOD: I don't think we are allowed to talk about it yet.

MR ALISANDRATOS: I will have a look at that matter.

MS McLEOD: Thank you.

COMMISSIONER HUNTER: Can I just ask something on the compliance, because it's - the national standards for out-of-home care - and I'm not sure - I've got an old one in front of me. It's not from 2020. But there's - in this one, there's 13 standards, I think, and one of those is around plans, you know, plans generally for children. And then there's standard 3 is:

"Aboriginal and Torres Strait Island communities participate in decision making in placement of their children."

5 Is all this - so I'm thinking with the training, with the employment of the two per cent staff, with - everything that's going on and the improvements in are happening, and you've got the national standards for out-of-home care, who audits these national standards for out-of-home care? Because am I correct in saying that out-of-home care service providers have to reach these standards as well as DFFH?

10 MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: Okay. So who audits the national standards that are - are they being met by DFFH?

15 MR ALISANDRATOS: I'm not totally certain about which standards you are talking about.

COMMISSIONER HUNTER: The national standards for out-of-home care. I've got an outline, an old one. Priority project under the National Framework for Protecting Australia's Children.

20 MR ALISANDRATOS: So under the national framework.

COMMISSIONER HUNTER: Yes, sorry.

25 MR ALISANDRATOS: Yes, that's okay.

COMMISSIONER HUNTER: There are so many plans I'm getting confused. Standard 3 is about Aboriginal and Torres Strait Islander communities. There's a heap in there which applies to every child in care, but there's some specific ones. So if that standard has to be reached by the organisations, the out-of-home care organisations and DFFH, who audits that they're reaching these standards?

30 MR ALISANDRATOS: I'm not sure there is an audit function as such. I think there is a national measuring framework and a national reporting framework that we all have to report to.

COMMISSIONER HUNTER: So do the -

40 MR ALISANDRATOS: Based on the measures that are defined through the national framework.

COMMISSIONER HUNTER: So I guess with all this measuring we are talking about, you know, putting measures - my question really goes around on these assessments, are there Aboriginal and Torres Strait Islander or First Nations people part of these assessments? If you've got standards - this is just one and you've spoken about all these other things.

MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: And you say we are consulting to do these. Are there Aboriginal and Torres Strait Islander or First Nations people that are part of - not reviewing -

5 MR ALISANDRATOS: Evaluating.

COMMISSIONER HUNTER: Evaluating, yes.

10 MR ALISANDRATOS: Yes. I - without speaking specifically to that - that specific issue, I know that when we are undertaking evaluations, there are - it is our practice that First Nations people are always included in those evaluations. Particularly as they pertain to the delivery of services to First Peoples.

15 COMMISSIONER HUNTER: Just so I understand, the out-of-home care providers, are they assessed against these or held to by the Department? Did the Department hold -

MR ALISANDRATOS: There are a range of service delivery standards that providers who receive funding from the Department are held accountable to.

20 COMMISSIONER HUNTER: The Department. So ACCOs, for instance, that get money from the Department are held to these standards?

MR ALISANDRATOS: They are.

25 COMMISSIONER HUNTER: And so who holds DFFH to these standards?

MR ALISANDRATOS: There is a similar mechanism of evaluation and audit of the Department as well.

30 COMMISSIONER HUNTER: So you just said there was measures.

MR ALISANDRATOS: I was talking about that specific one.

COMMISSIONER HUNTER: That specific one okay.

35 COMMISSIONER WALTER: By whom? Who does it?

MR ALISANDRATOS: There are independent auditing bodies that -

40 COMMISSIONER WALTER: Like who, for example?

MR ALISANDRATOS: I'm trying to remember the name of the organisation. There are a number of independent auditing bodies that are responsible for taking - undertaking audits of the Human Services standards and in future we will have an independent regulator across the whole social services environment as well. So -

45

COMMISSIONER WALTER: Right now, it's an independent and then they just report back to the Department?

MR ALISANDRATOS: Yes.

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COMMISSIONER WALTER: They do that annually, bi-annually?

MR ALISANDRATOS: On a tri-annual basis, yes.

10

COMMISSIONER HUNTER: That's all for now. I'm going to dig up the latest one, because I think, for me, I think everything hangs on these standards because everything is in the stability and -

15

COMMISSIONER WALTER: With the latest independent evaluation, would that be something you can provide for us?

MR ALISANDRATOS: Sorry, the -

20

COMMISSIONER WALTER: The latest independent evaluation of the -

MR ALISANDRATOS: Of some of the - of the standards, yes.

25

MS McLEOD: To come back to the question of data and the uniformity of - the need for it to be uniform, consistent and useful, the Aboriginal Commissioner for Children and Young People, Meena Singh, has suggested it would be useful for her office to have input into what those datasets are. Now, if the Commission were to recommend that that occur, that she have data into that, I take it you would welcome that input?

30

MR ALISANDRATOS: Yes, sure.

MS McLEOD: Just on the cultural safety plans once a child is in a permanent placement, is it the case that there is no further work done to ensure cultural and safety plans are made, reviewed, implemented?

35

MR ALISANDRATOS: Yes, by the - well, there is a requirement to have a cultural support plan in place.

MS McLEOD: Which is designed for a person at the time of placement.

40

MR ALISANDRATOS: At the time - well, and at the time of the Court considering an application for Permanent Care Order.

MS McLEOD: So the Court makes an order.

45

MR ALISANDRATOS: Yes.

MS McLEOD: At that time, there has to be a plan in place.

MR ALISANDRATOS: Yes.

5 MS McLEOD: And the Court will supervise that in its jurisdiction. After that time, once a child goes into a permanent placement, there is no review?

MR ALISANDRATOS: No, because the Department ceases its responsibilities through the issuing of a Permanent Care Order.

10 MS McLEOD: So the Department will place - seek an order or support an order that a child go into permanent placement.

MR ALISANDRATOS: Yes.

15 MS McLEOD: Thereafter, the Department steps back in terms of case plan, cultural planning, all of those aspects of care.

20 MR ALISANDRATOS: The issuing of a Permanent Care Order transfers parental responsibility to the permanent carers. The Secretary no longer has parental responsibility and as a consequence doesn't have any case management responsibilities.

MS McLEOD: I understand. So there's no mechanism for the Department to ensure in a permanent placement that there's any attention paid to cultural safety?

25 MR ALISANDRATOS: Not beyond the Court having satisfied itself that the placement is appropriate, it is culturally supported and that - and that that advice is provided by the Victorian Aboriginal Child Care Agency.

MS McLEOD: Yes.

30 MR ALISANDRATOS: And there's a requirement for a report that supports the issuing of a Permanent Care Order.

MS McLEOD: At the time of the order.

35 MR ALISANDRATOS: At the time of the order.

MS McLEOD: There is no monitoring or review of that beyond the order, is there, beyond the time of the report because the Department -

40 MR ALISANDRATOS: No, because parental responsibilities are transferred to the Permanent Care Order. Permanent carers.

45 MS McLEOD: So who, if anyone, is ensuring cultural safety a child who is subject to a permanent placement order? Not the Department, clearly?

MR ALISANDRATOS: Not the Department. So it is the - the onus is on the carer, the permanent carer who has parental responsibility to implement the cultural support plan that has been outlined.

5 MS McLEOD: But no follow up of that plan to make sure that's happening?

MR ALISANDRATOS: No.

10 MS McLEOD: Should the Court have that supervisory jurisdiction or should there be a Department mechanism to enable you to review those placements?

MR ALISANDRATOS: Well, there is probably a number of potential solutions to that issue. The Court being one, the Department being another. Albeit that the Department no longer has legal responsibility, or funded - or Aboriginal community controlled organisations being
15 provided with a capacity to undertake some of that functionality.

COMMISSIONER LOVETT: It's not just cultural safety. It is connection to culture, country and community. Just to clarify. Not just cultural safety.

20 MS McLEOD: Cultural plan. Yes.

MR ALISANDRATOS: No, no. I accept that.

MS McLEOD: Can you give us some examples of where a child might be placed under a
25 Permanent Care Order?

MR ALISANDRATOS: The most typical pathway for children going into permanent care is through a conversion of an existing kinship placement of - or foster care placement.

30 MS McLEOD: Into a permanent arrangement with kin.

MR ALISANDRATOS: Into a permanent arrangement. Correct.

MS McLEOD: That could also include permanent placement to residential care or they -
35

MR ALISANDRATOS: No.

MS McLEOD: Okay. No - can. They-

40 MR ALISANDRATOS: No. It has to be a kinship carer, a foster carer or a specifically recruited carer for that child. We don't permanently care into residential care settings.

MS McLEOD: So that could be a non-Aboriginal person or a person not related, as by way of extended family to the child. It could be somebody not within the same community?
45

MR ALISANDRATOS: It could be. But remembering that the only way that a Permanent Care Order can be issued is if the Court - the Children's Court is satisfied that a report from the

Victorian Aboriginal Child Care Agency or another Aboriginal community controlled organisation supports the making of that placement. If there is no support, the making of that placement - the placement cannot be made.

- 5 MS McLEOD: I understand. So the permanent order - and I think you have already answered this previously - to whoever that permanent order is the carer - the care of the child is placed with that person, or persons, the plan at the time of the order is then there is no follow-up.

MR ALISANDRATOS: No, there is.

10

COMMISSIONER HUNTER: So we can't ensure that children are connected to their siblings, if they are placed separately, if they go on a Permanent Care Order. We can't ensure that they are connected to country, culture? Like, we can't guarantee that?

- 15 MR ALISANDRATOS: Well, there is - there is a capacity to have conditions on the Permanent Care Order.

COMMISSIONER HUNTER: Who enforces those conditions?

- 20 MR ALISANDRATOS: It - the onus is on the - on the permanent carers who take on that responsibility. And if there is noncompliance with the conditions, there is a capacity for birth parents to bring an application to the Court.

COMMISSIONER HUNTER: How times has that happened?

25

MR ALISANDRATOS: I'm not sure.

- COMMISSIONER HUNTER: I would say that would probably be very rare. But there is no - there is no guarantee that once this child - I mean, anybody - let's be clear that these children will then be lost to culture, country, family, mob if no one has oversight of making sure these orders - we are relying on goodwill - goodwill and probably their money spent on making sure these kids keep connected. Is that what we - is that it?

- 35 MR ALISANDRATOS: Well, the safeguard being that - the predominant safeguard being that there is an assessment of suitability of that placement and the cultural suitability of that placement. It's - Commissioner, it's the reason why we don't have a lot of permanent - of Aboriginal children in permanent care. It is not considered the most appropriate cultural pathway for children.

- 40 COMMISSIONER HUNTER: No, it's not, but you've just said that there needs to be - so Aboriginal children are going into permanent care.

MR ALISANDRATOS: They are.

- 45 COMMISSIONER HUNTER: You said they are. And so once that order is made and the order could say, you know, meeting with siblings this many times, making sure they are connected to this, this and this.

MR ALISANDRATOS: Yes.

5 COMMISSIONER HUNTER: And the cultural support plan, if it's done that goes with it, and the ACCO that's done the assessment that goes with it to say the - they don't even have to speak to anybody after that, do they? Once that order is made, they have got this child.

10 MR ALISANDRATOS: No, but you can envisage that many of these families would be receiving support from a number of Aboriginal community controlled organisations. Now, that - I'm not suggesting that that means by receiving support they would be monitoring the compliance.

15 COMMISSIONER HUNTER: So is there a permanent care program that carers can access if they are non-Aboriginal and have Aboriginal kids in their care?

MR ALISANDRATOS: If they are -

20 COMMISSIONER HUNTER: If they are a non-Aboriginal carer and they become a permanent carer for an Aboriginal child, is there programs set up to support these Aboriginal - these non-Aboriginal carers?

MR ALISANDRATOS: I don't believe there is a specific program that's set up to support them.

25 COMMISSIONER HUNTER: Okay.

MS McLEOD: Is the other factor that is taken into account in consideration of the principle, best interests of the child under section 10(1)(f), desirability of continuity and permanency?

30 MR ALISANDRATOS: Yes.

35 MS McLEOD: So when designing the report to the Court recommending a permanent placement order, is it your evidence that child protection practitioners consider the ability to deliver, monitor, supervise, guarantee cultural plans over permanency? Over the course of the permanent placement?

40 MR ALISANDRATOS: I think that's - that's the input that we gain from an assessment of the cultural suitability and ability of the carers to comply with the cultural requirements for that child. And that - and that input comes from an assessment that's undertaken by an Aboriginal community controlled organisation and a report that is furnished to the Court for its consideration.

45 COMMISSIONER BELL: Can I ask a question, please? Care permanency is different to adoption?

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: And we are here talking about the subject of care permanency.

MR ALISANDRATOS: Yes.

5 COMMISSIONER BELL: Which is what a family might achieve by an order of the Children's Court

MR ALISANDRATOS: Through the issuing of a Permanent Care Order.

10 COMMISSIONER BELL: By the Court.

MR ALISANDRATOS: By the Court, yes.

COMMISSIONER BELL: In proceedings to which you will be a party.

15 MR ALISANDRATOS: Yes.

COMMISSIONER BELL: And at the point that that that order is made, the child has the human rights which we have earlier discussed. Several of them, including the right to possession of, knowledge of, practice of connection with culture.

20

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: A Permanent Care Order can be - can be cancelled or the conditions altered by the Court.

25

MR ALISANDRATOS: Conditions could be varied, yes.

COMMISSIONER BELL: Yes, or the - or the order could be cancelled by the Court in circumstances.

30

MR ALISANDRATOS: I would have to refresh my memory. I think there is - a capacity for a revocation.

35 COMMISSIONER BELL: A revocation. And it's your responsibility to administer that aspect of the system, is it not? What's to happen post-permanency in circumstances where there might need to be a change of conditions or a revocation?

MR ALISANDRATOS: Well, yes, it is our responsibility for the administration of the system, but not to bring an application to Court directly because the Department does not have any enduring responsibility once a Permanent Care Order has been issued. So the carer or the birth parents could bring an application to vary or revoke.

40

COMMISSIONER BELL: I see.

45

MR ALISANDRATOS: But not the Department. The Department could be re-engaged because a permanent care placement breaks down and then - and a report is made to the

Department to reinstate investigations and undertake engagement with a family to identify the needs and make suitable arrangements.

5 COMMISSIONER BELL: You obviously consider, because you have conceded that you have a responsibility towards the child with respect to the realisation of their human rights.

MR ALISANDRATOS: Yes.

10 COMMISSIONER BELL: It seems as if the system does not have a mechanism whereby you can exercise that responsibility for a child who is the subject of a Permanent Care Order.

MR ALISANDRATOS: Yes, because it is a third party order. One that is issued formally to a permanent - an assessed accredited permanent carer and transfers parental responsibilities for that child to the permanent carer or -

15 COMMISSIONER BELL: But that means you could be - you have - you could be transferring a child by a Permanent Care Order into a culturally unsafe environment. Or one that becomes a culturally unsafe environment.

20 MR ALISANDRATOS: So I accept that that's possible. But it's -

COMMISSIONER BELL: It is assimilationist, isn't it?

25 MR ALISANDRATOS: I wouldn't characterise it in that way. It is mitigated by an assessment of cultural suitability that is undertaken by an Aboriginal Community Controlled Organisation. And that - and the Court has to have that before it determines the suitability of the permanent carers to take on the care parental responsibilities of that child. I would not characterise it as assimilation.

30 COMMISSIONER BELL: Well, the background to this is that we have received testimony - call it what you will - from people who have lost - who have been in - in - under care with non-parents, who have lost culture in the way that Commissioner Hunter has referred to. And surely if the legal framework does not actually guarantee continuing access by the child to their own culture, the realisation of their human rights, then there's a danger
35 that it can operate in an assimilationist fashion.

MR ALISANDRATOS: As I said, I think there are built in mitigations to that. Without knowing the evidence that you have received, Commissioner, around the specifics of some of those situations, I want to be - I want to be clear about whether it's in the realms of the - an
40 issuing of a permanent carer or if it pre-dates that. So - but I agree, if it pre-dates the process, then it is a different context. Again, I come back -

COMMISSIONER BELL: I'm talking about what you're describing as transfer of responsibility.

45 MR ALISANDRATOS: Yes.

COMMISSIONER BELL: And I think you've made it clear that you do consider that the safeguard is at the point of the making of the order.

MR ALISANDRATOS: Yes.

5

COMMISSIONER BELL: Because there is inquiry and it is done on the certification of VACCHO, I think.

MR ALISANDRATOS: That's right; that's right.

10

COMMISSIONER HUNTER: Can I just ask, is VACCA the only one that has done permanent care -

MR ALISANDRATOS: I believe so.

15

COMMISSIONER HUNTER: And so have they all been under VACCA's management, or have they been with other organisations?

MR ALISANDRATOS: No, no, they can be across any organisations.

20

COMMISSIONER HUNTER: So that child after, say, two to five years in care, and you're seeking - then you have to bring another worker to come and assess - from a different agency to assess that?

25

MR ALISANDRATOS: The suitability, the cultural suitability of that placement. Yes, that's right. It's an independent assessment, if you like.

COMMISSIONER HUNTER: So do you - so they would do their own as well, if there was a child under their care?

30

MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: Is that the same for, say, section 18, they have that - who has that responsibility or is that not being -

35

MR ALISANDRATOS: In relation to - when you reference section 18 -

COMMISSIONER HUNTER: So if they have a child under section 18 that may go to permanent care, for instance.

40

MR ALISANDRATOS: Yes, yes.

COMMISSIONER HUNTER: What would -

45

MR ALISANDRATOS: The requirement would be the same, that before the issuing of a Permanent Care Order, an assessment of suitability of the placement would need to be provided to the - to the Children's Court.

COMMISSIONER HUNTER: Okay. Do you think if the Aboriginal Child Placement Principle was followed, we would have less children going - and I don't know the number - Aboriginal children going into permanent care?

5

MR ALISANDRATOS: We - when you compare the pathways for children into permanent care, we have significantly less children going into permanent care. Because - because of some of the concerns about the suitability of - of those arrangements. The more enduring suitability of those arrangements, which is why we have more children captured in our data here in Victoria, because they generally remain on long-term care orders for a longer period of time. So they don't exit the system and they remain part of our count, which is why you get the numbers that we have in the state.

10

So when you - so sorry, Commissioner, but when you contrast the exit pathways between First Peoples children and non-First Peoples children, the pathway to permanency for non-First Peoples children is far greater. We transition more children into permanent care. By transitioning more children into permanent care, it has the effect of providing stability for those children. It also has the effect of taking those children off the numbers and the count of how many children remain in statutory care.

20

COMMISSIONER WALTER: Can you give us some numbers on that so we can see the size of that difference, please?

MR ALISANDRATOS: Yes, of course. So permanent care numbers for First Peoples children are 461.

25

COMMISSIONER WALTER: In 12 months? In -

MR ALISANDRATOS: As of - and that's over the financial year 21-22, just to be clear. Thank you for clarifying that. At the same time, for non-Aboriginal children, 3000.

30

COMMISSIONER WALTER: Okay, so percentage wise, what's the percentage rather than the raw numbers?

MR ALISANDRATOS: I haven't got that percentage in front of me.

35

COMMISSIONER WALTER: Yes, but we can't compare 491 with 3000 because -

MR ALISANDRATOS: Agree. Agree. I just don't have that in front me at the moment. But we can get that information and -

40

COMMISSIONER WALTER: It sound like an awful - 491 kids went into permanent care.

MR ALISANDRATOS: No, no, no. That's not entry, that's how many children are in permanent care as an average through that period of time. That's not entry. In total.

45

COMMISSIONER BELL: So over some years, particularly -

MR ALISANDRATOS: Yes, some of them would have been for years.

COMMISSIONER BELL: The whole cohort.

5

COMMISSIONER WALTER: It's very hard for us to assess the difference.

MR ALISANDRATOS: The entry pathway and we can get that information, if we haven't already provided - I suspect we have, but let's leave that for another time.

10

COMMISSIONER HUNTER: Sorry, just one quick question. If have you got a child that goes on a Permanent Care Order that is actually not a First Nations from Victoria, how do we ensure that they are still connected to their mob in another state? Like, how do we ensure this is happening that kids are connected? And I know there's a lot of kids in Victoria who are from other states.

15

MR ALISANDRATOS: Yes, there are.

COMMISSIONER HUNTER: So how do we keep them connected?

20

MR ALISANDRATOS: And that's the cultural plan. That sets the expectations about what carers are responsible for undertaking, and those undertakings are conferred in the issuing of a Permanent Care Order by the court which has an expectation that they will fulfil those undertakings. The question you rightly point to as an extension, how do we monitor that, we don't have a monitoring mechanism.

25

MS McLEOD: If we had a monitoring mechanism, it would need to be a national mechanism, do you agree?

30

MR ALISANDRATOS: I - yes, that would be the ideal. Trying to get a national mechanism is incredibly challenging.

MS McLEOD: Children and their families don't stay put. We know that. And the borders are meaningless in terms of people's movement. So a national mechanism would be highly desirable, I suggest?

35

MR ALISANDRATOS: Always. National consistency is always desirable. But I just want to reinforce for the Commission this issue about the numbers and the pathways, because it is an important issue, and feel free to interrogate it a little bit more if you are not clear.

40

COMMISSIONER BELL: The point are you making is this is non-preferred from your point of view and you always try and locate within an Aboriginal family.

MR ALISANDRATOS: That is one point. The other point is the exit pathways creating an environment where more children are counted, more First Peoples children are counted in our overall numbers.

45

COMMISSIONER WALTER: But, to be fair, we actually need the numbers to see the veracity of that claim. It's plain to say that's influencing the proportions.

5 MR ALISANDRATOS: Yes, and we have - we will provide that data to you, Commissioner. But it does have the effect of increasing the number of First Peoples children that we have in our count, compared to non-First Peoples children.

10 COMMISSIONER HUNTER: Sorry, I'm just going to go back, like, to the Act - and you mentioned it, Ms McLeod. The child's voice and their rights of self-determination. Is that taken into account in -

MR ALISANDRATOS: The wishes of the child are taken into account, yes.

15 COMMISSIONER HUNTER: Even if they are under 10?

MR ALISANDRATOS: Yes.

20 MS McLEOD: But as I think we discussed yesterday, the wishes of the child are ascertained through a conversation rather than through any formal management?

MR ALISANDRATOS: In the context of an application to the Children's Court.

MS McLEOD: Yes.

25 MR ALISANDRATOS: Those wishes are ascertained through representatives of the child in that - in those matters.

MS McLEOD: Where there's an independent child representative appointed?

30 MR ALISANDRATOS: Yes, yes.

35 MS McLEOD: Can I come back to the Act just briefly, to finish this off. And division 4, section 12, 13, 14, concerning additional decision-making principles for Aboriginal children. Under section 12 - I'm summarising here - the Secretary or a community service must offer an opportunity to members of the Aboriginal community and Elders to contribute under subsection 12(1)(a) and should convene and Aboriginal family-led decision-making meeting with an Aboriginal convener and others under (b) if the child is placed in out-of-home care. And under (c), in making a decision to place an Aboriginal child in out-of-home care, an Aboriginal agency must first be consulted and the Aboriginal child placement principle must be applied.

40 Now, that principle is then defined in section 13 with the requirements of seeking advice of an Aboriginal agency, placement with family or other Aboriginal persons as required by subsection (2)(a) through to (c). Can you tell the Commission - stop for a minute. The Commissioner for Children and Young People has raised with us the following matters: Regrettably, she said:

"There have been many occasions where an Aboriginal family-led decision-making process has not occurred when it should have. For example, a change in case plan from a reunification to non-reunification, final orders being made which place the child in out-of-home care, conciliation conferences being adjourned because an AFLDM has not been conducted, and occasions where an AFLDM has been scheduled to take place after conclusion of a contested filing hearing.

At all times when an Aboriginal child is in out-of-home care and most critically when the Department has a non-reunification case plan, it is essential for AFLDMs to be conducted in a timely manner. Not only in order for the Court, the Department and Aboriginal controlled organisations to be satisfied there has been compliance with the specific provisions relating to Aboriginal children, but also to ensure all possible inquiries have been made with family to explore whatever possibilities there may be for an Aboriginal child to live with family or for their family to have ongoing involvement in the child's life."

We were referred to the Always Was, Always Will Be report and the review of - by the Commission of almost 1000 of the children's cases between 2014 and '16. So that's a 2016 report. HB1.0001.0002.0001. Page 65. That found that 50 per cent of cases, those 1000 cases, had never had an AFLDM meeting. And the report In Our Own Words, HB1.0001.0002.0677, which found that the Department instituted some changes in response to Always Was, Always Will Be - this is in 2018 - intended to strengthen compliance with AFLDM meeting requirements; however, the Commission report notes improvements has been very gradual. At the end of 2018, 47 per cent of Aboriginal children who had been in out-of-home care had never had an AFLDM meeting.

So, just bring us up to speed briefly, if you can, with the current rate of compliance, if you know it, and the importance of holding those family-led decision-making conferences as required by the Act.

MR ALISANDRATOS: There's a lot in that, Ms McLeod.

MS McLEOD: Yes, I apologise for racing, but take the time you need to break it down.

MR ALISANDRATOS: Can I start by saying there is - I'm sure I can check this, but my understanding is that the holding of an AFLDM meeting is not a legislative requirement in itself. The consultation and engagement with an Aboriginal community controlled organisation is what is intended through the provisions in the Act. That - that consultation comes in a number of different ways. We spoke yesterday about ACSASS being the primary mechanism for how we get cultural input into the decision-making of child protection. That is a primary mechanism.

MS McLEOD: So is it your evidence that section 12 and 13 requirements to have family-led input into decisions is being met not just through those Aboriginal family-led decision-making meetings but in other ways as well?

MR ALISANDRATOS: It is one - so, yes, that's what I'm saying - suggesting, that the - the mechanism of an Aboriginal family-led decision-making is one mechanism of input. It is an

important mechanism for how we how we get Aboriginal families to provide input to those decisions.

5 MS McLEOD: I follow. And you probably have other things to say about this, but will the draft legislation that we have referred to coming before Parliament address or strengthen these principles of family-led decision-making?

MR ALISANDRATOS: It - it would -

10 MS McLEOD: Assuming the they are passed.

MR ALISANDRATOS: Yes. So on assumption that they are passed there will be a strengthened expectation through the Statement of Recognition and the 10 binding principles which we will now have to work through to operationalise, and would have the effect of
15 strengthening the provision of family decision-making and input - cultural input into decisions around First Nations - First Peoples children.

MS McLEOD: Are the 10 binding principles you referred to actually set out in the draft
20 legislation?

MR ALISANDRATOS: They are.

MS McLEOD: And do they reflect the current legislative requirements or are they an
25 improvement?

MR ALISANDRATOS: They reflect and augment the current provisions.

COMMISSIONER HUNTER: Just - you mentioned ACSASS again. They're an specialist
30 advice service.

MR ALISANDRATOS: Correct.

COMMISSIONER HUNTER: They're advice and support service to have the cultural input.

35 MR ALISANDRATOS: Yes, they are.

COMMISSIONER HUNTER: Does it - so you don't - "advice and support". You don't have to actually take that on. You consult.

40 MR ALISANDRATOS: That's right. Yes.

COMMISSIONER HUNTER: Is that right?

MR ALISANDRATOS: Yes, and again what I mentioned yesterday was we are in transition.
45 Back in the 1980s, we put ACSASS in place because there was nothing else that was providing that cultural attuned input into our assessment. As we transfer greater numbers of children to Aboriginal community controlled organisations there is less of a requirement to do

that because they are being looked after by Aboriginal community controlled organisations within community. So that - so we are in transition, is what I would say. And the aspiration being that all Aboriginal children will be managed, supported, looked after by an ACAC provider in the future.

5

COMMISSIONER HUNTER: But in the meantime, ACSASS is advice and just support.

MR ALISANDRATOS: Yes.

10

COMMISSIONER HUNTER: But they have got no authority in the case or they don't do case management?

MR ALISANDRATOS: No, no. The accountability still rests with the Department.

15

COMMISSIONER HUNTER: Thank you.

MS McLEOD: Just while I'm on the topic of the Commission's reports, Commissioner Singh noted that there were no specific legislative functions, powers or duties attributed to the Commissioner for Aboriginal Children and Young people, but she indicated in her evidence it would be useful to create a specific role. So mostly she works through the Commission generally, and delegated powers or collaborative functions.

20

MR ALISANDRATOS: Yes, yes.

25

MS McLEOD: She notes it will be useful for her role to be entrenched in the legislation. Does the Department have a view about that?

MR ALISANDRATOS: I think it would be a consideration for the Commission, for this Commission as well. It - it would signify an important additional element of strength within the overall functioning of the Children and Young Person's Commission.

30

MS McLEOD: And finally I wanted to touch on the requirement in section 14, further principles for placement of Aboriginal child concerning self-identification and the expressed wishes of the child. The section requires:

35

"In determining where a child is to be placed account is to be taken of whether the child identifies as Aboriginal and the expressed wishes of the child."

So going back to this conversation about the rights of the child and ascertaining children's witnesses, is there anything directing the child protection practitioner to directly ask these two questions about identity and wishes?

40

MR ALISANDRATOS: Yes, yes.

45

MS McLEOD: And the materials direct them to specifically ask those questions?

MR ALISANDRATOS: Yes, yes. And, in fact, over the last few years, we have strengthened those provisions and are ensuring that all children and their families are specifically asked to identify.

5 MS McLEOD: I wanted to leave the Act now. Is that a convenient time to break for lunch?

CHAIR: Yes. Sorry, Counsel.

MS McLEOD: Commissioner, should we come back in an hour or at 2 o'clock?

10

COMMISSIONER BELL: 2 o'clock. It's 12.54. 2 o'clock.

MS McLEOD: If the Commission pleases.

15 **<ADJOURNED 12.55 PM**

<RESUMED 2:00 P.M.

20 MS MCLEOD: I want to start this afternoon's consideration of a number of different topics and to ask you briefly about each of those topics. Certainly, if there's more to ask or more to say on those topics, we would welcome the Department's follow-up contribution either by way of a further statement or perhaps even getting you back. Okay? So can I start with the broad topic of risk assessment and the tools that those making decisions about placement and
25 removal of children in the child protection system have to guide their decision-making.

Yesterday, we spoke briefly about a risk assessment matrix and the traditional way, if I can refer to risk assessment in a traditional way, where child protection workers are looking at risk factors, protective or control factors, measures in place to address those control factors and
30 then the matrix of likelihood of risk, likelihood of occurrence and consequences, where they fit on the scale.

MR ALISANDRATOS: Yes.

35 MS McLEOD: So the first - sorry, I haven't touched on this, but the guiding document for practitioners in the conduct of their work generally is the child protection manual; is that right?

MR ALISANDRATOS: That's right.

40

MS MCLEOD: Now, that is an online manual that is continually reviewed?

MR ALISANDRATOS: It is.

45 MS McLEOD: And it's a lengthy document?

MR ALISANDRATOS: It is.

MS MCLEOD: That is a document, no doubt, that workers have - if I can use that term without disparaging them, that workers become familiar with at induction.

5

MR ALISANDRATOS: Yes.

MS MCLEOD: And that is their primary tool?

10 MR ALISANDRATOS: Yeah, it's the primary source -

MS MCLEOD: Of information.

MR ALISANDRATOS: - of advice, policy and practice guidance.

15

MS MCLEOD: Okay. Now, the child protection manual is intended to embed the legislative requirements.

MR ALISANDRATOS: Yes.

20

MS MCLEOD: To guide the conduct of the protection worker?

MR ALISANDRATOS: Correct, yes.

25 MS MCLEOD: The complexity of the child protection manual and the various suite of policies and guidelines that are available to a child protection worker was recognised by the Department as being complex and, as a result, the Department produced a SAFER Children Framework Guide in October 2021; is that right.

30 MR ALISANDRATOS: Can I clarify that?

MS MCLEOD: Yes, please.

35 MR ALISANDRATOS: So it's not - it's not the child protection manual, per se. It was - the reason why the Department developed the SAFER child protection risk assessment was largely to give more precise guidance to practitioners beyond what the best interest case practice model was able to provide. The best interest case practice model was an overarching practice framework and, within that, practitioners had to, in a sense, find their way through the process of assessment, and sometimes it lacked critical direction in terms of elements of the
40 assessment that it should - that that practitioners should focus on.

MS MCLEOD: The legislative underpinning or one of the legislative underpinnings for this is section 162 of the Act which spells out - I don't need to take you to this - but it spells out - the heading is "When is a Child in Need of Protection".

45

MR ALISANDRATOS: Yes.

MS MCLEOD: And it spells out various matters that must be considered.

MR ALISANDRATOS: Yes.

5 MS MCLEOD: Including death of a parent, physical or emotional harm, including sexual abuse, physical health and development.

MR ALISANDRATOS: Yes.

10 MS MCLEOD: Things of that nature. And harm is not further defined in the Act beyond that section, is it?

MR ALISANDRATOS: No, that's the primary referencing of physical, sexual and emotional harms.

15 MS MCLEOD: You tell us in paragraph 297 of your statement that the process for deciding removal that is followed is a risk assessment using the SAFER Children Risk Assessment Framework and consultation, as you've mentioned, with an ACSASS.

20 MR ALISANDRATOS: Yes.

MS MCLEOD: You also say that it's only when the following factors are indicated within SAFER that there is a need to where removing the child.

25 MR ALISANDRATOS: Yes.

MS MCLEOD: As I've just mentioned: Consequence of harm is rated as severe or significant.

30 MR ALISANDRATOS: Yes.

MS MCLEOD: The probability of harm is considered very likely.

MR ALISANDRATOS: Yes.

35 MS MCLEOD: And the child's safety needs cannot be met by the parents.

MR ALISANDRATOS: Yes.

40 MS MCLEOD: Now, the SAFER document is this document I'm holding up here. The SAFER Children Framework Guide, the Five Practice Activities of Risk Assessment in child protection, and we're particularly interested in the A, which is for Analysis:

"Analyse information and evidence to determine the risk assessment."

45 Right? That framework, just to circle back on my earlier questions, was rolled out in November 2021 in part in response to the deaths of a number of children, and I don't want

you, in any way to tread across the current work before the coroner in relation to the facts of that particular inquiry, but I do want to ask you about this statement that has been reported, attributed to Ms Kirstie Lomas. She was formerly the acting Executive Director of the Office of Professional Practice and Acting Chief Practitioner for the Department and has been

5 described as the State's Principal child protection practitioner for the Department. As I said, I'm not interested in her evidence going to that particular matter, so if we can navigate that, just this SAFER guide.

And she indicated, it's reported:

10 *"What we sought to do here is to bring together something that's a bit complex for the busy work of child protection practitioners which is have they actually analysed and made sense of all the information that they have. We've broken it up into three elements: analysis, judgment and then decisions."*

15 So that's a fair reflection of the process?

MR ALISANDRATOS: Yes.

20 MS MCLEOD: I'm interested in what parts of this process are subjective or rely on what we could broadly call professional judgment? What is within the remit of discretion of the child protection practitioner? Okay? Now, before the introduction of the SAFER framework in 2021, she has publicly acknowledged that the process of sorting information was a bit complex for a busy child protection practitioner. So there were some challenges around that.

25 The aim of this document is to simplify it, and I take it you would agree with me that we must ensure there's consistency between the guidance document in SAFER and the legislative requirements.

MR ALISANDRATOS: Yes.

30 MS MCLEOD: Yes. So, in terms of what is now required of the analysis elements, she has also been reported as saying:

"child protection practitioners found SAFER, by and large, positive."

35 So there was some survey or an evaluation of how child protection practitioners found it using these new tools conducted by the Department? And that was essentially a survey of their opinions, was it?

40 MR ALISANDRATOS: Yes.

MS MCLEOD: Did that survey reveal - because she used the words "by and large" - did that survey reveal which aspects were not positive?

45 MR ALISANDRATOS: I think the survey in general terms indicated a positive reflection from the workforce about the usability of the new risk assessment framework.

MS MCLEOD: Yes.

MR ALISANDRATOS: Its application to the role and function of our practitioners and the way that they would determine risk of harm.

5

MS MCLEOD: So when she says "by and large positive" -

MR ALISANDRATOS: Yes.

10 MS MCLEOD: - obviously there were some aspects that were not positive. So it's that I'm interested in.

MR ALISANDRATOS: Right. Okay. I think one of the elements that the workforce alluded to was the level of preparation and support through the implementation process, which is an ongoing process, as we continue to embed the new framework into the operational environment. So I think there was nothing, from what I can recall, that stood out as a critical issue for the workforce in terms of its application of the new framework generally. They found it a much more tangible risk assessment framework. It provides much more clarity and guidance to how they assemble information, undertake an analysis of that information to determine potential harm and any action that is required of them.

15

20

MS MCLEOD: This framework, and I might ask that it be brought up on the screen. It's the SAFER Children Framework Guide DFFH.0005.0001.0976. We have it on the screen at page .1007. Could we bring up page .1007, please, and I will tell you what the equivalent page is on your hard copy. This is page 24 of the hard copy report. At the foot of the page you see a circle, a number of circles, Figure 8, the seven essential information categories.

25

MR ALISANDRATOS: Yes.

30 MS MCLEOD: They are harm, family violence, strengths, protection and safety, family and community environment, individual child, parent or caregiver. Just with respect to the third highlighted circle there, strengths, there's no specific guidance in this SAFER document, is there, that requires the practitioner to consider the strength of culture as a protective factor?

35 MR ALISANDRATOS: Without having looked at every element of it, from what I can see here, not specifically, but what I can say is that there is additional guidance that is provided to practitioners through the Best Interests Case Practice - Practice Guidance where they are topic-based elements that practitioners use to inform their application of some of these essential information categories.

40

MS MCLEOD: I'm interested in whether slippage might be occurring here. There's already a need to go beyond this document to look to topic-specific guidance material.

MR ALISANDRATOS: Yes.

45

MS MCLEOD: The SAFER Evaluation Report of 2022 found:

"There was limited use of the essential information categories, in particular, strength, safety and protection, as a consideration in weighing up those seven essential information categories."

5 I ask you to accept that. Does that sound familiar to you?

MR ALISANDRATOS: It does.

10 MS MCLEOD: So does a child protection practitioner, in practice, refer back to this guide in conducting the risk assessment and also have to look at the other guides and policies at the same time?

15 MR ALISANDRATOS: Yes, inevitably, because it is a mixture of a professional judgment assessment model that we have here that, on its own, cannot incorporate all elements of those seven essential information categories, and it requires augmentation by additional sources of advice.

MS MCLEOD: So you've got this constant process of simplification to make things easier, but then adding back the complexity if you need to.

20

MR ALISANDRATOS: I wouldn't characterise it in that way.

MS MCLEOD: How would you characterise it?

25 MR ALISANDRATOS: I would characterise it as those guides, particularly for newer practitioners, are there to orient and support the attention that they need to be given to how they work their way through a risk assessment process. Over time and with practice experience and with practice wisdom, those become embedded within the practice of a practitioner.

30

MS MCLEOD: So when the evaluation gives you the feedback, as it did last year -

MR ALISANDRATOS: Yes.

35 MS MCLEOD: - that there was a limited use of the essential information categories, in particular, strengths and protection, which are critical to the assessment of whether a child is at risk or not -

MR ALISANDRATOS: Yes.

40

MS MCLEOD: - in the decision that follows, how do you then ensure that the practitioners pay sufficient attention to strength and protection and safety, given that this document doesn't touch on those things?

45 MR ALISANDRATOS: It goes to the opportunities that emerge out of that survey, if you like, or evaluation, which talks to how we continue to embed the new framework into the operational environment, what additional training and support our practitioners will need,

what additional implementation support they will need to be guided about the use of all elements of the essential information categories, inclusive of those protective ones.

MS MCLEOD: In essence, that's a work in progress.

MR ALISANDRATOS: It's a work in progress. It's a relatively new framework, that is continuing to be embedded into our operational environment.

MS MCLEOD: Would it be useful, do you think, given the exchange with the Commissioners before lunch, to embed in this document as some highlight feature the need to consider cultural safety and support?

MR ALISANDRATOS: Again, I - without having gone through every page of this, Ms McLeod, I would say that there are probably references already in here around protective factors and culture being one of those protective factors and, if not, then, yes, it would be absolutely useful for us to consider whether we need to incorporate more into this. But the other element would be that this is not a framework that stands on its own. This is a framework that is embedded within a suite of practice advice that practitioners are required to incorporate to assist them in being able to navigate through the child protection assessment process. Just like - just in the way that, in relation to family violence, MARAM is incorporated in the framework but also -

MS MCLEOD: That's the Multi-Agency Risk Assessment and Management tool.

MR ALISANDRATOS: That's right. And there is specific guidance that is around the Multi-Agency Risk Assessment Management tool. Now, not all of it is referenced in here. It might be referenced, but it cannot feasibly - you cannot feasibly incorporate all of those elements of advice in one document such as this.

MS MCLEOD: That's what I'm asking about, the success of simplification.

MR ALISANDRATOS: Yes.

MS MCLEOD: And need to go beyond the simple document.

MR ALISANDRATOS: And that's why I'm saying that you can't - it's not one or the other. It has to be both. It is a complex environment of how you determine risk and safety, and there are many, many considerations that have to be incorporated. And to simplify it all into one document would just not do it justice.

MS MCLEOD: So the practitioner who's on the ground trying to work out what there is to do has this document which is aimed to simplify the labyrinthine child protection manual -

MR ALISANDRATOS: No, I need to more accurately reflect that. It is providing a much more clearer, accurate, professional judgment model of assessment that is also augmented by practice guidance that is relevant to that assessment process.

MS MCLEOD: So -

MR ALISANDRATOS: There - again, I know - I know we're trying to simplify everything, right.

5

MS MCLEOD: Well, I'm concerned that the simplification process might miss important considerations.

MR ALISANDRATOS: No, no, and that's a relevant concern. But what we've sought to do is go from something that clearly our practitioners were saying was just not working right for them, to something that is a more balanced approach of developing and implementing a clearer model for how that professional judgment is undertaken, that gives direction to our practitioners.

10

MS MCLEOD: And that they're now saying is by and large positive.

15

MR ALISANDRATOS: Now it's saying by and large positive, notwithstanding that we are still in the early - in the relative early days of embedding this into our system. And these -

MS MCLEOD: I acknowledge you said that.

20

MR ALISANDRATOS: This significant change does not get embedded within a system overnight. It takes some significant period of time and with iterative judgments we would have to make based on the feedback we are receiving.

25

MS MCLEOD: And hopefully the feedback of this Commission.

MR ALISANDRATOS: Absolutely and many others who inevitably look at our practice.

MS MCLEOD: So could I ask that page ending .0990 be brought up, which is page 7 of the document. This is the fold-out page.

30

MR ALISANDRATOS: Yes.

MS MCLEOD: While that is being brought out, you have the hard copy there in front of you?

35

MR ALISANDRATOS: I do.

40

MS MCLEOD: This is - S-A-F-E-R is the acronym for the document. A is the section we're talking about. Under the heading of A, Practice in this page 7 ready reckoner, if you like, there's no reference under A to "analyse the harm of removal." I ask you to accept that. And no reference at all in the training manual to "weigh up the harm of removal and particularly for First Nations children." And I'll be corrected if I'm wrong. I don't need you to read every page at the moment, but those assisting you would correct me if I am wrong about that.

45

Okay? I just ask you to accept that. Or is there something you want to bring to my attention?

COMMISSIONER BELL: Is that page 7 on the -

MS MCLEOD: That's 7 of the hard copy document. No, it's page DFFH.0005.0001.0990, which is a fold-out page. So hopefully our crew have got it.

5 MR ALISANDRATOS: Yes, on my reading of that page, that's accurate. But, again, I'm qualifying that I'm only reading that page.

MS MCLEOD: Okay. We have got it now, thank you, and I was asking you about A there, for those following the documents on the screen. Having got that page, can we go forward a
10 few pages now to .0997 under the heading Professional Judgment, which is at page 14 of the hard copy document. Now, under the heading Professional Judgment is stated:

15 *"Professional judgment is about how our people use knowledge, skills and experience, how they bring their values and wisdom, how they manage their emotions and use their reasoning skills. The guided component is the legislation, policy procedures practice guidance and tools that help us do our work. Together they make up our approach, a guided professional judgment approach to practise risk assessment and risk management."*

Now, you would agree with me, I take it, that professional judgment involves subjective as
20 well as objective decision-making?

MR ALISANDRATOS: Yes, probably.

COMMISSIONER LOVETT: Probably? Sorry, can you just clarify. Yes or no.
25

MR ALISANDRATOS: Yes.

COMMISSIONER LOVETT: Thank you.

30 MS MCLEOD: You would accept that if training with regards to cultural awareness is cursory or missing completely, comprising of perhaps one or two short modules, and decisions are otherwise based on professional judgment, there is a risk of bias entering the decision-making?

35 MR ALISANDRATOS: You know, I wouldn't characterise the training and support that we provide our practitioners as minimal, particularly when you factor the - not just the formal training but also the guidance that they receive from their senior practitioners and their supervising officers as well.

40 MS MCLEOD: This document, at page 16, talks expressly about reasoning skills including intuition:

45 *"A cognitive process that somehow produces an answer solution or idea without the use of a conscious logically defensible step-by-step process."*

There's reference to the manuals:

"...which do not replace the work we do to think critically, consider widely and gather evidence to support assessments."

MR ALISANDRATOS: Can I just clarify that.

MS MCLEOD: Yes.

MR ALISANDRATOS: That intuitive element is sourced through Hammond 1996. I assume there is an evidence base.

MS MCLEOD: I'm not suggesting there's not.

MR ALISANDRATOS: Yes.

MS MCLEOD: All I'm asking you to accept is there's a human element here.

MR ALISANDRATOS: Of course.

MS MCLEOD: Which is subjective.

MR ALISANDRATOS: Yes.

MS MCLEOD: And that if child practitioners are not armed with the tools to guide that intuition adequately, then that intuitive process and that subjective analysis will be compromised. Do you accept that?

MR ALISANDRATOS: If - I would accept that if it was not mitigated by a number of other structures of support and guidance that is provided to practitioners. Just to give you an example: so if I recall my practice days, I would not ever be in a position to make a decision, even when I undertook an assessment process, to make that decision in isolation without a thorough process of checks and balances that stepped my rationale, my decision-making framework, the evidence that I have, in support of that, to my supervising officer for endorsement.

MS MCLEOD: So today - I understand it was some time ago that you went through, but today where is that step-by-step process recorded?

MR ALISANDRATOS: On the child protection file.

MS MCLEOD: In what document?

MR ALISANDRATOS: In the client record.

MS MCLEOD: So is there a template for the completion of those aspects?

MR ALISANDRATOS: I think there's probably a number of ways that that gets recorded. It gets recorded in supervisory notes.

MS MCLEOD: Yes.

MR ALISANDRATOS: It gets recorded formally in the CRIS electronic file.

5

MS MCLEOD: Yes.

MR ALISANDRATOS: And I'm happy to be - provide more advice about this, Ms McLeod, in terms of the mechanisms, the more specific mechanisms, that we use to record the decision-making process.

10

MS MCLEOD: That might be a narrative of -

MR ALISANDRATOS: No, it could be both: A narrative and a process of determining that you have followed a decision-making process.

15

MS MCLEOD: Is there -

MR ALISANDRATOS: Happy to come back to you on that.

20

MS MCLEOD: Is there a check box?

MR ALISANDRATOS: Yeah, that's what I'm - I need to check that, yes.

25

MS MCLEOD: Alright. Thank you. Are the CRIS notes transparent to those representing children and families?

MR ALISANDRATOS: Sorry, just how do you mean?

30

MS MCLEOD: Those representing children and families before Court processes, do they get to see the CRIS notes or just the report that is produced as a result of those CRIS notes?

MR ALISANDRATOS: It's a report that is produced to Court with the evidence that -

35

MS MCLEOD: Which is a summary or synthesis of what's in the CRIS notes.

MR ALISANDRATOS: Yes, it reflects the determination of how a practitioner arrived to - to a determination about significant harm.

40

MS MCLEOD: So if a worker, for example, included in a report that they had a protection concern, that might be a synthesis of a number of factors that are not readily transparent to those representing families and children. Would you accept that?

MR ALISANDRATOS: So I would accept it to the extent that it then gets tested within a Court environment.

45

MS MCLEOD: You would hope, depending on time available to the magistrate, resourcing of those advocates and their ability to analyse the material?

MR ALISANDRATOS: Yes, and that is the role of the Court.

MS MCLEOD: And, as we know, those Courts are hammered by the case load and have often very little time to deal with those matters.

MR ALISANDRATOS: Ms McLeod, I would go back to our earlier conversation. Many systems are hammered. Our system, the Court system.

MS MCLEOD: Except the Court system is the oversight system.

MR ALISANDRATOS: It is.

MS MCLEOD: Right?

MR ALISANDRATOS: Yes.

MS MCLEOD: It must have time and ability to examine these synthesis reports, if I can use that term - not pejoratively - but the synthesis reports that are presented so that those representing children and their families can draw attention to the magistrate and say, "This assertion of protective concern, this assertion of cumulative harm depends on a number of minor factors that wouldn't be a concern in an ordinary household", for example. Do you accept that?

MR ALISANDRATOS: Right. I accept that but I also add that when matters are before the Court and they are examined, particularly matters which are contested, all of those elements are thoroughly tested.

MS MCLEOD: In an ideal world.

MR ALISANDRATOS: My understanding is that they are tested.

MS MCLEOD: Can I ask the last time you actually went to Court on these things?

MR ALISANDRATOS: It's probably been a while but I can understand - I know from our practitioners and I know from our court advisory teams that this is - there is a range of advice that is provided through practitioners on the decision-making thresholds, even before we get to the point of issuing a protection application, let alone what happens post that.

MS MCLEOD: That's obviously from their perspective. What about the position of the legal services - Djirra, VALS and others - that are representing clients before the courts? Have they given you feedback they have adequate time and resources to prepare reports?

MR ALISANDRATOS: I have not got that feedback.

MS MCLEOD: Right. Can I ask you look at the next page, page 17, Practice Wisdom. This heading says:

5 *"The knowledge and skills gained through experience in working with children, families and professionals and insight into how this combines with other knowledge and wisdom such as that gained from study, training and critical reflection, practice wisdom..."*

That somebody like yourself might have after 30 years or so:

10 *"...comes from many and varied experiences across different roles and work environments, as well as life experience. It comes from doing something that provides a base to reflect and consider how that experience might inform current practice and decision-making for a child and family. Examples of practice wisdom relevant to practitioners..."*

15 Second dot point:

"Culturally safe practices that come from working directly with Aboriginal families."

20 So it's listed there as a positive for - in terms of practice wisdom of a practitioner, but it sounds like, apart from the induction process, there's no mechanism to ensure that your workers have the capacity to develop those culturally safe practices themselves unless they're working with clients directly.

25 MR ALISANDRATOS: I would say - yes, and working with a number of cultural advisors who are embedded within our teams as well, as obviously the practice guidance specific to working with First Peoples families.

30 MS MCLEOD: So if that knowledge resides with another person, the child protection practitioner is required to consult with that other person in order for them to learn about culturally safe practices.

35 MR ALISANDRATOS: They are consulting with those persons on a regular basis, be it ACSASS, be it AFLDM advisers, be it Aboriginal cultural advisors. That's the very purpose for why we have these positions and functions embedded within the program, to build our capability, to build our workforce's capability.

MS MCLEOD: Just on this point, you say at paragraph 362:

40 *"Data is not collected on the seniority of staff identified in table 1.1, Aboriginal Cultural Safety, Aboriginal Cultural Awareness and Safety, Beginning Practice."*

And so on.

45 MR ALISANDRATOS: Sorry?

MS MCLEOD: Sorry, at paragraph 362 of your statement, you say:

"Data is not collected on a seniority of staff identified table in table 1.1."

And we're talking about there all of new employees, all managers, all staff and so on. Would be - I'll wait till you get it up. Sorry to rush you.

5

MR ALISANDRATOS: Sorry, what paragraph was it again?

MS MCLEOD: 362.

10

MR ALISANDRATOS: Apologies, my iPad seems to be tiring.

MS MCLEOD: No, that's okay. It's been a long day.

MR ALISANDRATOS: Yes.

15

MS MCLEOD: You say:

"Data is not collected on a seniority of staff identified in the table above."

20

The table is table 11, Community Operations and Practice Leadership Division, Child Protection Training Attendance, and it comes back to the point that we were discussing before the break.

MR ALISANDRATOS: Yes.

25

MS MCLEOD: It would be important, would you agree, that you know or ensure that senior people within child protection are undertaking Cultural Awareness training -

MR ALISANDRATOS: Yes.

30

MS MCLEOD: - and have that level of competence.

MR ALISANDRATOS: Yes.

35

MS MCLEOD: Can I ask you to turn to page 44 of the document, which is .1027. This is still under the Analyse section. Analyse dimension number 1, vulnerability. Do you see the heading on the top of that page?

MR ALISANDRATOS: Yes.

40

MS MCLEOD:

"Figure 12 illustrates..."

45

This is about two paragraphs in:

"...the weighing up of vulnerability and parental capacity. Age, development and functioning are important factors that may point to increased vulnerability of the child, and Figure 12 sets out various boxes that assist the practitioner to determine the vulnerability of the child and parental capacity."

5

Do you see that?

MR ALISANDRATOS: I do.

10 MS MCLEOD: One of those factors, for example, under the hand parental - or above the hand "parental capacity to meet child needs" is:

"Parents attend some of the child's health appointments but miss more than they attend."

15 So is there a consideration that weighs up their ability to make those appointments or things like transport, other things?

MR ALISANDRATOS: That would be explored within the context of engaging with parents and understanding circumstances. It's not to read that as a blanket take it or leave it. There is
20 a process of engagement with families. There is a process of eliciting information to understand the family's context, to understand the barriers to attending. It's not to say that there is a ticker box saying you have missed three appointments so that's an automatic strike and off we go.

25 MS MCLEOD: I follow. So this is an indicator or a signpost -

MR ALISANDRATOS: Yes.

MS MCLEOD: - for a practitioner to consider things with examples given?

30

MR ALISANDRATOS: Yes.

MS MCLEOD: Can we now turn to a document which is a DHS document about trauma. The number is BAL5.0001.0001.001. Is this one of those - this was, obviously, because the
35 heading is Human Services. Is this still current, this document, do you know?

MR ALISANDRATOS: I haven't got it in front of me.

MS MCLEOD: Sorry. The screen may not assist you.

40

MR ALISANDRATOS: Yes, no, that's fine. Yes.

MS MCLEOD: You can see that?

45 MR ALISANDRATOS: I can see that.

MS MCLEOD: We will zoom in if you need to.

MR ALISANDRATOS: That's okay. Yes.

MS MCLEOD: This document is a Human Services document so I wonder if it's still current.
 5 You might need to look at it to be able to answer that but this was certainly a document produced, we're told, by Human Services in 2012.

MR ALISANDRATOS: Can I ask, Ms McLeod, if that's something that we've provided you with?

10 MS MCLEOD: I'm told we found this online under the Best Interest -

MR ALISANDRATOS: Then it is -

15 MS MCLEOD: A current document. The heading is Child Development and Trauma, if you look on the left-hand side, if we could zoom in, please, on the fourth dot point, which commences "Culture". Just highlight that dot point on the left-hand column. Thank you:

20 *"Culture, family home and community play an important role in children's development as the impact on a child's experience is an opportunity. Cultural groups are likely to have particular values, priorities and practices in child-rearing that will influence children's development, learning particular skills and behaviour. The development of children from some cultural backgrounds will vary from traditional developmental norms which usually reflect an Anglo-Western perspective."*

25 So this document, you think, if I found it online or we found it online hasn't been updated since 2012, would that be fair?

MR ALISANDRATOS: It may be. Hard for me to say.

30 MS MCLEOD: if I'm wrong in the follow-up.

MR ALISANDRATOS: Yes.

35 MS MCLEOD: As I understand it, this is one of those guidance documents -

MR ALISANDRATOS: Yes.

MS MCLEOD: - on a particular topic -

40 MR ALISANDRATOS: Yes.

MS MCLEOD: - that the practitioner using the SAFER manual and following the child protection manual can refer to for advice about childhood development and trauma.

45 MR ALISANDRATOS: Yes.

MS MCLEOD: So if we look at the right-hand column down the bottom paragraph, it says:

5 *"Specific characteristics and behaviours are indicative only. Many specific developmental characteristics should be seen as flags of a child's behaviour which may need to be looked at more closely. If a child is not meeting them, practitioners should refer to the Best Interest Case Practice model and relevant Specialist Practice Resourcing."*

So there's reference to another set of documents.

10 MR ALISANDRATOS: Yes.

MS MCLEOD: Over the page, the heading is Some Important Points About Development - this is point 0002 - and I will read this to you and ask you to accept this:

15 *"The indicators of trauma listed in this resource should not become judgments about the particular child or family made in isolation from others who know the child and family well or from other sources of information. They are a useful alert."*

So that is the intention of this guide.

20

MR ALISANDRATOS: Yes.

MS MCLEOD: And there is reference to the explosion of knowledge back in 2012 with regard to the detrimental impact of neglect and child abuse trauma. I'm going to jump ahead of the tech crew here and ask that page .0004 be brought up, which is page 4 of the document, a list of child and family risk factors on the left-hand column. The first dot point is:

"Family violence, current or past."

30 Nine dot points in, we have:

"History of neglect or abuse, State care, child death or placement of child or siblings."

And then experience - a couple of dot points down from that:

35

"Experience of intergenerational abuse and trauma."

Do you see that?

40 MR ALISANDRATOS: Yes.

MS MCLEOD: So the document acknowledges that child and family risk factors that should be taken into account include State care and experience of intergenerational abuse and trauma.

45 MR ALISANDRATOS: Yes.

MS MCLEOD: A child practitioner who comes to an Aboriginal family, do they make assumptions subjectively or based on their knowledge and understanding?

MR ALISANDRATOS: They test. They test.

MS MCLEOD: Do they ask has your family been exposed to removal or has your family suffered trauma?

MR ALISANDRATOS: Yes, they do. The process of gathering the information is a process of engagement. It's a process of talking with families. It's a process of exploring history and context.

MS MCLEOD: What I'm interested in is whether those factors which are presented as risk factors are entered into the decision on the risk side of the equation so that all, or most, Aboriginal children already start with a negative on the risk assessment scale.

MR ALISANDRATOS: No. I would say that there is a process of practitioners engaging with families to understand their context, their history, their environment and to use some of these risk factors as guidance in terms of looking to determine whether a child is in need of protection.

MS MCLEOD: But this document directs them to take into account as a risk factor on the risk side of the equation -

MR ALISANDRATOS: Yes.

MS MCLEOD: - State care and experience of intergenerational abuse and trauma, does it not?

MR ALISANDRATOS: Yes, it does.

MS MCLEOD: Yes, so in the subjective -

MR ALISANDRATOS: This is not - just to be really clear, this is not guidance specific to First Peoples. This is generic guidance for all. So when we talk about intergenerational - in this context when talking about intergenerational trauma, it is - in this context, it is a generic term. There are generations of abuse and trauma impacts in community across the State.

MS MCLEOD: Yes. That we know and the Prime Minister, former Prime Minister, has specifically apologised about, the impact of those practices and policies on First Nations People.

MR ALISANDRATOS: In relation to First Nations peoples. That's right, yes. What I'm saying is that this is generic information as opposed to more targeted guidance that relates to considerations that should be - cultural considerations that should be applied in relation to First Peoples families.

COMMISSIONER HUNTER: So if you go on - this is really - I don't even know how people make decisions, to be honest with you, the way we're going through this. I'm just totally confused. You have got that generic, but then do you have to go over if it's an Aboriginal and Torres Strait Islander child or First Nations child to somewhere else to look, because, as
 5 Counsel has pointed out, if you have got intergenerational trauma on a generic - you know, from Colonisation, we've all got that as Aboriginal people. Like, I don't - you know, if someone doesn't go over to specific cultural advice for Aboriginal and Torres Strait Islander children and they've just read that, then it becomes a risk factor, right?

10 MR ALISANDRATOS: So in the context of this hearing's exploration, it is a step-by-step process that we're interrogating over the multiplicity of practice advice. In the context of practice, practitioners accumulate knowledge, guidance and incorporate that knowledge and guidance over time through their practice and through both formal sources of input such as these, informal sources of input from - derived from their senior practitioners and practice
 15 advisors, and over time they become more proficient in the way they integrate this knowledge.

COMMISSIONER WALTER: This sounds like a very mysterious process about how this competence is achieved. I mean, I'm a qualified social worker and just listening to that, I think, my goodness, I would not be able to navigate that system to actually work out what I
 20 should be doing with what family, what risk factors to take into account, what were protective practices, where culture comes in. I -

COMMISSIONER HUNTER: Can I - this is a long process.

25 MR ALISANDRATOS: It goes -

COMMISSIONER HUNTER: Sorry, to interrupt you. You have said it's a long - so if the child - they deem the child at immediate risk and the child is removed, how long does this process take of the assessment to decide if they stay in care? Because that's trauma in itself,
 30 removing that child. Is that taken into consideration?

MR ALISANDRATOS: Yes, it is. As is the capacity to find suitable placements for children. All of those factors are considered. I think, Commissioner Walter, it goes to the complexity of -
 35

COMMISSIONER WALTER: I have heard that word a lot and if I was a practitioner charged with taking children away from their families or not, I would not be comforted by the idea that it was really complex. I would be wanting to be really clear, if I was making a decision to remove a child, that it was absolutely the right decision, not that it was - there was complexity.
 40

MR ALISANDRATOS: I - so, again, I challenge the Commission to grapple with this issue of complexity, because complexity is not going to be eliminated and, yes, you can put layers and layers of instruction in there but that will not eliminate the complexity. And our services, whether it's our statutory child protection services or our Aboriginal community controlled
 45 services, are dealing with the same level of complexity and having to grapple with the risk and safety and protective factors as they make determinations about how they manage both removal of children, but also reunification of children. Because that same process has to be

determined when we are reunifying children. And then when we do reunify, as I said yesterday and we're monitoring that process, those ACAC providers are going to have to make judgments about how safe is a placement.

5 COMMISSIONER WALTER: I agree.

COMMISSIONER HUNTER: Do they need to follow that? Do they need to follow that SAFER? Is that what they have to follow?

10 MR ALISANDRATOS: So there's a combination of approaches. SAFER is being used largely by the statutory child protection service, but ACAC is following SAFER. VACCA has got adaptation in terms of the assessment framework that is being worked through.

COMMISSIONER HUNTER: Does the Department have to approve that?

15 MR ALISANDRATOS: The Department works closely with VACCA in relation to the calibration of their assessment, and we've got an interest in that, from the perspective of, if there is - if there are ways we can enhance the cultural elements of a child protection assessment, then, of course, we are always looking at ways that we can improve that approach.

20 COMMISSIONER HUNTER: Just on the handing over to - of, say, investigations to whichever community controlled organisations take them up, does everything stay the same and you just - like, there you go? Or is there -

25 MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: It does. Do you think that's fit for purpose for an ACCO?

30 MR ALISANDRATOS: The provisions that are incorporated in the Bill that's before Parliament at the moment extends the transfer of authorisation through section 18 to particular functions of investigation. The legislative framework is not changed, but through the consideration of this Commission, it might be something that you want to consider about what a future system should be guided by, from a legislative perspective.

35 COMMISSIONER HUNTER: What have you heard from ACCOs? Have they said anything around - because we are talking about building trust. Right? We're talking about building trust with the families, with the ACCOs, with the community and to me that's only done through not just listening but action.

40 MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: So we've heard some evidence around, you know, things about changing legislation and - but it doesn't seem to be that it's going to be in that new Bill coming through.

45 MR ALISANDRATOS: No, no. No. So need to be really clear. This is not - this is significant incremental reform within the context of our existing legislative framework. So

the Children Youth and Families Act continues to be in operation, it continues to be the guiding legislation for all child protection activity across the State. Should that change in the future, and should different consideration be applied about what is a more fit-for-purpose legal framework, then that will be a very different context.

5

COMMISSIONER HUNTER: But you want to hand over to Aboriginal community controlled organisations what we have already got and say -

MR ALISANDRATOS: We can only hand over within the existing legislative procedure.

10

COMMISSIONER HUNTER: I don't see how it is working - at the moment, it's not working because of the overrepresentation of Aboriginal and Torres Strait Islander children in Victoria in care, and you are going to hand that same model over to community to do. You're going to get the same outcomes. Like, it's not - it's the same ingredients in a cake. You are just - not asking them to cook it differently. You know?

15

MR ALISANDRATOS: I think we actually are, and by the very nature of how Aboriginal community controlled organisations engage and the considerations that they bring to the work and the cultural elements that they bring to work and the level of trust that they bring to the work with families, I think they are all significantly different aspects of work with First People's families and what we have within the context of an Anglo child protection system.

20

COMMISSIONER HUNTER: With ACAC at the moment - it's been going a while - what learnings has the Department had and started to implement, because you said it's great things happening. Have you taken those learnings and -

25

MR ALISANDRATOS: Essentially, it's all of those elements that I've just walked through. It is the level of trust that families have of ACCOs, it's the level of engagement that they are able to achieve, genuine engagement, in a way that is underpinned by trust because they have members of their community working with them. It's the freeing up and more free-flowing elicitation of information from those families that means that they can work differently with a strong cultural lens to determine risk and safety. These are all critical elements.

30

COMMISSIONER HUNTER: With the same - use the term but with the same white legislation, yeah?

35

MR ALISANDRATOS: The legislation has not changed. The approach and the implementation is different when it is delivered through an Aboriginal cultural lens.

COMMISSIONER WALTER: I think that's an incredible load to place on Aboriginal organisations, to somehow use exactly the same legislation and processes and this multilayered thing that's been doing and there is a hope, therefore, that somehow Aboriginal organisations are going to be able to get different outcomes from the same recipe. And I just think it's really unfair to be positioning Aboriginal controlled organisations with this expectation from the State, when the Department has not been able to deliver to change that you are now loading on to them to deliver with the same legislation. It just seems really unfair.

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MR ALISANDRATOS: Well, I would say a couple of things to that, Commissioner Walter. Aboriginal community controlled organisations, many of them - not all of them, many of them - see the value in this and have provided us clear advice that that is the direction that they want us to go in, within the confines and constraints of the current legislative framework. This jurisdiction, Victoria, is the most progressive jurisdiction as it pertains to transfer of decision-making.

Other jurisdictions, Queensland notably, have recently begun that journey. New South Wales, about to begin that journey. It is accepted that this is a critical reform to move us forward and to move us closer to an Aboriginal-led system. It won't get us to a fully self-determined system. But the considerations of you as Commissioners and this Commission should turn its mind to what it will take to have a fully self-determined system. But we are on a journey, and we are progressing that journey.

COMMISSIONER HUNTER: And so we should be with the rate of removal, the highest rates in the country, I - you know, and only having whatever percentage it was culture support plans as well. So it should be.

COMMISSIONER BELL: Can I ask a question about the reverse learning, which is that you've expressed confidence in the Aboriginal controlled, or Aboriginal operated -

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: - system at the moment, taking the point that it is the same system but it works better -

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: - when Aboriginal people are in control and administer the system. Doesn't that say something about the inadequacy of the present system?

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: Can you tell me what you think that is? What is the inadequacy of the present system?

MR ALISANDRATOS: I think I've said this, Commissioner Bell, a number of times and it's in my statement.

COMMISSIONER BELL: Yes.

MR ALISANDRATOS: That the Colonial underpinnings of our system continue to cast a dark shadow over our existing system. It is fundamentally drawn from those Colonial days and impacts.

COMMISSIONER BELL: Yes.

MR ALISANDRATOS: And we have not shifted our legislative framework since those days. So they are deeply rooted into the system. Now, at some point through the process of Treaty, through the process of truth and justice telling, and through the process of the work of this
 5 Commission, we might arrive at a different place about what a future system ought to look like for First Peoples in this state.

COMMISSIONER BELL: That's a very generalised answer and I accept the force of it at that level of generality. But speaking entirely for myself, I'm - I feel ashamed. I feel personally
 10 ashamed that non-Aboriginal people are operating the same law that don't deliver outcomes that are comparable.

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: Now, I absolutely support a self-determining system. I absolutely support transfer. But I think we, non-Aboriginal people and you in management of the system, need to reflect on why.

MR ALISANDRATOS: Yes.

COMMISSIONER BELL: Because it is unsatisfactory.

MR ALISANDRATOS: Agreed.

COMMISSIONER BELL: It is discriminatory. It violates human rights.

MR ALISANDRATOS: Agreed.

MS McLEOD: Would you agree that we cannot have a system handed over to the control of
 30 Aboriginal controlled organisations that sets them up to fail?

MR ALISANDRATOS: I would absolutely agree with that.

MS McLEOD: So we have to do whatever is possible - "we" being the Department and the
 35 State - we as citizens of the state have to do whatever is possible to get the system perfect, as perfect as we can, before that transfer occurs.

MR ALISANDRATOS: I think I've been on the record of saying that we are navigating through an orderly transition and not handballing these services to community controlled
 40 organisations who either are not wishing to undertake these functions or who feel unprepared to undertake these functions. And as we have been working over the last decade, incrementally supporting our Aboriginal community controlled organisations to build capability, to build confidence and to build community acceptance that they wish to undertake this - any function across the continuum of care and support that we provide.

45 And we know through the work that we have done, engaging deeply with our Aboriginal community controlled organisations, that there are different perspectives and different views

about how much they want to do, and at what end of the spectrum and continuum they want to be focused on. And we've got to work and respect that.

5 MS MCLEOD: And we cannot - we, the state - cannot kick that conversation and that readiness down to a Treaty negotiation in a year or two or three, can we?

10 MR ALISANDRATOS: And we will not. That's why we are not stopping the work, notwithstanding, rightly put, that the work that we are doing, we are doing within the construct of an existing legal framework.

COMMISSIONER LOVETT: And moving very slowly.

MS MCLEOD: And can I ask.

15 COMMISSIONER LOVETT: Slowly.

MS MCLEOD: Sorry, Commissioner.

20 COMMISSIONER LOVETT: Just saying and it's moving very slowly.

MR ALISANDRATOS: And, Commissioner, some would say, when we seek to move faster in that direction, that we are overstepping our mark and we should respect community in terms of their desire to be undertaking some of this work. And that's only in that context.

25 COMMISSIONER LOVETT: That is because you are transitioning the same model that is currently being implemented, not a - there's no innovation in that. You are literally handballing the same model to these Aboriginal community controlled organisations.

30 MR ALISANDRATOS: Yes, that's why we're working with them -

COMMISSIONER LOVETT: That's why you're getting the conservatism around the risk.

MR ALISANDRATOS: I accept that, totally.

35 COMMISSIONER LOVETT: Because they've got to be also - you know, they don't want all the red tape and no - you know, they don't want to be hamstrung by solely just red tape as well.

40 MR ALISANDRATOS: Yes, I accept that.

COMMISSIONER LOVETT: I mean, that's what government does really well to our communities, is handball some resources but the red tape then sits with them and then they are accountable to everyone.

45 MR ALISANDRATOS: I accept that. And this is why we are at such a pivotal point and a unique opportunity that we have before us to drive a very different future system design.

MS MCLEOD: Can I just finish off this topic by bringing up the SAFER Risk Assessment Snapshot, DFFH.0005.0001.0974 and ask whether you have got a hard or soft copy of that in front of you.

5 MR ALISANDRATOS: I can see it on the screen.

MS MCLEOD: So, as I understand it, this is one of the tools that was designed as part of the SAFER package to reduce -

10 MR ALISANDRATOS: Yes.

MS MCLEOD: To make things a bit less complex, to use Ms Lomas' words, in navigating the system. Is this a live document, do you know?

15 MR ALISANDRATOS: It is a document that is on our system, yes.

MS MCLEOD: Current. Now, the practitioner, I assume, fills in the blank boxes next to each or below each question and is there an ability to fill in as many words as required? Do you know your way around this form, I should have asked first?

20 MR ALISANDRATOS: Not specifically. I haven't worked my way through that but I understand that there is a capacity to fill in as much detail as possible.

MS MCLEOD: Okay. So you could write a thousand words if you needed to below question 1, vulnerability of the child.

25 MR ALISANDRATOS: I am sure I will get some advice about what the limit of the words are.

30 MS MCLEOD: Okay. This document was part of the deliberate design of simplifying the system or making it easier for practitioners to navigate, is that fair?

MR ALISANDRATOS: Yes.

35 MS MCLEOD: Is this document printed and found or saved in a soft copy version of the client file in each case?

MR ALISANDRATOS: I would expect so.

40 MS MCLEOD: There's a reference to child's name and CRIS number up the top of the page.

MR ALISANDRATOS: Yes.

MS MCLEOD: So is this a document that they must fill out when they're completing their assessment?

45 MR ALISANDRATOS: Yes, I expect so.

MS MCLEOD: Okay. This is a two-page document which is generic to all child protection decisions. It's not particular to First Nations?

5 MR ALISANDRATOS: That's right.

MS MCLEOD: And, likewise, there's no reference to First Nations connection to culture or other safety protective measures here?

10 MR ALISANDRATOS: There are references to the child's family context.

MS MCLEOD: Yes.

15 MR ALISANDRATOS: Including their culture. The number 1, who is the child in the context of their family, culture and community.

MS MCLEOD: Yes, thank you for drawing that to my attention. But that's assessed as a vulnerability factor, not as a safety or protective measure; agree?

20 MR ALISANDRATOS: Yes.

MS MCLEOD: So the child - who the child is in the context of their family, culture and community might include those trauma dot points that we went to in the DHS document: Intergenerational trauma and family member in State care. Just stepping through it, the child practitioner fills in these boxes. So for box 1 we might see, for example, the child's age, fact of family violence report, notes about parental circumstances, things of that nature.

25

MR ALISANDRATOS: Yes.

30 MS MCLEOD: Any perceived compromise of the ability of the parent to care for the child. So those sort of things?

MR ALISANDRATOS: Yes.

35 MS MCLEOD: And as you said, they can take as much space as they like in filling out that document?

MR ALISANDRATOS: Yes.

40 MS MCLEOD: Is this just a summary of the information that goes into the CRIS system?

MR ALISANDRATOS: Yes.

MS MCLEOD: Right. There's no reference in this tool itself to the objects of the Act or the guiding principles beyond the synthesis that is reproduced.

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MR ALISANDRATOS: That's right, yes.

MS MCLEOD: Okay. There's no place to note specifically specific services that might be provided by the State or an ACCO or the family or extended family to defray risk.

5 MR ALISANDRATOS: I think under the Safety quadrant is where probably where you would get some of that.

MS MCLEOD: That's intended to prompt a consideration of those factors?

10 MR ALISANDRATOS: Yes.

MS MCLEOD: And is that also the place, or is it under Vulnerability, Likelihood of Harm or Severity of Harm, that the practitioner considers the immediate and longer impact of removal of itself?

15 MR ALISANDRATOS: I think it's both under Vulnerability and Severity of Harm.

MS MCLEOD: Under Vulnerability, when the practitioner is considering the context of the child in the context their family culture and community, the practitioner needs to think about the negative impact and longitudinal impacts of removal?

20 MR ALISANDRATOS: That is one of the considerations.

MS MCLEOD: Well, it's definitely one of the considerations but it's not prompted there, is it?

25 MR ALISANDRATOS: Not specifically, but, again, this is a summary form and what sits behind it is advice that emanates from this document and other practice guides.

MS MCLEOD: And obviously the Commission is interested in the adequate signposts -

30 MR ALISANDRATOS: Yes.

MS MCLEOD: - for that and the way that the practitioner navigates their thinking about these risk factors.

35 MR ALISANDRATOS: Yes.

MS MCLEOD: The MARAM assessment is referred to on the next page under Judgment where we have Consequence of Harm, Probability of Harm, and a Risk Rating for a child to - bring together Vulnerability of the child, which is Risk, Severity of Harm, to form a conclusion about consequence and probability using the MARAM model; do you agree?

40 MR ALISANDRATOS: Yes.

MS MCLEOD: And then you get to the decision box. Decisions are made as a result of the relationship between the two, and that's where you get your end result. So just so I understand it, this document is just intended to record that process or is it intended -

45 MS MCLEOD: And then you get to the decision box. Decisions are made as a result of the relationship between the two, and that's where you get your end result. So just so I understand it, this document is just intended to record that process or is it intended -

MR ALISANDRATOS: Yes.

MS MCLEOD: - to guide the practitioner through that process or both?

MR ALISANDRATOS: Both.

MS MCLEOD: Has the Department considered ways that that document and the guidance for practitioners might be improved?

MR ALISANDRATOS: It will be part of the ongoing evaluation of the risk assessment framework.

MS MCLEOD: And on ordinary timelines - this is April last year, so only a year old - what would be the timeline for ordinary review of the application of this document?

MR ALISANDRATOS: Well, it's not just the document, just to be clear. It's about the whole risk assessment framework.

MS MCLEOD: Would that be next year, this year?

MR ALISANDRATOS: I understand that there is current work to determine what the next evaluation phase of SAFER will be. I haven't got that in front of me at the moment.

MS MCLEOD: I should have asked if the Commission wants to take a short break. I am sort of belting through things.

COMMISSIONER HUNTER: Can I ask one question about learning from ACCOs. And if I remember correctly, when section 18 started, there was a new template that VACCA came up with around Court reports and that - I remember it being the magistrates there because it was based on human rights and strengths of families. Has the Department ever thought about adopting those types of reports?

MR ALISANDRATOS: I understand there have been changes to the Court report formats that have been made over the last few years, quite significant changes that have incorporated a range of inputs, including what - the input that has come from the Victorian Aboriginal Childcare Centre.

COMMISSIONER HUNTER: From what Commissioner Bell was asking earlier -

MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: - around basically the rights of the child, and you've got the Victorian Charter, you have got all these and I know that was - and it showed strengths - that's how you gain trust, right?

MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: I want to ask if that was taken on board at all.

MR ALISANDRATOS: Happy to have a closer look at that.

5

MS MCLEOD: I gather the Commissioners want to press on.

CHAIR: I think so. Is that okay?

10 MS MCLEOD: Are you happy to press on?

MR ALISANDRATOS: Sure.

MS MCLEOD: The end is in sight.

15

COMMISSIONER BELL: Can I ask whether there's any proposal to amend SAFER and the ancillary documents in the light of the Recognition Bill?

20 MR ALISANDRATOS: Yes, there will be. There will be a significant body of work that goes to implementing both the decision-making principles as well as the broader Aboriginal child placement principles once they get enacted into law.

COMMISSIONER BELL: This is not something that I previously considered, so it is very much a question.

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MR ALISANDRATOS: Yes.

COMMISSIONER BELL: And the question is whether you have considered whether it's appropriate to have a comprehensive SAFER for all cases, or, rather, one that is specifically targeted to First Peoples communities.

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MR ALISANDRATOS: I think it's a good question and one that we will reflect on, particularly given the passage of the Bill through the Parliament.

35 COMMISSIONER BELL: The Bill, yes.

MR ALISANDRATOS: Gives us, I think, a unique opportunity to relook at how we strengthen our assessment frameworks in relation to First Peoples.

40 COMMISSIONER BELL: Listening to you respond to questions from Counsel about the application of the current generic SAFER with respect to First Peoples families -

MR ALISANDRATOS: Yes.

45 COMMISSIONER BELL: - suggested to me that it didn't capture adequately the strength and difference of the relationship -

MR ALISANDRATOS: Yes.

5 COMMISSIONER BELL: - between Aboriginal children and their family and kin - emphasis on kin - or their relationship with country or their relationships with other aspects of their own community, would you accept that?

10 MR ALISANDRATOS: I accept that and would also say that whilst we've got some practice guidance that goes to how practitioners should approach their engagement with First Peoples, I recognise it's probably not deeply embedded within the construct of this framework.

15 COMMISSIONER BELL: Well, it's certainly not specifically picked up. That's a problem, I would think. And it seems to me very likely that the reason why the system works so much better, even at this early stage, when administered by Aboriginal organisations, is that they bring that perspective naturally to bear.

15 MR ALISANDRATOS: They do. They do. Agree. Agree.

20 COMMISSIONER LOVETT: I will just ask more broadly on this connection to culture and country, particularly for Victorian Aboriginal children who are direct ties to Victoria, not ones from Queensland living in Victoria.

MR ALISANDRATOS: Yes.

25 COMMISSIONER LOVETT: What is the relationship of the Department with the registered Aboriginal parties throughout Victoria? Because we have heard a lot about, obviously, ACCOs and the primary role they play or they undertake in this place.

MR ALISANDRATOS: Yes.

30 COMMISSIONER LOVETT: But what about the role of Traditional Owner groups in this work? Because we hardly see it referenced. I see it in your acknowledgement, acknowledging Traditional Owners and then throughout the doc - you know, the statement, sorry, it's pretty light on.

35 MR ALISANDRATOS: I think it's a fair comment, Commissioner. I think we largely reference those funded Aboriginal community controlled organisations because they are the primary organisations within the orbit of our work. But that's not to say that broader connection to other parts of culture and connection to land is not undertaken. If I think about a whole range of cultural experiences that children and young people experience, they are - they
40 are instigated and put in place through those traditional owner groups as well. And both ACCOs and Traditional Owner groups work closely together to bring some of that cultural perspective to children and young people in particular.

45 COMMISSIONER LOVETT: So do you - in your experience or knowledge, do you think that the Traditional Owner groups have involvement in the development of that cultural plan?

MR ALISANDRATOS: Probably not as much as we would want them to be.

COMMISSIONER LOVETT: They're the primary, you know - culture is derived from those Traditional Owner groups.

5 MR ALISANDRATOS: Yes. Yes. With respect, yes. I think there is definitely more that we can do in that space.

10 COMMISSIONER WALTER: Can I just ask, I'm just looking at this thing and sort of saying - well, you are saying, well, it's implied and it's implicit and it's there, but, in actual fact, it is absent, isn't it, the specific recognition and reference to guides, practitioners to consider First Peoples' specific conditions in this form. Why on earth would you - knowing the level of overrepresentation, why on earth would a form be designed like this that actually doesn't refer specifically to First Peoples considerations?

15 MR ALISANDRATOS: Look, I would go back to my previous comments about there is more detailed guidance - cultural guidance that is provided through other documents that are meant to support this.

20 COMMISSIONER WALTER: Practitioners have to go there whereas it should - I would have thought it should have been front and centre.

MR ALISANDRATOS: Yes, I take your point, Commissioner Walter.

25 MS MCLEOD: And not just on the document but listed as a strength or a control factor, do you agree?

MR ALISANDRATOS: Yes, potentially.

30 MS MCLEOD: Whereas culture at the moment is in the next box.

COMMISSIONER LOVETT: Potentially? Yes or no? You said potentially.

MR ALISANDRATOS: Did I?

35 COMMISSIONER LOVETT: Yes.

MR ALISANDRATOS: Apologies. It is getting late in the day. Apologies.

40 MS MCLEOD: So yes.

MR ALISANDRATOS: Yes.

MS MCLEOD: Thank you.

45 COMMISSIONER HUNTER: Back to the risk assessment, we talk about intergenerational trauma. I get we just generally talk about it as an issue or could be a risk factor. We know it's high in our families, in First Nations families. What about intergenerational poverty or

poverty? Where is that because we know our families struggle. Is that seen as risk, as neglect? Or how does that come into the risk factors.

5 MR ALISANDRATOS: Not on its own. We know that there are many families that are disadvantaged financially. On its own, that is not a risk factor. There has got to be a determination of harm to the child. So, no, I would not say that disadvantage on its own is a risk factor.

10 COMMISSIONER HUNTER: Do you think - would you agree that ACCOs do it better because they support the whole of the family.

MR ALISANDRATOS: Yes.

15 COMMISSIONER HUNTER: So isn't that a learning?

MR ALISANDRATOS: Absolutely. It's why we have taken the direction that we are taking to transfer more capacity to our ACCOs. There's a clear learning. It is a learning that we've - we've - we've arrived at through deep engagement and understanding of the impact of Aboriginal-led services to First Peoples.

20 COMMISSIONER HUNTER: There's some learnings added up to the Department, am I correct, that you could probably -

25 MR ALISANDRATOS: Absolutely.

COMMISSIONER HUNTER: Yep.

30 MR ALISANDRATOS: And our practice has and will need to continue to change and evolve based on that learning. You know -

COMMISSIONER HUNTER: You say that - rightly so - Aboriginal community controlled organisations do it better than the Department, have better outcomes for our kids. So what are the numbers of children eligible for Aboriginal guardianship currently and how many of actually under guardianship with ACCOs?

35 MR ALISANDRATOS: We've got just less than - just shy of 200 children and young people who are under the guardianship of ACCOs.

40 COMMISSIONER HUNTER: How many are eligible - would be eligible for that guardianship?

MR ALISANDRATOS: Look, I can get you that.

45 COMMISSIONER HUNTER: Would it be a big number?

MR ALISANDRATOS: It will be much bigger. We have got funded capacity to take us to about 400 children by 2024.

COMMISSIONER HUNTER: Then you are going to have more kids in care and so you'd want to - what is it - if you know that children under Aboriginal guardianship works, why aren't we moving that along?

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MR ALISANDRATOS: Because we've got to go at the pace of Aboriginal community controlled organisations.

COMMISSIONER HUNTER: Well, we know two organisations that are currently doing it. They've done their - as if - and -

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MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: Have they got - is it funding or is it capacity?

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MR ALISANDRATOS: We've got - we've got funding capacity to go up to 400, but the process is slow because we have to go at the pace of those community controlled organisations in order that they feel comfortable, confident and able to take on additional children. And as we progressively work our way through - not just the two that are delivering now, the others who are in pre-delivery phase - we will scale up that capacity.

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COMMISSIONER HUNTER: How many Aboriginal children are in care all up?

MR ALISANDRATOS: 2600.

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COMMISSIONER HUNTER: We might ask the organisations to see if they can respond to that, I think, at some point, yes.

COMMISSIONER BELL: Can I just ask a question: going back to the issue of the SAFER covering all cases, do you understand the human rights concept of indirect discrimination? To treat different people the same -

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MR ALISANDRATOS: Yes.

COMMISSIONER BELL: - might be formally equally but in its operation substantively, it's unequal. Do you understand that?

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MR ALISANDRATOS: Yes, I do.

COMMISSIONER BELL: And Aboriginal people, the First Peoples of Victoria, have unique social cultural family attributes, you would accept?

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MR ALISANDRATOS: I do.

COMMISSIONER BELL: It may be that SAFER operates in a manner that is indirectly discriminatory because of its failure to capture specifically those attributes. Would you care to comment on that?

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MR ALISANDRATOS: So I would say that in absence of looking at the practice guidance that provides the input to our practitioners, yes, you could say that. But you have to look at the holistic elements that are brought to the practitioners' knowledge base as they work through SAFER. So it's not just that -

COMMISSIONER BELL: More to know, you are saying?

MR ALISANDRATOS: Yes, that's right.

COMMISSIONER BELL: Okay. Thank you.

MS MCLEOD: I might segue from that conversation into the topic of kinship care. So we can take down that document, please, and ask that the document Victorian Auditor-General's Office Kinship Care Report 2022 be brought up. BAL5.0001.0001.1693, tab 10 in the bundle. And while that is being brought up, kinship care is the preferred and increasingly relied upon model of care where care is provided by a relative or a member of the child's extended social network.

MR ALISANDRATOS: Yes.

MS MCLEOD: And there is a preference and a dependence on kinship care, particularly for First Nations children; is that fair?

MR ALISANDRATOS: Yes.

MS MCLEOD: Bringing up that kinship care document could we turn, please, to page 1677, or page - sixth page of the document which is actually numbered 1, just to make life confusing, .1698. Make sure you've got that document in front of you.

MR ALISANDRATOS: I - I have.

MS MCLEOD: Thank you. Alisandratos, the audit snapshot I'm looking at and the box at the foot of the page under the heading Key Facts. So it's page number 1 but it's about six pages in. I just want to take you briefly through the criticisms of the Auditor-General's report. And before I do that, you would acknowledge, in terms of the application of the best interests principle and the legislative requirements of the Act, the human rights considerations in terms of protective concerns of the child, and, in practice, best possible outcomes for children that kinship care is very high up on the hierarchy of preferred placement options if family and immediate family are not available. Would you agree with that?

MR ALISANDRATOS: Yes, indeed. And reflected by the fact that we've got 79 per cent of the children placed in kinship care arrangements.

MS MCLEOD: Thank you. That's the current number?

MR ALISANDRATOS: That's the current number.

MS MCLEOD: If we can look at those key facts, part A Assessments, what are they? That's the check if a placement is safe and can meet the child's needs?

5 MR ALISANDRATOS: Yes, that's right.

MS MCLEOD: The target of the Department is within one week of placement.

MR ALISANDRATOS: Yes.

10

MS MCLEOD: But only 14.2 per cent of placements meet that target. Part B Assessments, assessing what support the carer needs to provide a safe, secure and nurturing home, the target is six weeks of placement.

15 MR ALISANDRATOS: Yes.

MS MCLEOD: Only 2.2 per cent meet that target. So just pausing there: does that mean a child can be placed with a kinship carer and it's longer than - for 98 or so per cent of cases, it's longer than six weeks before anybody confirms what that kinship carer needs to provide a safe, secure and nurturing home?

20

MR ALISANDRATOS: So I would say that, yes, in a formal sense of capturing that information in a report. And it's a formalised assessment report. That doesn't mean that through the engagement with carers that we are not determining needs and actioning some of those needs.

25

MS MCLEOD: Okay. So what's the relevance of the report as the trigger for this data point? Is that a report to the Court or is that a report to -

30 MR ALISANDRATOS: No, no, it's an actual assessment report that needs to be completed by a practitioner, be it a statutory child protection practitioner or a funded organisational practitioner.

MS MCLEOD: So they are missing that deadline in 98 per cent of cases.

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MR ALISANDRATOS: They are missing the decline of completing that report, that formal assessment, that's right.

MS MCLEOD: And so do you know, underlying that, in how many cases they are missing the deadline for the actual assessment of what is needed by that kinship carer.

40

MR ALISANDRATOS: No, it's difficult for me to say that. But having said that, we know that through the process of engagement with kinship carers, either at the point of placement - initial point of placement - or through the early phases of that placement, there are conversations around what needs a particular carer might have.

45

MS MCLEOD: We've heard evidence in the Commission of family members, grandmothers, for example, taking on the care of grandchildren in addition to other family members that they have care and responsibility for.

5 MR ALISANDRATOS: Yes.

MS MCLEOD: And not having the wherewithal to transport them to school, to manage the additional requirements of an extended family, which then obviously impact on the child's ability to access education, health and all those other important aspects.

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MR ALISANDRATOS: Yes. Yes.

MS MCLEOD: So these reports, I assume, are critical - a critical way to measure the delivery of support services. Would you agree?

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MR ALISANDRATOS: Yes. Yes.

MS MCLEOD: The next factor is Part C Assessments. Check the child's progress, wellbeing and development and the placement stability. Those are to be conducted annually, but at the time of this assessment, less than one per cent met the target.

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MR ALISANDRATOS: Yes.

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

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MR ALISANDRATOS: No.

MS MCLEOD: And in terms of kinship carer's allowance rate, 96 per cent of kinship carers received the lowest level of care allowance compared to 32 per cent of foster carers. Which I take it you would agree places a very significant burden on those who are asked to take up kinship care for family members.

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MR ALISANDRATOS: Yes.

MS MCLEOD: I just touch on the other criticisms and then ask you to respond globally, if you don't mind. At page - sorry, I should ask you now so that you don't forget them all. Is there anything else you want to say about those findings by the Auditor-General?

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MR ALISANDRATOS: Only that the Department has accepted both findings and recommendations outlined by the Auditor-General.

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MS MCLEOD: I'm sorry, did you say they are the findings of the Auditor-General?

MR ALISANDRATOS: No, the Department has accepted -

45

MS MCLEOD: Accepted.

MR ALISANDRATOS: - findings and recommendations - and all recommendations made by the Auditor-General in respect to this audit.

MS MCLEOD: Now, this is a relatively recent report, 21-22.

MR ALISANDRATOS: Yes.

MS MCLEOD: So what is the timeline for implementing those recommendations?

MR ALISANDRATOS: I don't have that in front of me at the moment. But there will be an implementation approach to each and every one of those recommendations.

MS MCLEOD: And is the Auditor-General going to circle back and check on -

MR ALISANDRATOS: Yes, they will.

MS MCLEOD: On your compliance -

MR ALISANDRATOS: Yes, they will.

MS MCLEOD: So I can short-circuit this, then. There are a number of recommendations within this report that relate to failures of the kinship care system and failures of the key performance measures around that system. Do you accept that generally?

MR ALISANDRATOS: Yes.

MS MCLEOD: And all of those feed into the work to be done by the Department to meet - those things.

MR ALISANDRATOS: Indeed.

MS MCLEOD: One of the aspects of that that I just touched on is the inequity or disparity of payments to kinship carers compared to foster carers. And, as I understand the evidence, that is largely because kinship carers do not understand or are not supported to access increases in their payments. Is that a fair summary of the findings?

MR ALISANDRATOS: Yes, that is. That is one of the elements.

MS MCLEOD: Why do you not just have one rate for kinship and foster carers?

MR ALISANDRATOS: It relates to the way that we engage - the different pathways of engagement for kinship care.

MS MCLEOD: The base rate is the same, is it not?

MR ALISANDRATOS: The base rate - so I should say that the five carer allowance payment categories are consistent for all carers. The application varies. The process of application for

determining a carer allowance varies between foster care and kinship care. Foster care largely because those carers are recruited specifically to undertake the provision of care and go through an accreditation and assessment framework and are supported by community service organisations. Kinship carers largely are engaged at the point where child protection seeks to place a child in an alternative care setting, and so they do not go through a formal accreditation training process.

The negotiation around carer allowance is determined through an assessment of need for the individual children in kinship care, and there is a process for how that need, where it's additional, gets reflected into a higher carer allowance. You're right: often carers find that process difficult and because the large proportion of kinship care placements are managed by child protection, historically, we haven't undertaken and paid the right attention to that. More recently, we have now funded and implemented a carer support helpdesk that will provide some additional support to how we determine the appropriate carer allowance for kinship carers.

MS MCLEOD: And that helpdesk is intended to guide and assist the navigation of those kinship carer payments.

MR ALISANDRATOS: Yes, it's a combination of the practitioner, either a statutory child protection practitioner or a funded community service organisation practitioner -

MS MCLEOD: Yes.

MR ALISANDRATOS: - and the carer support helpdesk. It is intended to support carers.

MS MCLEOD: And is it the child protection practitioner who sets the allowance in the first place, based on their assessment of need - supports and need?

MR ALISANDRATOS: It is - in the kinship care context?

MS MCLEOD: Yes.

MR ALISANDRATOS: It is - the starting point is at the general rate, the first level. And then, depending on the assessment of need with respect to the children and the carer's context, then a determination gets made about what additional carer allowance is required.

MS MCLEOD: I understand that you are coming at this from different systems, if you like, for foster care and kinship care -

MR ALISANDRATOS: Yes.

MS MCLEOD: - in terms of the vetting process for foster carers.

MR ALISANDRATOS: Yes.

MS MCLEOD: Is there some way to ensure equity in the system so that the burden is not placed on kinship carers financially?

5 MR ALISANDRATOS: Yes, we are - we will be looking at this issue in terms of how we get more suitable support to kinship carers. It's not in anyone's interest, especially children who are placed in those settings and their carers, for them to not feel financially supported to undertake the care that they have agreed to provide.

10 MS MCLEOD: Particularly when you take into account that those kinship carers may themselves be carrying a burden of intergenerational trauma.

MR ALISANDRATOS: Yes, indeed.

15 MS MCLEOD: And other compromised social determinants.

MR ALISANDRATOS: Indeed.

20 COMMISSIONER HUNTER: With the kinship carer and the payments, so you've got the foster carer who could potentially be a non-Aboriginal person for an Aboriginal child, which will have to file a cultural support plan. That goes for the same with the kinship carer. It could be the non-Aboriginal side of the family.

MR ALISANDRATOS: Yes.

25 COMMISSIONER HUNTER: And they would still have a cultural support plan.

MR ALISANDRATOS: Yes.

30 COMMISSIONER HUNTER: Yet they may be funded differently to even - to care for the child, one, and the complexities.

MR ALISANDRATOS: Potentially yes.

35 COMMISSIONER HUNTER: Is any of that taken into consideration, around keeping the connection of the child in kinship care with non-Aboriginal family with the Aboriginal side of the family? Is that a factor in anything?

MR ALISANDRATOS: Is it a factor in -

40 COMMISSIONER HUNTER: Well, we've got a child in care that has one Aboriginal parent.

MR ALISANDRATOS: Yes.

45 COMMISSIONER HUNTER: But it goes to the non-Aboriginal side of the family.

MR ALISANDRATOS: Yes.

COMMISSIONER HUNTER: How is that maintained, that cultural right and connection.

MR ALISANDRATOS: Connection, yes. And that's through the earlier conversation we were having around contact provision and cultural planning that ought to bring those elements of how we maintain connection with the child's culture.

COMMISSIONER HUNTER: Does a kinship placement sit under a normal - sort of - say normal - a child protection worker? And do they -

MR ALISANDRATOS: Accommodation. There are kinship care placements that are supported by community - funded community service organisations but the bulk of kinship care placements sit within the child protection program.

COMMISSIONER HUNTER: Thank you.

COMMISSIONER BELL: Commissioner Hunter's question with which you agreed was that, for the same child, Aboriginal family kin get less than non-Aboriginal family kin. Do I understand you correctly that that is how it works?

MR ALISANDRATOS: No, I wouldn't characterise it in that way. If you're talking - well, so if a child is in foster care, the allowance is determined through a formal mechanism of determining need for that child and assigning a carer allowance. There's a formal mechanism that is negotiated for foster carers, be it First Peoples foster carers or others. In the kinship care environment, the commencement is always at the general level and then the negotiated process is undertaken through an assessment that the child protection practitioner undertakes with that carer family to determine what the allowance should look like.

COMMISSIONER WALTER: We have got the figure here that 98 per cent are not being assessed within six weeks. So - and we have heard evidence of people being severely placed under incredible financial and other constraints by taking their family in and then left with inadequate housing, inadequate transport, inability to move the child because they don't have childcare seats.

MR ALISANDRATOS: Yes, I accept that.

COMMISSIONER WALTER: All of those things and we have this extraordinary figure of 98 per cent not being assessed within six weeks. I'm gobsmacked.

MS MCLEOD: Just before I leave that Auditor-General's report, I just wanted to touch on the finding at page 28 of the document - number 28 of the document, which is .1725, 2019 Evaluation - last paragraph on the page - of Aboriginal Kinship Finding program which DFFH commissioned, found around 56 per cent of Aboriginal and Torres Strait Islander children in out-of-home care in Victoria placed with a non-Aboriginal and Torres Strait Islander carer, over 50 per cent are separated from their siblings and 56 per cent have no cultural support plan. So the issues in the general population are particularly acute within the kinship caring program as well. Would you agree with that? Separation from

siblings, lack of care plans and placement with non-Aboriginal and Aboriginal and Torres Strait Islander carers.

MR ALISANDRATOS: Are they an issue? Yes, they are.

MS MCLEOD: Yes. I want to come to the next topic, if I may -

COMMISSIONER HUNTER: Sorry, Counsel, can I ask one quick question about payments. If a child is with a foster carer and they're on, say, a level 5, one of the highest payments, and then they move to a kinship carer, do they remain on that level 5?

MR ALISANDRATOS: Most likely, yes, because that - that payment level is determined on the needs of that individual child, and usually a child and a carer attracting that level of payment would suggest there is a complexity of need within the child's presentation that warrants that level of allowance.

COMMISSIONER HUNTER: There has been some evidence given to the Commission that they have had to make business cases to go up to that level, they have dropped down to a level 1. So I just wanted to clarify what the Department's stance is on that, if you can -

MR ALISANDRATOS: Yes, I would be surprised if it dropped from a level 5 to a level 1, unless there was an administrative error in the process. Just intuitively thinking about a child who's on that level of carer allowance would suggest pretty intense complexity.

COMMISSIONER HUNTER: Yes. Thank you.

MS MCLEOD: Now, I want to come to the topic of the Secretary as parent, if I can call it that, and paragraph 67 of your statement. Paragraph 67 states that:

"Under the Children, youth and Families Act, the Secretary must provide necessary care and support to children and young people living in out-of-home care and act as a good parent would."

So that is because the Secretary assumes parental responsibility and the duty of care for a child in their care.

MR ALISANDRATOS: Yes.

MS MCLEOD: Now, concerns about the lack of safety in State care have been well documented over an extensive period, including in the Commission's report *'Our Youth, Our Way'*. You would be familiar with those concerns?

MR ALISANDRATOS: Yes.

MS MCLEOD: And you would be familiar with the report that the State does not routinely conduct forward-looking risk assessments when making a decision to place a child in the care of the Secretary. You are aware of those specific criticisms in *'Our Youth, Our Way'*?

MR ALISANDRATOS: Can you just repeat?

5 MS MCLEOD: Yes. The State does not routinely conduct thorough, forward-looking risk assessments when making a decision to remove a child which take into account the possibility of a lack of safety in State care.

10 MR ALISANDRATOS: Yes, I'm happy to accept if that's what's being proposed in one of those reports.

MS MCLEOD: Well, it makes sense, doesn't it, after examination of the risk assessment model. There is no factor that a practitioner has to take into account that tells them, danger alert, if you place this child in the care of the Secretary, there is a risk of a lack of safety which may include abuse and neglect.

15 MR ALISANDRATOS: Yes. The only caution I would have to that characterisation is that most children are placed within family settings. The vast majority.

20 MS MCLEOD: While within the care of the Secretary?

MR ALISANDRATOS: Indeed.

MS MCLEOD: So those who are in residential care away from their families are primarily that group that is exposed to this risk of lack of safety.

25 MR ALISANDRATOS: Well -

MS MCLEOD: Not necessarily.

30 MR ALISANDRATOS: Not - not always. So I just want to qualify that. There are approximately 450 children at any point in time in residential care services. They are, by their very nature, some of the most complex children who have complex needs because of their trauma histories.

35 MS MCLEOD: Yes.

MR ALISANDRATOS: It is less than five per cent of our total population - an important five per cent, however, given the significance of their trauma histories.

40 MS MCLEOD: Is this cohort managed by a particularly skilled or an experienced team within the Department? Or are they spread out across case workers?

MR ALISANDRATOS: They are largely - so two aspects to that question. The care provision is provided by a number of funded community service organisations who deliver residential care services.

45 MS MCLEOD: Yes.

MR ALISANDRATOS: Their case management is undertaken largely by the statutory child protection system but there is provision where we can contract their case management to some of those care organisations as well.

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MS MCLEOD: So it's not necessarily the case that this cohort with very complex needs is managed by an experienced case worker? Or overseen by an experienced supervisor?

10 MR ALISANDRATOS: So within the construct of our residential care system, we have a number of models across the residential care system that range from generic care systems to - generic care services, through to therapeutic care services. So a young person within a therapeutic care service because of their needs, would receive a range of supports both from a case management perspective, but also from a care therapeutic perspective.

15 MS MCLEOD: I see. Findings from 'Our Youth, Our Way' include these, finding 18:

"The child protection system does not provide a stable caring home for too many children and young people involved with child protection and Youth Justice."

20 Finding 19:

"The child protection system is failing to act as a good parent would for too many Aboriginal children and young people involved with child protection and Youth Justice."

25 Does the government accept those findings?

MR ALISANDRATOS: Those findings have been accepted and it is why we've - why government has invested pretty significantly to improve the delivery of our residential care services. And what I mean by that is, historically, the residential care service system has been
30 largely designed through models of four-bed residential care homes in communities.

MS MCLEOD: Yes.

35 MR ALISANDRATOS: Over the - over the reform period, we have sought to shift that, both in terms of the number of therapeutic interventions that we are able to bring into those care environments, the improvement in the capability of our residential care workforce, including mandatory qualifications for that workforce, and the diversification of our residential care homes. And what I mean by that is we are moving towards a structure that diversifies from
40 just having, largely, a four-bed system to one that has both four-bed, two-bed and three-bed systems.

And the reason we're doing that is because both the evidence and the experience tells us that putting fewer kids together with complex needs and with therapeutic support delivers better outcomes than having four young people together with an array of complexity in a four-bed
45 stock-standard residential care service.

MS MCLEOD: And as I follow what you are saying, the move to four bed initially and then the move to lesser beds subsequently is a deliberate decision to move away from an institutionalised model where children receive care en masse, if you like, in an institution.

5 MR ALISANDRATOS: Again, I probably wouldn't characterise the four-bed in that way.

MS MCLEOD: I meant that as a step along the way.

10 MR ALISANDRATOS: No, no, but I would go back in history and say back in the mid-80s is when we moved from larger-scale institutional environments, which would have held more than four kids together, to largely a four-bed construct. Now we're moving into a smaller construct beyond that as well, and adding in therapeutic layers of support which are incredibly important.

15 MS MCLEOD: And the intention of doing that is so you can have better individualised care for those children.

20 MR ALISANDRATOS: Indeed. It's - it serves a number of purposes. It delivers much more tailored individualised care to those individuals. It minimises the impact of children with complexity of need interacting adversely with each other as well. It means that we can focus more attention about care within the home and minimising the frequency of children leaving care and being out in community and potentially coming in contact with the Criminal Justice system, or where they might be coming into contact with perpetrators of a child exploitation.

25 MS MCLEOD: Yes. Do you agree that the State cannot satisfy itself it's discharging its obligation to act as a good parent if it's not routinely assessing the safety of placements in a timely manner?

30 MR ALISANDRATOS: Yes.

MS MCLEOD: And that, as you've said before in responding to the Auditor-General report, is a work in progress.

35 MR ALISANDRATOS: Indeed.

40 MS MCLEOD: Can I come to the topic of criminalisation, First Nations children. It's a well documented issue of enormous concern that the child protection system feeds a pipeline of Aboriginal children into the Criminal Justice system. This Commission has heard much evidence about the hopelessness of that situation and individuals' pathway through child protection into Youth Justice, into the Adult Justice system and the subsequent trauma upon them of that pipeline.

45 A report into the Victorian child protection service found that one in three - more than one in three sentenced and diverted children had been the subject - that is sentenced and diverted in the Criminal Justice system - had been the subject of a report to the Victorian child protection service, and that sentenced and diverted children who are the subject of a child protection

report were eight times more likely than the general population to be Aboriginal and Aboriginal and Torres Strait Islander children.

I will just ask you to accept that. You may know that. You may not be familiar with that. But you would agree with me that it's a particularly big concern for First Peoples children residing - particularly those in residential care that they will come into contact with the Criminal Justice system at some stage in their lives almost inevitably. You would agree with that?

MR ALISANDRATOS: Well, yes, I would agree with that, to the extent that you are talking about children in the residential care system as opposed to children more broadly across the care system.

MS MCLEOD: Yes. With that particular focus.

MR ALISANDRATOS: Yes.

MS MCLEOD: At paragraph 451 of your statement, you note that the proportion of children that the Criminal Justice system will have subsequent contact with is particularly high for children aged 10 to 14. 67 per cent of First Peoples children and 66 per cent of non-First Peoples children in the case of residential care. So you state that the data demonstrates the increased risk of Criminal Justice contact for children placed in those settings when compared to home-based settings.

MR ALISANDRATOS: Yes.

MS MCLEOD: So that's the point you've just made.

MR ALISANDRATOS: That's right.

MS MCLEOD: So what is the explanation, if you have one, for the elevated risk of First Peoples children in State care residential facilities.

MR ALISANDRATOS: It's an extension of what I was just talking about, in terms of the context of that residential care service structure, and the reform that we've been evolving to shift from four beds to more therapeutically-oriented services so that we can hold young people, we can minimise their exposure to criminal activity and exploitation.

MS MCLEOD: Did you understand that those advocating against raising the age of criminal responsibility are pointing to the offending of children in the protection of the State, particularly in residential care, as an argument for not raising the age of criminal responsibility?

MR ALISANDRATOS: Could you repeat that for me?

MS MCLEOD: So I'll come at this in another way.

MR ALISANDRATOS: Yes.

MS MCLEOD: The State is placing children in residential care knowing the risk factors around lack of safety in residential care, and knowing - they may not have options, as you've
5 said, but placing them in residential care, knowing of those lack of safety concerns -

MR ALISANDRATOS: Again, yes, the State is placing children who cannot be accommodated in any other form of care -

10 MS MCLEOD: Yes.

MR ALISANDRATOS: - in an intensive model of care.

15 MS MCLEOD: Yes.

MR ALISANDRATOS: Largely because those young people cannot be supported in a home-based care placement, be it a kinship care or a foster care placement.

20 MS MCLEOD: Are you aware of the Sentencing Advisory Council report, Crossover Kids?

MR ALISANDRATOS: Yes, I am.

MS MCLEOD: And are you aware that that report notes that residential carers are calling the police not because a child's behaviour was severe but because of its frequency.

25 MR ALISANDRATOS: I'm aware of that.

MS MCLEOD: So carers are reporting children to police for what might be relatively minor offences that they feel unable to cope with.

30 MR ALISANDRATOS: Which is why we have put in place an approach that lifts the capability of the workforce, that builds more strength in that workforce, that adds therapeutic practitioners within those models of care to be able to more effectively manage the presentations of some of those young people. It is one critical action that is part of our
35 reducing criminalisation framework, that we are engaged in.

MS MCLEOD: So this is not a criticism of you or the Department. What I'm getting at is that criminal offending by children in that cohort are used as statistics by those supporting or arguing that the age of criminal responsibility should not be raised to point to the frequency
40 and seriousness of offending by children. So the very conditions that the State creates are used, if you accept my proposition, to argue against raising the age of criminal responsibility.

MR ALISANDRATOS: I'm not sure that I follow.

45 MS MCLEOD: Okay.

MR ALISANDRATOS: It might be because it's late in the day but I'm not following.

MS MCLEOD: That's okay. The Sentencing Advisory Council report, Crossover Kids -

MR ALISANDRATOS: Yes.

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MS MCLEOD: - points to the frequency of reporting and the nature of minor matters reported for children in residential care.

MR ALISANDRATOS: Yes.

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MS MCLEOD: That leads to inevitable interactions with police.

MR ALISANDRATOS: Yes.

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MS MCLEOD: That leads to the exercise of police discretion about whether or not to charge a child with criminal offence.

MR ALISANDRATOS: Yes.

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MS MCLEOD: Including maybe property damage, things of that nature.

MR ALISANDRATOS: Yes.

MS MCLEOD: That leads children to the Criminal Justice system as youths -

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MR ALISANDRATOS: Yes.

MS MCLEOD: - who are less than 14 years of age. That leads inevitably and is one of the components that leads to convictions on charges against children who are within the system.

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Do you follow?

MR ALISANDRATOS: Yes.

MS MCLEOD: That leads to a dataset that is used by those arguing against raising the age of criminal responsibility to say: look, there are all these children offending who are 13 years of age. Do you follow? And yet it is the State that has created the condition of care that leads causatively to those statistics being increased. Do you follow?

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MR ALISANDRATOS: I do follow and it is why the State and the Department are working to improve the delivery of our residential care services, informed by the Commission's determinations, findings and recommendations, and an accepted view, globally, that having more therapeutic services with a smaller ratio of children to worker, with increased capability will reduce some of that offending and interaction with the Criminal Justice system. We - I think I said yesterday - not that I want to downplay this in any way, but we have very few children that - I think I mentioned the number of 33 young people through our data linkage work - that are current dual order children across child protection and Youth Justice.

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COMMISSIONER LOVETT: I still think the question hasn't been answered. So you're giving a response around what you're doing now, but the question around the data being used to inform the government's decision around raising the age - can we go back to that original question from Counsel.

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MS MCLEOD: So that's a decision, obviously that's taken by those who are external to the Department in advocating for a particular position. So you can't -

MR ALISANDRATOS: I can't comment about that. I think that's for others to -

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MS MCLEOD: But you do acknowledge that there is a contribution that the State plays to those statistics.

MR ALISANDRATOS: I acknowledge that - which is, again, coming back to what we are trying to work on in terms of reducing that contribution, and the work both in terms of our residential care reform and the framework for decriminalisation of children in residential care go very much to focusing our attention on driving those numbers down even beyond the relatively small numbers that we have across the system at the moment, notwithstanding -

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COMMISSIONER LOVETT: The recognition that you are going to do something about it which means there's recognition that it's contributing to it because you are making a response to it -

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MR ALISANDRATOS: Indeed.

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COMMISSIONER LOVETT: Thanks.

MS MCLEOD: Last couple of things, noting the time. Are you familiar with the Marram-Ngala Ganbu program?

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MR ALISANDRATOS: I am.

MS MCLEOD: The Commission has heard evidence from magistrates involved in that program about the success of the therapeutic model and culturally appropriate model adopted by that program.

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MR ALISANDRATOS: Yes.

MS MCLEOD: Would the Department support the extension of the pilot program from Broadmeadows and Shepparton of programs that adopt a therapeutic model?

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MR ALISANDRATOS: We would support absolutely any extension and further integration of models that bring therapeutic justice approaches to our family - families across the system.

MS MCLEOD: There are a couple of matters to follow up on from yesterday that I understand you can answer today. The first was a question around recent data on the rates of

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children in out-of-home care, Aboriginal children in out-of-home care and Commissioner Lovett asked for data and you said at transcript 50:

5 *"It's worth noting the rate of First Peoples children in care peaked in 2020, in 2021 with a rate of 103 per thousand. In June 2021 has fallen slightly since then to 102.2."*

And I asked you to follow up and asked you for data about that. Is that a matter you can comment on now? Or is that a matter we need to give you an opportunity to come back to?

10 MR ALISANDRATOS: Let me just quickly try and find -

MS MCLEOD: That's okay. You've probably got a note somewhere.

15 MR ALISANDRATOS: Just could you repeat which one that was in relation to.

MS MCLEOD: Yes, it was a question in relation to data on rates of children in out-of-home care for Aboriginal children compared to non-Aboriginal children. And Commissioner Lovett asked you a question about data and the three per cent. Confusion about the three per cent and - your evidence was you've seen that reduction come down by three per cent.

20 MR ALISANDRATOS: Yes.

MS MCLEOD: And there was questioning around whether the data had fallen slightly as noted in your statement.

25 MR ALISANDRATOS: Yes.

MS MCLEOD: And you were asked to follow up about that. Are you able to do that now?

30 MR ALISANDRATOS: I am able to confirm that that decrease, did, in fact, occur.

MS MCLEOD: Three per cent.

35 MR ALISANDRATOS: Three per cent. As I indicated yesterday, the data was presented to the Aboriginal Children's Forum back in October of last year, and importantly to note that, over the last four years, there have been increases in the number of Aboriginal children in care of the range between five and 15 per cent. So to see a reduction of three per cent when we've been on a trajectory of increase, notwithstanding the early promise, is an important pivot point, I think, for where we are today. And we attribute that to a number of family
40 preservation diversionary programs that we have implemented across the system.

COMMISSIONER WALTER: But it's not yet a trend, is it? It's just one data point. So we wouldn't need to see -

45 MR ALISANDRATOS: Absolutely, but -

COMMISSIONER WALTER: further reduction this year in order for it to be a trend.

MR ALISANDRATOS: Absolutely, but when -

5 MS MCLEOD: If you need to revisit your statement at paragraph 20, to just check those numbers that you have given us there, you are welcome to do that in the follow-up material. Sorry, 120.

10 The second point was around the names of committees and minutes. I won't ask you to do that now because that's something you can easily provide us. I didn't want to ask any further questions about that. And the third matter that I think you can talk to today is around reunification data and Commissioner Walter's question:

"Of those that are removed, what proportion of First Nations children are reunited in 12 months?"

15 And you said you could get that. Do you have those figures now?

20 MR ALISANDRATOS: Yes. So as of July '22, those children that were managed by ACCAC that were either on a care by Secretary order or a long-term carer order, making 52 per cent of ACCAC children. And the next largest cohort was on family preservation order, 25 per cent, followed by reunification orders, 22 per cent of children. The dataset also indicated that Aboriginal children that exited their latest episode of care between 1 January to 30 June who were ACCAC clients was 83 per cent, so that's 29 children that were reunified with their parents and families, relative to 64 per cent to 135 children for child protection clients.

30 MS MCLEOD: Commissioners, I haven't touched on the question of unborn notifications. I'm just noting the time. So I wanted to pause and check if there are questions on any topic, that the Commissioners had before we conclude.

35 COMMISSIONER HUNTER: I think I have lots. But I don't think time - and I guess, as Commissioners, we will speak whether we invite you back for further discussion. It is a very - it's a topic we need to discuss, the unborn notifications. But I don't think this is - there's not enough time.

COMMISSIONER BELL: I agree.

40 MS MCLEOD: So there's an indication from the Commissioners that we might like to get you back. And what we will do is negotiate with those assisting you to look for a further provision of information that the Commissioners have asked for and then find a suitable time to do that.

MR ALISANDRATOS: Certainly.

45 MS MCLEOD: Given that we are working under time pressures, we would ask that those assisting you attend to the provision of that information as quickly as possible.

If the Commissioners please, that is the evidence of Mr Alisandratos for the time being, and noting your power to call him back. There is a tender list. Three of the documents - four of the documents have already been produced. I tender the balance of that tender list document, which run from document 4 down to 113 in accordance with that tender list.

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CHAIR: Thank you. They will given the next exhibit numbers. Thank you.

COMMISSIONER HUNTER: Would I be able to make a statement, if that's alright? Could I make a statement before we go. It has been a big two days, I guess, and we didn't cover everything but I want people to remember that every statistic we spoke about today and yesterday was a child, and I don't want us to ever forget that. On 13 February 2008, Prime Minister Kevin Rudd offered a formal apology on behalf of the nation to Australia's Indigenous people, particularly our Stolen Generations. He said:

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15 *"We reflect on the past mistreatment. We reflect in particular on the mistreatment those of the Stolen Generations, this blemished chapter in our nation's history."*

It's 15 years on and we are sitting here again. I think this is a new chapter, a shameful chapter; a shameful chapter as the State has rightly pointed out. It's 15 years on and we are still hearing the same stories of removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country. We have talked about the work the Department has done to give effect to self-determination by transferring powers to Aboriginal orgs, and you have acknowledged many times that there is room for improvement.

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You have also identified that not all ACCOs want to take on the powers and there is a lack of trust that needs to be built. In drawing on all these points together, along with the recurring themes drawn out from the evidence provided to the Commission from community controlled organisations and individuals, it is clear that there is a need to not only listen to, but implement the change that Aboriginal orgs and individuals are not only making to this Commission, but directly to the Department.

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This requires appropriate funding and support, their legislative reform agendas; that is how you build trust, by acting on and not just listening with ACCOs and communities, and making sure that they're now based on their evidence base. I just wanted to -

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CHAIR: Thank you, Commissioner Hunter.

COMMISSIONER WALTER: I just wanted to have a closing remark too. I've been particularly concerned throughout this at the ongoing evidence of the lack of transparent oversight of the achievement or the lack of achievement of the goals and objectives of the very many reports and strategies that have been written about this area, like the VAAF and the Roadmap to Reform.

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And it worries me that that has led to a lack of accountability, and it even seems to me that the incredible overrepresentation of First Peoples children in the child protection system has become normalised as if the ongoing failure of departmental legislation, policy and processes to reduce the number of First Peoples children in out-of-home care is not a policy failure

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which is, in my view, a truly epic proportions, but it's just somehow the way things are. That it's expected. So no heads roll. No one takes responsibility. No one is held accountability. And, to me, this is just a tragedy.

5 COMMISSIONER LOVETT: One more question from me, thank you. We have heard from both Commissioners just then. Is there anything that you would like to say to Aboriginal people, their children, their families whose lives have been made worse by the child protection system. What's your message to them?

10 MR ALISANDRATOS: I accept the significant level of shame that we have openly acknowledged in terms of our delivery of support to our First Peoples across the State. I accept that we have not provided adequate support and we have failed many, many children and young people.

15 That does not diminish in any way our genuine commitment to continuing to improve and to work tirelessly, as we have, engaging deeply with community, engaging deeply with our community controlled organisations, learning deeply from them and implementing those learnings across our service system.

20 I acknowledge that it is in the construct of an existing legislative framework, and I acknowledge that that has limitations, and that if we are truly to effect significant change beyond what we have been able to effect to date, it's going to require a very bold approach to a future system that is absolutely Aboriginal-led. But in doing so, I caution that that will require careful consideration and planning and support of all of those that will provide that support to
25 families across the State.

But it's clearly not good enough, and we clearly need to do more. And I think we are in a unique position here today, with the work of this Commission, with the work of Treaty, that will fundamentally shift the dynamic that has existed across this State, and we should seize
30 that opportunity and this Department and this State is actually committed to driving that reform, whatever that looks like, into the future.

MS McLEOD: Thank you, Chair.

35 CHAIR: Thank you. Thank you. I don't propose to say anything on this occasion. I did say at the beginning about the concerns about wanting truth from the government, and I think we've heard it today in a way that's so distressing, to be honest, that at this time on a Friday afternoon, it's not worth saying anything else. But thank you for your contribution today.

40 MR ALISANDRATOS: You're welcome.

CHAIR: Thank you.

MS McLEOD: Will the Commission adjourn until Monday?

45 CHAIR: Yes, thank you very much.

<THE WITNESS WITHDREW

<ADJOURNED 4:17 P.M.