COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

AGENCY REVIEW HEARING — DEPARTMENT FOR CHILD PROTECTION AND FAMILY SUPPORT

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 17 MARCH 2014

Members

Ms M.M. Quirk (Chair)
Mr I.M. Britza (Deputy Chair)
Mr C.D. Hatton
Mr M.P. Murray
Dr A.D. Buti

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Hearing commenced at 12.01 pm

Mr TERRENCE MURPHY
Director General, Department for Child Protection and Family Support, examined:

Ms EMMA WHITE
Executive Director Country Services, Department for Child Protection and Family Support, examined:

The CHAIR: Good morning, Mr Murphy and Ms White. The cameras will just be here for a couple of minutes, so we will go through the formalities and then the cameras can leave.

On behalf of the Community Development and Justice Standing Committee, I would like to thank you for your interest and appearance before us today. One of the functions of the committee is to review the departments within its portfolio responsibilities and from time to time the committee will conduct agency review hearings. The purpose of today's hearing is to discuss the issue of early identification of children at risk, particularly in light of the recent death of a newborn baby after an alleged assault by its teenage father. At this stage, I would like to introduce myself and the other committee members. I am Margaret Quirk, member for Girrawheen; on my left is the deputy chair, Mr Ian Britza, member for Morley; on his left is Mr Chris Hatton, member for Balcatta; and on my right is Dr Tony Buti, member for Armadale. The member the Collie–Preston is absent today.

The Community Development and Justice Standing Committee is a committee of the Legislative Assembly of the Parliament of Western Australia. The hearing is a formal procedure of the Parliament and therefore commands the same respect given to proceedings in the house itself. Even though the committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of Parliament. This is a public hearing and Hansard will be making a transcript of the proceedings for the public record. If you refer to any document during your evidence, it would assist Hansard if you could provide the full title for the record.

Before we proceed to the questions we have for you today, I need to ask you a series of questions. Have each of you completed the "Details of Witness" form?

The Witnesses: Yes.

The CHAIR: Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

The Witnesses: Yes.

The CHAIR: Did you receive and read the information for witnesses briefing sheet provided with the "Details of Witness" form?

The Witnesses: Yes.

The CHAIR: Do you have any questions in relation to being a witness at today's hearing?

The Witnesses: No.

The CHAIR: I think we might let our friends with the cameras go at this stage, if you do not mind.

We will start with some questions. Director general, I would like to start by reading a quote to you that appeared in *The Sunday Times* on 2 March 2014. It was an article by Katie Robertson, "Deaths review danger" in which you said —

> "The fact that, on this occasion, something considered to be of low probability occurred is in and of itself not evidence of a poor decision since, by definition, low probability events do occur, albeit infrequently," he said.
>
> "The traditional reaction to a troubling death usually involves public declarations by politicians and child protection leaders that 'lessons will be learned'," …
>
> Such changes tend to be instigated in an atmosphere of distress and blame, encouraging greater defensiveness in an already anxious workforce."

Is that something that you in fact said?

Mr Murphy: It is a quote from an article by Professor Eileen Munro from the London School of Economics, who is the reviewer of the child protection system in England for Her Majesty's government, Dr Andrew Turnell from Resolutions Consultancy and myself. It was a paper commissioned by Casey Family Programs for a special edition of *Child Welfare* published in the United States in September 2013.

The CHAIR: Are they views that you still hold?

Mr Murphy: They are very accurate views.

The CHAIR: All right. Are you saying that in circumstances where there has been the death of a child in terrible circumstances that there are no lessons to be learned?

Mr Murphy: No.

The CHAIR: Well, what did you mean by what you said then?

Mr Murphy: We meant exactly as we said; that is, that if the immediate reaction to a tragic event is the search for blame—the tendency to blame the workers who may have been involved in that situation—then that in fact clouds the opportunity to learn lessons from a review of the circumstances of any particular case. Moreover, it feeds a culture of defensiveness; that is, the workers will seek to defend their actions rather than act objectively and take necessary risks within the workplace. We wrote that article, as I say, commissioned by a national philanthropic organisation, for a special edition of the most prestigious journal in the United States, at its invitation, because this is an issue that characterises child protection systems all around the world. It was a particular focus of Eileen Munro in her review of the English child protection system.

The CHAIR: Can you just tell us, after such an event, within your department, what normally happens to the workers who might have been involved in that case?

Mr Murphy: It is a mixture. First, understand that it is a very anxious time for everybody involved; obviously, the family but also our staff who were working with the family and anybody who has been involved with that case. As that article points out, it is a mixture of looking for information immediately as to what happened and particularly to inform the next steps that might need to occur; providing support to the workers and the managers involved, helping them understand that they will not be singled out and hung out to dry; and, thirdly, it is a matter of, once the crisis diminishes, taking a formal review, which can take a number of forms within the department and that, in turn, informs the formal reviews, should there be a death, by the Ombudsman and, depending on the events, but in all likelihood, the Coroner.

The CHAIR: When is it just the Ombudsman as opposed to the Coroner? What is the protocol there?

Mr Murphy: The department receives notification of all deaths of children. We assess those against the criteria laid out in the Parliamentary Commissioner Act—that is, the Ombudsman's act. Essentially, it means that where there has been a child in care, where we have had a child protection concern in the last two years or a substantial amount of other contact with a child, that qualifies to

be reviewed by the Ombudsman. The Ombudsman then makes his own decision as to whether a formal review occurs and to what extent that review goes.

The CHAIR: If you look at the reviewable and investigable child deaths that have occurred in Western Australia—I will just use, for example, 2006–07, there were 17 deaths; 2008–09, there were 25; 2011–12, there were 41; and 2012–13, there were 37. Given that apparent increase, is it a case that whatever the lessons learned are not being learned? To what can you attribute this increase?

[12.10 pm]

Mr Murphy: The Ombudsman makes a quite strong statistical analysis in his annual report of, I think, 2011–12, the first year in which he assumed his jurisdiction, and makes it very clear that the incidence of child deaths has not been increasing. It is a matter of those with whom the department comes into contact. My hypothesis would be that, in fact, in those years we have come into contact with more of those families. You have to understand that the fact that the department has had contact with a child or with a family whose child has died does not necessarily mean that we have had a strong case management role in all those cases.

Dr A.D. BUTI: With regard to the Bunbury case, was the father of the deceased baby under a court order care of the department?

Mr Murphy: He was under the care and protection of the department as has been publicly reported.

Dr A.D. BUTI: I want to tease out the support that the department was giving him as an individual vis-a-vis the department was giving the family, so the mother and the child. Can you articulate what that support was?

Mr Murphy: In this particular case, he was a child in care. But, to be quite frank, he was one of that very small group of teenagers who are very difficult to care for. As I have indicated publicly, he is a seriously disturbed young man and had a number of problems, including settling down in any one place to live, although he did have some supportive relatives with whom he lived at times, and he was involved with the juvenile justice system. So we actively pursued him and looked to support him at every opportunity we could, but we did not have as strong a level of engagement with him as we would have preferred.

Dr A.D. BUTI: Even though there was a court order that you had to care for him?

Mr Murphy: It was not for want of trying.

Dr A.D. BUTI: All right; it was not for want of trying but —

Mr Murphy: Which is the key issue.

Dr A.D. BUTI: At the time the baby was born, what were the care placement arrangements for the father?

Mr Murphy: The father was living with the mother and her family. This was not necessarily endorsed by us, but it was the reality of the situation. It is through that relationship that we came in contact with the mother.

Dr A.D. BUTI: What sort of supervision did the father have in that arrangement from the department?

Mr Murphy: Once we became aware of that arrangement, we were in contact with him, once again, as much we could. Then, upon learning of the pregnancy, we began to invoke our processes for working with the mother, and by virtue of her being a teenager there is a prima facie case that there is risk involved. Moreover, with the father being who he was and us knowing him, once again, we assessed there was risk involved. Once we became aware of the pregnancy, we began to invoke procedures for what we call pre-birth assessment and planning.

Dr A.D. BUTI: So he was not actually in DC placement at the time of the birth of the child or after?

Mr Murphy: He was a child in care, but he had chosen himself to live with the mother of the unborn child.

Dr A.D. BUTI: What sort of lead-in case support did the department provide him?

Mr Murphy: Once again, which is why I said the issue is that it was not for want of trying, we actively pursued him at every opportunity. But the reality is that some of the teenagers with whom we deal, who are severely damaged and—in this boy's case, once again as I indicated publicly, severely neglected, had periods in care previously and abandoned by his mother at 12 years old—the damage that does to a young person and the manifestation of that damage in their teenage years cannot be underestimated. A court order is not magic. What we do is pursue those young people as actively as we can.

The CHAIR: Given that you are talking about "severely damaged", "abandoned" and all the other things—this kid had baggage, if you like—how is it that you can then assess the risk as low? He has got no parenting role models at all.

Mr Murphy: Sorry, Madam Chair; I do not recall assessing the risk as low.

Dr A.D. BUTI: I think the original reports in the media, which may not be correct, obviously, as it is the media, were that you said that there was no actual sign to say that the baby was at risk being in his company.

Mr Murphy: If I can recall what I attempted to say to the media in those circumstances, there were no indicators of what transpired within the behaviour that occurred subsequent to the birth.

Dr A.D. BUTI: How can you say that? There is a report in an article in *The West Australian*, Wednesday, 19 February 2014, by Rhianna King and Gabrielle Knowles —

> Department for Child Protection boss Terry Murphy said while the 15-year-old ward of the State was a "troubled boy", he had been helping care for the baby in hospital since its premature birth and "there was nothing to predict the alleged crime".

Of course, no-one would necessarily predict the awful thing that eventuated but —

Mr Murphy: Which was the point I was making.

Dr A.D. BUTI: That may be the case, Mr Murphy, but surely there were signs there was a lot of trouble and particular care would have to be taken in the father's supervision of his child? As you said, he was a troubled individual. You have had trouble remaining in contact with him, from what I can gather from what you have said, so how could you make an assessment that there was nothing to predict a dangerous situation eventuating?

Mr Murphy: What you said is true to the extent of the need for support and involvement with that young man, the mother of the child and the baby, and that is what we were doing. In the immediate circumstances after the birth of that child, the only observable behaviour was by the hospital on some 33 occasions, I think from memory—those figures are quoted in the press—and from our own involvement, there was nothing there that indicated that he was a danger to that baby. On the contrary, he was caring for the baby. The relationship was bonding around the child. The indicators were in the opposite direction.

Dr A.D. BUTI: How do you know that, if you said that it was very difficult to have contact with him?

Mr Murphy: I am speaking of the time after which the baby was born, when there were 33 observations from hospital midwives and a run of observations from ourselves. If I may, it is too easy—this is also quoted in the press—to look at this event and look backwards and find the indicators of the pathway. Looking backwards, you can do that. There are certain behaviours that

could have been an indicator. We go right back to the abandonment of that boy by his mother at 12 years old—that could be an indicator. But looking forward, the logic does not work in the same way. We were certainly aware that this was a lad who posed a risk. That is why we were involved. That is why we were involved with this family. That is why that family had and has the prospect of our involvement for the foreseeable future. But there is a great difference between looking backwards and looking forwards.

[12.20 pm]

The CHAIR: In fact, you say something to the same effect in this article by Rhianna King and Gabrielle Knowles —

> "It is too easy to look back at a tragic event, find problematic behaviours and sheet home the cause to that, it simply is not that," …

If you do not use past behaviour to predict future behaviour, what is the basis of any sort of analysis of risk or assessment of an individual?

Mr Murphy: Past behaviour is incredibly important. Past harm caused by a parent to a child is one of the mainstays of child protection assessment. This behaviour was gross; it was chillingly gross, as we all know. Whilst there was problematic behaviour and whilst, as has been reported publicly too, there was some violence in this young teenage boy's history, there was not behaviour of the dimension that would have predicted this to occur, nor were the immediate preceding events in which there was actual behaviour with the baby indicative of what occurred.

The CHAIR: You are saying that, if you like, the reaction or the behaviour that in fact occurred was at the extreme end of what you predicted, but given the boy's history, you could have predicted, for example, poor parenting skills and neglect?

Mr Murphy: Something of that order, yes. I would adjust the precise elements that you put forward then, but that is right.

The CHAIR: It seems to me that it may well be that the department felt as if it did not have any other options but to leave him in place with the mother at the time prior to the baby being born.

Mr Murphy: No; assessment was a work in progress. This baby was born prematurely, so assessment was underway. You cannot be clear, the final placement of what that child may have been.

The CHAIR: What other options would there have been in Bunbury for the boy?

Mr Murphy: General foster care, relative foster care, supervision order—there is a range of options.

The CHAIR: Had any of that been seriously explored?

Mr Murphy: All of those options were on the table, absolutely.

The CHAIR: When you say "on the table", why were they not pursued?

Mr Murphy: We were on a path with that family, as we do in all cases, looking to where there is sufficient strength in a family to provide safety for a child. The young father would never have been, and was not, looked to for that, to provide that stability or safety. However, the child is the child of the mother and they were living with her family, so the extent to which that family could provide strength and sufficient safety for the child, on the other hand, was quite a strong indicator for possible future next steps in managing this case.

The CHAIR: It let the department off the hook, did it not, to find any of those alternative options?

Mr Murphy: No; not at all. We bring children into care, we remove children from their parents—possibly the most draconian administrative authority that exists in this state—every day of the

week. For some of them, it is quite hard to find an immediate placement, if we have to remove them in crisis, but that does not affect our decision to remove children if necessary.

Dr A.D. BUTI: I am still a bit confused. Did the father have his own caseworker separate from the caseworker of the mother and the baby?

Mr Murphy: Yes.

Dr A.D. BUTI: In regard to that caseworker, was there regular contact between his own caseworker and him?

Ms White: Yes, there was. As Terry has described, at times the effort did not always equate to contact. I can offer that —

The CHAIR: In other words, you mean that phone calls were not returned?

Ms White: Well, phone calls —

Dr A.D. BUTI: How often was there physical contact?

Ms White: — were part of the effort. There were also home visits.

Dr A.D. BUTI: How often?

Ms White: I can say that the quarterly reviews were done each and every time. The father participated in his annual reviews in person with extended family to do with his care planning process. I have not got the detail to answer exactly your question, but the efforts were reasonable and persistent from the time he came into care.

Dr A.D. BUTI: How long had the caseworker he had at the time of the incident been with him?

Ms White: From the time he came into care.

Dr A.D. BUTI: Which was when?

Ms White: Approximately two years prior to this event.

Dr A.D. BUTI: Was this case managed out of the Bunbury office?

Ms White: No.

Dr A.D. BUTI: Managed where—from Perth?

Ms White: From Cannington, yes.

Dr A.D. BUTI: Even though he was down in Bunbury?

Ms White: He had recently moved to Bunbury and his unborn child's case was managed from the Bunbury office.

Dr A.D. BUTI: His caseworker was based in Cannington?

Ms White: Correct.

Dr A.D. BUTI: How was the physical contact made?

Ms White: We have a range of arrangements for families and kids who are between districts; we have co-working relationships. Bunbury is not so far from the metro area. This father and mother in fact were back and forth from Perth regularly. We were very aware of the different houses and family they were staying with when in Perth, so there was a range of in-person contact and attempts to do so from his caseworker and from the newly appointed caseworker in Bunbury on behalf of Cannington. This is very commonplace in keeping with how we work across geographical locations.

Dr A.D. BUTI: But regarding the attempts—you talked about attempts to make contact with him—how often were there physical attempts? What were the actual physical contact times? In the last two years, how often did each caseworker physically meet with him?

Ms White: I do not have the exact dates here today.

Dr A.D. BUTI: But you have an idea.

Ms White: Yes; my idea is that it is in keeping with our regular contact with children in care.

The CHAIR: How is it you did not bring the exact dates with you? You have got a big Lever arch file there. How is it you did not actually bring them here? Is that not something you thought we might be interested in knowing?

Mr Murphy: That information will come out in the review when the case is done. We have not pulled out every contact ourselves, even in the review, at this stage. We can say that multiple contacts occurred during that time; even more attempts were made during that two years, but we have not downloaded that specific case information, no.

Dr A.D. BUTI: Can you provide this hearing with those at a later date?

Mr Murphy: This will be subject to the Ombudsman's review, we would have to take that —

Dr A.D. BUTI: This is ridiculous. The Ombudsman's report comes out once a year. When you say "subject to the Ombudsman's review", how can your providing us with details of contact affect the Ombudsman's review? It does not, so please do not use the cover of the Ombudsman. We request that we are provided with information of the actual physical contact between the caseworker and the boy. That we are asking you to provide it, has nothing to do with the Ombudsman. What we want will not affect the Ombudsman's review.

Mr Murphy: Noted.

Mr C.D. HATTON: Mr Murphy, I acknowledge the complexity of your structure and everything like that. Possibly hindsight is a luxury and foresight is a necessity. You mentioned a bit about the hindsight, which is sometimes not a luxury. This particular boy had a troubled past. He had assaulted his partner and he had, I think, three restraining orders against him. Was there any fear that he might have been some sort of threat to any people around him and, in particular, maybe his partner again and the young baby?

Mr Murphy: I have also seen some reports in the press about restraining orders. We were not and are not aware of any restraining orders that were in place at that time. I would not take that as necessarily being the case.

[12.30 pm]

The CHAIR: Have you made any inquiries subsequently as to whether that is the case?

Mr Murphy: Yes.

The CHAIR: Was it the case?

Mr Murphy: Not according to our information, no.

Mr C.D. HATTON: So you pursued the restraining order avenue?

Mr Murphy: We have not pursued any restraining orders.

Mr C.D. HATTON: Okay. If there were restraining orders, would you be notified?

Mr Murphy: We should be.

Mr C.D. HATTON: You should be?

Mr Murphy: And it —

Mr C.D. HATTON: So it is the normal procedure to be notified?

Mr Murphy: It requires a little bit of action on our part as well. You might want to —

Ms White: Yes.

Mr C.D. HATTON: So there is maybe not a very good communication in that way within the structure of the department?

Mr Murphy: No; there may be some slippage at the courts is our experience, but we do find out these things eventually. I have inquired into that matter, and once again I will say that to the best of our knowledge—we have checked all the avenues—there were no restraining orders in place at the time of this event.

Mr C.D. HATTON: If there were restraining orders, as I have mentioned, and there is the assault on the partner and the troubled past, would you, within your experience, then feel there would be a need to have monitored that situation differently in the hospital?

Mr Murphy: No.

Mr C.D. HATTON: Okay.

Mr Murphy: Some 60 per cent of our clients have a history of domestic violence—violence within the family. That is an enormous number, and it is quite a horrible situation to behold. Many families overcome that problem. Many families learn to care for their children even though they have had that history and even though that history may be abhorrent to most people. There had been violence in this young man's history, but once again it was not of the sort that would lead us to predict an event of this nature was likely. Once again, our experience on his behaviour, the observation of his behaviour, the relationship with the mother and the influence of the mother's extended family would indicate that up until the time of the event, the interactions with that child were actually positive.

The CHAIR: For anyone a new baby is a stressful event—a happy event, but also very stressful and demanding. Was any consideration given by the caseworkers of either the mother or the father of assisting them with some parenting skills?

Mr Murphy: Absolutely.

The CHAIR: Was that done?

Mr Murphy: Absolutely, on two fronts. The mother was engaged in mothercraft classes at the hospital, and she was referred to the Best Beginnings program, which is a joint health department–departmental home visiting program for mums at risk. That was on the assumption that the baby would go home with mum, and obviously that was all still open to the open assessment. But those preparations were being made, yes.

The CHAIR: So they were being made, but they had not occurred?

Mr Murphy: They could not occur because she was in hospital, and while she was in hospital, she was attending mothercraft classes.

The CHAIR: What about dad?

Mr Murphy: Dad was attending a men's group at the local provider for that service. Part of the reason for doing so was his history of violent behaviour.

Dr A.D. BUTI: Was the Bunbury child centre family support team involved in providing support to the mother and baby?

Mr Murphy: No, that would not have been appropriate at that time. This was a case being assessed at the time.

Ms White: The child centre family support team's role would have been to ensure that Best Beginnings, which is the program to provide that parenting support, was commenced upon discharge from the hospital and being part of that ongoing support process with that program and the parents.

Dr A.D. BUTI: Getting back to his caseworker, what was the case load of that particular caseworker?

Ms White: Approximately 11, but I do not actually have that situation, but I have checked on that detail myself.

The CHAIR: How long had the caseworker been in the department?

Ms White: That, I cannot say.

Mr C.D. HATTON: Just going to the caseworker again—I am interested in this—the primary caseworker was in Perth at the time of this happening?

Ms White: The primary caseworker to the safety review of the child—the prematurely born child—was in Bunbury. The caseworker of the father—also a child in care—was in Perth.

Mr C.D. HATTON: The caseworker of the father was in Perth during the process while the baby was born—prior and after. What was the qualification of the caseworker down in Bunbury?

Ms White: Both were qualified social workers.

Mr C.D. HATTON: Did the caseworker in Bunbury have full access to the files and everything?

Ms White: Absolutely.

Mr C.D. HATTON: Well briefed et cetera?

Ms White: Yes, and both participated in assessment and review processes throughout that period. We have an electronic file system, so they can be accessed anywhere in the state, in fact.

The CHAIR: Mr Murphy, are you able to tell me—you might provide this later if you are not able to today—what the average age of a caseworker is?

Mr Murphy: We would have to check that.

The CHAIR: And also the attrition rate?

Mr Murphy: The attrition rate is the lowest in Australia, and amongst the lowest internationally—around 10 per cent. The attrition rate is the lowest in Australia, and the amongst the lowest internationally—around 10 per cent. I repeat that.

The CHAIR: Can you tell us of any changes to policy or practices in the wake of this alleged incident?

Mr Murphy: Not at this stage, no. The policies and the practices that were invoked—pre-birth planning, the way we do child protection work through the "Signs of Safety" approach and involving the family closely in that—were all operating, and there is no reason to adjust them. The area we do keep under constant scrutiny and revisit regularly is case transfer and co-working of cases. Because our population of, particularly, families can be transient and because families and children can move into different districts, and because, as has been pointed out in this case, this was a child—the father—who was living in the city and was case-managed from the city up until the last few months of the case, and therefore co-working was invoked with Bunbury district, we have a look at how that works, as I say, constantly. It is a challenge; the movement of families and the continuity of workers with children in care and families. The arrangements have not been adjusted; it has more been a matter of revisiting with our responsible directors to make sure that they are responsive whenever the need for co-working or transfer of a case occurs.

Dr A.D. BUTI: How long has the father been in care? Since he was born? It was a court order at 14, was it? He is 15, so nearly two years. During that period, how many placements has he had since he has been under the care of the department?

Ms White: Approximately four that we have endorsed, and then, as Terry has described, a period of time where he has been self-selecting to be in situations that we would not ordinarily choose for him, but we are working with him to build safety around and planning for his circumstance.

Dr A.D. BUTI: I understand the concerns Mr Murphy has in regards to reviews, particularly incident reviews being made, but what about internal reviews? Have you actually conducted an internal review of this case and the care arrangements and efforts that have been made or were made?

[12.40 pm]

Mr Murphy: We are in process with internal reviews because it is not a one-off event. We have reviewed files, so there is a file review which does indicate history and all those circumstances around the event. We have also received advice to that effect from the hospital through the Department of Health and other government agencies that had an involvement with this family. But there are subsequent stages that we will be going through with review; one of which will occur next week when both Emma and I visit Bunbury where we will talk to staff about the circumstances and the lessons from the experience. We will capture that and we will also look to do the same with all staff who have been involved.

Once again, if I can go back to the very start of this, the purpose of that is twofold. Firstly, is there anything we missed, anything we can learn, anything that needs to be adjusted? But secondly, in the absence of negligent or culpable behaviour by staff, to assure them that their bosses have their backs—that the organisation stands behind them. As we started, with reference to that journal article I co-wrote with Munro and Turnell, these circumstances send a shudder through the whole department. Every individual worker becomes more anxious and the risk is that they become more risk-averse in their work, more defensive in their work, less engaged with families and less open to building safety with families to get the best possible outcome for the children.

Ms M.M. QUIRK: It could have the opposite effect; it could mean a greater level of vigilance.

Mr Murphy: With respect, Margaret, I have been in this business for 20 years and have also worked with a range of organisations around Australia and internationally. As I said, Eileen Munro reviewed the child protection system in England and the very clear experience of these organisations, including our own prior to the Ford review in 2007, is that searching for blame and hanging workers out to dry, which is what happens as a result, exacerbates a natural anxiety that occurs as part of the work and the wave of anxiety that occurs following every tragedy in an organisation.

Ms M.M. QUIRK: That is not what you said. You said that it permeates the whole organisation and generally there is an instinct to become more risk-averse. I am saying that there might also be an instinct amongst staff to actually be more vigilant—hyper-vigilant, if you like.

Mr Murphy: Yes, and I think that is where, in fact, we are saying very much the same thing—that hyper-vigilance, in fact, is what results in that risk-aversion and not being as open to finding the opportunities to work constructively with families to build safety for children. Anxious child protection organisations, defensive child protection organisations, are not effective. You might remember that the Ford review, in 2007, described our department as being "defensive" as well as being "confused and overwhelmed". That is a situation which I have done everything within my power to avoid.

Ms M.M. QUIRK: The department had a duty of care to the three key players in this event. What do you see your duty of care being?

Mr Murphy: Do you mean our duty of care to each?

Ms M.M. QUIRK: Yes.

Mr Murphy: To the father: to make our best endeavours to help him grow up and have a reasonable life. That involves active case management, the provision of practical support and access to whatever treatment or therapeutic services he might require. To mum: to provide whatever support we can to her, whether that is by way of parenting skills, emotional support or practical support to be a safe mother. To the child: to assess the circumstances and make a placement decision that was in his best interests and gave him the best chance of being safe.

Ms M.M. QUIRK: You are saying that because you have not finalised this review, nor travelled to Bunbury and talked to staff and looked at the files, that you are not in a position at this stage to say that you have met the duty of care in relation to those three individuals.

Mr Murphy: What I can say is that our reviews to date have not shown any breach of policy or procedures or any negligence or culpability on the part of our staff.

Ms M.M. QUIRK: But Ms White said that you are still to go to Bunbury. For example, there is some information that I would have thought was germane that you are yet to actually go through. It would be true to say that you are not in a position to say categorically that you are satisfied with your duty of care as being met in relation to those three individuals at this stage.

Mr Murphy: I would say that I am satisfied that, by virtue of working within our policies and procedures and being active on each of those cases and not finding any sign of any negligence on the part of our staff, I would say that our duty of care is quite sound.

Ms M.M. QUIRK: Prior to discussing it with them and prior to having all the material in front of you?

Mr Murphy: As I said, there is a range of purposes served by reviewing the matter with staff. There is always more information that comes out. However, we also have a range of recorded material that does satisfy us that no policies and procedures were contradicted and that there was no negligent behaviour. What the story does show and what we have painted to you, quite candidly, is that of a very difficult teenage child in care who we had to actively pursue and were not always successful in doing so.

Ms M.M. QUIRK: Can you outline for the committee the at-risk youth strategy? What does that entail?

Mr I.M. BRITZA: And what is the age of that? What does that encompass?

Mr Murphy: For ourselves it is to 18 years of age. We developed the department's at-risk youth strategy some three years ago now, I think, for a range of purposes—two of which are predominant. The first is to define our role with at-risk youth in the community and where we could potentially be more effective in exercising that role. For example, through joint patrols with police, the reorganisation of inner-city youth services and, as we are currently doing, the recontracting of our services for at-risk youth to involve more case management and outreach to where they actually are. The second dominant purpose is to recognise and look to build our organisational capacity when we are case managing our own teenagers.

The phenomenon that occurs with teenage kids in care, not with everyone, but with far more than in the general community, is that because they have experienced trauma and have therefore have suffered damage as a result of that trauma, then when puberty and adolescence occur, the normal problems or behaviour swings of puberty and adolescence are grossly exaggerated.

Ms M.M. QUIRK: Magnified.

Mr Murphy: At that time, placements become at risk, relationships become at risk; it is the time when dropping out of school, getting involved in criminal behaviour or anti-social behaviour all magnify.

[12.50 pm]

The at-risk youth strategy really looks at how we can anticipate, prepare for and case-manage kids as they are coming up to the teenage years; and before that, how we support more healing of the children who are in the care of the state, whether they are in foster care, residential care or relative care, because every one of them, even the kids who are doing ostensibly quite well, are carrying that history of trauma and will face issues, if not in teenage years, then in the late teenage and early adult years where those issues resonate.

The CHAIR: Is that strategy due to be evaluated at any stage or has it got an end point where you need to look at it again or anything?

Mr Murphy: We regularly assess the extent to which we have implemented the strategies or the actions within that strategy. I think the last review of that was some six months or so ago.

The CHAIR: When you did that review, did you make any changes or alterations?

Mr Murphy: Keep going! Keep going! It is a very dynamic area, particularly things like joint patrols with police and follow-up for families who have young people who are at risk. We have been concentrating those in regional areas substantially, but there is always room to do more.

The CHAIR: In terms of Aboriginal and also CALD communities, are there any special things that you need to be mindful of there in terms of at-risk youth?

Mr Murphy: CALD communities are a significant challenge for newly arrived migrant populations, particularly where they are escaping war and often with children having been involved in those war situations. There are some populations where we have a fairly high representation of casework. We do not have a high representation of children in care because families try really, really hard, but there are some teenagers where the damage is so pronounced that they are also involved with the criminal justice system and the police.

The CHAIR: Which is a good segue. You would be aware of the police commissioner's relatively controversial remarks last week about more children should be removed from neglectful parents in order to combat the increasing rates of juvenile crime. What is your view on that?

Mr Murphy: I did notice that article, yes. Subsequent to the commissioner writing that op-ed piece, there have been subsequent pieces by Tony Pietropiccolo from Centrecare, and by Fiona Stanley, Ted Wilkes and Dennis Eggington. I think if you look at all three of those, they all describe the same problem that police, correctional agencies, ourselves and non-government agencies experience as part of our core work, but there is a range of approaches to dealing with those. The removal of children from their families is not of itself curative of anything. Our mandate is to keep children safe. We are not perfect; this is not a perfect science. We operate with uncertain information, anxious environments, people to not always tell the truth, but eons of research tells us that if a child can grow up safely in their own home, they have a better chance of being pro-social than if they are removed. The variables get mixed up, because obviously you remove the most problematic traumatised kids and they therefore do less well in education, they are less pro-social, and they are more likely to be involved in criminal behaviour, but it is not a cure in and of itself. And in fact, removing kids creates some trauma of itself. It is far, far better, as the police commissioner has said publicly and has been reported at least in the suburban press publicly, when governments are looking to invest in dealing with these issues, should we invest in law enforcement and corrections or should we invest in social services and prevention? Invest in social services and prevention.

The CHAIR: That investment has to occur at a really early age, does it not; under 10 really?

Mr Murphy: In my view it has to occur through the whole spectrum of age and behaviour. I think we often lurch as a community between thinking we have to get in right at the pointy end and take all those kids away—so a radical solution at the pointiest end—or we have to start when they are babies and make things so that they do not get the problems in the first place. In fact, I think it is the area in the middle where serious problematic behaviours are starting to be displayed, that that is when we need to get in very, very hard and look to remediate.

The CHAIR: What sort of age are you talking about there?

Mr Murphy: It shifts. Our parent support service that operates under statute and has parents on formal parenting agreements, and can be coupled with income management and liquor-restricted premises—that sort of hard-edged intervention—generally targets kids 12-up. But I do think that, although there are very isolated cases that the commissioner has reported of very young children or relatively young children being out there with their siblings, and we monitor this quite carefully, there are families with children 10, maybe a bit under 10, who could benefit from the same very intense level of intervention.

The CHAIR: Are you familiar with I think it is the intensive family support program that the Department of Corrective Services used to run? I think it was based on a model from Minnesota or somewhere in the midwest; are you familiar with that?

Mr Murphy: Multisystemic therapy?

The CHAIR: Yes.

Mr Murphy: Yes.

The CHAIR: What is your view on that?

Mr Murphy: Two views. The research on multisystemic therapy is very strong, but the subsequent rollout of multisystemic therapy in the United States and other places did not show the results achieved by the original research. This is often the case for a number of reasons, whether it is in the implementation or the intensity with which the program is actually replicated. It is also a very ambitious program. The second thing, though, is I think interventions of that sort that are intensive, reach into families and do not wait for families to come to you, in our case coupling them with some coercive interventions, such as income management, liquor-restricted premises and drawing on a range of agencies and certainly coordinating and marshalling the range of agencies to maximum effect—housing, mental health, drug and alcohol, domestic violence intervention and the like—is critical.

The CHAIR: Police often say to me that they end up being babysitters because they cannot get anyone from child protection after hours. Is that something you are working through with police, or is this why the commissioner has his cri de coeur, if you like, about handling children?

Mr Murphy: This is something we work through with police week in, week out, year in, year out. There are cases where neither the police nor ourselves can find a responsible adult and we are caught for a lack of alternative. These cases are not frequent; however, they are enormously frustrating, and I do think the commissioner has personally expressed some of those frustrations to me, as I have to him about where sometimes our expectations of police might fall short.

[1.00 pm]

The CHAIR: And where are the police letting the side down?

Mr Murphy: Rather, what occurs is police and child protection are together faced with extremely difficult situations day in, day out, in regional areas particularly, but also in the city. The search for a responsible adult may not be as successful as we would like, for our part. The capacity of the police to be there in five minutes may turn out to be 45. Whatever it is, there are times when ourselves and the police have to draw on each other's resources and work in partnership, and because we do that day in, day out inevitably there are tensions—inevitably.

The CHAIR: They are saying they cannot get hold of you at all. It is not a question of finding a responsible parent. They, frequently, say that child protection is missing in action, after hours.

Mr Murphy: Well, we check out every one of those and it is neither always nor frequent.

The CHAIR: Just on that, do you see that the individuals that the police commissioner is talking about—that is, their evidence of the failure of the child protection system for the last decade—how

is it, if those kids had got the sort of attention and observation and intervention that they required, these kids would not still be in the situation?

Mr Murphy: Chair, if I can answer it this way, I am not aware of a community in the world that does not have juvenile crime—that does not have problematic or acting-out teenagers. I am not aware that all those communities are looking to their child protection system as the cause of that poor behaviour. I am sorry, it is neither as simple nor as linear as that. There is no question that our department, the community sector agencies, as Tony Pietropiccolo, Fiona Stanley, Ted Wilkes and Dennis Eggington put in their editorial pieces, that we would like all to do more to provide intensive support to those families who are struggling to control the behaviour of their teenagers. Frankly, however, I cannot see that we will be closing our juvenile detention facilities or dismantling our juvenile justice department no matter how good we are at what we do. We have to get continually better. There is no question of that, and we are absolutely focused on doing so. Look—think back in 2007, when our department was described as overwhelmed, confused, defensive. We are now a department to which others look for leadership, which is not to say we succeed in every case, and we are here today dealing with a tragedy, which clearly is not a success of the system. We cannot turn around every family's circumstances, but this state has a very, very good Department for Child Protection and Family Support, enormous resources—intellectual and monetary and emotional—have gone into rebuilding the department since 2007, when it was described as I had said. It works well with the partner agencies; nine and a half out of 10 interactions with police are positive and result in a good outcome. But we are dealing at the ropey end of town. We are dealing in the murkiest part of the community, and so as a result, we will be involved where tragedies and contention occurs as part of our business.

Dr A.D. BUTI: I do not think anyone would assume that your job is easy, far from it. There is, of course, a particular family in Armadale who I am sure your department is well aware of, and there has not been a solution to that for the last couple of years. But can I just return back to the —

Mr Murphy: Let us keep working on it, then.

Dr A.D. BUTI: Yes, let us keep working on it. I would like to get involved, but every time I want to get involved there is always this privacy between various agencies, so I cannot come to meetings, which I think is absurd—but anyway, getting back to the Bunbury case, if you do not mind, for a minute. I take your point that you do not want to create a department where workers are fearful; I understand that. But that, of course, does not exempt the need for a thorough internal review examination of what happened. Because as you said yourself, your duty is the safety of children; that is your duty under the act. You have stated to Ms Quirk that you have undertaken some review of the case, but you have not completed it—you have not gone down to Bunbury, which is the centre of the incident. So how can you make a predetermined judgement that there has not been a neglect or breakdown of procedures, especially when I have asked today, how many contacts have been made and you are unable to provide those figures? If you had done a review, surely those figures—I would have thought that in any review, one of the first things you would have done is work out how often the caseworker had actually met with this 15-year-old child, and you are unable to provide that today. So surely there must be some concern about your level of review of this case. It is a tragic case, no doubt a tragic case that you will never want to have repeated. Surely you would be doing a thorough review at all stages to ensure that, if possible, the chances of this happening again are minimised. You have stated that there is some review, but I query the level of that review, and I query whether you have already predetermined that there will not be any problem found in the department. Surely, if due diligence, good governance, your duty under the act required that you do a thorough review, that there would no predetermination of what the outcome will be.

Mr Murphy: I agree.

Dr A.D. BUTI: But you did say to Ms Quirk that you found no neglect—or you may not have found neglect —

Mr Murphy: No negligent behaviour on the part of our staff.

The CHAIR: I do not think I put it that way, either.

Dr A.D. BUTI: I do not think Ms Quirk put it that way, either.

Mr Murphy: No, I put it that way.

Dr A.D. BUTI: Yes, but can we also just make it clear about the information you provide to this committee; that is, you will provide information on what attempts have been made by the caseworker to make contact with the 15-year-old, what were the modes of that attempt of contacts. How many successful contacts were there, and what were the mode of those contacts?

Mr Murphy: As I said, I note that request and subject to any provisions of privacy around the case, we will provide that.

Dr A.D. BUTI: There is no privacy around —

Mr Murphy: Thank you, I appreciate that view.

Dr A.D. BUTI: Well, Mr Murphy, you may appreciate it but I will also state that there cannot be any privacy. You have provided us with statistical information. I mean, that is absurd. I presume you will provide them to the Ombudsman?

Mr Murphy: It would depend on the questions the Ombudsman asks.

Dr A.D. BUTI: Well, we have asked you a question to provide us with details on what attempts have been made for contact between the caseworker and the 15-year-old, and when you were successful. How can that not be germane to the hearing today?

Mr Murphy: I have no intention of withholding information from the committee to which it is entitled.

The CHAIR: I have just got one last question to ask. The Ombudsman, in looking at investigable deaths, has assessed and analysed the statistics and identified certain factors that are present in a number of the child deaths—family and domestic violence is present in 69 per cent of the cases; parenting supervision, 56 per cent; drug or substance abuse in 33 per cent; alcohol use, 31 per cent; homelessness, 24 per cent; parental mental health issues. Now looking at that list, there are all sorts of issues in terms of Aboriginal kids being overrepresented, but looking at the list, that would be the same sort of factor that you would look at to assess risk of harm to that kid. From what I have read about the case, it seems to me a number of those factors were present.

Mr Murphy: A number of them.

The CHAIR: Yes.

Mr Murphy: That is right. As they are in a majority of the cases with which we deal. I think the Ombudsman in pointing out those themes in relation to child death to tell us—which is why he analyses them by themes in that way—where we, as a community, need to target our preventive efforts.

Mr C.D. HATTON: Can I just go back to the situation of the father and the tragic case of the young baby passing away. I am a bit concerned actually, that you said you do not necessarily get reports—if there were to be reports—you do not necessarily get them about restraining orders. Can you just elaborate upon why you do not get those?

Ms White: For children in care of the CEO, there is the expectation, and there is a process by which we are informed when restraining orders have been issued by the court. In all other instances, we would not ordinarily be informed nor would we expect to be. If it is an open case, as an example, where we are investigating the safety of a child and there is violence between the intimate partner or the parents, we would proactively seek, as part of that assessment, information from the court to confirm or otherwise whether or not there are restraining orders and, if so, what are the conditions,

et cetera. Probably more importantly, what are the actual conditions on the order as part of our assessment and work with the family, but the court does not inform us on every single restraining order that is issued. There is no process for that.

[1.10 pm]

Mr C.D. HATTON: That is my concern. Why is there no process for that? If this is a troubled youth who had already assaulted his partner and had things happening that you did not know of, it does point to him being unstable. Some vigilant, urgent concern was probably needed around him at that time as he could have been a threat to anyone around him, like I said earlier.

Ms White: For this father, who was in care, we would expect to be informed if there was a restraining order in place. In this instance, there was not. None of our information suggests that one was not issued. I certainly take your point, but for this young man and parent and child in care, we would ordinarily find out that there was no restraining order, so there was nothing to find out, I suppose. We subsequently made inquiries when we heard this information in the public sphere to satisfy ourselves that there was not an error, only to discover that there was no restraining order in place.

Mr C.D. HATTON: Are you positive there are no restraining orders in place?

Ms White: We are positive. We have sourced all the information directly from the court and others.

The CHAIR: I wanted to ask one other question about the procedures within the department. Where you have a case like this in which you have an interest in a number of individuals, do the particular branch officers or whatever have regular case conferences with their colleagues so there is possibly an opportunity for more experienced or senior people to have a second look at it? Do they occur regularly or is it on an as-needed basis?

Ms White: It is built into all our case management processes. It is twofold, particularly around making critical decisions that have been made with senior experienced staff. If the decision is around the removal of a child, that occurs at our district director level. For the pre-birth process, of which this is most relevant, senior staff attend all meetings with families and, in fact, lead that assessment process across both districts.

The CHAIR: As part of the information that you are providing, it would be useful to have an indication of how many of these case conferences, if you like, occurred in relation to that family group.

Thank you very much for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide any additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you very much.

Hearing concluded at 1.13 pm