

**JOINT STANDING COMMITTEE ON THE
COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE**

REVIEW OF THE FUNCTIONS EXERCISED BY THE COMMISSIONER

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 10 AUGUST 2015**

SESSION THREE

Members

**Ms L.L. Baker (Chair)
Hon Robyn McSweeney (Deputy Chair)
Ms E. Evangel
Hon Sally Talbot**

Hearing commenced at 12.38 pm**Ms MARIETTE COWLEY****Chief Executive Officer, Aboriginal Family Law Services, examined:****Ms ANDREA SMITH****Policy and Compliance Coordinator, Aboriginal Family Law Services, examined:**

The CHAIR: On behalf of the Joint Standing Committee on the Commissioner for Children and Young People, thank you for appearing. The purpose of this hearing is to assist our committee in its review of the functions exercised by the commissioner with particular reference to the recommendations in the recent review of the commissioner. At this stage I would like to introduce myself, the member for Maylands, Lisa Baker; my Deputy Chair, Hon Robyn McSweeney, member for South West Region and a prior minister in this area, although that is not part of the official; and Hon Dr Sally Talbot, member for South West Region. This hearing is a formal proceeding of the Parliament and therefore commands the same respect given to proceedings of the house. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand any deliberate misleading of the committee may be regarded as a contempt of Parliament. This is a public hearing and Hansard will make a transcript of the proceedings for the public record. If you refer to any documents in your evidence, it would help if you could provide the full title for the record.

Have you completed the “Details of Witness” form?

The Witnesses: Yes.

The CHAIR: Do you understand the notes at the bottom?

The Witnesses: Yes.

The CHAIR: Did you receive and read the information for witnesses sheet?

The Witnesses: Yes.

The CHAIR: Do you have any questions?

The Witnesses: No.

The CHAIR: Excellent. Thank you both and again thanks for coming. It is a good time for me to ask whether you want to make a couple of opening statements about the organisation and what you do; that would be a good place to start.

[12.40 pm]

Ms Cowley: The Aboriginal Family Law Service provides a service to some parts of rural and remote WA. It has six regional offices located in Kununurra, Broome, Port Hedland, Carnarvon, Geraldton and Kalgoorlie. Our service is very specific towards Aboriginal family and sexual violence. We have a staffing capacity of 36. Of the 36, we have 28 servicing at least 50 per cent of WA and we provide legal services. We do criminal injury compensation claims. We provide community legal education into the community and look at collaborative approaches with some of the organisations within those various areas throughout the state. We are totally funded by the commonwealth government through the Indigenous Advancement Strategy. Prior to that we were funded by the Department of the Attorney General.

The CHAIR: Thank you. Just picking up on one of the areas you talked about—sexual abuse and the like—can you talk to us a bit about the support work you provide to victims or survivors of family and domestic violence?

Ms Cowley: We enter into partnerships with other agencies. We provide the legal component. At one stage, the organisation looked at counselling services. However, because we are talking about rural and remote WA, sometimes it is very difficult to get those professional services in. It is about fostering those relationships with those agencies that do provide that service and we can then concentrate on the legal component because that can be quite time consuming within its own right.

The CHAIR: How do you come to know of an alleged victim? How does someone come to you? Give me us a bit of information.

Ms Cowley: Lisa, I can honestly say to you with some of the Aboriginal staff members, we have an inherited network. People know who is who. That is not ruling out some of the non-Indigenous staff too; they have some networks. We are connected with a lot of programs. I can safely say that we do not work Dolly Parton hours, nine to five, but if projects and programs occur on the weekends—for example, the Dreamtime project that is picking up something like 35 girls, and that operates on the weekend—we go out to those programs so that we can capture that broader community, and you start fostering relationships. It is generally through our inherited network. People are referring us to people through the inherited network we have, both in the government and community sectors.

Ms Smith: As well as office space, we also provide outreach services. We visit remote communities and, in collaboration with those communities, provide services. We might, as I say, in collaboration with a women's group in a particular community, set up a day of visits with people where we have a lawyer and community support officer available for a day. If people know we are available, people will come.

Hon ROBYN McSWEENEY: Do they come to you when you go in as a small community and set up? Sometimes they are a bit frightened.

Ms Smith: Sometimes; it may be the first time we are there, maybe the second time we are there. But if we are there on a regular basis, and we are, the way we work is that we are there on a regular and ongoing basis so that people know that eventually they can come to us.

Ms Cowley: We also say to people, “If you don't want to present to us physically, pick up the phone and call us and maybe your next trip into town.” I do not think you are going to get away with it. It is a concern and even more so of a concern that we seem to attract only five per cent of the population that is presenting and that is in the Aboriginal and non-Aboriginal sectors as well. It is through legal education and it is about that everyone has a right to feel and be safe.

The CHAIR: Can you clarify that statistic—five per cent of presenting? Can you tell me what that means?

Ms Cowley: We are saying that the statistics are telling us that only about five per cent of the population who are being abused are presenting.

The CHAIR: That is very interesting. This is across the whole of the community—metropolitan and regional and Aboriginal and non-Aboriginal?

Ms Cowley: That is correct.

The CHAIR: Only five per cent?

Ms Cowley: Only five per cent.

Hon ROBYN McSWEENEY: It stands to reason when the police get only from 36 000 to 43 000 reports every year that there is an awful lot of it going on that goes unreported.

Ms Cowley: There is. The concern we have is that people actually confine family violence to sometimes just the physical component and they are not looking at the psychological component—the financial and a whole range of other areas it actually covers.

Hon SALLY TALBOT: Do children and young people make contact with you?

Ms Cowley: Interestingly, a couple of boys in their early 20s have made contact with us and a couple of 15-year-olds. Yes; not as much as we would like. However, we are starting to make an impact by saying that we are here. I need to clarify that we do not provide a service to the metropolitan area. However, if there is a real issue, we will take on that client. When I talk about “issue”, I am talking about how in one particular case a young lad attempted suicide based purely on the fact—he did not have a mental health issue—nobody was out there to help him and he could not get any support, so we took on that client. Those two boys were referred to me by my grandchildren.

Hon SALLY TALBOT: So your service does not actively encourage children and young people to come and talk, to perhaps disclose or get advice?

Ms Smith: No. There are reasons for that. The first reason is that we do not employ specialist children’s lawyers and so that sort of work would be done by other services. The second is that we do not employ specialist staff to take disclosures of abuse; for example, that would be DCP’s job or it would be the police’s job to take those sorts of reports.

The CHAIR: How did you deal with the 15-year-old?

Ms Cowley: That was extremely difficult to deal with. The boy or the girl?

The CHAIR: I do not mind. You said you did not have specific adults trained to take child abuse reports, so how did you cope when that happened?

Ms Smith: To my knowledge, general advice was given to—depending on the situation, that was a general advice situation so that was okay, but if it was specifically about disclosures of sexual abuse, that would be something that we would not handle. In terms of our contact with children and young people though, we proactively work with kids in schools. We have designed legal education programs that we deliver to schools in a number of our regions to basically hit the preventive end of the work so that we are teaching kids about respectful relationships and about what would happen if they needed a restraining order. These are kids in the high school age range and mostly girls. We have been asked to work with the boys so we have developed programs that are delivered to boys’ schools. That is kind of the work that we do with kids.

The CHAIR: Does that put you in close contact with DCP or the child protection workers in the regions?

Ms Cowley: Yes.

The CHAIR: So talk to us a little bit about how that relationship goes, and what other relationships you have in order to capture the group that we are particularly interested in around reporting child abuse.

Ms Smith: The majority of our work with DCP is actually on a case-by-case basis around care and protection orders, so this is where we will work. We will represent parents who have kids under orders, basically. Frequently parents will come to us seeking assistance, because the majority of our clients are adults for child protection matters anyway.

Our relationship with DCP can be tricky and it can be really good, and it is getting better. I think that is about the approach that we take with DCP around each case being able to be negotiated without being necessarily adversarial, without it necessarily going to—everything needs to go to court at the end, but it does not need to be an argument. Frequently our legal process is by definition adversarial and an argument, but our approach is that if we can be, I guess, proactive and try to

engage either party—parent and DCP—in a conversation, that is useful. I guess I am skipping over the parts of the process in that, like the signs of safety meetings, the prebirth preconference hearings, all the different processes that DCP has that parents have to engage in, but parents frequently do not know their rights in and do not know their legal obligations in. That is where we come in, educating parents about what their rights and responsibilities are in that process because frequently they are not aware and frequently CPFS are not able to or are not concerned with educating parents about those matters. That is fair enough, because it is not their job. That is where we come in and that is where we have advocated to DCP about our role in the situation where we can be of best use, particularly for children in the end because our focus is on the best interests of kids as well.

Ms Cowley: As Andrea said, it is about also looking at the interests of the child. Whilst we have the parent coming through the door, the children have interest as well. So, I think, at this stage of the game, it would be pretty safe to say that we have a relatively good working relationship with the department of child protection. What we are also saying is that if we enter into some pre-negotiations, we can actually prevent this from going to court. I think we had a recent case, a couple of weeks ago, where it was an out-of-court settlement, so it did not go to court. I know it is a big job, but it is also about trying to get staff up as well. It is a massive task, but it is something that needs to be taken on board.

[12.50 pm]

Hon ROBYN McSWEENEY: You are at the mercy of whichever social worker you get sometimes. Some of them are excellent—the older ones—and some of the younger ones are excellent, but there are those who actually think they are right and you are wrong, not the other way around, and it is very hard to negotiate once you get that adversarial position.

Ms Cowley: One of the things we also spoke to the department of child protection about was: if your employment of Aboriginal staff is only eight per cent, when we start looking at the fact that there is 52 per cent of the Aboriginal children in out-of-home care, then there is a real imbalance. What you need to do is to start pushing this up a bit so that you can actually get the involvement of the Aboriginal staff, so we can look at the best interests of the children.

Hon ROBYN McSWEENEY: I think they are trying to get 20 per cent. That is what they aimed for. That is the plan, but it is not there yet, is it? It is nowhere near that.

Ms Cowley: I can honestly say that it has reduced since your time as being Minister for Child Protection.

Hon ROBYN McSWEENEY: That is no good, because I tried very hard.

Ms Cowley: It is since your time. After you left, it has actually reduced. I think you were sitting at about 14 per cent.

Hon SALLY TALBOT: Is there a particular reason for that, do you think? We can go into closed session if you want to say some things? We are more than happy to.

The CHAIR: If you want to talk about it off the record.

Ms Cowley: Seriously, I am an ex-government employee —

The CHAIR: Are you ready to be on the record?

Ms Cowley: Yes, I do not have a problem with it.

Your middle management needs to start recognising the value of some of the Aboriginal staff members. I know that there has been a bit of an issue with some of the middle management in the past with child protection, however, in saying that, that issue has since gone and there is new middle management in there that we are working with very closely with trying to lift up. It is about middle management and their respecting the intelligence that the Aboriginal staff do have.

Hon ROBYN McSWEENEY: In their own communities.

Ms Cowley: Yes.

The CHAIR: Do you have much of a working relationship with the children's commissioner?

Ms Cowley: Not really. No. I think that is something that we need to have. I think it is just the fact that we are inundated with legal stuff and community legal education and a whole raft of other issues.

The CHAIR: So you would not be aware that she has just published a report and article?

Ms Cowley: Yes.

Ms Smith: Yes.

The CHAIR: You have had a look at that?

Ms Cowley: Yes.

Ms Smith: Yes.

The CHAIR: Any comments?

Ms Smith: I think that she should be commended on the effort put into it. I think it is a huge effort that has gone into it. It is a huge project that was done. I guess the comments that came out of it, as the title said, should be heard.

Hon ROBYN McSWEENEY: Not be a dust collector.

Ms Cowley: Absolutely.

Hon ROBYN McSWEENEY: I know there are a lot dust collectors.

Ms Smith: And these kids are saying very much what their parents have said and their grandparents have said, and it is what we will probably say a bit, so I just hope that something comes out of that for the commissioner and for other people. I think it can inform lots of processes in the kids' community sector.

Hon ROBYN McSWEENEY: Lisa and I were up there on the day that that was released. There was probably a group of 12 Aboriginal children—they were just young people—and they were just delightful, absolutely beautiful young people. My hope is that they should all aspire to be like these children. You would have been so proud of them.

The CHAIR: Outstanding young Australians—just outstanding.

In that report the commissioner highlights outcomes for Aboriginal children and their families as being necessarily a core business for all agencies, and that services must ultimately be local, cooperative and community led and controlled—that is a synopsis, my words. Do you have any views about the importance of that type of service delivery—locally delivered and locally owned?

Ms Cowley: I think that that is important. I mean, people need to own the issues. They need to own what is happening in their own community. What we need to be doing is providing that support mechanism and the resources that they require to actually carry it out, because we are also talking about an area that is extremely delicate. I will use a couple of examples here. Robyn, you would know about what happened in the Oombulgurri community, what is happening in the Halls Creek community and what is happening in the Kalumburu community —

Hon ROBYN McSWEENEY: And still happening in Kalumburu.

Ms Cowley: It is still happening, but people need to start owning it. It is not behaviour that should be tolerated and I think that the senior Aboriginal people need to actually promote that within their own communities. We know that some of the senior people are perpetrators themselves, but there are people who are not perpetrators and they need to be promoting that. They need to own that, but we need to resource it adequately to make sure that we get some positive outcomes.

Hon ROBYN McSWEENEY: Is that the leadership of that community, is it not—I am not singling out Kalumburu, it could be any community—that can either evoke fear or it can go the other way and have education and be really good. I think in some cases there have been those in charge who have evoked fear in that community, but like you said there are good people who need to own that, get rid of those people and put themselves forward. That cannot be done overnight as you and I know, but it can be done.

Ms Cowley: It can be done. I think what we need to do is put aside our connections. Whether it is relatives or not, the fact is it is behaviour that should not be tolerated and we need to break those cycles.

Hon ROBYN McSWEENEY: And it is not only in Aboriginal communities; it is all communities. It is just that I think the populations in those communities are very small and so it is a microcosm and you can see it. But, certainly, I just want to put forward that I know it is in all communities and it could be the lawyer and it could be as well the garbage collector, it goes right across, and it disgusts me.

[1.00 pm]

Ms Smith: Sorry, can I just make a comment as well there about funding structures and the trend towards funding going to large NGOs away from Aboriginal-controlled organisations. In WA over the last 20 years there is a real trend towards large NGOs, or the “BINGOS” as we like to call them, which has taken control away from some of those communities.

Hon ROBYN McSWEENEY: Are you talking about Centrecare, Anglicare and Mission Australia?

Ms Smith: Mission Australia and the Anglicares that go into small communities to deliver services. They may well go into big and small communities with good intentions, but have been funded in place of smaller organisations that used to be providers and were Aboriginal community-controlled organisations. It is starting to turn around now with the new out-of-home care strategic direction. The DCP, I think, they may have seen that this has not been working so well for them and they are calling upon organisations to put their hand up for foster placements, non-relative care placements, but if we continue along with that same funding structure, we are going to continue along having the same outcomes for kids: kids entering care, the same amount of lack of control that people in the communities feel. We are just going to keep getting the same thing.

Hon ROBYN McSWEENEY: What do you think should happen?

Ms Smith: Something else; we need to rethink. It is not just DCP; I am just using DCP as an example because I know about that one because that is the area of families and kids where I have worked for the last couple of decades.

Hon ROBYN McSWEENEY: You do not like out-of-home care being run by non-government organisations?

Ms Smith: I think the trend towards funding large mainstream organisations has been detrimental to Aboriginal people.

Hon ROBYN McSWEENEY: I was always of the view, and it was my personal view I carried on as a minister, that I actually liked children in care being in a government organisation, because we look at the churches and what happened to children who were in out-of-home care in non-government organisations—I am certainly not saying that the non-government organisations these days are anything like they were previously, but I always had in the back of my mind that at least the children were in government care and government made sure that the children were looked after.

Hon SALLY TALBOT: It comes to accountability.

Hon ROBYN McSWEENEY: There was accountability and I am not saying there is not accountability.

The CHAIR: Direct accountability.

Hon ROBYN McSWEENEY: It is direct accountability; I am not saying that non-government organisations cannot look after children, they do and they do so very well, but in the main I think if government takes them in to care, the government takes responsibility to make sure those children are looked after in the best way that they possibly can be.

Ms Cowley: And what Andrea is talking about as well, and one of the things that we are looking at—I mean at the moment there are only two Aboriginal organisations. One is Centrecare, and that is under the Djooraminda umbrella, and then you have got Yorganop, whereas there is that expansion being looked at to take in the Aboriginal alcohol and drug services, looking at the placement side of things. But, you know, in saying all this, let us also be honest that we need to make sure that we have the right organisations and those organisations are accountable and that they have the interest of the children and the wellbeing of those children at hand. We know there are some Aboriginal corporations that are not accountable, but we also know that there is a large percentage that are accountable, so that is what we need to hone in on. That could also be part of us dealing with our problem. It just starts with the reduction of the 52 per cent. There has been an increase in the last six months of 0.05 per cent.

Hon ROBYN McSWEENEY: Yes, it went from 46 per cent —

Ms Smith: To 51.5 per cent.

Hon ROBYN McSWEENEY: I think when I left it was 40 per cent, just on the 40 per cent, just before.

Ms Smith: Yes, eight per cent of all Aboriginal kids in WA are in care.

Hon ROBYN McSWEENEY: I never had a problem taking the children who were neglected into care, but I always felt that surely we should have something preventative before it got to that. There is a lot of room for more improvement in education, and let us face it, if you do not know something, how do you know? If you are not cuddled or loved, how do you know to do it to your own children—if they are not read books? You know, we can all learn more, but it is a matter of us learning and being ever-vigilant. I would rather see children with their parents, but if the parents cannot look after them, somebody else has to and that has to be absolutely rigidly looked at and made sure that that system is accountable.

The CHAIR: In relation to the work that our committee is doing, looking particularly at Blaxell's recommendations, in the review the suggestion is still that the children's commissioner has some kind of involvement in the child abuse support complaints process. That is what we are really trying to get our heads around. So, in that context if you do know that a child is reporting abuse or is coming forward, do you have any experience with what that child's journey is like? I ask this in the context that you are part of the legal system and that is sometimes far down the road when a child reports; it is often the teacher, the youth worker, the healthcare professional or someone else who gets the first report and then the legal system does not come into play until later. What Blaxell was really concerned about was that very first point of, "I think something is going wrong in my life", through to an outcome and then a healing past that, that there is no continuity of friend for the child or support for the child throughout that process. Do you have any views about that from your experience in this field?

Ms Cowley: I do; I think it is about, honestly, explaining to children—you have got to catch them at an early age at this stage of the game—that that is not behaviour that is tolerated. We have had a couple of examples that have come through our office where kids have presented to a teacher, but it took four times of telling the teacher that, "I had a terrible night last night", that the teacher listened, and that child, she became the adult in that situation with the siblings, running down the

street at one o'clock in the morning trying to get away from the perpetrator; it was a bit alarming. So, I think we need to go back in at the very early stages. It is about the rights of the children. We talk to the victims, we deal with the victims, but we also need to be looking at the children. That is not tolerated; it cannot be tolerated, and we need to look at the mechanisms whereby they can go to someone they can speak safely with.

The CHAIR: So, who is the someone?

Ms Cowley: At the end of the day I do not think you can look at anything past a teacher, for a start, given the amount of hours those children are in the care of the teacher. I think you could be looking at possibly a community nurse. So, we are going back to people within the government organisations who have the statutory responsibility to report this sort of behaviour and have it on record and deal with it? But you know what? There could be somebody within that community, because at the end of the day, and history has proven, that within communities there are counsellors, there are social workers, there are midwives. They may not have gone to university, but they are recognised as those people. We need to start looking at some of these safe houses. That is what I am saying and that is just based on a couple of incidents that we have had reported to us through friends of ours of what their children and grandchildren have gone through.

The CHAIR: So Mary, I think I understand what you are saying, but following up on that point, if in one of those instances the child has been picked up by the healthcare nurse as someone in the community who they know and trust, and things have progressed, do they actually have to leave the community at some point in time to go through the legal process? I am sorry; I am just a bit ignorant about this. Does the child and their close support person stay in the community or have to come to Perth for a hearing? Are they all dealt with at the local level, or what happens?

[1.10 pm]

Ms Cowley: Seriously, I think this is a very sensitive one. In some cases people may need to leave the community, but in other cases I think that there has got to be that protection, and there has to be protection for those children. May I say that we have got victims who take out restraining orders and that gives no protection whatsoever because sometimes those restraining orders are not served for in excess of seven days, so it provides a window of seven days for the perpetrator to create something—and, you know, we are seeing it: we are seeing children who are becoming fatalities because of family violence. We are going to see an increase in this unless the judiciary and certainly the enforcers start putting things in place. But in saying that, you also cannot rule out the person's behaviour—the perpetrator's behaviour.

The CHAIR: You cannot always rule out every factor.

Ms Cowley: You can put all the protection mechanisms in place, and I think the Andrea Pickett situation is a classic example whereby the protection mechanism was put in place, and the trauma that her child experienced—they took four hours to find that child. That child is highly traumatised now. My question has been: what sort of support mechanism has that child got, because that child has got to live with that for the rest of their life? We can be very vigilant in putting all these support mechanisms in place, but sometimes we cannot guarantee it.

The CHAIR: We would agree with you that there is no 100-per-cent solution. Do you think that the system that we have now is working better to empower children in your estimation—where you work—to come forward? Do you think we have a better system now than when the Katanning situation happened, around institutional abuse back in those days?

Ms Cowley: I still think we need to work on it, because I do not think it is getting out to the remote-rural areas and the accessibility by those children in the remote-rural areas; so, yes.

Ms Smith: It would depend on context as well—like, where the child is—because what you are up against at the end of the day is the perpetrator's ability to isolate the child. That is what you are fighting: the success of that perpetrator to manipulate the child into not telling.

Hon ROBYN McSWEENEY: Yes, they are very good at that, unfortunately.

Ms Smith: That is why it works.

The CHAIR: What about adult reporting of historic issues? Do you have much experience with people coming forward in their twenties or thirties—it is usually in their thirties—saying this has happened to me? Do you have that kind of experience in the communities about that happening?

Ms Cowley: I think some people have come forward and have said, “This has happened to me.” In also saying that, we have 20-year-olds coming forward and saying, “This happened in my family. This is what I have been through, but nobody has bothered to ask me as a child what I have gone through. Nobody’s bothered to ask me, as a 20-year-old, what I experienced as a child and how I felt through this stuff.” They are the sorts of things that we need to start highlighting. We are talking about something that is never, ever going to leave this child; it is there for life.

The CHAIR: Mary, who should be asking those questions? Who should be the person that those people can come and ask questions? Is it the teacher, the health care nurse? It is a big responsibility to put on those people.

Ms Cowley: It is a massive responsibility, and I do not think that you can actually highlight any one person. It is about accessibility, if you have access to different people. You know, they may even feel a little bit more confident speaking to a police officer. They could be confident in speaking to—you know, they do not have to be a professional. It could be the next door neighbour that they feel comfortable in exposing to. What you need to do is make sure that the next door neighbour knows exactly the process that needs to be followed to ensure that this is dealt with.

Hon ROBYN McSWEENEY: There is not enough of that. I was saying to my colleagues here a little while ago, a child can disclose to a teacher, but unless a teacher is trained in that way, it is very confronting. It is even confronting for me as someone who trained in that field when somebody comes to me. If it is in the local school, I usually go to the chaplain and we have a bit of a yarn about what we are going to do that is best for that child. So when people say it is up to all of us—and it is up to all of us—unless you are trained in a certain way, and everyone is trained to care, but what that next step is is pretty important, is it not?

Ms Cowley: Absolutely.

Hon ROBYN McSWEENEY: For that child, that next step is so important.

Ms Cowley: We have to look at the scarring that is occurring with that child, and what it leaves, even for those children going into out-of-home care.

The CHAIR: Mary, given that your experience is in remote–rural communities, what mechanisms do you think should be in place in those communities specifically that might be different to the metropolitan situation? Have you got any views, either Andrea or Mary, on that?

Ms Cowley: Can I say to you, although I am from the Kimberley, I get a bit annoyed that rural–remote gets a lot and we are not looking at the isolation of the people in the metro area. Given the out-of-home care statistics, the increase is predominantly in the metro area, it is not in the remote rural areas, so it is about accessibility to services.

The CHAIR: That is a good point.

Ms Cowley: We just assume that they have access to services; in some cases they do not have access to services. But, seriously, I think at the end of the day we need to start working in a collaborative approach to start dealing with some of these issues. We need to start saying to people, “If you don’t know how to do your job, we’re going to show you how to do your job.” This is what you need to do, because my personal view is: I think there are sufficient resources out there; we are just not working collaboratively to try to deal with the issue. I think more money or more funding is not necessarily the solution to the problem. Let us be very careful. One of the

things that we spoke to Child Protection about is what you need to be doing is you need to start putting some figures on the reduction of children in out-of-home care. You need to look at strategies as to how you can reduce it in each one of the regions. That is what you need to start doing. It may not be you. It may be a partnership arrangement with other organisations that you either fund or you do not fund, but you have a common interest. I hope I have answered that.

Hon ROBYN McSWEENEY: If you take Cannington, for example, there is a large number of children in out-of-home care in the Cannington area as much as there is in the Joondalup area, so the supports are there. I guess that there is just that adversarial thing, to go into DCP, if they had taken my kids; there is this anger. Although the supports are there for the parents, do the parents like going back into the department? They probably do not like accessing those services from the department, do they, because the department has taken away their children?

Ms Cowley: Yes.

Ms Smith: And I can tell you there are very few culturally safe services operating in Cannington, because I have worked in them and with them—and the same across the metro area.

Ms Cowley: And the Cannington stats have gone up one per cent in the last six months.

Hon ROBYN McSWEENEY: When you say “culturally safe services”, tell me what you need in that more than what is there now? So you need Aboriginal people?

Ms Smith: No, you do not need more. What you have got is that DCP funds a suite of services that are provided to support families to get through their interaction with DCP. It is an excellent theory, except those services are then designing their own programs with that money and delivering their own programs. Some of those programs do not necessarily help the people they intend to help in the way that they need to be helped.

[1.20 pm]

Ms Cowley: It is about identifying the issues, and what we are also saying to people is, “Okay, if you are doing that, have you talked to the institute of—it is telethon for kids. Have you spoken to them? They also have programs that they are developing. Are you linking up with those agencies?” And that is what we need to start getting people to do and start them linking up, because they are developing programs that are predominantly for children, so we need to start looking at what is out there amongst other providers as well.

Ms Smith: I think what happens is that program evaluation is not particularly considered high in priorities on behalf of service providers. Service provision is highly prioritised, which is fair enough; that is what we get caught up in.

Hon SALLY TALBOT: Service provision but not service evaluation?

Ms Smith: Correct. Then, as a funder you get caught up in auditing the books. You look at numbers and you say, “This is how many clients you have gone through. Well, that looks all right, value for money; tick.”

The CHAIR: Not outcomes.

Ms Smith: Yes. Clients look at services and go, “I have to engage”. When you are actually working on the ground—I have done it for a lot of years—you understand what it is on the ground and you know that it is not helping anybody. The figures reflect it, and you see the revolving door issues that happen, and you see the kids continue to go into care. You can see what happens. You see within organisations the problems that occur but that is not necessarily translating through to funding providers.

Hon ROBYN McSWEENEY: If we were to stop the kids going into care, we have got to get those parents and teach them that it is not okay to do that to their children; otherwise the children will continue to go into care.

The Witnesses: Absolutely.

Hon ROBYN McSWEENEY: That comes back to that step I was talking about beforehand, the preventative measures, which is the teaching that you should not do this.

Ms Smith: That is right. But you are relying on your support mechanism to do that and, in my opinion, your support mechanism that is failing. That is where, in my opinion, your rethinking needs to happen.

Hon ROBYN McSWEENEY: So a lot more education by education people, by Aboriginal people?

Ms Cowley: Absolutely. We have got people ringing into our office and complaining. That is all very well, but if you have got children who are unsafe in that house—there could be drugs occurring and a whole raft of things occurring. Let us have a look at what is happening in that house. What we are saying is, people need to also take some responsibility and it is up to those individuals. We have got to say that you cannot allow this to occur because at the end of the day, you are actually supporting these kids going into care by the continuous behaviour that you continue to demonstrate. It is about education. It is about that behaviour not being tolerated, and at this stage of the game given the alarming statistics, we have got a hell of a long way to go.

Hon ROBYN McSWEENEY: I know it raises a red flag sometimes, but I really liked it—putting people on income management. The reason I liked it was because the statistics showed me that children would go to school, they would get fed, the domestic violence was halved—it did not disappear, but it somehow went down. There is the other side of it that says no, you are trying to manage people, but in my view, it stopped children going into care. Where income management was let down was that I do not think there were the supports around income management to actually do the teaching. But if you had a system that was income management and you had the supports there, enough money for those supports to go in and educate people as to why they were being income managed, if the children were allowed to stay in the home—that was for domestic violence, not sexual abuse; I am just talking about neglect and maybe physical abuse—that would stop. What was your opinion on that?

Ms Cowley: Look, I think income management is probably the way to go, but once again I think it needs to be managed by the community in saying this, because there is also some—we have come across people who have learned how to defraud the system.

Hon ROBYN McSWEENEY: Yes. I did see that at the end of the time.

Ms Cowley: Yes, and that is what concerns me at this stage of the game. It goes back to the factors: you are on income management because of the impact it is having on education, the impact it is having on even your own tenancy arrangements at this stage of the game. Some of the stories that I have heard, and it just comes straight from people, and it is like, “Oh my god. What is it that you do not get? This is about the safety of your children.” That is why this is put into place. Really, at the end of the day it is about your safety and your wellbeing.

Hon ROBYN McSWEENEY: If that could be managed by the community, like the income management still managed by Centrelink et cetera, but the services that hang off that income management really should be done by the community.

Ms Cowley: Absolutely supported by the community so that they can provide those services to that person and so that they have more of an understanding. It is not just about government controlling your funding, it is because of a whole raft of things that are occurring within your household that this has been placed. I think that you probably read the article by Ian Trust to the Kimberley saying that he supports that, but it has to be managed by the community so that those support mechanisms are in place.

Hon ROBYN McSWEENEY: It was the one time I was ever in *The New York Times*, Mary; my one sentence of fame.

The CHAIR: In relation to the submission that you guys made in the statutory review, the issue of a deputy commissioner, focusing on Aboriginal and Torres Strait Islanders, was rejected in the outcome of that review. I suppose I am just asking, is there anything that you wanted to comment on in relation to that decision, or anything about your expectations for the future of the commissioner's role, given that that has been chucked out in the recommendation that was made?

Ms Cowley: I know that the initial recommendation came out of the Gordon inquiry. We are going back to 2001, 2002. I think Aboriginal people respected and accepted; however, what we want is the commissioner to show a spotlight on the Aboriginal children, because the degree of, certainly the children going into out-of-home care. I am just trying to get my head around it because I have read a few reports but what the commissioner for children in Victoria is actually doing is looking at everything that is occurring. We are not asking the commissioner here to do it; however, there is no reason why they cannot say, for example, just grab a couple of files spasmodically and check to see where their processes were put in place; it does not have to be on a regular basis. It can be just, sort of, a spot. Getting hold of the files to find out whether or not things were put in place to ensure that it was a process that was implemented. I mean, we are talking about human rights here, human rights process. I think that is what needs to happen.

The CHAIR: Thank you.

Ms Smith: Can I ask if there was a rationale given for the rejection of that recommendation?

The CHAIR: I cannot particularly remember a rationale; nothing that was hugely relevant to me at the time.

Hon SALLY TALBOT: I think in our notes it says that it was because the review said that Aboriginal children and young people should remain the priority of the commissioner.

Ms Smith: So that is supported by the act.

Ms Cowley: We would support that. There would be a lot of people—I guess it also may have the staff involved and the thing is, who do you put in there? People may say, “Well, they've got the right person and blah, blah, blah”, but as long as there is a priority held on those that are in real need, and it has to be a priority.

Hon ROBYN McSWEENEY: Yes, the most vulnerable.

The CHAIR: Given that you said that, is that not the case at the moment?

Ms Cowley: Look, we have not had a lot to do with the commissioner, but given the increasing number of children going into out-of-home care, it would indicate to me it is not a priority.

[1.30 pm]

Ms Smith: I think it also depends on how you proceed with expanding the function of the commissioner. If you were to expand to include accepting complaints of sexual abuse, having a co-commissioner who was Aboriginal might have helped appeal to Aboriginal kids who wanted to make complaints.

The CHAIR: Is there anything else that you wanted to add to your comments this afternoon that you feel we have not picked up on yet?

Ms Cowley: The only thing I would say about our organisation, and maybe I am slightly biased, which I guess I have a right to be, is that we are trying to look at who the best audience is at this stage. There is a huge audience out there but what impact will we have by targeting this group of people as opposed to this group of people? It is about investing your resources so you can get outcomes. People may say, “Why are you doing it?” We have entered into an agreement with the Department of Corrective Services. We have a program in the prisons, piloted in Kalgoorlie, but hopefully it will be rolled out in all the prisons throughout the state. It is in regards to the victims-cum-perpetrators. We have also developed a program which we do not deliver. In partnership with

another organisation, we deliver a program to the men: “You have to stop this behaviour as well. This is unacceptable.” We have done a “sparkle and grow” program, which will be launched in October. That is primarily in the schools. We are also looking at, with Healing Hands, more of what we would call —

Ms Smith: It is a pampering type level of education.

Ms Cowley: We are on the radio doing a whole range of things. We have different lawyers and CSOs running radio shows in regards to “You can’t do this” and “This is the sort of behaviour”. We are trying to cover as much as we can within our capacity and where we can get maximum coverage from as opposed to doing something that has minimal results.

The other thing that we have launched, and I do apologise; I had it on my desk but I left it. You will see us wearing these badges. It is the ochre ribbon campaign that has gone national. It is about recognising family violence and recognising those people who have been fatalities and who have died at the hands of family violence. That is now a national campaign. The ochre ribbon campaign day is 12 February. That has been identified and locked in nationally. We will try to get some.

Hon SALLY TALBOT: If you get them to us, we can distribute them.

Ms Cowley: You can give them to some of your parliamentary colleagues to recognise. This twigged off because of a fatality that occurred in Kalgoorlie where the family just said, “Enough is enough. We’ve got to stand up and do something.” It was because of them saying those words that we drove the ochre ribbon campaign. They have had enough. They do not want to continue to see this behaviour. We have quite close linkages. It is a bit like Andrea Pickett with her family, the Bentley family. There are a lot of people out there who just need that support.

Hon ROBYN McSWEENEY: Just before we close, is there one area—the door is shut now—in particular, up north in the regions, where children are being brought into care higher than any other region?

Ms Cowley: In the Kimberley, it is 100 per cent.

Hon ROBYN McSWEENEY: The Kimberley itself, is it? You cannot pinpoint it and say it is Port Hedland or —

Ms Cowley: We are saying the Kimberley—west and east Kimberley. We have statistics here if you want them.

The CHAIR: That would be very helpful, thank you.

Ms Cowley: These are the latest stats.

Hon ROBYN McSWEENEY: Why are they being brought into care? Is it neglect mainly?

Ms Cowley: But also recognising that the kids in metro are starting to rise, which they predicted. I think there are four or five spots where it has gone up one per cent. Cannington is one of them.

Hon ROBYN McSWEENEY: I knew about Cannington. I did not know about the north.

The CHAIR: It is 100 per cent in the east Kimberley!

Thank you for your salutary message. Thank you for your evidence before the committee. The principal research officer, Vanessa, may write to you about additional materials if we need clarification. A transcript will be sent to you to which you may need to make minor changes and return within 10 days or we will deem it correct. Any new material cannot be added to the corrections but if there is anything else you want to give us as supplementary, you are more than welcome to send us a supplementary submission. Thank you so much to both of you for the

information you have given us. I am hoping that we are able to make a valid contribution to the role of the commissioner in the future, particularly around this area.

Ms Cowley: We will certainly be making contact with the commissioner to see how we can provide support.

The CHAIR: Good on you. Thanks, Mary. That is really fantastic.

Hearing concluded at 1.35 pm
