

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
STATE INSTITUTIONAL RESPONSE 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)
Dr Anaru Erueti
Ali'imua Sandra Alofivae
Paul Gibson
Julia Steenson

Counsel: Mr Simon Mount QC, Ms Kerryn Beaton QC, Dr Allan Cooke, Ms Katherine Anderson, Ms Anne Toohey, Ms Tania Sharkey, Mr Michael Thomas, Ms Ruth Thomas, Ms Kathy Basire, Mr Winston McCarthy, Ms Julia Spelman, Ms Alice McCarthy and Ms Natalie Coates for the Royal Commission

Ms Rachael Schmidt-McCleave, Mr Max Clarke-Parker, Ms Julia White for the Crown

Ms Victoria Heine QC for the Office of the Children's Commissioner

Ms Sally McKechnie for Te Rōpū Tautoko, the Catholic Bishops and congregational leaders

Mr David Stone for the New Zealand State Abuse Survivors Charitable Trust

Venue: Level 2
Abuse in Care Royal Commission of Inquiry
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TRANSCRIPT OF PROCEEDINGS

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OFFICE OF THE CHILDREN'S COMMISSIONER

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1 **[9.05 am]**

2 **CHAIR:** Tēnā koutou, tēnā koutou, tēnā koutou katoa. Welcome back everybody. This is the
3 penultimate day of hearing. I will remember this time to introduce myself and the
4 Commissioners as well. So, my name's Coral Shaw, I'm the Chair of the Commission. I'm
5 an elderly Pākehā woman, I have white hair to chin length, I'm wearing glasses and today
6 I'm wearing a navy-blue jacket and a white top. I'll ask my colleagues to introduce
7 themselves, starting with Paul Gibson.

8 **COMMISSIONER GIBSON:** Kia ora, Paul Gibson, I'm a middle aged Pākehā male with
9 greying hair, today wearing a dark suit and a dark shirt and I usually work with headphones
10 over one ear. I am blind with some peripheral vision, and I listen to the computer at the
11 same time, kia ora.

12 **CHAIR:** Ali'imuumua Sandra Alofivae.

13 **COMMISSIONER ALOFIVAE:** Mōrena tātou, talofa lava i le pa'ia ma le mamalu o le au aofia
14 ua mafai na oo mai i lenei aso. (Welcome to distinguished guests present here today). I am
15 of Samoan Chinese descent, my name is Ali'imuumua Sandra Alofivae, I have shoulder
16 length black hair, I wear glasses and today I've got a pink and beige top on with a black
17 jacket. Thank you.

18 **CHAIR:** Dr Andrew Erueti.

19 **COMMISSIONER ERUETI:** Tēnā koutou katoa, e mihi ana ki te kaikarakia Ngāti Whātua te
20 haukāinga, tēnā koutou katoa. Me ngā kaiwhakautu i tēnei rā, tēnei te mihi nui ki a koutou.
21 My name's Anaru Erueti and I'm wearing black tie, white shirt and stripey tie with greying
22 hair, thank you.

23 **CHAIR:** And Julia Steenson.

24 **COMMISSIONER STEENSON:** Ata mārie tātou, nau mai haere mai, ko Julia Steenson tōku
25 ingoa. I am a Māori Croatian European woman, I have brown hair, brown features, today
26 I'm wearing a white lace shirt with a black jacket and a carved manaia, kia ora.

27 **CHAIR:** Kia ora Julia. So, with that I'm going to invite Ms Spelman who is Counsel Assist
28 today. Ata mārie Ms Spelman.

29 **MS SPELMAN:** Ata mārie, tēnā koutou. Tautoko ana ngā mihi kua mihia ki tō tātou kaikarakia i
30 te ata nei, otirā ki a Ngāti Whātua Ōrakei. Anei au, e mihi ana ki ngā purapura kua
31 whetūrangitia, ki ngā purapura ora ki konei ā-ipurangi hoki e mātakitaki mai ana tēnei o
32 ngā wahanga o tēnei nohoanga. E mihi ana hoki ki te tēpu, ki ngā Kaikōmihana ki ngā
33 māngai i te rangi nei hoki. He uri ahau nō Ngāti Hikairo ki Kāwhia, ko Julia Spelman tōku
34 ingoa, tēnā tātou katoa.

1 Good morning, my name is Julia Spelman, for those who can't see me I am a non-
2 disabled woman of Māori and Pākehā descent, I'm in my early to mid30s and I have brown
3 hair. Today I'm wearing a green dress with a black jacket. And Madam Chair, I will be
4 doing the questioning as Counsel Assisting for Corrections this morning and also for the
5 Office of the Children's Commission this afternoon. And I'll pass first to the Crown who
6 will be leading some brief evidence in chief.

7 **CHAIR:** Tēnā koe Mr Clarke-Parker.

8 **MR CLARKE-PARKER:** Tēnā koe Madam Chair, tēnā koutou katoa, ko Max Clarke-Parker
9 ahau. For those who cannot see me, I am a Pākehā male with brown hair, a beard and today
10 a yellow tie. Madam Chair, we have three witnesses in the box today, and two further
11 witnesses from the Department on the bench. Would it be suitable to administer the
12 Moonie oath?

13 **CHAIR:** Yes, we will do the affirmation, and these are the entirety of the people who will be
14 available to give evidence for the Department of Corrections?

15 **MR CLARKE-PARKER:** Correct.

16 **DEPARTMENT OF CORRECTIONS**

17 **JEREMY LIGHTFOOT, NEIL BEALES, JUANITA RYAN, JESSICA BORG**

18 **AND REBECCA BARSON (Affirmed)**

19 **CHAIR:** Thank you all very much, I'll leave you with Mr Clarke-Parker.

20 **MR CLARKE-PARKER:** Thank you.

21 Tēnā koutou. Before we get into the reading of the evidence, can I please just have
22 the three of you who are in the witness box introduce yourselves, starting with you, please,
23 Mr Lightfoot.

24 **MR LIGHTFOOT:** Tēnā koutou katoa, Ko Jeremy Lightfoot taku ingoa, hei Kaiwhakahaere Ara
25 Poutama Aotearoa, Department of Corrections. I'm Jeremy Lightfoot, I am a middle aged
26 Pākehā man, I have greying brown hair and today I'm wearing a blue suit jacket, a blue
27 shirt and a blue, maybe purple tie, kia ora.

28 **MS RYAN:** Tēnā koutou raurangatira mā, mōrena koutou e ngā iwi, ko Juanita Ryan tōku ingoa,
29 he Kaiwhakahaere mō te Rōpū Hauora ki Ara Poutama taku tūranga mahi. I am the Deputy
30 Chief Executive for the health services at the Department of Corrections. I am of Māori
31 and Pākehā whakapapa, I am in my mid to late 40s, I have long, brown, wavy hair, fair skin
32 and am wearing all black today.

33 **MR BEALES:** Kia ora koutou, ko Neil Beales taku ingoa. My name is Neil Beales, I'm the Chief
34 Custodial Officer and General Manager Custody for the Department of Corrections. I am a

1 52 year old Pākehā male with greying, balding hair, and today I'm dressed in a black suit,
2 black shirt and tie, thank you, good morning.

3 **CHAIR:** Thank you, and maybe our two people in the body of the room, time to introduce
4 yourselves too.

5 **MS BORG:** Tēnā koutou katoa, ko Jessica Borg tōku ingoa, I'm the General Manager of
6 Psychology and Programmes at Ara Poutama Aotearoa. I am a female in my early 40s, I've
7 got long, brown hair, I'm originally from an island called Malta, I am wearing today a black
8 suit and a white shirt. Kia ora.

9 **CHAIR:** Kia ora.

10 **MS BARSON:** Tēnā koutou katoa, ko Rebecca Baron tōku ingoa. I'm the General Manager for
11 reintegration and housing support services at Ara Poutama Aotearoa. I'm a Pākehā woman,
12 I hail from the UK, I'm in my early 50s, I've got dark blonde shoulder length hair and today
13 I'm wearing a black dress. Kia ora.

14 **CHAIR:** Kia ora koutou. So now we've all identified ourselves, time for the evidence, thank you
15 Mr Clarke-Parker.

16 **QUESTIONING BY MR CLARKE-PARKER:** Mr Lightfoot, you have prepared a brief of
17 evidence for this hearing and that has been filed with the Commission and for the most part
18 that will be taken as read, but you have a summary of that which you have with you now.
19 Can I ask you to please begin going through that.

20 **MR LIGHTFOOT:** Ko tēnei tāku piki amokura tūranga ōku e mihi kau atu ki ngā piki amokura
21 tūranga ake. Āpiti hono, tātai hono. Te hunga mate huhua o te wā haere, moe mai,
22 whakangaro atu. Āpiti hono tātai hono, te hunga ora ko tātou. Tēnei a Hōkai Rangi e mihi
23 ana. Tēnei a Ara Poutama Aotearoa e whai. Kotahi anō te kaupapa ko te oranga o te iwi.
24 Nāku a ngākau whakaiti. Ko Jeremy Lightfoot tōku ingoa, Tāhuhu Rangapū Ara Poutama
25 Aotearoa.

26 I am the Chief Executive at the Department of Corrections, a role I have held since
27 24 February 2020. As Chief Executive, I am responsible for the safe management and
28 wellbeing of over 7,000 prisoners and nearly 30,000 people on community based sentences
29 and orders. I have responsibility for ensuring the Corrections system operates in
30 accordance with the purposes set out in the Corrections Act 2004, providing both
31 administrative support to the New Zealand Parole Board and contracting with a wide range
32 of commercial and community organisations for the provision of infrastructure,
33 programmes and services.

1 In addition, I have legal custody of prisoners in Corrections prisons, and am
2 responsible for ensuring their safe custody and welfare. I am also responsible for the safe
3 management of those serving one of the ten community based sentences and orders
4 administered by Corrections.

5 I work at a system level with other public sector agencies to address systemic issues
6 and to realise opportunities to achieve government priorities of healthier, safer and more
7 connected communities. This includes contributing to the Government's justice system
8 reform agenda, addressing the overrepresentation of Māori in the criminal justice system
9 and supporting the joint venture to reduce family and sexual violence.

10 I have worked at Corrections since 2010 and in that time have held a number of
11 positions. They have covered operations, commercial, infrastructure, finance, and strategy.
12 In these roles and in my current role as Chief Executive, I have developed knowledge and
13 experience across a range of issues facing the organisation. I have also developed strong
14 relationships with the wider justice sector and community partners.

15 Before covering the detail of Corrections evidence, I want to acknowledge the
16 incredibly important work of the Royal Commission. I would also like to acknowledge the
17 courage of the survivors who have so far shared their often-harrowing experiences.
18 Without their willingness to share, it would not be possible to achieve the Royal
19 Commission's transformational vision.

20 I acknowledge that those who have been, or continue to be, in the care of the State
21 should have felt safe and protected by those who care for them. Borstal institutions, youth
22 prisons, facilities and centres, corrective training institutions and detention centres that are
23 subject to this Inquiry were disestablished prior to the formation of the Department of
24 Corrections. I acknowledge, for those who have shared their experiences with the
25 Commission, this has not been the case.

26 When the Department of Justice was abolished in 1995, three new entities,
27 including Corrections, were established. Corrections assumed the function of the
28 Department of Justice's penal division, which included the operation of the prison system.
29 The evidence before the Commission has detailed abuse experienced in those former
30 facilities and also the experiences of those people who suffered abuse in State care and
31 went on to be imprisoned. On behalf of Corrections, I acknowledge that abuse in any form
32 in those former facilities is unacceptable. Those former facilities have been abolished.

33 We currently have one operating youth unit for people under 20 years old at
34 Christchurch Men's Prison. We have another youth unit facility at Hawke's Bay Regional

1 Prison for under 20 youth, which at the moment is not in use as a result of a recent incident
2 which has required it to be closed to enable us to assess damage and determine next steps.

3 My brief of evidence touches on a number of topics that the Commission asked for
4 evidence on. This morning I will touch on just some of those: Te Tiriti, priority groups,
5 lessons learned, and impacts of abuse on those who come into the prison population.

6 Te Tiriti o Waitangi

7 The Waitangi Tribunal's 2017 report Tu Mai te Rangi noted a number of ways in
8 which Corrections was not meeting its Te Tiriti obligations and needed to be more
9 proactive in using a cultural response in its management of people. Corrections has since
10 adopted Hōkai Rangi, which was launched in 2019. Hōkai Rangi sets out a long-term
11 strategic vision for values led change towards a more culturally appropriate approach to
12 looking after people in Corrections management, including through the development of
13 services by Māori and for Māori tailored for specific groups.

14 Priority Groups

15 The priority groups identified by the Commission are tangata whenua, Pacific
16 peoples and disabled people. Corrections is of the view that access to culture is a
17 fundamental right. Corrections takes proactive steps to ensure that people in Corrections
18 management are provided with culturally appropriate care that enables access to or
19 engagement with culture. We provide a range of culturally specific programmes, services,
20 including health and education services, and interventions.

21 Corrections is working towards a long-term outcome of all Māori in Corrections
22 management having access to their culture. We have kaupapa Māori and mātauranga
23 Māori programmes and interventions available so Māori can continue to remain connected
24 to their culture whilst in Corrections' management.

25 Corrections health and disability services are informed by Hōkai Rangi. One of the
26 medium-term actions within Hōkai Rangi is the codesign of a kaupapa Māori Health
27 service, one that reflects the aspirations of whānau, delivers equitable health outcomes, and
28 helps to achieve pae ora, healthy futures for Māori and for all those in Corrections'
29 management.

30 Corrections is well progressed in the development of a Disability Action Plan. The
31 plan will help ensure tāngata whaikaha feel valued, visible, acknowledged, respected and
32 enabled to live with dignity.

33 In April 2021 Corrections' health services included the Washington Group Short
34 Set of questions on disability into Corrections' initial health assessment. The initial health

1 assessment also collected a description of what impact a disability has, including
2 identifying supports a person has access to in the community before their entry into prison.
3 This information contributes to developing a person's plan of care which may include
4 provision of particular support or referral to other specific providers, or services, depending
5 on individuals' specific needs.

6 All prisons have cells that are considered disability friendly with processes in each
7 prison's receiving office to determine if a person requires this type of accommodation.
8 These are likely to be modified to accommodate that person's disability, for example
9 modifying beds and bathing facilities in order to allow that person to undertake their daily
10 living activities independently if possible. Nationally there are 116 of these cells.

11 Work is underway to partner with experts in neuropsychology and mātauranga
12 Māori to conduct a large-scale piece of research to understand the cognitive abilities of the
13 people in prison. This work will help inform interventions and pathways.

14 In relation to mental health services, Te Whare Tapa Wha and Meihana are
15 acknowledged as Māori models of health and well-being in the intervention and support
16 practice team's cultural practice framework and cultural competency standards. Hikitia, a
17 mental health and addiction service for men in prisons in the central region, central
18 North Island, Waikato and the Bay of Plenty. It's a new approach to providing those
19 services in a prison environment.

20 In 2017 Corrections launched Taumaua te Koronga, a youth-focused programme
21 specifically designed to meet alcohol and other drug treatment needs of youth in prisons.
22 This programme is designed to be trauma informed and delivered by kaupapa Māori
23 providers. It is alternately run between a youth unit and a high security unit with men who
24 are under 25 years of age. Taumaua te Koronga was a pilot programme and has now been
25 moved into baseline funding and is a core programme for us.

26 The intervention and support practice teams are multidisciplinary teams of mental
27 health clinicians currently operating in six prisons. This team was initially established to
28 support those vulnerable to suicide and self-harm, but now caters for those with moderate
29 to high mental distress. The intervention support practice teams have completed training in
30 youth mental health work and have linked in with the Corrections youth team to build on
31 their expertise.

32 Hōkai Rangi recognises and responds to the impacts of structural racism. Access to
33 culture is a fundamental right and we are taking proactive steps to ensure people in

1 Corrections management are received safely with culturally appropriate care and services
2 that enable access to or engagement with culture.

3 Youth, women and men have access to tailored services delivered by the right
4 people with the right skills. These are based on kaupapa Māori approaches and designed
5 and delivered by Māori for Māori.

6 The Māori Pathways Programme, a pilot programme, is a good example of a
7 programme that supports the Corrections system to be more effective by using whānau
8 centred approaches. The programme is located at Northland Regional Corrections Facility,
9 Hawke's Bay Regional Prison, and Christchurch Women's Prison. The programme has
10 enabled a fundamental shift in Corrections' approach to improve outcomes for Māori. Iwi
11 Māori have played a lead role in strategic leadership, decision making, and the design of
12 key aspects of the Māori pathways.

13 In terms of ableism, as I've noted, Corrections is well progressed with the
14 development of a Disability Action Plan. Initial actions planned for the current year
15 include the establishment of a national governance group to oversee and monitor progress
16 on the plan, and the make-up of this group includes tāngata whaikaha, whānau and
17 disability service provider representatives.

18 The second action is to design, with tāngata whaikaha Māori, disabled persons'
19 service providers, an integrated and culturally appropriate set of disability supports by
20 building on those strategic relationships.

21 The third action is using the data from the Washington Group Short Set of questions
22 on disability to inform our future service approaches.

23 Corrections has a diverse workforce, including Māori and Pacific staff. In terms of
24 representation of disabled communities among Corrections staff, there are currently 353
25 staff employed who identify as being disabled with 33 holding leadership roles. The
26 Department's recruitment policy encourages hiring managers to use Haerenga o Hou tātou
27 guide, which includes consideration of Te Ao Māori in its approach to recruitment.

28 Corrections is continuing to look to ways to increase partnership with Māori at key
29 levels of the Corrections system and to explore how Pasifika people may be better
30 represented, particularly in decision making roles at national governance and steering group
31 levels.

32 Corrections also has an inclusion diversity council which has, as its key objectives,
33 to maintain the currency of an inclusion and diversity strategy, to provide guidance on the
34 prioritisation of initiatives based on the wider organisational context, to create alignment of

1 existing and new inclusion and diversity initiatives across Corrections, to coordinate and
2 participate in inclusion and diversity events, both internally and across the wider Public
3 Service, and to evaluate and monitor the impacts of the inclusion and diversity strategy, its
4 implementation plan, and key diversity metrics on a regular basis.

5 Lessons Learned

6 Corrections is subject to scrutiny and oversight through a number of different
7 mechanisms, including the courts, the Ombudsman, and the Office of the Inspectorate.
8 Corrections carefully considers the outcomes of these processes, including any findings or
9 recommendations made in order to improve its operations. This is an ongoing process and
10 the complexity of considering and implementing recommendations reflects the complexity
11 of Corrections' role.

12 Impacts of Abuse in the Prison Population

13 I acknowledge that any abuse experienced can have long lasting impacts on the
14 victims as well as their whānau, and that there are people who have suffered abuse in State
15 care that have then gone on to end up in prison.

16 Corrections adopts a trauma-informed approach to the delivery of custodial services
17 as well as an oranga approach in its rehabilitative programmes. To determine when trauma
18 support is needed, individuals undergo a reception risk assessment in relation to the young
19 person placement assessment, part of its assessment measures a person's vulnerability,
20 including health issues and intellectual impairment, significant trauma, past suicidal
21 attempts, and their past history of State institutions.

22 Assessments are also conducted for psychological distress, vulnerability to suicide
23 and self-harm as well as their own risk to others. And that includes attitudes and
24 behaviours that may have been shaped by trauma related experience.

25 For those who are eligible for Corrections' offence focused psychological services,
26 it is noted that during the psychological assessment to determine an individual's risk of
27 reoffending, a key aspect is understanding an individual's background. This assists the
28 psychologist to formulate around why an individual has offended in the manner that they
29 have and during the assessment it may become apparent that an individual is suffering from
30 a mental health condition or has a history of trauma, which may be impacting on their
31 current day to day functioning.

32 It is also possible that assessment and formulation may indicate that trauma genic
33 and/or other mental health factors may have either an indirect or direct role in an
34 individual's offending pathway, and therefore addressing the trauma and mental health

1 issue may have some risk mitigating effect in terms of reoffending, as well as being
2 generally beneficial for the individual in terms of overall personal functioning.

3 Consequently, in determining an individual's suitability for psychological
4 intervention related to their risk of reoffending, consideration is given to those factors that
5 may impact an individual's ability to benefit and/or engage meaningfully from the
6 intervention. This means factors such as their mental health and past trauma will be
7 considered in determining their rehabilitation pathway. Depending on the nature of the
8 presentation, these can either be addressed in the individual's work with a psychologist,
9 assisting to get the individual treatment ready, and may also require a referral to an
10 appropriate service.

11 In closing my evidence this morning, I reiterate my earlier comments,
12 acknowledging the evidence of survivors and Corrections' commitment to this Royal
13 Commission's work. Kia ora.

14 **MR CLARKE-PARKER:** Thank you, Mr Lightfoot. Ms Spelman will now proceed with
15 questioning.

16 **CHAIR:** Thank you, Ms Spelman.

17 **QUESTIONING BY MS SPELMAN:** Tēnā koutou. Mr Lightfoot, I'd like to begin with some
18 questions for you. You've mentioned that you have been in your current role as CE since
19 2020.

20 **MR LIGHTFOOT:** That's correct.

21 **MS SPELMAN:** And before that, is it right you had about is- it 12 years' experience- in other
22 roles at Corrections?

23 **MR LIGHTFOOT:** 10 years before that, yeah.

24 **MS SPELMAN:** So, as you know, the Commission is focused primarily on the period 1950 to
25 1999, so some time before you began at Corrections. And you can probably imagine that
26 that can be frustrating for survivors who are watching this where the institutional
27 knowledge doesn't always extend as far back as this period because, of course, you can
28 speak to your experience, but Corrections and its predecessors go back many, many years
29 in terms of the face of the State.

30 Can you understand that frustration that survivors have had with that issue?

31 **MR LIGHTFOOT:** Absolutely, yes, I can.

32 **MS SPELMAN:** And can you confirm that you're here today as the Chief Executive ready to
33 answer questions not only about your period of experience but also the predecessor
34 organisations?

1 **MR LIGHTFOOT:** I'm absolutely committed to being here to answer those questions to the best
2 of my ability, acknowledging everything that you've said in terms of my personal
3 knowledge, yes.

4 **MS SPELMAN:** Thank you. You've spoken just briefly today about your leadership role,
5 obviously, as first and foremost leading Corrections, but your role as Chief Executive
6 means you have a leadership role within the Public Service more generally; is that fair?

7 **MR LIGHTFOOT:** I have absolutely, yeah.

8 **MS SPELMAN:** And that includes then not only the responsibilities under the Corrections Act,
9 but also your obligations under the Public Service Act?

10 **MR LIGHTFOOT:** Correct, yeah.

11 **MS SPELMAN:** I understand that your academic and work experience, you bring a lot of
12 business expertise to your role, and you mentioned this morning that during your 10 years
13 with Corrections you've become of course familiar and experienced with a wide range of
14 issues that faces Corrections as an organisation; is that right?

15 **MR LIGHTFOOT:** That's correct, yeah.

16 **MS SPELMAN:** Given the experience you've gained with Corrections in the last decade, would
17 you accept that unresolved and untreated trauma is a significant contributor to mental
18 health issues, addiction issues and antisocial behaviour?

19 **MR LIGHTFOOT:** I think inevitably every single person who comes into a Corrections system
20 has got many attributes that they bring with them for them to be in a criminal justice
21 environment, particularly at the Corrections end, they bring with them the complexity of
22 their lives and perhaps those lives that go before them. So, of course, part of that is an
23 appreciation of the trauma that they might have experienced or those experiences that have
24 led to their offending history, yes.

25 **MS SPELMAN:** So, in terms of the scope of the Royal Commission, you've mentioned in your
26 brief that of course the purpose of the Royal Commission largely excludes any abuse that
27 took place within current prisons, and you've said that Corrections' relevant role is to
28 discuss the operation of the former facilities. And I just wanted to check whether you were
29 familiar with the other parts of the scope of the Royal Commission that relate to
30 Corrections beyond the former facilities; are you familiar with that scope?

31 **MR LIGHTFOOT:** Could you elaborate for me to check.

32 **MS SPELMAN:** So in terms of how the Royal Commission's scope defines State care, as you
33 know the treatment of people in prisons is excluded, however, "the Inquiry may consider
34 the long term effects of State care on an individual or group of individuals, the Inquiry may,

1 for example, examine whether those who were in State care went on to experience the
2 criminal justice or correctional systems and what conclusions or lessons, if any, might be
3 drawn from the Inquiry's analysis."

4 **MR LIGHTFOOT:** Thank you.

5 **MS SPELMAN:** So, I think we would agree then that there's two parts to Corrections' role here,
6 one is about the former facilities, which we'll go on to talk about, which have now closed,
7 and the other part is about those who are in State care who went on to spend time in prison
8 and perhaps some who are still in prison or, indeed, within the care of Community
9 Corrections.

10 Would you accept that?

11 **MR LIGHTFOOT:** I'm happy to answer those questions if that's helpful, yeah.

12 **MS SPELMAN:** So, in terms of, then, the current prison population, you will have seen hopefully
13 in the bundle, and it was also released yesterday, some research that was commissioned by
14 the Royal Commission to understand the link between having been placed in State
15 residential care as a young person and subsequently receiving a custodial sentence. Are
16 you familiar with that research?

17 **MR LIGHTFOOT:** I saw that released yesterday. Apologies, I haven't had a chance to fully
18 consider the material, but I certainly saw the core facts in terms of the front exec summary
19 level, so yeah.

20 **MS SPELMAN:** I'll just take you through the key points then.

21 **MR LIGHTFOOT:** Thank you.

22 **MS SPELMAN:** Obviously, there's a few more than what I'm about to read to you --

23 **MR LIGHTFOOT:** Of course.

24 **MS SPELMAN:** - but these are the key ones. So,- the research found that one in every three
25 children, or young people, placed in residential care went on to serve a prison sentence later
26 in life.

27 The second point, Māori children and young people were even more likely to end
28 up in prison with almost half, 42%, serving a custodial sentence as an adult.

29 And the third point, those placed in State residential care as children were up to nine
30 times more likely to be imprisoned than those not. And just for the record, that's referring
31 to the document MSC008257.

32 So, in terms of those points, I've just gone through, I'm sure it will be easy enough
33 to accept that there is a strong link, now established in the research, between being placed
34 in State care as a child or young person and going on to spend time in prison.

1 **MR LIGHTFOOT:** Clearly that is one of many factors, every individual, as Hōkai Rangi our
2 strategy acknowledges, needs to be considered as a person, we need to see the person and
3 their whānau, their family, their support, their history so that we fully appreciate their
4 needs. And in this instance, there is clearly a connection between those two settings, but
5 there are many other things that I imagine walk alongside every single one of those people
6 and their experiences.

7 So that is one of, I suspect, many complex factors.

8 **MS SPELMAN:** Sure. So, in terms of those in prison currently then, do you have you-- may not
9 have this right on you, but do you have the current number of Māori in prison?

10 **MR LIGHTFOOT:** I don't have the absolute number; I can certainly provide that to you. It
11 would be wrong of me to give you a number because obviously that changes on a daily
12 basis, so we can provide that to you.

13 **MS SPELMAN:** Sure. Or perhaps just the most recent publicly available statistics, I understand
14 from your website, are the 30 June this year one.

15 **MR LIGHTFOOT:** Yeah.

16 **MS SPELMAN:** And that's around 7,700 is the total prison population.

17 **MR LIGHTFOOT:** Yeah.

18 **MS SPELMAN:** Bearing in mind that may have changed a little since then.

19 **MR LIGHTFOOT:** Of course.

20 **MS SPELMAN:** And that Māori make up around 53% of that, I think the number was 53.4; does
21 that sound correct?

22 **MR LIGHTFOOT:** That sounds correct, yes.

23 **MS SPELMAN:** What about numbers of Pacific people currently in prison, is that a number that
24 you have?

25 **MR LIGHTFOOT:** That is in the order of, I think, just below 10%, I don't have that number to
26 hand -- Neil, do you?

27 **MR BEALES:** In that order.

28 **MR LIGHTFOOT:** Yeah, so 10%. But, like you said, it will have some decimal places attached
29 to it as well.

30 **MS SPELMAN:** Sure. And of course, these numbers change every day, slightly.

31 What about the number of disabled people currently in prison?

32 **MR LIGHTFOOT:** I don't have that number to hand, but in my summary, I provided the number
33 of places that we have facilities for physically disabled people, but our records in terms of

1 the many attributes of disabled people is something that I think Juanita's probably got more
2 detail on. I might hand to her if she's got more information.

3 **MS SPELMAN:** Just in terms of the number of disabled people at this stage, if that's something
4 it-- looks like possibly you have you may have, someone may have the numbers there.

5 **MS RYAN:** Kia ora anō, not to the date, although the Washington Group Short Set does provide
6 us with the proportion of people in our prisons who present with a functional impairment,
7 which may be a visual impairment, may be a cognitive impairment, may be a physical
8 impairment, and so on, and that is roughly around 24% of our prison population.

9 **MS SPELMAN:** Thank you. And you mentioned just briefly, Mr Lightfoot, about the number of
10 cells that are considered disability friendly, and I wonder, perhaps, Ms Ryan, or one of you,
11 does that 24% number, what does that mean in terms of the 116 beds? Is 116 not nearly
12 enough or how does that work?

13 **MR LIGHTFOOT:** That deals to those with physical disabilities rather than the many attributes
14 that Juanita has described. So that's serving that particular population.

15 **MS SPELMAN:** Sure. In terms of that particular population, are the 116 beds enough or is that
16 something that's lacking?

17 **MR LIGHTFOOT:** I believe that we are viewing that number as being serving-- the needs of
18 those people who have those needs, yeah.

19 **SPEAKER:** Excuse me, could I just ask how many Māori are on remand?

20 **CHAIR:** Just a moment, please. First of all, we are unable to hear you because there's no
21 microphone, but can I ask that our- plan is that people are welcome to ask questions, but
22 through counsel. So,- we'll be having a break at about half past 10 and if you'd like to talk
23 to Ms Spelman and she can ask questions on your behalf if they're appropriate; is that all
24 right for you?

25 **SPEAKER:** Yes.

26 **CHAIR:** Thank you. Even if you wrote them down that might be helpful if you've got a pen and
27 paper. Thank you.

28 **MS SPELMAN:** Perhaps someone could make a pen and paper available.

29 **SPEAKER:** No, I'm right.

30 **CHAIR:** She's all organised.

31 **MS SPELMAN:** Thank you. So that's just talking about the prison population at the moment --

32 **MR LIGHTFOOT:** That's correct.

33 **MS SPELMAN:** -- but we know of course there's also those who are under the care, so to speak,
34 of Community Corrections. Now, I know you have that listed on your website in terms of

1 the number of sentences or orders being around 30,000. How does that correspond with the
2 number of people?

3 **MR LIGHTFOOT:** Broadly comparable. We are likely to have more sentences and orders than
4 people at any particular point in time. It is often the practice that the judiciary may
5 combine two sentences for one person, so that hopefully gives you a bit of an impression, I
6 can't give you an exact, but order of magnitude perhaps a couple of thousand people fewer
7 than the sentences and orders that people will be placed on.

8 **MS SPELMAN:** And again, just off your recent June 2022 numbers, it says that Māori make up
9 46% of those who are under the oversight of Community Corrections?

10 **MR LIGHTFOOT:** Community Corrections, yes.

11 **MS SPELMAN:** So, we've got Māori in the general population at about 17% and then 53% of the
12 prison population, 46% of those under Community Corrections.

13 **MR LIGHTFOOT:** Yeah.

14 **MS SPELMAN:** I think that disproportionality has been described previously by Corrections as
15 "gross" disproportionality.

16 **MR LIGHTFOOT:** That's correct, yeah.

17 **MS SPELMAN:** In terms of an issue such as that, disproportionality, and of course this
18 Commission has seen that both in terms of State care as well as prison, would you accept
19 that understanding the cause of that disproportionality is essential in terms of understanding
20 how best to respond to it?

21 **MR LIGHTFOOT:** Yes.

22 **MS SPELMAN:** I'm not sure whether you're familiar with the late Moana Jackson?

23 **MR LIGHTFOOT:** I am.

24 **MS SPELMAN:** He, of course, gave evidence at a previous Royal Commission hearing back in
25 2019. And just for reference, that is document WITN1235001. So, in his evidence he
26 made this comment:

27 "While the overrepresentation may be known, there seems less understanding about
28 why Māori are so over-represented. Some governments have appeared eager to invest in
29 programmes targeting Māori outcomes but have been less willing to properly consider the
30 reasons for the disproportionality."

31 Have you got a comment on his perspective?

32 **MR LIGHTFOOT:** I think it's essential that those perspectives are heard by the leadership of the
33 criminal justice system and that enables us to reflect alongside the judiciary, ministers, the
34 things that might achieve, certainly for us organisationally, an outcome of reducing that

1 overrepresentation of Māori, because we recognise as a department our ability to have
2 impact as one single agency on our own is very limited. Our opportunity is probably
3 limited as an agency around reducing the likelihood of coming back into the criminal
4 justice system as a result of the way in which we engage with the person, deliver support,
5 and wrap-around connections to community.

6 The opportunity to move closer and closer towards prevention and provide support
7 to people at earlier stages of their lives so that they are less likely to transition into the
8 criminal justice system has been a key focus for our discussions at a justice sector
9 leadership level, and a focus on future programmes of work, and I guess as a department we
10 see ourselves as having a role in ensuring that people see the consequence of us not at a
11 system level, and not just an agency level, addressing -- understanding, appreciating and
12 then seeing whether we can address some of those causal factors.

13 **MS SPELMAN:** So, Corrections alongside other agencies in other parts of the State system have
14 a role to play here, that's what you're saying?

15 **MR LIGHTFOOT:** As do partners in the community as well.

16 **MS SPELMAN:** Sure. But just to stay focused on the Crown for a moment, in terms of both
17 Corrections and other State agencies, part of that understanding or grappling with the
18 history of Aotearoa includes of course the experience of colonisation in this country; do
19 you accept that?

20 **MR LIGHTFOOT:** It must include the history of the country, absolutely.

21 **MS SPELMAN:** And do you accept then that colonisation is one of the factors that has
22 contributed to the high levels of Māori incarceration here?

23 **MR LIGHTFOOT:** As I said earlier, it is essential for us to appreciate the impact not just of a
24 person's direct history, but those that have gone before them of leading them on a particular
25 pathway and for those who arrive in the criminal justice system and ultimately arrive under
26 our care in a prison setting have many, many factors attached to them, and those that have
27 caused them to be traumatised, impacted, will be contributors, I am sure, to their arrival in
28 that criminal justice part of the system.

29 **MS SPELMAN:** Yes. So just to return to the question, one of those factors that has contributed is
30 colonisation.

31 **MR LIGHTFOOT:** I think that would be right to say, yeah.

32 **MS SPELMAN:** Now, I appreciate that Oranga Tamariki is not Corrections, and you are not
33 going to necessarily be completely familiar with that organisation. However, you may well

1 be aware that Oranga Tamariki, like Corrections, has had recent experience before the
2 Waitangi Tribunal.

3 **MR LIGHTFOOT:** Yes.

4 **MS SPELMAN:** And in terms of that process for Oranga Tamariki, are you aware that during that
5 process the Crown, through Oranga Tamariki, made a number of concessions relating to the
6 broader forces of colonisation, structural racism, ongoing effect of historical injustices on
7 iwi, hapū and whānau in terms of this concept we've been talking about significant
8 causative factors; were you aware that that happened?

9 **MR LIGHTFOOT:** Yes, I am.

10 **MS SPELMAN:** And you're probably aware as well that Oranga Tamariki has just finished giving
11 evidence before this Inquiry --

12 **MR LIGHTFOOT:** Yes.

13 **MS SPELMAN:** -- where they affirmed those concessions. And we can see that the entry of
14 Māori into State care in disproportionate numbers and the continued trajectory of many of
15 those children ultimately into prisons is therefore all part of that same continuum, the story
16 of colonisation and its impacts. Would you agree with that?

17 **MR LIGHTFOOT:** Yes. One factor, as you said, yes.

18 **MS SPELMAN:** Sure, as you've said. So, I'm interested in when Corrections was before the
19 Waitangi Tribunal, I'm aware that no concessions were made during that particular hearing,
20 but I'm interested in whether any work was done around that at the time in terms of
21 Corrections considering whether it would be appropriate to make a concession, whether
22 that was something that was considered or there was some work done on that at the time?

23 **MR LIGHTFOOT:** Unfortunately, I'm not personally aware of that, I wasn't involved in the
24 direct approach to those matters.

25 **CHAIR:** Mr Clarke-Parker.

26 **MR CLARKE-PARKER:** The other matter I just note on that, Madam Chair, is that
27 my- understanding of Ms Spelman's question is that it's asking around the position that the
28 Department took in a proceeding,- and I would anticipate at least part of that discussion
29 would be legally privileged.

30 **CHAIR:** Well, that may be the case.

31 So, you're asking about work that Corrections may or may not have been doing
32 behind the scenes, not in the public eye in relation to the Waitangi Tribunal?

33 **MS SPELMAN:** Yes, well, it's -- I'm not asking about work that's legally privileged, I'm
34 commenting on what we've heard in evidence from Oranga Tamariki which is that as part

1 of that tribunal process there was significant work done, including research, review of their
2 own practice, reflections on the issues that the tribunal claim brought up, which is what you
3 would presumably expect for any Crown agency involved in a tribunal hearing, and I'm
4 interested whether any of the current Corrections witnesses are able to reflect on that
5 experience.

6 **MR LIGHTFOOT:** I'm not, I'll hand to others just to make sure that they've got an opportunity to
7 comment. I don't know whether it's helpful in taking you in the direction that you want to
8 head, but as I provided in my summary of evidence brief, following that tribunal one of the
9 outcomes was an acknowledgment that we needed to develop a specific response for that
10 overrepresentation of Māori aspect. And that led to the --

11 **MS SPELMAN:** Can I just clarify, then, so during the hearing itself, that wasn't accepted, and the
12 hearing of course was contested, but after the report was published, Corrections then
13 acknowledged and essentially accepted the findings and recommendations.

14 **MR LIGHTFOOT:** What I was going to go on to say is one of the responses to that tribunal was
15 an acknowledgment by the organisation that we did not have a strategy that was specifically
16 responding to that overrepresentation of Māori, what we as an organisation needed to
17 acknowledge around changes that we might need to make to our organisation, and changes
18 we might need to influence both with other partner organisations within the Public Service
19 and our approach to building much more equal and mana to mana relationships with iwi
20 Māori. That led to the development of Hōkai Rangī which started as a Māori strategy and
21 in the end before we confirmed it, became our organisational strategy.

22 So much of the work, the research, the insights that you describe around the work
23 that Oranga Tamariki undertook for that tribunal, I would say was informing the
24 development of Hōkai Rangī, our strategy that we launched in 2019, and that as a new
25 direction for us organisationally I think has provided a clear vision and purpose for the
26 organisation that is materially different to what went before, had a real focus for us on
27 hearing the insights of those with lived experience, hearing the insights of those who sought
28 to work in our environment that perhaps found challenges and barriers to being effective in
29 the way in which they were able to work in our environment, and our commitment through
30 that strategy to, as a result of hearing those insights, work to develop a more enabling
31 environment, so that we alongside our partners could, in the long term, acknowledging the
32 scale and the complexity of the work that we do, achieve that purpose, kotahi anō te
33 kaupapa ko te oranga o te iwi.

1 **MS SPELMAN:** So, am I right in taking from what you're saying that Tu Mai te Rangi, the report
2 of the tribunal and the subsequent introduction of Hōkai Rangi marks a step change in
3 terms of Corrections' views around these issues?

4 **MR LIGHTFOOT:** Yes, I think it is a fair representation to say that that sequence shows an
5 absolute connection to that identified gap.

6 **COMMISSIONER ERUETI:** I think it was the tribunal itself that identified that there was no
7 strategy.

8 **MR LIGHTFOOT:** It was. Correct, it was, and effectively Tom Hemopo himself
9 was who-- brought the claim, was very strong in identifying that that was for our
10 organisation, given the statistics that have been presented today, a significant gap, and that
11 caused I think an appropriate and marked reflection for how we might organisationally
12 move forward to a different place. And acknowledging we are from 2019 three years into
13 the first five years, but unfortunately these sorts of shifts, I'm not going to sit here today and
14 suggest in any way that we have moved as far as we need to, but I think with some of the
15 insights I hope I've provided in the summary, demonstrates a real shift in approach and an
16 openness to hear some of the most significant shifts that will make a difference.

17 But it's a long it-- is, unfortunately, a longer journey for an organisation of our size
18 and the funds required to make some of those shifts.

19 **COMMISSIONER ERUETI:** Thank you.

20 **MS SPELMAN:** So, I'd like to come back to some of the detail of Hōkai Rangi a little later. But
21 just to turn back, I suppose to the period that we're focused on and the history, it's clear that
22 imprisonment, I suppose as a concept, as a tool, is a feature of a Western oriented justice
23 system, it's not something that was present in Aotearoa pre colonisation.

24 **MR LIGHTFOOT:** Correct, yeah, and that certainly, I would say, was a strong feature of Moana
25 Jackson's research and work more generally. So yes, agree with that.

26 **MS SPELMAN:** Absolutely. And unfortunately, in Aotearoa there have been generations now of
27 whānau who have had an experience of this care, the progression through the system into
28 prison and generations of whānau being in prison at different times.

29 **MR LIGHTFOOT:** Yes, there are, yes.

30 **MS SPELMAN:** Now in terms of that experience, conscious that we're not focusing on necessarily
31 abuse that did or didn't take place in prisons themselves, but I'd like to talk to you now
32 about the former facilities. And just for clarity, do you want to just explain, so that it's
33 clear, what you mean when you use that phrase "former facilities" in terms of what we're
34 referring to?

1 **MR LIGHTFOOT:** Facilities that no longer form any part of my responsibilities as Chief
2 Executive of the Department of Corrections, but facilities that existed prior to the
3 establishment of Corrections in 1995.

4 **MS SPELMAN:** So that's youth penal institutions including Borstals?

5 **MR LIGHTFOOT:** Sorry, yes.

6 **MS SPELMAN:** Youth prisons, detention centres, corrective training institutions and then, of
7 course, when youth prisons and corrective training institutions became youth institutions.

8 **MR LIGHTFOOT:** Correct. Apologies, I --

9 **MS SPELMAN:** So, lots of different names.

10 **MR LIGHTFOOT:** Yes, you have represented well the brief of evidence, it's just an area I'm not
11 particularly familiar with, but yes.

12 **MS SPELMAN:** That's fine. So, in the interests of time, I just want to put some general evidence
13 that we've heard rather than taking you through the many, many examples that we've had.
14 But in terms of the forms of abuse that were experienced by survivors in those former
15 facilities, and no doubt you've heard some of this evidence over the last few years as it's
16 been given, that included verbal abuse, physical abuse, sexual abuse, all of these of course
17 being both by staff members and from other residents, the neglect in terms of not being
18 loved, lack of affection, and structural racism experienced particularly by Māori and
19 Pasifika children and young people having no access to culture, not having their cultural
20 identities acknowledged or, indeed, if acknowledged, targeted negatively by staff, and
21 having the experience of their culture being seen as negative and violent.

22 Are you generally aware of that sort of evidence that's been given over the last few
23 years?

24 **MR LIGHTFOOT:** Generally aware of that, yes.

25 **MS SPELMAN:** Just one particular example to read to you, which is from a Māori survivor who's
26 given evidence in a previous hearing, and the document reference is WITN0238001. He
27 talks about the transition from residential care under the auspices of Department of Social
28 Welfare through to Waikeria Borstal and this is in 1973. He said:

29 "My experience there in terms of abuse just continued. I do recall on a number of
30 occasions at least three times being knocked unconscious and also being sexually abused
31 there by other prisoners, I guess, or inmates."

32 I know you've given a general comment about the acceptableness, or not, about
33 abuse in those facilities; what's your comment about this example?

1 **MR LIGHTFOOT:** For me obviously it's pretty impactful to hear of those sorts of experiences
2 happening in an institutional setting but I acknowledge the significance of being able to
3 hear those experiences from a survivor's perspective and for us hopefully to be able to
4 reflect on that.

5 **MS SPELMAN:** I'm conscious that part of how that's described in that example is referring to the
6 other young people there as "prisoners" or "inmates". What sense does that give you of the
7 nature of the institution at that time?

8 **MR LIGHTFOOT:** My personal reflection would be, I suppose, a sort of harsh
9 and an-- institutional setting, yes.

10 **MS SPELMAN:** And of course, we've heard both in the former facility settings but across a range
11 of other settings that survivors experienced widespread physical and sexual abuse in
12 particular and you would accept that it's very difficult now, given recordkeeping and the
13 lack of reporting, to really know how truly widespread that sort of abuse was. Is that also
14 true in relation to the former facilities?

15 **MR LIGHTFOOT:** Must be in terms of record-keeping and my wanting to acknowledge the
16 survivors giving their truth and their experiences as an indication of what was occurring in
17 those institutions.

18 **MS SPELMAN:** And so, in that scope period we're talking about, many survivors gave evidence
19 of the youth institutions, Borstals, all those different types of facilities really operating quite
20 similarly to adult prisons, which many of them went on to experience, and part of that was
21 learning in many ways how to commit criminal offences. So, one example from a survivor
22 in relation to Invercargill Borstal in the 1970s, and this is at TRN0000445, he said:

23 "Borstal for me became like a listening pool of how you do this, how you do that
24 and not just wiring cars either. So, the criminal intent in me grew really huge in those
25 places."

26 And there's been a lot of experience that the Royal Commission has heard in terms
27 of that shift almost a training ground for young people to learn how to go on and commit
28 more serious offences. Is that something you would accept generally was a feature of those
29 facilities back at that time?

30 **MR LIGHTFOOT:** Again, my ability to comment from a knowledge perspective is I- don't have
31 that knowledge, but from the survivors' evidence I think it is, you know, you have
32 to- accept that reality for those individuals.

33 **MS SPELMAN:** And I suppose the other part of that transition was that for many young people
34 when they were sentenced to Borstal, often only 14, 15, 16, very young, they were then

1 discharged from the care of the Department of Social Welfare. Were you aware of that
2 practice?

3 **MR LIGHTFOOT:** I wasn't, no.

4 **MS SPELMAN:** There's been evidence of that, and I suppose just one example is from a survivor
5 arriving at Borstal and then receiving a letter from the Department of Social Welfare to say,
6 essentially, now you're at Borstal, you are no longer a ward of the State, that responsibility
7 from a state sense has passed from one government department to another, and his
8 experience of that was:

9 "It was as though I was now somebody else's problem, and I was passed on to the
10 justice system."

11 That's from witness statement WITN0238001.

12 That institutionalisation effect is something that's come through quite strongly in the
13 evidence, and it seems clear it's part of the trajectory to people ultimately ending up in adult
14 prison. I'm guessing your response may be similar, you don't have an institutional
15 counterpoint, but you generally accept what the survivor's evidence has been?

16 **MR LIGHTFOOT:** Absolutely, yeah.

17 **MS SPELMAN:** One other aspect of that is the creation or development of gangs within the
18 former facilities. So, on that point I'm just going to read to you from the document
19 TRN0000445, which again is a survivor giving evidence about this point. He says:

20 "For me in hindsight I see that the institutionalisation of young people was starting
21 to create a wave that hit New Zealand society by the early 70s, it exploded into gangs. So,
22 I always made an alignment that the Crown's decision to deal with us when we were young,
23 the pay back for that, you know, 10, 12, 15 years later was a massive introduction of these
24 gangs that we have today."

25 What's your reflection, looking back with hindsight to Borstals and the other former
26 facilities, as essentially a creation point of gangs that still exist today?

27 **MR LIGHTFOOT:** Again, probably, I hope it's not a frustrating answer, but I can appreciate
28 from that viewpoint of a survivor's experience that that will be one of the contributing
29 factors to the creation of and then the expansion of gang activities within Aotearoa.

30 **MS SPELMAN:** And you can see probably also from a survivor's perspective, young boys, both
31 in the State residential care and then in the former facilities, with the level of violence that
32 we've heard that was going on in those places, why it might be that a young person would
33 be drawn to join with others to form a gang. Can you understand that experience?

1 **MR LIGHTFOOT:** I can make those connections, acknowledging that those are individual
2 experiences, and it would be wrong of me to represent from knowledge that that was
3 representative of the activity as a whole across the system, but certainly not wanting to
4 diminish the experiences of those who have spoken about their truths.

5 **MS SPELMAN:** And I suppose then from an institutional point of view, particularly for you now
6 in your current role who obviously is still dealing with gangs, both within prison and
7 reasons for offending that lead people into prison, would you accept it's important to
8 acknowledge at an institutional level the whakapapa of where gangs came from in terms of
9 how you're dealing with them today?

10 **MR LIGHTFOOT:** Absolutely, yes, I would acknowledge that.

11 **MS SPELMAN:** Now, this hearing isn't focused on redress, but I was conscious when looking
12 over your documents for today that in terms of the abuse that survivors experienced in the
13 former facilities, those who were engaged with redress processes with MSD for example,
14 that wouldn't cover the abuse they experienced in the former facilities. This might be a
15 follow-up question for another day, but I just wondered whether there are any moves within
16 Corrections to begin work on developing what appropriate redress responses there may be,
17 given all of this abuse we've heard that falls within your jurisdiction?

18 **MR LIGHTFOOT:** My reflection would be that it's critical for us to be aware of the purpose of
19 this Royal Commission and to ensure that we don't presume a path that gets ahead of the
20 findings and the insights that the Royal Commission themselves are generating. So, an
21 absolute openness and, as I said in my closing remarks in my summary, to respond and
22 reflect on the outcomes of the Royal Commission's work, which I would imagine will
23 include exactly the things you're raising.

24 So, again, our awareness and the profile that the Royal Commission is bringing to
25 this critical work I think is serving the intended purpose of drawing a focus on aspects that
26 otherwise perhaps wouldn't have been brought to the surface in the same critical way. So,
27 any organisation that has been involved or has predecessor agencies with involvement must
28 be taking that into consideration, but yet working through the what is our response, how do
29 we work with other agencies, that is not yet something that we are actively working on, we
30 are listening, hearing and then waiting for the kind of next steps through the Royal
31 Commission process.

32 **MS SPELMAN:** Thank you.

1 **CHAIR:** Just on that point, Mr Lightfoot, are you involved sorry-- you, your organisation,
2 involved with the Crown secretariat and the development of the redress scheme that is
3 being recommended by the Royal Commission?

4 **MR LIGHTFOOT:** Yes, we are. Would it be of interest for Juanita to speak to that or not?

5 **CHAIR:** I don't know if we want to go to detail about it but just that your answer was you're open
6 to working with other agencies, I just wanted to anchor that a little bit.

7 **MR LIGHTFOOT:** Yes.

8 **CHAIR:** And I assumed that you were.

9 **MR LIGHTFOOT:** Yes, we are.

10 **CHAIR:** So that's confirmed?

11 **MR LIGHTFOOT:** Confirmed, yes.

12 **MS SPELMAN:** My last point just on this topic is in relation to that idea of becoming
13 institutionalised. It's been a very strong theme that's come through from those who had
14 time in those former facilities, and part of that evidence has been around of course the high
15 level of control that operated in those facilities, having quite a military like structure to
16 them, highly regimented, strict, clearly with the violence that we've heard about. Within
17 your respective roles now, of course, you're also familiar with that concept of
18 institutionalisation. For those who felt like they came out of the former facilities being
19 institutionalised, still as quite young people, and then struggled to get on with life in
20 society, what's your reflection in terms of the way those former facilities were run and how
21 that may have contributed to those struggles that survivors have gone on to have?

22 **MR LIGHTFOOT:** My reflection is probably informed by our practice today, which is that for
23 us to ignore the impact of the institutionalised setting and not see the person and the support
24 that they need and as our Act in its early sections requires of us, to see not just the person
25 but their family support around them, are exactly the reasons, I would suspect, I don't
26 know, that those provisions were put into the Corrections Act back in 2004.

27 So, I think an acknowledgment of and then, for our organisation now, a really clear
28 purpose around, and again to Hōkai Rangī, seeing the person and the support around them
29 so that we're better able to respond to the specific needs and their history.

30 **MS SPELMAN:** Thank you.

31 Madam Chair, I'm about to start a new topic and I'm conscious that it would be
32 helpful to have a swap of witnesses at that point.

1 **CHAIR:** All right. Shall we take the morning adjournment at this stage, and we can do the swap
2 around and you can also speak to the person in the back who'd like to ask some questions.
3 So, we will take 15 minutes and we'll come back at 20 to 11.

4 **Adjournment from 10.24 am to 10.43 am**

5 **CHAIR:** Kia ora anō.

6 **MS SPELMAN:** Tēnā koe. I'd just like to begin with the question that was asked from the public
7 gallery just earlier and- Mr Beales, this is probably best directed to -you which-- is, when
8 we were discussing the total prison population earlier of around 7,700 how many of those
9 are on remand? Whichever one of you wants to answer.

10 **MR BEALES:** The breakdown we have at the moment is we have 3,088 people on remand, that's
11 220 women, 1,780 Māori are in remand, of which 158 are Māori women, 1,622 are Māori
12 men.

13 **MS SPELMAN:** I'll just slow you down because that was quite fast. So just as percentage, then,
14 of those who are on remand, how many in percentage terms are Māori?

15 **MR BEALES:** I'd have to do some quick calculations in my head. I think it's at the top 44--%.

16 **MR LIGHTFOOT:** 40%.

17 **MS SPELMAN:** In terms of remand prisoners, we'll come back to programmes and things like
18 that a little bit later, but what are the lockdown hours for remand prisoners?

19 **MR BEALES:** That will vary from site to site depending on a number of factors and, of course,
20 what we're able to occupy their time with, but generally most people will be out of their
21 cells for a minimum of at least an hour a day, more often much more than that.

22 **MS SPELMAN:** So that means there are some remand prisoners who will be locked up 23 hours
23 a day.

24 **MR BEALES:** There are some where that is a reality for them, yes.

25 **MS SPELMAN:** Would you have the numbers on how many people that would apply to?

26 **MR BEALES:** No, I don't.

27 **MS SPELMAN:** I'd like to ask you now about young people in prison and you mentioned,
28 Mr Lightfoot, in your statement that of course that position has changed quite significantly
29 from back in the 1950s, so you've said that:

30 "In the 1950s courts could remand or sentence a person to imprisonment and that
31 included those between the ages of 11 and 18."

32 What's the position today?

33 **MR LIGHTFOOT:** In terms of, sorry, what the courts can determine?

34 **MS SPELMAN:** In terms of what young people you have in your care.

1 **MR LIGHTFOOT:** We have, I think I'm right in saying, still -- acknowledging this does change
2 on a regular basis, so these are correct as at 22 August, so a few days ago, we have three
3 young male people under the age of 18, we have 89 young people aged between 18 and 19,
4 84 of those are male, five of those 89 people are female, and then aged 20 to 24 there are
5 731, and of those, 679 people are male and 52 people are female.

6 **CHAIR:** Are these including remand figures or are they --

7 **MR LIGHTFOOT:** All inclusive.

8 **CHAIR:** All inclusive. So, some of these will be on remand and some of these will be sentenced.

9 **MR LIGHTFOOT:** Correct, and sorry, I don't have the breakdown on this form, I'm sure that
10 would -be if- that's of importance for us to provide, we can provide some material of
11 particular dates-.

12 **CHAIR:** It could be of importance, it's about the extent to which these young people get bail, and
13 the other question is, do your figures include a break-down of Māori, Pacific or not?

14 **MR LIGHTFOOT:** These ones don't, but I did ask for that in the break, so what I have got, not
15 broken down to the individual age categories, but under the age of 25, not broken down
16 between male and female, we have currently got 384 people in remand.

17 **CHAIR:** 384 what? Young people or Māori people?

18 **MR LIGHTFOOT:** We have 384 people under the age of 25.

19 **CHAIR:** And of those do you have any idea of the ethnic cultural background?

20 **MR LIGHTFOOT:** Apologies, I don't have that information to hand.

21 **CHAIR:** That's something that no doubt someone can do the numbers on during lunchtime, say.

22 **MR LIGHTFOOT:** We can certainly provide that, yes.

23 **MS SPELMAN:** In terms of the change between obviously back in the 50s, when young people
24 could be simply sentenced to prison to now, there's sort of that gap between Youth Justice
25 and prison. And at times someone who was held in the care of Social Welfare, or Oranga
26 Tamariki, being kept in prison. Can you speak a little bit about that practice?

27 **MR LIGHTFOOT:** Current practice says that anyone under the age of 18 presumption is in the
28 care of Oranga Tamariki, and then the Chief Executive of Oranga Tamariki has the ability
29 to contact me should they be determining that their ability to care for a person who's
30 compromised as a result of concerns around risks and safety. So that is what leads to three
31 people under the age of 18, as of 22 August, being in our care rather than continuing to
32 reside in the care of Oranga Tamariki.

33 Forgive me, that change was 2018 off the top of my head - 2019- sorry.

1 **MS SPELMAN:** So, for those, at the moment, three young people who are under 18 in prison,
2 that's not always because of a resourcing issue with the Youth Justice facility; that might be
3 because of other concerns?

4 **MR LIGHTFOOT:** Correct.

5 **MS SPELMAN:** What sort of concerns would there be that would mean they would seek for a
6 young person to be placed in prison?

7 **MR LIGHTFOOT:** Our Act provides for, and I think theirs does, concerns around physical
8 safety of the individual and staff, so, as with our Act, public safety is our overarching
9 obligation under our Act, so I think in these cases there are circumstances where there have
10 been concerns about Oranga Tamariki's ability to safely care for these people, through
11 concerns of violence and other issues.

12 I don't know the specifics of the three we talk about now in terms of behaviour, so it
13 would be wrong of me to describe their particular circumstances. I'm describing the
14 approach in generality.

15 **MS SPELMAN:** And of those three who are under 18, do you know whether they are 17 or
16 younger?

17 **MR LIGHTFOOT:** I believe they're all 17.

18 **MS SPELMAN:** You mentioned at the beginning of the day the two youth units, one in
19 Christchurch and one in the Hawke's Bay.

20 **MR LIGHTFOOT:** Yes.

21 **MS SPELMAN:** Why is the Hawke's Bay unit not operational currently?

22 **MR LIGHTFOOT:** It suffered quite significant damage, which there was some media coverage
23 of a number of weeks ago, as a result of a number of those young people gaining access to a
24 roof area.

25 **MS SPELMAN:** That's been described as a riot by some of the young people who were in that
26 youth unit at the time.

27 **MR LIGHTFOOT:** Okay.

28 **MS SPELMAN:** Is that how Corrections are describing it?

29 **MR LIGHTFOOT:** I don't think we have described it, categorised it as a riot in that instance.

30 **MR BEALES:** We'd class it as a concerted indiscipline, so it's not a major distinction but it's one
31 unit as opposed to the whole prison but it is still a significant event.

32 **MS SPELMAN:** Are you aware of what the concerns were of those young people that led them to
33 act in that way?

34 **MR LIGHTFOOT:** I'm not --

1 **MR BEALES:** It's currently under review, so we're currently carrying out an operational review
2 so it would probably be premature for us to say now what the cause was.

3 **MS SPELMAN:** In terms of that Hawke's Bay unit, I understand that's one of the places within
4 Corrections as a whole that's best suited or less badly suited for young people. What does
5 that mean for those people who can't stay there currently?

6 **MR LIGHTFOOT:** They have been moved to Christchurch Prison, those under the age of 18.

7 **MR BEALES:** Yes, so we now have one youth unit operating in Christchurch Men's. There are
8 some issues with the number of people who went over there which I think for privacy
9 reasons I probably would not go into at this point in time, but suffice to say those men,
10 those young men who were there, particularly those who were involved in the incident for
11 the most part are now back at Christchurch Men's Prison.

12 **MS SPELMAN:** Thank you and I'll just check with Commissioners at this point if there were any
13 follow-up questions there?

14 **COMMISSIONER STEENSON:** I did have a question if that's all right, kia ora anō. So how
15 many are- any -of are- there any youths in mainstream prisons at the moment-?

16 **MR LIGHTFOOT:** I think we have to be careful about the age range, but Neil, do you want to
17 provide that context?

18 **MR BEALES:** If we there's- no 17- year- old men being held with mainstream adults, not at all.
19 But you will find 18 and above, there are some that are not being held in youth units and
20 there will be reasons for that. So,- it is quite possible that if you are 18, 19 you might be
21 held in a mainstream unit along with other adult men and certainly 20 and above, yes,
22 absolutely.

23 **COMMISSIONER STEENSON:** So how many would that be?

24 **MR BEALES:** I don't have a number for you. We can get it.

25 **COMMISSIONER STEENSON:** That would be good. How appropriate do you think that is
26 for --

27 **MR BEALES:** It will vary. There will be --

28 **COMMISSIONER STEENSON:** -- to suddenly go from 17 to overnight 18.

29 **MR BEALES:** There will be some rationale behind that and, you know, we have to deal, as
30 Jeremy has said, in terms of looking at the individual and sometimes those individuals and
31 the risks that they present to other people of a similar age is significant, so it's better for
32 them to be managed in probably a more secure environment elsewhere.

33 That doesn't mean that our youth team take their eyes off them, we still have a youth
34 team that are looking at these men and liaising with those sites that are managing them. So,

1 they're not necessarily lost in the system, but we have to ensure that everybody's safety,
2 including theirs, is taken into account.

3 **COMMISSIONER STEENSON:** So, when you say "better" you're meaning the others in the
4 unit as opposed to that particular youth?

5 **MR BEALES:** Correct.

6 **MR LIGHTFOOT:** Can I maybe also suggest that we hear from Juanita from a health
7 perspective, because there is quite a significant health intervention around younger people,
8 so I think it might be useful to give some additional context over and above the custodial.

9 **COMMISSIONER STEENSON:** Thank you.

10 **MS RYAN:** Perhaps, Commissioner, just to add to that, when Jessica comes up as a witness, she'll
11 be able to provide some more detail. When young people turn 18 it is not an automatic
12 movement out of the youth unit, we have a comprehensive review that's undertaken to
13 determine their suitability to remain there, particularly those we might consider more
14 vulnerable to be in mainstream, and the decision making around that, and the youth's own
15 wishes are taken into consideration.

16 So, there is the capacity to keep them there for longer if that's considered the best
17 placement by them and our staff and for their safety and others.

18 **CHAIR:** So that we're clear what we're talking about, what does Corrections classify as youth?
19 What is your age range?

20 **MR LIGHTFOOT:** Under 25, so from 18 to 24 is our "youth period" and by exception, as I've
21 described, there will be a very small number, three at the moment, for at least 18 months it
22 was zero, of young people, being 17.

23 **CHAIR:** Just so we know what we're talking about.

24 **COMMISSIONER ALOFIVAE:** Thank you, Madam Chair.

25 Can I just it's- a query -about so-- in your youth unit up to 18 at least, are we right to
26 presume that there's still the access to education --

27 **MR LIGHTFOOT:** Yes.

28 **COMMISSIONER ALOFIVAE:** - in particular and that that's actually mandatory, or it's
29 definitely made- an option that they could pursue?

30 **MR LIGHTFOOT:** Those things are absolutely prioritised. Again, building on Juanita's answer,
31 very special care is taken with the nature of the support wrapped around within those
32 people who are deemed first assumption vulnerable, and the care plans test the best interest
33 that is required for each individual, absolutely accommodates the needs of education
34 alongside any other interventions that health- from a mental or physical perspective as well

1 as the Corrections psychology interventions pathway will be. As Juanita said, Jessica
2 might also be able to expand on the education as part of a wider therapeutic treatment
3 environment for young people. So,- it forms a part rather than the only thing that is
4 available.

5 **CHAIR:** Paul, did you have any questions?

6 **COMMISSIONER GIBSON:** My question is going back to some of the earlier discussions; we
7 talked about the range of factors which might impact on to people going into prison now,
8 but also under the in-scope facilities pre 2000, things like colonisation, other forms of care;
9 do you think poverty was a contributing or correlating factor?

10 **MR LIGHTFOOT:** Again, I don't wish to frustrate but I am sure that that is one of many factors
11 that for individual survivors and people who have been through the system will be seen as a
12 contributing factor. It is what the consequences of poverty are and what experiences that's
13 then led to by that individual, perhaps their family environment that I think I would reflect
14 has the consequence for the behaviours, the needs of an individual if they were flowing
15 through into the criminal justice system. So it will be, I'm sure, a contributing factor that
16 would need to have been taken into consideration when thinking about the support that was
17 required for them.

18 **COMMISSIONER GIBSON:** Another question: I commend the number of staff you've got with
19 disabilities, including in leadership roles, is that based on the UN Convention of the Rights
20 of Persons with Disabilities definition of who's included?

21 **MR LIGHTFOOT:** I don't think so at this stage, I think what we have acknowledged through our
22 Disability Action Plan is the need for much greater precision around the way in which we
23 record that data, and so the opportunity for us in acknowledging that in our action plan and
24 recognising that we as an organisation need to reach out to others who have the expertise
25 isn't the answer and isn't solving the problem, but gets us into a position where we can start
26 confronting the way in which we have recorded and engaged in the past and give us a path
27 to a change in the future.

28 So having the action plan and saying what we're committing to in terms of those
29 shifts might not might- feel a slow path to change, but I think for an organisation of the
30 scale that we are, setting up the system environments where we can know from a position
31 of fact and internationally- -recognised definitions of status, we are building I think a
32 stronger and more systemic approach to strengthening our response in that regard.

1 So, I acknowledge that it might seem pedestrian, but we have determined it's really
2 important for us to set those foundations for us to feel we're embedding a different path for
3 the future.

4 **COMMISSIONER GIBSON:** I note that with the definition you use in terms of the prison
5 population, the Washington Group shortform questions precedes the CRPD, and I think it's
6 acknowledged its gaps and it would be less likely to pick up a range of neuro disabilities,
7 neurodiversity, mental health issues; and I see you've got some work happening for those
8 groups of people. Do you have a sense of the proportion of people in prison with that
9 broader range of disabilities and that leads on to the Disability Action Plan; will you have
10 the capacity, the professional groupings to draw on to deliver with that number of people
11 and their diverse range of needs?

12 **MR LIGHTFOOT:** Yeah, I'll probably hand to Juanita who will have a better frame for this, but I
13 think at the moment it is probably early days for me to give a definitive answer. I don't
14 think we yet truly appreciate the scale and nature of need to a point where I could precisely
15 respond to you about our ability to have the capacity both in terms of skills and attributes of
16 the people who will need to be able to walk effectively alongside people who need that
17 specific support, but maybe I'll hand to Juanita just to add some more to my answer.

18 **MS RYAN:** Thank you, Commissioner. I think I picked up perhaps four questions in what you
19 said, so I will try to work through them to respond to them.

20 You're absolutely right about the Washington Short Set. We're using that to help us
21 understand at a population level some of the impairment, the functional impairment as
22 described within our prison population so that that can help guide the disability plan as part
23 of the parameters around what guides the disability plan. What we need to get much better
24 at is understanding in more granularity the number of people in our prisons with specific
25 disabilities, whether that's because they require a wheelchair, they're visually impaired, they
26 are hearing impaired and so on.

27 So, part of our Disability Action Plan is assuring that we are engaging with people
28 in such a way that we're able to collect that information and use it to both support them
29 specifically with a care plan for their journey through prison and also continue to support us
30 at a higher population level around what we need to be continually thinking about to
31 respond best to the needs of disabled people.

32 In terms of the neurodiverse population within our prisons, we don't have a good
33 handle on that. Some of the overseas data and research would suggest that we should
34 expect there could be very high levels of traumatic brain injury within our population. We

1 have just commenced a research study and, as Jeremy had indicated in his opening, both
2 from a mātauranga Māori and Te Ao Pākehā research perspective, so we can better
3 understand the varying needs of the neurodiverse community within our prisons, including
4 people that might have Foetal Alcohol Syndrome, are intellectually impaired, traumatic
5 brain injury and so on.

6 So that work has just commenced and is likely to take the next 12 months for us to
7 proceed to get to a point where we're getting some good insights from that.

8 In terms of those with mental health and addictions issues, in 2016 there was a
9 prevalent study that was undertaken. Within that study it demonstrated that what we call
10 lifetime prevalence or someone having a mental illness at any point in their life, around
11 90% of people in our prisons would have a mental health or addictions issue at some point
12 in their life and with any one point in time that's around 60% of the population within our
13 prisons.

14 Your fourth question was around when we do identify the need around the
15 resourcing to support people within our context, which is a very compelling and critical
16 question for us to consider, partly because there is an international awareness that it's very
17 challenging currently to find and recruit health experts and professionals and we are aware
18 of that, and aware of the current national climate where we need to be working in a much
19 more joined up way with other agencies, that's including our NGO colleagues, other State
20 agencies, and with tertiary education and iwi Māori training entities to actually grow the
21 workforce to meet the need.

22 In saying that, as Jeremy has also said, we have now six mental health teams that
23 are in six of our most complex prisons. We have nine clinical nurse specialists situated in
24 prisons where we don't have the wraparound teams. We also have clinicians, mental health
25 practitioners, in all our prisons, where we are contracting to provide mild to -moderate
26 support-- for people with mild to moderate levels of mental health issues and distress.

27 Last year that led to around 8,000 people within our prisons being seen by that
28 service alone and upwards of 80,000 consultation hours. We know we need to build on
29 that, but that's a reasonable good start with us starting to get those teams in place across our
30 most complex sites.

31 **COMMISSIONER GIBSON:** Thank you.

32 **CHAIR:** Thank you, so you can move to your next topic.

33 **MS SPELMAN:** Thank you. Just before that, I do also have a question from the public gallery to
34 ask which is probably best to put in here. We were just talking earlier about the young

1 people being transferred to Christchurch and of course there's a number of situations where
2 either young people or adults will be transferred around the country to different prisons.
3 One thing that the Commission has heard is the difficulties for young people in particular to
4 maintain contact with whānau and to maintain those connections and I suppose to pause
5 that institutionalisation track. When somebody is transferred to a different region, what
6 support does Corrections provide in terms of encouraging or facilitating that ongoing
7 communication with whānau, and particularly the question is around, does Corrections fund
8 whānau to travel to visit, for example, to Christchurch for those young people who have
9 been moved, or fund phone cards so that people can maintain that contact with whānau?

10 **MR LIGHTFOOT:** I'll maybe start with an answer and see whether Neil has any more specifics.

11 We acknowledge any movement, even within an institution in its own right, so even within
12 a prison must be handled really sensitively because any change of environment does have
13 impact.

14 But when there is movement from one prison site to another, it is treated in a way
15 that we would treat from a receiving perspective, i.e., what are the needs, what are the
16 impacts of that movement, and how do we make sure that there are connections to any
17 treatment or needs that will endure on that move. One of those things clearly is ensuring
18 that family continues to be connected where that is desired or sought and felt to be, by the
19 individual, as well as us, something that's critical to maintaining that connection, given that
20 core connection to Corrections' purpose, the importance of support and whānau connection.

21 In the instance of movement from one site to another being Hawke's Bay to
22 Christchurch Prison, support around those specific details I don't have to hand, but things
23 like phone cards, I know we, particularly during the Covid period, I can maybe talk to that
24 as a more generic response for you, we have appreciated that if you aren't able to make a
25 face-to-face connection through visits, which has been the reality during our management
26 of reducing risk for Covid, we have to supplement the normal environment with other ways
27 to maintain contact. That has included, for us, the provision of additional phone access
28 with \$5 phone cards provided on a regular basis, as well as the establishment of the
29 opportunity for people to connect via audio visual connection, so we use the Microsoft
30 Teams platform, and that does provide the opportunity to maintain that connection, even
31 when movement's not available.

32 In terms of funding visits from family members to individuals, those will be
33 assessed on a case by case basis, and I think in the instance of youth, there would, I would
34 imagine, I don't know the specifics, as I said, so I'm speaking in the generality, that the

1 connection with Oranga Tamariki and ensuring that we together are appreciating the needs
2 of the person are able to be brought to the fore and if we can help facilitate the maintained
3 connection that is going to be helpful, that will be facilitated through our respective
4 agencies.

5 So, I'm not sure which in this instance of the two agencies would be enabling that,
6 but I would say that would be part of our consideration for managing that movement.

7 But I don't know, Neil, whether you want to add to that.

8 **MR BEALES:** The only one thing I would say is that very recently, I mean as recently as even
9 yesterday, we've communicated with our prison directors, our executive team have decided
10 on a new phone system that has been in place at Auckland Prison, that's going to be rolled
11 out right across the estate, and the benefit of that will be it will - there will be no charge to
12 the person using that. So, it's going to be -at- the moment people would normally, certainly
13 prior to Covid, they would buy their phone cards, it would be dependent on how much
14 available cash they had to be able to do that. We're going to remove that barrier -so in-- the
15 future, and this is going to happen in the ensuing months as each site gets turned on it will
16 be a benefit to those who perhaps couldn't afford phone cards on a regular basis, we are not
17 going to charge them.

18 **MS SPELMAN:** So that's for all prisoners in all prisons?

19 **MR BEALES:** It will be, yes.

20 **MS SPELMAN:** That seems like a positive development. I just wonder why that's taking place
21 now in 2022, given the issues of disconnection with whānau have been known for a long
22 time.

23 **MR BEALES:** I think my reflection, particularly over the last two years, and being put
24 under I- mean, I've worked in Corrections between here and the UK for over 30 years and I
25 think the last two years has probably been the most challenging I've ever witnessed and
26 have ever experienced. But one of the outcomes of that is it has forced us to think
27 differently about things which were accepted previously as general practice, the norm, and
28 some of those things that it has forced us to do, we have taken a decision that as we move
29 out of the current situation,- we'll continue to do these things because they are good things
30 to do.

31 **CHAIR:** Ms Spelman, if I could just sorry--, were you going to add something to that about that
32 topic?

33 **MR LIGHTFOOT:** I'm not sure it's particularly material but I was just going to reflect that
34 technology within a prison context is a significant barrier to enabling "normal" contact that

1 we in society would reflect would be what you would just have access to. So that is
2 another answer to the question why so long, and again, I don't want to suggest that we have,
3 as a result of this first step, resolved that we have now finished the process of greater digital
4 connection between those in a prison institutional setting and the outside world, we are
5 pushing for significant investment in our prison environment that enables digital
6 connection.

7 Again, we have 18 institutional settings, they are large institutional settings, the
8 pace with which we can provide the bandwidth, the data and then the endpoint devices to
9 enable that is frustratingly large in scale and slow in pace. But we are committed to
10 achieving the outcomes that we need, which is greater connection.

11 **CHAIR:** Thank you. I'll just move to the point that I was going to raise. You just, I was going to
12 say triggered, but it's not triggered, you reminded me. In your earlier evidence,
13 Ms Spelman put it to you and I don't know if you had personal knowledge of it, but it
14 was -- the proposition was that when children were under the care of then, say,
15 DSW -- children and young people, and they went into the prison system through Borstal,
16 corrective training, etc, that they were passed on, the responsibility of the care agencies was
17 dropped and handed to Corrections. You've just referred to talking or communicating with
18 Oranga Tamariki over the provision of family contact, etc. What is the situation today, so a
19 young person who's in the care of Oranga Tamariki which could be up to the age of 25, do
20 they relinquish that care when they go into custody still, or is there an ongoing relationship?

21 **MR LIGHTFOOT:** There is an ongoing relationship. It is critical for us to see ourselves as part
22 of a wider system and I think, again reflecting on many of the insights that this
23 Commission, Royal Commission and Waitangi tribunals have shown us as an organisation,
24 is that we must stop seeing ourselves as agencies defined by our legislation and see the
25 person and the support they require --

26 **CHAIR:** Does the legislation still require relinquishment of care status when they come into
27 Corrections? It's probably in a statute somewhere.

28 **MR LIGHTFOOT:** I don't know what Oranga Tamariki's Act states specifically, but I become
29 responsible for their care in custody when they move into a prison as defined by the
30 Corrections Act.

31 **CHAIR:** For so long as they're in the prison?

32 **MR LIGHTFOOT:** Correct.

33 **CHAIR:** Do you know if they go back to Oranga Tamariki on release?

1 **MR LIGHTFOOT:** There will be instances of continued connection, hence why it's so critical for
2 us as agencies to maintain that very close contact and awareness of how a person and their
3 support is travelling.

4 One, I don't know whether it's a helpful connection, but one example to demonstrate
5 that point is just yesterday at Arohata Women's Prison where I was visiting, I was being
6 shown some of the work that our staff are doing in ensuring on receipt of a new person
7 coming into prison that opportunity for connection to Oranga Tamariki, because of the
8 critical role that women play in looking after family, that connection to Oranga Tamariki
9 and the check in around any care needs, and effectively my team were explaining the
10 critical role that that connection plays in ensuring that we don't forget that there is much
11 more than one person who we are caring for when we see them come into custody.

12 So that hopefully illustrates our awareness at least.

13 **CHAIR:** That would be in the context maybe of a mother with children in need of care as well.

14 **MR LIGHTFOOT:** Correct.

15 **CHAIR:** Sorry, I failed to see the stop sign. Our livestream we-- are talking about technicalities,
16 our livestream has stopped.

17 We'll just abandon ship for five minutes and we'll come back when it's online again.

18 **Adjournment from 11.19 am to 11.36 am**

19 **CHAIR:** Sorry for the interruption, I hope everything's been fixed and we can proceed.

20 **MS SPELMAN:** Thank you.

21 I just note we've had a change; we've now got Ms Borg sitting in the witness box
22 but of course the other witnesses can contribute if they wish from where they're sitting.

23 Mr Lightfoot, I'd like to turn now to the approach towards survivors of abuse in care
24 who are currently in prisons. And we spoke earlier about that Synergia research which
25 shows that many New Zealanders who were or who are in our prisons are victims of abuse
26 in care.

27 Now, I know that Corrections were involved in that research in terms of the
28 matching up of numbers. Prior to that, were Corrections aware of how many survivors of
29 abuse in care were in Corrections' care?

30 **MR LIGHTFOOT:** We would have had knowledge from the perspective of the individual
31 records as people were coming in referring to the receiving process that we have in place.
32 I'm not aware of any substantive research that was looking at this as a specific pathway that
33 the Department undertook. Across the wider justice system perhaps there has been some
34 other research; I'm not aware of it.

1 **MS SPELMAN:** So perhaps it might help if we have a look at part of the Hōkai Rangi document
2 which is MSC0008138, if we could just bring that up.

3 **CHAIR:** Just for the public watching here and on livestream, you will not see this document,
4 because of a variety of technical and privacy reasons, but counsel will identify the
5 document and read out the relevant parts that she's referring to.

6 **MS SPELMAN:** Thank you. So, this is one page, page 10 of the Hōkai Rangi document and the
7 title is "Who are the people coming into our care?" And it sets out at a high level snapshot
8 who are the people in Corrections care and who are their whānau.

9 So, for example, we have a statistic 80% of Māori in prison have had contact with
10 mental health services at some point over the last 10 years; there's also some information
11 about how many people have sustained a traumatic brain injury, other statistics like that.

12 But what's not on here and perhaps that's due to your answer just earlier, is any
13 indication of what percentage of those within Corrections care come from a state care
14 background. That's right?

15 **MR LIGHTFOOT:** That's right, yeah.

16 **MS SPELMAN:** So, should that be something that Corrections are seeking to understand in terms
17 of who is in your care?

18 **MR LIGHTFOOT:** Yes.

19 **MS SPELMAN:** And how would you go about that, is it just through that assessment process that
20 you spoke about earlier?

21 **MR LIGHTFOOT:** Yeah, maybe there's an opportunity for us to give you some context about
22 how we undertake research around things that are seen to be themes that have impact for us
23 to have awareness of. So, I think Juanita spoke in response to the Commissioner's question
24 about some recent research that has just been commissioned about understanding rates of
25 neurodiversity, including those with traumatic brain injuries among those in Corrections
26 management, including youth. So, our ability to identify potential important attributes of
27 people and then commission research that gives us valuable insight as to how we might at a
28 system level generate the most effective responses for supporting their safe care and
29 rehabilitation to enable us to achieve the purpose of our Act in terms of reducing
30 reoffending would be the context for how we think about the things that we commission.

31 My reflection, in light of the release yesterday of this particular study, is that there
32 is much more for us to understand, I think, within that context, and it is a starting point
33 perhaps for the wider system to appreciate the areas of insight that might better help us
34 shape improving responses to engage with people from these different experiences.

1 So that's the purpose of us undertaking research and I think yesterday's information
2 provides us with some cause for reflection not just as an agency but acknowledging, as you
3 did in your introductory remarks, as part of a wider Public Service and how each agency
4 can see the insights and what else we might want to understand to ensure that it's the richest
5 context to inform services into the future.

6 **MS SPELMAN:** Okay. Well, just having a look, I suppose, stepping back at what the Royal
7 Commission is doing here, and of course looking into these different issues, a key
8 component particularly in this hearing is agencies acknowledging harm and practice
9 failings, looking to make changes so that these things don't happen in the future, and
10 critically for those who did experience harm, for the State to offer redress and appropriate
11 treatment to help heal from what's happened to people. Would you accept that as a general
12 summary?

13 **MR LIGHTFOOT:** Yes. Just so I you're-- describing the purpose of the Royal --

14 **MS SPELMAN:** Yeah, I just want to want to make sure you understand that at a high level.

15 **MR LIGHTFOOT:** I understand.

16 **MS SPELMAN:** Thank you. So, in terms of that process around treatment and healing and
17 redress and all of those concepts, that obviously is a nuanced approach given that survivors
18 are not a homogenous group.

19 **MR LIGHTFOOT:** Mmm.

20 **MS SPELMAN:** And it follows that the responses to dealing with the harm of abuse in care need
21 to be tailored and bespoke. So specifically for survivors of abuse in State care who are
22 currently in prison, what is Corrections doing in terms of providing support or assistance to
23 that particular group?

24 **MR LIGHTFOOT:** So, in terms of how we work with those individuals in custody maybe-- this
25 is where I hand to perhaps first Juanita from a health perspective and then to Jessica to talk
26 about specific interventions that we have in place. Thank you.

27 **MS RYAN:** Thank you. I think it's fair to say that we don't have a particular strategy or
28 framework specific to working with survivors of abuse in State care as part of the pathway
29 of processes and programmes that we offer up. However, as Jeremy has reflected a couple
30 of times, what is important for us is to understand each individual as they are coming
31 through our receiving office. We undertake a health screen then, we assess their mental
32 state at that point, and from there determine whether there are any particular more acute
33 needs that need to be followed up with that individual.

1 Over the course of their time with us, if they are someone that we identify has
2 experienced trauma and is being impacted significantly by that trauma, they would be
3 offered the opportunity to work with our mental health clinicians. As I said, we have these
4 available at all sites across the country. Within the six mental health teams that we talked
5 about at our largest, most complex sites, we would expect all of those mental health
6 practitioners to understand and be working in a trauma informed manner, and on top of that
7 we are now recruiting for each of those teams to have a trauma informed practitioner that's
8 going to be working within those teams, with that very clear acknowledgment that many
9 people who are coming into our prisons come a history of trauma.

10 So, and because the mental health work in particular is undertaken on a one-on-
11 one- basis it means that our practitioners can get a very clear sense of the history and the
12 issues that are impacting on that person and their well-being and tailor a rehabilitation
13 strategy with them to help them to resolve some of that distress as best that they can.

14 And --

15 **CHAIR:** Can I just cut to the chase here, please. We really understand that, that there's trauma
16 informed processes, that you are assessing needs and looking at trauma in general across
17 the intakes and the way in which you provide services to meet that trauma.

18 But this is about people who were in State care, and I think we can say without a
19 shadow of a doubt that all of them have suffered trauma and that that will be addressed, as
20 it happens, by the way that you assess people.

21 But it's more than the trauma, it's also about accountability. These people were
22 damaged, deeply damaged by the State, and Corrections is an arm of the State which now
23 has responsibility for caring for them and so it's not just about the trauma, although that's a
24 very important thing, but it's acknowledging that this is a particular cohort that received its
25 trauma by and large from the very State that is now caring for them. I think the point of
26 these questions is that, really.

27 You don't screen for it now, you don't recognise them as a particular cohort within
28 your traumatised people, and my question is, do you now see how important it is that that
29 be done, not just first- of all-, because of the nature of the way in which these people got
30 the harm that you're now dealing with. Do you get that?

31 **MR LIGHTFOOT:** Yes, yeah.

32 **CHAIR:** That's cutting to the chase.

33 **MR LIGHTFOOT:** I think we can 100% appreciate the importance and significance of it. Can
34 I just make one reflection from an organisational and cultural perspective. Thinking about

1 a largescale organisation that has to recognise the importance of systems to inform practice,
2 the careful balance of unlocking the potential of our workforce to see a person and the
3 entirety of what they bring, I would personally reflect can sometimes be lost when an
4 overarching label is then attached to a broader cohort. And so,- I 100% acknowledge and
5 appreciate the importance of, to use your words, screening for being aware of that construct
6 because it is critical context, and as you would expect of me, I am also cautious to apply
7 that within the context of a large-scale organisation so that we don't end up --

8 **CHAIR:** With labels.

9 **MR LIGHTFOOT:** - homogenising a group with a specific need that then removes the
10 opportunity that we are starting to see of our workforce really understanding the importance
11 of seeing the person and their needs. So,- I --

12 **CHAIR:** There's always a danger, isn't there? It's just like putting another label on like saying
13 you're Māori or you're disabled and treating them only in that context, but I think what
14 we've established is that your staff I- mean, for example, how many staff in Corrections are
15 following the proceedings of the Royal Commission and learning about what happened in
16 the institution's care in the past? I think having a background knowledge of that and an
17 understanding and appreciation is a really important- aspect, I would have thought, of the
18 competency of your staff being increased. Would you agree with that?

19 **MR LIGHTFOOT:** I 100% agree with that. I can personally reflect of the impact of listening to
20 survivor statements and their willingness to share their stories. If you listen to those stories,
21 you cannot but be affected by it and it is cause for reflection when you have significant
22 roles and responsibility, that charge you with the care of people in an institutional setting.
23 So, I would 100% agree with you that carrying that with you as you take on your duties in
24 any role within our organisation is a burden we must feel because it's the weight of our
25 responsibility in that regard.

26 **CHAIR:** And it could very well inform the way your frontline workers, your Corrections officers,
27 prison officers are educated, really, to recognise this.

28 **MR LIGHTFOOT:** Yeah, because there we-- have training obviously, but when I speak to our
29 frontline staff and with them as they relay their experiences, the environments they operate
30 in and the experiences they share with people, I would reflect, provide trauma for them
31 because they are day to day exposed to many, many of these stories and we must reflect on
32 our responsibility to keep them safe.

33 **CHAIR:** Because you're all living in a closed environment, aren't you, so everybody's going to get
34 traumatised but really, I just wanted to make that point that --

1 **MR LIGHTFOOT:** Thank you.

2 **CHAIR:** -- without wanting to stigmatise these people, the survivors, and without wanting to
3 overemphasise it, I think an understanding of it is something, because it was State
4 generated, and it's the accountability part of it that I wanted to bring home.

5 **MR LIGHTFOOT:** And the importance of us understanding our own whakapapa.

6 **CHAIR:** Exactly.

7 **MR LIGHTFOOT:** Indeed.

8 **COMMISSIONER ERUETI:** And having a strategy, or framework, as you put it.

9 **CHAIR:** Sorry, Ms Spelman, we are --

10 **MS SPELMAN:** No, that's more than fine. I just want to dive into just a point in there before we
11 move on, which is hearing your reflections now about that tension around a label not
12 necessarily being useful, it sounds very similar to what Corrections argued in relation to the
13 Tribunal claim, when a similar point was made that having a specific Māori strategy was
14 actually important and necessary. And I'm just wondering in terms of, you've just said that
15 Corrections needs to learn from its own whakapapa, it seems as though now Corrections is
16 taking quite a similar view, not accepting that point perhaps unless and until a
17 recommendation is made?

18 **MR LIGHTFOOT:** I'm sorry if I've represented that position. That is not my position. I am
19 acknowledging the importance of balancing, and I think that's what Hōkai Rangi reflects
20 out of the Tribunal in 2017, that a strategy that only, that is why we considered it to be a
21 Māori strategy and then it became an organisational strategy, the significance of the role
22 insights plays in shaping the areas we must focus on, I think is the point I'm making.

23 So, I am acknowledging this must be, and I have I've- sort of responded to the
24 Commissioner in that light, this must be something that we are able to reflect on as a
25 workforce that is working in an institutional setting in our prisons, to be informed about
26 what the future practice is. What that strategy, framework, action plan becomes, I think is a
27 job of reflection and not jumping too soon to wanting to be seen, rightly, to be responsive
28 but to make sure that we are moving at a pace that is commensurate with the learnings of
29 this process and not to assume that we already know all of- the answers, but to make sure
30 that we're being informed and shaping those things accordingly.

31 **MS SPELMAN:** And in a similar way, perhaps, to how Hōkai Rangi is now described as not only
32 being good for Māori but actually for everyone, similarly a strategy that had a focus around
33 the needs of survivors of abuse in care would likely benefit others who aren't that category.

1 **MR LIGHTFOOT:** For all of the reasons of trauma, for all of the statistics that Juanita provided
2 in terms of mental health needs, and so I think I'm agreeing with your proposition there,
3 absolutely.

4 **MS SPELMAN:** Thank you. So, I'd like to turn now to a particular example, because I think
5 what this highlights in terms of cutting to the chase, as our Chair has put it, is that while a
6 lot of what you're describing sounds very positive, it's not the reality for survivors who are
7 currently in prison.

8 **MR LIGHTFOOT:** Yes.

9 **MS SPELMAN:** So, this particular survivor, the reference is TRN0000449, gave evidence at a
10 previous Royal Commission hearing, he's a Māori man, I'm not sure he would appreciate
11 me describing him as elderly, but he's at a kaumatua age, he's an older man, and he gave
12 evidence as you have hopefully already know at the hearing about the lack of help that he's
13 received.

14 So, what he said, and this is at page 572 of the transcript, is this:

15 "Sadly, for me, those institutions that I've been through, all the prisons that I have
16 experienced for most of my life have not helped me to identify or process the impacts of
17 that childhood abuse and this is despite the many, many psychological reports that have
18 been done on me and each of them, all of them highlighting the fact that I had a very
19 traumatic childhood growing up."

20 So, this seems to run counter to what we've heard in terms of when there are these
21 assessments, if there are harm or underlying trauma identified that then there would be
22 some help offered, but that's not the experience of this person who remains in Corrections
23 care to this day.

24 What's your and-- perhaps you reflected on that after the hearing, but what's your
25 response to that today?

26 **MR LIGHTFOOT:** My response is obviously--, it's important to hear from experts, but my
27 response at a general level is that, as I've reflected, Hōkai Rangi was a very important point
28 at which we were able to acknowledge our approach shifting to see the person and to focus
29 on the wellness and well-being of the person and what they needed to support. We are a
30 large organisation with many institutions, and the pace with which people will experience
31 the change that Hōkai Rangi expects of us as an organisation will not be as fast as it needs
32 to be for those people.

33 So, I acknowledge that the experience may not always meet the outputs or outcomes
34 that we articulate within Hōkai Rangi. Our commitment is that we don't lose focus on that

1 future, and that we take every opportunity to move closer towards that future, and if there
2 are opportunities for us to learn, then it's making sure that we are doing that.

3 And perhaps with that context, there's an opportunity for us to reflect on, and this
4 may be for Jessica to speak to, how the shaping of and the weaving that Juanita talked
5 about before of Western psychological approaches to Te Ao Māori approaches to
6 interventions to treatment, is in its infancy, but for the first time, and again I'll reflect on
7 Hōkai Rangi as being an important moment in our organisational whakapapa, that enabled
8 us to recognise that we lacked within that psychological treatment area a kaupapa Māori
9 practice capability and that as a result of us reflecting on the outcomes we are now seeking
10 to achieve, we have a kaupapa Māori practice capability now sitting within Jessica's area of
11 psychological treatment and that that is -- again, I don't want to suggest that we have made
12 dramatic progress and everything is solved, but I would reflect that it is starting to have a
13 material impact on the way we view the approach to interventions, and the words that that
14 survivor used of psychological reports "done to" rather than the involvement of someone so
15 that we can achieve our core purpose of public safety and reducing re-offending, for us to
16 feel that we're discharging that reducing re-offending obligation, I would always reflect that
17 if we can't achieve a level of connection with a person, so that they are feeling able to own
18 their own future and their own journey, then our ability to achieve success is pretty limited
19 because it is not us that will change their lives, it is them.

20 I think that's a really important shift for us to be taking at a principal's level to
21 inform all of our treatment.

22 So, I wonder whether Jessica just reflect on the kaupapa Māori practice being
23 reintegrated into that team.

24 **MS SPELMAN:** Perhaps just before she does, I suppose understanding about your point about
25 things roll out over time and that's a process of change, but it is concerning for this
26 particular survivor who gave evidence publicly about their experience, including the lack of
27 treatment. So, we're not talking about someone who's not felt able to disclose it or who
28 hasn't yet come to terms with speaking about it, this is someone who told the world about it,
29 and this is back in March, so the beginning of this year. And bearing in mind that we are
30 now three years into Hōkai Rangi, would you not expect, even if the actual counselling or
31 whatever the type of intervention suggested, that there would at least be a plan in place that
32 this person would at least have their need responded to so they felt some difference, as
33 opposed to what is the reality for them, which is no form of counselling to help him recover
34 from what has happened to him as a child has been suggested?

1 And this is someone who in fact would like kaupapa Māori approaches but would
2 happily take Pākehā counselling, he would take anything he can get at this point.

3 I just wonder what your response is to that survivor and others like him who aren't
4 seeing the results even of a change of plan, whether or not the service itself has begun,
5 because that's the reality of the people that we're hearing from.

6 And perhaps this is a matter for you, Ms Ryan or Ms Borg.

7 **MS BORG:** I would say that Corrections takes the rehabilitation of the people in our management
8 extremely seriously and prioritises that. Access to rehabilitation earlier on as well in their
9 sentence is a priority. When people come to the attention of a psychologist for a
10 comprehensive engagement to understand for that particular individual what actually
11 happened, how did they come to our care, how did they come to our management, a very
12 comprehensive engagement process occurs, including a thorough understanding, if they
13 wish to share that with us of course, of their history, of their time in State care as well of
14 their childhood.

15 These are really important factors for us to work through with a person what may
16 have happened at that time that has predisposed them or triggered them to offend in that
17 particular way.

18 I would also like to add that with the person's consent, we at times ask, you know,
19 as part of that assessment, if we can access information that was available during the time
20 of their state care, for example through Oranga Tamariki. That is so that we can get as
21 much as possible a really good picture of those predisposing factors and how we can then
22 work out with them what the best therapeutic approach would be why they are in our care.

23 It is great to hear that in this case the person is really committed and motivated to
24 engage in an intervention and while I cannot unfortunately speak to the specifics of the case
25 as to what's happened there and why they are not currently engaged in a rehabilitation
26 programme, what I can say is that greater effort is put into working with an individual in
27 terms of what may be the best therapeutic intervention that we have for them to engage in,
28 that at times, if the time may not be right then we do check in at a later date with them.

29 I cannot speak specifically to what's happened in this case, but --

30 **CHAIR:** Thank you for that. Can I ask you, very interested in the idea that you would go and
31 search out the institutional files that would reveal, although our experience is not always
32 fully reveal, the extent of the abuse or the trauma. Is this an intention or have you actually
33 done it? Is it actually happening?

1 **MS BORG:** It is, and I can speak from personal experience, and many people that I have worked
2 with have provided consent. We then go through that information together. It's very
3 painful to go through.

4 **CHAIR:** That's something we've been aware of, that it's been very difficult for survivors who are
5 in prison to access their records.

6 **MS BORG:** Yes.

7 **CHAIR:** Are you able to facilitate that now?

8 **MS BORG:** So through the privacy there's a the- people consent to myself- to, let's say, or to a
9 psychologist to receive access, so there's an informed consent process --

10 **CHAIR:** Just to be clear, what we're talking about, and my colleague has just pointed out I might
11 have the wrong end of the stick here. I thought I heard you say that you are able to access
12 earlier care files, like Social Welfare or other files like that which show what happened to
13 that person while they were in care, or are you talking about previous psychological
14 reports?

15 **MS BORG:** Not just previous psychological reports but information that pertains to the individual
16 during the time of care that is available, of course, from other --

17 **CHAIR:** So, you could facilitate a prisoner's access to his or her state files when they were a child
18 in care?

19 **MS BORG:** That is correct, through their consent, but I imagine they can also seek that
20 information through the Privacy Act.

21 **CHAIR:** That's the hard bit, I think.

22 **COMMISSIONER ERUETI:** Yeah, that's what we're finding is the difficulty in initiating, but
23 also having an appropriate way of receiving and digesting the records too, because they're
24 extremely traumatic, as you would understand, but finding the right setting in the prison
25 context to be able to do that. But perhaps your service would, it sounds, have potential to
26 meet that need.

27 **MR LIGHTFOOT:** Sorry, Jessica, but I think exactly the point you've made there, the clinical
28 expertise that can enable safe, and I don't mean to disrespect, but our obligations in
29 ensuring safety requires the right professional capability to walk alongside a person so that
30 it's not just provided without an awareness of the consequence of providing such impactful
31 material.

32 So, I think that's why certainly I would be looking to ensure it was a facilitated
33 rather than just, if I can call it, a transacted process.

1 **CHAIR:** I think that's right, having a safe way and a trauma informed way of a prisoner receiving
2 his or her files is really important, otherwise it just retriggers, retraumatizes. So, it's good
3 to hear that initiative, thank you.

4 **MS BORG:** If I may add, I suppose the other purpose of gaining that information is to understand
5 the impact of the trauma that happened throughout their lives. Also, to make at-- times we
6 find that people may not necessarily be ready for rehabilitation, so efforts are made to
7 prepare them for that. Sometimes trauma responses can be a barrier to engaging, and so
8 quite a bit of work needs to be done at that early phase.

9 Another way of engaging or a psychologist, I suppose, being useful in the prison
10 setting is when we gain an understanding of those triggers, that we work with our
11 colleagues, work with our colleagues in custody, or in probation, case management, with
12 the person's consent of course and trying to involve them as much as we can in that process,
13 as to them understanding why the person may be behaving in a particular way at a
14 particular time.

15 So that education process, that engaging with and the training that we are providing
16 now, to probation case management and prison staff, is critical to understanding the
17 individual and why a particular behaviour is featuring for that person and what the best
18 approach is to best enable them to engage in the prison, to engage in a programme and for
19 the relationships as well to be managed in that setting.

20 So, I can say we're doing the best we can in that.

21 **COMMISSIONER ALOFIVAE:** Can I just ask a follow up question from that. So, the
22 accessibility to some of those rehabilitative and therapeutic programmes, are they available
23 to the remand prisoners as well as obviously the sentenced prisoners of course, but those on
24 remand as well? Like for the drug and alcohol court?

25 **MS RYAN:** In terms of the remand space, we certainly provide access to mental health
26 practitioners and support, and we have some alcohol and drug counselling in of our prison
27 contexts within remand as well with providers coming on to the sites.

28 We are very interested, as part of our ongoing efforts, to be more impactful in
29 reaching to more and more people as that remand population grows, to ensure that we're
30 providing them a more rounded and considered framework for their access to alcohol and
31 drug services.

32 Traditionally, we've provided group based treatment for alcohol and drug, which
33 has tended to be more intensive because of the need. People tend to stay in a remand

1 context for quite a short period of time which means we need to rethink how we best
2 support them when they may not be in a particular prison or a context for long.

3 So, we certainly have some work to do in that space and we are very keen to look at
4 that over the next 12 months.

5 **COMMISSIONER ERUETI:** Are there any navigational lights for you about where you're going
6 with this, with remand and recognising the limited time that people have in prison and
7 move on?

8 **MS RYAN:** We have had some learnings from our efforts in the past to try to engage people
9 within our prisons with particular programmes and the challenges with that, which is I think
10 part of our learning going forward, how we best do that, how we best do that within the
11 confines of a prison context. But I think, potentially also getting back to the point that was
12 made, what is really important and what will certainly be valuable from the outcome of the
13 hearing also is for us to really connect with the men and women in remand in a more
14 meaningful way to ask them what will be most impactful for them if we are to move into
15 that space to support them.

16 So, we've certainly got opportunities around the practitioners to provide the support,
17 but it's more of a join up that we need to make, I think, about what is it that would best
18 support them in that unique context.

19 **MR LIGHTFOOT:** I wonder whether I may just sort-- of, adding a bit of context to that part of
20 our system being remand. I think we'd all be aware, and I think this is sort of the point in
21 question, that the environment of remand is not as settled, is not as stable, is not as certain
22 as the period once, certainly sentenced but convicted as well. So the remand accused part
23 of our system is quite a disrupted part of someone's experience, if I can describe it in that
24 way, and Juanita is describing the acknowledgment that not just Corrections but the wider
25 system does need to prioritise our collective response to how we are being more responsive
26 to the needs of those who are currently remanded into the accused space in custody and
27 whether or not there are better responses that safely address some of the causal factors for
28 their offending, which might mean accessing those services in a community context.

29 But I think that's, as I've reflected earlier, not something that Corrections alone can
30 resolve, but collectively as a system we must be open to exploring because of the attributes
31 of the accused remand space.

32 **COMMISSIONER ERUETI:** And there's active planning underway now on how to meet that
33 need?

34 **MR LIGHTFOOT:** Yes.

1 **MS RYAN:** Correct.

2 **CHAIR:** I think we should yes--, Mr --

3 **MR CLARKE-PARKER:** Apologies, I was just going to say that one of the other Corrections
4 witnesses on the bench behind me had a couple of points to add on that matter.

5 **CHAIR:** Okay. But I'm conscious that Ms Spelman probably has a list of things she needs to
6 cover, so just a quick addition to information on that.

7 **MS BARSON:** Very briefly.

8 **CHAIR:** Just say your name so that our stenographer has it.

9 **MS BARSON:** Kia ora, Rebecca Barson.

10 Just to let you know that in all of our prison sites we do offer remand reintegration
11 programmes for those remand accused people. Their programme is delivered by providers
12 who have stronger links with the community, many of whom are Māori providers.

13 **CHAIR:** Thank you.

14 Ms Spelman, we'll hand back to you.

15 **MS SPELMAN:** So just noting the gap between the policies and the approaches you're describing
16 at what's perhaps an aspirational level and the reality for survivors waiting for that, is it the
17 case that there's just not enough at the moment in terms of resource or trained providers or
18 the types of services we're talking about? What's the reason that people like this survivor
19 are still waiting?

20 **MR LIGHTFOOT:** Again, I probably won't speak to the specifics of this individual case
21 reflecting his testimony in terms of his experience, but --

22 **MS SPELMAN:** Although I would note, Mr Lightfoot, that I am a little surprised that Corrections
23 aren't able to speak to this specific case given that he gave evidence publicly many months
24 ago, you've also got his transcript in the bundle and he's perhaps indicative of a number of
25 other similar survivors. So, it is to be noted, perhaps a little concerning, that no one is able
26 to respond to those specifics today.

27 **MR LIGHTFOOT:** Yeah, noted. I perhaps will start with a reflection in terms of the approach
28 taken to interventions more generally. And our organisational approach is to, again, focus
29 on the person and how we see ourselves sort of moving forward in bringing these things to
30 life must be informed by many of the attributes that Jessica described in terms of
31 understanding the person's readiness to engage with rehabilitation, which is why I was sort
32 of acknowledging it's not specifically related to this individual who has presented as a
33 survivor as being ready, but me trying to explain the many reasons why there might be

1 perceived delays in accessing rehabilitation, so what stage a person is at and what treatment
2 is needed is a combination of the needs of the person and our clinical practitioners.

3 **MS SPELMAN:** I wonder, I'm just conscious of time, and I know you've given quite a lot of
4 detail about your approach, so I don't want to go over that again. What I'm trying to ask is
5 for those who are ready, who are waiting, what is the delay for those people? Is it
6 resources? Is it priority decisions within Corrections? Is it something else?

7 **MR LIGHTFOOT:** It will inevitably be a range of factors rather than one. So Juanita
8 acknowledged in one of her answers earlier around the resourcing of our intervention
9 support teams that the skills of the people needed to be appropriately responsive to these
10 particularly complex matters is not richly available within a, not just an Aotearoa context,
11 but internationally, that Corrections is but one agency within Aotearoa that has recognised
12 and is committed to building its capability in that regard, but that we see the answers for the
13 future in building that capability and working with partners rather than thinking we must do
14 it alone.

15 **MS SPELMAN:** Sure.

16 **MR LIGHTFOOT:** So, I will reflect that will inevitably be a limiting factor that we don't yet
17 have all of the skilled practitioners in place where I would acknowledge there is a need.
18 What we are seeking to do, to your sort of question around prioritisation, and this is
19 probably something more appropriate for clinical experts to speak to but ensuring that we
20 are prioritising the most intensive and clinically responsive treatment to those with the
21 highest presenting needs within our environment.

22 So that's where the assessments on reception into an institution and then the ongoing
23 interaction or engagement to check in on how someone is travelling becomes so important
24 to ensure that we aren't once and done sort of assessing need but are continuing to remain
25 responsive to how someone is progressing.

26 I would acknowledge, based on my knowledge of and your description of the
27 survivors' statements, that on face in this instance, we perhaps haven't done the best job of
28 connecting those needs with our service in terms of prioritisation. I would maybe turn to
29 Jessica just to describe that. How we prioritise and look to ensure that the appropriate
30 treatment is directed to those with specific needs, because I think that's probably quite an
31 important part of where resources go.

32 **MS SPELMAN:** I think we have covered that, to be fair.

33 **MR LIGHTFOOT:** Okay.

1 **MS SPELMAN:** That seems quite clear from the evidence you've given. So it is, just to focus us,
2 it is the fact that there isn't the capacity within Corrections currently in terms of providing
3 these services at a level which is needed and that would include the capacity in the broader
4 community with whom you partner to provide specific services.

5 **MR LIGHTFOOT:** Inevitably that will be we- will never have, I suspect, all of the resources,
6 and that is a reality for all of us, that we have to- prioritise and identify where our greatest
7 needs are and how we can best achieve the core obligations that we have within our
8 respective legislation, understanding our overarching obligations under the Public Service
9 Act.

10 **MS SPELMAN:** Sure.

11 **MR LIGHTFOOT:** So, I'm sure if anyone was asked whether more resources would help, then
12 the answer would probably be "yes".

13 **MS SPELMAN:** Absolutely, and that would include specific kaupapa Māori informed responses,
14 responses informed by Pacific knowledge, those that are suitable for disabled people, that
15 sort of thing.

16 **MR LIGHTFOOT:** Indeed.

17 **MS SPELMAN:** So, what the issue then seems to be is that Hōkai Rangi as a document of course
18 is aspirational and has lots of good content within it. There doesn't seem to be a publicly
19 available measurement framework or a way of really understanding and monitoring what
20 progress, if any, has been made, and of course that's a concern for survivors and for those
21 working in this area who see that gap that we've spoken about between aspiration and
22 reality. Where is the publicly available transparent way to actually understand if the
23 strategy is making a difference?

24 **MR LIGHTFOOT:** I would, firstly, acknowledge that our ability to fully attest to the impacts
25 that are being felt as a result of the shift in our focus through Hōkai Rangi is not yet
26 resolved, we do not yet have a fully a- holistic way of demonstrating whether or not we're
27 achieving movement towards the outcomes -that the-- six outcomes that are articulated in
28 Hōkai Rangi.

29 At the moment we would point to some of the dramatic changes in the criminal
30 justice settings that have occurred over the last three years that would point to some, and
31 again, I don't want to come across as suggesting that these are anything but small shifts that
32 might point to small progress towards a better future, but seeing a prison population that
33 was in 2018 sitting at 10,800 and today sitting just below 7,800, seeing the dramatic
34 reductions in those who are in prison environments who are sentenced and the reduction in

1 that part of our system, so we've seen quite a significant reduction in those who are in our
2 sentenced population, which I think gives an indication that either through the Parole
3 Board's assessment or as a result of the work done, they are able to move out of a custodial
4 setting and into community, and the part of our system, as I've referred to previously, that
5 we at a whole system level have acknowledged needs greater attention and focus is that
6 remand part of the system, because that continues as a proportion -- as the total reduces, so
7 that proportion of our overall has grown, and that is where we are seeing continued
8 disparity in the way in which that part of our total population is growing.

9 So, I think those are important early insights. We have, and have -- not as a result
10 of Hōkai Rangi but have had for some time very strongly quantitatively assessed insights
11 around the efficacy of treatment and intervention that show both the positive and not
12 materially beneficial impacts of certain treatments, and it can be shown that we have
13 responded to that evidence to determine whether we maintain and grow, or pause and stop
14 those treatments that are not seen to be making a difference, which has then led to some of
15 the things that both Juanita and Jessica have spoken to in terms of treatments and
16 interventions.

17 **MS SPELMAN:** I might just stop you there, because I've got a few questions about what you've
18 said before you move on. So that decrease of the overall prison population from its height at
19 around 10,000 to now 7,700 roughly, that obviously is something that is acknowledged.
20 But I understand that in terms of the proportion of the prison population that's Māori, that
21 that disproportionality has actually grown over the last four years. So, it was 50%, roughly,
22 for many, many decades, and then has gone through a period of rising by 1% each year for
23 the last four years.

24 **MR LIGHTFOOT:** Sitting at 52% today, I think, yes.

25 **MS SPELMAN:** 53.4, so getting up to 54%, which of course 1--% changes may not sound
26 particularly significant, but it is significant if the overall prison population is coming down,
27 but it's becoming increasingly Māori.

28 **MR LIGHTFOOT:** Indeed. Which is why I was careful to distinguish the difference between
29 progress being made in the sentenced part of the overall population, and the much work still
30 to be done in that remand population which I acknowledge as a percentage is growing as a
31 result of the overall reduction. In that part of the system, Corrections' ability to influence or
32 impact on it is largely one of holding the overall system, sort of a -- maybe -- I don't know
33 whether it's appropriate to say or not, but a mirror up to say this is growing and
34 the -- reminding us all of the attributes of an environment of remand, particularly that

1 remand accused environment, and for people in that part of our system prioritising that as a
2 focus to impact on and reduce is really important if we are to achieve for our organisation
3 the outcome of Hōkai Rangi.

4 **CHAIR:** Sorry, may I interrupt. You're not responsible for the input, you are reliant on the courts
5 and society in general, I get that. You are responsible, however, for the rehabilitation, you
6 and your the-- atmosphere that you work in. What I think we're most interested in is
7 recidivism, in a way, because if Hōkai Rangi is starting to work you would expect, wouldn't
8 you, that the numbers of re-offending would go down.

9 **MR LIGHTFOOT:** And they have but not I-- would say green shoots rather than material
10 reduction.

11 **CHAIR:** And the green shoots, are they, it doesn't sound, I don't know, but these rising numbers
12 of Māori, for example, do you have the numbers of recidivist the-- statistics about
13 recidivism in relation to Māori who may have already been through the Hōkai Rangi
14 programme, are you able to are-- you assessing it on that level? If we're three years in...

15 **MR LIGHTFOOT:** It is probably just too early to be able to do that, the recidivism index and
16 quotient look to assess people 24 months after release. So, the time consequence of have
17 you come back into the system within a certain time period is just at the point of starting to
18 reflect that sort of --

19 **CHAIR:** So maybe you don't have the answers, but you can see my point, can't you?

20 **MR LIGHTFOOT:** Absolutely. And I think, back to that point of the remand part of our system,
21 so that's such an important part of understanding the ability to impact around recidivism.
22 Where part of our system is held on remand, and ultimately when brought for sentencing is
23 released for time served because of the length of time they've been on remand, our current
24 construct of no real ability to criminogenically address some of the behaviours is a
25 construct that I am not comfortable with.

26 **CHAIR:** It's gap, isn't it?

27 **MR LIGHTFOOT:** I think we have to acknowledge, as Juanita did, the need for us to change our
28 thinking as an organisation around the remand environment because I would love to be
29 saying today "I feel it's realistic to see a material change in that part of our system in the
30 next 12 months", but unfortunately understanding having experienced this part of the
31 system, it is highly complex and I suspect with all of the efforts put in will not change in a
32 12 month period and it's likely to be, unfortunately, 36 or more.

33 **CHAIR:** We don't have the numbers so we can't say any more than you're trying, and you
34 recognise this as a gap.

1 Ms Spelman --

2 **MR LIGHTFOOT:** Sorry, maybe just recognising that as a result of that sentence population
3 reducing, because I think again that's a really important point to note, the sentence
4 population is reducing significantly and people aren't released, particularly if they're on
5 sentences longer than two years, if they're not deemed to be safe from a public safety
6 perspective, therefore I would suggest that some good outcomes are being achieved that are
7 visible to those who are making those assessments.

8 **CHAIR:** Ms Spelman, we've only got half an hour left so we better be mindful of time.

9 **MS SPELMAN:** Yes.

10 Just to finish this off, perhaps, given what you've spoken about the many challenges
11 that exist within the Corrections environment, including those remand challenges, it
12 seems to-- put this another way, correctional rehabilitation, generally, both here and
13 internationally, is generally acknowledged to have a very modest impact on recidivism,
14 right?

15 **MR LIGHTFOOT:** Correct.

16 **MS SPELMAN:** And you've outlined some of the reasons perhaps for that. But I understand that
17 at least back in 2016 when the tribunal reported on the claim, there was comment around
18 correctional interventions generally having less efficacy for Māori than Non-Māori-. And
19 I know you don't have the exact numbers on this, but I understand that position is still
20 correct today?

21 **MR LIGHTFOOT:** I think we have seen some improvement, but I think, I'm conscious of time,
22 I wonder whether Jessica has anything specific to add, because otherwise I'll provide
23 generalities which may not be helpful.

24 **MS BORG:** So, the effectiveness of our rehabilitation programmes are assessed every year
25 through the rehabilitation quotient and that is available via the annual report of Corrections
26 each year. Our special treatment units that are, there are six of those, for people at a higher
27 risk of both for- those at risk of further engaging in sexual offending, child sexual
28 offending, and also- one specific for those who have engaged in violent offending, those
29 programmes have consistently delivered good results in terms of reducing re-offending
30 rates for people, including for Māori. And our mainstream programmes have been found to
31 be as effective for Māori as they have for non-Māori-.

32 We have more in-depth evaluations conducted by independent academics and
33 experts in psychology and rehabilitation, -that for-- example in the child sexual offending
34 space, for example the programme Te Piriti which is in Auckland, it is a bicultural

1 programme, in 2003 and 2019 there were two evaluations and they have shown that the
2 programme is effective in reducing recidivism and Māori are also in that group.

3 The 2019 one was quite significant in that it showed that Māori did better than non-
4 Māori-, actually. We believe that the synergy between tikanga approaches and mātauranga
5 approaches with Western psychological approaches and evidence-based practice adds to
6 that value, and hence we are designing programmes in that form in a bicultural way and as
7 Jeremy referenced before, in 2019 a kaupapa Māori practice team has been established and
8 that team sits in my group. The purpose of that team is to provide kaupapa Māori
9 supervision to programme facilitators and psychologists, but also has a strategic
10 responsibility of with-- myself and the DC Māori group, to elevate Te Ao Māori
11 approaches with Western psychological approaches. We believe that that will provide and
12 produce, and we hope to continue to research this, better results.

13 So, we don't stop here, we know we-- want to continue to do better, we evaluate
14 how we're doing, we take into consideration as well and take feedback from people that
15 have completed the programmes, people with lived experience and even more recently with
16 Hōkai Rangi recognising the need to include whānau within understanding how our
17 programmes are doing and what we can improve on. So, we're continuously learning how
18 we can improve on the effectiveness of our programmes.

19 **MS SPELMAN:** Thank you. In terms of the type of therapeutic intervention that a survivor of
20 abuse in care might access in the community, so not to do with Corrections, there's a
21 number of features to that which I just want to run through with you.

22 So, of course, one is that that would be voluntary for someone to access when
23 they're ready, that the aim of that therapy is to heal trauma, deal with symptoms, understand
24 the impact on them, and to process that essentially so they can go on to recover and live a
25 good life. And to be able to access that type of therapy in a private and confidential
26 manner.

27 So given all that you have outlined today about the challenges within prison that
28 exist, it seems fair that for many reasons prison is not an environment conducive to that
29 type of therapeutic intervention, perhaps when compared to how that could work in the
30 community.

31 **MS RYAN:** Jess might have some reflections on that as well. Certainly, compared to a
32 community context, it's unavoidable in terms of the restrictions on somebody's liberties
33 within a prison context. The expectations on them if they're going towards parole and

1 needing to share their journey with a Parole Board, that's not something that someone is
2 required to do of course within the community context.

3 Our job is as close as the- importance of it within the rehabilitation space is that we
4 work as closely as we can to those -community-based- expectations, because that's
5 particularly important in terms of the practice ethics of our practitioners to do so.

6 So all of our opportunities for people to engage in rehabilitation is voluntary,
7 particularly when it comes to working with someone who is coming with psychological
8 distress and those who will be survivors of abuse within State care as well, that they are
9 sharing in the setting of the goals and the aspirations for that intervention with the Council,
10 this is not something that is directed by someone for what the objectives and outcomes will
11 be, and certainly with how this will help to elevate their well-being and support them
12 towards their orange and what might be their other objectives within a prison context.

13 We are aware that that is we- are still in a context and an environment which can
14 make some of those things challenging and we need to think particularly careful about that
15 when we are working with people who we know come with particular vulnerabilities- and
16 histories.

17 **MS SPELMAN:** I mean, it seems as though you've accepted in the Notice of Response the
18 difference between, I think you've called it offence focused psychological services, on the
19 one hand, and later on you refer to underlying trauma or things personal to a person. But it
20 seems as though for those who are employed by Corrections, of course operate under the
21 Corrections paramount consideration, public safety, the therapy is viewed through a lens of
22 reducing reoffending; I mean that seems clear, that's what your statutory framework is.

23 **MR LIGHTFOOT:** Yes, it is worth also though, to Juanita's point, reflecting on our obligations
24 from a health service perspective that we must provide health services that are comparable
25 to those which one might expect to receive in a community construct of a primary health
26 nature. So, I think --

27 **MS SPELMAN:** Perhaps we could come back to the health point because I think possibly that's
28 bigger topic, but just on this point, it's simply just an acknowledgment of the type of
29 therapy you've described, offence focused psychological services is done through that lens
30 of reducing reoffending; is that accurate?

31 **MR LIGHTFOOT:** Yes, I think that would be an accurate sort of overarching representation,
32 yeah.

1 **COMMISSIONER STEENSON:** Ms Spelman, can I just quickly clarify something. So just
2 going back in terms of intervention for addressing trauma, you said it was event based, so
3 those showing highest need as opposed to a preventative method of who asked for help?

4 **MS RYAN:** Was that me?

5 **COMMISSIONER STEENSON:** Sorry, I think it was actually your Chief Executive.

6 **MR LIGHTFOOT:** You mean in terms of my answer to how do we prioritise services and look
7 at risk from a criminogenic perspective?

8 **COMMISSIONER STEENSON:** Mmm.

9 **MR LIGHTFOOT:** That is effectively what I was trying to move us into in terms of that
10 distinction between health and the kind of wider needs of a person as distinct from the point
11 that's being raised here of our obligation to reduce re-offending and focusing on highest
12 risk so that's an interface between those two parts.

13 **COMMISSIONER STEENSON:** Yes, I understand that. Just trying to clarify the so- your
14 model is an event happens where somebody does something, effectively, and then you
15 will -provide because-- --

16 **MR LIGHTFOOT:** No.

17 **COMMISSIONER STEENSON:** -- the term "showing highest need" I'm unclear what that
18 means.

19 **MR LIGHTFOOT:** As a result of well-, maybe I'll let the experts speak but just so you hear from
20 me, the offending that has led to them being in our care and all of- that history informs a
21 picture around how we might, with them, best address the factors.

22 **COMMISSIONER STEENSON:** Sure.

23 **MR LIGHTFOOT:** So, it's that event, event based as a result of not events in custody as much as
24 the events that have led them into our care; does that help?

25 **COMMISSIONER STEENSON:** Right, that is still a little bit grey given the example that
26 Ms Spelman gave me, but I think you've cleared up that that's not the way it's done --

27 **MR LIGHTFOOT:** No.

28 **COMMISSIONER STEENSON:** - so,- thank you, I don't want to take up any more of your time.

29 **MS SPELMAN:** Of course, the Commission is hearing from survivors across a whole range of
30 settings about the type of intensive long-term support, counselling and other assistance that
31 will be needed. I'm conscious that, given Corrections are at, I know you often use the
32 plumbing analogy, at the end of the pipe, it's not necessarily a fair point that Corrections
33 should be the one providing all of that. But do you accept that your role is to facilitate

1 access as much as possible to make sure that survivors, while they are in Corrections' care,
2 can access that sort of therapeutic treatment they need?

3 **MR LIGHTFOOT:** Yes. Yes. And I don't think I need to qualify because I've already said it, we
4 see the person, their need, their readiness, so all of those things are part of my answer, yes.

5 **MS SPELMAN:** Sure. And so I guess for the Commission who's looking across a range of State
6 agencies and care settings there's been a lot of talk in evidence this week about joined up
7 approaches and, you know, all- of- -government response, and I wonder if there's room for
8 change for Corrections there, given that -- it's never really been clear to me why healthcare
9 for prisoners has been carved off to be managed by Corrections rather than being managed
10 under health services as a whole, and I wonder if you have a response to that, particularly
11 with the moves that there have been recently in health with the establishment of a Māori
12 Health Authority, is this perhaps a good time to reconsider whether healthcare for prisoners
13 who, of course, were and will continue to be members of the community in the future,
14 would it make more sense as a joined up approach for that to be put back to the Ministry
15 of -Health?

16 **MR LIGHTFOOT:** It could well do in the long term. I mean, Juanita can speak to this because
17 she's been part of our journey around considering how best to give effect to our obligation
18 around health services. I think what you're describing is a reasonable potential future end
19 state.

20 I think there are many, as I would imagine you would acknowledge, many moving
21 parts at the moment with the transformative change going on within the health sector and
22 that it would be irresponsible for us with our, as you've reflected, extraordinary institutional
23 setting to hand over the context at this moment when we have some very clear approaches
24 informed as a result of our work with Health about how we are ensuring a much more
25 connected and joined up system as a whole, and there is much to be learned I think in not
26 just the physical but particularly the mental health space, where we perhaps are providing a
27 useful reflection about the needs of the people in our care, and the importance of not having
28 a focus on their very specific and complex needs. Our ability to do that, I might say, might
29 diminish if those services were not part of our core system at the moment, and over time
30 through good strong collaboration between these two agencies, I think my intent, and I
31 think that's shared, is to strengthen our understanding of the services that need to be grown
32 and at some point in the future when it is clear that we have those services available and
33 embedded, that may well make the most sense.

1 So, certainly reflect that as a future potential but right now I think it's our
2 responsibility to keep gearing up the insights and the strengthening of health that we've
3 been on for the last three years.

4 **MS SPELMAN:** Sure, and I suppose a reason to look at that change is the tension that will always
5 exist between Corrections' custodial responsibilities on the one hand --

6 **MR LIGHTFOOT:** Correct.

7 **MS SPELMAN:** -- and healthcare considerations.

8 **MR LIGHTFOOT:** Sorry - exactly, which is why we made such substantive changes to separate
9 out health services and placed at the executive table and while you see a DC Health sitting
10 at this table separate from our custody so that I as the Chief Executive have that visible and
11 clear tension between those two components that generates constructive improved access to
12 services rather than a sort of destructive approach but I can assure you that in our
13 considerations of day- to- -day responses, as well as future strategic approach, that the
14 voice of Health as an independent part of our core services is now driving a, I don't want to
15 overstate it, but I personally think from where we were a dramatic shift in our ability to see
16 the importance of health as an underlying strengthening of response within our context.

17 I just didn't want to underplay the important moves in the last few years to
18 acknowledge the importance of separating custodial responsibilities from health
19 responsibilities within our organisation.

20 **MS SPELMAN:** Perhaps that's understandable that within the current settings you need to
21 continue to do the best you can. However, it sounds like you're certainly very open to the
22 potential of that change if that was considered to be something more suitable or beneficial
23 for those to join up the approach in that way, I think that's probably --

24 **MS RYAN:** Just to quickly add to that. I think the lens that we are constantly looking through is
25 what service structure and system within a hauora context will lead to the best possible
26 outcomes. We look at the new Pae Ora legislation, we look at our focus on Pae Ora or
27 healthy futures for the people in prisons, a focus on equity, that's got to be a constant
28 question is how this is best delivered to the people in our prison context for their outcomes
29 and just to be, I guess just to add a little bit further, we are certainly engaged with the Māori
30 Health Authority, we are actively in discussions around sharing some of the journey we are
31 on with developing our kaupapa Māori health service because we certainly don't want to
32 have two different systems operating and wanting to actually achieve some of what you are
33 saying by seeing ourselves as certainly well plugged into the Māori Health Authority and to
34 Whatu Ora and we're also working very closely with the Ministry of Health as well.

1 So, part of our objective is to ensure we are aligned with our colleagues outside of
2 Corrections rather than cutting a path which starts to become disparate from the wider
3 objectives.

4 **MS SPELMAN:** Thank you. On this theme of joined up, which has echoed throughout the week,
5 there was evidence from Oranga Tamariki in the last couple of days talking about their
6 Oranga Tamariki action plan that they are responsible for but essentially coordinates a
7 bunch of different agencies and departments, and the Chief Executive of Oranga Tamariki
8 listed Corrections as one of the agencies involved with that work.

9 I just wondered, and I didn't have that particular document in your bundle because
10 it's just come up this week, but I just wondered, at a high level, that seems like an
11 interesting example of agencies working together in that way, whether the action plans that
12 are listed against Corrections as being responsible to achieve, whether that has happened or
13 whether there has been progress, if any of them have been completed to date?

14 **MR LIGHTFOOT:** I don't have specifics in terms of actions being completed, but certainly in
15 terms of our involvement in responding to their actions, we are absolutely at their table and
16 the examples I think I spoke to earlier about practical cases where we have collective
17 obligations to ensure safe and continued custody between those different settings of Oranga
18 Tamariki and Corrections, that practical application drives us together when we then think
19 about some of the shifts that are identified within Oranga Tamariki's action plan.

20 So, there is a real incentive for the two agencies to be working more and more
21 jointly as we see the opportunity to achieve better outcomes for those in our collective care.
22 But I can't talk to the specific actions, sorry, I've not got them in front of me.

23 **MS SPELMAN:** That's okay. One part of it, not necessarily a specific action, but is around this
24 idea of doing comprehensive needs assessments for tamariki and of course Corrections
25 comes into that in terms of tamariki who have a parent or a whānau member who are in
26 prison. Has there been a shift in practice in that area since this year when it was
27 introduced?

28 **MR LIGHTFOOT:** I would say continuing. So, we work I-- don't want to give the impression
29 that we were starting from a zero base. I can personally attest to a number of quite
30 significant examples where within our Corrections system we have proactively either
31 through our probation officers looking at presentence reporting, or as a result of someone
32 being received into custody, made those really important connections to Oranga- Tamariki
33 to ensure that there is awareness of the movement of a parent into custody and then the

1 connection and thinking about whether appropriate responses have been put in place to
2 support and care for their children.

3 So, there are a number of examples I can think of in that sort of space, but some of
4 them predate the last 12 months that you specifically referred to, so I think we're building
5 from practice that already existed rather than having to start from, you know, an absolute
6 starting point.

7 **MS SPELMAN:** In terms of reintegration, I'm conscious that your main witness for that is seated,
8 which is okay, one of the questions that's come forward today is around what's put in place
9 for those who are released, including those who have been on remand, and a question
10 around why Steps to Freedom, the payment has not changed in the last, I think 20 to 30
11 years, so that's one question. But also, I suppose the practical steps that are being taken by
12 Corrections for that integration in terms of housing, which we know is a major issue, and
13 employment.

14 **MS BARSON:** Kia ora, Rebecca Barson speaking. We offer a range of reintegrative services to
15 support people back to where they want to go. So, in a from- a remand perspective, we
16 have an out of- gate service, all of- our reintegrative services are delivered, offered by
17 providers in the community, so our case managers do assessments of people's needs in
18 terms of what they need upon release and then providers are working with them behind the
19 wire before they're released and then supporting them into the community. That also
20 includes housing and supported accommodation.

21 So, Corrections has moved more into the supported accommodation space, because
22 housing is such a big issue for all New Zealanders, and so we have a range of supported
23 accommodation services across the country who are able to support people upon release.

24 Historically, I think our services have been very focused on individuals being
25 released from prison and we are beginning to take far more of a whānau focused approach
26 to what people needs when they leave our care.

27 About, I think, over 1,400 people a year access our supported accommodation
28 services, so that's available for people upon release.

29 **CHAIR:** Can I ask a question in here, bringing it back to our abuse in care survivors. Many of
30 them have told us that they one- of the effects of being in State care is that they've become
31 institutionalised. So,- they're institutionalised as children, as young people, they go into
32 prison already institutionalised so it's like a double whammy for them.

33 I suspect I know the answer because you don't know actually who are survivors in a
34 systematic way, but I would have thought that those people in particular require special

1 care when reintegrating, because you're dealing with a massive amount of
2 institutionalisation greater than what they would have had had they just had the prison
3 sentence. Is any consideration given to that at this stage?

4 **MS BARSON:** I would say not explicitly. But I know that our providers are often aware of
5 people who have survived experience of abuse in the State care system, and I can think of
6 examples of providers who have helped go through their information in preparation to
7 understand what they've been through, but no, not explicit.

8 **CHAIR:** Do you accept that that might be something that is worth looking at from the point of
9 view of making integration successful for those people?

10 **MS BARSON:** Yes, totally. I think, to talk to what Jeremy's already spoken to, it's extremely
11 important.

12 **CHAIR:** Yes, thank you.

13 **MS SPELMAN:** Madam Chair, there's one more topic but it may take about 5 to 10 minutes and
14 there may be questions from the Commissioners, I am just wondering, given the need for a
15 break, whether we might be able to continue for a short time with the Corrections witnesses
16 after the lunch break.

17 **CHAIR:** If we stopped now and came back at 2.00, would that be suitable? Would that
18 inconvenience any of you?

19 **MR LIGHTFOOT:** At your convenience. If you need to finish at about 1 o'clock then yes, I'm
20 happy either way to carry on or come back.

21 **MS SPELMAN:** Sorry, that was fine to take a break?

22 **CHAIR:** Yes, nothing came out of that conversation. All right, what we'll do is we'll take the
23 lunch adjournment now, instead of 2.15 we'll come back at 2.00, and take 15 minutes just
24 to finish off your part of this before we go on to the next witnesses. Thank you very much.

25 **Lunch adjournment from 12.58 pm to 2.04 pm**

26 **CHAIR:** Tēnā koe ano. Ms Spelman.

27 **MS SPELMAN:** Thank you. Tēnā koutou ano. Before I move on, I just have another question
28 from the public which I'd like to ask. There are two questions, I'm just going to actually
29 ask one and I'll follow up about the other one separately.

30 The question is, does Corrections see the reduction of the prison numbers since
31 March 2020 to have any connection to the Covid response and not, as implied, as a result of
32 the Department's responses to rehabilitation?

33 **MR LIGHTFOOT:** Yes. So there would definitely be a component of that reduction that would
34 be attributed to the conditions during Covid, but we have compared our reduction, and I

1 was recently, just eight weeks ago, over with colleagues in Australia who are operating in
2 very similar circumstances, similar arrangements across those states, and our reductions are
3 markedly different and are greater than any of those other states, and we had quite a
4 conversation about what some of the other changes were in our context as compared to
5 theirs.

6 So, there is no question that Covid has played a part but certainly is not the sole
7 reason for the reduction.

8 **MS SPELMAN:** Thank you.

9 Before lunch we were just talking about future looking points, I suppose, and this
10 idea of joined up all of government response to these major issues. And I think you've
11 noted, Mr Lightfoot, in your brief a reference to the Royal Commission trying to achieve
12 transformative change, so at that very high level.

13 In terms of the systemic and transformative change required across all of these
14 systems, the Care and Protection system, the justice system, do you accept that change
15 needs to be grounded in Te Tiriti o Waitangi?

16 **MR LIGHTFOOT:** Yes.

17 **MS SPELMAN:** And that's part of the ongoing work of course that we've spoken in detail about
18 informing Hōkai Rangī.

19 **MR LIGHTFOOT:** Indeed.

20 **MS SPELMAN:** One aspect of that in particular I just wanted to pick up on was one of the
21 recommendations that came out of the tribunal to amend the Corrections Act to include that
22 reference to Te Tiriti, and I'm conscious that it's been some time since then and that
23 amendment hasn't yet been made.

24 Could you just very briefly explain to us your understanding of the hold up there?

25 **MR LIGHTFOOT:** Sure. Hold up we- are currently in consultation about a number of
26 legislative and regulatory changes, one of those components of our legislative change
27 relates explicitly and specifically to the incorporation of a Te Tiriti- provision within our
28 Act, and it's been specifically articulated in our public consultation about ensuring that
29 elements that require specific focus are elevated and the Chief Executive has clear
30 obligations around it.

31 It is at the consultation phase at the moment, so the opportunity for the public to
32 give their views, we've framed those questions in a specific way, and that will then inform
33 how that ultimately lands from a legislative perspective.

1 So maybe it is slightly slower than was originally envisaged at the point of Hōkai
2 Rangi, but -- and I hesitate to use it, but our collective response and focus during the
3 previous two and a half years on a range of operational matters relating to a global
4 pandemic has probably reduced our pace on some of those aspects, but we've focused on it
5 sufficient to be ready when capacity was in the system to address and it's now very much in
6 the public domain to hear people's views.

7 **MS SPELMAN:** And I suppose regardless of whether that specific amendment is in the
8 legislation, you've stated already that Corrections is committed to honouring Te Tiriti o
9 Waitangi, the Treaty of Waitangi, and upholding its principles.

10 **MR LIGHTFOOT:** Indeed.

11 **MS SPELMAN:** In relation to survivors of abuse in care, including those who experienced care in
12 the former facilities, what does successfully honouring Te Tiriti look like for Corrections?

13 **MR LIGHTFOOT:** Ensuring that their voice is heard and ensuring that we are able to provide
14 responsive service and intervention that does meet their specific needs and I think it takes
15 me back to some of my early points which reflected on the importance of us
16 organisationally being able to see a person and the wider supports that they need, and
17 ensuring that we were hearing the many diverse voices that need to inform our future
18 services and that we don't imagine that we have all of the answers, but that we seek hard the
19 breadth of insights to help generate a stronger service, and that we see, both today and into
20 the future, a stronger relationship with our partner organisation, including iwi Māori, to
21 shape future services and direction for the role we play within a wider justice system.

22 **MS SPELMAN:** Thank you. As part of, I suppose what you've just touched on, those
23 partnerships and the broader calls across the Care and Protection system in particular for a
24 transfer of power and resources to communities and by Māori for Māori approaches, does it
25 follow that part of what success looks like in the future is the role and size of Corrections
26 becoming smaller over time?

27 **MR LIGHTFOOT:** I think at a system level that would be a symbol of the whole system working
28 more effectively to create a safer Aotearoa.

29 **MS SPELMAN:** And we spoke earlier at a high level about the fact from the research that
30 correctional rehabilitation has at best very modest impact on recidivism. And we spoke
31 also about the fact that mass imprisonment or large-scale prisons, or prisons at all, had no
32 place in traditional Māori society or within Pacific traditions. I just am not sure if you were
33 able to watch or be briefed on the evidence of Oranga Tamariki in the last few days around
34 the use of secure and seclusion in residential facilities?

1 **MR LIGHTFOOT:** No, I haven't.

2 **MS SPELMAN:** That's okay. I'll just summarise it generally for you.

3 **MR LIGHTFOOT:** Thank you.

4 **MS SPELMAN:** So part of what the Oranga Tamariki witnesses were questioned about was in
5 those residential facilities through the 50s, 60s, 70s, 80s, that time period in particular, the
6 use of secure units, secure cells, seclusion, in those homes and they were likened to prison
7 cells, there was some reference from survivor evidence to children having a bucket as a
8 toilet, having to eat their meals next to the bucket, not having meaningful interaction with
9 anyone being kept there for a number of days. And there was also some evidence from the
10 Secretary of Education earlier to say that seclusion is banned because it's regarded as a
11 form of abuse.

12 So, there is a question coming, don't worry.

13 The Chief Executive of Oranga Tamariki acknowledged in relation to some research
14 that significant mental health there-- are significant mental health impacts on anyone, but
15 especially children, who are kept in solitary confinement. As a general point would you
16 agree with that as well?

17 **MR LIGHTFOOT:** I would acknowledge that care needs to be taken with the way in which
18 isolation is approached and within our context that is absolutely an appreciated part of how
19 we work to assess all of the different dynamic factors that we are needing to balance. So, I
20 think I would absolutely agree that it is an important factor.

21 **MS SPELMAN:** Sure. And in that context, they were talking particularly, well, for all children,
22 but particularly children with disabilities, there were extra concern factors around
23 struggling to understand what was happening to them, struggling to understand what was
24 expected of them in order to end that.

25 There's been a lot of evidence of this and reflections, I suppose, as a society looking
26 back on the sorts of practices that were done to children, and Oranga Tamariki at least have
27 described the treatment of children in that way as inhumane.

28 Now, I'm conscious that's not your area to comment on in particular, but it does
29 seem in respect of prisons that a lot of those concerns that we heard about at a general level,
30 psychological impacts, of being kept in isolation, we may still have those concerns in
31 relation to prisons today. Prisons, by definition, are a form of seclusion from society,
32 people are isolated, there is cell confinement of course within particular parameters for
33 punishment, for segregation, and I think Mr Beales earlier referred to the impact of Covid
34 staffing around remand prisoners sometimes being kept up to 23 hours a day in their cells.

1 **MR LIGHTFOOT:** Mmm-hmm.

2 **MS SPELMAN:** So just as a hindsight question, I suppose everybody is reckoning with the
3 history of this country about how children were dealt with. Do you think we're going arrive
4 at a point, say 10 to 20 years in the future, where we'll look back on what's happening in
5 prisons and how we keep people in isolation with many of those same risks and ask similar
6 sort of questions about treating people in that way?

7 **MR LIGHTFOOT:** That will be a question to reflect on, I guess. The attributes you describe,
8 and the purpose of this Commission provide us all with the opportunity to reflect and it is
9 not absent existing insights that the Ombudsman has provided, who has oversight
10 obligations on us, about the care and, from his perspective, the harm that can be caused
11 from segregation of people. And I think my response would be we continue to be very
12 mindful of our extraordinary institutional settings and the care with which we must conduct
13 ourselves in accordance with our Act.

14 We are, unfortunately from a societal perspective, charged with those most
15 challenging of obligations of managing people who are placed, as you described, in an
16 extraordinary setting, we have extraordinary powers, which is why we have such oversight
17 of us, and I think it's right that that tension continues for us to be able to test ourselves to
18 see whether there is a different, better and continuing to be evidence informed manner that
19 we can safely, one of our core obligations under our Act, public safety, safely approach the
20 care for people in a custodial setting. If we're able to achieve that balance, then I think we
21 will get better outcomes, but unfortunately in our environment there are an incredible range
22 of tensions that we have to grapple with where we are charged with keeping safely, with
23 dignity and decency, the care of individuals in that custodial setting so that we can achieve
24 a safe Aotearoa.

25 In 20 or 30 years' time, as you described earlier, that might see a shrinking
26 Department of Corrections if all of the other system attributes, if Aotearoa more generally
27 can drive to a different future, then maybe some of these other settings can be adjusted too,
28 and that unfortunately is a reality that we are grappling with today as the organisation with
29 those extraordinary powers and I rely upon oversight bodies to provide critical insight as to
30 the areas we must focus on to improve our performance over time.

31 So, I'm conscious that that is a reality in our world, it is a reality in the way in which
32 we manage, we do it for good and appropriate legislated reasons, so we lawfully undertake
33 this. But I am sorely conscious that we must continue to reflect on the insights that others

1 have about how that might be impacting on our ability to be effective, but today, I don't
2 believe there are safer practices as a result of the environments we find ourselves in.

3 **MS SPELMAN:** Thank you, thank you for the answers to those questions.

4 Madam Chair, I don't have any further questions, but I appreciate Commissioners
5 may have some.

6 **CHAIR:** I'm not sure if we do.

7 **COMMISSIONER ERUETI:** Tēnā koe. I want to say thank you to Department of Corrections
8 for facilitating the Inquiry to have private sessions in prisons, we've been doing that for the
9 last few years, and I appreciate all the work that's been done to assist with that and looking
10 forward to getting back into prisons again.

11 Whenever we've had these private sessions throughout the country, what
12 I frequently hear is that for Māori the effort to try and gain access to kaupapa Māori therapy
13 and also from people with lived experience, so those who have been there before and done
14 that, and I think it's more in the -- we talked before about you've got the rehabilitative focus
15 therapies and then you've got the healing, I think it's more in the healing space, and it's very
16 much about grounding it in mātauranga Māori as opposed to a hybrid of Western science
17 and mātauranga Māori. I wonder if you could just speak to that about responding to that, if
18 you see it as an issue and what you hope to do?

19 **MR LIGHTFOOT:** Juanita, you might want to start from a health perspective because from my
20 perspective, framing the organisation, starting from that Te Whare Tapa Wha sort of
21 wellness perspective and then from there, seeing what other aspects of health practitioner
22 support can be provided, which then takes you probably more into the, my words,
23 criminogenic part of our support.

24 But maybe Juanita starts.

25 **MS RYAN:** One of the actions within Hōkai Rangi is for the Department to develop and
26 implement a kaupapa Māori Health service. So, we have established a Pae Ora Māori
27 Health team and directorate within Corrections and their role and responsibility partly is to
28 develop and deliver on a project which will take us to having a kaupapa Māori Health
29 service within Corrections in the future.

30 We're very intentional about working with our hauora Māori colleagues and
31 stakeholders outside of the Department, so our governance group is made up of expertise
32 from outside of the Department just as much as from within it, from those who bring
33 mātauranga Māori and we're very intentional that has got to be the starting place to address
34 the inequity in terms of what is currently being delivered.

1 Part of the expectation within Hōkai Rangi is that we also look at delivering rongoā
2 practitioner services within the Department and that is something that we'll be looking to
3 establish over the next 12 months. Like any speciality group, we need to ensure that we
4 have good frameworks and practices in place and that's what we are working towards
5 within this particular specialist team now. Because certainly you will have heard, if you
6 have been engaged with our prisons, that is one of the things the men and women in our
7 prisons, who absolutely benefit from some of the Te Ao Pākehā expertise within the hauora
8 service but that's one of the things we've consistently heard as well.

9 **COMMISSIONER ERUETI:** Just briefly, the timeline for having the rongoā is 12 months but
10 for having this new system up and running?

11 **MS RYAN:** The length of, I guess, the project in terms of codeveloping a service and operating
12 model is around about two years away, but what we are trying to do intentionally, is every
13 day, whether it's around how we are recruiting people, whether it's about how we are
14 thinking about enhancing our nursing services, our workforce development plan right now
15 we are intentionally pivoting towards that direction. So, it won't be a sense of unveiling a
16 service in two years, we are working with our teams right now to shift into the identity of
17 that future state.

18 **COMMISSIONER ERUETI:** So, all one place in two years' time?

19 **MS RYAN:** Yes, and like Hōkai Rangi it will also take some time to truly transform into that
20 future, that future state, but certainly we'd expect to be moving forwards an operating
21 model within that period of time.

22 Your other question was around people with lived experience. So within our
23 addiction services we do have peer support workers working out of most of what are our
24 intensive drug treatment programmes and we have those at 12 of our prisons and we are
25 certainly looking at that within our mental health directorate as well, how we might also
26 look at elevating the place of peer support and lived experience to support people who are
27 undertaking a journey of healing within the prison context and we see that would absolutely
28 enhance the outcomes that we are seeking.

29 **COMMISSIONER ERUETI:** Tēnā koe. One last question just quickly with Hōkai Rangi,
30 I wasn't clear whether there is a you-- are developing a process to monitor compliance.
31 You did answer that, but I wasn't sure what the answer was.

32 **MR LIGHTFOOT:** Monitor compliance we-- have an ongoing piece of work to ensure that we
33 can measure the impact that we're having as a result of Hōkai Rangi as a strategy and the
34 six outcomes we have identified. In my answer I acknowledged that we don't yet have

1 those outcome measures embedded in a way that a Public Service organisation that is
2 appropriated for funding can align to the use of those funds. So that is a work in progress,
3 but we are identifying the important outcome measures that will demonstrate that we are
4 having impact around shifting towards those outcomes, yes.

5 **COMMISSIONER ERUETI:** Thank you.

6 **CHAIR:** On behalf of the Commissioners, I-- beg your pardon.

7 **COMMISSIONER STEENSON:** I just have a couple of questions if that's all right. Just
8 building on what my colleague asked around compliance with Hōkai Rangi, so you must be
9 tracking it in some way, I'm assuming. Are we able to get that information, please?

10 **MR LIGHTFOOT:** Sure.

11 **COMMISSIONER STEENSON:** Because it does sound like you have put things in place, it
12 would be good to understand where you are at with that.

13 **MR LIGHTFOOT:** Two sort of areas of focus: one we had 37 do now actions that would give us
14 confidence that we were making material shifts in a whole range of areas. So that was in
15 the first two years of Hōkai Rangi.

16 We, I acknowledge, did not achieve all 37 within the two years, partly again-, not
17 wishing to overuse the Covid -context as- a result of our operating environment, but we are
18 now completed on 27 of those do now actions with really good progress against 8 of the
19 remaining. Two have been impacted by our ability to really truly embed and access people
20 in a prison context in the fullness that we need to to make that -progress sorry--, slowing
21 down, I'm conscious of time.

22 **COMMISSIONER STEENSON:** That's fine. As long as we can get a copy of that, that would
23 be really helpful.

24 And then, with that, it does sound like you've made some inroads into Māori in
25 some leadership roles across Corrections. It would be good to kind of get a ballpark figure
26 on percentages or an idea of what that's looking like.

27 **MR LIGHTFOOT:** Sure. So, we can provide that in terms of the different levels within the
28 organisation and how we're tracking.

29 **COMMISSIONER STEENSON:** Yeah, in order to implement a Te Ao Māori view into any kind
30 of organisation, then obviously that's a key part of that, I think that was mentioned. So, it
31 would be good to understand that.

32 **MR LIGHTFOOT:** Absolutely.

33 **COMMISSIONER STEENSON:** Then finally, I just want to ask a question around your
34 complaints process, because in your statement it talks about how complaints are

1 investigated, this is at 10.3 if that's helpful, on a "no blame" approach, which I guess
2 I wanted to understand for complaints that are of a serious nature, is that still the case?
3 Let's say, for example, a youth experiences abuse, are complaints all dealt with and
4 investigated on a "no blame" approach?

5 **MR LIGHTFOOT:** No, not within the context of the question you're asking.

6 **COMMISSIONER STEENSON:** Okay. Because it does seem a little ironic, that approach.

7 **MR LIGHTFOOT:** Yes.

8 **COMMISSIONER STEENSON:** And so how would it be managed?

9 **MR LIGHTFOOT:** So, we have a number of channels where complaints are processed. The
10 principles within which we operate is a complaint is dealt with at the level where the issue
11 can be addressed as fast as possible, acknowledging the sorts of complaints you're
12 describing would be the ones I would expect to see appear at the inspectorate level rather
13 than reside at a site level.

14 So our complaints process is now managed, and we took that decision for just these
15 reasons, outside of our operational line, our complaints process has now got oversight by
16 the Office of the Inspectorate, and we have resourced that office to ensure that they are
17 equipped to manage reporting on insights around complaints in a thematic level so that we
18 can identify thematic areas of focus, but as importantly, to the point you're making,
19 individual complaints that have significance and seriousness in terms of response are able
20 to be viewed in that light and the connections then that the inspectorate has with other
21 oversight bodies is then fully enabled, and that is I believe the most appropriate way for us
22 organisationally to ensure that we are seeing that separation from operational accountability
23 to an oversight accountability.

24 **COMMISSIONER STEENSON:** So, it goes to them, they investigate it, and then changes are
25 made as a result?

26 **MR LIGHTFOOT:** Yes.

27 **COMMISSIONER STEENSON:** Thank you, kia ora.

28 **MR LIGHTFOOT:** Kia ora.

29 **CHAIR:** To you, Mr Lightfoot, and your people around you, including those in the body of the
30 room, thank you very much indeed. Thank you for the preparation of your briefs of
31 evidence, for the extensive responses to our Section 20 notices, which I know took a lot of
32 time and I know there will be a team behind you who have been working hard at that and
33 I want to acknowledge them and please pass our gratitude for that. Thank you for coming,
34 for making yourself available and accountable and we really appreciate that. You are now

1 all free to go and we're going to take a five minute break while we prepare for the next set
2 of witnesses. Thank you.

3 **MR LIGHTFOOT:** Kia ora. Ka kite.

4 **Adjournment from 2.29 pm to 2.37 pm**

5 **CHAIR:** Nau mai hoki mai. Good afternoon.

6 **MS HEINE:** Commissioners, Ms Heine again.

7 **CHAIR:** Yes, Ms Heine, welcome back.

8 **MS HEINE:** I have discussed with Ms Spelman the best way to organisation ourselves so you and
9 the Commissioners get maximum opportunity for questions and we're proposing that I will
10 briefly identify each of the three women we have in front of you, invite them to introduce
11 themselves to the Commissioners and to those observing.

12 Judge Eivers has a mihimihi and preliminary statement which I think has been made
13 available. So, on the far right we have Judge Eivers. Judge, can I invite you to introduce
14 yourself briefly.

15 **CHAIR:** Shall we just have the affirmations before we start.

16 **MS HEINE:** Yes, of course.

17 **CHAIR:** Get that piece of formality over.

18 **OFFICE OF THE CHILDREN'S COMMISSIONER**

19 **FRANCES EIVERS, FIONA CASSIDY, GLENIS PHILIP-BARBARA (Affirmed)**

20 **CHAIR:** Now, Ms Heine, are you familiar with our practice, newly introduced for this hearing but
21 it seems to be successful, of us all describing ourselves for those who cannot see us?

22 **MS HEINE:** I was, Your Honour, I had introduced myself last time but you're quite right.

23 **CHAIR:** We do it for each session because different people may be watching.

24 **MS HEINE:** Of course, my apologies. I'm a European woman, relatively tall, with medium
25 length dark hair and I'm wearing a blue and white jacket today. Judge Eivers.

26 **JUDGE EIVERS:** Tēnā rā tātou katoa, ko Frances Eivers tōku ingoa. He uri nō Ngāti Maniapoto
27 me Waikato ahau, ko au te Kaikōmihana mō ngā mokopuna o Aotearoa. Greetings
28 everyone, my name is Frances Eivers, I'm a descendant of Ngāti Maniapoto Waikato and
29 Pākehā, I am the Children's Commissioner for Aotearoa. For the audio record, I am a
30 woman old enough to have three full grown sons, I have brownish hair, brown eyes, and
31 I'm wearing a bright green jacket today.

32 **CHAIR:** Kia ora.

33 **MS CASSIDY:** Kia ora koutou, ko Tawhitirahi te maunga, ko Awapoka te awa, ko Pōtahi te
34 marae, ko Te Aupōuri, Ngāti Kurī, Te Rarawa ōku iwi, ko Fiona Cassidy tōku ingoa. I am

1 a middle aged Māori wāhine, salt and pepper hair, slightly overweight, wearing a black
2 dress and a bright red shawl. Ngā mihi ki a koutou.

3 **CHAIR:** Kia ora.

4 **MS HEINE:** And then on the far left we have Glenis Philip Barbara.

5 **MS PHILIP-BARBARA:** Tuatahi rā, ka rere atu taku mihi aroha ki a koutou ngā mōrehu e
6 mātaki mai ana i tēnei ahiahi, tēnā rā koutou katoa, huri noa ki a koutou ngā Kaikōmihana,
7 nei rā te mihi o te Tairāwhiti ki a koutou. My name is Glenis Philip Barbara, a descendant
8 of Te Tairāwhiti whānui, I am a Papatūānuku sized wahine Māori with a moko on my chin.
9 Kia ora.

10 **CHAIR:** This is not meant to be a personal denigration time but thank you.

11 **MS HEINE:** Madam Chair, if acceptable, could Judge Eivers do her mihimihi?

12 **CHAIR:** We are entirely in your hands, kei a koe to tikanga, Judge.

13 **JUDGE EIVERS:** Tuia te rangi, tuia te papa, tuia ngā kōrero, tuia ngā wānanga, kia mau kia ita.
14 Kia kuru pounamu te rongo, mō te orange o ngā tamariki o Aotearoa, tihei mauri ora.
15 Weave in sky Father, earth Mother, weave in the conversation, and knowledge, hold firm
16 and secure. For our mokopuna to live their best lives and be well. It is life, united and
17 ready to progress.

18 Tuatahi ki te pae o maumahara, ko Pōhutukawa tera e tiaho mai rā hei tohutohu mō
19 ngā marae aituā kua whetūrangitia. Kia tātou ngā urupa o rātou mā. Tēnā tātou katoa.
20 Firstly, to those who are of memory, it is Pohutukawa that shines on us to symbolise those
21 who have passed, formed into stars.

22 Tū mai rā Maungakiekie. Rere ana te waka o Māhuhu ki te Rangi e rere nei ki roto i
23 ngā wai o Waitematā. Ki ngā kaihoe me ngā uri o Ngāti Whātua, karanga mai rā, karanga
24 mai rā. E ngā hapū me ngā iwi o Tāmaki Makaurau, me ngā iwi o ngā hau e whā, tēnā
25 koutou katoa. Stand firm Maungakiekie. Let your vessel of Māhuhu ki te Rangi flow in
26 the waters of Waitematā. To the paddlers and descendants of Ngāti Whātua, call upon us.
27 To the subtribes and iwi of Tāmaki, and the tribes of the four winds, we acknowledge you
28 all.

29 Ka whakahōnore to tātou Arikinui a Kingi Tūheitia, te pou herenga waka, te pou
30 herenga tangata, e te kāhui ariki tēnā koutou. We honour Kingi Tūheitia, the rallying point
31 for people, the mooring post for canoes, to the King movement we acknowledge you all.

32 Ki ngā purapura ora me a rātou whānau whānui, nei rā te mihi maioha, te hōnore nui
33 kia koutou katoa. Ko te moemoeā, kua hoki ai te mana me te orange ki ngā purapura ora.

1 To our survivors and your families, we acknowledge and honour you. The hope is that the
2 strength and wellbeing has been restored and will be restored to our survivors.

3 Ki te Kōmihana o te Karauna, nei rā te mihi kia koutou ngā taringa e āta
4 whakarongo ki ngā kōrero pāpōuri, ki ngā kōrero mamae. Kia koutou ngā Kaikōmihana, e
5 āku mareikura, e āku whatukura, e āku rangatira tēnā koutou. To the Royal Commission,
6 we acknowledge you, the many ears who have heard the hurt and the sadness. To the
7 Commissioners, my esteemed and treasured leaders, we acknowledge you all.

8 Nā reira, he kōrero whakamutunga. Tungia te ururoa kia tupu whakaritorito te tupu
9 o te harakeke. Tēnā koutou, tēnā koutou. Kia kaha tātou katoa. A closing statement. Set
10 fire to the bush and the new flax shoots will spring up. I acknowledge you all, and let us all
11 be strong.

12 **CHAIR:** Tēnā koe. Before we proceed any further, I've just received a note to say that the sound
13 on the livestream, in other words what people are trying to listen to as we proceed, is
14 described as terrible and there's a question of whether we should break to try and get that
15 sorted. I'm just going to ask the technology five- minutes? I'm very sorry that we have
16 to- break for that.

17 Judge Eivers, as you were saying your opening comments, I was just thinking about
18 the flax bush that was sitting in front of us here, so I think we're all speaking on the same
19 terms.

20 Anyway, let's take five minutes and try and get the technology right so we don't
21 have to be further interrupted.

22 **Adjournment from 2.45 pm to 2.52 pm**

23 **CHAIR:** With fingers crossed we start again. Thank you, Ms Heine.

24 **MS HEINE:** So, Chair, Judge Eivers just had a short-written statement which will take about five
25 minutes.

26 **CHAIR:** Thank you.

27 **JUDGE EIVERS:** Tēnā koutou katoa. My name is Frances Eivers and I have been the Children's
28 Commissioner for Aotearoa since the 1 November 2021. I was previously a District Court
29 judge working extensively with mokopuna in the court system based at Manukau and
30 working mainly in the South Auckland region.

31 The statements of we three witnesses on behalf of the Office of Children's
32 Commissioner, being myself, our first Assistant Commissioner Māori, Glenis Philip

1 Barbara, and Executive Director Fiona Cassidy, have all been taken as read. However,
2 I want to make some opening comments that go to the heart of what we wish to share with
3 both the Commission and those who have shared their stories.

4 The Care and Protection and Youth Justice system has failed to serve the interests of
5 our mokopuna, and it continues to fail them today. Despite the efforts of many committed
6 and dedicated people working within the system, past and present, it remains in free fall.
7 We must acknowledge the reality that getting it right for mokopuna is beyond the means of
8 a state structure that acts in isolation.

9 To make a transformational change required for our mokopuna to be safe and have
10 every opportunity to thrive, we must ensure that Te Tiriti is the foundation for
11 transformation of the Care and Protection system. A by Māori for Māori approach is
12 required to address the disproportionate number of mokopuna Māori in State care. It must
13 be prioritised.

14 Appropriate training, guidance and support is critical for all adults involved in
15 delivering care for mokopuna in the State system. Places of detention must move from a
16 prison-like system to a model of therapeutic care. We must listen to the voices of
17 mokopuna and whānau and act on what they tell us. They must not have to tell their story
18 again and again and again.

19 A functional mokopuna and whānau centred complaint system is urgently needed.
20 There must be true independent oversight of the Care and Protection system.

21 Finally, Oranga Tamariki and other social sector agencies must make every effort to
22 repair trust, not only with the families they work with, but with Aotearoa at large.

23 As I am on the public record as saying, and echoed by many across the children's
24 rights sector, the State cannot monitor itself. No matter how many non-interference
25 agreements we are told are in place, or assurances that it is independent, the Independent
26 Children's Monitor that will undertake most of the monitoring of the care system is a
27 departmental agency and cannot be independent of government. It is a simple fact that the
28 kaimahi and the monitor are public servants, public servants cannot speak truth to power.
29 They are there to implement the decisions made by ministers who in turn are elected to
30 represent the will of the people.

31 The public does not believe that the new monitor can be truly independent. I'm
32 repeatedly asked why the State is deliberately taking steps to remove any checks and
33 balances on a system that has the most feared powers of them all, that is the ability to take
34 your child away. I have no answer for them.

1 The answers to the challenges before us lie in reforming the Care and Protection and
2 Youth Justice system itself, yet it is the oversight system of the agencies' policies and
3 practices that has become the focus of change.

4 I remain of the view that an effective, well-resourced and fully independent
5 monitor, teamed with relentless advocacy is vital to prevent, address and eliminate the
6 abuse of mokopuna in care. These are an essential part of the process to begin the slow but
7 sure rebuilding of trust in the system entrusted with the care of our mokopuna.

8 I've already noted that public trust has been eroded, but I ask you to look at this
9 through the eyes of those at the centre of the storm, mokopuna themselves.

10 At the end of the matter, mokopuna are experts in their own lives, they know what
11 is happening around them and to them and yet they tell us again and again that they remain
12 silent in front of authority because "No One is listening anyway, why would I share?" But
13 these are the very mokopuna that the system is supposed to be supporting.

14 Please picture in your mind a 16-year-old- Māori rangatahi, his home is chaotic, he
15 has seen and experienced family violence, he has grown up moving from one draughty,
16 overcrowded home to -another if- he's even got a home,- he's- never been sure of where his
17 next meal comes from,- and he's never been told he is valued.

18 Outside of his home people see his family and judge him as the same. Now he's in
19 trouble and he's coming before me in the court. These young people are often treated more
20 harshly because of being stereotyped as bad or just like their parents, but the vast majority
21 of these rangatahi were victims long before they began offending. Their trauma has formed
22 their response to the world around them, a world that has never shown itself to be on their
23 side.

24 Why had no one helped him before? The trouble is they have probably tried, but
25 from an early age this rangatahi trusts no- one, he doesn't see anyone in the system as
26 separate; Work and Income are the enemy; teachers are the enemy because they pry into his
27 family life; social workers,- don't-- trust them, they take you away and he's been told that
28 by other kids what that's like, better to stay silent and stay where he is, at least he
29 understands that place.

30 The story is a familiar one, many of you will have heard it before and perhaps we
31 are inured to the tragedy, but for him this is his unique story, his personal pain, and we
32 must never forget that.

33 Part of his suffering is a lack of trust in a system that is not built for him, does not
34 talk to him in a language he can trust and understand. If he cannot trust the system and the

1 people within it, it is not down to him to change, it is up to us to change, so that he can be
2 heard and he can be supported.

3 This does not happen enough, and we are losing these rangatahi by effectively
4 abandoning them by not connecting with people who can work with them, can be heard,
5 and can effect change.

6 I, for one, will continue to take whatever steps I can to demonstrate to them that the
7 system can change and that we are on their side, and we do have their backs. Ultimately,
8 we need to listen more deeply to what children tell us and stop telling them what we think
9 they need.

10 Children and young people in care have a wisdom and perspective that adults can
11 learn from. To walk the talk myself, my staff regularly meet with rangatahi and hear their
12 voices and I just want to tell you some of what's come from the voices of these rangatahi,
13 about how they would want to live, they could live a good life.

14 The big message is give kids a choice. "A good life to me is having the same
15 opportunities as everyone else. I've done all of these things but nothing changes. Will all
16 of Oranga Tamariki make a change? No little white lies? I want support, stability and to
17 be loved unconditionally. When a child is supported and feels the love, they are capable of
18 anything. I think the one thing children and young people need to have good lives now and
19 in the future is safe communities and environment. A lot of support from mental health
20 people as well as parents who can't handle stress or their anger, lots of counselling at school
21 and at home for young people. We need to break the cycle by providing these needs.
22 I want a safe place for everyone to feel free to voice their opinion, give the young
23 generation the chance to have a lot of great experience but they should have a great meal to
24 start the day off and motivation to aim higher for their career path."

25 These are words from our mokopuna.

26 We welcome a future where the monitoring of State care is not necessary in the way
27 that it is so desperately needed right now. Until then we should all be committed to
28 championing a vision of a better Aotearoa New Zealand where all mokopuna are listened
29 to, accepted, loved, safe and able to be supported by their whānau.

30 In closing, I want to stress that there is hope if we listen to the voices of our
31 mokopuna. As a mokopuna in care told us so clearly, she wanted support, stability, and to
32 be loved unconditionally. When a child is supported and feels the love, they are capable of
33 anything. We must keep mokopuna at the centre of our thinking. Tēnā koutou.

34 **MS HEINE:** I think I can now hand over to Ms Spelman.

1 **CHAIR:** Thank you. Kia ora, Ms Spelman.

2 **QUESTIONING BY MS SPELMAN:** Kia ora anō. Tēnā koutou, nei rā te mihi ki a koutou kua
3 whai wā ki te haere ki konei ki tēnei o ngā wahanga, tēnā koutou katoa. Just for those who
4 might be tuning into this session who weren't here this morning, my name is Julia Spelman,
5 I'm one of the Counsel Assisting, I'm a woman in my mid 30s, of Māori and Pākehā
6 descent, and I have brown hair, a green dress and a black jacket on today.

7 Judge Eivers, thank you for those introductory words, that's set a foundation for
8 where we're going. I'd like to start by talking about independence, because I think that cuts
9 to the heart of what the concerns are that you bring with you today, and that's particularly
10 timely of course, because while the Royal Commission has been sitting this week, there's
11 been the news of the third reading of the bill in question.

12 So, you've outlined just at a high level some of those concerns around why having
13 independence, an independent monitor is so important. I just wondered if you could
14 comment in relation to the safeguards that have supposedly been put in place, such as the
15 non-interference agreement, I think you said, and why you still hold concern about the new
16 arrangements.

17 **JUDGE EIVERS:** The Independent Children's Monitor, I welcome the fact that the investment
18 has gone into having a monitor set up that covers the country as fully as it does and the
19 work that's been done, but my concern, and I've said this from day one and I still say it, is
20 that at the end of the day, it's a Government agency, the employees within the Independent
21 Children's Monitor are public servants, that is their responsibility is to Government. I
22 would prefer to see the Independent Children's Monitor as an independent entity, so an
23 independent entity is a step back from Government and doesn't have that same obligation to
24 ministers and to policy that a public servant has.

25 **MS SPELMAN:** And another part of the discussion there's been around the new arrangements
26 and the set-up has been around this idea of separating the advocacy function from the
27 monitoring function, and what that means for an independent monitor. I just wondered if
28 you could provide your comments, because of course the view has been put that that can't
29 work well together, those two, that there's a conflict which causes trouble.

30 **JUDGE EIVERS:** Those of us who are advocates or have been advocates know that the best
31 evidence informs your advocacy and that would be, in my view, an ideal model where the
32 two work together. I mean, now that the law has the-- bill has gone through, there is an
33 obligation within the bill for the Independent Children's Monitor, the Children's

1 Commissioner and the Ombudsman to work together and that will happen. But the
2 advocacy role is one that requires good evidence.

3 It is a matter really of those functions are broken up, so instead of it all being in one
4 agency, we've now got three agencies, where our whānau have to navigate their way
5 through three agencies. That's my real issue there.

6 **MS SPELMAN:** Another aspect you touched on was encouraging us all to look at things from the
7 perspective of the child, the mokopuna at the centre of things. What have been some of
8 those concerns from that the from-- a child's perspective that your officers heard about the
9 new arrangement, could you just give us a bit more detail on that.

10 **JUDGE EIVERS:** I may have to come back to you on that because I'm not sure that we have
11 canvassed that with our mokopuna. We're around asking them other things about Covid-19
12 and matters of education, so I'm not sure. Glenis, do you know if we've asked?

13 **MS PHILIP-BARBARA:** There has been general conversation, but we certainly have not, in my
14 time at the OCC, set out to investigate that fully.

15 **MS SPELMAN:** So, it's more the views that mokopuna have expressed about their general
16 challenges navigating all of these systems and your concern that having it split into three
17 agencies makes it perhaps more complicated rather than easier to navigate.

18 **JUDGE EIVERS:** Correct, and in my experience, actually as a judge in the Care and Protection
19 and Youth Justice Court, showed me that too. I don't know how many times whānau said
20 in the courtroom, "I am tired of telling my story, I see a different person every week" and
21 you really feel their frustration and it's not fair.

22 **CHAIR:** Could I ask a question, please, about the splitting up of these, well, the fact that there are
23 three agencies working. You will be more familiar with the new legislation than I. To
24 what extent, and you say that you will be working together and talking to each
25 other,- to- what extent does the legislation require and facilitate that interaction between
26 those three agencies and to what extent does it rely on personal relationships and goodwill
27 for it to work?

28 **JUDGE EIVERS:** Judge Shaw, I can't remember the section but there's an obligation on the three
29 agencies to have a memorandum of understanding. So, there is that legislative obligation
30 but, of course, we know that anything like that will depend upon the goodwill of the
31 agencies and certainly that everyone will go in with the right with- that goodwill, because
32 it's very -important well-, as Commissioner of Children, it's what is best for our mokopuna,
33 and you have to- work with the model that is there.

1 **CHAIR:** What about information sharing, because you've already said that a good advocate needs
2 good information, so that implies that you're going to need information from each of those
3 other agencies in a form that your office can use to be an advocate. How do feel about that
4 in terms of what is required under the legislation and arrangements made?

5 **JUDGE EIVERS:** That will be done and that is a requirement but, of course, it just slows down
6 the whole process, and again, I suppose the Independent Children's Monitor is looking at
7 looking through the lens of a government agency and their recommendations will be as a
8 public servant, whereas an independent agency has more freedom, perhaps, to express
9 things differently and more directly.

10 **COMMISSIONER ERUETI:** And you clearly are concerned about the quality of the evidence
11 that will be gathered by the independent monitor?

12 **JUDGE EIVERS:** The integrity of the work they do is good, I don't want to criticise that. I'm just
13 concerned from a general point of view really, and looking at the model that has now been
14 brought into law, that for a start, it's one step removed, it's an extra agency, there will
15 be,- they will determine what will be looked into, and there will be,- the --lens will be as a
16 public servant as opposed to an independent agent who really doesn't have to have the same
17 consideration about government policy or obligation to the Crown.

18 **COMMISSIONER ERUETI:** I think this issue came up when we met with the Monitor about
19 quality of evidence because of the questions of trust of communities, and the lack of
20 independence about whether children will trust this new entity and then, of course, whether
21 Māori will trust the new entity because of the history of distrust, and the apparent lack of
22 independence, meaning, "Can I speak to this entity?" So that means that the evidence
23 gathered, there is this question about how complete it might be and informed.

24 **JUDGE EIVERS:** Potentially, I think that would be correct. It's not that they've got as-- I say, it's
25 nothing about the integrity of the work that will be done by the Independent Children's
26 Monitor, it's about how far they can go, and I come back to that point, really, about the
27 State not monitoring itself.

28 **CHAIR:** Thank you.

29 **MS SPELMAN:** Thank you. So, I suppose I'm just conscious as well for those who are watching
30 at home and this talk of a bill, for those who might not be familiar with all the detail of that,
31 what are the changes for the Office of the Children's Commissioner once that bill does
32 receive Royal Assent?

33 **JUDGE EIVERS:** Under the Children's Commissioner's Act 2003, the Children's Commissioner's
34 Office or Children's Commissioner has the responsibility to advocate for all for- all

1 mokopuna in Aotearoa under the age of 18 to advocate for their rights and interests, to
2 investigate any complaints, to monitor and -to monitor- the procedures and practices of
3 Oranga Tamariki. There are other obligations, but these three are now going
4 to,- these- three functions are being split -between advocacy- remains with the Children's
5 Commissioner, or Commission as it will be,- complaints and investigation will go to the
6 Ombudsman's Office; and monitoring of the practices and procedures of Oranga Tamariki
7 will sit with the Independent Children's Monitor.

8 **MS SPELMAN:** And there will be still some monitoring role for OCC in relation to your other
9 monitoring function?

10 **JUDGE EIVERS:** Yes, the Children's Commissioner has the mandate under the OPCAT, the
11 Optional Protocol for Crimes Against Torture, which was given to the Children's
12 Commissioner by the Ministry of Justice, and we do do that. It's essentially- my team
13 within the office go to all of the places of detention to check that young people or rangatahi,
14 mokopuna, are not being harmed or there's -torture basically-- their well-being.

15 **MS SPELMAN:** In the response from the Office of the Children's Commissioner there's a helpful
16 reflection on the history of the office from 1989 through to today. I just wondered in
17 relation to your comments about independence, you say that the independence of the
18 Children's Commissioner has been a cornerstone of the trust of the public, but also
19 obviously of children. I just wondered if you wanted to offer any thoughts on that in terms
20 of the history and build-up of that, given that we're now looking at this new change with
21 three new agencies, what is the potential of loss of that history over the last 30 odd years?

22 **JUDGE EIVERS:** Each of the Commissioners before me, and I acknowledge each and every one
23 of them, have been strong advocates for mokopuna. An example of some of the matters
24 that have changed or issues, or changes, for Aotearoa is the repeal of Section 59 of the
25 Crimes Amendment Act, so not being able to use discipline, physical discipline on children,
26 on mokopuna.

27 A lot of work was done very early on in terms of child poverty and health by
28 previous Commissioners which eventually led to the Child Poverty Reduction Act. There's
29 also a Child Poverty Monitor.

30 And there were also changes to Oranga Tamariki Act as a result of advocacy
31 through the Children's Commissioner's Office. And I suppose the Children's Commissioner
32 has always been an identifiable person, so that a young person goes, "That's my
33 commissioner", you know, "That is my commissioner", and I come back to we need to look
34 at this through the eyes of our mokopuna.

1 **MS SPELMAN:** Thank you. So, you mentioned before of course that now that that bill has gone
2 through work will be underway in terms of the new arrangements, and one point that's
3 come up this week is about a potential gap in monitoring of what can be done by the
4 Independent Children's Monitor, and that's in relation to Section 396 providers who do not
5 have delegated authority from the Chief Executive of Oranga Tamariki.

6 So, I know you have these general concerns that you've described about the future
7 of monitoring for mokopuna. And I just wondered if you had a comment in terms of a
8 potential for risk of abuse and neglect in relation to 396 providers who may there- may- be
9 a bit of a gap there in terms of how they are monitored.

10 **JUDGE EIVERS:** I'm not sure that Glenis--, do you know anything about this?

11 **MS PHILIP-BARBARA:** This is a concern. If we are going to properly monitor an entire
12 system, it's unacceptable to have gaps. Where entities have been engaged to provide care
13 and other services for mokopuna and their whānau it's really important that they are
14 covered by the monitoring system to provide confidence and trust and to build that into the
15 system. So, it is a concern, the gap.

16 And certainly, for the Office of the Children's Commissioner, our monitoring focus
17 has been on places of detention due to resource constraint rather than a lack of capacity to
18 stretch out across any gaps that might appear.

19 **MS SPELMAN:** Thank you for that, and that seems to be, I suppose, the other big-ticket item
20 here is the statements that you've made in the response and in your brief that from the
21 beginning, in your view, the Office of the Children's Commissioner has never been funded
22 properly to carry out the mandate that it has. And I just wonder if you could touch on that
23 in terms of the initial point from 1989 of what it was set up to do in the first place.

24 **JUDGE EIVERS:** Yes, that has always been a concern but I'm going to ask Fiona Cassidy to
25 speak to that because she's got the information on that.

26 **MS CASSIDY:** Kia ora. When the Children's Commission was set up in 1989 the purpose behind
27 it was to actually have a voice. It started with \$500,000 and five people. During our
28 preparation for this Commission, we heard from kaimahi and staff who have been involved
29 in its establishment since then.

30 In 2003 we were given broad legislative functions to monitor and assess the policies
31 and practices of the State care, and until 2007 we were focused predominantly on the
32 Section 13 mandate under the Children's Commission, and then we became a National
33 Preventative Mechanism, but we did not get the funding to actually be able to meet our
34 mandate.

1 As it currently stands, we the Office of the Children's Commissioner monitor 33
2 places of detention, 25 under Section 13, but all 33 under OPCAT.

3 What that has meant for each Commissioner is they have had to make choices about
4 how they spend that funding. And all of them have chosen to look at what is possible to
5 make the most significant difference. That difference has been looking at those in State
6 care. And through that work of those who have gone before us and those currently, what
7 we have seen is that the Children's Commission, which is only small, that started with five
8 people and currently has 29 and at its maximum three years ago had 34, has ensured that
9 the children's voices, our mokopunas' voices have been heard, and they have been heard at
10 the highest level and they have made a difference.

11 Just imagine what would have happened if we had been given more funding. Over
12 the years we as an organisation have asked for more funding and, as you will you know, it
13 is a difficult task. There is not one Children's Commissioner that at any point in time didn't
14 ask, within very small margins, to be able to do more.

15 The funding we have got did not necessarily come forward and what it allowed it to
16 do was the Commissioners to pick particular projects.

17 So, in terms of a small organisation, it has not shied away that at the middle, front
18 and centre of what we do is mokopuna.

19 I would also like to add and possibly, if I may, to ask-- Glenis in her former role to
20 talk about our difference and our difference is we come from a Māori Te Ao kaupapa.
21 We're not mandated by a government agency; we're mandated by what is right for
22 mokopuna.

23 I wonder, Glenis, if maybe you could talk a little bit about that.

24 **MS SPELMAN:** Thank you, ae.

25 **MS PHILIP-BARBARA:** I suppose beginning with the idea of calling all the children who we
26 seek to give voice to, to advocate for, "mokopuna", the coining of the term, it's an old, old
27 kupu and some of my aunties asked me, "Babe, why this word 'mokopuna'? You know, are
28 you trying to gather up the country's mokopuna?" I said, "No, what we're trying to do in
29 this system that we are a part of is bring all of those mokopuna, all 1.2 million of them
30 closer to us, so that we can give them the same regard and accord them the same mana as
31 we do to our own.

32 So that centring, that Te Ao Māori view, is about considering all of the tamariki of
33 Aotearoa our mokopuna, so bringing them, drawing them closer to us. So that way of
34 working is relational, deliberately so, so that when our people go out to places of detention,

1 we invest the time, we create the space, we play volleyball, we hang out on the basketball
2 court, we sit and we create space and we listen, not just with these two things on the sides
3 of our heads, but with our ngākau too.

4 Because building trust with young people who have been hurt, who have been
5 abandoned, who have been mistreated is a tough job, and for this tari, the Office of the
6 Children's Commissioner, it's taken over 30 years to build that trust in our community, and
7 that trust has been built through centring the mana of mokopuna and whānau and listening
8 with all of our being every time.

9 **MS SPELMAN:** Tēnā koe i tērā whakautu. It seems as well that within the haerenga that the
10 office has been on in the last sort of 10 years particularly, and especially with your
11 appointment, whaea, that the internal capacity of the office, particularly with recruiting
12 more Māori staff and really building that capability, has put the office in a stronger position
13 to engage in the way you've described. Is that sort of part of that journey internally?

14 **MS PHILIP-BARBARA:** Yes, and through the, you know, the work that went into responding to
15 the Section 20 request, we had the privilege of meeting Māori staff throughout the years
16 who operated with those same principles at their heart, who developed the concept of mana
17 mokopuna as the core of our monitoring framework, who have taken and built that
18 approach over time in partnership with our communities and our whānau.

19 So, it's not about acting in isolation, it's actually about listening and responding and
20 constantly evolving that approach.

21 **MS SPELMAN:** And part of, I suppose, the budget constraints and the issues that come with it
22 seem that, as often happens within agencies, it's Māori staff who carry the burden of that
23 extra work to get done what needs to be done for mokopuna. Has that been something
24 experienced by your tari as well?

25 **MS PHILIP--BARBARA:** It would be fair to say that the staff of the OCC over years, and we've
26 met some fantastic people as a consequence of the Section 20, are passionate, are
27 committed, and have heaps of aroha in their heart. And so yes, that is that's-- a matter that
28 we have been concerned about over years, the extent to which small numbers of staff carry
29 a massive workload, and, you know, burden of the ngākau is how I would describe it, that
30 sense of, yeah, taumaha for the things that they hear, for the things that we see, for the
31 things that mokopuna tell us.

32 **MS SPELMAN:** And just in terms of the budget points that you were making before, I'd just
33 wanted to clarify two of those if I can. It may not be clear to everyone who's watching how
34 exactly the OCC goes about budgets and being where-- it sits within the system and budget

1 bids, that sort of thing, but that seems quite important to this point you are making, so
2 I wonder if you could explain that a little more for us.

3 **MS CASSIDY:** Kia ora. So, the Ministry of Social Development are our monitor, and we are
4 given a set sum of money to actually perform our functions each year. What we have done
5 for many years is put in what they call a budget bid, so for those of you who are not
6 familiar, that is an opportunity to try to get more funding. We have put in our submission,
7 every time we have asked for funding it has been minimal, and what it has all gone towards
8 is actually allowing the tari to continue to operate at the level we talked about, which is
9 looking after our requirement -- no, not our requirement, after our chosen OPCAT function,
10 and also what it has allowed on one or two cases is to do significant pieces of work.

11 So, I think some of you will know that over the years the Office of the Children's
12 Commission has done some, and it comes back to the advocacy, they have done pieces of
13 work which take the voices of children and have brought about change, whether that be for
14 a good life.

15 Glenis, could you just talk about a couple more during your time?

16 **MS PHILIP-BARBARA:** I think the State of Care reports are significant in terms of what we're
17 discussing here that constant monitoring of the residences and the broader system of State
18 care has been an important feature. We produce a report after every single visit to a
19 residence or a place of detention and have done so for many, many years, and so over time
20 there are significant themes that have emerged from all of that reporting, which inform our
21 lens and the things that we are concerned about as we head off into the year following.

22 **CHAIR:** Ms Spelman, if I could.

23 **MS SPELMAN:** Of course.

24 **CHAIR:** Whaea, you talked about the MSD being your monitor and that was raised when our
25 MSD witness came up, I meant to ask then what that meant, but from is-- it monitor or
26 administrator?

27 **JUDGE EIVERS:** Yes, Judge Shaw, the monitor is appointed because we're an Independent
28 Crown Entity.

29 **CHAIR:** That's right.

30 **JUDGE EIVERS:** So, it is the word "monitor" so our funding bid has to go through the monitor,
31 so through MSD in this case, to Treasury.

32 **CHAIR:** Does MSD provide any back office services?

33 **JUDGE EIVERS:** Oh yes, they do. They do, but of course it goes to Treasury, we've got to, sort
34 of, you know, as is appropriate.

- 1 **CHAIR:** Sure. And your budget would be you- would carving- off a bit of your budget to pay
2 back to MSD for those services, I expect?
- 3 **JUDGE EIVERS:** Do we?
- 4 **CHAIR:** Yeah, you do.
- 5 **JUDGE EIVERS:** I know we pay rent.
- 6 **CHAIR:** So, the use of the word "monitor" is becoming a supercharged word around here.
- 7 **JUDGE EIVERS:** It is, yes, I see.
- 8 **CHAIR:** That's right. So, I just wanted to be clear what you meant by "monitor" in this context. I
9 think it's important we get that clear.
- 10 **JUDGE EIVERS:** Yes.
- 11 **CHAIR:** So, who's best placed to explain what that means?
- 12 **MS PHILIP-BARBARA:** So, the role of the monitor in this instance is to monitor the
13 performance of the Independent Crown Entity, because of course we have to on an annual
14 basis report against our statement of performance expectations and against our strategic
15 objectives. We report to the Minister for the use of public funds, which is prudent, given
16 that we are an independent entity.
- 17 **CHAIR:** It's the Public Finance Act responsibilities.
- 18 **MS PHILIP-BARBARA:** Yes, so it's an accountability relationship as well as a funding one.
- 19 **CHAIR:** So, is the monitoring just in relation to the Public Finance Act or is it beyond that; do
20 you know?
- 21 **MS PHILIP-BARBARA:** Well, included in the Public Finance Act, as you'll be aware, is a
22 responsibility to perform the functions for which we have been funded. So, there's a
23 performance aspect in there too.
- 24 **JUDGE EIVERS:** We can come back to you with the detail on that, Judge Shaw, but I know
25 when I first was appointed and I had I- was trying to understand what a monitor was, I sort
26 of saw them -as I- see the monitor as a bit of an overseer, so the relationship is one of
27 support, but it's also the vehicle by which we get funding.
- 28 **CHAIR:** That's right, and that's really where I'm coming to. So, you are beholden to the Ministry
29 of Social Development for the budget bids and the advocacy on behalf of the Office for the
30 budget bids to the Minister?
- 31 **JUDGE EIVERS:** Yes, it goes through MSD.
- 32 **CHAIR:** That's right. Okay. Thank you very much.
- 33 **COMMISSIONER ERUETI:** May I just quickly intervene with a question. I'm triggered by or
34 prompted by the State of Care report, whaea, about a valuable resource. I did wonder when

1 you're talking about limited funding and choices you have to make about where you focus
2 your energies, it does seem to me that there's been a lot of attention on the residences over
3 the years, which is important because of its, you know, the inherent danger within them.
4 But also, the foster care system and 396 providers is another very large area for tamariki
5 that hasn't been able to have the same sort of attention from the office. Do you think that
6 it's-- that fair?

7 **MS PHILIP-BARBARA:** I think that's very fair. I mean, the Commissioner can speak to this
8 herself, but over years as we interviewed previous staff, weighing up where we were most
9 concerned for the safety and wellbeing of mokopuna, those in detention, in places of
10 detention have occupied a lot of our thinking and concern, because of the removal of a
11 person's freedoms and liberties and the culture that can exist in spaces like that, that's where
12 we've chosen to focus our attention.

13 **COMMISSIONER ERUETI:** Tēnā koe.

14 **JUDGE EIVERS:** I can talk to that in terms of my discussions with previous Commissioners and
15 it was a fact of priority, because Section 13 is huge, it places the responsibility to monitor
16 the practices and procedures of Oranga Tamariki. Of course, if you're not funded to do
17 that, one has to prioritise, and it was decided that that was the best way forward. Having
18 said that, there are also thematic reviews that were done at times, Te Kuku O Te Manawa is
19 an example.

20 **COMMISSIONER ERUETI:** Yes, kia ora.

21 **MS SPELMAN:** Just on that point raised by Commissioner Erueti, I suppose the other half of it is
22 the OPCAT designation and the fact of having to do that monitoring. But I know one thing
23 you pointed out in your statement was the lack of funding once that designation landed with
24 the Office. So, I just wonder, because that seems, again, quite an important point, just to
25 play out so everyone can understand. Whoever would like to --

26 **JUDGE EIVERS:** I'll ask Glenis to speak to that because she was in charge of that at one point.

27 **MS PHILIP-BARBARA:** At one point, yes. So, my understanding is that when the designation
28 was first given, we were already doing Section 13 monitoring, and so the thought was, in
29 order to make good use of public funds, we would effectively be monitoring under the
30 OPCAT designation together with Section 13 monitoring, we would undertake them
31 together. Actually, if you're familiar with our reports from those visits of that time, you'll
32 see this blending, blended approach to our monitoring visits.

33 As time has gone by, you'll see a shift towards OPCAT monitoring being the
34 primary focus.

1 **MS SPELMAN:** And that can correspond, I suppose, over the years with each Commissioner
2 setting their own priority and agendas which might mean more of a focus on other things
3 and then that OPCAT work has to sort of carry on on its own.

4 **MS PHILIP-BARBARA:** Correct, it is finely balanced because young people talk to our office
5 on a regular basis and do raise their own concerns with the Commissioner of the day.

6 **MS SPELMAN:** And I suppose a related point is noted in your statement about the United
7 Nations Subcommittee on the Prevention of Torture, this is back in 2013, but a concern
8 around if that funding situation is not remedied, that would put New Zealand in the
9 inevitable position of being in breach of those obligations.

10 In terms of the issues we've gone through about the current process for budget bids
11 and going through MSD, just one other point that I wanted to talk to you about was, you
12 mentioned, whaea, about the mana mokopuna approach and the work and mātauranga that's
13 gone into developing that, and I suppose the other side of it is the longer that that work
14 takes in terms of building up trust and relationships, it is inevitably a more expensive
15 process, so to speak.

16 And I understand there was some pushback from MSD in terms of the Office
17 seeking further funding to continue that work and having to justify why that was
18 appropriate. Can you just talk us through that tension a bit more?

19 **MS PHILIP--BARBARA:** I suppose there is always, when we are working with public funds, a
20 tension between efficiency and effectiveness. We're no different to anybody else. And we
21 know from our from- our mokopuna- centred work that the way that we monitor places of
22 detention simply takes more time. So,- three days is the minimum amount of time that we
23 will spend in a place of detention. And we generally take a team of up to four, sometimes
24 more, depending on the numbers of young people in a place of detention, particularly the
25 larger residences.

26 When we go into those spaces, we have to invest the first day in actually just
27 spending time with young people, being in their space, like I said before, playing
28 volleyball, I'm really bad at volleyball but playing volleyball, playing basketball, spending
29 time sharing a meal, that kind of thing, because every mokopuna in that place determines
30 for themselves whether or not they choose to speak with us. So, our ethical approach is in
31 line with tikanga Māori and kei ngā mokopuna katoa te mana. So, they get to determine
32 whether or not they want to participate in the monitoring that we are undertaking.

1 If we don't generate space and time to allow them to ask us their questions to clarify
2 their understandings of what we are doing, it's very seldom that we- believe that if we don't
3 create that space,- we are unlikely to have mokopuna speak with us.

4 Because we take this approach, we generally have good engagement. And if we
5 begin with the voices of mokopuna it allows us to consider what the focus of our adult
6 interviews might need to be. So that's what we mean by mana mokopuna, we listen to the
7 voices of young people first and foremost and then we reflect on what they've told us in
8 their formal interviews and in conversations, and that gives us a steer in terms of where in
9 that system we need to look next to confirm or clarify things that they may have told us.

10 **MS SPELMAN:** Tēnā koe. So, I wonder, then, in terms of the office now and these challenges
11 we've spoken about, what sort of changes to the way funding is done would you be looking
12 for that you've spoken to in terms of improving the issues that you've identified?

13 **MS CASSIDY:** One of the difficulties now is we're in a new environment because of the bill.
14 And what we do know is there are things that may or may not be picked up by that. I'd just
15 like to bring up, if I may, the grievance process and the fact that throughout all of the work
16 that we've done what we've found is that it needs an overhaul because it is not mokopuna
17 centred.

18 We as an organisation believe that we have a significant opportunity to be part of
19 what is going forward, but it will not happen unless we figure out in this new paradigm how
20 we work and who gets listened to. I just want to build on what Glenis said, that what we've
21 got, which I don't believe the other organisations have, is we have the trust of mokopuna.
22 That's not going to come overnight, because we change legislation. So, the three entities
23 need to figure out how that's going to work.

24 The other point, though, around funding is that OPCAT is actually an
25 internationally recognised monitoring system. It's not going away, and we as a country
26 have a commitment to ensure that our mokopuna do not have crimes of torture or inhumane
27 behaviour is actually settled on them. That is our commitment at this stage to maintain.
28 And it is very difficult within this particular funding round.

29 **MS SPELMAN:** Yes, I'm conscious it's very much a changing situation at the moment. But I just
30 note one of the earlier comments in terms of funding being ringfenced, especially in terms
31 of that monitoring of mokopuna because it's, correct me if this is wrong, but in your view
32 not appropriate for that to be part of a contestable budget bid process, given the importance
33 of that work.

1 **MS PHILIP-BARBARA:** You would think, with international obligations and just the fact that
2 most New Zealanders don't realise that we have young people in places of detention in this
3 country, that we would ringfence and prioritise the monitoring of those places.

4 **COMMISSIONER ERUETI:** Could I just seek clarification, the grievance panel that's-- the
5 panel attached to the residences, right? Are we able to have a kōrero about the overhaul
6 that's needed at some point? It's coming?

7 **MS SPELMAN:** I've got it in my sights, don't worry.

8 But just finally on the funding point, I think this is the other aspect, I know, Judge
9 Eivers, you noted in your statement that you welcomed the significant investment in terms
10 of the Independent Children's Monitor but of course that also raises questions in the times
11 when in previous years the Office of the Children's Commissioner has been pushed back
12 for funding and the funding was there, it's just gone to a different part of the system.

13 **JUDGE EIVERS:** That's correct.

14 **MS SPELMAN:** Thank you. So, if Commissioners don't have other questions about
15 independence and monitoring, possibly there are? Yes? I was going to turn after that to
16 complaints, including the grievance panel, so perhaps it's best to have some questions on
17 those other points now.

18 **COMMISSIONER ERUETI:** It is interesting that, so- you still have a monitoring function, and
19 it's overlapping with the Independent Monitor, so there's that question of trying to work that
20 out. And of course, you've spoken a lot about the 30 years of effort going into making a
21 tamariki/mokopuna- centred complaints process, which of course raises for us the new role
22 for the Ombudsman who's been specialising in complaints processes -for since- the Office
23 has been established, but not focused on tamariki. So,- I think we might come back to that
24 later, about this new role under the legislation.

25 **JUDGE EIVERS:** Can I just say, just listening to the kōrero about this, and it has been a concern
26 of the Office and one that we've raised, but the fact is now that mokopuna have to talk to
27 three different groups, whereas the expertise is already within the Office of the Children's
28 Commissioner and we have a special team of really young, you know, experienced, skilled,
29 young people mainly, who go out and speak to mokopuna and the mokopuna relate really
30 well to them. So, they're going to have to relate to them through our OPCAT process, to
31 the Independent Children's Monitor through their process, and also through the
32 Ombudsman.

33 So, it's the model that I'm concerned about in terms of the mokopuna.

1 **MS PHILIP-BARBARA:** Can I just add to that briefly that actually the engagement of
2 mokopuna, the ability to build trust reasonably quickly so that a young person will share
3 their thoughts and concerns with you is a specialist skill, as is receiving and processing and
4 analysing complaints and investigating of course. So, these skills need to coexist in a
5 superhuman in order to, yeah, for us to actually get to the grist of things.

6 **COMMISSIONER ERUETI:** Kia ora.

7 **COMMISSIONER STEENSON:** My question's just around so- you've said with funding you've
8 only been able to prioritise one particular setting and there's so many other settings, as we
9 know from this Commission of Inquiry. So, I'm just wondering whether you feel that,
10 firstly, do you think the new model will be adequately funded to expand those settings,
11 I mean -given the, what- we have learned is the cost of tamariki who become adults with
12 trauma,- and they end up in prison and they end up on other sad pathways, and the
13 intergenerational impacts as well, the cost is significant.

14 So yeah, just trying to understand, will those settings be expanded do you think, or
15 is it still very much in that unknown space; and then secondly, do we know the numbers of
16 those settings where children, tamariki are not actually being monitored?

17 **JUDGE EIVERS:** I'd say, Commissioner, that well-, definitely the funding is there now for the
18 Independent Children's Monitor, so they've been allocated, I think \$44 million over four
19 years; we get \$3.157 million a year for everything. So, I'm really pleased the funding has
20 gone there, whether it's enough is an unknown because that would have to be looked at, and
21 so on. It seems like it would definitely be good in -roads into there.

22 Oranga Tamariki and its processes and procedures need to be completely
23 overturned, in my view, as Commissioner. It hasn't worked, we know that, for our
24 mokopuna in State care for the last 30 years, so we really have to look carefully at what
25 will work and we've had numerous reports that tell us, for example Wai 2915, we've had
26 Kahu Aroha, we've had numerous reports that are telling to us look at things differently but
27 that's going to require a huge change. I think Dr Cooke referred to it on the first day as
28 turning the Titanic.

29 Whether that's enough, it's probably not, but it's a good start, but it also means that
30 there needs to be an exceptional deep dive into those practices and procedures. Perhaps my
31 colleagues might like to add to that.

32 **MS PHILIP-BARBARA:** I think there's also a consideration around where we are best to invest.
33 If survivors are telling us that the current system is broken beyond repair, I would have
34 thought that there's a fine balance to be struck between the extent to which we invest in

1 trying to resuscitate it, or what that balance of investment is in, for example, supporting
2 whānau and communities to be well, and to operate at their optimum. And these are
3 conversations that we have around the table at the Office of the Children's Commissioner as
4 we think about the future and think about what's going to serve our whānau and community
5 best.

6 **COMMISSIONER STEENSON:** Okay, thank you.

7 **COMMISSIONER ALOFIVAE:** I do have some questions but I'm going to let Ms Spelman
8 carry through because I think it kind of relates a bit more to complaints and the future
9 system that I'd like to have a kōrero about.

10 **COMMISSIONER ERUETI:** Could I ask one last question about independence, the question is
11 why, why not just simply make it an ICE, why make it a departmental agency? Is it
12 maybe-- it's cheaper to have it hosted by the ERO, but we really need to kind of understand
13 why this decision has been made and not an Independent Crown Entity.

14 **JUDGE EIVERS:** Great question, Commissioner. I don't know the answer to that, but looking
15 back on papers, this has been a discussion in Government for about the last five years and it
16 was originally put that the Independent Children's Monitor would sit with the Children's
17 Commissioner Office, hence the reason for a board. A decision was then made to go
18 separately and make it a government agency. I don't know the answer to that. But I am
19 disappointed that it's not independent for-- our mokopuna.

20 I don't know if my colleagues might like to comment.

21 **CHAIR:** Shall we move to complaints, Ms Spelman?

22 **MS SPELMAN:** So yes, whaea Fiona, you started us off with grievance panels, but before we
23 dive in, I just wonder if you would outline, as you have in your statement, the different
24 types of complaint processes available so we can have that grounding.

25 And I was looking, in particular, at 28 of your statement.

26 **MS CASSIDY:** There immediately. I was looking at the judge's, I needed to get to mine.

27 Thank you. Currently mechanisms available for mokopuna to make a complaint of
28 abuse or neglect to us, we have a Child Rights Line, and they can come in direct contact
29 with us; our monitoring visits in there, the Oranga Tamariki grievance process.

30 So, I suppose if we take a step back just so everybody is clear. The Children's
31 Commission has had a Child Rights Line for many years and through that we actually get
32 whānau or mokopuna that come to us. We can't necessarily deal with the investigations,
33 but what we do with the complaints is we help whānau and their mokopuna to navigate
34 what is called the system.

1 So that's the first thing I'd like to discuss, is what we do in terms of our little office.
2 And we're very lucky that we have marvellous people who take that, we hold that
3 information in a database and of course it is a one on one relationship with those who come
4 to us and then how do we help them.

5 Would you like to add anything to that, Glenis, just for complaints?

6 **MS PHILIP-BARBARA:** It would be fair to say that it's a mix of complaints, concerns,
7 observations. It's hard to characterise sometimes the types of inquiries or concerns that
8 people phone in to the Office with or write in through the Rights Line.

9 Sometimes the threat of an investigation, and often the threat of an investigation has
10 been enough to encourage our colleagues in the system to move swiftly to have a look at
11 the situation for a whānau or a mokopuna and we maintain a close connection and follow
12 that process through until such time as the issue is resolved.

13 But that's a very labour intensive way of working, which means our capacity to do
14 that work consistently for any more than two or three people a week is limited, with the size
15 of our tari and it is a specialist kind of role, so you need a deep understanding of the
16 system. We have social work trained people manning our Rights Line and there's also the
17 advocacy piece with our colleagues across the system, whether it be in Education, in Health
18 or in Oranga Tamariki. We receive inquiries from across a broad spectrum of Aotearoa
19 New Zealand.

20 **MS SPELMAN:** So, for those mokopuna who are in care there's a difference between, I suppose,
21 the approaches of those in the community in some type of care placement or those who are
22 in the secure residences.

23 **MS CASSIDY:** If I may, Oranga Tamariki, as you know, have two complaint systems, one for
24 mokopuna in care with the community and then a grievance process for mokopuna in
25 residential facilities. The critical path for each differ and as such do not make either system
26 easy to negotiate.

27 In terms of the grievance process which is in place within residences, mokopuna
28 have told us that they don't necessarily trust it and there is an obvious reason, that when we
29 are making a complaint, they are often making it to those who may have caused that
30 concern.

31 And so, the grievance process is difficult because not only do we have them making
32 the complaint to those involved, but also not having the security that it is actually going to
33 be managed.

34 So, it's a little bit difficult for them and that has always been a concern.

1 **MS SPELMAN:** And in practical terms, that extends to the fact that mokopuna would need to ask
2 a staff member for a form, it's a paper-based system, isn't it? So, they would need to,
3 essentially, disclose they want to make a grievance because they need to get access to the
4 paper in the first place.

5 **MS CASSIDY:** Yes, that's correct.

6 **COMMISSIONER ALOFIVAE:** Whaea, can I ask a question at this the point, talofa lava.

7 **MS CASSIDY:** Kia ora.

8 **COMMISSIONER ALOFIVAE:** So, the first lot of complaints that you describe, I think I read
9 in your evidence, in one of the documents, that there's a whole lot of complaints that you
10 deal with informally, is that what you're referring to there, having to triage the traffic to
11 help whānau and mokopuna?

12 **MS CASSIDY:** Correct, those are the people who come directly to the Office of the Children's
13 Commission outside of the Oranga Tamariki system.

14 **COMMISSIONER ALOFIVAE:** Wonderful, thank you. And then just the second point on that
15 grievance panel, so then when you've been around the motu in the residences and our
16 young people, our mokopuna are saying to you the difficulties around not trusting the
17 system, are they also saying so therefore they won't then make a complaint?

18 **MS CASSIDY:** I will use the statement that we had from our team:

19 "We've consistently heard from mokopuna that making a formal complaint and
20 process is a snitch form."

21 And that often stops them from putting it in.

22 **COMMISSIONER ALOFIVAE:** So, they'll tell you, but they won't make the complaint, which
23 is the trust issue that you've been highlighting so succinctly this afternoon.

24 **MS CASSIDY:** [Nods].

25 **MS SPELMAN:** And just in terms of both the grievance process, I suppose, and complaints,
26 some of the other concerns that the Office has raised over the years around staff screening
27 grievances effectively and in some cases discouraging or questioning whether or not the
28 young person should make a grievance?

29 **MS CASSIDY:** I'm not sure if this has come up, but what the mokopuna do have access to is
30 VOYCE Whakarongo Mai who sit now to help. So, they have come out of children -who
31 or- mokopuna who have been in State care and so they can actually play- a significant role
32 in the residences, and helping the children navigate that. But they're not everywhere.

33 And other concerns that we've had is that often the staff don't necessarily have the
34 appropriate training and building of the rapport to help, so there's a multi-faceted way that's

1 actually putting up barriers to Fiona Cassidy making a complaint because I'm not sure who
2 I can trust, what's going to happen to it, am I a snitch, and do I have the right people that
3 can make me feel safe.

4 **MS SPELMAN:** Over the years I understand there's been concerns also about the language
5 involved in the process and the formalities of it, so a grievance process first off is not
6 necessarily straightforward to understand what that means. And in terms of the process
7 itself, a grievance will be found to be justified or unjustified. What sort of issues does that
8 raise?

9 **MS PHILIP--BARBARA:** Yeah, I mean it raises trust and confidence issues. For a young person
10 to pluck up the courage to complain in the first place takes quite something. But for the
11 outcome of that process to be to- determine that your complaint was justified,- or
12 unjustified, young people have told us that it's felt like a kick in the guts. For example, that
13 having plucked up the courage to complain where adults have determined that you had no
14 right to complain, that's acted as a disincentive to complain in the future.

15 **MS SPELMAN:** And so, the Children's Commissioner and the principal Family Court Judge,
16 principal Youth Court Judge have an oversight role in terms of the grievance process, but I
17 understand that the Office of the Children's Commissioner made a decision recently to
18 withdraw from the joint meetings. Could you explain a bit about what was behind that
19 decision?

20 **MS CASSIDY:** This is from research, remembering I wasn't there.

21 **MS SPELMAN:** Of course.

22 **MS CASSIDY:** But in 2021 the decision was made by the Commissioner at that time to the
23 withdraw from chairing the Grievance Monitoring Oversight Committee. The
24 Commissioner cited systemic concerns on the basis that further involvement risked
25 signalling tacit agreement with the status quo. Unfortunately, this meant that we, as an
26 Office and our current Commissioner, have lost oversight of the latest developments within
27 the grievance procedure.

28 **CHAIR:** We were to take break at 4 o'clock.

29 **MS SPELMAN:** That's right.

30 **CHAIR:** Is this a good moment for you?

31 **MS SPELMAN:** Sure.

32 **CHAIR:** Let's take a break, have a refreshment and come back at 20 past 4.

33 **Adjournment from 4.05 pm to 4.21 pm**

34 **CHAIR:** Thank you, Ms Spelman.

1 **MS SPELMAN:** Kia ora anō koutou. So, we've spoken about the grievance panel and the
2 inadequacies perhaps of that current system for those in residences, and I understand that
3 the Office of the Children's Commissioner has made calls for that process to be changed,
4 but also and perhaps more fundamentally for secure residences to be closed in which case
5 there wouldn't need to be a grievance process.

6 **CHAIR:** Ms Spelman, we've got a question, we've been talking about this, and we've decided that
7 Sandra Alofivae is going to try and sort out our confusion.

8 **COMMISSIONER ALOFIVAE:** Your Honour and your esteemed colleagues over there, could
9 you just clarify for us, so in this new world, the grievance panels which are part of the
10 residences, and it's part of the complaints system, isn't it?

11 **JUDGE EIVERS:** Yes.

12 **COMMISSIONER ALOFIVAE:** Where will that go? Does that remain with the OCC's Office,
13 or will that go to the Ombudsman?

14 **JUDGE EIVERS:** It's presently not with us, we are just part of that panel. I think it's an Oranga
15 Tamariki process, but Glenis may know more about the actual make up of it.

16 **MS PHILIP-BARBARA:** To my best knowledge we haven't been advised what this will look
17 like in the new world. We are aware that there is a process of design happening where a
18 process called Manaaki Kōrero has been developed in partnership with VOYCE
19 Whakarongo Mai. We haven't had a briefing at our Office yet about it, but we are aware
20 this is a new piece of work in development.

21 **COMMISSIONER ALOFIVAE:** Yes, of course.

22 **MS PHILIP-BARBARA:** It's difficult at this early stage to determine how the old will morph
23 into the new.

24 **CHAIR:** Am I right in thinking that, I remember seeing the section, it sets up the part- of the
25 Oranga- Tamariki Act sets out the grievance panel and there's a statutory composition of
26 that panel, isn't there, Youth Court, Principal Youth Court Judge, Office of the Children's
27 Commissioner and others; is that right?

28 **MS PHILIP-BARBARA:** That's the current system.

29 **CHAIR:** That's right.

30 **MS PHILIP-BARBARA:** Yes, but we have a role in supporting or endorsing the appointment of
31 grievance panel members.

32 **CHAIR:** They appoint the panel members?

33 **MS PHILIP-BARBARA:** Yes, and we receive quarterly reports from those grievance panels that
34 we analyse and then report back.

1 **CHAIR:** Okay.

2 **COMMISSIONER ERUETI:** Nicolette was talking about that yesterday.

3 **CHAIR:** That's right, now we're fitting all the bits of the puzzle together. So, it's a --

4 **MS PHILIP-BARBARA:** That's the current system.

5 **CHAIR:** So that's the current system, it's a wait and see as to what's going to happen.

6 **MS PHILIP-BARBARA:** Yes.

7 **CHAIR:** Thank you very much for clarifying that.

8 **MS SPELMAN:** I suppose, just a further point of clarity, and this is in detail in the written
9 response, there's the initial grievance which an Oranga Tamariki investigation happens,
10 then there's, essentially, an appeal option up to the grievance panel, and then above the
11 grievance panel the Office of the Children's Commissioner as the second referral in terms
12 of the current process.

13 So perhaps just back to that point of aspiration, I suppose, around secure residences
14 if they are to be closed, and there was some questioning about that yesterday, we heard that
15 in September last year Oranga Tamariki spoke about their ambition to close secure
16 residences within six to 12 months, that's obviously not quite at that point, and they weren't
17 able to commit yesterday to a timeframe. But is that still something that the Office of the
18 Children's Commissioner is supporting?

19 **JUDGE EIVERS:** Yes, it is and most especially a priority is Care and Protection residences,
20 because those mokopuna are not offenders like in the Youth Justice system, they are
21 mokopuna who, for whatever reason, have behavioural issues and they are sent to Care and
22 Protection residences and pretty much forgotten about in my view.

23 The kaimahi at those residences do their best but those mokopuna, if I take Epuni
24 for an example, which is based in Wellington, I think when I visited several months ago
25 there were nine mokopuna there, most of them were from Kura, very proudly, but they are
26 South Auckland kids in Wellington away from their whānau and they're in a prison like
27 institution and it is just not okay. We can do way better than that for kids who simply have
28 behavioural issues.

29 They are serious behavioural issues, but we need to invest in them and their whānau
30 and help them live their best lives. So, I am talking presently with Oranga Tamariki about
31 that.

32 **MS SPELMAN:** Thank you. So stepping away then from the grievance process within residences
33 and more generally at the complaints system overall for Oranga Tamariki, yesterday
34 Oranga Tamariki said they agree that it needs an overhaul, and one of the issues that was

1 discussed was around the lack of a centralised system for these complaints, these different
2 avenues, particularly for complaints that were deemed to be not substantiated, there not
3 being a record of those, and a discussion around if there was such a central register,
4 whether that would provide a really helpful safeguarding tool for mokopuna. And
5 I wondered whether you have comments around what a complaint system functioning well
6 would look like, whether or not that centralised idea would be something worth exploring
7 from your perspective.

8 **MS PHILIP-BARBARA:** I think the first order issue to be addressed is the power imbalance felt
9 by mokopuna and their whānau, particularly in places of detention, but within State care.
10 Mokopuna have told us how frightening it is to complain when you are dependent for your
11 wellbeing on the people you are complaining about. And I think that the idea of a kind of
12 centralised place where complaints are gathered is a useful one, but I don't think will
13 resolve the power imbalance issue unless we think about what care actually is for a child or
14 a young person, for a mokopuna.

15 Mokopuna have been very clear with us, it's difficult to be cared for by the State,
16 they've told us, that actually what they want are relationships with their whānau, what they
17 want is to be cared for in a home with their whānau, with whānau who are safe, who love
18 them, who can look after them, who will commit to them for the rest of their lives, is the
19 care that mokopuna have told us about.

20 So, it's important that we create a mechanism where young people feel safe to say
21 when things aren't okay, but it feels at this current moment that we are quite a long way
22 away from that, from even understanding what the elements of that might be. I think
23 survivors are best placed to actually tell us what that might look like.

24 I worry that for the sake of efficiency, and to contribute to the importance of proper
25 oversight, that we might lose the opportunity to actually hear from survivors and to
26 understand what the optimum conditions are that give rise to their feelings of safety
27 sufficiently to be able to say when things aren't right.

28 So, this is me reflecting on all of the things that young people have told me over
29 many years.

30 **CHAIR:** Can I just interrupt again, I'm sorry Ms Spelman, but these are important matters.

31 First of all, I acknowledge, and we've heard that the design of anything like this
32 should be with mokopuna at the centre and codesigning or helping to work out what is best,
33 so that's a given. But Office of Children's Commissioner has had experience in some form
34 of pulling complaints together, I'm just thinking about your Child Rights Line, and although

1 you described it as being one that is for children other than in residences, are you able to
2 tell us, would that be something that could be usefully part of a complaints process that
3 children get an 0800 or a text number or a social media number that they could feed into?
4 But what's your experience in the Office of that line and how friendly and useful it was for
5 mokopuna?

6 **MS PHILIP-BARBARA:** I think the Child Rights Line has been quite generalist over years. It's
7 received inquiries and concerns about a huge range of things related to young people and
8 their lives, including concerns about what's happening for mokopuna in care. So, it's a
9 huge Broad ranging thing.

10 I know from speaking with mokopuna that it's not always a telephone call that's
11 going to be the most appropriate means to reach out. What they've told us consistently is a
12 relationship with a trusted adult is by far the cornerstone has- to- be the cornerstone of any
13 kind of safe pathway to raise concerns, you know, whether they are large or small, if they
14 affect the wellbeing or the sense of peace of a young person, then they are important.
15 So,- the cornerstone of that is a trusted relationship, a relationship of trust with a trusted
16 adult.

17 Beyond that, I suspect thinking about young people and their preferences and
18 presentations, some prefer to text or message, others have the confidence to make a phone
19 call to someone who might be a stranger. Others, though, would prefer to have access to a
20 trusted advocate who is not ingrained in the system that is causing them some concern.

21 **JUDGE EIVERS:** And I think, just adding to that, it's very important, I think, that mokopuna
22 themselves say how they would like to communicate that, but taking a step back, and at the
23 risk of sounding like a squeaky wheel, it needs to be independent.

24 **CHAIR:** Yes.

25 **COMMISSIONER ERUETI:** I do wonder whether the it- seems from talking with
26 Oranga- Tamariki yesterday that there's discussion between them and the Ombudsman but
27 I wonder whether that Office, whether the Office of the Children's Commissioner has been
28 involved fully and the plans for how the new complaints process will look.

29 **JUDGE EIVERS:** No, we haven't.

30 **COMMISSIONER ERUETI:** No, okay.

31 **JUDGE EIVERS:** Or I haven't, and I don't think any of my staff have.

32 **CHAIR:** Okay, thank you.

33 **MS SPELMAN:** So, I suppose one of the points you've been touching on is the complaints
34 system is one thing but the broader system of care, and I know you've said in the statement

1 is that that's the, the-- overall aim is trying to create a system, a framework where there
2 doesn't need to be this need for complaints.

3 And you mentioned at the beginning, Judge Eivers, about the changes going
4 forward being grounded in Te Tiriti and being by Māori and for Māori. I just wonder,
5 looking ahead more broadly to the care system and the overall transformation that's been
6 discussed in the last couple of weeks, if you wanted to share your thoughts around what
7 that looks like from your perspective.

8 **JUDGE EIVERS:** I start with the premise that there are a disproportionate number of Māori in
9 the State care system and actually always have been. And I'm really drawing on the
10 investigations that have already been done on this and the very good reports that have
11 already been published, in particular Wai 2915, and it talks about our setting up an
12 authority, a transition authority to look at it really carefully, what will that look like. It will
13 require consultation with Māori, with iwi, with hapū, with whānau, it will require a
14 completely different approach and it's a matter of the State standing back and the resource
15 and the decision making being with Māori for their own, because at the end of the day,
16 these are our children, they whakapapa Māori, we want to have residences and care
17 facilities and foster homes, a model which seems to be working well or which is reported, is
18 getting our mokopuna back to their communities.

19 So, we talk about mokopuna in Wellington who are from Papakura. I believe, not
20 only from a personal point of view but from what I've read and from what I know about
21 how things work, that they should be in their own community, they should be with whānau
22 who can be supported, who they trust. I mean, clearly at times mokopuna need to be taken
23 from whānau for reasons of safety, but every child, mokopuna I ever represented actually as
24 a lawyer for a child always told me they wanted to go home, they always wanted to go
25 home. And their whānau wanted them, they just didn't have the means to cope.

26 One of those mokopuna earlier in the statements talked about their parents not
27 coping, their anger, their stress, and if we could deal with, really develop unique and almost
28 boutique plans around these whānau and support them so that the State would together in
29 design with iwi but with iwi leading that, I believe that it would make a difference.

30 And it's, as I say, I'm really looking at the reports -- Kahu Aroha is another one,
31 where, you know, the investigation, the -- it's been looked at through the eyes of Māori,
32 Māori leaders, who say, look, this can be done, we can do this, and it's a matter of -- I'm
33 going to say having the courage actually to do that, because I think it will, as Commissioner
34 for children, for children that I've seen come through the court system who are intelligent,

1 smart, amazing kids that just have not had the same opportunities as, say, my own boys
2 have had, and their friends, and they deserve that, and when they need to be temporarily
3 placed in care, they deserve for that care to be the best care that they can have. And I just
4 think we've let a system develop that has possibly got out of control a little, we need to
5 bring it back, we need to bring it back to relationships, we need to bring it back to
6 community, we need to bring it back to whakapapa and it may be that it's whakapapa
7 Pasifika, it may be whakapapa Pākehā, whakapapa Māori, but mokopuna need to be with
8 their own and their whānau need to be supported so that that relationship can be repaired, or
9 strengthened, fostered, whatever is required, so that a minimum of harm is done by the
10 breaking of their whakapapa. Glenis and Fiona might like to add to that.

11 **MS PHILIP-BARBARA:** I think in the future we have a significant opportunity to think about
12 how we invest in the wellbeing of whānau and community. If we were, for example, to
13 review the level of investment in a system that survivors have told us for a long time is not
14 fit for purpose, and if we were to imagine what good that investment could do for whānau
15 and communities so that rather than parents in strife or struggling, not being sure who they
16 can trust to support them, who might provide some respite, who might help them resolve
17 issues or conflict, imagine a community where those types of resources and supports were
18 known and trusted and understood. That would create a different kind of fabric to hold our
19 whānau.

20 I haven't yet met a young person in care who wasn't worried about their mum and
21 dad and their grandparents and their sisters and brothers and everybody else in their wider
22 whānau. I've not yet met a young person in care who didn't want for every opportunity that
23 they might avail themselves of to also be available to the people they love, and the people
24 they care about.

25 So rather than thinking about individuals consuming resources, if we can think
26 about strengthening whānau, or whānau determining what that pathway to being their best
27 selves might be, if we provided support around that vision, then I think we would be having
28 an entirely different conversation about care.

29 I haven't yet met a young person in care who's actually felt cared for by the State.
30 Their eyes are constantly looking for whānau for trusted adults to provide that care.

31 **MS SPELMAN:** Tēnā koe.

32 **MS CASSIDY:** I'd just like to talk about the cost, and what we forgot is the human cost, and we
33 talk about systems and processes but right at the middle of all of this is mokopuna and

1 whanau's voices that we need to listen to, and somehow in this world that we're in now
2 we've forgotten that, and we've built a system around them, not with them.

3 **MS SPELMAN:** Tēnā koe. I'm conscious of time and I know that our commissioners will have
4 more questions for you all. So, I will leave my part there and just acknowledge all of you
5 for the answers that you've given to the questions I've asked, e mihi ana ki a koutou i tēnei
6 rā, and I will pass over to you, Madam Chair, for the final questions.

7 **CHAIR:** Kia ora. I'll just go through the Commissioners. Paul, do you have any questions?

8 **COMMISSIONER GIBSON:** Kia ora. I'm thinking about the mana of disabled children,
9 mokopuna whaikaha and we come across many children who have had that mana cared out
10 of them, pathologised out of them, and even today there's almost an absence of their voice,
11 their perspective in the conversation. Looking now and in a generation's time, what do you
12 see the changes in the care system, based on your institutional independent knowledge of
13 what has happened, what will things look like in a generation's time for disabled children,
14 mokopuna, whaikaha?

15 **JUDGE EIVERS:** In terms of mokopuna whaikaha, they are disproportionately represented too,
16 and I apologise for not mentioning that earlier. I mean, they're very much -- those
17 mokopuna with their needs within the care system need to be recognised, but it's the same
18 principles in the sense of who are their whānau, how can we support their whānau, how can
19 we make sure that their voice is heard, how can we make sure that their needs are met
20 within the system, and it will take a different approach and I guess from what I can see in
21 the past it's been a bit of a one size- fits- all-, but that voice needs to be recognised too, and
22 I know that our Mai World team do have conversations with our mokopuna whaikaha. I
23 don't see them as being any different in the sense of their needs need to be recognised and
24 their whānau need to be supported, wherever they come from, and it is more difficult for
25 them in a sense because of their needs.

26 I can get Fiona and Glenis to give their views on that too.

27 **MS PHILIP-BARBARA:** I think there's a real opportunity here as people reimagine the future to
28 consider what a fully accessible world might look like. I understand that there are
29 communities working on this visioning as we speak. But the fact is, building an accessible
30 world will take an investment, and to get to that level of investment people need to
31 understand the benefits of inclusion for mokopuna whaikaha and their whānau.

32 We talk to mokopuna whaikaha who tell us about the ableism that they experience
33 on a daily basis, often on top of the racism, and the ageism and all the other things that they
34 have to contend with in their lives. They're dreaming about an accessible world, and it's on

1 us, those of us in positions of responsibility and authority to listen really carefully to what
2 the design elements of that world is or are and make way for them. So, there's still a lot to
3 learn. The fact that we are only now collecting data about disabled people in the health
4 system means that we are on a very early but steep learning curve.

5 **CHAIR:** Julia, would you like to ask any questions?

6 **COMMISSIONER STEENSON:** Thank you, Coral. I did have one question.

7 You've clearly got, as the Office of the Children's Commissioner, you've got a lot
8 of learnings from your work with tamariki, which is really critical. I'm just wondering
9 around your relationships with agencies that you have to influence, because that's also very
10 critical in order to make change happen, and understanding the nature of those
11 relationships, because to not be included in the design of a new complaint system or even
12 know about it is somewhat concerning.

13 **JUDGE EIVERS:** Yes, that is very important, the relationships, and that is the part of what being
14 an ICE is. It's important to establish and build relationships with the Crown, with agencies,
15 with ministers, with everyone across the board that affect mokopuna. Because it's an
16 opportunity to persuade, it's an opportunity to give advice, whether that's taken or not, and
17 at times, and I'm a firm believer and I know previous Commissioners have too, worked
18 closely with agencies and ministers to build relationships for that purpose.

19 In terms of the complaints issue, perhaps it's the-- Oversight Bill has sort of been in
20 the mix and I think it's all new and it's probably in the design, it's probably one of those
21 things that perhaps just hasn't come to the fore and with complaints going to the
22 Ombudsman but it's certainly on my radar, and perhaps Fiona or Glenis might just like to
23 add to that?

24 **MS CASSIDY:** If I could talk to the relationships, we have with organisations like Oranga
25 Tamariki, Ministry of Social Development as agencies of the Crown, we do actually have
26 what I would consider good, open, robust conversations at a CE level, which the judge
27 leads. I tend to look after the next level down, and then at an operational level, in this space
28 particularly we actually work at the next level down which is more operational.

29 If I could say it's still growing. As you probably know, we recently Glenis- has
30 recently left us, the judge has been in place since November, and I have been in place since
31 March. What I will say is when we have actually asked- to see our respective counterparts,
32 that has never been turned down, and that we do have honest and open conversations.

1 Talking to the complaints process, we weren't necessarily there at the time, and
2 I wonder, given we had walked away in 2021, but I would say the doors are open, and
3 when they're not, we knock.

4 **MS PHILIP-BARBARA:** And just to cut to the grist of your question, we have strongly
5 advocated for the voices of survivors, and mokopuna in care to shape the design of any new
6 complaints system, so that has been our consistent advice to our colleagues at Oranga
7 Tamariki around the design of a new complaints system.

8 **COMMISSIONER STEENSON:** Tēnā koutou, that's my question.

9 **COMMISSIONER ERUETI:** E mihi ana ki a koutou. My question's about, when we had the
10 Independent Monitor here, he said to us that his function was to compile the data and
11 monitor, but not he- didn't see the role as being advisory or making recommendations,
12 which seemed a bit odd for an institution that's there to monitor. I just wonder what your
13 views are on that, particularly if you are going to be focusing on advocacy, if
14 there's -no - if- it's the compilation and analysis of data, that's one thing and it's valuable,
15 but not to also provide advice and recommendations seems to be missing a step here.

16 **JUDGE EIVERS:** The Independent Children's Monitor has produced a first report and there are
17 findings in there and I had a discussion with Arran about the report, so we do have a
18 relationship and we are working together. And for me it's that's-- the limitation of the
19 Independent Children's Monitor being a government agency as opposed to an Independent
20 Crown Entity. It can only go so far.

21 **COMMISSIONER ERUETI:** It can only go so far, okay.

22 **MS PHILIP-BARBARA:** I would go one further. With the Office of the Children's
23 Commissioner having had the power to make recommendations since 2003 and earlier, one
24 of the observations I would make, particularly through our reporting on residences and
25 places of detention, is that while we have been able to make recommendations, and we've
26 done so quite liberally, there's been no corresponding requirement for any of those
27 recommendations to be taken up and applied into policy and practice.

28 **COMMISSIONER ERUETI:** Yes.

29 **MS PHILIP-BARBARA:** And that's been pain point for our team over many years and is
30 something that I think would be good to consider in the shape of the new world, so to
31 speak, as it emerges.

32 It's one thing to see an issue, to analyse it and to make a recommendation based on
33 your observations, but quite another to have that then taken up and applied into policy and
34 practice.

1 **COMMISSIONER ERUETI:** I think at our first hearing, our contextual hearing, former
2 Commissioner Becroft wanted the status to change to I think a parliamentary officer so that
3 there would be more bite in the recommendations, more influence, but that didn't come to
4 pass, but yeah.

5 My other question is about what's the ideal model, and it seems that
6 you- talked -about we-- said to Mr Arran that it seemed a bit messy because you've got
7 three bodies now, but it seems that your ideal model would involve collapsing those
8 different functions into one entity; is that right?

9 **JUDGE EIVERS:** That was the grist of our submission to Parliament on the Oversight Bill, and I
10 have made public statements about that, yes.

11 **COMMISSIONER ERUETI:** I wonder whether the advocacy function in the legislation is
12 sufficiently clear, does it give you clear direction about what advocacy means and what you
13 should do?

14 **JUDGE EIVERS:** It's section under- the old Act it's Section 12 where it sets out the functions and
15 that's essentially the advocacy and that's been transferred across to the new Act, it could be
16 Section 99 actually. It's very broad and it says what you need to cover. I mean, it's
17 deliberately broad and I think that's a good thing. So,- it gives the Commissioner the ability
18 to make those decisions which is important for mokopuna.

19 It covers things like their rights and interests under the then-- the Children's
20 Convention rights, any issues that are affecting them, can make inquiries. We, of course,
21 have lost the investigation ability, which was quite a powerful tool, I'm told by my former
22 colleagues, because there was not the need to go usually through a full formal investigation
23 because it just took a conversation or two and everyone sat around the table and the issue
24 could be resolved. A more formal investigation process is now envisaged with the new Act
25 and through the Ombudsman.

26 **COMMISSIONER ERUETI:** Kia ora. And lastly, you still have your OPCAT obligations, and
27 the advocacy role is still an enormous role, and it doesn't seem your budget has changed
28 much. Does that sound like business as usual for you, that you're going to have to make it
29 happen on a thin budget and prioritise things too, as you always have done?

30 **JUDGE EIVERS:** That's a little bit up in the air at the moment, but you're correct on that first
31 premise. Of course, the new law has a board, so we'll go from being a Children's
32 Commissioner to a Children's Commission. I still don't know whether that board will have
33 three members or six members, it can have up to six members. So that's going to be a
34 whole new cost.

1 Also, under the new legislation there's an increased emphasis, a continuing
2 emphasis on getting children's voices which is a statutory obligation.

3 There is also the obligation to form relationships with iwi, whānau, hapū and iwi, so
4 and- that's good. However, we are forming a Te Tiriti- unit within our Office for that
5 purpose, but that is extra and on top of what we already have. So that's still ongoing, I'm
6 not sure what that will look like. It wouldn't be able to operate, in my view, on the original
7 existing budget, because of those extra obligations under the Act.

8 **COMMISSIONER ERUETI:** One last question is whether there are dedicated Commissioners
9 for Māori/Pasifika/disability in any way or is it not specified?

10 **JUDGE EIVERS:** I think the Minister has said that publicly that that's what's envisaged. Under
11 the legislation it talks about the board must be made up of 50% of people who have
12 knowledge of tikanga and mātauranga Māori, only knowledge. Our view was it should be
13 whakapapa. And I know that the Minister has said publicly that there would be someone to
14 represent Pacific, someone to represent whaikaha, and then there would be the Māori
15 representation. So that's the idea of the Commission.

16 **COMMISSIONER ALOFIVAE:** Thank you. I want to ask a question, it's a new world order
17 type question, and it's really as a result of all of the work that you've done previously and
18 the power of the voices of mokopuna, and the survivors, all of a sudden rising to the top,
19 and being the influential differentiator when it comes to policy.

20 So, there's a systems component to this in that I- fully appreciate that the
21 Office -of that- your Office has to- look at all children in Aotearoa, but for our kaupapa and
22 what you've been focusing on is children in State care.

23 From what you've seen in the Youth Justice space, what you know well from the
24 Care and Protection space and all of your interactions, and the ecosystem around children;
25 do you have a view or a vision around being able to pull those two particular components,
26 being able to put them together in one place, having a very dedicated workforce around the
27 judiciary, around the court system; because that's probably a space that everybody knows is
28 almost like a space that has some significant standing and then in your ecosystem around
29 the supports we talk about preventative assistance for whānau and being able to really
30 populate that in a way where the wellbeing is the centre, and I know that there's an Oranga
31 Tamariki action plan that kind of speaks to it. But what we've heard a lot of evidence about
32 from our survivors and from our experts is that the role of children, the role of mokopuna in
33 Aotearoa, it feels a little bit like an add-on to other bits. So, you'll have mokopuna in health
34 places, in education and social services, and that's all part of the ecosystem that needs to be

1 crafted quite deliberately to transform what we presently have now, and then the role of the
2 Office for Children's Commission or the new Commission actually in that new space. Any
3 comments? It's what we've been hearing and we're trying to piece a lot of things together.

4 **JUDGE EIVERS:** Do you mean what it would look like?

5 **COMMISSIONER ALOFIVAE:** Mmm.

6 **JUDGE EIVERS:** As Commissioner Erueti said earlier, the view that it should be an Office of
7 Parliament where it's all coordinated all in one space just as the Ombudsman is an Office of
8 Parliament and it's all about complaints and investigations. Imagine if you could have an
9 office that was just all about children, it would all be about mokopuna, it could all be
10 coordinated and be run from a central platform, I think that would look great.

11 Indeed, under the United Nations Convention on the Rights of the Child, I think it's
12 Article 2, it says that children are meant to be at the centre of decision making. So, it's
13 there and we have it in the Family Court legislation, but it needs to transpose across a much
14 bigger entity but one that just focuses on children and on mokopuna. And we do have to
15 focus on our mokopuna who are struggling. About 70% of our mokopuna are doing fine,
16 there may be issues of consent, for example, or education, but we've got -another so-- the
17 next 20% are struggling, but coping maybe, it depends upon how things are going within
18 the whānau, but there are 10% that are really, really doing it hard.

19 And each Commissioner, and I have agreed with that view, has that we need to
20 bring those mokopuna and whānau up and then we raise everybody's standards, they do
21 well, everyone will do well. And it is mokopuna Māori, Pacific and whaikaha who are
22 struggling the most disproportionately. So that's where the focus needs to be.

23 But it does need to be a central office, because I am worried actually, worried about
24 the fact that we are now going to have a system that's got divided-- into three. And yes,
25 there's an obligation for us to cooperate and collaborate, and we will, but is that still the
26 best model?

27 That's my question mark, and I'll hand over to my wāhine toa to continue the kōrero
28 there.

29 **MS PHILIP-BARBARA:** I think there is an important role, a leadership role for survivors as we
30 transition from the current state into the new world. We need specialist insight to help
31 guide and shape the thinking. But also, we need specialist insight into the application of Te
32 Tiriti o Waitangi in practice, we need specialist insight into the design of an accessible
33 world, we need specialist insight into all of those elements of whānau that make it rock and
34 feel like an awesome home.

1 We've got some big context issues to solve around poverty and homelessness,
2 around all the other social ills that we worry about, the health and well-being of whānau.

3 So, there are some big context pieces to address, and I see those being prioritised
4 but that leadership piece at every level of a new system is absolutely critical. I do believe
5 that the days of advisory panels ought to be long behind us and instead we need to be
6 investing in and believing in the leadership insights that survivors and all the other groups
7 can bring to the table. And then it's upon us to figure out how we work together for the
8 benefit of our mokopuna, our collective mokopuna.

9 What I see across the history of the OCC is a continued theme around inclusion, a
10 plea for inclusion, a plea for the ability to move beyond the opportunity to influence, I'm
11 not talking about the Office here, I'm talking about people, but beyond the opportunity to
12 influence into leadership. So, at what point are we transferring the leadership piece to
13 communities, to hapū, to iwi, to whānau, to actually have their opportunity to meet the need
14 that is apparent to all of us.

15 So, in the brave new world, not everything gets built in Wellington. In the brave
16 new world, Wellington holds space and supports the efforts of communities and the whānau
17 and others who live within them, and we invest our trust and confidence in this group of
18 leaders who have shown us all their wares through this process. There have been some
19 incredible people who have presented their evidence before you, they're inspiring, and I
20 think they deserve to lead.

21 **MS CASSIDY:** And I'd just like to add, we should not be scared to give the power to those who
22 know and too often and, you know, I live in Wellington, we do focus on the Wellington or
23 the central solution. It's more like an octopus with arms everywhere belonging to a body
24 but where those arms can make a difference. Our survivors, our mokopuna, our whānau
25 have the answers, we've just got to listen.

26 **COMMISSIONER ALOFIVAE:** Fa'afetai lava.

27 **CHAIR:** Thank you, Sandra.

28 I always seem to do this and it's bringing it back to the kaupapa of this Royal
29 Commission which is abuse in care, and Judge Eivers, you said something in your written
30 submission, I think you said it verbally as well, but I think it's incredibly important and I'd
31 like to end today's session just thinking about this. You said at paragraph 12:

32 "While the scope of this Commission ends in 1999 it is clear the abuse of mokopuna
33 in care continues today."

1 This is a very important statement, because I think a lot of people think this is all
2 just about history. So, I want to I-- think we know enough and have heard not from a lot
3 but from enough survivors post 1999 to have heard that, but I would be very interested in
4 knowing what underpins that submission by you and your Office, if you're able to give us
5 some more information, that would be very helpful

6 **JUDGE EIVERS:** Listening to, I think it was Corrections earlier, to my surprise, actually, as
7 I became Commissioner, I have learned that seclusion is still used in most or- the option is
8 there to still be used in most Care and Protection residences and youth detention centres
9 and mental health facilities, some are phasing out,- but it is still not something that is
10 banned per se.

11 **CHAIR:** And you class that as abuse?

12 **JUDGE EIVERS:** I do, I do. It's a room that looks like a prison cell. I'm just trying to think
13 of and- our mokopuna tell us it's happening, and I think the -issue that's- a big issue for me,
14 and also, I think just the fact that, and it's a broader definition of abuse, I'm guessing, I'm
15 surmising, is that the fact that mokopuna with behavioural problems are sent to a Care and
16 Protection facility that looks like a prison. They don't even have a backyard to play in. It's
17 a concrete wall. There's no art on the walls. As I said earlier, we can do better and I know
18 that Oranga Tamariki have the appetite for it, but we just have to- work hard, very hard on
19 it.

20 And Glenis and Fiona may have some other examples.

21 **MS CASSIDY:** If I could just give some statistics that our team put together. Between January
22 2015 and March 2021 mokopuna were restrained 3,572 times in Youth Justice residence
23 and placed in seclusion 6,518 times. Mokopuna in Care and Protection residence were
24 restrained 1,840 times and placed in seclusion 2,150 times over the same period.

25 We as an Office on behalf of the Commissioner with our reports continue to
26 highlight the concerns regarding the ongoing use of force, often called restraint, or secure
27 care, which is seclusion in detention.

28 **CHAIR:** Thank you for that.

29 Glenis, do you want to say anything at all?

30 **MS PHILIP-BARBARA:** Just that Oranga Tamariki continue to report on the abuse of children
31 in care.

32 **CHAIR:** Yes, and we've heard the figures from the Independent Children's Monitor.

33 **MS PHILIP-BARBARA:** Yes, and from time to time as part of our monitoring work, young
34 people will disclose abuse that has occurred to them which is duly investigated through the

1 CPP protocol. So, it's through all of these channels that we understand that abuse continues
2 today.

3 **CHAIR:** Yes. Thank you very much for that information which I thought would take you on the
4 hop, and I didn't intend that but I'm grateful that you had your numbers at the ready and
5 that's very helpful.

6 May I, on behalf of the Commission, thank you three sincerely for coming, putting
7 yourself through this, preparing these very helpful briefs of evidence and responding
8 particularly to the Section 20 notices, they are a very rich source of information which the
9 public can't see but which we are drawing on all the time.

10 We are very grateful for your frankness and your willingness to speak out. I'm sure
11 survivors are too. So, thank you so much and that brings us to the conclusion of today's
12 proceedings, which we will end with karakia waiata, kei a koe te karakia matua.

13 **KAUMATUA NGĀTI WHĀTUA:** (Waiata Te Aroha). Before I start, Madam Chair, I just want
14 to say that I won't be here tomorrow and it's sad that I won't be here. However, the boss has
15 told me I have to go with her with her family so I better do as I'm told, otherwise I could be
16 appearing here, but hei aha.

17 But can I say, on behalf of myself and Ngāti Whātua, I started off with a
18 tauparapara which had a meaning of being aware, being aware of what's around us and
19 collecting that information coming together. And this is the sort of place where that
20 awareness has been displayed, and I just want to commend everyone who have been part of
21 the kōrero that has happened here today, for the benefit of our tamariki ngā mokopuna. Hei
22 aha, our waiata, is Te Aroha Te Whakapono and I'll finish off with a tauparapara that
23 I started off with this evening. (Karakia whakamutunga).

24 **Hearing adjourned at 5.15 pm to Friday, 26 August 2022 at 9 am**