ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
FOSTER CARE INQUIRY HEARING

Under	The Inquiries Act 2013
In the matter of	The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions
Royal Commission:	Judge Coral Shaw (Chair) Ali'imuamua Sandra Alofivae Dr Anaru Erueti
Counsel:	Mr Simon Mount QC, Ms Kerryn Beaton QC, Dr Allan Cooke and Ms Aroha Fletcher for the Royal Commission Ms Rachael Schmidt-McCleave, Ms Julia White and Mr Max Clarke-Parker for the Crown
Venue:	Level 2 Abuse in Care Royal Commission of Inquiry 414 Khyber Pass Road AUCKLAND
Date:	15 June 2022

TRANSCRIPT OF PROCEEDINGS

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Lunch adjournment from 1.20 pm to 2.19 pm

CHAIR: Good afternoon, everybody, and good afternoon particularly to our two new witnesses. It's Professor Emily Keddell and Ian Hyslop, welcome to both of you. Thank you for taking the time to prepare this and to be present today, we're very grateful. Can we start please by just taking the oath. Or the affirmation.

ASSOCIATE PROFESSOR EMILY KEDDELL AND DR IAN HYSLOP (Affirmed)

CHAIR: Your expertise is taken as read, although if I can confirm that?

MS SCHMIDT-McCLEAVE: Absolutely.

CHAIR: Thank you, so no impediments. So, thank you very much Dr Cooke.

QUESTIONING BY DR COOKE: I'm going to, -some general questions right to the start so you can flip a coin as to who's going to answer, but it's really just- that – thank you for giving us the report, and you refer to the letter of instruction that you received and the questions that were posed in there, which you've answered. And then of course you've gone on to look at,-- you've identified your expertise and who you are, so thank you for that.

I just wanted to – --we also asked you specifically to comment on, this is the discussion at page 19 where it commences, and the heading is "Devolution to community and by Māori for Māori approach". And you've put in appropriate qualifications around that, and I wonder if you want to just make it clear to the Commissioners of the position that you are taking on that particular issue.

DR HYSLOP: Yes, thanks Allan, I can comment on that. We've talked about this between us quite a bit and yeah, we want to make it very clear that as Pākehā we claim no expertise in relation to Māori service provision, or Māori interpretations of Te Tiriti or Tikanga Māori in any respect whatsoever. We've been asked as Pākehā academics and past social workers to make comments about the concepts in relation to Māori service provision and honouring Te Tiriti and we've attempted to do that to the best of our ability, but there's no intent to speak for Māori in any way, shape or form.

CHAIR: Thank you for that clarification.

DR COOKE: Just another point of clarification, it came out of an observation made by Commissioner Alofivae yesterday in relation -- about one of,-- some of our experts where they have both a,-- they do work in a practical sense, they're out there doing work, and they're also academics. Do you fall into that category as well of being pracidemics?

ASSOC PROF KEDDELL: Yes, we both do in one way or another. So, I first qualified as a social worker in 1996 and then worked for several years both here and overseas actually in child protection and in community support practice, in residential settings, and then came

into academia and I've maintained my contact with and practice I suppose through my research which is –

CHAIR: Just – sorry, just do you mind slowing down for our –

DR COOKE: Oh yes, I should've said that to you.

CHAIR: – signers and our stenographer who is battling away to get every word down.

ASSOC PROF KEDDELL: Apologies, Apologies. And also maintained contact with practice through my research, which is very practice based, figuring out what's actually happening in practice.

DR HYSLOP: Yes, well for me it's the same thing, social work is, even in academia, has to be an applied profession, I think, or you quickly lose sight of the needs of the people that you're attempting to serve. And I worked, of course, for 20 years from the age of 26 to 46 as a child protection social worker supervisor, eventually a practice manager, initially in South Auckland and then in West Auckland, so it's been some time since I practised, but a lot of the challenges and difficulties of practising well in a challenging environment are the same I think today as they were back then. So yes, I think pracidemics is quite a good phrase that one, I think.

CHAIR: Yes, we use it all the time in the Commission.

DR COOKE: I'm going to ask you some questions which we've covered between us, so I want to be very transparent about that, then I will just ask some clarifying questions that have come to my mind and which you're aware of as well.

The first one is, well, you say on page two the report looks mainly at preventing the need for State care, which is a, one would say, a bold statement in many respects. And if you wanted to just talk around that as to the need for State care, and how, and how that aspiration, that's an aspiration that is achievable or not?

ASSOC PROF KEDDELL: So, I think at the outset it's worth saying that neither of us are purists in the sense we both accept that there will always be times when children do need to be removed from their immediate environment and placed elsewhere for their immediate safety and protection. So, while we have a big focus on prevention, we're thinking about prevention at the sort of structural level is in general a good thing. And that view is, even though there will always be some need for exceptions to that sort of general rule, and I guess we formed that view from both of our research over many years looking at the outcomes of foster care, the harms and risks that children are exposed to once they do enter care, and also, I guess, cognisance of the social conditions of many families as they come into, --that drive them into contact with the child protection system and thinking more

carefully about how those,-- that social context could be changed to enable children to remain in the care of their families and their whānau when possible.

DR COOKE: Just on that, before we get into the – those other questions, unless you've got a – -unless there's something else you want to add to that-?

DR HYSLOP: Just in a hopefully re-designed system where there's more emphasis on support for whānau, there should be a significantly reduced need for care, and of course care can be achieved without recourse to the State, and we have some thoughts about re-designed care processes where power's shifted to iwi and community.

DR COOKE: And just on the point around the utility or effectiveness of State care, foster care, you do at page 14 refer to the, and you quote Dorothy Scott, over 10 years ago, and she – --it finishes by saying, "the point has been reached in many cases where we are exceeding the use of the State's coercive powers to protect children without causing further harm." Which is a powerful statement.

And of course yesterday we had Dr Tania Cargo give some evidence where she cited a meta study, and it finished off with the proposition that the outcome for children who stayed, generally, and we're talking about generally and possibly excluding some of the grossest forms of abuse; but generally, the outcome for children who were kept at home was much the same, or no different, than those who went into foster care, and the notion being that both cohorts of children received probably good enough care. And I wonder –- and there was some limitations around the study of course, and I referred that study to you and I'm wondering whether you have any comments to make on it. Either one of you? -

ASSOC PROF KEDDELL: So, I am aware a bit of the study, which is a solid meta study because there's so many children captured, so it does give some broad generalisations about outcomes for children in care as opposed to those who are not in care. However, none of them are New Zealand studies.

Other research is also, to cut a long story short, mixed. There's a classic American study by Doyle in the 90s, he had a novel method where he was able to compare children who came to the court some were removed and some were not, but all had been applied to the court. So that was quite a good way of trying to see outcomes comparing like with like. And that study found actually that the children who entered care did worse than the children who did not enter care. However, that is an American study from quite some years ago now.

I think there's two things, there's the – -and much of the evidence that's come before you in this Inquiry attests to the fact that for a significant minority of children, they are

exposed to more risk from entering care than they were exposed to in their own family, and that those risks are often unknown and there are no guarantees so that the exercise is one of weighing up two, both possibly risky situations, rather than a removal to a sort of a panacea option of foster care. And that's all that we can really say about the New Zealand situation. -

DR COOKE: In order to say more about the New Zealand situation, is the answer that there has to be specific New Zealand research on the point?

ASSOC PROF KEDDELL: Again, the – -some of the evidence before this Inquiry is robust in terms of giving some insights into that. However, a longitudinal study that compares similar populations would give us a much better idea of the actual outcomes. -So, the Treasury analysis in about 2018 did some comparative statistical work, they looked at – --

CHAIR: Sorry, when did you say that was?

ASSOC PROF KEDDELL: I think 2017 or 2018, the authors are Ball, Tuman, and Templeton and they compared outcomes of children who had different levels of connection with the child protection system compared to all other children. It was fairly rough and ready, showing that children who entered care, for example, had higher rates of contact with the criminal justice system, with the benefit system etc.

However, they didn't – -they weren't really comparing like with like. So, because of the deep social inequities in the populations coming into the child protection system, a good study should compare the group of children who came into the system with a similarly, say, even a group of children who are similarly deprived in terms of living in poverty. So, in a sense it wasn't a fair comparison and I think if it was, those differences may have reduced, but nevertheless what it suggests is that there are some harms associated for the group of children who do come into contact with -the child protection system.

CHAIR: And when we're talking about outcomes, I think that realistically we're not talking about rosy outcomes for either group are we really?

ASSOC PROF KEDDELL: Exactly, exactly, yeah.

DR HYSLOP: No. We do know from overseas research that foster care is not as good as kinship care and neither of them are as good as institutional – --they're both worse an institutional care.

DR COOKE: You said neither of them? --

DR HYSLOP: Yes, I've given a confused answer. Institutional care is at the bottom of the heap and kinship care is preferable, but you're not guaranteed perfect outcomes and you need to be careful with your practice regardless.

DR COOKE: So just with the observation you made about the information this Commission has obtained, which is good, solid, but possibly limited data for various reasons, would it be important that that was then supported or buttressed by the kind of – -some other study of the two cohorts, those who are in care, those who are out of care? Would that make any recommendations or findings, put this Commission into a stronger position? -

ASSOC PROF KEDDELL: Definitely, yes. Is it – do you want me – --I can say – -

DR COOKE: Yes.

ASSOC PROF KEDDELL: Oh just, I mean we don't have much longitudinal research about outcomes for children in care in New Zealand, that's well-designed and gets at some of the nuances like Ian just mentioned between different types of care, different ages of children around care entry and also different reasons for care entry, which has a big impact on children's outcomes too, you know, was it a baby removed as a young child for a particular reason, or was it a 10 -year-old removed because, you know, they're felt to be, you know, have severe behavioural difficulties. These are very different situations, so those children have different trajectories through the care systems.

DR COOKE: I now want to move on to some specific questions and the first of them is for Ian. What are the similar recurring themes that are present in the development of child protection services over time and what can we learn from them?

DR HYSLOP: Okay. Well, there's,-- I guess there's certain elements that surround the care system and child protection work generally, Child and Family social work. So that practice and policy really is riddled with power imbalances, so within whānau, within care systems, within statutory bureaucracies, it's always a question of power and the voices that get heard and the voices that don't get heard, and obviously this Inquiry is case in point.

It's also a very emotive area, it's an emotionally charged area politically and for individuals, so that there's a tension or there's a,- there's often a desire to find simple solutions to complex problems and it's a complex area. We've had constant policy swings really between support for family and rescuing children at risk of abuse. In our context we've- also got the constant over-representation of Māori children, Pacific children, working-class children- and families in the system, and we need to ask ourselves why that is.

Over time we've had swings from a centrally controlled and planned bureaucracy to the idea of community devolution, devolution in particular to Māori, to iwi and hapū. But what we learned from that I think, from the position we were in in the late 80s, which I think, to my mind is in some ways very similar to the position we're in now, where we've

got a situation that's been driven by concerns about overrepresentation, particularly of Māori children coming into State care, and a desire to do something about that, and a call for the idea of more community devolution as a response.

In the 80s – -in the 90s we had the same idea, but it wasn't well planned, it wasn't- well-resourced, the implications weren't- really thought through, and that idea of devolution to community, Iwi Social Services, whānau responsibility was very much run over by financial constraints, by bureaucratic reorganisation, and by political change through the 1990s.

So, you know, within that there's a constant of struggle for Māori demanding care of their kids, we're still hearing that. And that needs careful thought about the transfer of resources, but also the transfer of authority. Not so much perhaps the transfer of authority as the recognition of authority. That's guaranteed by Te Tiriti.

So those questions need to be confronted and properly confronted, and the implications need to be properly thought through. Because that's one of the central points in the paper we've done, is that we're at a crossroads, we've been here before, and we've got the opportunity to have a progressive way forward. And yeah, policy goes around in circles in this country.

CHAIR: Could I just ask something arising out of that. In that list of things that went wrong, or didn't go well in the 1990s over devolution, which was bad planning not resourcing bureaucracy, the one that hit me was political change.

DR HYSLOP: Yeah, the, you know the sort of neo-liberal political revolution, if you like, that began stuttering in 84 and came to its full flower through the 1990s, it was all about bang for the buck, it was, you could do anything you liked with a family group conference provided you didn't spend more than $600. I'm well aware of that because I was there at the time. Your work was divided into measurable output classes so that the creativity to find whānau-centred solutions was very limited, financial delegations were incredibly tight, and the organisation became increasingly focused on risk, high risk situations. And I think some of the challenges that went with community devolution, particularly the relationship between the Crown and Māori, really wasn't thought through, and the idea that the Department of Social Welfare, as it then was, as opposed to the government at large, was able to solve those problems of authority and constitutional difficulty, was a misguided perception.

CHAIR: That's a really illuminating answer and it leads me to the real reason why I asked it, and that is, do you see a place for a bilateral, unified political response that's embraced by all

political parties regardless, to solve, to help solve this issue? As long as we've got swings and roundabouts of political ideology and the like, are we going to continue to come back to this space all the time?

DR HYSLOP: Well, I fear that that's a–- I agree with you that that's a high risk and it's certainly a high risk to implementing what may come out of this process. -So ideally, yes.

CHAIR: A political concord on this particular issue could make a difference, couldn't it?

DR HYSLOP: It could make a significant difference, yes.

COMMISSIONER ERUETI: Could I ask, Ian, you're talking about the swinging from central to devolution.

DR HYSLOP: Yes.

COMMISSIONER ERUETI: From the 90s, right.

DR HYSLOP: Yeah.

COMMISSIONER ERUETI: So is there a swing,- so in the 90s there's- an emphasis on devolution, Rūnanga Iwi Act and so forth. Is it swinging back towards centralisation, or is there still instances of where devolution has actually had some impact and worked in practice? So, from the 90s the idea was there, there was some initiatives, but they didn't – -they weren't allowed to flower, shall we say. So, they're still there and they're- just, you know, eking by month to month or so forth.

DR HYSLOP: Look, I think there's certainly elements of effective community and iwi-centred services and support systems for whānau, for high needs whānau and children, there's lots of examples I think of good work in that area. But it's not something that is well, I guess, planned and organised and researched and supported and funded. So, you've got pockets of good creative work, and inconsistencies around the country as well. The political rhetoric around community and devolution has never matched the planning and resourcing.

CHAIR: That says it in a nutshell.

DR COOKE: Just on the point around the 1990s and practise, and you gave the example of Family Group Conferences having budget caps.

DR HYSLOP: Yeah.

DR COOKE: I do recall, and it's probably apocryphal that as some point in time possibly in the 90s or later, there may have been financial incentives to managers to keep the care, the numbers of children in care down. Can you comment on that at all?

DR HYSLOP: Well, I don't know, budgets were certainly tight. What there was was a destructive focus, I think, on closing cases as quickly as you possibly could, regardless of the needs of family who you came across. And there was a de facto demand management process in the

late 90s that really made for some very poor practice. And it comes into some of the issues we've touched on later that hopefully we'll get to around whānau empowerment processes that don't involve support and resources for high needs families. Often an avoidance of responsibility rather than an empowering process.

ASSOC PROF KEDDELL: If I could just add to that, I think it's also worth pointing out that during the 1990s, at the same time as we had these kind of constricting budgets and increased managerialism within the Department of Social Welfare, there was also an immense rise in widespread social inequity more generally with the benefit cuts, the market based rents introduced, black budget of 1991, which at the same time as this was happening was sending many, many families into just dreadful situations around poverty and stress, which in turn has a knock-on effect to how people are able to parent. So, at the same time as the Department was perhaps not fulfilling the promise of the Act, the wider social context was creating more harm for people trying to be parents and look after children adequately at the same time.

DR COOKE: Would I be correct in saying that through that period of the 1990s in terms of the budget, financial resources available to the Department at the time, that that was in itself limited in such a way that those needs that you've just described could not be met without closing cases as soon as possible, only the most serious and graphic instances of abuse would be addressed; is that in essence the situation?

DR HYSLOP: I think so.

ASSOC PROF KEDDELL: And even the way we structure our ministries around one that addresses social need to some extent and others that respond to issues of child abuse and neglect, which we've actually entrenched with the creation of Oranga Tamariki creates this false dichotomy between children who are in need of Care and Protection and the broader needs of families and whānau through income support and housing and access to health etc. Because those two things are fundamentally connected to one another.

DR COOKE: That leads into my next question, Emily, which is more directed at you, I think, which would be around describing, or at least understanding the relationship between those wider structural inequities and then an entry into care. That's the first. The second part of the question is if that's the reality, how are those issues to be addressed?

ASSOC PROF KEDDELL: So, from our work in inequalities which we borrow the term really from health inequalities research. So similarly, to health inequalities, contact with the child protection system is socially structured, families exist in a context that shapes the ways they are able to parent. And just as we would talk about people having poor outcomes in the

health system, if they're subject to particular social inequities, similarly it is in the child protection system.

So, our study in 2019, together with colleagues Gabrielle Davie and David Barson, we simply sketched out the broad correlations between living in high deprivation areas and contact with the child protection system. And basically, we found that you've got nine times the chance of entering care if you live in a high deprivation area, at the highest 10% of deprivation areas compared to the least deprived areas. You've got 35 times the chance of having a family group conference held about your whānau if you're in the most deprived compared to the least derived, and about 18 times the chance of being substantiated for child abuse and neglect.

And within that inequity there's intersecting inequities to do with ethnicity particularly, so because more Māori children live in the highest deprivation areas there's intersecting structural determinants of contact. And what we hoped to do with that study is draw attention to the high social needs of the families presenting to child protection systems and pointing out that many of the families – --of the problems that families present with happen in the social context of low resources, problems around income, housing, access to basic health services, and these will have a knock--on effect into the child protection system.

One way that internationally we might conceptualise why these high correlations exist, because a correlative study can't really tell you much about why this particular type of framing, which we call the risk bias debate, which has been also utilised to understand disproportionality in New Zealand, by both our study and also work done by Fiona Cram.

And what that basically says is disproportionality based on,-- whether it's based on socio-economic status and/or ethnicity, those intersecting inequities happen both because some populations are over-exposed to known risk factors such as poverty which increases stress on family life, such as the processes related to colonisation and that damage, for some whānau, ability to function, and those are one part of explaining disproportionality.

The bias part says those potentially heightened exposure to risk factors are compounded by exposure to biases, and that's both surveillance and exposure bias, which is some people are more exposed to reporters, people who have obligations to report children to the child protection system, over exposed to direct bias of reporters; so direct racism, direct classism of both people who report and people who then make decisions within the system. And a subsequent study done by us looked at that direct bias which showed that, for example, Māori whānau in exactly the same situation as a Pākehā whānau were

perceived as higher risk and had more decisions made about them than the Pākehā whānau. So, there's biases which effect,-- compound the heightened exposure to risk factors.

And across in between those risk and bias factors is what we call generally demand and supply factors, that is what is the services available, how are they framed and structured, are they focused on, for example, prevention, or are they focused on assessing risk? So for example, in a structure that is very focused on assessing risk, all resources get sucked up into that task, not actually addressing risks or trying to prevent those risks from occurring, or supporting families more, the resource gets put into this sort of assessment process which in itself can heighten particularly biases and doesn't do much to address the risk. So that draws us back again to think about what is the bigger system trying to do and how is it structured.

One way that we might think about addressing both risk and bias is moving away from what I've called a notify investigate system, and I think Ian is now going to describe a little more to us about the pros and cons of that system.

DR COOKE: You could segue into that now.

DR HYSLOP: Yes --

CHAIR: Can just ask please, can I just ask everybody please just to slow down. I am just really anxious for our signers and our stenographer here, because you're talking complex issues, using some language that perhaps is not quite as familiar to our signers and others, so please, please do be careful about that. That goes for us when we ask questions as well, I'll count myself amongst those.

ASSOC PROF KEDDELL: I get excited.

CHAIR: Did you want to ask a question?

COMMISSIONER ERUETI: Yeah, it was about that model you talked about, the bias I'm interested in, yeah. So, you – --so in those you refer to the expert panel report that was done back in –- that would seem to provide the basis for the OT (Oranga Tamariki Ministry for Children) - reforms.

ASSOC PROF KEDDELL: Right, 2015.

COMMISSIONER ERUETI: And you see that as setting up a kind of notify-investigate process, that kind of encourages this sort of bias, if you like, and kind of trying- to root out – -yeah, looking towards these deprived communities because they're seen at risk. Is that right-?

DR HYSLOP: I can talk to that a little bit, if you like.

COMMISSIONER ERUETI: Yeah.

DR HYSLOP: So, we've got a notify-investigate child protection system where agencies, schools, public health nurses, family members, people, teachers people report to a centralised intake system when they're concerned about the well-being of children. And OT (Oranga Tamariki Ministry for Children) social workers investigate and assess risk, and it's a triage process where they determine the apparent level of risk that the initial information provides and they make an investigation plan and go and assess what's going on.

And it very much, it's grown out of Henry Kempe's work in the 1960s, his book about the Battered Child Syndrome. So, it works best probably for forensic investigation, physical abuse. It doesn't necessarily work that well with issues of care and neglect and other things like that. And the focus is very much on individualised causation, and the problem lying with particular troubled families that need fixing in some way or other.

Now I'll get to the expert panel process now, because the expert panel outcomes, as far as child protection were concerned, were crafted under the social investment, social policy umbrella and the idea there was that particular high-cost families reproduce poverty and inequality and create high costs to the State, particularly in terms of beneficiary dependence, benefit costs. So that panel was chaired by Paula Rebstock who just finished the Welfare Working Group report, and the whole idea was that intergenerational poverty is reproduced in particular families.

So that perception cuts out all the issues around housing, education, income, the benefit cuts in the early 90s that sentenced two or three generations of children to relative poverty. All those kinds of structural disadvantages are left out of the picture, or certainly not focused on to any great degree because the problem lies within families who aren't behaving adequately.

So that whole idea about assessing individual family behaviour, correcting that behaviour, and if that behaviour isn't correctable within a certain timeframe, placing children in safe and loving homes at the earliest opportunity in order to introduce middle class safety in care to the children of the underclass proletariat is very much the thinking that informed that expert panel process as far as I was concerned, and I – --

CHAIR: Shades of eugenics.

DR HYSLOP: Shades of eugenics, yes.

COMMISSIONER ERUETI: To be fair, you read that report, it does talk about five tools, one of them is prevent, right? So, it is talking about trying to identify families in need and provide them with the sort of resources they need to prevent them from going into care.

DR HYSLOP: Yeah.

COMMISSIONER ERUETI: Which the next step would be, I think it's, what do they call it, intensive intervention or something like, and then proper care and custody which is the middle-class sort of form of care.

DR HYSLOP: Yes.

COMMISSIONER ERUETI: And that's why it's a bit of a puzzle for me, because is that what Oranga - those five principles, have they translated over into the OT (Oranga Tamariki Ministry for Children) framework, so you're still seeing prevention as a part of it, so it's- not just swooping in but trying to make an earnest effort at preventing people going into care.

DR HYSLOP: Well, the intensive intervention services were never developed as they were envisaged, to the extent that they were envisaged and not in a timely way. There are, I think, still disjointed projects in that area. And we've shifted again in the last few years as well, and we can talk about that a little bit, if you like, too.

But I think the current situation is often more about inactivity rather than the provision of prevention services. I think a perception that – -driven ultimately by the Hawke's Bay/Hastings debacle has made OT (Oranga Tamariki Ministry for Children) - pull back from over intervention practises, particularly with Māori babies. But I'm not sure that that's been replaced by – well -I don't think that's been replaced by sufficient support services, prevention services at -this point in time.

CHAIR: Just a moment I think we've got a question here.

COMMISSIONER ALOFIVAE: I do, talofa lava doctors. Can I just go back Dr Keddell to the study that you referred to. What I wanted to ask was, so we're really good at describing the problem and then we can see how many more times it's likely for young Māori, Pacific and others to get into trouble and all of that sort of stuff. Are there corollaries, or are there other studies that actually show, because not every Māori or Pacific child that grew up in those spaces would have ended up going down the trajectory that was projected. So, were there any other studies that you're aware of, what were the success factors that made those young people resilient that you could direct the Commission to as well, that would be very helpful for us?

ASSOC PROF KEDDELL: There is a recent study using growing up in New Zealand data. I can't think of the author right this minute, but I can direct you to that, because there has been some work done on that and I think that's a really valuable way forward.

COMMISSIONER ALOFIVAE: And then just coming to your point, Ian, around that whole social investment approach, because that, I think, led to place-based initiatives being set up

in different parts of the country where different geographical regions would then come up with hopefully local solutions that actually suited their populations better.

Have you seen a change, or -- I suppose I'm really putting it in the context of the current reforms that we're looking at now like health, so there's a big reliance on health data, kind of leads the way a little bit in terms of the language; around actually what is it that we can be really hopeful for then if we're looking at a pipeline. Because you can't just change part of the system, so we get that very clearly thank you. But in terms of that whole interconnected space that I don't think we've ever tried before but everybody kind of is suggesting that that's actually the way forward. Thoughts around that?

ASSOC PROF KEDDELL: Do you mean to properly design a system of universal preventative services that then – --yeah.

COMMISSIONER ALOFIVAE: Mmm, because to get to a proper pan-accord or a political accord across your different parties, how do you make it so valuable that the common-sense argument is actually there? Because they both want it, just looking at it through a couple of different lenses.

DR HYSLOP: Yeah. Well, I mean you certainly need greater support services for whānau. Just to finish a bit quickly about the notify-investigate sort of system focus, that focus on high risk, high scenarios, it takes resources away from situations of lower risk or intermediate sort of risk, if you like. And it takes away resources from other parts of the system, the kids in care and preventative services.

And you get this focus on institutional risk and organisational anxiety as well which very much drives practice and stifles creativity. And the stuff Emily talked about, about generating bias in terms of race and class, you know, poorer areas have more notifications, they're more exposed to the groups that notify to child protection, and there's also biases within the system as well.

And the whole idea of a system based on surveillance and notification and knocking on people's doors with your statutory social workers diary, and I did that two times, too many times in my life I think for my own good in some ways. It builds,-- it creates mistrust, creates distrust, suspicion of the system.

So, you know, you've listened to all these histories of people in care. Social workers who knock on the door of houses in response to investigations carry all that history in the minds of whānau, you know, and carrying that history you're supposed to develop trust and rapport and healing relationships, it's a pretty big ask. So, the idea that community-driven

services are going to do that much more effectively has to be the direction of travel, I think. But yes, it has to be a transition. You can't just go like that.

CHAIR: I think we're going to let Dr Cooke move on because we've got a witness who's going to be waiting afterwards and we don't want to drive into that time. So, we're going to button up for a moment and let you work your way through and try not to interrupt you.

DR COOKE: Sure, because I noted we've got 25 minutes.

CHAIR: Yeah, no, it's not very long.

DR COOKE: No so we'll, if I ask you the questions we'll try and do it in that time. The next one I had is around how do we,-- how can the perspectives and experiences of children and adult whānau members who have had experience with OT (Oranga Tamariki Ministry for Children) be meaningfully incorporated into a new system?

ASSOC PROF KEDDELL: Thank you. I think this is a really key part of the development of both intensive intervention services, and I must say there are some piloting of co-design around intensive intervention now, seven years sort of later. -And as Ian mentioned, that's -- it was on the original agenda but was very much pushed to the back burner until Hawke's Bay and the political will was turned somewhat by the – -all of that politically, yeah.

So, one thing that the 2015 reforms did to some extent was create a greater perspective on the inclusion of young people's voices in design of the care system, created VOYCE Whakarongo Mai, created an organisation whose job it was to advocate for the needs of children young people in care. While they've done a brilliant job, the need for us to continue down the direction of including the people who are most in contact with the child protection system in the structural service design remains really important.

And the group that currently has very little, if any representation, is parents and other adult whānau members who have been through the child protection system. That group of people is often really highly stigmatised, highly, yeah, subject to a lot of stigma because of their – -the sort of silent and sometimes not silent accusations about what they may or may not have done to children, which is of course a serious issue. However, it's those people who are then expected to engage with the service who will expected to engage in some programme around change or expected to operationalise the FGC (Family Group Conference) plan, so the views and perspectives of those people are also really important- in service design and delivery.

Other countries sometimes actually have some really great models around this, and I think it needs to be done locally, so not just at the central office. That's another issue we

have, is that often policy and guidance is developed by the central agency of OT (Oranga Tamariki Ministry for Children), and it might be brilliant, but it's embedded in the 59 odd sites of OT (Oranga Tamariki Ministry for Children) quite variably. And in terms of incorporating whānau views it can't just be a Wellington exercise. Local site officers have to have strategic, planned ways of incorporating the voice and perspectives of people who have been through the system, helping develop practice guidance, helping develop peer advocacy.

There's a huge thing in other countries, in New York State their peer advocacy services really led to a huge reduction of children entering care in New York because they really got –- the wonderful book by David Tobis called Parents Not Pariahs, which really looked at the pathway they went down there. So, when parents have peer advocates to work alongside them, where parents and other adult whānau members are having input into guidance around how practice is going to be done, that really helps incorporate the views of service users much more directly to what's going to be helpful-.

Because remembering that it's adults and parents who are the ones who are being charged with making change in their parenting practices. So, they also have a lot of very useful input about what's going to be useful in their journeys.

COMMISSIONER ERUETI: So, you're starting to see that change happen now? You're saying, was it intensive interventions that are incorporated by --

ASSOC PROF KEDDELL: The codesign of services I think still incorporates a lot of the perspectives of service delivery people, which of course is important. That's community NGOs, it's- iwi--based services, but I would,-- I'd still like to see much more incorporation of lived experience of adults and, of course, children and young people who have been through services.

DR COOKE: We're now going to look at the question of whether or not power and resources associated with the child protection system to iwi Māori and communities can be done, should be done and what are the barriers for that and consequences etc. And I gather, Ian, that's a question for you to answer.

DR HYSLOP: Yes, well just to,-- I would like to reiterate, although we said this at the beginning, that devolution to iwi is something for Māori and the Crown to work out, I think it's imperative that they do develop it, and neither of us claim to be experts in the area, but just to begin, the Wai 2915 Waitangi Tribunal hearing, He Pāharakeke report, made it very clear in terms of Te Tiriti, that Māori have and should be allowed the authority to provide care and protection services for their own.

Now people always jump to the barriers without thinking about, you know, how do we make this possible. So, you know, it's consistent with the Treaty and it's consistent with developing better services. So if you're going to work with someone who is struggling with the care of their children, in ways that are going to be supportive and build whānau support and get you a good outcome, you've got to have trust, you've got to have a relationship, you've got to have people who are prepared to work with you. And State social workers struggle very much in that process.

So, for Māori by Māori services are always going to work better in that area, I think. And it's not without difficulty, and not without problems of its own. But yeah, I just think we need to engage with that question rather than be disabled by it. And it's not devolution, it's granting authority that's, or recognising authority that already exists in terms of the Treaty.

It needs to be carefully thought through, it needs to be carefully developed, and in that context, you know, wider policy settings that reduce poverty and inequality, take away the burden of poverty from the shoulders of whānau, that needs to happen as well.

And there are issues, there's issues around potential service duplication and families of mixed ethnicity and young people who are living outside of their rohe and urban Māori services versus iwi, hapū-based services, the whole thing around the exercise of State power in tough situations. But none of that stuff is impossible to work out with dialogue and goodwill and a process. And I really think that's the way forward.

DR COOKE: Thank you. There's a question about the nature of effective whānau level services that would help prevent removal and safely keep children at home and how can they be equitably accessed. Again, Emily, that's a matter for you, I think.

ASSOC PROF KEDDELL: Thank you. So together with my colleagues Kerri Cleaver and Luke Fitzmaurice we did a little project over the last two years looking at exactly this issue, which is what sorts of services actually help people who are on the edge of care to retain the care of their children. And we found it's not rocket science, you know, but what we found was that the that we looked in some depth at, the service able to be offered to them was, for a start, intensive; and I mean intensive, like 40 hours a week, one whānau for one worker for a number of weeks to begin with based on coming from a fully non-judgmental relationship-based approach that was able to focus conceptually on starting out reducing stressors for the family, so based on the idea that people that may need to, let's say, take on ideas, new ideas about parenting or address their own traumatic backgrounds for a start need to have the stressors in their family environment right now addressed. So, beginning

from that reducing stress, relationship forming, longer-term relationships between workers and whānau, and then, and only then, working on what are the perhaps issues of support and challenge that need to be worked on; teaching people about, you know, parenting, becoming increasingly responsive as a parent once the actual stressors have been reduced.

So these are the sorts of services that are more likely to be effective at reducing the need for care at the same time as creating safe and caring environments for children, because it's easy to reduce care simply by saying we're not going to make orders for care, but that doesn't necessarily address the risks and struggles that families are facing.

So, services that have those components are going to be the most effective. Another thing we found as an aspect of what we've just been talking about is because those relationships are so fragile that by Māori for Māori approach for Māori whānau is going to be more effective because it does help keep those relationships alive that are needed.

I think I'll leave it at that unless anyone has any more questions about that. But those services need intensive resourcing, high resourcing.

COMMISSIONER ALOFIVAE: I hazarded that would gain a lot of support because it's a well, -- it's familiar to a lot of regions out there. Were you able to get that costed in any way? Because that's often the barrier, isn't it.

ASSOC PROF KEDDELL: No, I haven't costed it directly myself, but one particular service that offers very much that model is a model called Mana Whānau offered currently by Lifewise and by Wesley in a number of centres around New Zealand, so I'm sure they would be able to provide the costing, yeah.

COMMISSIONER ALOFIVAE: Because then it would then make it transferable.

ASSOC PROF KEDDELL: Exactly, and look it's not the only one, other agencies I know are offering similar programmes, but I guess the second part of my question was around equitable access. Because another thing we found is people who had been able to get this would say "oh but my friend who lives down the road or lives in the next suburb, they're in the same situation, they went through the same rehab as me, but they couldn't get this, so their kids came into care." So, figuring out how do we have a good measure of need for these sorts of services across the country and make sure that everyone who needs those services can access them.

CHAIR: Equitable provision.

ASSOC PROF KEDDELL: Exactly, so there's equitable provision.

COMMISSIONER ERUETI: We all have this question, and that is the equitable consistent access, high quality service, but also access to everyone in the way in which they want to access it, culturally appropriate, for example.

DR HYSLOP: Yeah.

COMMISSIONER ERUETI: The question is who's doing that at the moment, it's not agencies, is it more providers?

ASSOC PROF KEDDELL: At the moment it's very unclear. One of the consequences of contracting out all our support-based services, again through the 90s going to this model of contracting for services in creating competition between NGOs (Non-Government Organisations) also sort of obscured the focus on how you decided how much money will go to one city over another and any sort of transparency around those calculations I'm unaware of, and I have gone to some effort to try and find out, because that's key, right? If we know that, for example, living in high dep areas has a big correlation then should those areas get more contracted services? Well, yes. Is that happening? It's unclear to me and it seems actually quite variable from the outside.

COMMISSIONER ERUETI: So, is it NGOs (Non-Government Organisations), it's not agencies that are providing services, or is it a mix of both?

ASSOC PROF KEDDELL: Mix of?

COMMISSIONER ERUETI: Who's providing those services?

ASSOC PROF KEDDELL: Community-based services, NGOs (Non-Government Organisations) - and iwi and hapū and Pacific services all are currently receivers of contracted, -for contractual services-.

COMMISSIONER ERUETI: But not agencies themselves?

ASSOC PROF KEDDELL: What do you mean by "agencies" sorry?

COMMISSIONER ERUETI: Ministry of Health, OT (Oranga Tamariki Ministry for Children), are they providing --

ASSOC PROF KEDDELL: They're contracting, so they're offering the contract, OT (Oranga Tamariki Ministry for Children) fund many of those services, as does Ministry of Health in some cases as well.

COMMISSIONER ERUETI: Okay.

ASSOC PROF KEDDELL: So that process of procurement actually needs a lot of looking at, and also to point out that at the moment many iwi and hapū services are treated like a contracted provider, but a treaty-based relationship, in my understanding of it, it

shouldn't- just be reduced to a contract provider, there needs to be a higher level of partnership and preference for iwi and hapū services, so that's that other – --

CHAIR: Arising out of that, there's this notion, because you've got an NGO (Non-Government Organisations) who's working, let's say, in this way, what access, how easy is it for them to be in touch with health, housing, education, and MSD (Ministry of Social Development), all the other agencies who need -- who are inevitably going to have to be part of the solution, what's that looking like at the moment?

ASSOC PROF KEDDELL: Do you mean in terms of contracting or in terms of actual practice?

CHAIR: Actual practice, so a social worker goes to the door, finds leak in roof, I don't know, children aren't going to school, and they're all sick.

ASSOC PROF KEDDELL: They then have to be involved in advocacy where they go with the person around to those other agencies.

CHAIR: So, you go from one shop to the next shop to the next shop, beat on the doors?

ASSOC PROF KEDDELL: Yes, pretty much. Although there's regional and some local variations on that.

CHAIR: Some are perhaps dealing with it properly you think maybe?

ASSOC PROF KEDDELL: Some – --

CHAIR: Not properly but doing it in a more integrated way is what I mean.

ASSOC PROF KEDDELL: One example I think of is Whāngai Nga Pa Harakeke, which is a process the Police use around family violence which results in reports of concern sometimes to OT (Oranga Tamariki Ministry for Children). They have everyone around the table to try and negotiate, including MSD (Ministry of Social Development), including, you know, NGOs (Non-Government Organisations), including schools, so that's one thing that has a more structured approach to trying to get that sort of wrap--around approach, other times –

CHAIR: We've got less than 10 minutes. -

ASSOC PROF KEDDELL: – - unless a family is coming through that pathway that's not open to them. -Sorry.

DR COOKE: There are only two questions left so hopefully we'll get through them. What are the challenges associated with whānau care and how can they be addressed? I guess that's a question for both of you.

DR HYSLOP: I could start with that. I mean I think sometimes whānau care is seen as, getting back to what I said at the beginning, about complex problems attracting simplistic solutions sometimes, and whānau care sometimes just seen as a cure all. And getting back to the

historical stuff that we've touched on in the 90s we had a lot of low budget family group conferences and children shipped off to whānau in distant places who perhaps didn't even know them that well who had children of their own, and often you had high needs children and those kinds of situations. Then, of course, those placements, if you like, breaking down, or becoming problematic, because there wasn't a great deal of support provided, so that whānau carers need material support, they need emotional support.

People have big hearts, you know, you turn up to a family group conference; do you want to help your cousin who is having trouble with their kids? Of course, you do, you know. Whether you've got the capacity to do it later on without a lot of help is another question, and if that help's not provided you can get into problems.

So, encouraging family responsibilities shouldn't be an excuse for avoiding responsibility, and I've seen that far too often. So yeah, you know, "we've got concerns about your kids", "so have I", "okay, go and, you know, go and apply for an unsupported child allowance, if you like, you could go to the Family Court and so we're empowering you to do that", you know.

And people don't really know the systems that well. They don't have any money, and, you know, you end up with plans that don't give kids security of care. There's no real co-ordination about how kids might be returned to parents and, if so, what the timeframe might be. You need to have processes of whānau resolution that are not necessarily mediated by the State through family group conferences, but you need to have services that provide those kind of supports where families can find their own solutions and then be helped with the resources to meet those solutions.

And, you know, within all of that, of course, children need to be seen and need to be heard as well, because, you know, we all know that sometimes families can be quite dangerous places. You know, and that's the paradox, they're the best place for children and sometimes they're the worst place for children. So, it all has to be done with care.

But I don't know that, or I think history tells us that the State agency isn't necessarily the right place for that service to be located, and the kinds of services that Emily was talking about in the last question, whether they're provided by iwi or NGO are much more likely to lead to good resolutions, keep children out of care, give children the opportunity to thrive.

So, you know, just the blanket idea of more whānau care. I mean we had that, again we've touched on it, but in the 90s we had more whānau care at the same time that, you know, poor and working class and Māori people bore the brunt of structural readjustment,

unemployment, reduced benefits, less resources, at the same time as they were asked to provide care. So, it's not, you know, it's not surprising that we didn't always get great outcomes.

DR COOKE: The final question is around what sort of planning and governance process might be needed to plan and oversee transition to a new system? Which of you – --

DR HYSLOP: Just quickly we had to do the Wai 2915 report that talked about a transition agency. We never really got that; we've got a Māori advisory group that doesn't have the same kind of authority. A new system needs careful planning, it needs, you know, a transition authority would need to have clear terms of reference, a timeframe, a consultation process, an implementation plan and measures. Can't happen overnight, you might need regional hui, national pan--Māori processes involving expertise from NGOs (Non-Government Organisations), survivor wisdom, which is crucially important, even social work academic professional involvement perhaps, you know. And you need some kind of timeframe to give you, you know, a coordinated transition to a much different system than the one we've got now. And yes, your point about, you know, bilateral, non-partisan political agreement for change is perhaps the key component in all of that-.

DR COOKE: Any comment? We've got-- no comment? Otherwise, we can look it to the Commissioners for the last couple of minutes.

CHAIR: Two or three minutes. I'm sure we can fill that up with no problem whatsoever.

COMMISSIONER ALOFIVAE: I'm always really interested because when you bring your practice knowledge coupled with the academia, I always think that's a really powerful perspective because you get insights that you wouldn't necessarily get if you were just an academic or if you were just a practitioner. I guess what I'm asking is, just from your own intel and the work that you're doing out there, do you sense that there's a real appetite, there's a courage that's required in this space that we're very good at describing but we haven't quite been able to get to that tipping point that just then takes us over. Do you –

ASSOC PROF KEDDELL: I think there is a real appetite, and I must say, even perhaps especially within OT (Oranga Tamariki Ministry for Children) itself, I know a lot of people who work for OT (Oranga Tamariki Ministry for Children) obviously as well as people out in the community, as well as people in iwi organisations. I'm from Dunedin so we have Te Kaika and Tiaki Taoka which are really trying to transfer young people out into iwi-based service alternatives. Across all those there's people who are very hungry for change and can see, have been convinced that, the last three years especially, that the system is really not working and really are trying hard to turn that ship.

I think that-- one thing we haven't talked about much is we have had a massive reduction of children entering care in the last two years and that is,-- there are some problems with that, but people are trying to move in that direction of less intervention by OT. The question for me is, is there enough of the supports and the addressing of the social issues around poverty, is there enough of that to really enable that. I think it's coming, and I think there's a real,-- there is a real appetite for a change in that direction and I think it's a good one.

COMMISSIONER ALOFIVAE: I think that really leads me to my next point, which is so we're able to, you know, you can make out a case for change, all right; but then it's about how do you implement that case into the outcomes that we're looking for. And I think you answered it, you gave a really good answer at the beginning, Ian, we're looking for simple answers to complex issues, but we've got to believe it's actually achievable.

ASSOC PROF KEDDELL: Mmm-hmm.

DR HYSLOP: Yes, you need change on a whole lot of different levels, and I think the wider socio-economic stuff's important. But, you know, there's a will for change. I agree with you there, and Emily's response, you know, we had a vision in 89, we weren't going to bring kids into State care, we were going to be agents of decolonisation, if you like. And we're at that brink again, but we just need to look and think what didn't we do right last time, what are we going to do right this time, who needs to be involved, how are we going to do it, and, you know, I think, personally I think this State care inquiry process should have happened prior to the other processes of reform that we've seen, because this is the place to start. And, you know, I really wish you luck with the rest of your work.

CHAIR: Thank you for that.

ASSOC PROF KEDDELL: I second that.

COMMISSIONER ERUETI: I've got lots of questions, but we've got to let you go unfortunately. I did want to just follow-up on one point about where the funding goes. Is it going to where it's needed most in terms of services to children. So, is that the big question mark about whether the funding is getting to the areas of deprivation? Yes, and is there much work done on, you know, identifying where the money's flowing to, is it getting to the people that need it the most?

DR HYSLOP: I'm not sure if I can give you have a good answer to that, Andrew.

ASSOC PROF KEDDELL: There was actually a really good analysis in the expert witness of Ian, I'll remember the name soon, who was a witness for the Waitangi Tribunal Wai 2915,

he did a break-down of how different types of agencies are funded differentially and he actually did the numbers on that. I'm happy to find that out and connect you up with him.

CHAIR: Yeah, grateful for that.

ASSOC PROF KEDDELL: Apart from that I think it's a really good question that we don't have good knowledge of, but it's fundamental to this whole question because obviously the thing you focus on is where the money will go. If the focus is on prevention and support for whānau, that is where the money will go, and if it's on something else than that sucks up the --

COMMISSIONER ERUETI: We want that consistency and accessibility.

ASSOC PROF KEDDELL: Exactly.

COMMISSIONER ERUETI: Some tribes have more resources and access than others, there's that consideration. One last, kind of a silly question; is there a way in which we could look at like a Google map and see what services are provided by what NGO (Non-Government Organisations) across Aotearoa? How do you find out what's happening in your region? Let's start with Auckland, say.

ASSOC PROF KEDDELL: No, that's the short answer. You would have to ask OT (Oranga Tamariki Ministry for Children) that, it would be a really good question to ask them to supply you with that information about exactly which regions, which organisations are receiving how much money and what outcome is they're expecting from that.

DR HYSLOP: And just very quickly, I started with the issue of power, which runs fundamentally through child protection on all different levels. And that includes the, --not so much the allocation of money, although that's always important, but the determining of outcomes and processes. So, the current commissioning model really is still centrally controlled, even if services are delivered at the periphery. So, communities really need to be more actively involved in deciding the kinds of services they want to provide, how they want to provide them, how they're going to be measured, as opposed to this contracted model where the services are centrally determined. And there may not be the things that people in regional localities actually need, but they haven't had a chance to determine their own needs. So, there's an authority and power issue there as well.

ASSOC PROF KEDDELL: Fully tautoko that.

MS SCHMIDT-McCLEAVE: Commissioners, if I could assist there, I think Associate Professor Keddell might have been referring to Len Cook's evidence in Wai 2915?

ASSOC PROF KEDDELL: It wasn't Len, although his was very good.

MS SCHMIDT-McCLEAVE: I thought that might be of assistance.

ASSOC PROF KEDDELL: Lens's is very good, but it's someone else.

CHAIR: I'm sure between all of you you'll come up with the name and we'd be grateful if you let Dr Cooke know what that is, and we'll add that to our kete of knowledge.

We could, as you apprehend, go on all afternoon. What you've done is provide us with very, very useful signposts, traffic lights, and I'm thinking green, orange and red here in relation to a lot of these issues, and much food for thought. And as I have said to each of the experts who have preceded you through this week, I hope that you would be available to us, should we require more information. I know you're going to be involved on Friday anyway, but as we focus in on these,- the nub of the issues and the nub of the recommendations we're going to make, we're going to need more assistance. So, this hearing is an outward and visible sign of an inward and invisible lot of hard work going on and we do need more help. So, if you would be prepared to assist us in future with that, we would be most grateful. -So, thank you.

ASSOC PROF KEDDELL: Of course, anything we can offer and thank you also for all of your work.

DR HYSLOP: Of course.

CHAIR: Sounds good. And thank you to Dr Cooke and his team for arranging to have you here and the rest. I think we'll leave it there, but on that basis that this is really only the end of the beginning for us with this very important issue. So, thank you so much for your attendance today.

DR HYSLOP: Thank you.

CHAIR: We will take a short break and then come back for our final witness of the day. Yes, and the next session, if I can just say to everybody present, the next session is a closed session, so no members of the public are able to attend, the witness requires absolute anonymity, so an order has been made excluding the public. I'm sorry that you won't be able to be attending but it's important for the welfare of our witness that it occurs in that way. So, I'd be grateful if you just noted that, thank you.

Adjournment from 3.39 pm to 3.51 pm

[private session]

Karakia mutunga and waiata Whakataka Te Hau by Ngāti Whātua Ōrākei.

Hearing adjourned at 5.04 pm to Thursday, 15 June 2022 at 9.30 am