



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**

**Tuesday, 28 November 2023 at 10:00AM**

**Department for Child Protection, South Australia | Day 2**

**Witnesses:**

- **Jackie Bray – Chief Executive, Department for Child Protection**
- **Adam Reilly – Deputy Chief Executive, Department for Child Protection**

**Denise Rieniets, Counsel Assisting:**

Thank you for coming in again this morning, we'll resume from where we left off yesterday afternoon. We got to the point of Participation as the element of the Aboriginal and Torres Strait Islander Placement Principles. One of the issues that we've identified in the Inquiry is that identification of itself is an issue, not just the identification of children as Aboriginal but identification of the appropriate people to participate in the decision-making, in the Family Group Conferencing, with Western notions of what family is limiting and potentially excluding other significant people from participating in the decision-making. I note that KYP have been engaged to do the family finding finding families work and they've advertised this week for an Ethnographic Project Officer to do that work. The question we would have is why not go directly to the local level?

**Adam Reilly:**

You want me to speak to this one?

**Jackie Bray:**

Yeah.

**Adam Reilly:**

So this was what we touched upon yesterday Counsel in relation to a an initiative, so we're wanting to demonstrate by way of a well the initiative is basically a trial and in partnership with KWY we're wanting to test exactly what you're saying, that is using the local relationships in communities. In order to be able to establish and test the trial and get that up and running without having to go through the full registration with all of the RATSIO partners, our arrangement with KWY is that they will auspice the funds to assist.

**Commissioner April Lawrie (Chair):**

But they themselves aren't a RATSIO.

**Adam Reilly:**

No and in terms of the actual project work to do that particular task you don't actually need to have the RATSIO accreditation or like we were referring to yesterday the, trying to think of the word, the gazetted organisation yeah. So what we are hoping to do is in a very short period of time demonstrate that that is the model that works, then we can ramp up and start having individual agreements with each of those stakeholders in community.

**Commissioner Lawrie:**

Are you aware of, well I believe with the previous comments that I made yesterday in relation to this discussion, was that there has been a model in South Australia that has been evaluated and highly successful. It is, from my view, I guess a an oversight of the system not acknowledging the work that has been done, the work that has been proven, the work that has actually yielded results because that evaluation details the success of that program. So I'm I'm trying to understand the Department going forward without acknowledgement of that that knowledge that what's on record about what is successful and the fact remains that there is the need to not keep on spending in areas in which we know where the answers lie. I'm I'd like to hear from you about the knowledge of the system cause I'd be aware I am aware that there are people in your organisation that have full knowledge of those programs and those particular initiatives that yielded excellent results for Aboriginal children and their families with respect to engagement at a local level of the local level intelligence that going down the track of funding an organisation that is relatively new in the space does not make any sense?

**Jackie Bray:**

Yeah and Commissioner if I start by I know some of the conversations that we've recently had and you acknowledging this particular program of work and that evaluation which I sought to go and and review and look at, after you only told me last you know last week, and you're probably right in regards to knowledge in the organisation and I I fully accept your position that you have in regards to what works and that concept has already been tried, tested and evaluated, so to to acknowledge that. I think what we're describing at the Inquiry today is what we've what we've done right now, which is we've embarked on a small piece of work which is funded internally by us, no additional funding, in regards to really having a look to see if we can get people returned home and we want that to evolve and it is a commitment of Adam and I to consider exactly what you've brought to our attention in regards to some additional phases of this particular program and I think the the conversations that we've had to date will be very much shaped by you know by the information that you've given us and what we need to do. I think it's it's fair to say though that this initial part of the

work, respect you know with all due respect, I think that has that those conversations have already occurred, so we wholeheartedly, you know, agree with what you're saying that it it won't meet this local need and we we need to do that as we think about planning going forward from from that small piece of work.

**Commissioner Lawrie:**

Cause I am alarmed to to see that the organisation is looking to recruit recruit someone with an ethnographic background, for the life of me I'm trying to understand how that particular professional background...

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

Has more intelligence about the Aboriginal child and their family, than the Aboriginal Community itself and the ability to engage with the Aboriginal community to do that very piece of work...

**Jackie Bray:**

Yep.

**Commissioner Lawrie:**

Lies within the community.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

I I am struggling to try and comprehend the the justification, the rationale, in the weight of all the information and the storytelling and the reveal from the Aboriginal community not just with the work that I've undertaken but with the history of what's been spoken to about how you actually connect Aboriginal children to their families and to their children or to maintain their cultural connection. It just seems so far removed from what the message has been.

**Jackie Bray:**

Yeah, well aware that I'm obviously still under oath I know nothing about the recruitment of those particular positions but I'm I'm committed to having a look at that with Adam in regards to if that causes any concern with our partners but I don't know if you've got anything to add?

**Adam Reilly:**

I'm reflecting in terms of my actions and what you've just said Commissioner and I think it would be fair to say that in my eagerness to demonstrate a model that works, I haven't done the due diligence in terms of looking at what's happened in the space before referring to exactly what you were talking about, and I'll commit to going away and doing that piece of work. Even though it is a trial it is about demonstrating and then building something bigger with community I think it would be the next sensible step to me seems to be to investigate what you've what you've raised and see what what other the connection points it sounds like there's some real synergy in relation to the position advertised I too am not aware of of that and in my conversations with our ACCO partners it was very clear in our mutual understanding that this was about local community conversations with family,

which is consistent with what you've you've said but I'm I'll have to go away and find out about that position and come back to you.

**Commissioner Lawrie:**

Thank you.

**Counsel Assisting:**

Thank you. I take it that simply from the fact that this project has been put into place you would accept that the the family scoping that has been done in the past has not been adequate, is that fair to say?

**Adam Reilly:**

I think it hasn't met expectations definitely, if I could say it's not through lack of intent from staff it's purely capacity and workload and that's why we spoke about making sure the priority work is separated from the mainstream work.

**Counsel Assisting:**

Certainly.

**Jackie Bray:**

I think the other point as well Counsel there is that we, you know, we now take up the leadership of an organisation which is evolved and certainly grown and having been in the agency before, as Adam, even just that within the last sort of 10 years, there is projects and programs that are no longer in operation and there's some various various sort of I guess evaluations of those programs and intent and staff members themselves, community themselves will tell you where something, so part of our role is to listen to that and actually go back and and to you know to go back and actually have a look to see what were those what were things happening and I for one am not fearful of leaning back into where things were proven and and were driving the results and the outcomes that we actually wanted and just because it's something that we've done before that doesn't that doesn't bother me at all to, you know, re-present a different project or go back and have a look at what concepts in there were good or not. In regards to family finding I think I certainly know there's there's a a history really with different teams that have attempted successfully, some not not others, and and I think we find ourselves in a way now with an opportunity to go back and this is a an a real immediate piece of work because we think that there is a real public health crisis here in regards to the number of children that aren't with family, so we really want to do that but we are absolutely committed at going back and having a look to see what else we need to do.

**Commissioner Lawrie:**

Cause that responsibility about finding family belongs to the Aboriginal community like that is the message but I understand that particular piece of work that you're now focusing on, is on children in residential care...

**Jackie Bray:**

It is.

**Commissioner Lawrie:**

So those already in the system.

**Jackie Bray:**

Yes that's right.

**Commissioner Lawrie:**

Just to make that distinction.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

For the record.

**Jackie Bray:**

Yep.

**Counsel Assisting:**

Thank you. Who is it that gets to decide who participates in the decision-making and who's included outside the Western idea of nuclear family the kin and the cultural mentors the community leaders and so forth?

**Adam Reilly:**

My understanding of the policy that applies around particularly Family Group Conferencing is that there should be self-determining principles, that is family should be able to nominate. I think the complexity in terms of that being the experience of families coming to Family Group Conferencing comes back to our cultural proficiency and our the clinical focus on primary attachment and a very Western model of a family, that's where if you then look at how the power is divided amongst participants the power sits with the individual or individuals who have the Western and very nuclear clinical assessment of what family is. So the policy may be there but in the absence of that cultural proficiency we can see where there would be where there would be experiences of a family where they don't feel that the cultural definition of family is being respected in that space.

**Counsel Assisting:**

And so what is going to happen to address that in the immediate future?

**Jackie Bray:**

The the one thing that we've got underway at the moment is actually there is some more broader consultation to sort of understand the principles about who is actually involved in decision-making and we're actually asking community and families and to sort of participate in that, so we can get a rich picture around we have an assumption where we feel that the principles around participation for communities and families and and children I think hasn't been fully, you know, fully explored or even adhered to I think we need to sort of. So an immediate there is an immediate now or a question out there in regards to the decision-making and who's involved how people see their participation in that but we we assume that we think that we know what that answer will be for where we need to build on that.

**Counsel Assisting:**

And how is that consult being undertaken?

**Jackie Bray:**

My very small knowledge about that Counsel, is that I do know that there has been some communication out in regards to our website in regards to opening for invitation for people to have to seeking counsel on that from a number of people but I'd have to take it on notice and I can furnish the Inquiry with a full response to that so you can detailed knowing what that is.

**Counsel Assisting:**

Because that website would assume a number of things wouldn't it assume that people have access to a computer, assume computer literacy, assume literacy even.

**Jackie Bray:**

Indeed, indeed.

**Counsel Assisting:**

So in terms of of genuine consultation.

**Jackie Bray:**

Indeed.

**Counsel Assisting:**

There might need to be some more.

**Jackie Bray:**

Yeah. Forgive me might be that what I've seen is how we've done that through our our carer community and our kinship families that are connected, that might be my reflection of it, so I'm happy to I'm happy to make sure that I correct or really furnish the Inquiry with what exactly is happening been there but I do take on your points in regards to the you know the insight that I've given you there I do know it is there has been some written feedback from carer groups, kinship carers, from our carer community.

**Counsel Assisting:**

Thank you.

**Commissioner Lawrie:**

Is is that the extent of the community engagement?

**Jackie Bray:**

I'm not sure Commissioner I'd have to sort of have to take that on notice.

**Commissioner Lawrie:**

Yeah in terms of in terms of the Aboriginal community involvement, I guess it goes back to the previous question that I asked yesterday in relationship to the the level of engagement with the Aboriginal community.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

So I'd be keen to know yeah in that developmental process.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

What that looks like?

**Jackie Bray:**

I'm happy to take that on notice. Do you know any more about that?

**Adam Reilly:**

No, I'm not across that sorry.

**Counsel Assisting:**

In the public in the hearings with the the workshops with the DCP workers, a number of the barriers to participation were identified by your workers and with respect to the reluctance of families to engage with the Department, which comes back again a bit to the previous discussion about consultation and asking who should be involved but some of those were shame, disconnection from family, entrenched trauma and just simply not wanting to be involved in any close proximity to the child protection system. How can the Department build trust within the Aboriginal community with a view to supporting participation?

**Jackie Bray:**

I'll I'll I'll start maybe and then you can just talk about some of the things that we're doing because what was alarming to me when I got the Preliminary Inquiry from the Commissioner was where she'd highlighted those specific, that specific feedback from those work, well actually, from her consultation. So Adam and I along with the rest, you know, Executive Members, did get together to really understand understand that and what we going to do to take action for that. So it was very much around we need to act on this if this is the views and the the information that's coming back. So I'll let Adam outline a little bit about what we've what we're doing in that regard.

**Adam Reilly:**

It is and I think it needs to be a multifaceted approach. The first part is the valuable insight you've received from our staff and having regular conversations with our Aboriginal staff there's a whole bunch of work we need to do right there. I think for those families that are prepared to engage with the child protection statutory system as we were saying yesterday it's important that the option is there to engage with Aboriginal people. At the moment our Aboriginal staff network report feeling isolated, not connected, not having a strong voice, similar to what we hear from our families. So part of the work and it starts with the cultural supervision but also we've had conversations at the all staff network for Aboriginal staff about some aspirations, that we have a collective wealth of knowledge and cultural authority and having that plus the relationships to community we should have a stronger voice in the organisation when it comes to policy implementation of various initiatives. So there's a piece of work about that cohort being more recognised and having more sophistication in terms of influence of the broader child protection system. Separate to that I always think back to my conversations with families where I completely understand even my own family doesn't want to have contact with the Welfare and when you dig a little bit into the trauma it's completely understandable. So my question to our system is then, is the statutory system the best way to go forward with what's been raised as either a concern or an issue? So I'm of the view when

we talk about the continuum of the child protection system. that DCP is not always best placed to be having those conversations and engagement and I think Jackie talked a bit to that yesterday in terms of its all of the other stakeholders and RATSIOs I see playing a critical part in that. So moving forward they're the things that we're aiming to build to make sure that our Aboriginal staff network has status in the organisation and influence, that they have relationships with community, RATSIOs and ACCOs but more broadly that there's the opportunity for us to say, we we've received this information we're concerned about, we'd like someone appropriate to have the conversation with the family and not us just directing and potentially traumatising people, so that's the the aim in terms of that real partnership.

**Jackie Bray:**

The other aspect as well Counsel in regard to Adam touched on the training and we talked about the the, you know, cultural supervision. The other aspect for for us as well is around truth telling. When you have the identification of that narrative coming back to how people feel with their engagement there is an element of truth telling in that and I go to that concept as well around what we want to incorporate within our training around the the two rights, so what what I mean by that is quite often we go to that place of where there's an assumption here that, you know, our staff group, our Department are represented, you know, how we're represent it is is is done you know in in a in a way in a manner in a practice around a good good best practice and it's really ensuring that the agency is aware as well that just because of perception in the community or within any interfaces that we have, doesn't necessarily mean to say there there one one part is wrong and one part is right, this is where we actually have to build a really strong foundation in regard to that sort of truth telling, embed that in our training, that these impressionable aspects are indeed, the staff group had that are coming from a very evidence, research, you know, theory sort of type of application here to their engagement, there can be two rights here and that's how we that's how we we get that great strong engagement and doing that. So, yeah, those aspects are very much front of mind and front of centre of my mind in regards to that that feedback.

**Counsel Assisting:**

Can you say any strength in perhaps having a completely separate Aboriginal run and managed branch of the Department?

**Adam Reilly:**

I can speak to that from the Royal Commission I participated in Interstate, that it was it was discussed and there's some significant benefits to a model like that but there are also some risks. I see the benefits in terms of if you ensure that each level in that structure has the cultural proficiency because you have Aboriginal people all the way through the decision-making, the experience can be significantly different in a positive way for families. For me the only risk and it is something that could be managed is you don't want to make Aboriginal business an orbiting moon around a mainstream service, you want to embed the cultural knowledge and proficiency as the language I normally use but you want anyone working in that space to have the same understanding in terms of or at least an acceptable level of understanding of the significance of culture and the importance of engagement with Aboriginal family. So for me I think somewhere in between is probably where I would be looking if it was to be a trial and I'm only going off the conversations from Interstate but the options around making sure that those staff are connected and supported is something that you



can do without necessarily separating but even if there was a separation you could still apply the training and the cultural immersion to the non-Aboriginal workforce but I just do worry sometimes that where I've seen when we specialise in an Aboriginal service that people say a bit bit like the Child Abuse Report Line people say well that's that's them they do that and that's not bringing society I think on that journey as well.

**Commissioner Lawrie:**

You'd have to admit across South Australia in terms of our government agencies, that blended model is really what is in play whether you look at Aboriginal Health, whether you look at Education...

**Adam Reilly:**

Yeah.

**Commissioner Lawrie:**

Whether you look at other agencies like, you know, I said Health didn't I but that is the the key organisation with education that has a Central Aboriginal Business Unit...

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

With a myriad of Aboriginal programs or Aboriginal leaders. So I guess and that at the moment baring yourself as the the Deputy who's of, you know, an an Aboriginal person that whole I guess aspect is absent...

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

In in this organisation in terms of Aboriginal centred coordination around the Aboriginal agenda in in DCP.

**Jackie Bray:**

And and I think you're right Commissioner because when Adam was talking I was thinking about the Aboriginal Health Model which is obviously clearly demonstrating the outcomes that, you know, that the community and the and Aboriginal people. I think I think for us, not withstanding as well we're only six months in to to our journey, it is something that I think is a huge consideration for us, we we really like to see where the amendments to the legislation takes us, we'd really like to see where where other such as the outcomes of this Inquiry might take us, to actually then have a look to see how do we need to structure what we need to do. Regardless of that even if it wasn't happening I think there would be an aspect of that that would evolve part of the organisation with the deep strong commitment from both myself and Adam in regards to what needs to change but in absence of some of those other sort of what potentially could guide and and shape how that is, I think Commissioner I think you're right in pointing out that there's there's probably an aspect of that and like Adam says of how that evolves and how does that look in in in our structure going forward.

**Counsel Assisting:**

Thank you. There were particular issues raised with respect to emergency removals being that no notice to families or opportunities for them to have any say in the decision-making about temporary placements, yet it was clear and it's clear from the case reviews that we've done that even in the situation of emergency removals those decisions have been premeditated, they're not decisions that are made as snap decisions so there's no opportunity to engage the family, that that's a deliberate decision not to do so. The other thing we heard for was evidence that occurring especially in the removal of infants from the hospitals again that removal decision has been made in advance with no notice whatsoever to the families or even to the service providers and the hospital staff. In fact, we heard that hospital staff are told not to tell the new mother that her baby is about to be removed. What you have to say about that practice?

**Adam Reilly:**

Yeah sure. I think for me that's that's both alarming but in some ways not surprising, I it it's come up in the last Royal Commission as well. All I can say is that I will always defend the work of our staff but I'll never defend the indefensible and what you've described I I can't find a rational response to support that action, that's it's disempowering, it's traumatising and it's it's not necessary in our compliance with the legislation but I would gladly look into those matters more because they're the things that we need to know about so that we can take action but yeah I I would genuinely apologise to those families for that experience it's it's unacceptable.

**Counsel Assisting:**

And and when you talk about trauma it's traumatising for the hospital staff as well, they find that enormously traumatising so across the board it's its unacceptable behaviour isn't it?

**Jackie Bray:**

And I think there as well Counsel is that there's some there is some work actually being done with Child Protection Services in Health, I know that, you know, the the repositioning prioritisation of the work that they do. I know from experience and listening to those aspects of when those events have occurred really on picking what was happening there and there's things such as you know, you know, it can all depend on the the time of, you know, if it's on a weekend if there's resources that are there not there obviously if the births occurred so there's a lot lots of things that I think as part of those statements made by by by parents that we do need to really look into but I do know that there is work already happening around as we spoke about it yesterday in regards to my concerns about that, even to the point of where Adam and I have discussed, you know, potential looking at delegations in that particular manner as well as well.

**Counsel Assisting:**

What sort of delegations?

**Jackie Bray:**

I think it's just about where what's not, and it's not a commitment that I'm saying here, but what's not off the table really is if we can look at opportunities of where removal of Aboriginal children, we need to make those decisions about those removals.

**Commissioner Lawrie:**

So decision-making happens elsewhere as opposed to?

**Jackie Bray:**

Yeah it happens now as part of the practice.

**Adam Reilly:**

Yeah, the the conversation about delegation that we're exploring is for if because of examples such as you've provided, do we need to look at increasing that delegation level, so from practitioner or supervisor to manager etc just so there's additional eyes and part of that would be a cultural assessment as well.

**Commissioner Lawrie:**

Is that in in regards to infant removals in hospitals or just more broadly in regards to Aboriginal children?

**Adam Reilly:**

It's it's a discussion point still...

**Jackie Bray:**

Yeah.

**Adam Reilly:**

But I would assume if it was to go forward it would be in in all cases where emergency removals considered or if a decision's made to go to longer term orders.

**Jackie Bray:**

I think I think it speaks to it, I guess it speaks to the regrettably, you know, we're not sat here having been in the role for two years, we are sat here having been in the role just for several months but these are all things that we are looking at that are there are attempts to to really look at these particular matters. So as I said it's it's not a it's not a commitment but it's something that we've literally said that is also as well something that we might want to, you know, look at as being a particular aspect of where we could definitely have that higher level oversight into and that cultural consideration at that higher level for Aboriginal babies.

**Commissioner Lawrie:**

Yeah because I' be keen to understand how that works with family-led decision making in terms of that particular principle being deployed and what that looks like with elevated delegations?

**Adam Reilly:**

It's really just to have an extra layer of insurance over those emergencies but I've also seen some of the applications for long-term Guardianship and some of the other where the delegation doesn't automatically flow to higher levels and I know as I mentioned yesterday in some of the reviewable processes, at a certain point the cultural lens stops and just clinical continues, so they're the sorts of conversations we're having just to make sure exactly what you're describing in terms of family-led decisions is captured at each part of the process and I couldn't say confidently at the moment that it is.

**Counsel Assisting:**

It's something I was going to raise later on but I think it's relevant to bring in now, South Australia is one of only two jurisdictions where we don't actually recognise legally a foetus in terms of a legal

entity, which means that the capacity for any involvement is not until the child's born. In Victoria, in particular, some other jurisdictions Victoria, Queensland, they have in their legislation the capacity to for the Department to actually take action very early in a pregnancy and so in terms of prevention and early intervention would you say that it would be worthwhile to amend the legislation to enable that very early intervention and supports being offered rather than the first a pregnant woman knows about something being seriously wrong is when Department workers are at the end of her hospital bed to remove her baby from her?

**Jackie Bray:**

So I think there's a my my response to that would be that is definitely being part of the feedback as well of the review of the legislation and that is obviously those that those those matters those that feedback is is being considered at the moment. In regards to the legislative requirement, I think it's there is also as well that as you said that broader sort of identification and entity from a legal perspective and I, you know, and I'm I'm aware that we have we have been in some discussions about that but it would be obviously the consideration of the government in regards to what the outcomes of the legislation would be. On the second note I would say about in regards to pregnant women, across the state there's obviously a lot of work in both early childhood child development in regards to the work and the partnering with ACCOs in regards to children and family services, the work that the Department for Human Services are doing with pregnant young mums and of course the work that we do in regards to an early intervention with early and effective intervention as part of the child protection system that we would do. So I think what we don't have is we don't have that sort of coercive element of any legislation to enable that to happen but we certainly know that those services are offered, encouraged and participated for those for those those expecting mothers and I and I I think I think the more that we can look at Aboriginal expecting mothers and having community-led services and where they feel supported and feel yeah feel included in those particular service provisions, I think that's the better of where there is a level of participation from from the expected mothers rather than a a requirement, you know, all of that sort of level of voluntary sort of participation and indeed sharing and and and you know them having answers to questions and concerns that they might have about their pregnancy as well. So I think the more we can put into the community around that the better and I think there is huge steps and even more from a government perspective that I'm aware of focus and effort in those particular having those particular community based service provision out there for for you expected mums.

**Commissioner Lawrie:**

At the moment there is a project between Health and Relationships Australia SA around Unborn Child Concerns and referrals to Family Group Conferencing.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

What is the likelihood of the Department, including Health and Human Services, in the ability to refer to a Family Group Conference for a child in need? What what is the what is the likelihood when there is actually a a call for those two organisations and others, I imagine to be able to make a referral to Family Group Conferencing and if not what is the what is the barrier to that?

**Jackie Bray:**

So Commissioner do you mean as in how the referral's been made or a self-referral what?.

**Commissioner Lawrie:**

At the moment only DCP can make a referral to a Family Group Conference, other other helping agencies are not able to do that but there is that initiative at the moment underway.

**Jackie Bray:**

Yeah and and as you said Commissioner it it is definitely with intent to look at building on that concept. Notwithstanding that and I can I can speak in regards to the Department for Child Protection, maybe not some of the other agencies in in in regards to that, would be about having Family Group Conferencing is a referral mechanism to establish that that discussion. I've been wholeheartedly saying across the agency the and it comes back to that sort of participation as part of the principle is that a conversation and discussion around the young person and the people that are important to them should be a, you know, and should be a normal practice within regarding bringing people together for those particular discussions. Yes we know that the principles and the the the more formal Family Group Conferencing practice is is very much a different sort of structured mechanism but just to lean into that, prior to any referrals that should happen there it should be about the that concept of bringing together people that are of significance to that young young person should be you know a normal practice within within, you know, within the agency. But going back to your original question Commissioner about the having a mechanism for other referrals into family group practicing I think I would like to see more family group practicing across the agency, I would like to see our children having opportunities of of accessing those types of services and programs going forward and it will you it's a case of when, you know, when when that, you know, when that when those funds become available what sort of types of service provision have we got, what sort of types of services we got to do these. So that would sort of open that out out to to more than just currently at the moment dedicated resources and dedicated services that we've got to deliver that.

**Commissioner Lawrie:**

Cause Family Group Conferencing is such a crucial forum in which to afford to families in keeping them out of the statutory end of Child Protection and enabling and empowering families to make decisions to keep their children safe.

**Jackie Bray:**

Yeah and and hence the reason why I sort of said the practice of bringing together people to talk about you know the safety of that little person and supports that might be needed to the family, out even outside of a system should be a primary focus and a principle of of practice that we need to encourage more.

**Counsel Assisting:**

Is it the case that the appropriate way to do that would be to support the ACCOs to to do that work?

**Adam Reilly:**

I think think it's a a conversation with ACCOs but with RATSIOs as well.

**Commissioner Lawrie:**

Only one RATSIO and that's an ACCO. I'm just getting confused with the language cause a RATSIO is an ACCO, a RATSIO is just a function of an existing one only ACCO in South Australia.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

I just got to make that clear.

**Adam Reilly:**

So I would I would share a different view and that is to me an ACCO is an Aboriginal Community Controlled Organisation...

**Commissioner Lawrie:**

That's what it means.

**Adam Reilly:**

In any form whether it's registered in Child Protection or not.

**Commissioner Lawrie:**

That's right.

**Adam Reilly:**

I think there are ACCOs that can provide great contribution and value in this space but are not yet registered to deliver some of the services through Child Protection. I don't believe that there is a preclusion for them to be part of the conversation when we talk about who should be doing or hosting the Family Group Conferencing because as we were talking about, you know, people not always feeling comfortable with Department of Child Protection and that commitments to self-determination mean that the host or the facilitator for those Family Group Conferences should really be close as possible to the family embedded in the community and that's where I'd see the opportunities once we've got an assessment that says this is working and we all know that it will say it does because it simply does. When we start to design how we ramp this up and how it moves across the state that's where I see the opportunity for those smaller organisations that are not yet registered for us to get into that space.

**Commissioner Lawrie:**

Yeah, so I, you know, I don't have an issue what you're saying just there but you're referring to RATSIOs as if there's a multitude there's only one at the moment in South Australia.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

Which is an ACCO.

**Adam Reilly:**

Yes.

**Jackie Bray:**

But I think also as well, I think.

**Commissioner Lawrie:**

If you're talking about a plan then.

**Jackie Bray:**

Yeah, we're thinking.

**Commissioner Lawrie:**

Then that's what I need to hear but yeah, the response makes it sound like there is a multitude of RATSIOs.

**Jackie Bray:**

Yep.

**Commissioner Lawrie:**

Yeah that's what I just want to clarify with you guys.

**Jackie Bray:**

And I think I think Commissioner, I think what we're referring to is as we progress we absolutely should be looking at more RATSIOs. So in that content of them being you know that that that plan that you mentioned about what we need to do what how we need to in have more RATSIOs gazetted in South Australia is is something that yeah we need to we need to definitely.

**Counsel Assisting:**

What's the process for an ACCO becoming gazetted as a RATSIO?

**Jackie Bray:**

So my understanding Counsel is that there is a registration, there is an application to do that, there is a requirement for them to demonstrate their capacity in this in this particular part of the work and I think then obviously part of that would be around then the establishment of the work that they're doing there and of course there's a funding aspect of that as well in regards to, you know, them having some sustainable funding to carry to do that. So that all collectively together becomes part of the an application process to and as I said to you yesterday my understanding is the application process is one aspect of it and perhaps not overprescribed but the work that they're going to do and clearly some of those fundings of those local communities and those organisations need to be something that's a further consideration around what it is.

**Commissioner Lawrie:**

Yeah, cause I'll go back to my earlier points about Aboriginal community engagement to what extent would the Aboriginal community have a role to play in approving an ACCO as a registered Aboriginal and Torres Strait Islander Organisation for the purposes of being gazetted under the Child Safety Act?

**Jackie Bray:**

Yep yep that's yeah that that particular part of the gazette it under the Child Safety Act is where they need to demonstrate the work that they're doing that was against a particular part of the Act and then obviously how how that funding is going to be but the Commissioner is right in regards to the

conversation the consultation with the community to establish what that is and that's part that we need to do as well.

**Commissioner Lawrie:**

Cause at the moment the Act speaks to being a source of consultation in regards to a placement for an Aboriginal child.

**Jackie Bray:**

Yeah, that's right section 12.

**Commissioner Lawrie:**

Yes.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

Which as your know my Preliminary Report speaks about more than just placements more all the significant decisions key decisions in relation to an Aboriginal child.

**Jackie Bray:**

Absolutely, indeed Commissioner.

**Counsel Assisting:**

The Department's Manual of Practice states that section 10 of the CYPs Act requires workers to actively seek the views of children and young people once they're considered developmentally capable of expressing their views. Children and young people are often able to express themselves from a young age if appropriate support is provided however in the consultations with your staff during the workshops it was a complaint that children are given very limited opportunities to participate in the decision-making and that was borne out by the evidence that we've heard across the board in this Inquiry as well. Do you consider that the requirements of the Act and the Departments own policies are being met in this practice?

**Adam Reilly:**

I've got a view, I think we're definitely lacking in that space and we're again not unique. For me and I think back to recent professionals meetings around particular young people where I've participated and often asked the question, who's met the young person, when was the last time we saw the young person. There are our staff particularly for children who are in a residential care homes that don't always get invited to the conversations where the decisions are made. So I see great opportunity for us not only to make sure that the people that are there at least have contemporary knowledge of the young person but there are ways and we talk about Create Foundation, we talk about the referrals and queries through Commissioners, there are ways our own system can make it safer for children to be able to have a voice. One practice that that I would use in another jurisdiction is for each case conference we would have a photo of the young person and we would have clearly agenda'd items that talk about different domains and different views from the young person that had to be captured in a safe way and then presented at the conversation. It can be desensitising for staff when you have such high numbers of traumatic matters to deal with but there



are things that we can, and I'm happy to commit that we will take on, to elevate the voice of the child because ultimately that's who we're here to serve in terms of our roles.

**Jackie Bray:**

And there has been some additional funding to Create specifically to ensure that we we capture more around the the voice of the child here in South Australia and this was certainly underway before I arrived here but it was actually launched just over a month ago and primarily it is about those young people, as as Adam mentioned, there's sometimes where the participation is a bit overwhelming for them too. So we've actually set up a new platform in regards to it's called our way my um my my Our Voice My Views and it is a particular an engagement tool now which is a a platform where children can actually, children and young people can actually tell us about their experiences can actually feed into the things that are working for them and and not. We've had a a really, even though it's only a couple of months, we've had a really good uptake and clearly we've been doing some promotion around that particular platform in our residential care where obviously our young people have access to mobiles and things like that, so they they can do that and I've certainly been reading a lot of those particular matters that have been coming off those young people. So I think although even it's just in its infancy that's another another tool, not the only, another tool for us to sort of try and ensure that we get that feedback into their insight and their views into you know their engagement with us.

**Counsel Assisting:**

When you look at the reality for a young person who's removed from parents, placed into care, particularly children in residential care, there's a cycling of staff that come through there often the staff in residential care are students themselves who are doing you know sessional work. Over and over we see in documents presented to the Youth Court that one of the main criticisms of young people who have come through and being cared for in the Department, is that they do not have a parenting template. How can you possibly develop a parenting template when there's nobody that stands in the place of a parent in your life?

**Jackie Bray:**

Well I think I think residential care as as certainly I can only talk from my views having last been in the agency over 10 years ago, there has been a significant shift in in regards to the type of therapeutic environment and with the absence of those that family based environment of where I think the agency are really they've really commenced a a journey I guess really in trying to recognise that and really being a lot more therapeutic homelike than than than it was than it was before. Do we have some way to go, we still have some way to go there's there's no doubt about that in in regards to that however in regards to the staff group we we know that residential care is not an ideal form of accommodation and and for our young people, hence the reason why our efforts is in regards to reducing the number of young people that we are have that we do have in those settings. Likewise I think as I said it was it it was very evident to me as I came into the agency the differences that there are now into those more residential, you know, smaller home type engagements with the participation in life skills for children there in regard to that, you know, cooking, home life type of scenario. It is we we can't not I guess acknowledge that you know staffing on a roster is you know staffing for people coming to the house, we are there is times where we look at a care group for a particular house we we would like to really move towards that with our with our partners to see if

we can look at more stabilising care groups to look after young people but it is it is critically a challenge for us at the minute but I think from that where we were to where where I am now coming back to the agency, there's definitely been a significant acknowledgement that things have moved but I think we yeah we do have some ways to go still.

**Adam Reilly:**

I think so and in terms of the the role of residential care it's become more of a destination and it's because of the volumes coming through in terms of investigations and then open cases and obviously children caught up in all of that, so this this is the part we talked about expanding rapidly. I see a role for residential care and notwithstanding your point Counsel that it is not an environment where a child or even siblings can feel that connection with workers in a more familial type setting, it's its function is really intended to be a point of assessment and almost like a holding pattern or a waiting room while we find or build the appropriate placement for that young person.

**Commissioner Lawrie:**

But that's not the case because.

**Adam Reilly:**

It's not because we see kids that have been in residential care for years.

**Commissioner Lawrie:**

And exit into or exit out of the system from their residential care basis. If you just look at South Australia, very small jurisdiction, like that volume is is not in comparison to the volume in Queensland, yet our rates as a very small jurisdiction in comparison to Queensland is equal to their rates of children entering residential care.

**Jackie Bray:**

It is.

**Commissioner Lawrie:**

And also the very young ages of our children from our Aboriginal community, entering into Residential Care.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

You know there is a wealth of research about the negative effects on life outcomes for any young person growing up in residential care.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

It does not replace family, it can never replace family. I want to hear from you in terms of what plan you have in terms of those children that are currently in residential care and cause I did hear with your priority work in getting?

**Jackie Bray:**

Under 10.

**Commissioner Lawrie:**

Out of Residential Care.

**Jackie Bray:**

Under 10 and and Aboriginal children.

**Commissioner Lawrie:**

So that's you know that sounds very promising but I just had a an experience on Thursday going into a community but finding that on the plane that there was a young person going to meet her sibling who was in residential care in this community yet that whole community is literally her relatives, why is she continuing in a in a residential placement as opposed to?

**Jackie Bray:**

Absolutely.

**Commissioner Lawrie:**

And why isn't her community being involved and engaged and discussed?

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

Being invited to discuss options around her care?

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

It's a it's a real life and current issue and multiply her story it's everywhere.

**Jackie Bray:**

Agree.

**Adam Reilly:**

It's exactly what I was about to say that's that's one one person that you've bumped into and there are many children in the same situation. It links to the numbers, it links to the workload, the same as with our case managers. So the scoping you describe absolutely is something we are required to do, when we look at the workload for case managers it's it's not happening what's what we see is that residential care is considered a safe place because of the numbers of cases the workers are across, the focus is not going into what are the options in terms of family. So that's why we're doing this piece of work to demonstrate that if we lighten the load for workers, give them a referral pathway to do that critical work it will happen and it will be successful. It's not just finding a bed with a family member or someone of significance and crossing our fingers, it's making sure there's a package around that as well, so any services that are needed for the young person, services in the home, any changes in terms of the home layout to accommodate and make that a placement that will be successful, is all arranged at the start so that's the meaningful scoping. The bit about residential care

is as we start to lower that sheer volume of of children coming through, the relationships the assessment and the getting to know the young person comes to the fore and that means that we are more able to design and scope suitable placements for the young person to thrive in so. Residential care for some children may be part of that continuum of moving through the child protection system.

**Commissioner Lawrie:**

As in being institutionalised or as in therapeutic care?

**Adam Reilly:**

It should be therapeutic care but you can't achieve meaningful therapeutic care if you have high numbers of children coming through, high numbers of staff changing, a reliance on casual staff, because so much of the therapeutic engagement is relationships based. So the aim is by reducing the overall numbers of children that are going through residential care, staff will have greater retention, they'll have greater engagement with the young people and the time spent in residential care should be shorter because with the more intensive engagement the pathway to the longer term placement should be more identifiable because we have time to do that. It's the same with the case managers by bringing those numbers down the engagement is stronger and we just see this shift back further up into early intervention instead of this residential blowout, which I was so shocked when I came back to South Australia just to see the numbers. So to me that is the the biggest risk.

**Commissioner Lawrie:**

Yeah, its abhorrent.

**Adam Reilly:**

I agree.

**Counsel Assisting:**

And in terms of the staff who are moving through the residential care, if it's called therapeutic care shouldn't it be that there there is some level of therapy to address the traumas? The trauma alone of being removed is one we don't recognise and don't speak about but student teachers are not skilled and not not geared up for intensive skilful parenting which is what many of those children in resi-care need isn't it?

**Adam Reilly:**

Yes.

**Counsel Assisting:**

So why are there not professional people being recruited for people who have those skills in in skilled parenting with with children with difficult behaviours and and senses of of not being connected to anybody rather than reinforcing that in residential care by people who are doing it as a job to to pay their their rent while they're going through university?

**Adam Reilly:**

Yeah I I I can't speak for past rationale but our view is multidisciplinary teams are needed particularly in the in the homes. It's finding the the specialist skill set, for example it might be a psychologist, and then as you'd be aware it's not easy to find professionals and it's how we best utilise that across multiple properties. So one strategy that we we look at at the moment which is not in line with what

we're talking about but it could apply the same principle is when there is a group of houses or a cluster of houses where there are some concerns about some of the presentation or how some of the children are traveling, we have an active shift with some specialists that move around the properties, that's something we could apply to increase that therapeutic response. It also I think is incumbent on us that even though the staff may not hold certain qualifications or maybe be studying something else, that we proactively provide training in therapeutic engagement and responses and that at all hours, day and night, staff have access to the support to help address a situation where a young person is heightened. Our our biggest fear is when children leave the placement because they are so vulnerable and there are so many risks and misadventure is is something that can be life-changing for our children, so for us getting that bit right is a priority. I think it's fair to say we're not there we have a long way to go but it is a priority in terms of making sure that the staff and that the children at those properties have all of the supports they need for that temporary placement to be as successful as possible.

**Counsel Assisting:**

Thank you and it's 11:40 does would anybody like to have a break for 10 minutes.

**Adam Reilly:**

I think that would be lovely, I'm only thinking of others.

**Commissioner Lawrie:**

Of course yeah, I'm going to make a couple of phone calls too.

**Counsel Assisting:**

Okay all right we'll resume it say what's 11:40 11:41 resume at 12:00.

**Commissioner Lawrie:**

Yeah that'd be great.

**Counsel Assisting:**

Okay we'll resume.

**Counsel Assisting:**

Thank you.

**BREAK**

**Counsel Assisting:**

Can I just ask in terms of the structure of the organisation that you're both now in the leadership role of about whether there is or whether there should be an Aboriginal Advisory Body within that organisation to guide and and refer to in terms of policy development, practice development and moving forward to address the issues that we've looked at today?

**Adam Reilly:**

Do you want me to respond for that one.

**Jackie Bray:**

Yeah.

**Adam Reilly:**

So the we do have an Aboriginal Practice Directorate, it's a fairly small part of of the organisation. I think in terms of the conversations we had with the state- wide Aboriginal staffing group plus conversations with our external stakeholders there's an opportunity for us in terms of the review of our structure and how it's connected. There's some conversations about perhaps a more senior Aboriginal Practitioner role in the organisation as well and how that role can actively form part of those escalation and review processes, where I spoke previously about the cultural lens stopping at a certain point and then just the clinical lens continuing having an Aboriginal Principal type Practitioner across that space as well. So the as Jackie mentioned whilst we are still relatively new there's a lot of that structural opportunity for improvement conversations happening at the moment.

**Commissioner Lawrie:**

So that that'll give you your Aboriginal practice focus, what about the more general things in policy development and advice and guiding the organisation with the engagement with the Aboriginal community, with providing the coordination with whole of government initiatives that bring to bear on outcomes for Aboriginal children and young people, whether it be housing, whether it be education, whether it be justice, you know, human services etc, health, just I just wonder what that may look like in your plans with developing this or furthering what you currently have?

**Jackie Bray:**

That that's right Commissioner what we what we committed to is not being reckless in coming into the agency there was some significant initial changes, Adam's appointment being one of them in regards to that, and then some sort of positioning around some immediacy around what we wanted to to look at. I've always held of view, and Adam shares it, in regard to that type of self-determination policy type of senior role that would enable us to to really have that particular focus and that lead, Adam's mentioned, not only around at the practice level and I think the work that we're doing to initially map out the governance in regards to the numerous aspects of that role is a part of being able to determine what type of activity, what type of structure and what type of role that that might might actually be. So Commissioner it's not a it's not a particular commitment as such but it is something that is we've made a commitment around what we want to start 2024 like but we've also as well make commitments that throughout the coming year that there'll probably be some other the changes to support and grow the agency in gaps where you you've identified one there that we've what we've actually got.

**Commissioner Lawrie:**

So it might include things as in policy...

**Jackie Bray:**

Yeah

**Commissioner Lawrie:**

Development, service development from an Aboriginal perspective, Aboriginal leadership in regards to...

**Jackie Bray:**

Yep.

**Commissioner Lawrie:**

All those things that one might expect from an Aboriginal advisory unit within a governmental department.

**Jackie Bray:**

Yeah.

**Adam Reilly:**

And even more broadly I think if we talk about the evolution of the Aboriginal Staff Network as a body and the relationships at all levels with our external partners and community, that's where I keep coming back to participatory practice, we we put the issue or the topic that we want to talk about at the centre and then collaboratively design that and at the moment this the structure and the way the parts of our organisation are connected doesn't lean into that in a really organic way but by changing some of those positions in the organisation in terms of the role, the function, what's within the gift of various Aboriginal roles, I think we can really change that and then at all different levels our staff will have stronger engagement with community and bring people to the table to have those conversations. That's the intent it just changes the well it addresses the power imbalance that exists I won't say it fixes it because you can never fix in terms of the the history of the organisation but it helps us come together in a safer way to work collaboratively with the Aboriginal community at the centre of those conversations and a voice in the room which I think it would be fair to say government hasn't always been able to do that in the past.

**Counsel Assisting:**

Is there a time limit on that in terms of getting that established?

**Adam Reilly:**

It it's difficult I in my personal opinion it's difficult to put a time limit when you're talking about a self-determining practice. There's a there's an a significant urgency in my my view for this to occur but it will need to be at a pace that works for community. So the conversations need to and they have started, how we formalise that I think will take place in 2024, not beyond, hopefully in the first half, it depends what else is happening because South Australia is continuing in terms of the Voice conversation there are other stakeholders we need to work with so we want to be aligned not interfering or duplicating or taking over but absolutely.

**Commissioner Lawrie:**

But you'd have to concede the Department historically has had always a very strong Aboriginal Leadership Aboriginal Advisory Unit with in its structure. I would have to say over the last 8 years that that has been diminished significantly and could bring to bear with the issues that we're seeing in relation to Aboriginal or lack of Aboriginal involvement in decision-making from the policy context right down to the practice level.

**Adam Reilly:**

Definitely.

**Jackie Bray:**

I I think what you're what what you're highlighting there Commissioner is in the absence of it that there is multiple people that would actually consider, you know, that's part of what their role is and I

think what we're determining is actually we find there will be an enormous opportunity and strength of actually having some specific dedicated focus in this particular work and our commitment around growing Aboriginal leadership as well in regards to that policy focus specifically around that would be Adam's talked about the practice that we need to do, you've mentioned the policy, we I'm thinking about how we we we have these enormous opportunity with the our commitment around growing our our ACCOs, our RATSIOs, engagement with with Closing the Gap and SAACCON and we have the Peak as well which will be instrumental in informing and advising the Department on on areas of of of concern and identifying areas of where where we need to make improvements, so we do need to have somebody you know we do need to have a particular position that can be responsive to that.

**Commissioner Lawrie:**

Yep ta.

**Counsel Assisting:**

Thank you. The next issue that I would like to raise with you is the the one of Family Group Conferencing, now we've spoken a bit about it in the earlier intervention area but the evidence shows that it works to achieve better outcomes for families and we've heard that that heard that consistently from not only staff from the the Department but other experts that have given evidence here and we note that DCP has recently commissioned a report from Paul Nixon, who Paul provided evidence to the Inquiry as well, regarding Family Group Conferencing and that evidence demonstrates an extremely high success rate and over overwhelmingly positive outcomes from Family Group Conferencing in every jurisdiction, in every area where Paul has worked and he's a New Zealander as you would know but he's he's worked extensively internationally as well. In the case file reviews that we undertook here which it shows that the Family Group Conferencing is not happening in a timely manner or at all in in many circumstances. The current legislation states that it should be the Department considers Family Group Conferencing if appropriate and it's seen by families and the community that that's being used an excuse not to conduct Family Group Conferencing. Given the proven efficacy of Family Group Conferences do you consider it's appropriate they're often convened so late in the intervention process or not at all?

**Jackie Bray:**

So couple of matters in my response there Counsel, first one would be we recognise and absolutely value the insight and evaluation in regards to what Paul Nixon's actually said. In fact before my commencement I'd already engaged with Paul in regards to his learnings and his insights into Family Group Conferencing and we've remained and he's participated in a number of aspects in providing advice to to me and and now to Adam in regards to in regards to that matter and and others particular reform to sort of ensure that we embed that as well. In regards to the the current legislation in regards to the consideration again strong feedback and a theme that came back from the discussions around the amendments to the legislation that was also highlighted as part of that particular requirement and then lastly my own personal view is that I think if we can establish Family Group Conferences as early as possible for for our families, for our children, for our communities, in in regards to that level of participation to safeguard and prevent families becoming more embedded in the in the Department for Child Protection that that's a view a view I hold firmly, it's a view that I've shared with Paul and it's a view that I've, you know, got confirmation on in regarding in



regarding to to where we should be heading in the future and and and lastly the only thing I would say as well is I'm I'm not 100% sure cause I weren't in the Department when the case reviews files that you had, it doesn't surprise me in regards to the lack of Family Group Conferencing in potentially what might have been some case reviews over a matter of number of years prior to where we are now. We know that the investments recently, we know that Family Group Conferencing as it when it was in the Youth Court and then indeed when when it's been in the Department and then it was only really the further additional funding more recently in this in this Government that's been that that actually has been given by this Government. I will say in my conversations as well I'm always having conversations in Treasury and with my colleagues around you know Family Group Conferencing going forward, so there is already a signalling in regards to there is evidence to show this works, we do know that we can bring it further and and earlier in our interactions with our families we do know that we would probably reap the benefits of that.

**Counsel Assisting:**

I'm aware that there is still a capacity within the Youth Court to conduct Family Group Conferencing, but I've heard that it's not being utilised very often by the Department. Do you know why?

**Jackie Bray:**

I I don't know why as yet but I'd only met Judge Eldridge a couple of weeks ago and she told me that very thing and forgive me I can't remember her associate's name who, is it Michelle, that you know they were referencing that as well so I took it upon myself to go away and actually find out what was happening in that. I'm not I'm not sure about that historical program of where that where that it sits now, I think there is an attempt to try and have a look at that before those particular proceedings but yeah I've got that's already on notice from Judge Eldridge.

**Counsel Assisting:**

Okay it's been recommended that Family Group Conference has been made mandatory for all children in Aboriginal families at risk of statutory intervention and this be a requirement prior to any guardianship application being made to the Youth Court. Would that be something you would support in that change in legislation?

**Jackie Bray:**

Again I'd probably the first thing I'd probably say Counsel to that is that I would seek the views of an evidence and an expertise on that particular matter. I think historically I often caution when I think about mandatory, we know that in these settings of where you wanting people to come together to collaborate and to speak openly and truthfully and and really, you know, in regards to the support that they might need or they might require, I I sort of I a sort of there's always a level of caution when I think about them, you know, having something mandatory in legislation that family's you know feel obviously they would have to comply, however I'd also as well see the real benefits of people participating. So I would probably say that I would seek assistance of others to sort of inform that advice to government around if I thought that was you know necessary really.

**Counsel Assisting:**

In terms of the requirement or in embedding of active efforts, wouldn't it be part of the active efforts that the Department does actively facilitate and go out of their way rather than just consider

and tick in the box that we considered, and we thought no, that that that be put into place if at all possible?

**Jackie Bray:**

Yeah, I think I think the term that you're using there about the active efforts to and I'm not saying either way at minute, the direct question that you asked me about mandatory my response to that in this particular case I'm sort of saying that absolutely with active efforts and I think the skill set of the workforce in regards to the encouragement and participation for families, we do monitor that already now and the number of people that have been offered Family Group Conferencing to those that have participate and engage and I think that's something that actively with or without the legislation, we'll be monitoring to see if you know if we've, you know, we've actively, you know, engaged people to participate.

**Counsel Assisting:**

And what would be the outcome if you find that you haven't?

**Jackie Bray:**

I guess I think it's more it's down to the it's down to us actually understanding what some of those barriers are for family. So some of that can be as much as where I guess the the complexities of family groups and the dynamics of family groups, there might be an opposing view of family member of their of their participation alongside others, I think that's just really about our practice and our skill set within our work group to try and you know speak to both parties to try and have a look at, you know, focusing on on what what the child would be but I guess it comes back to saying we're currently actively looking at the number of people that are offered and engage and really leaning in on that from a practice point of view on what we can do to enhance and ensure that we increase that number of participation.

**Counsel Assisting:**

We've heard from the evidence from Relationships Australia that in their implementation of the Family Group Conferencing for Aboriginal families, they recognise that parents who are about to have a child removed from them are possibly not the best ones to be making decisions about who even attends at that because of their shame, because of their sense of of not wanting extended family, but they override that, they will they will source and find the appropriate people in the kinship network to be making decisions about that child. Is that not something that the Department should also be doing?

**Jackie Bray:**

I'm not sure that I'm I'm not sure that we don't, I'm I'm, you know, I'm I don't think that that's something I'd have to take that on notice and and and come back and reframe that but I would I would actively think that if we're participating in Family Group Conferencing but, you know, that we would we would do that anyway that we would definitely lean into family members around who's important to that young person or not. Do you have a view on that Adam?

**Adam Reilly:**

Yeah I do have a view it doesn't sit comfortably with me what you proposed RASA are doing. I think it's appropriate what you say is absolutely right in terms of the shame the pressure and what what parents might be feeling at that time, I don't feel comfortable with a non-government organisation

that's not an ACCO or a Department bypassing a significant person and going directly to family. What I would be comfortable with is in partnership with ACCO's exploring options and getting some consent from the parents. I just I know in conversations particular with Aboriginal parents they talk about how disempowering the process is and how there's no voice and I just think that's a really live example of us not respectfully engaging, bypassing looking for someone else, in a cultural context it's absolutely sensible because there are what's the term that Aunty Muriel used at the Symposium.

**Jackie Bray:**

Big Aunties.

**Adam Reilly:**

Big Aunties, it's like there is there are culturally appropriate people that should be there, but to me we have to do that in a respectful way and what you've describe does it I feel a little bit uncomfortable with just a literal application I think it's.

**Counsel Assisting:**

And I may be not clear, it's not it's certainly not in every every event, but every instant but if for instance the the parents are are seriously drug affected and and just simply not able to make decisions you know about themselves in their own care for instance, that that for them to say no we're not going to participate in a Family Group Conference, I don't want to be there, is not enough for it to not to happen.

**Adam Reilly:**

Oh definitely agree with that, that's absolutely sensible. I do think it's important though that there's there's an ACCO in the space, for me that's that's a critical component. But in terms of that broader conversation about the Family Group Conferencing, we know they're not prohibitively expensive, we know from other jurisdictions and our own learned evidence now that they are beneficial, it's how we build the capacity to have those. I think there are ways to ensure that they are routinely made available, which is what I would like to see the system have, mandatory or make it a requirement whatever language is landed on, it's not unreasonable for us to expect that that service offering is made available to every Aboriginal family, it's how we position ourselves and build that capacity. I think there's findings coming back formally in terms of the instances of Family Group Conferencing that have been funded in this period and from that we'll be able to say well we can see the trajectory change for families, we can see the reduction in harm for children, so let's look at how we can build that capacity and that's that's the next conversation. It does also link of course to our cultural proficiency because our workforce need to understand the significance of that event as well.

**Commissioner Lawrie:**

So how do you measure or what does offering look like in terms of Family Group Conferencing and how do you measure that? What does what does offering look like?

**Adam Reilly:**

I think it needs to be multifaceted, it may not be that the offering comes from the statutory system, it may be the offering comes from a convenor or from an ACCO or from a trusted source, we need to do work around communications around what this option is because it's about addressing that historical power imbalance, the fear of dealing with the Department, it's taking back control of family and family making those decisions. I think in terms of the measuring part the whilst we have

data showing us this is how many have elected to participate and these are some of the reasons why family members haven't, the data we need to look at and I think that's one of those opportunities to partner with community is in the instance of wasn't offered, have some really clear criteria why wasn't it and drill down into what's what's the reason because there shouldn't be too many reasons why it would not be offered, I can understand reasons why individuals may not accept, but when you make reference to mandatory and I sort of go to the a requirement, it should be offered because it is a sensible next step and empowering for family, so we need to review where it's not happening and why. I suspect that will lean us or lead us to a deficit in training and capacity around understanding culture.

**Jackie Bray:**

And that's where not on the culture, not on not from a cultural perspective, but that's where the engagement with Paul Nixon by the Department where we are engaging his services in regards to working with our regional teams to ensure that they are fully across what Family Group Conferences is, about the referral to services, about the engagement with the families, about the, you know, that sort of discussions that that that should occur, that consideration by the workforce. So we we've got in regard to training going forward around applying the principles of Family Group Conferencing, discussing Family Group Conferencing, the benefits of Family Group Conferencing, that whole awareness to our staff groups, to ensure that those positive interactions sort of occur and those referrals occurred and, you know, we we we look at that that's that's a big piece of work that Paul's been doing across the agency, starting off at several regional offices for that.

**Counsel Assisting:**

And again with regional offices it's going to be a difficulty in terms of the capacity any capacity to do Family Group Conferencing in country areas isn't it?

**Jackie Bray:**

Yeah, yeah that's true it is it is going to be but but I think that we we've got we've only got a number of obviously options available to us at the moment in regard to Family Group Conferencing and that's certainly something that we want to lean in and get, you know, that that level of investment, that evidence to support that this is a particular program which is successful and we want to roll that out across the state.

**Adam Reilly:**

I'll probably even go as far to challenge it and it is a bit of an assumption I suppose that we carry in a metropolitan environment that there wouldn't be capacity but I I genuinely think the most important part of the Family Group Conference Convener role is the understanding of culture in the local community and I I would be really confident those people exist in those communities. It's ensuring that we as the system provide the additional training to empower and then establish that local response so that Family Group Conferencing has that local connection and can occur in a timely manner not waiting for, you know, another provider to get on a plane and you know show up weeks later having that immediate response and building that capacity is not an overly difficult process, if there are people willing then it's yeah to me that's a really great opportunity to pursue rather than a risk because it's regional I think there's some benefits there.

**Counsel Assisting:**

And will that be pursued?

**Adam Reilly:**

I in well I did state yesterday have strong views on Family Group Conferencing, so in terms of what's within my gift and influence I will be pursuing that.

**Counsel Assisting:**

Thank you.

**Adam Reilly:**

And I'm sure Jackie will lean into the space as well.

**Counsel Assisting:**

Thank you. The workshops with your staff identified a potential flaw in the Family Group Conferencing and that the outcomes were not true self-determination for Aboriginal children of families, due to the Department having the final say for any decisions that are made. It's been noted by the Department staff that it would be more appropriate to run conferences in the ACCO sector and less involvement from DCP could result in better outcomes in terms of true self-determination. Do you agree with that assessment?

**Adam Reilly:**

I've seen that work in other jurisdictions successfully. Our only requirement is the statutory component, so in terms of the Family Group Conference process that could land with some clear commitments moving forwards and then the Department can test that outcome against the statutory requirements and say there's not a role for us.

**Counsel Assisting:**

And will that happen?

**Jackie Bray:**

Of course there is already that level of investment with AFSS in regard to Family Group Conferencing and I do know that I spoke to multiple ACCOs that have actually shared an interest in thinking that there would be better place to to deliver that and I think we have we have yet to sort of put a proposal, you know, with our own proposal being in the roles now around how we how we facilitate that level of funding going forward.

**Commissioner Lawrie:**

So have you consulted beyond ACCOs like into Aboriginal communities outside of metropolitan Adelaide? And I'm not talking about state-wide services actually fielding a local level ACCO cause they are not.

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

I wanting to hear from you whether in your deliberations, has there been consideration going beyond who you currently fund...

**Jackie Bray:**

Yep.

**Commissioner Lawrie:**

And going into Aboriginal communities and seeking that information out?

**Jackie Bray:**

To be to be honest Commissioner no and I would say that we haven't embarked on any further program development to do with Family Group Conferencing not not in regards to because it isn't our intention to do that, because I think it is, it's just about us actually we haven't you know we we want to see the evaluations come through we want to see we've been heavily focusing on the legislation and the changes and the amendments that are going to happen there and informing those deliberations. I think that beyond beyond that is definitely something that we want to look at and we clearly and respectfully we would we would be looking at that localised consultation.

**Adam Reilly:**

With with my visits to some of the regional centres, such as Whyalla, Port Lincoln and others, I've been invited to meet with the smaller ACCOs and the board members and have conversations and there's a clear aspiration to be more active in the space. So whilst those conversations weren't specific to Family Group Conferencing, in the back of my mind I'm thinking this is a really good potential conversation when we get to that point. So we we do need to see the assessment, it's it's it seems to me jurisdictions like to test something in their jurisdiction and then have findings and that's that's I have no doubt with that will come back saying this is really something we need to do but the next step is exactly what you're saying Commissioner it's taking the time to sit down in the communities and have the conversations and I think it's safe to say we're committed to that but I understand the scepticism because historically government would go to a large provider and say can you do this give us a state-wide, tick the boxes and away you go, and in with the best of intentions that model will not come anywhere near the model that has that local relationship and and resourced appropriately the outcomes will be significantly better.

**Commissioner Lawrie:**

Regardless of whether they have a satellite service in that community or not?

**Adam Reilly:**

Yeah, exactly.

**Commissioner Lawrie:**

Exactly, yeah.

**Counsel Assisting:**

We've heard from your workforce that there's support for strengthening connections with Aboriginal communities to identify and support appropriate participation in the Family Group Conferencing and the broader family-led decision-making. So what steps are being taken to strengthen those connections between the Department and the local communities? You said you you going out down with them. Can you speak to that in terms of how that genuine engagement with with the Aboriginal communities is being fostered and being entered into?

**Adam Reilly:**

Are you comfortable for me to yeah, so I think it it does link a little bit to the conversation around cultural supervision because we want this to be at every level. There is and I'm sure the Commissioner would be aware of this there there is expectation on those of us who are Aboriginal people in very formal government roles to be true to community, true to ourselves and culture, so I'm acutely aware of that every day walking into that building. My expectation of the team and it's their expectation of the system, is that we are working much more in partnership with community. It's difficult because of our history as an organisation but I do believe that the messaging and the conversations that we're having with our community stakeholders, notwithstanding the trauma and pain that people have carried, people are starting to see that Aboriginal staff inside the organisation are our aspirations are in line with each other, that we want it to change, we want it to be more empowering for families, we want it to not be just this system that in increasing numbers removes children from Aboriginal families. The bit that we need to establish, and it will take time, is creating that routine process of having conversations, making that a safe space and for the relationships to develop. We've started setting that that platform I'd even be confident those before us had started some work in that space but it's a real focus now having an Aboriginal Deputy CE to make sure that the connection between the Aboriginal workforce, which are a passionate strong group of staff, and a higher proportion of the workforce than some of the larger child protection jurisdictions around Australia to make sure that's in line and co-supporting the voice from community. I think the strength for culture is something both of the cohorts need us and our community stakeholders because it is such a an overpowering system it has so much history and trauma that without working together you very quickly run out of energy and it becomes overwhelming. So I see the significance of it, I'm satisfied the majority of our Aboriginal staff see that as well. It's about making sure we have that respectful engagement with the community and work together in reclaiming some power and authority in the space.

**Counsel Assisting:**

Thank you. April have we got any further questions with respect to Participation?

**Commissioner Lawrie:**

I've heard from from many Aboriginal children about their experiences and one of those have been about their voice being heard and not being afforded their own participation in decision-making about their own care, often in the context of Family Group Conferencing, and are you aware of the concerns being raised by Aboriginal children and young people about their lack of engagement in their in their own decision-making about things that directly affect them?

**Jackie Bray:**

Commissioner as as you as you do I I also reflect on conversations that I have with children and young people and that I mean there there's many things that they'll tell me about the system and that's the beauty of engaging with children and young people because they will tell you, if you if they think that you're going to listen they will tell you around their experiences and absolutely I think that is something that they will talk about, not being, you know, not being heard as part of that or not knowing what was going to happen to them and I think that that's resonated really strongly with me in regards to moving forward on what we need to do about their participation in this because it is about them, it's it is, you know, it's you know it is about them, we have to hear that voice, we have

to allow that voice to be heard and and if it's silent we've got to go again because it will be, you know, I don't think I've met many young people who don't have want to have a particular say around how they're treated and what what what they how they feel that the system and that there engaging within is there to support them is is is performing and I think we just need to listen more.

**Adam Reilly:**

We we also underestimate I think children, we make assumptions based on their trauma and you think oh you know that poor child they've been through so much, let's not add to that, let's not do this but.

**Commissioner Lawrie:**

That's what I often hear from practitioners their explanation as to why a child has been excluded from a decision-making process

**Adam Reilly:**

Yeah and you think it's just such a it's such a false assumption the fact that those children have come through such trauma and in many cases achieving things that are important to them it it just it's it's a missed opportunity and I think.

**Commissioner Lawrie:**

But it's also their right.

**Adam Reilly:**

Absolutely but I think to a case that was brought to the Commissioner's attention recently and it was some some young children and the Commissioner rightly said what what is the voice of the young person in this and it took some time for me to bring the internal stakeholders on that journey to actually have the conversation with the children and it got to the point where I I intervened directly and had a conversation and the children were articulate, they were very thought out in terms of what their voice was and it was clear and consistent and we were able to say there's there's what the the children have said and then for us to respond in terms of delivering on that.

**Jackie Bray:**

I told you I I when I when I engage with children and young people I tell them that I have to be accountable to them, that they should hold me to account, that they you know absolutely that we should as a system, it's it's not the other way around and also as well the just just how how deeply when that was said to me actually by an Aboriginal young woman, how deeply that I took that is that she recently came and shadowed Adam and I for the day because we were we were just generally talking about you know how how that accountability occurs and what sort of happens and I said I'll go be hon- cause she was, you know, she was said to me you won't come here again you won't listen to us again and I said to her I absolutely will you can absolutely hold me to account you you should hold me to account to what this is and I just said I'll go beyond that, why don't you come why why don't you come into my world and just see see what I do, you know, you are why we're all here this is what we're all doing it for. I think we've had two so far many others sort of wanted to come along as well but just to sort of it it it's not it's not everything but but it just demonstrates to them that we know we we we do intend to do we know, do intend to do what we said we're going to do.



**Counsel Assisting:**

In terms of accountability in explaining to children the situation that they find themselves in, it's a practice in the Youth Court the Crown Solicitors to seek to waive the requirement for service of any documents on the children and what's put forward regularly is that children shouldn't know about it's it's too traumatic to know why they've been removed and what the history of their parental inability to care for them is, it flies in the face of of children being able to understand and then later in life to to have that sense that they were not lovable enough that they were at fault that something was wrong. Is that something that needs to be changed in terms of a practice within the the Court jurisdiction when we get to that situation?

**Adam Reilly:**

There's an opportunity in terms of when we look at I I agree some of the content is not age appropriate and I would would say it would be really inappropriate for us to give verbatim some information but in the same way that we target communication around other topics so that children receive a message that is age appropriate and they're informed and they feel part of the process, that is something that in theory could happen in that space. The summary could be updated so that it's more child safe rather than just completely precluding the young person but no I I think that's a really good point and it is something that could have some some traction but again that's a conversation we'd have to have with partner stakeholders.

**Jackie Bray:**

And again I'm going to give my opinion and Counsel, Commissioner, I'm not a clinician, so I just put that out there, I'm not a clinician also you know and I'm very respectful of of the profession however I hold a view that take and building on what Adam said about aged appropriate but I also hold a view as well that I think it's important that children have that connection to family, to culture and to community, so what resonates with children in regards to their their framing of, you know, the events and what's happened can be minimised and it, you know, they can receive that through other different sort of sense still of belonging, sense of love, sense of a family, sense of a culture and a community and I think that really you know the documentation that you're referring to there there may be strong evidence, there may be people who more clinically qualified than I, I think what sits with me is what resonated when you were saying about how that how that child feels about that and I think there is things that we should be striving for all the time that that goes back to the Commissioner's point of view, it is a right of a child to actually have that connection, it's is their right. So I think that's where I sort of feel in some of those particular yeah those particular.

**Adam Reilly:**

It could even be conversational in terms of the the information sharing and the the connection to what's happening around them but with yeah safety at the centre for the young person.

**Commissioner Lawrie:**

Cause one of the things I would I wish to raise coming from the perspective of children and young people is that whilst their voice is really important, that their right to family is is equally important and that sometimes they don't know who their rest of their family is other than their parents and their, particularly when they're really really young, my question then to you is and it goes back to the point around offering Family Group Conferencing versus mandatory. In in the previous legislation it talked not necessarily about Family Group Conferencing but about consultation there must be

consultation with an Aboriginal organisation gazetted, so there is ample opportunity in processes to engage with family and to have the family at the table for the benefit of their Aboriginal child. Is the current practice of the Department and the way it manages Family Group Conferencing not for those who they outsource contracts to, whether it be Relationships Australia SA, but for your own Departmental Family Group Conferencing, cause is that still still happening? Is the Department still running its own Family Group Conferencing or has there been a decision to only go to a third party to be the convenor of a Family Group Conference?

**Adam Reilly:**

I don't know that there's been a decision to stop Family Group Conferencing internally but I think it does link back to the conversation about capacity and prioritising and quarantining resources. So as you know I'm of the view these are the way forward to ensure that they happen even if they are something that should with workload it's not always happening. So we need to prioritise it and take the workload issue out of the equation to make sure that it occurs. I don't know if there has been a change I don't know if you've been made aware of a change.

**Jackie Bray:**

I no I'm not aware of a change and I do know it is happening in more regional areas, so I do know that that our staff are still undertaking Family Group Conferencing in those more regional areas.

**Commissioner Lawrie:**

And so my question to you in relation to the first part of my I guess statement, are your staff, you know, skilled enough to run an effective Family Group Conference, particularly take into account the issues that we've heard about engaging with the Aboriginal community and with the Aboriginal families to know who to bring to the table rightfully for the child and their right to their family to be involved in a participatory decision-making process?

**Jackie Bray:**

Yeah, I can answer a couple of those Commissioner what first is I think there is opportunities for improvements there I I I think I think it would be remiss of me not to sort of say that there is opportunities of where our staff could be more skilled than that I think we've demonstrated in the last day and a half that there is some proficiency some more cultural proficiency training that's needed to happen across the whole of the work workforce. I think from a probably secondary, and and please bring me back on track if I if I go off track here but, it was just resonated me with when you were articulating about our engagement with families and what we do, a strong sense of what Adam and I since I've come here is about taking our children back to their communities, back to Country, really expanding that type of right cultural right and and connection and the right that they have to their family and that was born out of listening to a staff group tell me about a a a young person that was in residential care and they took them back to Country and her words to me was I didn't see him for two days because he was just off with family, he was just with with family every day new family that he'd had not met before or coming to see and blah blah blah which was. So firstly I want to do more of that secondly what came to my mind and that I've positioned the organisation is to tell me why is that young person not with family then. So you're telling me that for days and you know while you've had this visit back to Country, why aren't they with family, you've articulated that this family was around it but at that so sorry I I didn't mean to digress from your particular but as soon as you started talking about connection with family, this this type of these

types of I guess steer that we need to bring the agency back in line with, sort of saying that is not a nice to have returning back going back to visit family, it's a right and we have to we have to it is our it is our requirement to fulfil that right of that child. So so we've already started to sort of say this needs to happen these need to happen.

**Commissioner Lawrie:**

And just one more question for me in relation to that, are your staff skilled to be able to ask the question age appropriate in regards to where children want to live or feel where they should live when they're being consulted about their own care arrangements?

**Adam Reilly:**

I'm happy to respond to that one. I think our workers would say that are clinically qualified to ask the question but in terms of the cultural overlay, in terms of the significance of connection to family, to Country, I would say that's an area that needs the development because with a purely clinical lens the response would be different to a clinical and cultural lens and for Aboriginal children the cultural component of that question is significant and in many cases will be quite different to the standard clinical yes/no because there are so many layers when you think about the primary attachment and definition of family etc. So I couldn't say that we've got that right, I think that's the stuff we need to focus on.

**Commissioner Lawrie:**

And when you referring to clinically qualified are you referring to those who might be a psychologist or those who might be a social worker?

**Adam Reilly:**

Yeah, primarily yes because in terms of the.

**Commissioner Lawrie:**

Primarily social work or primarily psychologist?

**Adam Reilly:**

Allied health professionals broadly, yeah. I think those conversations or those decisions generally involve those those two Allied health professionals however again as the organisation becomes more culturally proficient the voice of Aboriginal Family Practitioners, of Principal Aboriginal Consultants, this is the the multidisciplinary response for a family, that's where they should be having the floor as the expert on culture in that space which will change or at least very strongly influence the outcome of what the the placement looks like.

**Commissioner Lawrie:**

The reason I asked the the question as I've heard from families throughout the Aboriginal community engagement process and having heard from Aboriginal children and young people that often the question is a very is approached in a very simplistic way with where do you want to live and depending on the child's context that day, on their age, their cognitive development, all those sorts of things aren't taken into account it's just the way in which of the stories have unfolded have been around a very simplistic approach to that question being asked and not done in the appropriate way.

**Adam Reilly:**

And when you think about the significance of potential impact in just just that one seemingly simple conversation, what that can mean for a child, it's a very significant change in trajectory because it is it can be a profound life-changing decision.

**Commissioner Lawrie:**

It's a critical decision-making process...

**Adam Reilly:**

Yeah

**Commissioner Lawrie:**

That is approached in a very simplistic way with huge impact on the trajectory for the Aboriginal child.

**Adam Reilly:**

I I would.

**Commissioner Lawrie:**

Often when there's a non-Aboriginal care context.

**Adam Reilly:**

Yeah, I would say there are staff in the organisation who are very good at that, but I wouldn't say across the board that we've got that right that is something that needs to be a priority and it links very much with the the cultural focus for the organisation.

**Counsel Assisting:**

Moving on to Placement, it's the Departmental policy to run Child Protection history checks for any proposed carers. Given the issues already identified regarding notification records, which can be inaccurate and malicious, and that Aboriginal families are significantly more likely to have been notified to Department than non-Aboriginal families, does it not follow that this requirement disadvantages Aboriginal carers as compared to non-Aboriginal carers?

**Adam Reilly:**

You happy for me to speak to that one. This is something I've shown a keen interest in and I've spoken with the Commissioner about my concerns, yes it does it also limits potential kinship carers for young people, there may be historical offenses even not related to what we store in our own database that preclude potentially very suitable and committed carers while a child could be sitting in residential care and we aim through the initiative at the moment to demonstrate there are children there who could be with a person who is completely suitable but for a statutory reason in legislation or within a policy underneath that, that they're precluded from doing that. So there's there's two parts to this or three in theory, one is the role of our information that's on C3, or our our database, how that is assessed in partnership with what comes from police records and how a decision is made whether that person can be a carer or not in an in a efficient way in a short timeframe. If we look at other jurisdictions and I think Commissioner you've made reference to one jurisdiction in Queensland but even in the Victorian jurisdiction if there is an adverse finding as part of that process to be accredited to provide care the delegations are much lower in terms of who can say yep I see that it doesn't apply in this instance, it could be something from when the person

was a teenager and it was fines or a licensing issue it's not relevant, and that process is very quick because it's a check of all of the evidence and at the appropriate delegation that's moved on and the placement continues, here it sits at the Ministerial level and that's quite that creates quite a process in itself. So there's two parts that I see as both an opportunity and priority for us one is to streamline our process now in the current context the other is to look at opportunities for either legislative amendment or or if there are provisions in the legislation for delegation to be pushed down from a Minister level into a Department. They are two opportunities that I think could have really positive benefits for community particularly for Aboriginal children in having access to an Aboriginal carer that's suitable and at the moment that's not always possible because of that that issue.

**Counsel Assisting:**

And the same applies to the the disproportionate representation the criminal justice system, as you say historical, criminal...

**Adam Reilly:**

Yeah.

**Counsel Assisting:**

Proceedings that may have nothing to do with care or the potential to care preclude Aboriginal families from from being carers.

**Adam Reilly:**

I can I can give you a rough figure from my role in another jurisdiction sitting as an Executive Director then, I would approve probably and it wasn't just Aboriginal carers but obviously you would see Aboriginal carers over represented in these approvals, I would waive the the well there's a the tool is the the adverse finding I can set that aside and approve and that's at the ED level I would do between five and six of those every week and those are placements that in South Australia we might not access because of the process difference so.

**Commissioner Lawrie:**

And that could have prevented a whole range of kids ending up...

**Jackie Bray:**

Yep.

**Commissioner Lawrie:**

In or prevented ending up in non-Aboriginal care.

**Adam Reilly:**

That's right.

**Jackie Bray:**

And my my aspect there is that we do that for employment decisions at the minute now but we don't do it for caring decisions. We have an opportunity to be able to.

**Commissioner Lawrie:**

So there is a systemic issue that you've just identified.

**Jackie Bray:**

Indeed we have, yeah.

**Commissioner Lawrie:**

So is the Department addressing that systemic issue?

**Adam Reilly:**

We're definitely taking action.

**Jackie Bray:**

We've had conversations, yeah.

**Adam Reilly:**

And we've partnered with our colleagues in Department of Human Services who manage the Screening Unit for the process. Both Ministers have been briefed and everyone is across the the issue looking for a way forward.

**Jackie Bray:**

Yeah.

**Counsel Assisting:**

Good, thank you.

**Commissioner Lawrie:**

Thanks.

**Counsel Assisting:**

The DCP Practice Manual states that the Case Worker should where reasonably practicable obtain written consent from the proposed temporary career and adult household members for the checks that are done, the the Child Protection history check and the criminal history check, when written consent is not able to be obtained then workers should first obtain a verbal consent. We've heard evidence that those checks are undertaken without any consent and without even any knowledge. Can you understand that Aboriginal people might see those checks as a means of the Department screening them out rather than screening them in?

**Adam Reilly:**

Yes.

**Counsel Assisting:**

And when Aboriginal family or kin are not approved as carers because of those decisions they are not told of why the decision, there's no there's no consultation with the family about they just told they're not appropriate and it's not they're not engaged any further, they're not given a right of reply. Is that appropriate?

**Adam Reilly:**

That's what you're describing is not appropriate but I'm also I'm also not sure that's how the process works so my understanding is if someone has precluded.

**Commissioner Lawrie:**

So it's not a mandatory process to do Police checks?

**Adam Reilly:**

Yeah but as part of the process because the Department as in Child Protection has sort of the the arm's length arrangement where Human Services do the screening. My understanding of the process is the the applicant goes through that and if they are precluded or if they if the Screening Unit decides that they're going to recommend the person be precluded as a carer that they are sent a letter and given a reply period of 21 days to come back with a with a, it's the natural justice principle. So if what you're saying is occurring I'd be really interested to look closer at that because I've watched a couple just go through that I've had an interest in for the same reason though were historical unrelated matters and I wanted to see how that experience was for the Aboriginal carer, but the the Screening Unit wrote back and said based on these historical matters we intend to prohibit you you now have X amount of days and that allowed us to put letters of support and put a response. So I'm not questioning the information provided I'm just interested to learn more and I'm I'm happy to look into that.

**Commissioner Lawrie:**

But that's particularly in reference to emergency section 77 removals, unapproved carers.

**Jackie Bray:**

I think that's.

**Commissioner Lawrie:**

Using the Police checks to actually exclude rather than include relative carers.

**Jackie Bray:**

I think that maybe where Counsel, I'm thinking Adam, might be that sorry in the fullness of discussion I was just thinking I was wondering if you were referring to the carer assessments rather than the actual screening of the Police checks that throughout the career assessment process that they're precluded because of Police check police check information that they've got. We can definitely check that on notice and have a.

**Adam Reilly:**

Because those two processes are interdependent and I think what the Commissioner's just referred to is those emergency placements where our staff might just do a Police check then not provide any context back because under the Act we can place with people before this formal process and I think Commissioner you're saying that this might be relating to where families have nominated to be the carer for this emergency situation we've done a Police check not said anything to the family and gone back and said no with no context, yeah that's that's definitely not okay from our perspective as leaders of the organisation. If people are willing to put their hands up to say I'll be a carer in an emergency situation, the very least we can do is go through that process with them together and have a conversation and a right of reply.

**Commissioner Lawrie:**

Well I can tell you I've been an emergency carer for a relative an infant and I had a Police check done on me as a Commissioner for Aboriginal Children and Young People, what was the purpose of conducting the police check?

**Adam Reilly:**

I don't know that we could get away from the due diligence component and I I've had a Police check myself but for me I think it's about.

**Commissioner Lawrie:**

But yours as an employee of the organisation.

**Adam Reilly:**

And I.

**Commissioner Lawrie:**

This is about a carer, which the point you raised before.

**Adam Reilly:**

But the process part for me is how we communicate and engage with people I I would actually defend the Police check decision for a child, I think it's I think our society would expect that the system do due diligence to make sure the information that may be available is considered but the process in which we use that information it should be in a respectful partnership with the person that's put the hand up to provide care. So in your situation Commissioner the conversation should have been these are the steps that we go through and we do that in a respectful partnership, not as you've described Counsel where people hear nothing until they're told no and there's no right of reply, yeah no that that's that's problematic.

**Counsel Assisting:**

Thank you.

**Jackie Bray:**

It is also as well, sorry I I don't need to keep adding, but it's also as well something that the work that we're doing around getting more children back to family and and then when we think about, so this is currently in resi-care and if we think about then and it is our intent to sort of have a look at preventing you preventing young people and and children even entering residential care, that that should be our primary goal. To enable us to be successful at that we have to look at our our placement and our and all those decisions that are made as part of that, it's it's it's absolutely fundamental that we have to you know we we should go back and just really understand as you say there may be very genuine reasons why it is either A we need to communicate that but B also as well where's, you know, who makes those decisions around around that and how we how we look at any barriers and systemic issues that are actually preventing from those young people going into the family that that should be really where we we put our focus as well.

**Counsel Assisting:**

Additional issues have been raised about approval for kinship carers as well as any other significant others or frequent visitors. The section of the policy refers to the assessments of DCP Child Protection history or unmanageable risk, what does unmanageable risk mean in terms of excluding people from the household if there's a if children are placed with a carer?

**Adam Reilly:**

So it's come, are you happy for me to?



**Jackie Bray:**

Yeah, sorry I didn't I didn't catch the question entirely, sorry Counsel, sorry.

**Counsel Assisting:**

Part of the the the in, sorry, in approving kinship carers is one of the the policy things states that there has to be an assessment of Child Protection history for frequent visitors to the house as well as household members and anyone who will be in a supervisory role with the child and an assessment of whether there's an unmanageable risk with respect to those people before they're excluded from the household. What what's the definition of unmanageable risk in those sort of circumstances with a frequent visitor to the household?

**Adam Reilly:**

So when we use terms like unmanageable and obviously we want the household environment to be as normal and least institutionalised as possible, despite our involvement, unmanageable risk is when there are too many variables that are outside of the control of the person or the Department when it comes to the protective factors that we need to see in the home. So it may be that we have a care arrangement with someone who is a good carer is protective, the the children are thriving but someone routinely comes to the property substance affected and and disrupts that safety, that's probably one of the more common issues. If there is a way for us to...

**Jackie Bray:**

Manage it.

**Adam Reilly:**

In partnership manage the risk it becomes it's identified as a manageable risk, it's unmanageable when there are too many factors that can't be addressed safely. In a cultural context.

**Commissioner Lawrie:**

Who makes that assessment?

**Adam Reilly:**

The assessments left with the allocated workers and they will they will reach out to their Supervisor or Senior Prac but in a cultural sense, when you don't have that cultural knowledge at that level in your day-to-day practice and you focus purely on the established risk matrix and your clinical expertise, seeing a house from a street with a number of cars parked and a lot of people walking around could be interpreted as a risk factor, when in fact it's something we should celebrate in many ways in a cultural setting.

**Commissioner Lawrie:**

But that's a racist cultural bias.

**Adam Reilly:**

The subconscious absolutely, so once we afford our practitioners the understanding of what the dynamics in a cultural sense mean, having that environment for a young person it is actually a huge strength and there are a series of role models and there there's just so much to draw from that, we'll see a shift in the perception of what that risk means. So the the the actual principle is quite sound in terms of its intent, it's our application that we're we're going on that journey with practitioners on.

**Commissioner Lawrie:**

So who writes these risk tools? Who creates them?

**Adam Reilly:**

In term well there's the.

**Commissioner Lawrie:**

In order to understand whether it's a unmanageable or manageable risk, who writes, where does the, what's the reference point and who writes these reference points, like assessment tools etc?

**Adam Reilly:**

So we have a Quality and Practice Directorate that looks after all of the policies, so the interpretations of the legislation how we operationalise that. In that there are a number of practitioners with different clinical lenses, what we aim to do is increase the cultural lens into that space. So as we refresh and go through the various policies and frameworks that we have we aim to introduce more and more cultural content to help people understand coming into the space, how we operate and what risk looks like. If we have the information that staff source from there in partnership with the training experience and the cultural immersion, I think you'll see much more sensible rounded decisions when it comes to assessing those risks.

**Commissioner Lawrie:**

We've heard from Dr Tracy Westerman, who's an expert...

**Adam Reilly:**

Yeah.

**Commissioner Lawrie:**

In this particular space, who who talks about actually a rewrite of variety of assessment tools from the standpoint of a cultural context because just adding to something that is already franchised in a very systemically racist context doesn't make the improvement.

**Jackie Bray:**

And I think I referenced yesterday too about the current we only have that one one current validated tool and I absolutely Commissioner respectfully think that there is a requirement for us to look at those particular tools and that has been not my voice but that has been the voice of community and Aboriginal staff members, yeah.

**Counsel Assisting:**

Just leading on from that the exclusion of some frequent visitors to the household can be problematic in in Aboriginal families where where the family within that household, particularly if they grandparents or kin, are the very ones that a parent who has Child Protection issues relies on them for the support, particularly in South Australia now where housing is just critical critical and so the only place these people would have to be not be homeless is to go into that household and they're then determined to be at risk and excluded. If that's the parent of the child you've removed they're then homeless, their chance of addressing the issues that have been identified if, particularly their drug and alcohol issues or the domestic violence issues, where do they go and how does that address helping them to address the the Child Protection issues and become capable of taking that child back into their care?

**Adam Reilly:**

And we've we've we've adopted a healthy risk appetite in that space because I agree there needs to be self-determining factors, particularly if you have a strong carer that you know will be protective of the child and in partnership and with support available on demand can call and ramp up as needed. We've applied in at least two cases very recently where we've put a separate dwelling at the property.

**Counsel Assisting:**

Right

**Adam Reilly:**

It's met our legislative requirement, it's met the requirements of safety but it's maintained the connection and the self-determining approach. I think the flexibility around what accommodation is and what our perception of accommodation is is evolving in line with the requirements of the housing crisis but in this instance the response in both of the cases was it is there is an issue that in the system identifies that this person under our current rules can't reside in the property however we've been able to identify an option where there are clear safety plans that have been signed and the contact with the main house is clearly outlined but there's still a connection, that little person knows dad's outside dad's not somewhere unknown and we working with them. So they're examples of where I hope we're demonstrating the Department is starting to make a shift in that direction.

**Jackie Bray:**

And also it lends itself to that conversation that we were having earlier around the whole of government. So this is about we cannot you know we we cannot although it is paramount, you know, the the best interest of the child but this is in the best interest of the child this is about having the right supports for family members. So the whole thing about child protection and family supports is to ensure that we start trying to work across government around what can we do what supports do we need to have for the people that are significant to these young people to actually make sure that they they are safe and and that they but also as well that supports made available to these, you know, like parents, things like that, to try and you not just sort of say well we we've got our we've got our eye on the child and that's fine it's about what what are we what's in the best interest of that child and that's to have those relationship with those significant people to them.

**Counsel Assisting:**

Thank you. There's also issues that have been raised around the timeliness and the effectiveness of family scoping and it appears that in practice it's either happening too late or without input from Aboriginal family and community. DCP staff have commented in the workshops that the current mechanisms for family scoping is inadequate. Can you comment on on that?

**Jackie Bray:**

Are you happy, I mean I'm happy to turn around and say I think there there we absolutely I think there isn't enough and I do think that it is at a at a later stage and I do think when we are relying on people that are part of the system while being faced by the trauma of removal of children and we're asking those very same people around the identification of people around around that child is insufficient because I think that you know they they're processing the trump they're processing the events that are occurring there and then. So I think the the way that we want to expand that and

work on that even even more would be to the speaks to the heart of what you've been coming through and saying in regard to family finding.

**Adam Reilly:**

It does and and it's in response to the voice of our staff, in terms of they they're saying to me I don't like going home knowing I haven't done everything I could for a child or for a family and the family scoping came up time and time again as the number one thing because they know the alternative is a series of foster placements and potentially residential care so they very much want more of this but we've been able to identify due to the sheer volume and the high-risk nature, particularly in the investigation part of the child protection system, that this important function they two incompatible priorities to sit side by side when it's the emergency response going out to assess the unknown, it will always take priority in that context, so in order for this critical task to occur we've had to separate that as of.

**Commissioner Lawrie:**

Well it used to be a function that belonged and sat in the Aboriginal community, until the State made a decision back in 1997 to remove that.

**Adam Reilly:**

And I think part of this this learning that we're on is looking back and saying what what did happen in the past because what we're doing now is clearly not hitting the mark, we're seeing growth in the wrong part of the system and bad outcomes for kids and families. The activity that we've just started and and I acknowledge I should have been more thorough in my research before kicking off but I think very quickly we'll we'll start to identify, through all of those stakeholders, what were things that have worked better in the past and I agree the Department or Welfare should not be automatically the people going looking for family.

**Commissioner Lawrie:**

Government doesn't know our families like our Aboriginal communities do.

**Adam Reilly:**

Exactly right.

**Commissioner Lawrie:**

Government is not best place to find families, like the Aboriginal community does.

**Adam Reilly:**

So I'm really hopeful and confident that we'll be able to pick up on the best practice from what you described Commissioner and we come up with something co-designed that draws on that experience and that model, in the same way not just in terms of the experience of people that we're here to serve but also in terms of the community and its involvement, ownership and autonomy in that space, that's our intent.

**Counsel Assisting:**

Thank you. Placement decisions are being made prior to any consultation with the RATSIO and then appear, from the case analysis that we've looked at, they're not revisited. I think we mentioned

yesterday that often the consultation with the PAC and their RATSIO is appears to be a tick in the box process rather than an actual genuine consultation. How can this be addressed?

**Adam Reilly:**

So it is very much linked to the family scoping issue and even if you go as far downstream in terms of annual reviews the the focus and the missed opportunity each time we do the tick and flick on that it just means that history will continue to repeat in terms of the trajectory for the child. The bit that we are demonstrating with this initiative is that for the important and critical tasks we need to take that workload away from from the staff. So I'm confident in terms of what you've described we'll start to see, by quarantining and setting up a process, the revisiting of the placement. So where we were talking before about a young person might be residential care for a number of years there would be those routine revisits of the conversation. I like to think that there are monthly care team meetings for each child in care, now I can't say that there are at the moment but I'd like for that to be somewhere that we're at and each month I would like us to have a conversation about the placement, where is the family scoping team up to, have we thought about and I'm hoping to get to a conversation about cultural support plans I think that's something that should feature in that monthly conversation as well. So there are a number of things where once we create the capacity in the system, we can implement some of those must dos and the frequency and that will address exactly the issue you've described.

**Counsel Assisting:**

Thank you. There's also issues that have been raised around the compliance with the placement hierarchy, with children being placed with what the Department has determined to be kinship carers and then that being being deemed as compliant, even if those carers are non-Aboriginal or are not recognised according to the Aboriginal culture and kinship rules themselves, also considered to be compliant if the child is placed in residential care run by an ACCO, which doesn't guarantee that there's any cultural connection at all. Do you consider that the current practice is in keeping with the true intent of the Aboriginal and Torres Strait Islander Child Placement Process and being applied to the standard of active efforts?

**Adam Reilly:**

So I don't. In terms of the conversations that we're having in that space, I'm sorry Counsel can you just repeat the last two dot points for me?

**Counsel Assisting:**

Sorry, the placement decisions are being made without any consultation and they're not revisited...

**Adam Reilly:**

Yeah.

**Counsel Assisting:**

And the hierarchy is not being complied with the the children are placed with what the Department determines to be kinship placement but not they're not necessarily under the what the Aboriginal community would decide was kinship and that's then deemed to be compliant, even if they're non-Aboriginal people they're placed with, and if a child is placed in residential care run by an ACCO...

**Adam Reilly:**

Yeah okay.

**Counsel Assisting:**

That's also considered to be compliant whereas there's not necessarily any cultural connection whatsoever or the cultural connection consists of being taken to a NAIDOC festival...

**Adam Reilly:**

Yeah

**Counsel Assisting:**

Once a year.

**Adam Reilly:**

It resonated when you said it because this is something that the PACs have raised with me as well as Aboriginal Family Practitioners. So what they're saying is they themselves have been vocal in this space but not felt heard in terms of the case direction. So it links very much to that bigger picture about positioning and the voice of both our Aboriginal staff but also the community. What's missing for me in the current process is the oversight, so who says it's okay that that's a equivalent of a kinship placement because an ACCO runs or resi, who's reviewing this, who's over sighting that.

**Jackie Bray:**

Yeah, I don't know.

**Adam Reilly:**

And that's part of our review process that doesn't exist yet but that we are wanting to build to.

**Commissioner Lawrie:**

I bet you it isn't Aboriginal people.

**Adam Reilly:**

Pardon?

**Commissioner Lawrie:**

I bet you it isn't Aboriginal people that's deciding that.

**Adam Reilly:**

Yeah, I think you could be right and it's a very broad interpretation regardless of who's applying that but that's come to be and the Aboriginal staff have told me that's come to be purely because there's just been no governance over the the compliance with that.

**Counsel Assisting:**

And is that coming?

**Adam Reilly:**

Yes oh absolutely.

**Jackie Bray:**

And I don't I don't I don't know again as part of the discussion, I'm I'm not aware Counsel that placing Aboriginal children in residential care under the management of an ACCO was part of that

came into our statistics, so that's something new if you're if you're saying that's what the staff group are saying is something that I'd really like to take on notice cause that to me is not a, you know, that's not a principally something that would go towards our target so I need to have a look at that.

**Commissioner Lawrie:**

Yes, we've heard that particularly in reference to the the RATSIO placement.

**Jackie Bray:**

Yep wow okay all right, I'll take thank you I'll take that we'll take that on notice as well.

**Commissioner Lawrie:**

As they have multiple residential care...

**Jackie Bray:**

Yeah, they do they do.

**Commissioner Lawrie:**

Units across South Australia.

**Jackie Bray:**

And of course I'm thinking about our current target and if you're saying that's included in that, I'd like to just look at that.

**Adam Reilly:**

Yeah but I think that the the Commissioner was also making reference that, oh might be yourself Counsel sorry, that even though the facility is Aboriginal governance applied to that the actual experience of an Aboriginal child in there they may not see an Aboriginal worker on every shift there.

**Counsel Assisting:**

There's no connection to culture. There were also issues raised around the Winangay assessment tool, the policy states that it must be used for any Aboriginal carers or carers of Aboriginal children. The question is around delayed identification of Aboriginal children, if it's they're not identified at the at the intake point as Aboriginal, the assessment it appears the assessment of carers is not revisited using the Winangay tool, so and additionally are there any Winangay assessments undertaken by Aboriginal staff when they're being done or is it just a general application of the the tool?

**Jackie Bray:**

If I can ask if I can, you might be able to answer the assessment process and more procedural aspect of it, but just to go back to the identification one, obviously as part of the part of the Aboriginal children and Child Placement Principles, clearly some of some of my me educating myself about the meaning behind that and interestingly the identification one and when I sought counsel to other people about how, you know, on what we do and the identification from being at the centre of what we do and it's really resonated with me and and broader in conversations with our Aboriginal Practice Directorate in regard to that identification has to be the first one, so it has to be the first one for us to actually ensure that and we've identified we've identified that and one of the reasons why it has to be is because it appears that we don't then, you know, it appears that we our practice

of going back and applying maybe some of the early early aspects of the placement principles don't get revisited. Now the Practice Directorate assured me in the Manual of Practice that that's what actually would would determine but again I think that I've heard evidence as you have in regards to when an identification hasn't occurred then you know some of the decisions that were made for those young people are not revisited but in regards of the utilisation of the tool I I don't know if that's Aboriginal staff who actually administrate that tool and complete that tool or if it's just all staff.

**Adam Reilly:**

I don't know that it's Aboriginal staff that administering, I do know the tool.

**Commissioner Lawrie:**

It's part of the case planning process...

**Adam Reilly:**

Yeah.

**Commissioner Lawrie:**

And it's usually the practitioner. The question I have is who gets to do the cultural accountability of the Cultural Identity Support Tool?

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

And you've got the data from the Department that speaks of many being put in place.

**Jackie Bray:**

Yeah, it's there at 90 something percent now

**Commissioner Lawrie:**

But who does the cultural overlay of assessing whether those Cultural Identity Support Tools are in fact culturally appropriate? Are they are they what the child actually needs, are they really enabling the child to maintain a connection to family and to community and culture to uphold their cultural identity? Who gets to do that?

**Jackie Bray:**

I don't I don't know the I don't know the direct response Commissioner, all I can tell you is in my questioning to our Director of Aboriginal Services they've been pretty clear to me about an absolute asserted effort in regards to that and those particular plans and you see and you see yourself you look at the data trends of going from quite a low base to now it being a significant aspect and process of that particular planning stage. I'd have to take it on notice around you know how do how is that used on not, I guess I I just I I guess respectfully I just took some comfort in our Director of Aboriginal Services being supportive of the efforts that we've made in that particular direction but I can take on notice specifically who who's that. Do you know do you know anything in here about that?

**Adam Reilly:**

No I think that's it would be good to take on notice but when you were describing the late



identification, I'm trying to think of the client experience in that process, what I suspect is that there's no identification and a foster a foster placement has occurred once the identification occurs that our efforts are not focused on the tool and then looking for kin but instead saying well there's maybe some attachment here just leave things and let that play out, that's what I suspect.

**Counsel Assisting:**

That's what we're hearing.

**Adam Reilly:**

Yeah, that's what I thought it might be.

**Counsel Assisting:**

That's very much what we're hearing, with that Western idea of what attachment is...

**Adam Reilly:**

Yeah.

**Counsel Assisting:**

Being overlaid. It's 2 minutes, it's almost 1:30pm and I'm aware that you need to be away by 3pm today.

**Jackie Bray:**

I was just going to say Counsel I just wanted to make sure.

**Counsel Assisting:**

Sure, no I haven't forgotten that. Could we Commissioner would you be happy if we just have a half hour break for lunch and come back because there's probably an hour's more work.

**Commissioner Lawrie:**

Yes, it's lunchtime.

**BREAK**

**Counsel Assisting:**

We'll restart looking now at the attachment and permanency planning after the changes to the legislation in 2017 there's been a greater emphasis on timely decision-making which means that long-term guardianship orders are being sought earlier and earlier by the Department, this is born out by the data and the evidence from BetterStart which shows that there's dramatic increase in Aboriginal children being placed on long-term orders before the age of one year, as compared to a decade ago. How to explain those trends given the commitment to reducing the overrepresentation of Aboriginal children in the in the Child Protection system?

**Adam Reilly:**

You happy for me to speak to that one? So there's there are concerning trends there but at the same time I would not want to recommend a blanket implementation of extending timeframes. So in terms of the process being sped up or quicker in certain cases, I would only be supportive of that in terms of the the views of the biological family and the Aboriginal kinship option being something that is mutually agreed upon. If all parties are of the view and we're applicable the child's voice as well that this is the best long-term stable option for the young person, I would be questioning the

value in why you would make that process longer. If the long-term placement was not mutually agreed by all parties, I think I think that's when we have to apply really careful due diligence particularly if that long-term placement is being recommended with a non-Aboriginal carer. I think linking back again to our understanding and cultural proficiency in the organisation, our staff with the best of intentions are following a process which could in many cases, and history has given us plenty of evidence to support this argument, create permanent disconnection both from culture, from kin, from country, but more importantly from important family connections for me I've leaned into the space because this was the highest risk example that I could see, where when parties don't agree the cultural lens in the escalation and review cuts out at an inappropriately low level, so our efforts have been to look at the scope of this situation. There are children that are in the system now where the harm or damage in terms of connection culturally has occurred and they have developed a primary attachment to a non-Aboriginal carer and there is one matter where against every fibre in my being I was left with no option but to support the continuation of that process so much.

**Commissioner Lawrie:**

On what grounds?

**Adam Reilly:**

So so much damage had been done in terms of the voice of the family, the way that the biological mum was engaged with, the trauma that not only mum carried but has been increased by the experience going through the system the escalation processes that had happened in the past mum is completely disengaged and overwhelmed and severely traumatised and hurt by the process. The the problem for the young person is the way that we or the system handled their Child Protection matters, their connection to culture is has for them become a trigger, which is the opposite of what culture should be, culture is a strength and is something should be celebrated, but it is triggering for the young person, they've had such a severance of their relationship with culture for so long, and we're talking years now not months, that their only known person of security is this non-Aboriginal carer. Looking at that and looking at the trajectory back just embedded in me the urgency that this can't happen there can't be more children where the leadup to the conversation about long-term guardianship is the cane of the connection to family, to culture and to community. So for me it's all the way back here we need to start otherwise similarly to what we've seen in the residential care space in 6, 12, 18 months we'll see a series of Aboriginal children that have very limited, if any, connection to their family and to culture because of the way the system has engineered the process. So it's it's pulling that whole thing apart right back to the very beginning and ensuring that the Aboriginal voice is part of every step of the escalation all the way to the very top of that process.

**Commissioner Lawrie:**

So what will the Department do to actually reverse that? If there are long-term guardianship orders that are being sought out earlier than what we seen decade ago and we see the severance or the severing of relationship of an Aboriginal child within non-Aboriginal care to their family, to their cultural identity, to their Community etc, what will the Department be doing to address that?

**Adam Reilly:**

So the delegation for the long-term guardianship process sits in our roles, so I'm hoping that from our evidence today and yesterday that Commissioner you do get a sense of what our priorities and values are in this space. My commitment is that I won't support or endorse a long-term guardianship

order if I can't see culturally appropriate due diligence at every step of the way and I I completely respect the anxiety and the stress that the process causes non-Aboriginal carers but I respectfully remind our carers that this is about the child and if the child is Aboriginal their connection to culture must take priority over the wishes to have that stability in the carer household and that has to be demonstrated. I'm hoping that we will have with the cultural awareness, with the immersion and all of our strategies around the voice of our staff partnering with communities, that this move back here to proper engagement will occur, but in the interim there are going to be cases that are coming through where some of those previous practices have applied, where it will come to us and my commitment is that I won't endorse a long-term guardianship order for an Aboriginal child in a non-Aboriginal placement unless there is clear support from the biological family or thorough due diligence and it's not Department due diligence, it's the community due diligence, we've spoken with extended family, we've spoken with the ACCOs, we've spoken with everyone relevant to that young person's connection to culture and then make that decision. Previously what you will have seen is a narrative that says this is the primary attachment, we've arranged connection to culture and some of the examples I've seen have been very light on in terms of detail, one case where the young person returned to Country I asked for more detail and it was purely to play basketball at a stadium on Country once a fortnight, it was an in and out, that's not connection. So that appropriate cultural due diligence needs to occur.

**Counsel Assisting:**

Yeah, thank you.

**Commissioner Lawrie:**

I'll ask, I've got a question to ask.

**Counsel Assisting:**

Go on.

**Commissioner Lawrie:**

It is an extension to the fact that the delegations of long-term guardianship orders sit with you with you both. In regards to an Aboriginal child or young person in that instance, where will you get the level of Aboriginal input to help with your decision-making as to whether an application is warranted or not warranted? Cause I'm thinking about for yourselves having regard for the standard of active efforts before it even gets to the court who might provide an accountability with regard to that standard?

**Adam Reilly:**

Can I make just a brief comment just on that, I I think about two things one is that Chief Executives and Deputy Chief Executives are not jobs for life, so I'm really mindful that at some point something will happen and that we will be out of role, so I want to future proof the critical priority work that we focus on. So whilst we have an Aboriginal DCE with a what I hope is a a culturally appropriate lens, we want to make sure that's not just a point in time where it was good luck we had someone there, we want the system to continue with those values sorry Jackie you.

**Jackie Bray:**

No and Adam I'm just going to build on that actually by saying that and again it's not my as a non-Aboriginal person it's not for me to seek assurances in regards to the documentation is for them to

evidence to me. It's a really strong thing that I do believe that I have a very critically inquisitive sort of approach to to what I do and it is clearly that if I can't if it isn't demonstrated to me within that documentation and I'll always take the guidance from Adam anyway and I will always seek counsel to Adam and others in in for that matter Commissioner but but but also as well it is it is for others to critically inform me rather than me to justify views of others.

**Adam Reilly:**

In a in a cultural sense I'm I'm acutely aware of the importance of not speaking for other Aboriginal people without permission from appropriate Elders and that resonates with me all the time in terms of what I see is the power that comes with the role. So I my commitment in this and with all decisions around Aboriginal kids I have my own value set and my own opinions but I like to test them constantly and when I talk about future proofing it's creating that process of whoever's in the role with the delegation what is a reasonable, from Community standards, process of testing the eligibility to continue with that that process and I don't think it can be internal I think it has to be a partnership assessment going forward.

**Jackie Bray:**

And I think and one of the things I just want to touch on as well is Adam and I had quite lengthy discussions, prior to his prior to his appointment really, about the role that we wanted him to undertake and it was not just about, you know, it wasn't just about ensuring that we had a system that was responsive to Aboriginal children it was all children, there was definitely some consideration there in regards to ensuring that he fulfils the entire role it's for and of course in doing so was there was some definite prominent things we both wanted to do around Aboriginal children but it was also as well really mindful that it's it's about the entirety of the role to actually significantly make those particular changes to this system that's that that's sustainable really, it wasn't just about why we were in it, was being tested in in that system it was like how do you how do you really change the system, how do we bring community into this system.

**Counsel Assisting:**

Thank you and we've already touched on it but the Inquiry's heard a great deal of evidence about the Western attachment theory and its lack of cultural appropriateness when being applied to Aboriginal families and those models don't account for Aboriginal child caring practices or consider the practices in a strengths-based manner. We've heard evidence that with respect to the Aboriginal attachment theory Aboriginal children form significant attachments to multiple family members as kin, as opposed to the Western idea of the nuclear family and there being one primary attachment. In making decisions about permanency planning, it appears from the evidence that we've seen that the Western model of attachment is relied upon by the Department to justify the nonviability of reunification with the family, particularly with very young children who've been removed, and it occurs in both ways both the Aboriginal child rearing practices namely having many family members and kin residing or moving through the home is seen as a risk factor and also the Department don't wish to interrupt a child's perceived attachment to a carer. The DCP staff noted during the workshops that that attachment is used as a barrier, with the system not pursuing family or kinship placement opportunities for children who are seen as settled, in the Western sense of settled, in long-term care arrangements. Does the Department acknowledge that the differences in Aboriginal

child rearing practices and attachments exist and how those differences should be considered when the determinations about Aboriginal children and families are being made?

**Adam Reilly:**

Yes.

**Jackie Bray:**

Absolutely, we do. What take comfort from there as well Counsel if that's what the if that's the voice of the staff group as well that is really heartening for us to hear because we're definitely hearing that from a leadership perspective around what we need to do there. So if that's what's coming through on the in your consultation as part of this Inquiry that's really heartening for us it's being to build on, yeah.

**Adam Reilly:**

Just, sorry Counsel, just to add to your comment from before about my I sit in a mainstream role the learnings from some of this will have profound and positive impacts for other groups in our community and I know from my engagement with our multicultural services staff and some of the leaders in the multicultural community in South Australia, some of these topics are of significance as well in terms of the Western approach to family and kin. So I think only good things can come by respectful curiosity into the evolution of the interpretation of primary attachment.

**Counsel Assisting:**

Good, thank you. Has the Department undertaken or does it intend to undertake any consultation with the Aboriginal community and experts in the field of Aboriginal attachment theory to inform its practice and policies and procedures moving forward?

**Adam Reilly:**

My conversation Jackie referenced earlier the Director of the Aboriginal Practice Directorate that we have, one of the topics for further exploration and it's also the Kitty's team, the Practice and Policy Branch within the organisation, to do some research into A our own assumptions around primary attachment but also some desktop research on other jurisdictions and other countries in terms of the interpretation and the evolution, part of that to me will be engagement with community to get a voice and helping form our understanding of not only the differences in in the attachment theories but also the value for Aboriginal children with the broader interpretation for kin. So the answer yes there'll be engagement with community.

**Commissioner Lawrie:**

Is can I ask a question in relation to that research because there are a raft of Aboriginal and Torres Strait Islander experts in Australia...

**Adam Reilly:**

Yeah.

**Commissioner Lawrie:**

As well as the cultural context from Aboriginal community members themselves about what Aboriginal child rearing practices are, Aboriginal well Aboriginal ways and knowing and being, and I'm concerned that there'll be another layer of research what we know what the issue is...

**Adam Reilly:**

Yeah.

**Commissioner Lawrie:**

We know what needs to happen, I'm wanting to understand whether the Department will be able to apply that that knowledge that's already known into operational policies and procedures into the way in which you engage with psychologists and psychiatrists to make those assessments versus someone who's actually quite skilled, the assessment from a cultural context, the the assessment tools that go with that. I think there's a raft of research that already provides what is needed, the question is about the system, how it actually integrates that into its into its structure systemically so that it benefits the Aboriginal child?

**Adam Reilly:**

I think part, sorry Jackie.

**Jackie Bray:**

No go ahead.

**Adam Reilly:**

I think part of that too is going right upstream right back into the university space for those studying social work and other Allied health professions that lean into Child Protection, changing the perception of attachment all the way back then because when you look at the change we're trying to introduce now there are people with years of experience where that has just been a fact, primary attachment full stop. So rather than having to change people's understanding here we think going upstream with communication but also trying to influence some of the content in delivery will also help that longer term but the the point that you make Commissioner in terms of how we make sure this occurs for an experiential perspective from families view etc is all of those components, so it's ensuring that it's embedded in our policy. The only reason I've supported that desktop review of existing things is to make sure we're setting the argument up for success, so we can reference the trends across other jurisdictions that support the argument that this is of a of benefit, then like when we were talking about the comparison with this continent and Europe in terms of the various countries within that, those local conversations about what are the key priorities for you in terms of attachment in this context and making sure that that's all reflected in what the landing or guess the end point is in terms of our collective interpretation but it certainly won't be us doing a desktop review of existing reports and then saying this is it and it won't be something that drags on for years because the research could do that the conversation is contemporary in a lot of parts of the globe. So our view is to capture a sense of what are the themes that relate to our priorities, test those with our communities and then to come back with a position for the Department in terms of how we expect our staff to apply that interpretation.

**Commissioner Lawrie:**

I'm not sure I I, cause for me it's the question the justification about why you want to change things is already evidenced.

**Jackie Bray:**

Can I can I respond to?

**Commissioner Lawrie:**

Maybe I haven't heard.

**Jackie Bray:**

No no no cause can I just build on that because, and I'm just saying this really authentically to you in response to your question as as openly and honestly as I can, and really when you talk about our practice and our policies and I hear you loud and clear that the research has been done and what really resonated with me is when you talk about the way an Aboriginal, the way of of doing and knowing, and I think I think alongside what Adam's saying in regards to different positioning or or while that jolts things going around in regards to how we demonstrate that, our practices have to recognise it, have to recognise that those those references on attachment and theories and and ways of knowing, need to be embedded in our policies now and it's not for us to determine if that's if that's there or not, it's for us to actually, that it's not for theirs to determine on what does that look like how does it look like because if you're a non-Aboriginal person to determine that you you know you've got to recognise going in our policies does it reference the, you know, an Aboriginal attachment theory, does it reference the sort of child rearing principles, does it reference that and then who are we to sort of not acknowledge that that's an acknowledgement. So you test that theory with your PACs and what it is around how been demonstrated and I think you can back that up with you know research or uni whatever but in the absence of that it should be that ways of doing is demonstrated and is outlined in in in that in our practices and our policies really.

**Adam Reilly:**

And we shouldn't have to do it, but it is it's that academic world that we're because if you think of the clinical background and the way that that's framed and reported to people it's it's taken as fact whilst we...

**Jackie Bray:**

That's exactly it.

**Adam Reilly:**

Whilst we know Aboriginal way it's making sure and it is almost translating Aboriginal way into that Western clinical way. So there's two pieces there's the we can influence the change in practice but we also want to have that meaningful shift in perception around attachment more broadly and that's the reason for the investing in that more research part but it shouldn't prevent us from changing practice in terms of our staff, I just think that there's a bigger piece there which is about changing people's perception in the clinical space around primary attachment.

**Jackie Bray:**

Probably wasn't articulating it that very well but what I was thinking, exactly the same Adam, is if in other areas where there's some clinical aspects of it, we don't we don't drill that down in a policy procedure, it's a fact it's a knowing, so in this particular case our policies and practices should actually reflect that and it should just be accepted that there is these theories.

**Counsel Assisting:**

Your policy documents do say that.

**Jackie Bray:**

They do they do yeah.

**Counsel Assisting:**

They do and they're clearly not being applied.

**Jackie Bray:**

Yeah that is been tested around what that is.

**Counsel Assisting:**

The other issue we have is that the Department will rely on psychiatric or psychological reports and family assessment reports that are very Western-centric. So how do we get past that? In terms of applications being made to the court that you've got you know an expert report who come and give evidence in the Youth Court to say that no this child's attached to this one person and it would be detrimental to remove that child from that placement.

**Jackie Bray:**

And I think that that that that does speak to the work that we have to do in in that regard and you made reference to Dr Tracy Westerman previously, those are the things that need to shape some of our thinking around some of our clinical service and provisions that we have here because we we we accept that they are currently at the moment through a range of tools and apply through that particular Westernised lens, yeah, we have to accept.

**Commissioner Lawrie:**

In fact one of the Expert Witnesses Dr Yvonne Clark, Clinical Psychologist, is now working in the university sector previously developed or adapted the family relationship test, the assessment tool, regarding attachment and bonding cause at one time she was employed...

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

In your agency...

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

Some time ago. Is that tool that she developed that adaptive tool around family relationships, is that still in place in the in your agency?

**Jackie Bray:**

I don't know Commissioner actually I don't know it's the first time I've heard reference to that when when we and I'm I'm just talking from my own perspective when I've asked about tools, I've asked about are they culturally appropriate, are they are they, does the the community recognise these as validated tools that recognise culture, I've not heard reference to that so I'd have to take that on notice...



**Commissioner Lawrie:**

Thank you.

**Jackie Bray:**

In regard to what that is but.

**Counsel Assisting:**

With respect to Connection, issues around transfer of guardianship, the Department's Adoption from Care Policy states that Aboriginal and Torres Strait Islander children or young people will not be adopted from care. Do you agree that the intent of this policy is to prevent Aboriginal children from being permanently removed and disconnected from their family and culture?

**Adam Reilly:**

I've got fairly subjective views based on my own journey, so can I ask you Counsel to ask that to me or to us again just so I can?

**Counsel Assisting:**

So the the Department's Adoption from Care Policy states very clearly that Aboriginal or Torres Strait Islander children or young people will not be adopted from care. So would you agree that that the the notion behind putting that policy in place was to prevent Aboriginal children being permanently disconnected from their culture and their family?

**Adam Reilly:**

I think that's a reasonable assessment, yeah.

**Jackie Bray:**

That's a reasonable assumption, absolutely.

**Counsel Assisting:**

So then in terms of the number of Aboriginal children who then move into long-term guardianship orders until they're 18, how is there any difference?

**Adam Reilly:**

It's in terms of the experience it would be the same.

**Counsel Assisting:**

Thank you, yeah. We've heard evidence from experts in the area that say that reunification of Aboriginal children must be the the aim the ultimate aim for children wherever possible and your policy states that DCP Case Worker must ensure that any decisions about the viability of reunification are made within 6 months for children under the age of 2 years due to their critical need to develop the secure attachment relationship with caregiver, again which is based on that Western model, and within 12 months for children or young people over the age of 2 years. We've heard significant evidence in the Inquiry that due to the intergenerational trauma and the complex social determinants that are known to impact on Aboriginal families, the timeframes for reunification and for those decisions being made are simply not realistic or culturally appropriate. That's exacerbated by the lack of resources and the substantial waiting times for the services such as drug and alcohol counselling, so it can be a five month wait to get into drug and alcohol counselling if you've got six months to address your Child Protection issues you cannot possibly meet that

demand. So how do you propose it to address that lack of opportunities for Aboriginal families to pursue reunification of very young children?

**Jackie Bray:**

Well I think the the focus on reunification certainly since certainly me undertaking the role has been really evident in regards to the Department the government's commitment around reunification efforts. I absolutely whole heartedly agree in regards to the lack of service provision that is available for families to ensure that their engagement in those services attribute to their success at that outcome and I I think the commitment and the if if I may reference that there is a whole of government Chief Executive Governance Group, which is chaired by the Minister, to be instrumental to ensuring that provisions of services are made available for children in Child Protection and family and family support and it is it is with that intention of ensuring that we can get services to families effectively with agreeance of those particular out more favourable outcomes of reunification. Now I don't think that's going to happen overnight because of the you know there there there is a capacity within service provision but I don't I don't feel at all compromised as the head of Child Protection of advocating so strongly about these children and why it should be these children. So it, you know, being a strong advocate you know across government for those particular types of interventions I see as part of a critical part of my role and, you know, I don't, you know, I don't apologise for that when people ask me why why those children and why not the services etc I don't apologise for that at all. So I think we have seen some better outcomes around reunification I think we've got better we need to have better options for Aboriginal children in regard to reunification and there is more more of a requirement on those particular service provisions for those families if we if we're going to be successful at at those outcomes as well.

**Counsel Assisting:**

Thank you. So the the requirement for timely decision-making under the most recent iteration of the Act effectively means that families are given less time to address the Child Protection concerns and if I can take you to the graph number six, it indicates that there's a trending down at every stage 6 months, 12 months and 24 months, there's three consecutive pages there that show...

**Adam Reilly:**

That's for reunification?

**Counsel Assisting:**

The trends. Yes. So, the rate of reunification of Aboriginal children is decreased by up to 20%, sorry...

**Jackie Bray:**

No apologise, sorry, I've not got that out my bag.

**Counsel Assisting:**

Has decreased by up to 20% over a 10-year period. So given those trends how can the government possibly meet its commitment to reduce the number of Aboriginal children in out-of-home care?

**Jackie Bray:**

Yeah.

**Adam Reilly:**

It does feel like the interpretation of timely has translated to a literal arbitrary number, when I think

of the term timely it's an appropriate time for the situation that presents before us. One thing I would commit to doing next I would like to look at the actual wording of the legislation around the 6 months and 12 months deadlines to see what are the opportunities for delegated interpretation we need to create some flexibility so that each system response is tailored to the needs of the family and any of the issues that are presenting for that family. So, for example, if it is five months for mum to access a drug treatment program, that we could look to what are our options around changing the timeline so that mum's afforded that opportunity to have the the time to respond. I can't answer that in terms of what it is now and what delegation exists for us to to look at but to me I see a real missed opportunity if we don't look at creating that flexibility around what are currently hard targets and if that's an interpretation of the term timely, I would ask for an different interpretation because that's it seems just like a perverse side effect. In prima facie just looking at it I don't feel that's the intent so I'd like to go and do a bit more work.

**Counsel Assisting:**

So the legislation states timely, it's the policy that sets the the timeframes.

**Jackie Bray:**

The timeframes.

**Adam Reilly:**

I'm pleased because that gives us a lot of room to be able to have that, yeah.

**Jackie Bray:**

The Minister for Child Protection and Family Support and the Chair of the Child Protection Expert Group led a symposium a couple of weeks ago and one of the real big takeaways for me was where you had a biological parent of a child who made reference to the Department's lack of advice, information and support early on the removal, she wasn't disputing the removal, she wasn't disputing her the need for her for the matters that she was facing to be addressed, however that that clock is ticking before she articulated openly to that symposium that had she known earlier that these were some of the requirements of the Department or the ask of the Department on her, she could have she could have entered into those sort of service provisions etc or that and that really resonated with me in regards to again it doesn't, you know, even even regard regardless of whatever term timely or the provisions that we set in the policy that really sat with me, that you know if we don't articulate that to these parents then they don't know the clock ticking, they don't know that, you know, one of the ways that we're going to assess if there you know reunifications, you know, could be could be offered would be because of those provisions that we put on. So it's that whole thing of right we need to have that engagement and communication more.

**Counsel Assisting:**

And just building on that Ms Bray the one of the criticisms that's regularly made in Youth Court proceedings in terms of moving towards long-term orders, is that the client or the parent has failed to engage but surely it's the Department's responsibility to engage with them rather than expecting people who are traumatised, who are dealing with grief and loss, who have got the complex multi-layered Child Protection issues, to engage with the Department?

**Jackie Bray:**

One hundred percent and absolutely these when we look at other models, other jurisdictions,

international practice, you actually see that the engagement or failure to engage by a parent it should not be a significant consideration alone, it should be the representation of another social worker, another engagement, another opportunity, building on those particular practices. So I do know, you know, overseas for instance the removal is not in regards to lack of engagement, we represent another social worker and another one and another one until that engagement opportunity occurs and we all know that that could happen at a any particular point or with any other level of engagement or...

**Counsel Assisting:**

So is this something that will be addressed?

**Jackie Bray:**

That is something that we are looking at as sort of saying, why do we why do we look at that, why do we look at an engagement or lack of engagement as a particular aspect there.

**Adam Reilly:**

And it's a shift of it's also it's the system owning responsibility for that instead of the blaming but it's consistent shift in language and perception because we use the same narrative in our communication when we have failed to find a kinship placement, the system notes will reflect no kinship carers came forward from the family, well that's, you know, that's quite a subjective comment but it is it's all linked back to our cultural journey but it's a similar example.

**Jackie Bray:**

Absolutely.

**Counsel Assisting:**

As it stands now currently reunification is considered prior to a long-term order being sought and then once the order is made it's rarely ever addressed again and it's not something that is revisited.

**Jackie Bray:**

Agree.

**Counsel Assisting:**

So and again it's the pulling in of the attachment, even if parents do put in the hard work and address the problems that that have brought them them into the Child Protection they could front up to the court and be told them sorry it's we're just not going to do that to the child, remove that child again without without recognising that the initial removal was traumatic for everybody involved but the workshops of your staff reflected that Aboriginal families are just not given enough support to achieve a reunification or any sense that once made once a removal is made, it's permanent, it's not going to be addressed again. Does the Department intend implementing culturally appropriate tools that might assess the attachment of Western children to address this and give it opportunities for Aboriginal parents to come back two years, three years, four years down the track and seek reunification with their children?

**Jackie Bray:**

Look again I've entered into this particular role with a view that because guardianship has been assessed in in that, there is nothing in that provision that talks about it never being able to be revisited again. So my checking on that is that that should happen but I think Counsel to be on it

honest we've missed an we've missed a step there, we've missed a step of the right of that child to be still connected to family, the right of that child to be connected to siblings, the right of that child to be connected to community and in that with that right and with that engagement throughout their their life that might represent reunification opportunities if if given. So that's the step that's missing for me as well children that are under those long-term orders really to me represents that there's there's not a further action to represent at Court at that moment in time, not that there should never be and that's a view that I particular hold it is my view but it's a a view that I hold and we would see more of that if we had that level of connection with well we fulfilled the rights of those children.

**Counsel Assisting:**

Right, thank you.

**Adam Reilly:**

As it stands the system doesn't have the it doesn't give the impression that it allows for growth and change and I think that by maintaining that connection it it's also a benefit because there's contemporary observation of the presentation of the biological family and how they're traveling. I think that and I know we referenced in this conversation in relation to revisiting long-term orders and I think it was focusing more on those longer term foster care arrangements but there are even children in residential care where we haven't gone back and said you know what I wonder how mum and dad are going and that's that comes back to that what I think we're going to learn in this process we're undertaking now that by making time for staff to be able to do those more in-depth but very important tasks, we'll start to see a shift in that. The the view that people can't change or people become type cast based on our last interaction and then we can sort of suddenly realise we're two years down the track and we haven't actually reconsidered, you can't really defend that so that's I think that needs to be an active part of our efforts.

**Jackie Bray:**

Agree.

**Counsel Assisting:**

Thank you. The Department's own review of the Act noted that for Aboriginal children in particular it was recommended that a child's case plan and annual review should include a specific section on reunification. That review heard that the option for reunification should remain open and for active efforts to support parents to seek reunification at all points of engagement with Child Protection. The evidence before this Inquiry demonstrates that that's absolutely not the case in practice. Do you agree with that?

**Jackie Bray:**

Yeah.

**Adam Reilly:**

I would agree with that.

**Counsel Assisting:**

And would you agree that there needs to be a significant shift in policy and practice to meet those standards of active efforts?

**Jackie Bray:**

Yeah.

**Counsel Assisting:**

Thank you.

**Adam Reilly:**

I think it needs to go a step further because I would hate for Child Protection workers to think that this is all their fault, it's incumbent on us as the Executive and indeed Government to make sure that staff are afforded the time and the tools to do their job properly. It's very easy to say put another policy or put another recording mechanism over the top, which staff will interpret as just another person attacking us. If we give staff the time and we make sure the right staff are in the right roles and I see the benefit having a lot more Aboriginal staff that will make the most profound change of any strategy I think.

**Commissioner Lawrie:**

But you'd have to concede that there are a number of Aboriginal children who shouldn't be in care?

**Adam Reilly:**

Absolutely and that's indefensible but I do worry sometimes when there's a narrative about the system and what it needs to do, that staff may interpret that as that's their fault, that they have a role and they have responsibility and accountability but I think broader the system has a duty to make sure, if we're in this most important of portfolios, that the staff are set up to be able to do their job appropriately and at the at their workload and other commitments means that these important tasks aren't getting the attention they need.

**Commissioner Lawrie:**

And the system needs to be set up too that ensure that those children and their families who don't need to be having contact with the statutory system...

**Adam Reilly:**

Aren't drawn in.

**Commissioner Lawrie:**

Stay away from the statutory system.

**Adam Reilly:**

Absolutely.

**Commissioner Lawrie:**

And the workforce that you have only dealing with those children and their families that need to be in that environment.

**Adam Reilly:**

Exactly right.

**Jackie Bray:**

Absolutely, yeah.

**Counsel Assisting:**

Moving on to cultural maintenance planning, the issues identified by your staff acknowledged that Aboriginal children in out-of-home care were given inconsistent opportunities connect with family, community and culture with the variability and how that contact was managed across the various offices. Key reflections included that the Child Protection system could do more to support connection, arguing there is too much focus on the placement as such, children were not being given enough opportunities to connect to culture and Country especially when placed away from community and Country, there is a need to understand the difference between cultural events Return to Country and family contact in, for example we heard that having a child attend an NAIDOC week event was considered appropriate and adequate connection to culture in some situations and better partnerships with community were needed to support that connection. Some of the participants discussed the challenges and the barriers to supporting connection which included challenges connecting children and young people to culture when the family themselves were completely disconnected from that culture and community, a lack of policy direction and guidance regarding the Return to Country arrangements with current practice being ad hoc and the funding being inconsistent, the need for ongoing access to cultural mentors noting that currently funding is only for 2 years per child, and inconsistent use of the Aboriginal Cultural Identity Support Tool including examples of in case files where that tool, the forms for that tool, were just left blank. The issues associated with identification included inconsistent and incorrect information on your DCP files as between agencies regarding the Aboriginality of a child and which which clan they they might have belonged to to and if that was wrong that wasn't often connected, then the the story books being really just nominal not actually being anything that's meaningful to the child or their culture or their family, and the other issue was people falsely identifying as Aboriginal and then deidentification how that should be dealt with and explained to a child. What what is there that the Department would consider appropriate to do in in circumstances where these issues have been raised by your staff?

**Jackie Bray:**

Do you want to?

**Adam Reilly:**

Yeah. So the in in other jurisdictions the the reference around the the cultural plans or the cultural support plans was an intent from government to ensure that connection occurred and that it was meaningful and it was normalised as part of the response to support a young person. It was mandated but what we saw were cultural support plans populated with cultural information from a Google search, we saw cultural plans with a NAIDOC event, we saw really basic and in terms of compliance and I won't state the jurisdiction but it was roughly 50% in terms of completing these and then you should actively review them and of course the annual reviews didn't occur for cultural plans. They are an amazing tool if they're used properly. What I trialled with my team was to change the paradigm of the cultural support plan, so that the plan belongs to the family. The plan itself is designed to hold government across different portfolios accountable to have a consistent and culturally immersed lens into those various domains for young person. So for example if a young person was engaged in the youth justice system, child protection, if they were going to school the plan would be shared with all of those stakeholders if family gave permission with the view to being the education plan can link to the cultural plan, in relation to any youth justice matters the justice

plan can link to that, so that we can find areas of commonality where there's strength in culture to push forward in all of those domains and start normalising the inclusion of a cultural connection for our clients across all of those different parts of the service system. It was hugely successful in terms of bringing staff on that journey and I think in terms of our numbers in that patch went from about 50 to 92% and it wasn't just for Child Protection but it was profound for teachers in terms of the engagement and their cultural learning as well. So whilst I am five months in, this is something I would be really keen to pursue not as a mandatory tick box exercise but for a meaningful tool that we design in partnership with our communities to ensure that we and our colleagues across government and I think the CEs forum is the perfect platform to seek commitment to this in terms of all of us leaning in and having a consistent value for culture for our young people across all of those service systems. I think if the Commissioner would be so gracious as to help us I would love to work on this with your guidance as well, I just think it if you get it right it is hugely powerful, if you don't it becomes just another layer of tick box and why even do it.

**Counsel Assisting:**

Thank you.

**Commissioner Lawrie:**

Sure.

**Counsel Assisting:**

Thank you. The next topic we've got, now I understand we're we're running it's about six minutes to three we I think we can probably get through this in the next 10 15 minutes, family contact arrangements. The the workshop notes that some of the some of your participants staff reflected that the approach to family contact was far too far too focused on just contact with the parents and not considering the connection with family and culture or or any community contact opportunities. How could the Department address that issue?

**Adam Reilly:**

It's been bubbling for a while because they've set up a contact review process, so I I assume that came about because of the number of instances where agreement couldn't be reached on contact. I have some issue with that in terms of why it's a thing but for me what I would like to see is a way for particularly Aboriginal families to be able to say hey you haven't got the contact right and someone to address the power imbalance and actually go through it methodically to see what's in the best interest of the child. One thing that comes out a lot is sibling contact and we make we focus just on the biological parents as you said but the siblings when you think about that relationship and the significance over life is huge and we're inadvertently taking that away from children. So the contact is an area of great focus for us. I think the panel if there are grounds for it to be reasonable and to exist and I honestly don't know I haven't looked into it enough, there needs to be an equivalent for Aboriginal families as well because unless you apply an Aboriginal lens, they're two very different dynamics when we talk about family contact and particular when we talk about the attachment theory. So for me it's something I'm still quite new at Jackie's had a few extra weeks on me in the role but my take is there is this process I'm not sure of its value but if it is valuable there needs to be an Aboriginal equivalent to that.



**Jackie Bray:**

And I think in the absence of any other suggestions it was something that we immediately come to a point of going well what do you mean, you know, where's the Aboriginal representation. I know there's other views around the actual purpose and intent and and and where that should be, not withstanding any of that, it's it's there's still something for us to turn around and say we can't hand on heart turn around and say that that is culturally appropriate at the moment so that that alone.

**Counsel Assisting:**

And one of the one of the submissions we've heard is that the decision about the amount and and frequency and when and where and who, with respect to family contact, is not a decision that should have been delegated to a Government Department in the first place, it should be a decision that's made by a judicial officer based on evidence. What would you say to that?

**Jackie Bray:**

I have heard that, I have heard that view, I think in the absence of my broader knowledge around the reasoning behind it being a recommendation obviously in the Royal Commission.

**Commissioner Lawrie:**

And within my Inquiry Preliminary Report.

**Jackie Bray:**

Indeed, indeed. I for me it's as I said it's something that I think we need to really deeply listen to and get consideration around, you know, where that ultimately sits within the legislation but again I just go back to sort of in the absence of that and however long that was to those changes are to be made, I still think that there is improvements that we can make to our current arrangements that sits currently with us.

**Counsel Assisting:**

And one of the other issues that that we hear as practitioners, is that the Department workers work from 9 to 5, anything outside of that is not able to be supervised, not able to be arranged, not realistic in terms of how families operate, so a family celebration on a Sunday can't be can't be participated in Christmas Day is a huge issue for people because none of your workers work on Christmas Day and they're not going to transport and they're not going to be there

**Jackie Bray:**

Yeah.

**Counsel Assisting:**

That's heart-breaking for parents and for children, that, you know, is not realistic in terms of how the world operates. So is there anything we can do to address that?

**Adam Reilly:**

I think there's lots, I think about pre-Covid for example I was in a jurisdiction that was slightly more impacted than South Australia in terms of the Covid experience but we still had that statutory responsibility for child protection and it made us rethink you know we have this association with the building, the place, the hours of the day, we were able to respond in a very different way. I'm hoping to bring people on a journey of more flexible work arrangements and I accept that Christmas Day could be problematic but I also celebrate our diverse workforce, where many staff don't celebrate

Christmas and would much rather have a day off another day or to be remunerated to do something above and beyond on that day. I see capacity but it needs to be give and take and I don't feel at the moment our staff necessarily see the opportunity in terms of being more flexible, so I think that's probably something for us to turn our minds to about creating that environment where we can have greater flexibility. Some staff may wish to work earlier in the day and finish early or alternatively you know have a weekend as a workday and change things, everything in that space should be negotiable and I think that would lend itself nicely to starting to respond to that in a meaningful way.

**Jackie Bray:**

And I just add that it might not ever materialise but the conversation hasn't happened when we have that conversation it hasn't happened so what you know that that's that's the first step but but again it might not materialise, we might not but but it's how then do we make sure sure that our system how does our system response differently.

**Counsel Assisting:**

Yeah and it would also apply I imagine to Sorry Time, so that children indeed in, you know, connection to culture go back with family to to be part of that because it's such a fundamental part of culture but it's just not a possibility that's considered very.

**Adam Reilly:**

Oh in terms of Sorry Business, it's the Aboriginal staff will lean in heavily we we tend to make it work, so we'll drop everything we'll put plans aside. The system doesn't lend itself to supporting that well and that's something we need to focus on.

**Counsel Assisting:**

Thank you. Difficulties with administering policy regarding contact determinations was noted, highlighting that although kinship carers are permitted to manage contact with family members all of them needed a contact determination which was not feasible for all extended family. So if if an Aboriginal child is placed in a kinship care position, there needs to be a higher level of trust that the carers are capable of making some of the decisions about how there's integration and how there's connection with the family and community members, without that constant surveillance and oversight from the Department. Do you agree with that?

**Jackie Bray:**

Yeah and I think this is when I first arrived this morning when I talked about and I'm I'm certainly going to make some some inquiries about that decision-making consultation aspects that's going on with our carer, with our carer group. I think that really lends itself to that as well Counsel in regards to I feel I feel quite assured that all carers specifically kinship carers will have a will have a view on that, certainly those in the last six months I've spoke to, in regards to them being critical part of that decision-making we only we met we only met a couple yesterday you and Adam and I only met a couple yesterday yesterday morning having that specific request to us.

**Counsel Assisting:**

Thank you. Participants in the workshops also reported that there were different approaches to sibling contract contact across different offices and noted that challenges with siblings lived interstate or in different placements and where carers didn't take on the role of facilitating contact

was very problematic. Do you agree that children's connection with their siblings is fundamentally important connection that must be must be maintained?

**Jackie Bray:**

Absolutely.

**Adam Reilly:**

Yes definitely.

**Counsel Assisting:**

So how is the Department going to be able to address that issue?

**Adam Reilly:**

We've we've started having a lot of conversations with our staff where we say, you know, why haven't we thought bigger or why haven't we tried something more bold and it's particularly relevant when there is distance between sibling contact. The the response is there hasn't been an authorising environment to encourage that and that's not a criticism that's the response to this blowing out expensive part of the system. We we hope by investing more in connection and opportunities and empowering staff to be bolder in that space, that will have a positive reduction on the need for this to grow and we are also confident that that will reduce with the other initiatives. We aim to make this far more normalised and for staff and families and carers to be able to say, we have these two young people, would like them to spend some time together, what's something we can do, and if there is distance well we could make that into something special that could be let's all go somewhere or let's do something. So it's it's important that staff are supported to be able to do that because I believe that's something they do want to do that's what they say.

**Jackie Bray:**

And if I if I were just to spill on that I think that and even just just at the weekend when I was at an event with kinship with carers, kinship and foster carers, I think that is more normalised in those environments. I think where we have some work to do is in our residential care not saying at all it's it's it is in every every other sort of care and environment but the sense I get is that, you know, the introduction I get with, you know, the little ones and my big sister and my little sister and the different sort of family members that there with I think that's that's it's more prevalent I think that we have a we have a specific issue in in residential care with sibling contact.

**Counsel Assisting:**

Yes.

**Commissioner Lawrie:**

I I have heard from children who aren't in care but they may have siblings in care and their challenge about contact with their siblings is very worrying for them, that they're not heard, their ability to be able to have support is is an issue for them, but it more so for the child in care like I'm talking about the Aboriginal child in care, in terms of contact with their siblings. What is the plan for the Department for all those children who have siblings, whether they're in care or not, to ensure that cause I've heard from hundreds of Aboriginal children that they hold on to their loved ones, which is usually their siblings and their parents, immediate family, but the rest of the family their other attachments, but a pressing issue is their siblings. What is the plan?

**Jackie Bray:**

Well I think the I we could the first step is in our Manual of Practice it is in there, it is, it talk's about the requirement for us to do that, what we need to make sure is that that actually is enacted and that sort of information is enacted and that that requirement for our staff is is implemented. I know that, the reason I look at Adam immediately when you ask that, is because that is something which is front and mind and even only yesterday we were talking extensively around how we going to lean into that. The plan has to be there has to be that narrative around, you know, if we're interested other people need to be really fascinated in this because it has to be from the top, it has to be under our leadership that we push that down, that that is something that has to be implemented and looked at.

**Adam Reilly:**

Yeah, we're probably two weeks into the exploratory and design phase of a sibling contact initiative and that's something that's come out initially obviously from your Preliminary Report but also from the conversations we've had with carers and with families in terms of that need to to focus.

**Commissioner Lawrie:**

Good, thank you.

**Counsel Assisting:**

Placement of non in non-Aboriginal out-of-home care increases the risk of loss to connection and culture. Your workshop our workshop participants from the DCP acknowledge that that placement with some participants reflecting that Aboriginal children in not long-term non-care arrangements, including family based and residential care placements, were often completely disconnected from their Aboriginal culture and, this the child you spoke about earlier, some participants commented that non-Aboriginal carers just simply lack the training and the guidance to support any realistic connection. How does the Department intend to address the issue of the disconnection from culture when children are placed in placements with non-Aboriginal carers?

**Adam Reilly:**

I think in terms of the original decision we've talked about some of the processes that we're going to utilise to ensure there's a cultural lens over all of those. The work that we're hoping to achieve in terms of the barriers for kinship placements will have an impact as well. The part of I think the priority in terms of having a stronger carer's voice is to make sure that we are responding to carers to ensure they are afforded the training the tools and support to have children thrive in their care. Whilst I would accept the view that the cultural proficiency in the carers group currently may not meet the needs of children, I do think there's an appetite in our carers cohort, particularly with non-Aboriginal carers, there's a goodwill and an intent but without the knowledge and training that manifests in all different ways, where the carer who said let's do the NAIDOC event, or whoever was responsible, probably genuinely thought they were doing the right thing. To me I think working with the carers group that's been established we can start a conversation about what does that look like what does what is the need from your perspective and we can share with you what we're hearing from the Aboriginal community perspective and bring a conversation together with those parties to start looking at what what can we proactively do to change that. I think there's we are very focused on ensuring that we respect, engage and maintain our carers, but at the same time I think we need to make sure that the focus on supporting the carers does not diminish the connection with the

biological family and culture and I think that's probably been our gap, I would say confidently that's been our gap in the past.

**Jackie Bray:**

One of the other big things as well has been about a training program for our non-Aboriginal carers and as I looked at the training calendar and program there was references to some Aboriginal some cultural training and it was clearly not enough, however positively when I ask carers about their particular cultural training they thoroughly enjoyed it and found it very informative and they wanted more too. So that having a schedule for carers now was was a great opportunity and certainly being welcomed by carers but I think we need to build on that momentum now and actually see more of that particular cultural awareness, cultural training, engagement, really that sort of getting carers more proficient in their cultural understanding is definitely something which should and an immediate feedback on that.

**Counsel Assisting:**

Thank you.

**Commissioner Lawrie:**

What do you ask of in terms of licensing agreements and contracts with NGO, in this regard ACCOs, in relationship to recruitment of carers for Aboriginal children? Do you have a I guess a percentage of how many should be Aboriginal carers or there is no context to the carers cause historically that was the position of the previous Aboriginal Foster Care Agency, that it would only recruit Aboriginal carers for Aboriginal children...

**Jackie Bray:**

Yeah.

**Commissioner Lawrie:**

Mostly kinship carers in that regard. What is the Department's position on contracts and licensing for ACCOs in relation to the cultural background of carers to drive the outcomes for our children?

**Adam Reilly:**

I wonder if it's worth referencing the work for our CFO in the review space at the moment.

**Jackie Bray:**

Well we we can because yeah more than happy to do that because I I personally can't answer that fully respectfully to the Commissioner, so I think I know that we've got things in train to ask some of those questions, but yeah do you want.

**Adam Reilly:**

Yeah I was just thinking there were a number of questions similar that I had in terms of the content of the current contractual arrangements and the although the the issue you just mentioned that I hadn't yet but I will certainly add that to my list. I'm wanting to see across the board in terms of the different contracts and what are the requirements and who is putting the contract requirements in there. I suspect at the moment there's opportunity that we haven't taken for Aboriginal staff and stakeholders to help with the content of some of these contracts and at the moment if there is reference to requirements and milestones etc in the Aboriginal space, that I I wouldn't be confident there's an Aboriginal lens over that from a compliance perspective. So that's something that I think A

will take on notice but B I would be keen to speak further about what we change going forward because there's a gap there, which is a big opportunity.

**Counsel Assisting:**

Thank you. Some of the participants in the workshops felt that long-term residential care placements increased the risk of a young person's involvement problematic behaviours and discussed the impact of staff turnover and skill levels in managing trauma related behaviours on the ability to build relationships and support young people. Is the Department focusing on addressing the staff issues and training for staff in those facilities to provide Aboriginal children with a sense of safety and security with people they care for?

**Adam Reilly:**

Definitely there's a strong focus and some collaboration in terms of our work with PSA around changing the environment to attract and retain staff, the relationships are critical, but I would come back to our commitments around reducing the numbers of children in that space as well.

**Counsel Assisting:**

Sure.

**Jackie Bray:**

And it would be remiss of us not to mention the Sanctuary Model around what's happening in residential services but also residential care as well but also as well you know quite recently I went to the Nunga Resource Centre down south and those amazing opportunities that are presented there which as a leadership team we really want to lean in on in regards to having those cultural sessions for our young people that are in residential care in those environments, in those safe environments, by Aboriginal staff and then really how we can extend that into that broader residential care modelling to to enhance that.

**Counsel Assisting:**

Is it not true that if the State is going to interfere and step into the fundamental relationship between a parent and the child and remove a child to due to inadequate parenting, then it it should and could be expected that the standard of parenting that's provided by the State should be significantly better than that from which the child has agreed has been removed. Do you agree with that.

**Adam Reilly:**

It's a reasonable assertion.

**Jackie Bray:**

And one said to me before by an Aboriginal woman who had her child removed.

**Counsel Assisting:**

Do you consider that the State provides a significantly better parenting environment for children who are removed from parents at the moment?

**Jackie Bray:**

I think the commitment that I took to undertake this role as a Chief Executive of this agency was to do exactly that Counsel.

**Counsel Assisting:**

Thank you. I think that's about all my questions.

**Commissioner Lawrie:**

I have one question before we wrap up and it goes back to the Connection point and to the Aboriginal Cultural Identity Support Tool, is that an Aboriginal child in care should have a cultural mentor, sometimes if they're in kinship care with strong cultural practices that's often identified as a significant family member from that child's Aboriginal context but for many Aboriginal children because we know what the statistics are that they aren't afforded a cultural mentor that we would expect as set out in the expectations of the case plan and the Aboriginal Cultural Identity Support Tool and I've heard on a number of occasions from Aboriginal children and young people about the fact that that requirement is not given to them, around a cultural mentor being appointed. What are the plans for the Department to ensure that every Aboriginal child, particularly in relation to the Aboriginal Cultural Identity Support Tool, will receive a cultural mentor that one is meaningful, two that will truly be able to provide them the connection to their cultural identity and their family, particularly for those who were in non-Aboriginal care?

**Adam Reilly:**

This is another one of those where I think the English literal interpretation of mentor occupies the space. So when I think of cultural mentor I think of that Aunty or Uncle of significance that will take me on journeys and expose me to activities and participate in significant events that connect me to culture and that it's a safe space and it's you know there's an element of fun involved. For me when we apply a literal interpretation of mentor I think that's where we narrow the scope of the people we could be calling upon to support in this space. It's the same as when we think about cultural camps and time away on Country for kids particularly kids in residential care it's such a palava to pull together but at the same time if there's a school camp it's just a couple of forms and the jobs done, these are things that we should be normalising and just making routine. So in terms of the mentor work I think there's a great opportunity for us to expand that further. I know there are conversations with our ACCO partners wanting to support having a greater presence there, there would need to be the conversation about any remuneration or costs associated with setting that up and they're conversations that we'll have but I do think there is a significant deficit in not having a mentor program for every child that wants that and I'm more than happy to commit to leaning in to identifying how we can expand that within any relevant constraints but to find a way forward.

**Commissioner Lawrie:**

Yeah and it is explicitly an Aboriginal person...

**Adam Reilly:**

Absolutely.

**Commissioner Lawrie:**

Not anyone from from an ACCO. Cultural mentor as defined specifically from the context of the Aboriginal child as well as the Aboriginal community in regards to meeting the develop their, you know, their development around their cultural identity.

**Jackie Bray:**

Yep.

**Counsel Assisting:**

Thank you very much, we'll finish that there for the purposes of the filming.

**Adam Reilly:**

Thank you.

**Jackie Bray:**

Thank you.

**Commissioner Lawrie:**

Thank you.

**Counsel Assisting:**

Thank you so much for your attendance.

**END**