



COMMISSIONER FOR
ABORIGINAL CHILDREN
& YOUNG PEOPLE

TRANSCRIPT OF PROCEEDINGS

April Lawrie, Commissioner for Aboriginal Children and Young People

Denise Rieniets, Counsel Assisting

Hearing for the Inquiry into the application of the Aboriginal and Torres Strait Islander Child Placement Principle in the removal and placement of Aboriginal children in South Australia

Friday, 27 October 2023 at 9:00am

Expert Witness:

- **Professor Leah Bromfield, Director and Chair of Child Protection, Australian Centre for Child Protection, University of South Australia**

Denise Rieniets, Counsel Assisting:

Good morning, Professor Bromfield, I will just ask before we start, the Commissioner will make an acknowledgement to country.

Commissioner April Lawrie (Chair):

I'd like to acknowledge that we meet on the land of the Kurna people by paying my respect to all Kurna, Kurna people all their children, all their leaders, all their emerging leaders, all their Elders, past and present. I'd also like to acknowledge all the numerous families that make Kurna country their home, and particularly I'd like to acknowledge all our Aboriginal children and young people as we want a better future for them. Thank you.

Counsel Assisting:

Professor Bromfield we will just ask you to affirm your evidence before we start if that's all right.

Carla Ringvall, Assistant to Counsel Assisting:

I'll ask you to repeat after me, please. I solemnly affirm that the evidence I will give.

Professor Bromfield

I solemnly affirm that the evidence I will give.

Assistant to Counsel Assisting:

Will be the truth, the whole truth, and nothing but the truth.

Professor Bromfield

Will be the truth, the whole truth, and nothing but the truth.

Assistant to Counsel Assisting:

Thank you. And if you could just state please your full name, your work address and your occupation.

Professor Bromfield

My name is Leah Marie Bromfield. [address provided] and I am a professor, the Chair of Child Protection at the University of South Australia and the Director of the Australian Centre for Child Protection.

Assistant to Counsel Assisting:

Thank you.

Counsel Assisting:

Thank you. Professor Bromfield, as you're aware this is an inquiry into the Aboriginal Torres Strait Islander Child Placement Principles and how they're applied in South Australia by the Department of Child Protection. We would like to hear from you, your very extensive expertise and your research and your involvement in this state, and interstate and internationally, some, what you would bring to bring about change to address the increasing numbers of Indigenous children being placed in the care of the department. The statistics show that those numbers are increasing and have been steadily increasing, been particularly since the changes in the legislation 2017. What would you bring to address that increasing incidence of of removal of Aboriginal children?

Professor Bromfield

It's my view based on history, research and data, that our child protection system is fundamentally broken, that it's not fit for purpose, and I would not continue to try and reform a system that I don't think can be fixed in its current form. I also, I cannot see how you can ever, particularly for Aboriginal children, fix a system that has its roots in in racism and colonisation as an instrument of colonisation, cultural genocide and child removal.

Counsel Assisting:

Would you elaborate on that a bit for us please?

Professor Bromfield:

Which part?

Counsel Assisting:

The roots of of the current system that we have here in South Australia?

Professor Bromfield:

Yeah, so, in Australia our our child welfare system, and I use that with intentional quotation marks. It it started in the 1800s as a child rescue movement, particularly around, physical abuse and criminal neglect and the response was a community response but it led to the rise of orphanages and and in the rise of institutions. And so that was actually our original welfare response, and those orphanages were used as instruments of colonisation, so that those orphanages, both existing ones and new

ones, were developed as part of this rise of institution to to house Aboriginal children who were stolen from community for no reason other than their race. And I want to, I know that that is well known to you, Commissioner, but just to say it on, on record, it's really clear that there, despite the, the continuing myths and mistruths are being reported today, that, that was part of that was it was racist, it was not about how Aboriginal people were caring for their children, and even the history of colonisation talks about from settlement how Aboriginal children were thriving. And we know that in those institutions Aboriginal children were, they were not cared for. They were, along with all children who were put into those institutions, they were horrifically abused, the the physical cruelty and the daily degradation of rights it's actually really hard even to read accounts of survivors within those institutions. You know, I, those kids lived it everyday of their life and I find it traumatising even to spend a day reading those accounts. It was vile, what happened to kids. In the 1960s, there was the seminal paper by Henry Kemp in the US titled, on the battered child syndrome. That was really about using radiography for broken bones, identifying broken bones, subdural haematoma in babies, so shaken babies or babies who are, so awful physical abuse. That led to kind of a new wave of child rescue. And in South Australia it led to the establishment of a statutory child protection service whose job was to receive reports of suspected child abuse, and at that point it was mostly physical abuse, some very serious neglect.

Commissioner April Lawrie:

What was that agency called?

Professor Bromfield:

I can't remember the name of the agency. South Australia was the first state in Australia though to introduce mandatory reporting.

Commissioner April Lawrie:

Yeah.

Professor Bromfield:

So we have a very long history of both statutory child protection and mandatory reporting. When we did that we just absorbed those institutions, those old institutions and orphanages, we absorbed them into that new wave of the contemporary child protection system, and they're still the institutions, many of them are still the institutions, providing out-of-home care today. I I don't think we can actually forget that history. There is an expectation that Aboriginal families, who have intergenerationally been in the, and again I say, care of those institutions when all of our evidence shows that that care, historically, but today as well when we look at the outcomes for our children in residential care, we are taking children from families and we're putting them into an institution that we repeatedly say in research, that it's the highest, highest risk for further violence, abuse and neglect, is if you're in residential care. So intergenerationally we've removed Aboriginal children and we've placed them into institutions and then we're expecting Aboriginal families to engage with this system, as a system that's there to to help. I actually, I don't know how we can really expect that as a reasonable expectation of Aboriginal people. I don't how you can expect it as a reasonable expectation of anyone. If, and again I think sometimes in child protection, I'll keep saying the word reasonable because I think we've forgotten to apply the reasonable person test, a reasonable person wouldn't, wouldn't expect that someone who has been harmed and victimised by someone, individually would be able to go to that same person for help and support. It's effectively what we're doing. That's, that's crazy. I know that this is evidence. That actually from a logical perspective, that doesn't make sense. Of course families don't trust the welfare. Of course families don't want to engage. We also have repeated evidence that shows that when families are resistant to engaging

with child protection, when they react with hostility, that they're seen as seen as non-compliant and that actually further impacts the way that they are framed as parents and the likelihood of their children being removed. We have this toxicity built into the the the very bones of our child protection system. Our system, I don't think the evidence, the history of the data shows that our child protection system is not working for any children. It is, in my view, it is failing Aboriginal children more profoundly than any other population.

Counsel Assisting:

Thank you. So what to do?

Professor Bromfield:

Aboriginal people have told us what to do. We need an Aboriginal designed, Aboriginal-led system. I, in my view, you have to start from a blank page and I think that that both starting with a blank page, to me it's the only way that we can actually step away from the history, we we can't deny the history. And starting with a blank page, to me there's a few principles within that that are really important. There's a truth telling element that this system is not working and it can't, and it's it's it's not fit for purpose and it cannot be. There's also a to me, a strength in it in saying starting with a blank page, it doesn't mean throwing out everything. It means that Aboriginal people can make choices about what they want to put on to the page. What are the things that have worked? What are the things that have worked in the past? There are examples and you look through, again, through history of our child protection systems, through evaluation research, through accounts of programs and you see examples of things that were working, often locally, so it allows the, so to me it's strength based to be able to say we're choosing what we're pulling on, we're choosing the things that were working and we'll let go, letting go of the things that that aren't working and that have never worked and that's, I mean that's the other truth about the child protection system. You look historically at the child protection system and we talk about reforming it as though we're going to get back to a time that it worked, but it never worked. There's actually no point in the child protection system where the system was effective in serving children and families.

At no point there's, and I don't deny in saying that that good practice has happened, that there have been wonderful people in the child protection system who've done good work, that there have been great initiatives. We've never achieved at that scale. And we've never systemically, again, we look at the at the data, at the majority pattern, we've never had a system that actually worked. So from a, from a science perspective we have decades of evidence that the system is not fit for purpose. Well when are we going to pay attention to that?

Counsel Assisting:

So.

Professor Bromfield:

Sorry I'm a bit all over the place.

Counsel Assisting:

No, please, this is really how we're we're running this, it's, an information gathering but but you have such a wealth of information and knowledge that we're grateful for anything.

Professor Bromfield:

You'll direct me where you want me to talk.

Commissioner Lawrie:

Yes.

Counsel Assisting:

So are there examples anywhere in Australia or internationally where there has been a rebuild of the of a system that's been taken ownership of of Indigenous First Nations people.

Professor Bromfield:

There are examples of what's been called transfer of authority. Now that is limited, it's not what I am talking about around a blank page, and in fact it's often been a poisoned chalice that's then been used against Aboriginal people. So when we talk about transfer of authority, so Canada being an example, but we've done it here too, in in Victoria, we've had transfer of authority, we have typically transferred a western, the existing system so, or if there's any cultural adaptations to that it's still within the broad framework of the existing system, so the legislation stays the same.

Counsel Assisting:

It's fair to say isn't it, that it's actually a delegation of authority rather than transfer of authority?

Professor Bromfield:

That's, yeah, that's the other point. Yeah. So a, it's the, I, I will get to that. It is the it's it's by and large, the system that's not not working. So you're setting Aboriginal people up in two ways when you do that, when you transfer a system that's not, that's not working. A) you are perpetuating a cycle of something that's not working but then the more insidious part of that is that you're then for Aboriginal community, you're putting Aboriginal community in a in a position of failing Aboriginal community. That's, that to me is a really insidious injustice. The other thing in transfer of authority which you pointed out is it's, it's a delegation of authority and so who decides if that's being run effectively? So the ultimate decision making proof that's good bad for, how much money is provided, how the money is expended, and who, who assesses if that was appropriate, still sits with government. And you then see in these systems some of the, you see governments stepping in and taking over and they determine that, I, I've visited a Canadian Aboriginal community controlled organisation that had just been put into kind of the equivalent of receivership by government and it was demoralising, really sad, for all of the Aboriginal people who are engaged in that, that agency. The other thing that we have seen, again in Canada where they devolved child welfare to the non-government ACCO sector, that they devolved the model, was deep problems with the way that the funding was administered. So at at at 2 levels of issues with the way the funding was administered. One, the the insufficient funding and often not proportionate funding to what non-Aboriginal organisations receive, there's been quite a big case about that, which seems to be creating some change. But that meant that, again, without sufficient money to work effectively with community, Aboriginal organisations were failing. Failed communities, so you get the betrayal with and breach of trust with community and then judged for it by the government, but also in the media, you know, re-stigmatises Aboriginal people as not being able to care for kids and perpetuates this myth. The other aspect of the Canadian funding that was really, really problematic was the funding model and the funding model included perverse incentives for bringing family deeper and deeper into the child protection. So you get more funding the deeper you are in child protection, it was at the unit funding so the more kids you brought into care, the more money you got. And if you as an organisation did a whole lot of work to try and reunify children or work preventatively with families to reduce the number of kids coming into care, your funding was cut. You got less because of the way the fund, the perverse incentives in the funding model, they just weren't getting funding. So success was de-incentivised and defunded effectively because of that funding model. I look at some the, you talked

about global movements, so a couple of the other things on global movements. There is a growing global movement around abolition of child protection and and so in the US, that's the terminology they're talking about, abolition of the child protection system. That is, the US love the term abolition.

Commissioner Lawrie:

Slavery days.

Professor Bromfield:

And actually there's a number of voices within that, it's, but a lot of African American voices within that abolition movement who are really documenting the way in which the US child protection system, which we are largely mirrored on, is discriminating against African American children and families. So I'm not a lone voice in saying, it's, that we need to start with a blank page. There's also academics within Canada who are calling for fundamental redesign. They're not using the term abolition, but they are calling for fundamental redesign of child protection systems and really doing analysis of of data and looking at how over time, sorry, I'm gonna go back and so overtime when we did the 1960s child protection system, it was kind of it was serious physical abuse. Between, since then, we expanded the scope of child protection, massively and incrementally, and largely in response to evolving research about what was harmful for kids. But from very, very serious, in terms of threshold physical abuse, we expanded to physical abuse, neglect, recognised child sexual abuse in the late 80s, from mid to late 80s, was kind of growing recognition. We started to recognise emotional abuse in the 90s and then in the 2000s we recognised children experiencing family and domestic violence as a form of abuse and neglect. In the same time period we lowered the threshold for what was considered abuse and neglect for each of those things. So what that effectively did was entirely changed the problem that the child protection system was designed for and the type of families that you'd be interacting with. So we started with this system that was designed on the assumption of a rare problem that that required the laws of the state, statutory powers to intervene to rescue children from very, very serious instances of physical abuse. Over time, when we change the scope, we actually didn't change the assumption of the system. So even though we've redefined entirely what is child abuse and neglect to from from something quite narrowly defined to something very, very broad, we actually didn't go back and say, should we be reporting all suspected child abuse and neglect? Is that actually the most effective response? Do families where child abuse and neglect happens actually need the statutory powers of the state to intervene to help or do they need something different? So we actually didn't question the fundamental assumption for developing a statutory child protection system, which uses the powers of the state to intervene in family life by by compulsion. Why was I making that point? I can't remember where I was?

Commissioner Lawrie:

The global movement.

Professor Bromfield:

The global movement. Yes. Thank you. So in Canada some of the researchers there are actually looking at the, tracking trends over time in reports to child protection, but for different categories of cases, and they're kind of, they're separated into what they've called chronic cases, which is largely about child neglect and poverty, and imminent, cases of imminent risk, and what they've shown is that the cases of, and this is what researchers like Professor Barbara Fallon at the University of Toronto, who lead, who leads the Canadian incidence study. You see that the chronic cases, there's a really upward trajectory, whereas the the imminent risk cases stay fairly stable over time. It really tells you that we've got a, it's strong data to support, really re-looking at our assumptions around reporting all suspected child abuse and neglect. Professor Fallon also in her teaching, has gone

through the sitcom Modern Family and she's classified, and she said in this sitcom this is actually a loving family, the kids are doing well and life happens. And she's classified all these incidents from within Modern Family, she's put it into her training and asked child welfare workers whether it's a case of abuse or neglect, and so she puts in genuine examples and intersperses it with Modern Family examples, and finds that the Canadian child protection workers are capturing all the Modern Family examples of of, of life and your your least ideal parenting moments, as abuse or neglect. And she says, you know, that she would, she kind of says is this your you know, is this your worst moment of parenting or is this, you know, any given Tuesday, and that there's a difference, there's a fundamental difference. And she said, you know I wouldn't want to be judged by the child protection system on you know, some of my worst parenting moments. You know, when I was on the phone or inattentive for a minute and then my kids, out the door. Well, that's neglect, failure to provide adequate supervision. That child could have run into the road and been hit by a car. It all depends on the way you frame it and the context in which it's occurring. So we have expanded the scope massively of child protection and we've not, we've not then thought about assessing suspected abuse and neglect in the context of the family. And and what's actually the most effective support, is it actually no support because this was a rare event in the context of normal family life. And I, if you actually go through the definitions of abuse and neglect, I can think of times when I've yelled at my kids when they, it was really about me and not them. I could hit the criteria for some of the definitions of emotional abuse. I would I would hate to be judged on my worst moments as a parent. We're more likely to do that for Aboriginal families that we know that there is racist framing and of parenting for Aboriginal families. That I can think of cases where just they just couldn't win either way, you know, Aboriginal women who are living with domestic violence, who are accused of neglecting or failing to protect their children because they stayed within the that violent household and those, that perversely, then accused of neglecting their children because they're living in their car, because they left their household? That's a no win. And that's not a healthy system. How dare we report those women? And but that's the way our system is designed. That's not a helping system, It's a blaming system.

Commissioner Lawrie:

So what would you say about the Australian Child Maltreatment study and what that provided and what's going on in our system?

Professor Bromfield:

I think the Australian Child Maltreatment study actually shows accurate incidence of what we now define as abuse and neglect, and that's, when you go through that study, 61% of Australian children have experienced one or more forms of abuse or neglect. One in five have experienced three to five times of abuse or neglect. For children who experience abuse or neglect, the majority experience neglect that was persistent, so happened multiple times and over a prolonged period of time, and the impacts were profound and often rapid in terms of onset. So we saw impacts appearing that even within the adolescent sample, we saw the impacts. So we have a serious problem of abuse and neglect in in this country, but the research does show that those things are harmful. And I shouldn't yell at my kids either. But there's nothing that says that a statutory response is what's effective in responding to it, and in fact, one in three children reported to child protection by age 10 in this state, if you looked at the Australian Child Maltreatment study, we're actually still under reporting, and that is, that's ridiculous. That to me, that shows, that's one of, that's one of the pieces of data that actually demonstrates that a tertiary child protection system where we report all suspected abuse and neglect is not fit for purpose. Would we, A) we could never create a child protection system that was so big that you were actually responding to 61% of children in our community, but B) you would

not want to and the child protection system is not effective at helping families. Being known to child protection, the earlier you're known, the more you're known, the worse your outcomes. Now, if I went to my GP and the earlier I went and the more I, the worse I got, I would think there was something wrong with that GP. There is something wrong with our child protection system. We actually need to look at the data before us. Being known to child protection and the more deeply into the system you get. You get from from under 5, poorer outcomes on the Australian Early Development Centre census, poorer outcomes on NAPLAN, higher Incidence of mental health problems, higher incidence of morbidity or mortality in terms of presentations to the hospital or emergency department. This is all all evidence that's even been shown through the Australian Child Maltreatment study, the work of BetterStart, the work of Leonie Segal, so South Australian data that's demonstrating to us repeatedly that that being known to child protection is is not resulting in any kind of disruption in adverse outcomes for children and families. To me, that's further evidence that our system is not fit for purpose and it's not working. So do we need to do something about abuse and neglect? Yes, we do, families need help. The system we've got is not helping.

Commissioner Lawrie:

So what would you say then to the fact that with all the research, all the data that's been revealed over time, the system knows about this and has failed to respond to the data. What what do you say to that?

Professor Bromfield:

I think that's true. I think we have. And I I think that I could speculate on as to why. I've heard people say to me when I say you need to do something fundamentally different, well that's really risky, you know, the fear of the unknown. And my argument to that is we have evidence already that the system's not working. But we actually we have to do something different. There was in Scotland, there was an inquiry which, it's called 'The Promise', and they they concluded that the out-of-home care system was fundamentally broken. And one of the reports that they did as part of that inquiry was titled 'Follow The Money'.

Commissioner Lawrie:

Mm hmm.

Professor Bromfield:

And that is not about, it was about Scottish children, so and mostly Anglo and migrant children to Scotland and a small, small populations of Romany children. That also showed that there actually is an investment in the status quo for some organisations that, as hard as it might be to hear, there are systems that are profiting and maintaining themselves on a failed system. And I would, I would hope that that was the, not the motivation for sustaining systems, but I've been in organisations, I've been in, in discussions not in this state, but where there was discussion about removing Aboriginal children from non-Aboriginal organisations to Aboriginal community controlled organisations, children who were in care, moving their. And the, what the, that was, the impact of that in terms of organisational budgets was was something that was of concern to non-government, non-Aboriginal non-government organisations. An Aboriginal designed, Aboriginal-led system actually means that non-Aboriginal organisations have to let go. The DHS family support budget in this state, my understanding of that budget is that there is 70% that sits within government, 30% that sits outside of government. Now the 30% is proportionately dispersed to Aboriginal community controlled organisations, but the 70%, if you put the 70% plus the 30% it's not, it's not proportionate funding. So that's an example of where, that was a recent, quite a recent recommissioning of services and redesign about family support services in South Australia and it didn't result in in proportionate

funding, and it wasn't tied to a large strategy to build the capacity of ACCOs, or the number of ACCOs. We've still got such a small number of ACCOs in this state. We still don't have a peak body. So things that in other states and territories I have heard government's talking about, you know, does the ACCO sector have the capacity? But I look at or at states that took the leap. I look at Queensland when they took the leap and said we're going to establish a large number of recognised entities. And actually you're never going to get anywhere until unless you start taking steps to actually grow the number of ACCOs, support their growth. I mean having QATSCIPP established, so an Aboriginal peak body to support the growth of ACCOs. You don't get anywhere by just saying ACCOs don't have current capacity or we don't have enough ACCOs. You actually have to take some steps, and when I look at states and there was, questions at the time in New South Wales when there was the transfer of out-of-home care to non-government organisations and alongside of that a growth of ACCOs to look after Aboriginal kids. But it's made things better. You know, there are more kids in New South Wales who are now in the care of an Aboriginal organisation than not because the steps, you know, people started taking those first steps. How are we ever going to get to a better system for our kids if we don't start actually letting go? It means that non-Aboriginal organisations, it means that governments actually have to let go. You can't enable and support self determination without letting go of things that we, and power and decision making that non-Aboriginal people shouldn't have. Did I go on a tangent again?

Commissioner Lawrie:

No.

Counsel Assisting:

No.

Counsel Assisting:

So where do we start? If we're going to bring about change that is going to make a difference in the lives of Aboriginal children and you know, lifelong change for them, where do we start?

Professor Bromfield:

I think, start by getting the peak body up, that'd be great. So I think having a peak body makes a difference in the state in terms of just voice and empowerment. We could actually start a process of system redesign. So there has to be the acknowledgement that the system's not fit for purpose. In terms of where to next, as a non-Aboriginal person I see my role as as in allyship, but supporting and enabling that to happen, being a voice and so that it's not only Aboriginal people who are left to say this is not working, this is not fair and we know how to care for our kids. Think allyship is about supporting those facts, and as a scientist to be able to draw on evidence that supports to those facts. But it's also enabling an Aboriginal-led, and Aboriginal designed systems to evolve. So where is the design process? So I'm, I'm so hopeful that that will be a response out of this inquiry. That we would actually see money allocated for an Aboriginal-led, Aboriginal designed system where Aboriginal people are able to say, look, I'll call on white people for some help if and when we need it, but we need to go through a design process to work out what we want, when we talk about transfer of authority, what we want that to look like and what what the governance for that should look like and even down to who decides if we're doing well. Is that a system of government governance or is there community governance that could be established to oversee an Aboriginal designed and led child protection system. So I think that we have to create the space, the authorising environment for that to happen. It has to be funded because that is careful work. To me lots of people have got ideas about solutions. I think one of the problems that we've had in the child protection system is a rush to grasp on to a good idea. We can sometimes in a in a desire to be strength based or just because

we're so hopeful for something to get better, latch on to an idea too quickly. So I I I tend to think that in a design process you actually need time, time to really think about who are our families? What do we want for them? What what would be needed to enable that to happen, both in terms of the supports and strengths that already exist within community? What would helping services look like? How would families get into them? What does that mean in terms of the way that we think about reporting child abuse and neglect? When do you need statutory powers? What are the band of cases where you actually need, what are the conditions where you actually need statutory powers to intervene? What would that look like? So just to be able to work through all of those things and to test it, you know, to be able to say, here's the here's the aspiration of how this system works, now let's play devil's advocate and go through each of these assumptions and say, well, what's the counter assumption, our program logics in this field, when I go through them, they're all based on if it all works. And I always say, well let's just go through what are the, what are the contingent assumptions? What if that didn't work? And what's the, is there potential for adverse outcomes or perverse outcomes, perverse incentives? So I think a testing process has to have time. And that there's then going to be time to kind of move towards implementing it. So starting small. Evidence in child protection actually says that that, where I see successful innovations, they've been local and you look at some of those conditions for success, local responses. So to me that's a way that you could start implementing change. You start locally and you grow off your success. It also allows a system that actually is more suited to local responses and where community and Elders can be part of determining what that that looks like. The other thing though in, like I mentioned Scotland and The Promise, there's been, there's Leeds in the UK, there's been examples of existing child protection systems that have either made a big commitment to try to change, like Scotland with The Promise, they have a, so they've made a promise that that there's they've they've.

Commissioner Lawrie:

What is their promise?

Professor Bromfield:

The promise is to actually improve the, to do a fundamental redesign of out-of-home care and there's a Minister for keeping the promise.

Counsel Assisting:

How lovely.

Commissioner Lawrie:

Yeah. Big job. Yep.

Professor Bromfield:

But it actually it it holds that truth visible and apparent a) that there was an acknowledgement that truth that the system was not working and that a promise was made to survivors and children currently in the care system to be and do better, and for that to be informed by lived experience.

Commissioner Lawrie:

And you can measure whether The Promise has been kept or not.

Professor Bromfield:

And then that's right, there's an independent body who is The Promise Foundation that is monitoring how well they are keeping The Promise. And that has actually been given to the person who did the inquiry which is, I've not seen other inquiries where the person who did the inquiry was able to monitor the the implementation of the recommendations, but there is a precedent of that in in

Scotland and part of the rationale for that was because the person who led the inquiry had gained the trust of children in care and care leavers, that she understood the the findings and the recommendations and so therefore was best placed to actually monitor implementation. But the other thing they did in Scotland and in Leeds, where they they did start to reduce the entries into out-of-home care and things that were, so for Leeds one was family-led decision making as a critical platform of what needed to happen. But the other was balloon funding. So and in Scotland, they've just done balloon funding to try and support keeping The Promise. And what I mean by that is if you're going to move to prevention and early intervention with families, which I absolutely support, we still have to recognise that because of the way that we have often intergenerationally failed our children and their families, we've actually got a large population of families who right now have multiple and complex needs and where low intensity, early intervention might not be fit for purpose, and you're not going to ever turn a system unless you actually tackle both of those problems in parallel. So we need the prevention system, and that's about the I, I that's about the future. How do we support the future that we want? Well we need to intervene early, but for the families, kids and families who we've who we've failed today then what are the intensive supports that we we need for those families? And so I think in a a design, an Aboriginal-led, Aboriginal designed system there would need to be provision for the design of both and the balloon funding because unless you can do something about the families with the most profound need today, then we end up with interventions that are not intensive enough. They're not fit for purpose for our families. Then we fail our families again and we fail their children and we grow the population, the population of families with profound needs exponentially by the number of kids that we fail each generation, it's not a one to one intergenerational transmission. So we really do need those helping supports and I think about in child protection when we've talked about early intervention and prevention, often what we've done is rolled out pretty much the same thing everywhere. We've rolled out family support services. Now the intensity of that varies from you know anywhere from 4 hours a week to 18 hours a week, depending on whether you call it family support or intensive family support. So that's kind of the variable in all this, is how many hours?

Commissioner Lawrie:

Yep.

Professor Bromfield:

But the model itself is pretty much the same, and so it is assessment, our families need more assessment, you know we assess a lot, its actually the thing with do the best, assess and refer in the system which I could talk to separately. The next thing that is in those models is case management which is actually really about, off the base of assessment its referral. Maybe a little bit of warm referral or helping people navigate systems. There's counselling, now when you actually unpack the black box of counselling in our intensive family support services, it's quite variable what it looks like and the quality of it and the capacity of the workforce to deliver counselling. The further you get from the city, the less qualified the workforce, the less adequately prepared they are to deliver any counselling and that does not include skills in responding to substance misuse or working with perpetrators, or actually even treating trauma. So and counselling is mostly psychoeducation.

Commissioner Lawrie:

Yeah.

Professor Bromfield:

Or it's some stabilisation. Maybe some some of that psychological first aid, identification of if there's imminent risk of harm. The other thing that sometimes is in these models, sometimes is referred out

is parenting education, almost exclusively based on Western models of parenting, and then maybe a little bit of brokerage funds. It's mono disciplinary, so that's our family support model. But when you look at our families, our families are, the driving problems for families is active unmanaged mental illness, active violence, active substance misuse. Housing and homelessness issues, poverty, and that's rising with the housing and financial crisis. So that model actually doesn't have the active ingredients in it to respond to the problems that families are most likely to have that are driving child abuse and neglect happening. So we've got these families and workers who, you know, doing the best they can in that system and some of them make amazing change and that's on the the strength and resilience of those families and workers. But it's despite the system, because they're referring to mental health services, they're referring to drug rehab, where a parent might say, I really want to do this. And there's no control over where they fit in the queue when they're going to get those services. It means that you might get a space in a parenting program before you get a house. None of that makes sense clinically. There's not, kids are largely invisible in those services as well, so we even though we know kids have experienced early childhood trauma we're not doing a lot of work with kids. There's actually, there's almost no capacity in this state to respond to the impacts of trauma on children, our CAMHS services are overwhelmed and typically only deal with diagnoses, not complex trauma. And it's nowhere else. Unless you've got private money to go to a private psychologist who is skilled at working with children who've got complex trauma, and there's not a lot of those, then there's not somewhere for our kids to go for healing. So we're missing that intergenerational window constantly for our kids and our kids are then becoming adolescents at risk and then becoming young parents. So, so yeah, that that model we have in this state for how we're intervening with families isn't responding to the needs families have. It's relying on referrals and then you're not getting right intervention right time. And with all of that, that's all still a Western model, so we're not, we're not investing in developing Aboriginal holistic healing approaches and where, I think about places where, some of the place where where I see innovation actually is ACCOs, ACCOs, and I think non-Aboriginal organisations could learn a lot from ACCOs, who think holistically about families. Who use siloed funding creatively to try and create wrap around around families. Who try and situate their service around what their kids, their families, their community's needs are, and sometimes have then been told they're spending the money wrong. We're involved in supporting an ACCO in another state with Commonwealth money and a lot of work was done around trying to let the Commonwealth know that what they're funded for was not what community needed. That when we, when there was the consultation with community and Elders about what was needed, it wasn't what the Commonwealth wanted to fund.

Commissioner Lawrie:

That old chestnut.

Professor Bromfield:

That old chestnut, yeah.

Counsel Assisting:

Go on.

Commissioner Lawrie:

Yeah, I've got, I've got a question. So in relation to your point about a system that is not fit for purpose, and it's got a whole lot of assessment going on. And we heard from Doctor Tracy Westerman with her, her contributions. We understand that the assessments that are often done, developed and implemented are very Western centric. She talked a lot about cultural competency in the system and we have a very big emphasis on the Closing the Gap Agreement and building our

Aboriginal community controlled organisations to be supported to do more work in this space for our Aboriginal children, our families and our communities. So what is it from your understanding and what you've managed to grab from your your research about those Aboriginal organisations that, I mean, and you talked about some of this with the way in which delegated authority or transfer of authority happens. But when there is blaming of the Aboriginal community controlled sector for failures in improving outcomes for Aboriginal children and young people our most vulnerable. What is it that you say about a system that that does that to our, to our Aboriginal community controlled sector? And what sits behind that? What truly sits behind that?

Professor Bromfield:

So is the question about the blame or the assessments? Sorry.

Commissioner Lawrie:

Both actually.

Professor Bromfield:

Because, I I talked before about the way that we insidiously blame ACCOs. You know, we deal them a hand that's impossible to win and and then blame them when they fail. We do the same to our families and success is despite the system, rather than because it's been enabled by the system and it's about the persistence and resilience of individuals, whether that's individual, you know, ACCOs and leadership within ACCOs, whether it's workers or whether it's families. I think when you're dealt a hand that is, you know, not a winning hand and you turn that into a win, that's that's despite the system. Assessment, I I actually think looking nationally that South Australia has a bigger problem with an assessment system than other states and territories, and that's part of the way we've structured our systems. So we've structured our child protection system to be a standalone service which actually takes all the things that are limitations of the child protection system and doesn't give them any strength because it it's just the statutory child protection system. They don't even have, systemically the power to try and kind of lean on their their preventative arm, that because that lever sits within another department. So you know, if you think about a child protection pathway and that's the most common one because of the way we've got, we report suspected child abuse and neglect and South Australia's legislation has a lower threshold than all other states and territories since that 2017 legislative amendment. So family is reported to child protection where they do a structured decision making assessment, that's a a US model for assessing risk. From there, we know that a large proportion of families will be assessed as at risk, but because of the size of the population that's assessed as at risk, even the families that kind of, the tool would say should get a statutory response, noting I don't think that's an effective response, don't get one, so they refer those then to Department of Human Services. And Department of Human Services then do another assessment and they'll refer it to the DHS family support services or the non-government family support services, where there may be another assessment. And all that takes time. And you may find that by the time it finally gets referred out to an ACCO, who does their assessment, the conditions of the family have changed, and that risk has has escalated, and they refer it back to child protection. So in all of that we've just spent, I mean, I know, I mean it's, it's it's laughably ridiculous, except we're actually talking about kids. When you lay it out like that, it doesn't, it is laughable. But for our kids that just means we've spent millions of dollars to not help anybody. And we've built in all these failure points and reassessment points. And if you're a child or family the message that you get is everyone knows, everyone knows about me, everyone knows about what's happening for me and no one's doing anything. You don't expect help. And for families as well, you start to get mixed messages in terms of signalling, you know, is this something that people are really worried about? Well if they

were really worried about this, then someone would actually do something. They wouldn't just keep referring it and closing it, so mixed messages for parents. There are some cases where parents have said, look when child protection came in and said this is not OK, you know, these are things we're worried about, it was, it was kind of that wake up moment for me where I thought I I, you know I love my kids, I don't want to lose my kids and I really worked hard to make those changes to keep them. That system doesn't do that. It doesn't signal to families, hey that's, we're really worried, and in those cases where that has happened and I've seen it successful case studies, the system then normally actually, that was where the system worked to help following that kind of triggering. Or you've seen families and I, I mean, I get letters as a, as a academic I get letters from parents, get emails, letters, phone calls from parents who say you know I've been I've been reported to child protection, child protection have come out and here's all the things I've tried to do, you know, here's how I tried, they told me I needed to it to do something about my drug use, I've been trying to do it, I can't get into rehab, there's like, there's more than a six month wait. They're doing urine screens. I know that I'm going to fail some of them, you know, I've gone into the office and I've said, you know, I'm going to fail it this week because I have relapsed this weekend. That's not, I get these letters where they didn't get a response that was empathic that sees that relapse is normal in a in a process of recovery from drug and alcohol misuse. And they are trying their hardest to try and make things better and the system doesn't feel like it, for them, that the letters that I get, that they don't feel helped and feel scrutinised and blamed and in some of these letters and phone calls I get they feel like asking for help is used against them because that's identified another risk. So you, I just think our system of of assessment and referral, is, it doesn't make sense for families. What that says to families about how much we know and how much we don't do. You know we keep getting these coroner's reports that show how much we knew and how everyone was involved in a family's life. When you go through those and actually start looking at, as a consequence of knowing what help was provided? But we don't do a very good job at helping. That's the, we talk about not having enough money in this state to do things differently, but we're wasting a lot of money on assessing and referring and not helping. And it starts with this assumption of let's report all suspected child abuse and neglect. What if, instead of a mandatory reporting system, we had a mandatory helping system? Where if a family, if you identify a family with needs, your responsibility is to say, what can we do to help? What would be the most helpful thing? Not who do I report to, this is not my, you know, wrong door. New South Wales Health, one of the the regions there, they still followed all the mandatory reporting, but they actually asked their health practitioners to say, when you when you get to the point where you say all right, I need to make a child protection report to child protection, we want you to assume that child protection will do nothing and look at what you could do to support that family. Because we know that the majority of reports we make to child protection don't result in any action. Or you go all through that cycle of the assessment and reporting to come back to us. So if you had an obligation, even in the short term, long term we need an Aboriginal designed Aboriginal-led system, but in terms of quick wins, if we actually were saying you've got an obligation to say, what can we do to help within our system? That would at least go some way towards having a helping system and start shifting a culture from reporting to responding.

Commissioner Lawrie:

Especially in health, with models of care.

Professor Bromfield:

Yeah.

Counsel Assisting:

So that just pulls into what my next question to you was going to be. You said this development of the new system, the different system will take time, it shouldn't be done in a hurry, so it builds up and it grows on the strengths. So what in the meantime?

Professor Bromfield:

Yeah. Parallel tracks.

Counsel Assisting:

Yes.

Professor Bromfield:

You, you can't just abandon and go oh well, we'll get there. It's going to take us five years to come up with an idea and then another 10 years to implement it. Meanwhile, that's actually, a lot of our kids, 15 and they're already at risk of parenting, you know, that's a that's a life that's for a child and it's an intergenerational cycle in child protection. So you can't, you can't do nothing. I do think we've got to look for quick wins. Also, I think early on in a design process we can start, it has to be Aboriginal designed, Aboriginal-led. But thinking about this task for the the whole system, not an Aboriginal specific system, things that I'd be putting on the page, the blank page first would be saying who are our families? Who are they? Where are they? How many? What do they need? So actually, starting with a system that was designed around our children and families. So first on the page is our kids and their families, because that's not the way we design our systems currently. First on the page is the current structure of systems and what you can and can't do and what's too difficult over the machinery of government changes. So kids and families first. Outcomes next. What do we want? What are our aspirations? And from that some, I think you'll get very quickly some early principles about what you'd want a system to look like, and you could start then with some of your quick wins in the system you've got. So when you're designing for the future, in the reforms that you're doing right now and the service improvement you're doing right now, you're informed by those early principles and quick wins. I also think there's populations that we could prioritise right now. Because that is about the the future. So if we said every first time pregnancy for an Aboriginal mum who gets reported to child protection we throw everything at helping that mum, so that for her child in 20 years time, they've not experienced the system. We've got to, that to me is, you could start your redesign with particular populations. Try and actually set some some targets around eliminating removal of Aboriginal infants. We've removed so many Aboriginal babies in this state. So I think, real targets. An assumption that's about keeping families in, babies in, in family and that you would actually have to then get an exemption, so you got to kind of have a governance structure around not doing that and you've got to be able to show best, you know that you've made active efforts and I like in the Victorian legislation we're one of the principles is around widest possible assistance. And if we were actually, if you were removing a baby, if the state had to demonstrate that it had provided the widest possible assistance prior to it being able to remove a baby, I think that would be some of those quick wins that we could start working towards now in the the system that we've got, the ineffective system that we've got, that just starts to help us to be part of a generational change.

Commissioner Lawrie:

So in terms of that then with the parallel tracks of creating change. We're, we're working with our legislation that you refer to, and I think many of us would say the same, has a low threshold. What do you see are some of the things that we could get some gains from within the current legislation, while we're going down this other track to build something that is going to be fit for purpose for, in my regard, for Aboriginal children and their families and communities.

Professor Bromfield:

I think the threshold is another quick win. I think we should be doing some work really quickly now around actually when do you need statutory powers so that we can re look at that threshold. But if we're going to have a reporting system, have that have mandatory reporting only triggered not for suspected abuse and neglect, even for abuse and neglect. But really think about what are the cases that you need statutory powers? Where do you want it to go to that child protection system? It's it's probably more starting with what our tier ones look like, because in the system we've got, they're actually already deciding what is statutory. They're they're responding to tier ones. So if we looked at the characteristics of cases that child protection is saying we need to respond to, that's a much smaller number than what we report. And I think that long term.

Commissioner Lawrie:

Would you say that what historically used to be tier threes are actually escalating to tier ones?

Professor Bromfield:

No, I don't think Tier 3's even exist anymore. I think Tier 2's now get referred out to DHS, but they still go through the child protection pathway.

Commissioner Lawrie:

For our Aboriginal families in particular.

Professor Bromfield:

Yeah.

Commissioner Lawrie:

Would you agree?

Professor Bromfield:

Yes. Yeah. Yes. So I think a quick win is looking at that threshold, raising the threshold that that really based on an assessment of when do you need the coercive, when would you need coercive powers and recognising that you know, we've had this myth that as the system's expanded and grown, we've held on to this myth that when child protection screen out that not child protection is the same as not abuse and neglect. But our definitions of abuse and neglect are so broad. That's not true. And responding to child abuse and neglect needs to be something that we respond to in the community because most child abuse, neglect needs a helping response. Most families involved in child protection, again, this is from, you know, and analysing case files and looking at, I've been looking at this for more than two decades. Most families don't deny the the the problems in the family which has led to the circumstances that fall into our definitions of abuse and neglect. And they, most family will engage with services if you offer services. So why are we going through these statutory powers of the state to get to that?

Commissioner Lawrie:

Are you also saying that there needs to be a redefinition of what's in scope for child abuse and neglect?

Professor Bromfield:

I think that the definitions of child abuse and neglect are based on research and evidence. I think what has to be redefined is when you need to respond to that with a statutory child protection response versus when you need to respond more with a helping response.

Commissioner Lawrie:

Thank you.

Professor Bromfield:

I think that would change the threshold drastically, so actually asking, that's the premise of child protection, the statutory powers of the state to coercively intervene into the lives of the families to protect kids. When do we need those? Versus when do families need access to help? We really honed our attention on when we need, what we needed statutory coercive powers for. That's what we should be encouraging people to report. And I think that would make a massive difference on this culture of report to refer to to assess to refer. There's a lot of FTE full time equivalent workers in that helpline, that's a lot of money in our system to repeatedly assess and not respond.

Commissioner Lawrie:

You're talking about the child abuse.

Professor Bromfield

The child abuse help line. Yeah.

Commissioner Lawrie

So true.

Counsel Assisting

And any other questions of the witness?

Commissioner Lawrie:

Not at this point. You've been very thorough.

Professor Bromfield:

I hope it's been helpful.

Counsel Assisting:

It's been very helpful. Thank you. It's been amazing.

Counsel Assisting:

You're going to have the job of the redesign aren't you?

Professor Bromfield:

Not, not if I have my way I won't be. I'll be encouraging and supporting Aboriginal designed, Aboriginal-led. I would refuse to do a design for Aboriginal kids. My job is argue about the blank page and then create the conditions for a design together. But the the kind of the whole system that, within that really being clear on my principle of trying to support and enable self determination, that means knowing when I should say no.

Counsel Assisting:

Thank you.

Commissioner April Lawrie:

Thank you so much.

Counsel Assisting:

Thank you very much for your time.

Professor Bromfield:

Thanks.

END