

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Victoria's Criminal Justice System

Melbourne—Thursday, 21 October 2021

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WITNESSES (*via videoconference*)

Mr Christopher Harrison, Co-chair, and

Uncle Robert Nicholls, Chair, Hume Regional Aboriginal Justice Advisory Committee, and Member, Aboriginal Justice Caucus.

The CHAIR: Hello, everyone, and welcome back. We are very pleased to be joined for this session by the organisation called the Aboriginal Justice Caucus. I am extremely pleased to be able to welcome the Co-chair, Chris Harrison, and Uncle Robert Nicholls, who is the Hume Regional Aboriginal Justice Advisory Committee Chair and of course one of the caucus members. Welcome here today. Thank you very much for your time, for the work that you have been doing for so many years and for your excellent submission.

If I could just give you a few words around parliamentary privilege, as this is a parliamentary hearing: all evidence taken is protected by parliamentary privilege, and that is under our *Constitution Act* but also under the standing orders of the Legislative Council. Therefore the information that you provide to us today is protected by law. You are protected against any action for what you say here today—knock yourselves out; however, if you were to repeat those statements outside this hearing, you may not have the same protection. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

We are being recorded today. We have got Hansard in the background. You will receive a transcript of today, and I would really encourage you to have a look at it and make sure that we did not mishear you or misrepresent anything that you have told us today.

We would very much welcome some opening remarks, and then we will open it up for committee discussion. Thanks again.

Mr HARRISON: Cheers, Fiona. Yes, thanks for having us today, and the rest of the committee. So yes, good afternoon. I would like to start with just basically acknowledging the land that I am coming from today, the Wotjobaluk country, and I pay my respects to their elders past and present, those in the meeting here today and also Aboriginal members that are here as well. My name is Chris Harrison, or Christopher Harrison. I am the Co-chair of the Aboriginal Justice Caucus. Joining me today is Uncle Robert Nicholls, the Hume RAJAC Chairperson and a fellow caucus member.

I would like to thank the standing committee for the opportunity to present today. We hope that the committee will consider the recommendations and evidence presented in our submission to bring change to better the lives of Aboriginal people. I acknowledge our fellow Aboriginal Justice Caucus members and Aboriginal organisations who have made powerful submissions, in particular to the hearing and to this inquiry. We acknowledge Sheena Watt for her role on the committee; we are grateful for Aboriginal representation on this committee.

A bit about the Aboriginal Justice Caucus: it is a self-determining body that provides statewide Aboriginal representation and leadership and a strong voice for the community in all areas relating to justice. The Aboriginal Justice Caucus is the conduit between the community and the Victorian government, advocating for systemic reform of the justice system and steering change to address underlying causes that may lead to over-representation of Aboriginal people and Torres Strait Islander people in the criminal justice system. The caucus comprises of community representation who are signatories to the 21-year-old original Victorian Aboriginal Justice Agreement. The Aboriginal justice agreement is a long-term partnership between the Aboriginal community and the Victorian government. It was established in 2000 in direct response to the 339 recommendations handed down in the 1991 Royal Commission into Aboriginal Deaths in Custody, the RCIADIC report, and the 1997 national Ministerial Summit on Indigenous Deaths in Custody. 15 April 2021 marked the 30-year anniversary of RCIADIC's final report, and only two-thirds of the 339 recommendations have been fully implemented. And tragically there have been at least another 475 Aboriginal deaths in custody, including around 30 in Victoria. It is the Victorian government's responsibility to commit to fully implementing the remaining recommendations.

The Aboriginal justice agreement is currently in its fourth phase. Two major drivers of the Burra Lotjpa Dunguludja are to continue to address the over-representation of our mob and to progress self-determination to

the core policy approach for us. This means raising the voice of Aboriginal people, families and communities who disproportionately bear the negative impacts from policy and legislation change. There are opportunities to address the disproportionate impacts. Children as young as 10 can be incarcerated in this state. The Aboriginal Justice Caucus has advocated for the age of criminal responsibility to be increased to at least 14, with a minimum age of detention of 16 years. We, among many others, believe children and young people should be treated therapeutically in their community. The Aboriginal Justice Caucus are signatories to the Koorie Youth Council and the *Ngaga-dji* report. We echo the sentiments delivered by Indi Clarke from KYC in their public hearing and submit the implementation of all recommendations outlined in *Ngaga-dji*.

Bail needs to be reformed. There are too many Aboriginal children and young people circling in and out of the system on short periods of remand. The exposure to such environments only increases the risk that they will return. More than half of the Aboriginal people in Victorian prisons are on remand, many for alleged offences that do not carry any custodial sentence. Imprisonment is being used to hold people who have not been sentenced when they really need housing and other support. We are concerned about the number of Aboriginal people, and in particular Aboriginal women, who are incarcerated in Victoria. It is terrifying that Aboriginal people are among the most incarcerated people in the world. Equally terrifying is the pace at which the Aboriginal prison population has grown over the decades since the Royal Commission into Aboriginal Deaths in Custody. The strength and resilience of Aboriginal people, family and community is impaired by the enduring consequences of colonisation. The criminal justice system is not safe for Aboriginal people. Our people continue to be disproportionately incarcerated within a colonial system that has systemically suppressed Aboriginal people for over 200 years.

Policies that are intended to promote Aboriginal community safety overwhelmingly and negatively impact Aboriginal people. Aboriginal people are over-represented in all areas of the Victorian justice system. These experiences are unique for Aboriginal people and Torres Strait Islander people. There is a need for Aboriginality and the detrimental interrogational effects of past government policies and criminal justice practices to be considered in the sentencing process. This could be through Aboriginal community justice reports or seeking insight from Aboriginal elders and respected persons and other community members.

Aboriginal people need access to adequate culturally appropriate legal assistance across the whole state, not just in metropolitan areas. This includes the provision of legal information, advice and client support so that the Aboriginal people across the state have equal access to culturally appropriate legal assistance and justice supports. This promotes early intervention and reduces the likelihood of more serious involvement in the justice system. Aboriginal people need the best possible legal representation in both civil and criminal justice matters. In terms of addressing equality issues when accessing services, a confirmation of Aboriginality process must be implemented. This will ensure a constant approach across the service to ensure Aboriginal people have access to the programs and services they need.

Turning to the workforce, Aboriginal people working in justice carry a significant case load and provide unique experience and expertise. Working in the justice system can be very challenging for Aboriginal people. They must be adequately supported culturally and financially to engage in this work. Aboriginal justice programs and services designed by Aboriginal people for Aboriginal people are the most effective. We need an appropriate, sustainable long-term model to support prevention, early intervention and diversionary programs run by Aboriginal organisations. From this inquiry we want to see real outcomes and benefits that benefit the lives of Aboriginal people in the state. There are still 30-year-old recommendations from the Royal Commission into Aboriginal Deaths in Custody that have not been implemented, let alone those that have emerged since, as highlighted in the submission, along with the recommendations covered by the ACCHOs, Aboriginal organisations, community members and all others in this inquiry.

Like I say, I would like to thank you all for your time and welcome any questions on our submission to the inquiry, but I will quickly pass to Uncle Bob—Uncle Robert—just to introduce himself and pay his respects to the lands that he is coming from today.

The CHAIR: Thank you.

Uncle Robert NICHOLLS: Thank you very much, Chris. I would like to take this time to thank the standing committee for allowing us to present to you today, and I would also like to pay my respects to my elders past, present and emerging and also acknowledge Sheena, who is sitting on the standing committee this

afternoon here. I thank you for giving us this opportunity from the caucus. I am on Yorta Yorta country in Shepparton, and I think Sheena could sort of relate to that. I totally support what Chris has said in his opening speech, and I take it that there will be further questions to be asked of both of us. So at this stage I say thank you very much for giving us this opportunity.

The CHAIR: Thank you to both of you for joining us, and I think in some ways it is really nice to have you here now after speaking to VALS and after speaking to some of the other ACCHOs, who had some quite specific recommendations, and yours are sort of at a higher level. I had one quick question just to start things off on the ‘first contact is the last contact’ model—and I think this is something that you raised in your submission, that this was part of the AJA4—that you collaborated with the Australian Centre for Social Innovation to develop. Has this model been rolled out? I have just commended you for the high level and then I have gone and asked you something down the bottom, so I apologise if you are not—

Mr HARRISON: So with the AJA4 what we have got is we have got a whole bunch of actions and processes that we have to deliver out of it. What we have done is each year we have gone to funding submissions and budget bids to try and deliver on most of the actions and requirements. Some things are still on that list that have not been quite fulfilled. The other side of things is that it is also basically around the investment that we have into it. Some are very poorly funded, so it is short-term funding for a short-term goal, and that is where we would probably be looking at more of that investment back into it to actually say, ‘Look, we’ve got all our recommendations and our budget bids that we’ve put up. We would actually see a better improvement in actually reaching that goal if it was properly funded’.

The CHAIR: Yes, and I think that short-term funding is a problem for so many organisations.

Mr HARRISON: Yes, only because it does not hit the mark in those areas, and especially because we have got our nine regions out in the state you are not able to run it across all, you can only get it done in some. It is a bit frustrating, but yes.

The CHAIR: I do not know whether it was in your submission or it was in another, but I was reading that because of the lack of Koori Courts around the state there are people who, if they want to appear within a Koori Court, they have got a six-week wait, particularly out in some regional areas. I know one of your recommendations is to expand the reach of Koori Courts. Is there anywhere that we should focus on first or prioritise for that expansion?

Uncle Robert NICHOLLS: Do you mind if I answer that, Christopher?

Mr HARRISON: No, you are right, Uncle Bob.

Uncle Robert NICHOLLS: Fiona, we have just had up in Wodonga a Koori Court. I think if I was to explain it, I would say in Shepparton we have a Koori Court, we have a Koori County Court, we have a Koori Children’s Court. We also have the Magistrates Court. So in Shepparton we are pretty well advanced in terms of having the court systems to, I suppose, deal with Aboriginal people coming before the courts.

In terms of Wodonga, we were just recently—I think last year—able to launch the Wodonga Koori Court, and that is a first. But believe me, caucus had to fight tooth and nail because, as you would be aware or the standing committee would be aware, funding is very tight in terms of trying to establish these facilities. I think it is very important that these courts are established. I think Echuca in the Loddon Mallee region are looking at having something like that.

If I could just say that when I was a public servant and I was working down in the Barwon south-west, I was told by some of my non-Aboriginal counterparts or workers that Koori Courts do not work, and I listened to their story. Even in the community they were saying the same thing—businesses and whatever like that—and when I got a chance to explain to them I said, ‘Okay, Aboriginal and Torres Strait Islander people aren’t being treated specially. We have to go through the same system. We have to go through the courts, and if it is to go before the Koori Courts, our people, male and female and young people, have to plead guilty’. Now, that can become a bit of a challenge for the simple reason that I have had some Aboriginal people say, ‘Well, look, I want to challenge this, but I want to challenge it in the Koori Court’. I believe that we as caucus are looking at how we can change that and move forward.

So, in essence, what I am saying is that I believe that where there are Koori Courts we are getting very good outcomes not only for the court system but also for the community, because those young people are coming before their elders, and there is nothing worse than coming up before an elder. I have seen them here in Shepparton and other places where the young people, or even the older people, like in their 40s and their 50s, are so nervous. So I believe that the courts like that, as well as the Children's Court are, I suppose, a good investment.

The CHAIR: Yes. I think in looking at some of the recommendations around early intervention, like first contact and last contact, that is hoping that they never get to Koori Court, because of that work.

We have got Deputy Chair Tien here. So if you do not mind, I am going to go to Tien, then to Sheena, then to Tania, then to Matt.

Dr KIEU: Thank you, Chair. Thank you for appearing here today and helping us with the issue. You have raised a recommendation on raising the age of responsibility for children from 10 to 14, because in past decades Aboriginal youth in the youth justice system have been quite over-represented. But for the last two years it seemed to be going down a little bit, and also it seemed that the targets of the Closing the Gap program as well as the justice agreement seemed to be being approached and could be met. So could you comment on that, and could you also comment on how the alternatives, like education, diversion or any other alternatives—or community based—have had a role in helping that?

Mr HARRISON: Yes. Thank you, Dr Kieu. On raising the age, like we said, we want to make sure and try and get it to the 14. Victoria is currently at 10, but we also want to look at the minimum age of incarceration at 16 years of age. So what we want is greater investment in evidence-based intervention supports to reduce the likelihood of offender behaving. The evidence supports raising the age, as well as the overwhelming support to increase to at least 14, so Victoria should not wait to raise the age. They should look at that. It should be a priority for the state government. Incarceration of young people often leads to a lifetime in the justice system and their involvement. If we put the investments in the early stages, before what is seen as preventative, into the community, you are giving them a different approach to the justice system, so you can look at the investment down the track of actually staying out of it—in education and supports but also in family structures. It is building up those models within the families and also at that local level. What we like to use is the model that 'It takes a community to raise a child' and use that approach. It is aunts, uncles, cousins—all those that are a part of it—elders, community members and stuff like that that are a part of that approach. But it is also looking at that preventative side of things, the preventative programs or preventative supports that need to be in place for those Aboriginal children just to stop them from hitting the justice system as well. With raising the age, we are looking at the area of how we can look at an alternative program or an alternative model than actually having them incarcerated so they are actually looking at diverting from the system. Once they are in the system, we know that it is overwhelmingly that they will actually go back into the system when they are older. So we want to get to it at the early stages.

Uncle Robert NICHOLLS: Dr Kieu, if I can sort of add to Chris's comments there. We also have got to look at it in terms of the fact that Aboriginal children or young people who have been charged at a young age usually have mental health issues and needs or have suffered due to trauma within the home life. They are things that we are being mindful of, and that because of colonisation—in some of our parents and our grandparents, and it leads into the young people—there is this trauma that they carry for years and generations to come.

Some of the young children that I worked with when I was in the public service had acquired brain injury. Now—and I need to qualify this—I have asked for a medical report to be done on a young person, but the person that was treating this young person was a qualified nurse, not a doctor. These are the sorts of things that we look at. In terms of if we are looking at therapeutic health and whatever like that—health and wellbeing of that young person—we need to dig down further than just saying, 'Oh, well, this person's got mental health issues'. We need to look at it in terms of where that young person has come from. Like a lot of our young people, sometimes they do not stay at home because of the trauma that has been in their life or that has been impacting on their lives. They are staying at friends or they are walking the streets because it is safer to walk the streets or do what we call 'couch hopping'. So I think that when we look at it in terms of our young people, they need access and support programs, not incarceration.

Dr KIEU: Not to mention the unequal opportunities and employment, particularly for young people.

Uncle Robert NICHOLLS: Yes.

Dr KIEU: Thank you.

The CHAIR: Thank you. Sheena.

Ms WATT: Thanks, Chair. Thank you, Chris. Thanks, Uncle Bobby, for being here. I am delighted to have you both here, as a previous member of the Aboriginal Justice Caucus back a few years ago now. I recall very fondly the work around the development of AJA4, and my question goes to the Aboriginal justice agreement phase 4 and the point that my colleague Dr Kieu just brought up around trauma. I want to talk about healing and the need for healing in our communities. In that justice agreement there are of course calls for a healing unit to be established, and there was some dedicated funding I believe in the last budget around a healing centre. Can you talk to me about this healing program? What is it about? Why do you want it? How is it going to work? And why do we need to focus more on healing for our people if we are going to really tackle these extraordinary rates of Aboriginal and Torres Strait Islander incarceration in our state?

The CHAIR: Can you just solve everything, please, Chris, now?

Ms WATT: Just all of it. Thanks.

Mr HARRISON: Just all of it, yes. So with the healing model, it is looking more at the area in reaching our community members, so it is building our self-confidence, it is building the knowledge in community, but it is also geared at that area of making sure we put those safeguards in place at that early stage level. With the healing units, we have got a lot of family members that have dealt with family violence, we have had families taken out of home, stuff like that over time as well, and you are dealing with all those traumas and trying to unpack all that information. So what we have got at the moment, currently, I believe, with the healing program, I think, is we have put up a funding bid in relation to it, which we can take on notice and then share back to the committee just so you have it all here, which will give you a full breakdown of what is entailed in the program and the costing around it and everything that it covers, if that is okay.

The CHAIR: That would be terrific, thank you.

Uncle Robert NICHOLLS: Chair, can I just add to that. It is not only about the healing when we have got people in Ravenhall and the prisons out there, but it is also about—I would rather deal with a person who has got problems out in the community where we have got the resources, we have got the cultural appropriateness, to deal with those sorts of things. We are on country. We can go out on country, when we look at the therapeutic in terms of what they need to heal, these people, who are very scarred in terms of family violence or whatever like that. I think caucus always says—and the words from Djirra echo in my ears saying, ‘Why are we building more and more prisons?’. Why aren’t we looking at it in terms of a therapeutic way in terms of whilst they are outside? Yes, they may have done something wrong or committed a crime, something like that, but at the end of the day we need to be sort of working with them and the families to try and sort of get an outcome. Because at the end of the day—and this is probably giving my age away now—when I used to work with Pentridge I would see some young people coming into Pentridge, and coming out they are the experts, because they have learned a trade. And it is not a motorcar trade or a panelbeaters trade, it is a trade in terms of what got a lot of people in the prison system.

So I suppose what I am saying here is that we need to look at it and it must be funded properly. I had a conversation with a couple of caucus members recently and I said, ‘Look, some of these programs that are running, we are getting what we call a bandaid or drip-fed’. If it is not recurrent and for three years or longer, it is just sort of plugging up the leak that is in the pipe. So if we are given adequate funding to do these things, to work with our people—not only young people but also the adult people. I am adding a project that is called [inaudible], which in Yorta language is ‘healing the people’. So, again, I am advocating that locking someone up in the prison system does not sort of cure a person who is on heroin or amphetamines or whatever like that. It is a case of that if we were out on country, we could take them out there learning the skills that they have lost. Again, I go back to colonisation, because there are adults and young people who are entering into the system. I would rather see our people, our side of the system, and hopefully once we do get it right the departments or

governments will look at it and say, ‘Hang on, look, jeez, caucus have come up with a great model. It’s working. Why can’t we do that in mainstream as well?’.

The CHAIR: Thank you. I will go to Tania, then Matthew.

Ms MAXWELL: Thank you, Chair. Bobby and Chris, thank you so much for joining us today and for enlightening us with your very substantial submission. It is great. I just wanted to go back and ask a question in relation to young people in particular, but Aboriginal people and incarceration rates and deaths in custody. Do you have any information that you can provide us in relation to what is contributing to the deaths in custody? I think that is something that we really have to understand in order to perhaps make recommendations within this final report. Is it underlying health issues? Is it maltreatment? What is it that is happening, and why aren’t those issues being addressed through their life before incarceration? I guess what I am trying to ask is: is it the justice system? Is it the incarceration that is contributing to this, and if so, what can we do about it?

Mr HARRISON: Thanks, Tania—a bit of an open-ended question there.

Ms MAXWELL: Yes, I know, and I am sorry, but I think it is important for us to have that understanding of what is going on in these prisons that is perhaps contributing to these terrible deaths in custody.

Mr HARRISON: So we have underlying health effects as one of the big areas in it as well; also mistreatment. It is looking at the model around trust and having that trust in those areas or in those places. That is where Uncle Bobby and I have touched on while speaking—we need to look at the preventative stuff at the early stages. It is looking at putting the money in at the early stages. So it is not going and doing 106 new beds at Dame Phyllis Frost Centre and then trying to fill them, I think it was at a cost of about—what is it?—\$188.9 million, on 12 March this year. It is looking at trying to decrease the numbers over time in that space. So that is where we talked about having that preventative stuff early, but it is also having it led by Aboriginal people, and an Aboriginal model which is self-determining.

So if we are doing the work at the local level—we are going through, doing the health checks through our co-ops, we are working with them at that grassroots level so we can actually look at it and also putting in the preventative programs in at that grassroots level as well—we are deferring them from the justice system but also giving them the supports. So we can actually have those areas in place right from the start—like we talked about, culturally appropriate legal services and stuff like that—to make sure that we have all those areas across the board covered so that we are actually reducing the number of people going into prisons, because you have got some people that will go to court and when they find out that they are going to prison, some are in that much shock that they are scared that something is going to happen to them in that area. That is what we are scared of in that space as well. It is looking at how we try and change that mentality, and like I said, it is all around the investment at the start.

The other area that we can probably look at the investment around is culturally appropriate legal assistance and funding. We have got the preventative programs—early intervention services. We have also put in about our Aboriginal social justice commissioner, so we have an accountability service that we can look at as well to make sure when there are those things that are happening in the system and if we need to look at the changes that are happening in those areas, we have that authoritative body that is Aboriginal led that can go in and look at those systems.

Uncle Robert NICHOLLS: If I can just add to that—and I totally support Chris—in saying that early intervention and prevention as a principal response has been recommended and supported by several commissions and reports, including RCIADIC. So what I am saying there is that there are quite a lot of reports out there in terms of Aboriginal and Torres Strait Islander people and some of the strong recommendations, and one of the ones that I would like to sort of show as an example is the Massive Murray Paddle for young people. I mean, that has been going for 20-odd years, and it has been very successful in terms of travelling from Yarrowonga right up to Swan Hill. One of the things that I have seen out of the Massive Murray Paddle is young people who have gone on and got employment. The only thing that stops them from getting into the public service sector is they have got a criminal record, but in terms of them working with an Aboriginal organisation, I have seen them thrive on that. So there are some good examples out there.

I suppose, getting back to the funding of it, I am advocating on behalf of VALS that they need adequate funding too, because they are an organisation that is currently struggling as well. There was a time when they were going to stop taking more cases on because of the lack of funding.

Mr HARRISON: Also to add to that, what I probably got from my bit was that the justice system exerts a lot of control over Aboriginal lives through legislation, policies and processes that rarely include the voices of Aboriginal people in their design and development. So with the sentencing, it needs to promote community confidence in sentencing and outcomes and offer a range of sentencing options that aim to meet the unique needs of Aboriginal people and the community across Victoria. That is where I come back again to that accountability of an Aboriginal justice commissioner to actually have that oversight as well.

Ms MAXWELL: Chris, you have talked about funding and the need for funding in order to contribute to those supports. Have you made any inquiries—we know that the federal government gives \$33 billion a year to support Aboriginal people, and I do wonder where that money goes, because it does not sound like it is getting fed down to the grassroots level to support people in preventing them from becoming incarcerated and entrenched in the criminal justice system. I would love to know out of curiosity where all that money is going if it is not getting disseminated to the likes of your organisation.

Uncle Robert NICHOLLS: Can I kick that off, Chris?

Mr HARRISON: Yes, sure, if you want, Uncle Bobby. I will jump in after.

Uncle Robert NICHOLLS: One of my mentors, the late Mr Stuart Murray, used to say to me when I used to work with him, and this is going back probably 20-odd years ago, ‘It costs \$150 000 to keep one person in the prison system’. Now, the numbers could have risen since then, but he said to me and some of the government people that we were talking to, ‘If we used that \$150 000 just for that one person and just how many people are incarcerated to facilitate something on the outside, we would have better outcomes, rather than sort of locking them up and building more prisons’. I think that is the key intent of where does the money go to. I know—and I do not have the evidence for it—most of it is taken up in mainstream services, but when it comes to the Aboriginal community controlled organisations, their organisations are told, ‘You’ve got \$50 000 and this is how you are going to spend it’, so it takes away the self-determination in terms of how do we assist our people—young men, young women and adults—in the prison system. So if we had better control in terms of saying what is happening with that money, we could probably add value to it. Sorry, Chris.

Mr HARRISON: Well said, Uncle Bobby. Like, it is making sure that we have the value-adding but also the voice at the top to actually have that shared experience. We know with the Aboriginal justice agreement in Victoria we are leading the way with most of the information we share across the state compared to other states, but it is also back to that investment at the end of the day that it is Aboriginal led and Aboriginal determined what that money is being used for. So that is why we say we are limited in what we can do. We may have 30 or 40 priorities that come out of AJA4 where some are ongoing and some have been funded and there are still some sitting there that have not been funded. Like, we have been asking for an Aboriginal social justice commissioner for, I think, nearly 12 to 16 years, and that is just so we have Aboriginal oversight and an authority body for Aboriginal people when it comes to the justice system. But then you look at the other side of things and also the preventative stuff; like, we have communities against communities like competing for dollars for what programs and stuff they can fund. Like Uncle Bobby touched on, they are dictated to on how they are funded and what they can do, so it is trying to take it back to it needs to be Aboriginal led and Aboriginal supported to actually make sure that we are getting the best bang for the buck at the grassroots level.

Ms MAXWELL: It is great to have that on the record, Chris. Thank you very much.

Uncle Robert NICHOLLS: Can I just say one more thing there, and that is that the wider community, non-Aboriginal people, look upon it and say, ‘Oh, yeah, blackfellas are getting all this money’, but the point is it is not coming to our people. It is not coming through to our organisations. There is the food chain of, ‘Okay, well here’s your money, but part of it’s got to be spent on here and part of it’s got to be spent on there’. So people who make those horrible comments about Aboriginal people, about, ‘They get everything’, have got to have an understanding as to how government funds our organisations and then what we have to do to sort of get the outcomes that we want.

The CHAIR: Excellent. Thank you. Matthew.

Dr BACH: Thanks a lot, Chair. I mean, it is interesting that that is where you finish up, Uncle Robert. I would not mind asking you another couple of questions about that. In particular I am really interested in and appalled by the numbers and then of course the stories behind those numbers when we start to look at the statutory child protection system and the way in which, sadly, there is such an over-representation of Indigenous kids there that then again leads to a huge over-representation of Indigenous kids in youth justice. We have talked about, you know, what far, far too often happens from there, and I do not disagree with some of your views before, Uncle Robert, about what normally happens when people go into the prison system, despite the best effort of people who work in those systems. How can we change systems and structures to allow that sort of autonomy and control that you were talking about before, to be handed over to Indigenous-led organisations?

Just quickly, I read a report the other day from Social Ventures Australia. It was from 2017, about the ongoing growth—it is a horrible word to use in this context, but nonetheless the ongoing growth—in the number of Indigenous kids in in the child protection system. And what that report said is that the best thing we could do is to hand over power and control—proper funding, of course, but also real power and control—to Indigenous organisations, for all of the reasons that you gentlemen have been talking to us about. So I feel like government, political parties, have been hearing these messages for a long time. I am not sure that much is changing, however. How might we do better as a political class to try to make that shift that all the experts say, like you say, is really necessary if we want to make an impact here?

Uncle Robert NICHOLLS: Well, look, child protection has been one of my favourite people, because I worked within the Department of Health for many years, throughout the whole of Victoria. I am sorry, Christopher, to cut you off. But one of the things is that we are currently in the process with Rumbalara, BADAC and I think MDAS in Mildura; they are currently working with section 18.

But what I want to say to you, Matthew, is that I have seen Aboriginal children—and I am going to be blunt here—ripped away from their parents or parent. Now, for various different reasons they have been taken away and the white social workers are saying, ‘Okay, we’re going to take four or five children’, and when they take these four or five children they are going to say, ‘One’s going over here and another one’s going over here and another one’s going there’, so the children are separated. All of a sudden we have got trauma within a young family. They do not have this consideration and mindset of saying, ‘Okay, well what happens if we do split these children up? What’s going to happen?’—because they have been so used to one unit together. Because of sometimes irresponsible parents or a parent, that is the nature of the beast, I suppose, we front today. So what I am saying here is that there has been no consideration given in terms of: how do child protection, when they go with the police and everything like that—all they see is police and child protection and, ‘We’re going to take your kids away’.

Now, I attended a Sorry Day event up there in Shepparton, and I made these comments. In five—I think it is five—or six years since the royal commission into child protection, and Mr Andrew Jackomos was the commissioner at that time and at that time it was Taskforce—I am not quite sure—

The CHAIR: 1000.

Uncle Robert NICHOLLS: 1000. Thank you, Fiona, yes. So it was 1000 then and then we have now got Mr Justin Mohamed, who is the commissioner for young people and children, and it has gone up over another thousand. So in the space of five years we have had more children removed than we had prior to colonisation. So what is child protection doing? Do they take into account the actions and the harm? And these young kids are being scarred for life. I talk to them. I say, ‘Look, do you know the dynamics of this particular family?’. ‘No, we don’t’. ‘Do you know the aunties, the uncles, the brothers, the sisters?’. And it is people like me—and hopefully, Sheena, I can put you into the limelight: Sheena could be seen as an aunt. Now, you might say, Fiona, ‘But I know Sheena. That’s not her family’.

The CHAIR: She is too young, yes.

Uncle Robert NICHOLLS: But culturally, traditionally, that is the common nature in terms of how we in our communities treat people. So what I am saying there, Matthew, is that there have been a lot of children taken away. And look, I know some children have been taken away from their parents for a period of six or

more years. Now, just take that into account. And then they come back home, and then they come back like aliens for the simple reason that they do not know their parents and all that sort of stuff.

The other thing—and I will stop there, and I will let Chris have a say—is that we also have up here in Shepparton common clients. I just want to make sure that I get this across, because with these common clients they have got multiple, complex issues—you know, family violence. Sometimes some of them may even go out and be charged with an offence, and then they come away again and they are going out and committing another crime, because they are not in the appropriate environment, as if they were with Aboriginal people. I do not know whether, Sheena or Fiona, you would remember—years ago they used to have family group homes around the state. Matthew, I do not know whether you would be familiar with that. So they had these family group homes where, if a child had to be placed somewhere, they had this facility which was managed by Aboriginal people, and that there was culturally appropriate for them to go to. But just imagine if they were to go to a non-Aboriginal family—they are going into a strange territory.

Dr BACH: Or worse, into residential care.

Uncle Robert NICHOLLS: Look, can I say this: there are only two Aboriginal football netball clubs in Victoria. Fitzroy Stars is one in Melbourne, and we have got Rumbalara Football Netball Club up here. I spoke to a lady who had three children, and I said, ‘Do you ever, at any time at the weekends when Rumbalara football club plays football at home, take them up there to meet their cousins, their brothers, their aunties and whatever?’. ‘Oh, no, we can’t do that’. It reminds me of McAlister—I cannot think of his name; he was the president of Collingwood football: ‘If all black kids or black people were good citizens, they could be growing up like us nice whitefellas’. So the moral of the story is that I do not believe that the system that the government has, or the state government has, in terms of section 18—you know, MDAS is currently managing that. We have got Rumbalara, and we have also got BADAC there. So I do not think the system is suiting our young kids, who are being, I call it, forcibly removed from their families. Sorry, Chris.

Mr HARRISON: But also, to add to that, Matthew, looking at the report that came through from Aunty Muriel Bamblett from VACCA, she provided you with a fair bit of information. But also, looking at the area when it comes to consultation and engagement with the Aboriginal organisations and groups that sit around to actually go into partnership and have that true, meaningful conversation of how it looks from the money coming down from the top—basically, this is the approach. And it is working collaboratively. It is not having it where it is basically, ‘We’re only limited to this’. It needs to be collaboratively, a cross approach, and shared with the voices of Aboriginal people. So like I said, we are representative of 21 members from across the state of Victoria, and we go right back to grassroots levels with Aboriginal organisations and elected chairpersons that are a part of our organisation. It is making sure that those groups are in partnership, having those thoughts and stuff like that. When we refer to Close the Gap, the Aboriginal Justice Caucus, with our phase 4—we are more ambitious in the justice targets. The Close the Gap targets for Victoria are a lot lower than ours. So it is looking more at that area of having that consultation, that community consultation, as well and having that shared experience and walking the journey together. And having that approach from government is basically having us at the same level to speak about what works and how it is going to work but also how it is going to be determined and spread out to the communities to actually deliver on those areas.

Dr BACH: All right. Thank you both very much. I am sure my time has expired, but thank you.

The CHAIR: Thank you. I am afraid our time has expired. Thank you so much. I think we did not talk about some of the issues in your report, but certainly the Aboriginal social justice commissioner, we heard that loud and clear throughout this, and I think that is certainly something that this committee needs to consider very carefully. This has been wonderful. Really it has just been a wonderful conversation, and I really appreciate all the work that you do and how open and free-flowing your information to us today has been.

Uncle Robert NICHOLLS: And, Fiona, I do not need an answer now, but one of the other major problems we have got is confirmation of Aboriginality.

The CHAIR: Sorry, yes. I agree, and if I had had time, I was going to ask you a question about that. We might follow up with just maybe some more of the nuts and bolts on how you think that would happen. I know you go to it in your submission, but just maybe a bit of a step-through—or I could just ask Sheena.

Uncle Robert NICHOLLS: Yes, not a problem. Thank you.

The CHAIR: Thank you both, and as I mentioned, you will receive a transcript. You may also receive a couple of follow-up questions from us. I hope you do not mind.

Uncle Robert NICHOLLS: Not a problem.

Mr HARRISON: Yes, we would welcome that.

The CHAIR: Thank you.

Witnesses withdrew.