

SPECIAL COMMISSION OF INQUIRY
INTO
CHILD PROTECTION SERVICES IN NEW SOUTH WALES

Before The Hon James Wood AO, QC, Commissioner

At Nowra Golf Club, Fairway Drive
North Nowra

On Tuesday, 13 May 2008 at 9.40am

Counsel Assisting: Ms Gail Furness

PUBLIC FORUM

THIS TRANSCRIPT HAS BEEN EDITED

.13/5/08

1 NOWRA - PUBLIC FORUM
Transcript produced by Merrill Legal Solutions

1 THE COMMISSIONER: Good morning, and thank you for coming
2 to this public forum. What we want to do today is to have
3 the views of those of you who have come into contact with
4 the child protection system either through DoCS or
5 otherwise through accessing family support services or
6 other services.
7

8 We particularly want to hear, obviously, from people
9 who have been working in the out-of-home care situation as
10 foster carers or kinship carers. Additionally, of course,
11 we would like to hear from those who may have had members
12 of their family removed and taken into the child protection
13 system, and similarly anybody who is here from various
14 agencies who are involved in Brighter Futures. We really
15 want to hear, I guess, observations from people across the
16 entire gamut of the child protection system.
17

18 We have some people who have indicated they want to
19 talk. We will call on them first. They have not been
20 sorted into any particular order, but their observations
21 may well encourage others to speak and, of course, they may
22 do so after we have gone through those people.
23

24 There is just one rule I would like you to observe if
25 you can: if you're talking about a particular case, we
26 would prefer that you do not actually name the child or
27 children who might be involved. There are privacy and
28 confidentiality reasons which make that important. The
29 name may well slip out, it often does, but if that happens,
30 then we can edit the transcript which we are keeping for
31 our purposes as a record of the forum.
32

33 Without any further ado, I might start going through
34 those who have registered an interest in speaking.
35 Michelle Stewart from AbSec, please
36

37 MS STEWART: My name is Michelle Stewart and I work for
38 the Aboriginal Child, Family and Community Care State
39 secretariat in New South Wales and we are located in
40 Sydney. I would like to make a comment today in regards to
41 DoCS.
42

43 I organised a meeting for Aboriginal foster and
44 kinship carers as well as non-Aboriginal carers caring for
45 Aboriginal children. The meeting was at 1.30 yesterday. I
46 was disappointed at the lack of carers who attended it.
47 There was one DoCS carer. Unfortunately the DoCS carer was

1 informed of the meeting only yesterday. I thought I had
2 spoken to the appropriate person from DoCS and I had hoped
3 that the notice of the time of the meeting would have
4 reached the carers earlier than yesterday.
5

6 AbSec is actively trying to put together support
7 mechanisms for Aboriginal carers. There have to be better
8 ways for agencies to work together so we can deliver
9 support and services for carers at a grassroots level.
10

11 THE COMMISSIONER: Before you sit down, if you are putting
12 something together along those lines, we would very much
13 like to hear it because we are very interested in the
14 extent to which foster carers who are either DoCS carers or
15 NGO carers are in fact able to get support and to get
16 access to DoCS; for example, if they need particular
17 services or some particular problem solved. Where are you
18 at with that at the moment?
19

20 MS STEWART: We are trying to set up support groups around
21 the State. They are not actually already established at
22 the moment.
23

24 THE COMMISSIONER: Do you have any established groups at
25 this stage?
26

27 MS STEWART: Yes, we do. We have established groups. We
28 have carer reps within the groups because the groups
29 actually nominate themselves.
30

31 THE COMMISSIONER: We have had some submissions touching
32 on this, but if you have anything which you could actually
33 give us, it would be quite helpful.
34

35 MS STEWART: Okay, thank you.
36

37 THE COMMISSIONER: [REDACTED], please. I think you
38 are a foster carer; is that the case?
39

40 [REDACTED]: I am a foster carer.
41

42 THE COMMISSIONER: With DoCS or with an NGO?
43

44 [REDACTED]: I am with DoCS.
45

46 THE COMMISSIONER: Thank you.
47

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1 [REDACTED]: I have a few issues that I would like you to
2 know about. We have two children in care and four of our
3 own, so we are a big family. We have been carers and we
4 have been doing it for about two years. Over that time, we
5 have had some very difficult issues with DoCS in that we
6 have a child that had to have a medical condition treated.
7 They agreed to pay for all of our transport costs and
8 things in to Sydney. My husband and I were travelling to
9 Sydney on a weekly basis.

10
11 We came back and tried to claim the funding that it
12 took us to go to Sydney for this condition, and they told
13 us that it had not been approved. Now, the paperwork had
14 not gone through for approval even though we were told in
15 the beginning that everything - all our costs - would be
16 paid. They make it very clear to carers that if you need
17 to have out of pocket expenses paid for anything, they have
18 to be approved upfront. We anticipated this was all done.
19 We checked time and time again, "Yes, all the out of pocket
20 expenses are covered"; yet when we went to claim, they
21 didn't agree at first. They eventually did agree to the
22 payment of it.

23
24 Now we are putting in subsequent claims and we are
25 finding that they are telling us, "No, you're not covered
26 again. We can't pay you back the money that you have
27 expended." This is even though we were told upfront that
28 all of the medical costs for the child would be covered.

29
30 We have been requesting for two years for one of the
31 children to see a counsellor. For two years this child has
32 desperate need. The child is in its teenage years and it
33 has asked to see the counsellor, I tried to get the child
34 to see the school counsellor as a desperate measure,
35 because that child has problems at school, and I have been
36 told that they can't see the school counsellor because they
37 are going to see the professional counsellor and they can't
38 see both.

39
40 We are having the frustration of dealing with this
41 child and we had a huge issue about four weeks ago. My
42 husband and I were sent for counselling with a psychiatrist
43 because they thought we had the problem and not the child.
44 I was quite disturbed about the fact that, for two years,
45 we couldn't get a counsellor to see this child who has huge
46 issues; yet they could arrange an appointment for us within
47 a week. I was quite distressed about that.

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1
2 We have had our cases reviewed. We went for a period
3 of almost six months without a caseworker. Every time I
4 needed to talk to somebody, I would have to ring the office
5 and I would have to talk with the duty caseworker on call
6 who didn't know the file, didn't know the children, who
7 couldn't make a decision, and I was told, "Well, what would
8 you like to do about it?" We are trying to get information
9 from DoCS, direction from DoCS on what to do with some of
10 the problems we have with the children; however, they are
11 saying to me, "What would you do?"
12

13 I had cause to ring the DoCS Helpline one evening. I
14 got through to Sydney. I spent approximately four hours on
15 the phone with them and I was telling them about the child
16 because their computer records in Sydney didn't match what
17 I was telling them. The parents had access to the
18 children. They didn't even know where to find the children
19 with the issues that we had with them. So I spent four
20 hours on the phone, being desperate, hoping that these
21 children were okay while I was trying to direct DoCS and
22 the Police to the house where I thought these children
23 were. I found it very disappointing that I could not ring
24 the DoCS Helpline about their own child or their own
25 children and that they could not give me adequate
26 information. I was giving them what they needed to know.
27 I found that was quite upsetting.
28

29 The other thing is allegations were actually made
30 against my husband and me through one of the children in
31 relation to wearing a school uniform to school. The child
32 wanted to wear a senior uniform so [REDACTED] could get out of
33 school, and [REDACTED] is in the junior school. We were hounded
34 through DoCS for a week, my husband and I, over this child
35 wearing the wrong school uniform to school. We were
36 telling the child, "You need to wear the proper appropriate
37 uniform to school"; yet we were put over the coals because
38 this child refused to wear the school uniform, and that [REDACTED]
39 should be allowed to wear what [REDACTED] wants to wear to school.
40

41 [REDACTED]
42 [REDACTED]. These are children who have become part of our
43 family life. We have been overseas with them. We have had
44 wonderful times with these two children. We wouldn't give
45 them up for anything, but dealing with the system we found
46 has really let us down. Thank you.
47

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1 THE COMMISSIONER: Can I ask is there a carers support
2 group, an independent support group in this region?
3

4 [REDACTED]: There is. I come from down the south. We have
5 our own carers support unit down there. We meet once a
6 fortnight with foster carers. I found them to be of great
7 assistance to us in dealing with some of the issues that we
8 have to bring up with DoCS.
9

10 THE COMMISSIONER: Thank you for that. We are looking at
11 the situation as to whether there should be expanded carer
12 support within DoCS. That is a matter which has raised its
13 head on many times, but thank you for that experience.
14

15 Lyn Larkins, please. I think you are from the
16 Shoalcoast Community Legal Centre.
17

18 MS LARKINS: I am. I am a lawyer at Shoalcoast Community
19 Legal Centre. We are a not-for-profit organisation that
20 covers from Nowra to Eden. We are open for legal advice to
21 anyone in the community. I am also a member of the local
22 Aboriginal community. I have an uncle who works for DoCS
23 and an auntie who is a foster carer. My views of DoCS are
24 from various and different angles. They are my views.
25 They are not necessarily the views of the whole Aboriginal
26 community and I would like to make that clear also.
27

28 I would like to acknowledge that DoCS has a very
29 difficult job. They have an important job, valuable in
30 protecting our children and supporting families in need,
31 especially their early intervention programs. We feel most
32 DoCS offices are overstretched and are in need of more
33 structural support and resources.
34

35 There is a negative perception of DoCS within the
36 Aboriginal community, obviously, given the history of the
37 Stolen Generation, and there is much fear and mistrust of
38 DoCS. Despite this, I have seen some improvement. I think
39 this is a flow-on from the community engagement that DoCS
40 is doing. Also, their efforts in communicating with the
41 community about the early intervention programs and their
42 employment of Aboriginal people as liaison officers, et
43 cetera, have gone a long way towards bringing about a slow
44 change in the perception of DoCS. The perception is still
45 there, most community members would agree that DoCS is seen
46 as a place that takes children away, but that is slowly
47 changing and I believe that people are starting to see that

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1 DoCS can also provide support for families in need.

2
3 Some of the matters that I want to raise today have
4 come about in our casework or our phone advice work or our
5 community workshop. We are finding that the Aboriginal
6 placement principles in the Act are not always being
7 considered and investigated.

8
9 We had one case when an Aboriginal child was placed
10 with a non-Aboriginal family outside the child's normal
11 area despite there being a safe and caring family member
12 who was forced to pursue private Family Law avenues to have
13 contact with the child. The family was never investigated
14 as a possible placement because the non-Aboriginal mother
15 did not want the child placed there. Despite repeated
16 phone calls and written requests, the family was totally
17 ignored as an option and was not able to engage with DoCS.

18
19 We had another case where DoCS failed to investigate
20 the cultural and family background of a child. The
21 grandmother/client and her son had advised DoCS within days
22 of the child being taken that the child was Aboriginal, but
23 it wasn't until the second hearing in court that the court
24 actually became aware of the child's heritage.

25
26 Many grandparents are being told also that they need
27 to seek leave of the court before they can even be
28 considered as possible carers. It is extremely difficult
29 to make contact with caseworkers. Even when you do, you
30 find the caseworkers have changed. This is just making it
31 more and more difficult for families to deal with DoCS.
32 There are also inconsistencies between caseworkers.

33
34 We recently had a non-Aboriginal young girl contact us
35 for assistance. Her caseworker had previously advised her
36 that when she had her as yet unborn child, she would be
37 allowed to keep the child but she would be monitored by
38 DoCS and supported by them.

39
40 Within a day of giving birth, she received the
41 paperwork from DoCS to say that the child would be removed,
42 and that was from a different caseworker who she had had no
43 dealings with whatsoever. So it was a total surprise to
44 her.

45
46 We are also coming across many Aboriginal families
47 where grandparents are looking after the grandchildren in

1 informal arrangements within families. The grandparents
2 are finding it difficult to deal with many aspects of the
3 children's lives, like Medicare, schooling, Centrelink and
4 those sorts of issues. These grandparents and families are
5 too scared to inform DoCS of this informal arrangement.
6 Those are the main things that have come from our casework
7 and phone advice.

8
9 A general matter that I would like to raise in
10 relation to DoCS is that DoCS is not always applying the
11 least intrusive principle, even in cases where we believe
12 that there is no immediate risk to children, there is not a
13 lot of investigation going on before intervening.

14
15 There needs to be better financial and practical
16 support from DoCS to out-of-home care and foster parents.
17 The Aboriginal organisations that are providing out-of-home
18 care need to be better funded and resourced. With care and
19 protection work, it is always better if there is a sense of
20 self-determination and self-management by Aboriginal
21 communities in the decisions that are being made about our
22 children. Hopefully the care circle program which will be
23 implemented soon in Nowra might address some of those
24 issues.

25
26 I am sorry, there is one other thing I wish to
27 mention, and this is not really a plug; it is just that
28 this book is a useful resource that Shoal Coast has put
29 together. That's our second print. They have sold like
30 hot-cakes basically. You can't get enough of them out
31 there. We have put this book together and we were happy to
32 do that. It is set out so it has individual fact sheets.
33 Service providers or anyone can use it to give out to
34 clients. We give it out to clients direct as well. It is
35 a good starting point for a lot of families to
36 understanding the law and where to go for help.

37
38 We know there is no obligation on DoCS to provide that
39 guidance about finding legal assistance and what not, but
40 we feel that a book like that or something similar would be
41 of immense benefit to families if it was given out at DoCS
42 level to clients for whom it looks like court action will
43 be imminent. Maybe that is something that you could
44 consider.

45
46 THE COMMISSIONER: It sounds as though you have funding
47 for this from the Commonwealth; is that correct?

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1
2 MS LARKINS: We fund it ourselves, but also we are funded
3 by the Commonwealth and the State Government.
4
5 THE COMMISSIONER: Yes, I understand that. I just note
6 that it says that it was produced with government funding
7 provided by the Commonwealth.
8
9 MS LARKINS: That's initially - the first one, but not the
10 second one.
11
12 THE COMMISSIONER: Thank you for that. Can I ask you a
13 couple of questions? We are very interested in seeing how
14 the Aboriginal placement principles work in practice. If
15 either you or the agencies, the local communities you are
16 working with, have more expansive views on that, could I
17 encourage you to perhaps send us a submission?
18
19 MS LARKINS: Yes.
20
21 THE COMMISSIONER: The second thing: for the Nowra care
22 circle project, which is a really innovative approach, have
23 you been involved in the planning for that at all?
24
25 MS LARKINS: We have only attended, like, community
26 meetings and been involved in discussions as part of the
27 broader community. Yes, that has basically been our
28 involvement.
29
30 THE COMMISSIONER: At this stage, do you have any
31 impression as to what is the likely community acceptance of
32 it or reaction to it?
33
34 MS LARKINS: The circle that was commenced in regard to
35 local court stuff has been very well received. With the
36 care circle, if it is shown that the Aboriginal voice is
37 heard more, I think it may receive some acceptance, but it
38 was just a case of wait and see for us.
39
40 MS FURNESS: You indicated before that grandparents had to
41 seek the leave of the court to become carers. What did you
42 mean by that?
43
44 MS LARKINS: To become considered as a placement: that's
45 what we've been told by a few clients.
46
47 MS FURNESS: That they had to go before the court to be

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1 considered an appropriate placement.

2

3 MS LARKINS: That DoCS would not consider them as a
4 placement unless they went to court and got leave of the
5 court to appear as a party.

6

7 MS FURNESS: Thank you.

8

9 THE COMMISSIONER: Thank you for that. If during the
10 forum there are other people who have had direct contact
11 with the Aboriginal placement principles, I would perhaps
12 ask you to speak at the end, if you haven't already put
13 something forward. Thank you. [REDACTED], please.

14

15 [REDACTED]: I am the retired deputy principal from [REDACTED]
16 Public School and was involved in various DoCS
17 notifications during my career. In my retirement one of
18 the many hats I wear is child protection training. I'm
19 authorised by the Anglican Church Diocese of Sydney to
20 conduct such training. I've also got family experience at
21 the moment of [REDACTED] who refuses to
22 live with her mother, insists on living with her father who
23 is a drug addict and an alcoholic and is undergoing weekend
24 detention in gaol.

25

26 Notifications have been made about this at the local
27 DoCS office. [REDACTED] up in Sydney. The local DoCS office
28 says that really nothing can be done about a wilful [REDACTED]
29 [REDACTED] and as we all know, [REDACTED]
30 can be very wilful. It is extremely frustrating to our
31 whole family with this particular [REDACTED]. There is no reason
32 whatsoever why [REDACTED] should not be down here with her mother
33 [REDACTED].

34

35 My frustration with the DoCS process comes over the
36 issues of neglect. I am very, very well aware that DoCS is
37 under-resourced and that its workers are stretched to the
38 limit. I think anyone who is involved in this process
39 would understand that and that very tough decisions have to
40 be made in terms of priorities, but I get very concerned
41 that when notifications are made and those priorities
42 determined, that it appears to the rest of us - it may not
43 be the case - that only those children who are under
44 immediate danger, like, if they go home from school they
45 are going to be particularly sexually abused or physically
46 abused, are going to get any real attention. I am very
47 concerned about the training I give to the people in our

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1 church who are involved in activities with children.
2 I spend quite a lot of time going through all the various
3 categories of child abuse - including neglect - and I feel
4 quite frustrated that I'm telling them things that they
5 should be notifying when in fact probably nothing's going
6 to be done with the notification.
7

8 It is extremely frustrating for everyone that we have
9 these categories in the Act that we are supposed to be
10 notifying DoCS about, but when we do, if DoCS does not have
11 the resources to actually act on the notifications, what
12 will happen over time is the notifications will not be made
13 and children will continue to be at risk.
14

15 THE COMMISSIONER: Thank you for that. [REDACTED],
16 please.
17

18 [REDACTED]: I am a long-term foster carer. I'm with an
19 NGO now, but I was with DoCS for 10 years prior to
20 reporting a matter of an allegation that my foster [REDACTED]
21 told me two and a half years ago, in [REDACTED] 2005. To the
22 present day, I have been and [REDACTED] has been interviewed by
23 JIRT. There has been no other action taken against my
24 ex-husband now. He has never been interviewed. He has
25 never been spoken to, except by the Ombudsman's Office
26 because we were both interviewed over that and that only
27 happened last year before Christmas. I am still awaiting
28 an answer back from the Ombudsman's Office as to whether
29 we'll have a record over the matter and I've just found the
30 whole thing very frustrating because the child is saying
31 that [REDACTED] wants [REDACTED] time in court.
32

33 [REDACTED] had been interviewed by the DPP only a few months
34 ago and they said that they will be looking at putting a
35 case together, but it's just very, very frustrating on the
36 part of being a foster carer and finding things that just
37 don't seem to go anywhere. Probably the more horrific
38 thing for me was that I was actually told two years ago by
39 DoCS down here that they actually knew of this allegation
40 six months before I reported it. Because we didn't have a
41 very good relationship with DoCS, they didn't want to bring
42 it up with us and that the person that was the perpetrator
43 was the [REDACTED] and that was what I heard, but I worked
44 out that it [REDACTED], that it was the [REDACTED]
45 [REDACTED] and so they didn't want to continue with it and they
46 just didn't do anything about it until I reported it
47 myself.

1
2 MS FURNESS: How old is your foster [REDACTED]?
3
4 [REDACTED]: [REDACTED] 17 now.
5
6 MS FURNESS: How old was [REDACTED] at the time?
7
8 [REDACTED]: [REDACTED] was almost 15 when [REDACTED] told me about it,
9 but it hadn't been happening for two years before that.
10 I have been led to believe that [REDACTED] told them that it was
11 happening from about first class for about six years.
12
13 THE COMMISSIONER: It sounds as though it is moving
14 forward, albeit slowly.
15
16 [REDACTED]: Yes, I know, slowly.
17
18 THE COMMISSIONER: You obviously have been kept informed
19 to some little extent.
20
21 [REDACTED]: No, I don't hear anything. [REDACTED] hears
22 occasionally through [REDACTED] counsellor who has been helping
23 [REDACTED] through all of this.
24
25 THE COMMISSIONER: Has DoCS arranged sexual assault
26 counselling or have the police arranged that?
27
28 [REDACTED]: Yes, they have, but the money is drying up.
29 The counsellor has left [REDACTED] House down here where I
30 believe it was free and [REDACTED] wants to continue with [REDACTED] and
31 there was a squabble over that, whether they were going to
32 do it, but now there's some form of funding through the
33 Federal Government for so many visits per year. I have had
34 to go and have [REDACTED] reassessed for all that so that we can
35 get that done by the GP for a referral.
36
37 THE COMMISSIONER: Thank you for that.
38
39 [REDACTED]: Thank you.
40
41 THE COMMISSIONER: Helen Waterhouse of Shoalhaven Family
42 Day Care.
43
44 MS WATERHOUSE: I am the coordinator of Shoalhaven Family
45 Day Care. We are an amalgamated service that goes to
46 Ulladulla and we have approximately 53 carers that care for
47 children within their homes. Today I just want to speak in

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1 regards to the working with children checks. Some time ago
2 working with children checks were not only done for the
3 carer, but also for other adult household members. This
4 unfortunately has been stopped and our scheme has taken the
5 lead in regards to getting criminal checks for adult
6 household members. However, they are not working with
7 children checks. A lot of the household members in this
8 area are at home or a lot of them are shift workers at the
9 time that children are in care and we do feel that in
10 regards to government agencies working together, that
11 working with children checks should be something that is
12 still available for adult members.
13

14 Criminal checks cost about \$52, but it doesn't always
15 cover what needs to be seen in a working with children
16 check. The other thing I would like to mention too is some
17 feedback from the Brighter Futures program in this area.
18 There are two areas: there's a DoCS one and there's an
19 agency one. We have had dealings with the agency and we
20 have had children going through this agency through
21 referrals from our office. I must say the hotline worked
22 very quickly at contacting and getting help for the
23 families that were required.
24

25 However, the communication is very poor. I have
26 worked in other areas where the Brighter Futures program
27 has operated and we always got a lot of contact, a lot of
28 feedback. However, I'm finding it very frustrating in this
29 area in regards to getting help from the agency and also
30 getting feedback from the agency after repeated phone
31 calls, leaving messages and setting up times to actually
32 see the person face to face.
33

34 I know it's my responsibility as a coordinator to
35 probably go higher and contact the person who actually does
36 control this agency and that is something which is on my
37 agenda. However, I feel there should be some ways and
38 means of being able to see whether the programs are
39 operating effectively.
40

41 THE COMMISSIONER: Were you involved in any way as part of
42 the consortium which the lead agency submitted to DoCS of
43 expressions of interest?
44

45 MS WATERHOUSE: No, I was not because I've only been in
46 this area for approximately four months.
47

1 THE COMMISSIONER: Not you personally, but your centre.
2
3 MS WATERHOUSE: I don't know. Were we, Alan? No, we
4 weren't.
5
6 THE COMMISSIONER: You weren't. You do have an informal
7 relationship with the lead agency, do you?
8
9 MS WATERHOUSE: Yes.
10
11 THE COMMISSIONER: Do they actually take up your services
12 for some of the children that they have taken
13 responsibility for?
14
15 MS WATERHOUSE: Yes, they have, but we're finding that
16 we're getting no feedback. We're finding that the visits
17 aren't being carried through and we've also had exposure of
18 a report given to the person who committed the alleged -
19 who was told who it came from, from that agency.
20
21 THE COMMISSIONER: That is a separate issue. I am
22 interested in to what extent with Brighter Futures the lead
23 agency or any of the other agencies are actually using your
24 services to assist. Is that happening?
25
26 MS WATERHOUSE: Yes.
27
28 THE COMMISSIONER: It is. You've said you thought it
29 necessary to refer families to the lead agency or to DoCS
30 via the Helpline, have you?
31
32 MS WATERHOUSE: Yes, I have.
33
34 THE COMMISSIONER: For families which you think are
35 suitable for Brighter Futures.
36
37 MS WATERHOUSE: Correct. If I made a report, the hotline
38 would say, "We will look into it for you," and they have
39 contacted the agency.
40
41 THE COMMISSIONER: Thank you for that.
42
43 MS WATERHOUSE: Thank you.
44
45 THE COMMISSIONER: Anne Hayward from the Ulladulla
46 Domestic Violence Support Service.
47

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1 MS HAYWARD: My name is Anne Hayward. I'm a sole worker.
2 I work for the Ulladulla Domestic Violence Support Service
3 and I cover from Sussex Inlet down to North Durras. There
4 are a couple of points I just wanted to bring up. As a
5 domestic violence worker I would expect, possibly from
6 DoCS, to get a lot of referrals with regard to domestic
7 violence because I believe it is a high figure. I don't
8 get that many, but if I did, being a sole worker, it would
9 make it difficult to try to follow up with those cases.

10
11 A positive thing that we do in our area is that we
12 have a child protection interagency where we work with DoCS
13 and a lot of the other agencies in our area talking about
14 some childhood issues. I have been working very closely
15 with our local office and that's something that I've had to
16 work hard at. I'm also aware that in our area we've had -
17 I don't think we've been full with all our workers for much
18 of the time. We're had different caseworkers coming
19 through. That has been a bit of a struggle trying to work
20 with some of those caseworkers.

21
22 In my service I find that I have to advocate for DoCS
23 when I see a client on the first occasion because I mention
24 to them I'm a mandatory reporter and as soon as you mention
25 DoCS, they seem to close up straight away. I have started
26 saying that, you know, we work with the services. It's
27 better to go that way than working against the services.
28 I'm finding that I'm an advocate on their behalf.

29
30 In the past I have found that when I have attended
31 case conferences sometimes the clients that are attending
32 are not getting positive feedback. It's all negative,
33 negative - you're not doing this, you're not doing that -
34 and I find that if the clients get some sort of positive
35 feedback at least it gives them something to aim for,
36 whereas if it's always negative they don't feel like it's
37 worth trying.

38
39 Sometimes I find that the clients are told, "You've
40 got to see this worker," "You've got to go to that
41 service," "You've got to do this," and the clients are
42 finding that they've been overcommitted, that they do not
43 have any time to themselves. There is just one case I
44 wanted to bring up. It's going back over a year now
45 I suppose, but I reported this case through the Helpline
46 and also spoke to the local office and I was very
47 concerned. We had a couple of meetings about it and they

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1 were going to follow it up, but due to lack of staff they
2 weren't able to follow up. They said that after the school
3 holidays they'd follow up on this case and when I followed
4 up with them again, they said, "We're sorry for the time
5 delay that it's taken. Because there's still lack of
6 staff, we're not able to follow up with that." At this
7 stage that case has still not been looked into. That is
8 just the one that I wanted to bring up: that's it.

9
10 THE COMMISSIONER: I have just a few questions. How many
11 people actually work for your service?

12
13 MS HAYWARD: Myself.

14
15 THE COMMISSIONER: Just you?

16
17 MS HAYWARD: Yes.

18
19 THE COMMISSIONER: Who is paying for you? Who is funding
20 you?

21
22 MS HAYWARD: DoCS. DoCS is funding me. I've just been
23 picked up by Mission for another day, so I'm now working
24 five days a week and that's only happened in the last two
25 weeks.

26
27 THE COMMISSIONER: You mentioned that you thought that
28 DoCS may be able to send you more people, but you also said
29 that you're really at full capacity.

30
31 MS HAYWARD: Yes.

32
33 THE COMMISSIONER: Can I just ask you to tell us a little
34 bit more about the interagency relationship because we are
35 very interested in how these relationships can be best put
36 into effect on an interagency basis? Who else do you work
37 with?

38
39 MS HAYWARD: Usually the DoCS manager; we have family
40 support; there's mental health. We have one of the local
41 psychologists that has been funded in our area. We've been
42 trying to get police there: they've been there on and off.
43 School counsellors, sexual assault, communal health, most
44 of the agencies that are working in our area that are
45 working with children we meet on a two-monthly basis.

46
47 THE COMMISSIONER: What is the purpose of the meetings?

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16

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1
2 MS HAYWARD: One, to talk about if there are any new
3 services in the area or if there are any changes, if we've
4 got any concerns with DoCS, that can be brought up. We
5 don't talk about the individuals, but some of the concerns
6 we've had. We've done it for training. Recently we've
7 just done one on drug and alcohol, on some of the effects,
8 so we've gone through that. It's just an information
9 sharing.

10
11 THE COMMISSIONER: Whose initiative was it that brought
12 these meetings into being?

13
14 MS HAYWARD: I suppose I was one that was pushing it.
15 Michelle, who is our community health worker, was also
16 behind it. I think it initially started before the DoCS
17 agency actually started, which would have been about three
18 years ago.

19
20 MS KEITH: Can I just say something? I am Laurece Keith
21 and I am from North Ulladulla Family Support. Originally,
22 it came together because of the introduction of the
23 Helpline and we were unsure how that was going to affect
24 our community. We agreed to all meet and be open and clear
25 about how we could make this really work in our community,
26 because some of the fears originally - we put in a referral
27 and then we couldn't find out or get any feedback about
28 what was happening through the Helpline and we wanted to
29 keep our communication open with the DoCS office and they
30 were willing to do that. It started quite a while ago and
31 it was originally around that.

32
33 THE COMMISSIONER: Alan Robinson, please.

34
35 MR ROBINSON: Good morning. My name is Alan Robinson.
36 I've been a solicitor since 1981. I currently only do
37 legally aided cases and I've also studied mediation, have
38 worked as a mediator and used to teach law for welfare
39 workers and some of my ex-students are here today. I am
40 currently on the DoCS panel for lawyers and also on the
41 Legal Aid Panel for lawyers. I'm speaking today as a legal
42 rep mainly for mothers in care proceedings. I used to do a
43 lot of crime, but since the changes after the Wood Royal
44 Commission, crime has become too easy. Now I find it much
45 more invigorating taking a case against the department in
46 court. It has been my experience that quite often the
47 heavy workload of the department leads to what I call a

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17

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1 game of Pass the Baby, where they get a problem, they grab
2 the child from the parent, they pass it on to someone else
3 and then they move to the next problem and in the process
4 they cause devastation not just to the family who are left
5 bereft, but also to the children.
6

7 The attitude towards the parents by the department
8 workers is often appalling and I'm told repeatedly,
9 "We're only concerned about the children. We're not
10 concerned about the parents." I'm sorry, parents are an
11 important part in children's lives and even though their
12 primary concern might be the children, you can't just
13 ignore the siblings and the parents and other important
14 people to the children.
15

16 Of course, once the children are in out-of-home care,
17 DoCS don't really want to know about the parents. The
18 standard thing is, "Oh well, you can see your children four
19 times a year." How are the children supposed to maintain
20 relationships when they're only seeing their parents four
21 times a year? Sometimes we can get them up a bit more
22 regularly than that, but the amount of contact is just
23 insufficient.
24

25 I want to just give one example of what I think is the
26 department's often autocratic and adversarial nature
27 towards parents. It is a matter which led to the
28 Supreme Court decision of Re Brett. In this matter, the
29 mother and the Minister had joint parental responsibility
30 of a child following a seven-day hearing. This was a
31 decision that was made by a senior magistrate who knew what
32 he was doing and it was a very good decision. Within a
33 year or so the department had convinced the mother to hand
34 the child over to the department, the youngest sibling.
35 The department immediately moved the child from the Nowra
36 area down to Braidwood, with the express purpose of keeping
37 the child away from the mother. They made no bones about
38 it. They didn't want this child to return home to the
39 mother. The child didn't have any contact with the mother
40 for months after that. From some people here, I can see
41 they know the case I'm talking about.
42

43 When the temporary care agreement was about to expire,
44 the department put in an application to change the order.
45 I am breaking this down to non-legal terms. They changed
46 the order of principal person responsible from the mother
47 so that they could have sole parental responsibility. When

1 it got to court, they opposed me acting for the mother and
2 preparing evidence to oppose their application. They said,
3 "No, we shouldn't hear from them." That's what led to the
4 appeal in the Supreme Court.
5

6 Subsequently, during that appeal, I prepared an
7 affidavit which mentioned the conversation I had with one
8 of the senior DoCS lawyers. As a result of that, I'm no
9 longer still on the panel, but I've never actually been
10 used by the department in any legal proceedings. They
11 wanted to cross-examine me because I was mentioned in my
12 client's affidavit and of course if I'm going to be
13 cross-examined, it means I can no longer act for the
14 parents.
15

16 Basically, they are being very adversarial in trying
17 to prevent the mother from having legal representation.
18 There were threats of contempt proceedings because they
19 didn't have access to subpoenaed documents that I was still
20 going through and subsequently in a District Court appeal
21 they said, "We'll let mum have contact, but we are not
22 going to agree to orders for contact," and so we had a
23 three-day hearing, a very expensive hearing I might say -
24 if people knew how much these proceedings cost they would
25 be horrified - simply because the department wouldn't agree
26 to orders that the mother should have contact. They agreed
27 to contact, but no orders. The judge subsequently made
28 those orders.
29

30 Can I make some general observations about the
31 material that's filed by the department in proceedings. It
32 seems to me that the role of the DoCS officer is to
33 investigate allegations and to investigate family
34 circumstances and to put all the material before the court.
35 They don't. In my experience, they very selectively put
36 material before the court that's prejudicial to the
37 parents. If I subsequently subpoena the DoCS file, I'll
38 find a whole lot of things that are very useful, for
39 instance, that the parents aren't really the parents from
40 hell, but that doesn't go into the DoCS affidavits. It
41 seems to me that they've actually usurped the role of the
42 magistrate. It is up to the magistrate to decide whether
43 or not the children should return home or not. It's
44 actually the department doing all they can to make sure
45 that they decide it by only feeding selected material to
46 the magistrate.
47

1 I've heard people comment about notifications. You're
2 probably aware that there has been an explosion of
3 notifications in New South Wales in the last few years. A
4 number of those notifications are caused by disgruntled
5 neighbours and people being aware of the fact that if you
6 make a complaint about someone's parenting, it goes on file
7 and eventually if it is a matter that gets to court, it
8 will be used against them. These things are done
9 anonymously. The parents want to swear black and blue.
10 They swear affidavits in court saying, "I swear that didn't
11 happen," but because it's in the DoCS affidavit, the
12 magistrate will often rely upon it.
13

14 I am also a little bit concerned about mandatory
15 notification because I think that a lot of mandatory
16 notifiers - and this might sound paranoid - are making
17 notifications because they're wanting to cover their butts
18 rather than having a real concern for the children there.
19

20 When I started working in this jurisdiction about six
21 years ago, I actually had a good relationship with a number
22 of the DoCS workers. We were able to discuss things.
23 I always encouraged my clients to try to work with DoCS
24 officers. "What do the parents need to do in order to get
25 their children back?" We were able to work things through.
26 A couple of years ago the department said, "No, you can't
27 talk to DoCS workers any more. You've got to go through
28 the lawyer who is in Sydney." You send them an email and
29 you might get something back a week later. It's not quite
30 the same as being able to work together in a plan.
31

32 We as lawyers are not allowed to go to DoCS case
33 meetings. The right to legal representation is just a
34 basic fundamental right of people in this society, but not
35 when DoCS are involved. You cannot go to a meeting. They
36 will stop the meeting until you've left. However, it's
37 fine for them to be able to serve documents on your clients
38 even though they know that you're representing them. I've
39 got a client freaking out at the moment because she has
40 been served with a care plan. I don't know what it's in,
41 but she's sending me text messages every few hours saying,
42 "I can't believe what they're saying." If I'm not allowed
43 to speak to the DoCS officers, surely they should at least
44 let me have a copy of the documents that they're serving on
45 my clients.
46

47 Just finally, a last couple of things, we have in the

1 court process preliminary conferences. It has been my
2 experience as a mediator that when you get people around a
3 table, you can actually make great progress.
4 Unfortunately, that doesn't usually happen in the
5 preliminary conferences. I don't believe registrars have
6 had mediation training, the DoCS solicitor doesn't attend
7 and so usually nothing gets resolved. It seems to me to be
8 a bit of a waste of time.

9
10 I just want to say one thing about the Aboriginal
11 placement principles. I worked at the Aboriginal Legal
12 Service for a number of years. They're very important.
13 However, I did have a matter last year in Sydney where a
14 certain senior magistrate said that he didn't want to make
15 any reference to section 13. He wanted to resolve the
16 matter according to other principles rather than the
17 matters set out in the legislation, which I think is not
18 really appropriate.

19
20 THE COMMISSIONER: Thank you. You may assume we're
21 looking carefully at the legal process. Could we have a
22 short word to you afterwards and perhaps get some more
23 information about some particular cases, if you don't mind.
24 Janine Lord, please.

25
26 MS LORD: I am a private psychologist and I do some
27 consultancy work for Life Without Barriers, so in both the
28 disability and the foster care arms of that. Recently,
29 I became aware of a program that was implemented in
30 Queensland which I thought was fabulous. What we find is
31 very high-need foster care children and I've heard a few
32 people speak about their problems in getting appropriate
33 services for the children and often you'll need people from
34 the Department of Education, from mental health services,
35 Police, if it's an Aboriginal child, appropriate elders,
36 the community that is involved and also sexual assault
37 services.

38
39 In Queensland they've put together a core group of
40 these people, so that when you have a high-need foster
41 child that group's already set up to meet those needs,
42 whereas in New South Wales what I'm finding is it is very
43 ad hoc and the services are taking a long time to access,
44 like counselling, which is very important for children who
45 have experienced extreme trauma and it is very important to
46 maintain a placement with a family because they're having
47 major behavioural issues. If a family can't cope, that

1 child is moved again and they're traumatised by the system
2 yet again.

3
4 Case managers in DoCS. A few people have already
5 spoken about this. One child I've been working with for
6 one year has had four different case managers. Each time
7 there's a different case manager and the decisions made by
8 one case manager can't be followed by the next. They
9 review their decisions again. They'll make different
10 decisions. This is very frustrating for everyone.

11
12 I think you have fabulous workers there. I think you
13 have fabulous foster carers. You're going to lose those
14 foster carers. We're already short of foster carers purely
15 through frustration with the system. Also, you're going to
16 lose your DoCS workers because they're getting frustrated
17 as well. I think everyone here has their heart in the
18 right place. They're trying to protect children and are
19 trying to give children a better life.

20
21 The other issue I wanted to address is sexual assault.
22 That is a really huge issue and it is ongoing. For any
23 child under 10 to get sexual assault counselling, it is
24 usually very, very difficult because, especially in foster
25 care, they do not trust adults. If they make a disclosure,
26 it is usually to the foster carer. Then when DoCS
27 interviews or JIRT interviews, they won't say anything,
28 they won't make another disclosure; therefore, the referral
29 can't be made for a sexual assault and the counselling
30 doesn't happen. That is the most appropriate counselling
31 for a child who makes a disclosure. You can send them to a
32 private psychologist, you can send them to another service,
33 but that's not necessarily the most appropriate. What they
34 need at that time is skilled workers to work with them.
35 That's about all that I have to say.

36
37 THE COMMISSIONER: Thank you. [REDACTED], please.

38
39 [REDACTED]: Thank you everybody. I am here as a parent who
40 has faced DoCS for nearly seven years now. I have been
41 laughed out of court on the issue of a second Stolen
42 Generation by all present in the court proceedings. I have
43 had no help whatsoever from DoCS with a family of seven
44 having to travel over 1,500 kilometres return for visits
45 and stuff. The minimal assistance is \$230 in a hotel room
46 for an unemployed family of seven.

1 I personally, and my partner, feel violated by years
2 of abuse by DoCS. There has been removal without reason.
3 My partner had her daughter removed because she moved
4 around too much and her daughter was eight weeks old. What
5 kind of excuse is that?
6

7 We are currently in a court case against DoCS. They
8 said they would support us if restoration was the
9 recommendation - still no support. When our children were
10 taken, we never received counselling. Having a child taken
11 from your care is paramount to losing a child in the worst
12 possible way. I have found that DoCS officers in all
13 quarters, and I've worked with quite a few now, are
14 vindictive people with personal views who let them ride
15 onto the children and the families, and it shouldn't
16 happen.
17

18 I get little or no response when I approach DoCS on
19 any matter, be it for fuel or a visit or a hotel room. I
20 have to ring repeatedly. Never have we had the same worker
21 for more than three months and decisions are made and
22 changed and chopped around and we never get a result
23 anyway, you know.
24

25 As far as me and my partner are concerned, we are
26 still facing a Stolen Generation. This has not stopped.
27 It is still happening. Children are being removed when
28 they should be supported, and supported when they should be
29 removed, you know. I have been faced now for seven years
30 with baseless evidence that I've beaten every time. Once
31 again I will beat it in court and prove that I am a father
32 and I have been a father for 10 years.
33

34 My partner was a 15-year-old girl when she had her
35 child removed, without support. Even though this child was
36 removed, she was visiting the child. She was visiting her
37 child in [REDACTED] and there was a bail application that said
38 that she was to remain in [REDACTED] to live in [REDACTED]. She
39 was found in [REDACTED] on a visit with her child, DoCS removed
40 her child that day. Up to two weeks earlier, the [REDACTED]
41 court had removed for a day and returned in a day, DoCS in
42 [REDACTED] removed my partner's child, because she was locked up
43 because of this bail condition. It was quashed the next
44 day in court and DoCS did not return the child. Now, I
45 think four years later we are still fighting this fact.
46

47 I have been violated by this DoCS machine for too

1 long, and another big machine that goes along with the DoCS
2 machine is the AVO machine. At present, even though I am
3 in court with my partner for her children, I am seeking
4 another child of mine from a mother who put a false rape
5 allegation on me in the hope of me not seeing any child
6 again. That was proven by the police not to be the case,
7 yet it was still proceeded with on an AVO by the police,
8 which is now part of the court matter.
9

10 I can't tell you - there is no cooperation between
11 departments. I deal with Cootamundra and Wagga. Now I am
12 starting to deal with Nowra - three departments with three
13 different ideas on what should happen. One department says
14 we need supervised visits. One department says we do not
15 need supervised visits. My partner has actually never,
16 ever had a bad visit of any kind. They have been always
17 been good visits.
18

19 We are not, as parents, getting a fair hearing. We
20 are being treated as second-class citizens, second-rate
21 human beings and I am sick of it. I am about to take to
22 task the police force in Nowra and DoCS at Wagga on their
23 slanderous accusations due to what the police have
24 proceeded with on an AVO.
25

26 We really needed help and we really need assistance
27 and we should be supported. We should not be separated.
28 Our children do not care if we are criminals or not. They
29 just want to love their parents and be in a stable
30 environment with their parents. I have not been an angel,
31 but I am facing DoCS for a second time in my life to get my
32 partner's children back with her, and for me they have
33 indicated the price is my three children that I've had for
34 the last 10 years. It is just not on anymore.
35

36 I have listened to a lot of people speak. To me it is
37 just advertisements for government agencies that are
38 employed by the government. Even my own solicitor is
39 employed by the government. Is that not a conflict of
40 interest?
41

42 THE COMMISSIONER: I think actually we have heard what
43 your situation is. It is back in the courts. I think that
44 needs to be resolved there.
45

46 [REDACTED]: Not all of it, sir, not all of it, you know.
47

1 THE COMMISSIONER: I think we have heard what you have to
2 say, however. I need to pass on. Mr Moyle, please
3

4 MR MOYLE: Thank you, judge. Ray Moyle is my name. I am
5 a practising barrister. Like Alan Robinson, I practise
6 extensively in the care and protection jurisdictions here
7 in Nowra and also up at Port Kembla. I also do appellate
8 work in the District Court in care and protection.
9

10 I endorse what Alan has had to say, but I have some
11 other matters I want to raise. In relation to our friend
12 from the Shoalhaven legal service, section 98(3) of the Act
13 doesn't give a right of appearance to grandparents. It
14 requires a grandparent to be joined as a party, per se, but
15 they must show a genuine interest or an interest in the
16 welfare of the child or children, and I think it must be
17 more than casual. There must be some connection apart from
18 kinship. I have recently had a case of a six-year-old
19 child and grandma wanted to be joined and she had not had
20 any contact for over six years.
21

22 The matters I want to raise are section 76 and 77.
23 Section 76 deals with supervision orders. I was recently
24 in a five-day appeal [REDACTED].
25 It was an appeal by DoCS. The magistrate, [REDACTED],
26 this year at Parramatta, had refused to make a supervision
27 order so the department appealed. That was fine. I then
28 rushed into the District Court and asked for a stay on the
29 orders of the magistrate. The orders were: restoration to
30 mum with some written undertakings.
31

32 A District Court judge refused to grant the stay. He
33 imposed an interim supervision order under section 76 and
34 left the children with mum. In March, the department went
35 around to mum's house on two occasions, she wasn't home
36 with the children. Then on the basis of a report from a
37 person of mum smacking the [REDACTED] child, her [REDACTED]
38 son, they issued a warrant.
39

40 They ignored the procedure under section 77 which
41 requires that if you have an alleged breach of the
42 undertaking, you should bring the matter back before the
43 court. They didn't do that. They arrived and had the
44 police with them and forcibly removed the children. The
45 matter came on to a hearing in the District Court by way of
46 appeal fairly quickly. I finished up as the children's
47 counsel taking the view that the removal under the warrant

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1 was illegal, because the department effectively reversed
2 the status quo and had the children in their care when the
3 matter came on for appeal. Counsel for the mother, of
4 course, was of the view that it was an illegal removal.
5

6 I made the quip to the judge in my final submissions
7 that we could ask the question: "Who was delusional?" I
8 thought it was the departmental officers. This is
9 particularly so when the office of the State Crown
10 Solicitor advised against the appeal in the first place and
11 advised against the issuing of the warrant.
12

13 Someone within the department obviously sought some
14 legal advice that went contrary to the Crown Solicitor's
15 advice. I omitted to say I commenced my articles way back
16 on 30 June 1963 with the Department of the Attorney
17 General. In my days, we thought that the Crown Solicitor's
18 Office was God and you followed its advice - clearly not in
19 this particular case.
20

21 That was a matter where the District Court judge
22 refused the appeal from the department. He restored the
23 children immediately to the mother and was happy to have
24 written undertakings, which is where we were with the
25 decision back [REDACTED] this year and - Mr Robinson has
26 referred to this - at immense cost.
27

28 We had a five-day hearing. I was funded by Legal Aid
29 of New South Wales. If you look at court time and all
30 these other issues, and I, like most others here, and
31 certainly those in the legal profession, wonder what is
32 going on in DoCS that they are not acting on legal advice?
33 It is almost as though they refuse to act on legal advice.
34 The last thing I heard from a solicitor for DoCS was that
35 they're even contemplating an appeal from that perhaps to
36 the Supreme Court on some error of law. I can't see any
37 error of law, but they are even entertaining that concept.
38

39 Appeals under section 91 - the only ground of appeal
40 is you're dissatisfied. I had experience last year acting
41 as counsel for a mother where the appeal was from a contact
42 order made by the Children's Court magistrate in Nowra.
43 The contact order he made was reflected and mirrored that
44 which was recommended in the care plan, but the department
45 was simply dissatisfied with that. It was their care plan.
46 He found to adopt the care plan, so the matter went on
47 appeal.

1
2 The first day was involved in a jurisdictional
3 question because, as far as I was concerned and everyone
4 else bar the department, they were consent orders. That
5 flies in the face of the traditional thing. If you have
6 consent orders, you have no right of appeal, but the
7 department persisted in that belief or has or did on that
8 particular occasion persist in that belief.
9

10 The other thing of great interest to me is the
11 Chelmsford inquiry in 1998 and Lady Justice Butler-Sloss
12 and the recommendations from there. That inquiry forms the
13 basis for most of the child protection laws in Australia.
14 In New South Wales, we do not adopt those recommendations,
15 per se. We have section 9(d), which is the least intrusive
16 principle, but if you look at the legislation in the ACT,
17 Victoria, and even up in Queensland, they religiously
18 follow it and they have the hierarchical list of: number
19 1, the child should be placed with the parents in home;
20 number 2, what support services do you need? There's a
21 hierarchy there that doesn't seem to be applied in New
22 South Wales.
23

24 The other thing that causes me a great deal of concern
25 is DoCS' representation. It is not so much their own legal
26 officers per se, because our local legal officer here is
27 known to reject his own caseworkers or case managers
28 instructions and refuse to act and move on, but there are
29 members of the private practice who do DoCS work. I know
30 one particular matter where a certain senior solicitor
31 suggested that he was only following instructions - to me
32 that is just the Adolph Hitler defence, "I was only
33 following orders"- to put up matters that he ought not to
34 be putting up, and I think something should be done there.
35

36 This is one close to my heart: [REDACTED]
37 a hearing that has been going on ad infinitum. The
38 magistrate, last [REDACTED], directed that the two boys be
39 restored. The department has gone out of its way to be
40 obstructionist in the restoration of these two boys.
41

42 This one case is a matter of great concern to me
43 personally. It is a matter where mum and dad had had their
44 two boys. They were removed on the first occasion in
45 [REDACTED]. I have no difficulty with that. They were
46 restored. Mum gave birth to a [REDACTED].
47 The child had difficulty with attaching to mum for breast

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1 feeding and some difficulty with breathing. Fourteen days
2 later the child was diagnosed with a heart murmur, went to
3 Westmead, and was diagnosed with patent ductus arteriosis
4 and came back from Westmead.

5
6 There was a meeting where everyone agreed, including
7 DoCS, that the child - [REDACTED]
8 [REDACTED] - would come home, there would be some
9 support. Of course, the side effect of patent ductus
10 arteriosis is difficulty in breathing and difficulty with
11 feeding. What did the department do? They suddenly made
12 allegations of [REDACTED] [REDACTED] mum and
13 sought to remove, and successfully removed, all three
14 children, including the two boys.

15
16 What upset me most in the allegation of [REDACTED]
17 is simply this: number one, the caseworker swore an
18 affidavit. In the affidavit there are allegations such
19 as mum only visited her treating doctor once prior to the
20 birth of the child - trying to infer that mum was trying
21 to do harm to the child. But that wasn't the case because
22 if the caseworker had checked the medical records of
23 her doctor, they would have shown that she saw her doctor
24 four times and had 26 attendances at the antenatal clinic
25 at the base hospital.

26
27 The next thing that was alleged was: [REDACTED]

28 [REDACTED]
29 [REDACTED]. [REDACTED], the State Coroner investigated
30 the matter and found no fault in the mother. In fact, the
31 truth was that, for three months beforehand, mum had sensed
32 that there was something wrong. Her partner at the time
33 simply left the child, took her down to southern hospital
34 where they locked [REDACTED] up for two days and put the label on
35 her of bipolar. The child died in her arms. I say, and a
36 lot of people now are also of the view, that we had an
37 undiagnosed post-traumatic stress disorder flowing right
38 through over a period of time. The mum obviously had
39 become depressed with it, but that was thrown up at her.
40 The suspicion was, "You've harmed this child. You caused
41 her death."

42
43 Another thing thrown up at that mum was an issue of
44 the hospital notes. We subpoenaed the originals and the
45 originals had been tampered with in places. Instead of
46 recording that the child was attaching on properly, the
47 notes were tampered with, with someone squeezing in the

1 letter "N" to show it was not attaching.

2

3 THE COMMISSIONER: We might have to stop you there. What
4 I'd rather do is talk to you separately and get some
5 details as other people want to speak.

6

7 MR MOYLE: Thank you, judge. I'd love to talk to you
8 separately.

9

10 THE COMMISSIONER: These are particular instances which
11 can be developed with elsewhere. Thank you for that. We
12 will talk to you shortly

13

14 MR MOYLE: Can I just simply tell everyone that the
15 department dropped the allegations two weeks, three weeks
16 after getting the children.

17

18 THE COMMISSIONER: [REDACTED]?

19

20 [REDACTED]: My name is [REDACTED]. I am an
21 indigenous person of Nowra descended from the Jerrinja
22 Aboriginal community out at Orient Point. For those who
23 know me, I am speaking as a community person. I will later
24 make comments about work because I work for an Aboriginal
25 out-of-home care service. That is important, but I'll do
26 that later. I am also raising a personal issue that
27 happened in Nowra just on almost five years ago that lasted
28 for 18 months before a decision was made.

29

30 Unfortunately I had a niece who died on the operation
31 table and gave birth to a small child. The child was
32 classed as an orphan because there was no father and no
33 mother. My husband and I, who were direct aunt and uncle
34 to this child - blood related - put up our hands to care
35 for her. The only grandmother who was left supported it.
36 The majority of this side of the family supported it. We
37 put up our hands. We found where that child was because we
38 were not told that child was alive. We looked through
39 documents all night as soon as we knew our niece had died
40 to find the child.

41

42 What happened is we fought for her in court. We
43 didn't know what the process was. We visited that child
44 daily. She was only at 28 weeks gestation when delivered,
45 and weighed under three pounds. They were in Liverpool
46 Hospital. My husband and I went up on a regular basis. We
47 gave up work. We worked alternately so somebody could be

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1 up there with that child all the time.

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Then we went to the department and asked them what was the process of putting our hands up for this child, not knowing that a nephew and his non-indigenous wife had put up for the child as well. For 18 months we fought it in court. We took it to a local court here. I didn't have any money. My husband and I were working. We were over the threshold, but we had nothing. We stood up in court as lawyers and fought it. We went through a four-day hearing in Nowra and won.

Immediately the department put up a Supreme Court allegation - something to prevent it, to stop it. I do not know what you call it legally, but you know what I mean. As soon as the court ended, they went in and lodged that. So we had to go to the Supreme Court. I did get support for the Supreme Court hearing. I did get a lawyer that you don't pay. I don't know what you call it.

THE COMMISSIONER: Legal Aid.

[REDACTED]: Yes, so they came to the legal court and we fought so that the child didn't get removed immediately. We had had that child four days out of every seven for almost 16 months of its life and the department wanted to remove the child. It just wanted to remove the child and place it with the nephew and niece.

They supported the nephew and niece from day one. We as family members knew the nephew and knew the problems they had. We told them and told them time and time again what was going to happen. We told them that there was definitely evidence that these people would split up. They fought for that. They took it to the Supreme Court. We won the Supreme Court to keep the visitation the same - us having her for four days and them having her for three days until it went to court again. It went to court again, four days in Kiama, and we lost the care of that child. It went to our nephew and niece.

I don't believe the department from day one gave us any support. That child got critically ill in the care of the nephew and niece and was rushed to hospital. We weren't informed. The child passed away 10 times in front of us and was revived before being flown to Sydney to Randwick Hospital to be saved.

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30

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1
2 We baptised that child in that hospital because the
3 nephew and niece couldn't be found, but the grandmother was
4 there and wanted us to baptise this child. We baptised
5 this child with a certain name that included a family name.
6 We asked permission from DoCS, who were sitting there. I
7 don't think we should have had to ask permission, but we
8 had to. We had to ask permission to baptise a child that
9 most likely wasn't going to make it.

10
11 [REDACTED] went to [REDACTED] and was in intensive
12 care. We paid our own way. We paid for the milk for the
13 baby while it was at hospital. We supplied the clothes for
14 the child as soon as it was able to come out of there. We
15 transferred the child back, which DoCS thought was okay.
16 Yet after us doing all that, they went to court and
17 allegations were made that were not true. They just fought
18 from day one. Now that child was placed with them under a
19 12 months supervision order. My understanding is that the
20 DoCS worker stated that she went out several times to see
21 them. Since that, that marriage has broke up, and we know
22 the DoCS worker went out twice and had a cup of tea with
23 the non-indigenous partner.

24
25 The non-indigenous partner got custody of that child.
26 The non-indigenous partner is raising that child. The
27 non-indigenous partner, who has no blood relationship to
28 that child, now has that child in her care and has
29 remarried, and our concerns are that adoption has been
30 raised. They are getting support from the department in
31 regards to adopting.

32
33 If we want to talk about the Aboriginal placement
34 principles, they communicated with an elder in the
35 community who, only three weeks prior to that case, was put
36 off as a committee member for stuff that happened about
37 this case, and she was three years barred. That's how they
38 spoke and clarified things with the elders of the area.
39 They never went to an elders group and said, "Tell us what
40 the principles are. Tell us what your principle is that
41 the indigenous grandparents are not naturally the next ones
42 to step up." We were two hard working people who worked
43 all our lives; yet we couldn't get that child.

44
45 That child now is in a non-indigenous placement. With
46 that child, they didn't put any supervision orders in. The
47 department never fought or supported us putting in any time

1 with that child. They just made a decision that we were
2 family, that they would not stop us from seeing that child
3 because we were family and that we would all sort it out.
4

5 With that child, we have the first Sunday of every
6 month from 9 to 5. Every Friday we get panicky that that
7 phone call will not be made and we will not even be allowed
8 to have the child then. We have no legal recourse except
9 to take the matter back to court with no support again.
10 That is probably what we will have to do.
11

12 We have asked for overnight stays. We have asked for
13 special time at Christmas, special time on the child's
14 birthday - it doesn't happen. The indigenous side of that
15 child does not get contact. Fair enough, the grandmother
16 is not in a position to do that. The grandfather passed
17 away prior to the child. He was a non-indigenous
18 grandfather.
19

20 The department changed that child's name and took one
21 of the names completely out that was given at the
22 christening. That's wrong for a start. They just took it
23 out and we said, "We wanted that name in because that was
24 our maiden name." That was that child's right and the
25 right of this community and every Aboriginal person in this
26 community knows a name connects you from here to Bourke,
27 one name and they took that out. The Department of
28 Community Services never supported us one iota for all that
29 and yet, those people got that child, they broke up and now
30 that child is raised by a non-indigenous person.
31

32 I asked a former manager of the out-of-home child
33 protection area was there anything we could do and could
34 they support us and she said, "Yes, she's not going to stop
35 it. We'll get overnight stays." She took that to court
36 and everything and she has that and she doesn't have to
37 give us the first Sunday of the month. She has no legal
38 right to give us the first Sunday of the month.
39

40 THE COMMISSIONER: Thank you. As I indicated to you, the
41 question of the Aboriginal placement principles are very
42 important for us to look at and I'm grateful for that
43 instance. You were going to say something about the
44 Aboriginal out-of-home care agency that you were involved
45 with.
46

47 [REDACTED]: Yes. I am actually a caseworker for the

1 only Aboriginal out-of-home care service in Nowra and I'm
2 happy to say that now. I had to speak on that as a
3 community person.

4
5 THE COMMISSIONER: I understand that. Do you have any
6 issues in relation to that?

7
8 [REDACTED]: To what happened then? That was prior to
9 this.

10
11 THE COMMISSIONER: No, not the child.

12
13 [REDACTED]: Yes, we do. We have a lot of issues with
14 the department on engagement with indigenous people. We've
15 been running since 26 October 2002. We're the only
16 indigenous service this side of Sydney. [REDACTED]

17 [REDACTED]. I
18 have not had an after hour call-out to place a child for
19 four and a half years. Why are our indigenous people
20 worried? Our kids must be doing so well at home. We've
21 not had for four and a half years a call-out to place a
22 child overnight even.

23
24 THE COMMISSIONER: How many foster parents do you have?

25
26 [REDACTED]: We only have 11. We have 13 children in
27 care. We are having trouble recruiting indigenous carers.
28 We are on a big push now to do a drive, but in the same
29 process we have to remember that there are other services
30 that are competing against the indigenous one rather than
31 supporting the indigenous out-of-home care. The Department
32 of Community Services are recruiting indigenous carers and
33 yet, we're in this area. Why are they not supporting our
34 indigenous service and trying to get it to grow and do it?
35 If a child is removed, they look at their own indigenous
36 carers first. They communicate with their own indigenous
37 workers first. They do not consult with us.

38
39 They don't have to consult with us. We know there's
40 no legal obligation to talk to us. Recently, a child was
41 placed with a family. The parents of that child didn't
42 want the child placed there. The grandparents of that
43 child didn't want the child there. There were lots of
44 concerns in the placement. Both of those people had mental
45 issues. Both were under the mental health services in
46 Nowra and still are. Both have had alcohol issues and drug
47 issues.

1
2 THE COMMISSIONER: I don't want to go any further into
3 that case. Can you tell me the name of your agency?
4
5 [REDACTED]: The South Coast Medical Service - the
6 Aboriginal Out of Home Care Service. We run out of the
7 Aboriginal Medical Service in Nowra. We're placed in
8 Worrigee Street at the moment.
9
10 THE COMMISSIONER: Was your agency part of the expression
11 of interest process for out-of-home care?
12
13 [REDACTED]: Yes. Most of the indigenous services in New
14 South Wales are under the matrix of the Intensive Building
15 Program, but we've got granted funding to slowly build up
16 and to take on case management because we don't case manage
17 at the moment and that will all happen. Yes, we did get
18 funding to do that.
19
20 MS FURNESS: Are your 11 carers able to care for any more
21 than the 13 children currently in care?
22
23 [REDACTED]: No, not at the moment. We have sibling
24 groups and we have kids that are in care and can't have
25 other children placed in that placement at this stage. We
26 are doing a bigger recruitment drive. Please watch the
27 bridge. We're going on the bridge. We're going in the
28 paper. I get amazed that after four years we haven't had a
29 call-out to place a child overnight.
30
31 THE COMMISSIONER: I think you've made that point. Do you
32 have any other issues about --
33
34 [REDACTED]: Can I speak about the Care Circle?
35
36 THE COMMISSIONER: Yes, just briefly. We've got other
37 people to talk: just briefly.
38
39 [REDACTED]: I was part of the whole three consultancies
40 that took place in Nowra: the whole three consultancies.
41 One took place at Jerrinja that I didn't attend. I think
42 seven people turned up. Out of the whole three
43 consultancies in Nowra about five community people turned
44 up: five. A lot of issues were raised with the runners of
45 those consultancies. People didn't even know the meetings
46 were on. We're an indigenous service. We found out that
47 the Care Circle first consultancy was happening in town on

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1 that morning by sheer judgment of somebody speaking to
2 somebody else or we would not even have known it was on.
3

4 We went there. We told them all our concerns. We
5 told them the concerns that the child's already going to be
6 removed, so it's got to be placed somewhere while this
7 consultancy happens, or most likely going to be removed, so
8 the child is already going to have another family to have
9 to look after it before the decision is made.

10
11 There is no training for the people that go on the
12 community list that will be called from from the court.
13 There'll just be a list of names given. I'm not quite sure
14 if you're aware of the circle sentencing that takes place
15 in Nowra where a list of names is given to the court, to
16 the worker at the court. That list of names is given
17 there. I'm not even quite sure if they're going to be
18 working with children's checks. I'm not quite sure of the
19 process. I went to the whole three consultancies. The
20 third consultancy just came down and said to us,
21 "It's running." There are a lot of concerns with the
22 Care Circle.

23
24 THE COMMISSIONER: Could I ask you this - there are other
25 people who want to talk - if you have any additional
26 concerns about that project, the Care Circle project, or,
27 alternatively about the way that your agency for
28 out-of-home care is either supported or not supported,
29 could you perhaps write to us and we'll refer you to one of
30 our people who will give you a contact.

31
32 [REDACTED]: Thank you, that would be fine.
33

34 THE COMMISSIONER: Kerry Roberson. You are a foster carer
35 and a representative of the FCA.
36

37 MS ROBERSON: My name is Kerry Roberson and I'm a foster
38 carer in this local area, but I have been a foster carer in
39 another area. I'm also the Foster Carer Association area
40 coordinator, so I have supported carers right across the
41 State of New South Wales from Bourke to Broken Hill and
42 obviously in the local area. Something that has kept
43 coming up more recently has been the inability for carers
44 who are concerned about children in care. You probably
45 think we don't want to dob on our fellow carers because we
46 have so few, but as in every group I think there are always
47 sometimes some people that are not doing what is required

1 of them. I want to emphasise the situation that I'm going
2 to tell you about is not a local situation.
3

4 I have contact with carers who ring me and they
5 basically say, "We are really concerned about this child
6 that's in care with these carers." The child has pulled a
7 cup of coffee on to its face and the child's face is
8 blistered. The carer is keeping the child away from DoCS
9 so they don't see it. This particular carer lives out of
10 town. Most of what I'm talking about is in country areas.
11 That same child gets bitten by the dog and has stitches in
12 its lips. The carer keeps the child away from DoCS so they
13 don't see the child. They have a pool that's not fenced.
14 The child goes missing. They find it a kilometre and a
15 half away.
16

17 The carer that lives in proximity is so concerned
18 about this child, who just recently ingested some
19 chemicals, that she told the local office who said, "Oh
20 well, we've been out there. They're okay. They're looking
21 after the child." She rings me and says, "What can I do?"
22 The appropriate step is to go to the Helpline. The
23 Helpline won't take the call because she's a carer and she
24 wanted to remain anonymous. Therefore, they wouldn't take
25 the call. That is one situation.
26

27 That child is only [REDACTED]. The court ordered that the
28 child be placed with its sibling. [REDACTED] [REDACTED]
29 [REDACTED]. DoCS felt that the child had been there, so they
30 said, "No, it's bonded with them, so we're not going to
31 place the children together." Both carers are 54 years
32 older than one child and 50 years older than the other
33 child and do not see each other and yet are living in the
34 same area.
35

36 Another situation I heard just recently was another
37 carer rang me in great distress. A carer has eight
38 children, eight dogs, five cats, a disabled carer with a
39 slight disability and the word was that, "We don't have any
40 more carers in our area, so we had to place these extra two
41 children who have just gone to this carer." The carer was
42 really concerned about eight kids in one placement, one
43 adult, all the dogs and everybody living inside, yet, she
44 lives two blocks away, empty, ready to take kids, whatever,
45 however it comes.
46

47 Another carer has a one-and-a-half bedroom flat with

1 four kids. She's sleeping with the children. She has two
2 children in bunks in her bedroom. She's ready to take more
3 kids and probably will get more kids placed with her.
4 My whole point is where do carers go with those concerns?
5 I know there are carers or people that will probably cause
6 or want to cause mischief, but in these cases that I'm
7 aware of these are good, genuine carers who have the
8 child's best interests at heart and there doesn't seem to
9 be a place for us to go. Go to the Helpline, which is the
10 appropriate step, and they won't take the report because we
11 won't give our names.

12
13 MS FURNESS: When you say they won't take the report, what
14 words did the woman who told you that use?

15
16 MS ROBERSON: "You can't remain anonymous." I have carers
17 who have been in tears, as I said, really good, genuine
18 carers who have gone to the Helpline, they've identified
19 themselves as a carer and because they won't give their
20 name, they won't take the report.

21
22 MS FURNESS: Did she understand, the woman you're
23 referring to, that the Helpline didn't make a note of the
24 details that the woman wanted to convey to the Helpline?
25 Is that what you understand?

26
27 MS ROBERSON: What I understand is they didn't take any
28 report at all from them. They took nothing from them.
29 I actually came back to them. As I said, I'm supporting
30 carers and I'm thinking, "What do we do?" and I actually
31 asked my local office, "Where do I go with this? This
32 carer is not a mischief maker. She's really concerned
33 about the children in care." And I was told again,
34 "You have to take the appropriate steps and go through the
35 Helpline," which I understand is the process, but we just
36 come up against a brick wall as far as carers who are
37 concerned about kids in care not having somewhere to go.

38
39 THE COMMISSIONER: I must say, it comes as a surprise to
40 me that the Helpline would not take the call if the person
41 would not identify themselves, but do you know whether the
42 caller was told, "Look, if you do give your name, it will
43 remain confidential"?

44
45 MS ROBERSON: I actually advise the carers myself how the
46 Helpline works. I said that it will remain anonymous, but
47 there are some - the carers, it's their choice I guess,

1 they just chose not to give their name at all. I found
2 that quite disturbing, in a way, that you couldn't make a
3 report and remain anonymous.
4

5 MS FURNESS: Can I suggest that you advise your carers
6 that in fact they can make anonymous reports and they
7 should refer to the Helpline, when they are making those
8 reports, to section 26 of the Act, that they can make a
9 report anonymously.
10

11 MS ROBERSON: I've actually told a lot of carers,
12 "Don't identify yourself as a carer. Just say you're a
13 member of the community and say you have concerns about
14 these children."
15

16 THE COMMISSIONER: I understand that, but just hear that
17 advice that they are entitled to make an anonymous call and
18 if they are knocked back, there are two things they could
19 do: first of all, they can say, "Well, you're obliged to
20 take my call because of the Act." The second thing they
21 can do is go to the complaints unit and if there is a
22 practice of this happening then that will be stopped.
23 We will take notice of what you've said. Can I ask you
24 this further thing, do you have meetings yourself on behalf
25 of your association or your support group with the local
26 DoCS office and if so, do you raise these problems with
27 them?
28

29 MS ROBERSON: I am actually on the regional committee and
30 so a lot of these issues are raised at our local level and
31 a lot of the issues are fixed at a local level, but then we
32 take it on to the regional meetings if they are not and
33 those meetings, I might add, are fabulous. I have been
34 caring for 14 years and I've actually seen changes happen
35 and that's one of the positive changes.
36

37 THE COMMISSIONER: Have you raised these types of cases
38 where you have concerns?
39

40 MS ROBERSON: This is only more recent. We haven't had a
41 regional meeting so I can raise these things. It was one
42 of the things I was going to raise.
43

44 THE COMMISSIONER: The third thing you obviously can do is
45 raise it at the next meeting.
46

47 MS ROBERSON: As I said, those cases that I referred to

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1 actually weren't from this local area. They are from an
2 area where I used to work and used to come from and
3 obviously I have contact with the carers in that area.
4

5 THE COMMISSIONER: Thank you. I am not sure in relation
6 to this next person quite where the names fall out, but we
7 have "[REDACTED]". Is that an organisation or what is it?
8 Perhaps you could indicate who you are and what your agency
9 or otherwise is.

10
11 [REDACTED]: My name is [REDACTED]. I am here with my
12 partner, [REDACTED]. We're actually looking after two children
13 [REDACTED]. They're [REDACTED]
14 grandchildren, [REDACTED]. We deal with
15 Shellharbour DoCS. We've had numerous problems with DoCS
16 in the way they tend to treat us. We don't have any say in
17 any proceedings, even though we bath and feed the children.
18 We have input as normal parents would into the children, so
19 we know their make-up and understand them. They don't seem
20 to want to hear anything we have to say if we have any
21 problems or concerns that we wish to raise.
22

23 In particular, just recently, around Christmas, when
24 I was changing the little one's nappy, she started doing a
25 few things that girls that age [REDACTED] do not do.
26 We came across a booklet from her preschool on sexual abuse
27 and she had done everything in that booklet. We made phone
28 calls to the numbers in that book and before we even got to
29 what she did when we changed her nappy, with her other
30 attitude problem, they actually told us that yes, she had
31 been sexually abused.
32

33 We know where it came from just by the fact we know
34 where she has been. When this was raised, we were led to
35 believe that it was not a problem. We have even had a
36 comment from the case manager at DoCS that she will have
37 problems for the rest of her life and her return comment
38 was that she'll get over it. We did notify the police.
39 They notified JIRT. JIRT was very concerned. We have been
40 led to believe that DoCS have talked JIRT out of doing
41 anything about it. They have a current psychologist, but
42 she's not a sexual psychologist. Nothing has been done
43 about this at this stage. His visits were taken away from
44 being unsupervised and he has been given two-hour
45 supervised visits at this stage.
46

47 [REDACTED]: Originally, about November last year, I kept

1 telling DoCS that there was a problem and that she was
2 reacting badly and so I kept telling them. I kept ringing
3 the Helpline. Five times I rang the Helpline and she was
4 getting very ill. She ended up with a fungal infection in
5 the genital region. The doctor also said later, around
6 [REDACTED], [REDACTED], that it had developed maybe into a
7 bacterial problem as well. She had a lot of blood tests
8 done, scrapings, all sorts of things, all sorts of tests.
9 I kept at them. Nothing happened until I got the book on
10 child abuse where I rang Victoria and they gave me numbers
11 to ring up here in the Wollongong region.
12

13 Helpline said to me, "How come you rang Victoria?"
14 They said, "What did your worker say?" I said, "She said
15 nothing." She gave me no number. She gave me no help.
16 She gave me no-one to contact to confront this problem.
17 When that little girl lay there and she had a big smile on
18 her face and she's demonstrating and telling us, "That's
19 [REDACTED] special game," it was just too much and so we had
20 to do something and it wasn't until I rang everybody that
21 DoCS finally took it to court and put a stop to his visits
22 and made it supervised visits for two hours for one week.
23 Prior to that, they just kept saying, "Oh yeah. Okay.
24 Okay," sort of thing and nothing was happening, but I just
25 couldn't do anything more until I made all these calls and
26 then these people started to write reports to DoCS and then
27 DoCS had to do something about it. That was when they
28 turned around and apologised to us believing it so long and
29 not doing anything, but, "She's young. She'll get over
30 it." That was what we were told.
31

32 THE COMMISSIONER: Is JIRT still involved or not?
33

34 [REDACTED]: No, they did not get involved. She did have an
35 examination done by [REDACTED] in Wollongong at the
36 hospital and the doctor felt that she should not be left in
37 that position again, but we've just got to wait and see
38 now. She's still going through supervised visits until
39 July when the court case comes up again, but she had to go
40 and see her [REDACTED] last week and she sat there and she
41 stared into space and she regressed and she said,
42 "I'm sick, [REDACTED]. I want to go and see a doctor." She
43 didn't want to see her [REDACTED]. She was crawling under the
44 bed in the foetal position prior to this. She was
45 screaming in the night saying, "Scary, [REDACTED]." I kept
46 telling DoCS over and over about all these things and
47 nothing happened until I made all the calls to all these

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1 people and they made reports back to DoCS.
2
3 THE COMMISSIONER: Thank you for that experience. We will
4 take that on board.
5
6 MS LORD: Janine Lord. JIRT won't be involved --
7
8 THE COMMISSIONER: She was too young.
9
10 MS LORD: -- unless they can prosecute. With these young
11 children, they won't be involved.
12
13 THE COMMISSIONER: We do have a note from Mr Fernie who
14 has raised a issue which is really I think outside the
15 ambit of our Inquiry. If you want to write to us please
16 feel free to do so, but I think actually what you raise is
17 outside our inquiry. I would like to hear from anybody who
18 has had a problem with the Aboriginal placement principles.
19 As you're on your feet, we'll let you speak now.
20
21 MS ROWLEY: My name is Diane Rowley and I work for the
22 aunties and uncles program here at Nowra. The program
23 works with young children 0 to 12 and we make links with
24 volunteer aunty and uncle carers that the children spend
25 time with once a month. The children are disadvantaged or
26 isolated in some particular way. This sort of issue also
27 refers to the Shellharbour DoCS office and some
28 frustrations we've had there.
29
30 We got referred a family from the Shellharbour office.
31 The family had four children because the mother was
32 suffering from acute atypical depression and they were
33 concerned that if she becomes hospitalised, the children
34 have no care. The mother is from England, the children's
35 father was still in England and there was a long history of
36 domestic violence.
37
38 We found links for all the children and the links were
39 very successful and very happy. Mum's condition
40 deteriorated quite badly between the time we linked and up
41 until now. As soon as the links were made, DoCS closed the
42 case. We've made several referrals to DoCS concerned with
43 mum's ability to care for the children. After some reports
44 the Shellharbour office said, "There's nothing we can do.
45 If mum needs more support to care for her children, maybe
46 she should go back to England." That's not okay as all the
47 children were born in Australia.

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1
2 The last report we made mum was at the point of
3 saying, "I can't care for my children any more. I'm too
4 ill. I can't get out of bed for weeks at a time. The
5 children are looking after themselves. I can't do it.
6 I basically need to give up care of my children to the
7 department. I can't do it. " At this point, DoCS did step
8 in and get the case allocated and they said, "There's no
9 way they can go into care. There are no carers available."
10 Their solution was to give the children to dad who in this
11 time had come over from England for a week. After that
12 week, the children went back home and there was no
13 follow-up, no support put in place for this mum. Mum is
14 still saying, "I can't care for my children. I'm about to
15 hand them over to their dad with their passports so he can
16 take them back to England and I'll never see them again,
17 but I can't care for them."
18

19 This was very concerning for us because mum just
20 needed some support to keep her family together and be able
21 to care for her children. That's what she was asking for.
22 Our concern is that DoCS referred this case to us and once
23 we did our role, then completely opted out of wanting
24 anything else to do with it and it really took us jumping
25 through hoops to get DoCS back involved with the family.
26

27 The only way that this problem is going to be resolved
28 is that the 20 year old daughter is going to take care of
29 some of the children and that means her relocating from
30 Sydney to do so and the dad is still going to get some of
31 the children, which means the family is going to be
32 separated.
33

34 THE COMMISSIONER: What are the ages of these children?
35

36 MS ROWLEY: Twelve, 10 and 11. There are twins --
37

38 THE COMMISSIONER: They're too old for Brighter Futures
39 then?
40

41 MS ROWLEY: Yes.
42

43 THE COMMISSIONER: How did they get referred to you? On
44 what basis were they --
45

46 MS ROWLEY: Through DoCS.
47

1 THE COMMISSIONER: But on what basis were they referred to
2 you?
3
4 MS ROWLEY: For us to link them with volunteer aunties and
5 uncles to spend time with.
6
7 THE COMMISSIONER: So for respite care, effectively.
8
9 MS ROWLEY: Yes, respite care once a month. Basically,
10 there were no other supports put in place for this family.
11 My concern is that there are parents out there that are
12 struggling with mental illnesses and there's no support
13 whatsoever for them to help keep their family together.
14 There should be something available and it's like DoCS sort
15 of dumped it on us and then wiped their hands of it.
16 That's a big concern. Thank you.
17
18 THE COMMISSIONER: Is there anybody else who wants to add
19 something arising, for example, from what has been said so
20 far or would wish to make some observations about the way
21 the system works or doesn't work?
22
23 MS WILSON: I am Clare Wilson. I'm the manager of the
24 aunties and uncles program for the region. We've had
25 amazing success linking children from vulnerable families
26 at an early intervention stage. The thing to be aware of
27 is that our carers are volunteers who go through a very
28 intense, intrusive process to become proved carers with our
29 organisation. There is an assumption then, often from
30 DoCS, that these people will do over and above what we're
31 really asking them to do for children who they're providing
32 support to.
33
34 One of the issues that we've had is that we often get
35 referred families where there are serious child protection
36 issues. We then bring into the lives of these families
37 community members who are carers who then have quite a
38 significant part to play in providing respite to the
39 children, but because there are problems within that
40 family, I'm continuing to make notifications to DoCS,
41 because voluntary carers once a month can't fix the
42 problems. All they can do is give children an out for a
43 period of time.
44
45 As a result, we've actually had cases that have been
46 called back to court where the material that I've written
47 in reports has been released to the actual natural parents

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1 of the children and as a result, what happens then is we
2 lose the possibility of good relationships with those
3 community members because they are mentioned in reports,
4 I'm mentioned in reports and the parents actually have
5 access to all that information.
6

7 I think that's an ongoing issue for us working in
8 child protection when we are trying to make sure that we
9 give accurate information to DoCS about what's going on
10 because we can't provide all the support all of the time
11 and then that information goes back to the family and what
12 happens is it sabotages the whole situation. That's an
13 ongoing concern for us.
14

15 THE COMMISSIONER: Thank you. We will note that. Is
16 there anybody else who wants to say something? If not then
17 thank you very much for your attendance this morning.
18 Again, it has been very useful for us to hear your
19 experiences and we're grateful to you for that. Thank you
20 very much.
21

22 AT 11.27PM THE COMMISSION ADJOURNED ACCORDINGLY
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