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THE DISTRICT COURT  
OF NEW SOUTH WALES  
CIVIL JURISDICTION

**CONFIDENTIAL**

5 JUDGE J B PHELAN

SECOND DAY: THURSDAY 29 AUGUST 2002

10 263/02 - IN THE MATTER OF THE APPEAL OF  
v DEPARTMENT OF COMMUNITY SERVICES

CLOSED COURT

15 Appellant appeared unrepresented  
Mr O for the Department of Community Services  
Ms P for the Child

20 HIS HONOUR: Miss what I suggest is that I'd like to  
hear short evidence from you as to what your current  
circumstances are.

APPELLANT: Yes your Honour.

25 HIS HONOUR: Are you prepared to give evidence?

APPELLANT: Yes your Honour.

30 HIS HONOUR: Could you come into the witness box please?

O : Your Honour I'm just wondering whether before  
Miss does that I just did have some other short  
evidence.

35 HIS HONOUR: If that's the case we'll take that short  
evidence first.

40 O : First of all your Honour there was some dispute  
yesterday as I understand it anyway as to the arrangements  
that were made yesterday for Miss to have access to  
her child and that there seems to have been some  
confusion as to what those arrangements were. I've been  
asked by the Department to hand up to your Honour a copy  
of a letter which was sent to Miss on 23 August  
45 simply setting out that the arrangement because the  
arrangement that had been made was to fall on 28th when  
these proceedings were to commence but the arrangement  
would have to be postponed. They're also indicating to  
her--

50 HIS HONOUR: Show that to Miss

APPELLANT: I have a copy of that letter.

55 HIS HONOUR: You have received it then I believe?

APPELLANT: Yes and I responded to that letter five times  
and I still had no response back until the proceedings

.29/08/02

yesterday when you adjourned until 2 o'clock and I  
 actually walked to their office and asked for something in  
 writing that I had corresponded because the Department  
 always says we write to you and you don't get back and  
 then they have convinced other Magistrates that to be the  
 truth even though it's been incorrect. So I actually  
 walked from here down to the Department and got it in  
 writing and asked them to actually fax it to here in more  
 detail, the reasons as to why they had cancelled the  
 access visit.

O : Your Honour I don't want to get into an argument  
 about that but I just wanted to clarify that issue that  
 seems to have arisen yesterday. The Department's been  
 painted, in these proceedings to some extent as being a  
 little bit heavy handed. Now in my submission here today  
 will be that that is simply not the case but I wanted to  
 make clear to the court, particularly in relation to the  
 matter that was raised yesterday that that was simply not  
 the case. The other matter that I wanted to raise your  
 Honour was as indicated in that letter to Miss a  
 further affidavit would be sought to be filed in these  
 proceedings and I seek leave to file in court an affidavit  
 of comprising two and a half pages. It's an  
 affidavit that simply goes to the contact arrangements  
 that have been in place in recent times. I hand a copy to  
 Miss now and I think Miss P has a copy. She  
 was handed one yesterday. Miss was offered a copy  
 yesterday but she said she preferred to wait until we got  
 into court. That affidavit as your Honour will see really  
 goes particularly to an access visit that occurred on  
 12 June and then indicates the reasons that there have  
 been no further contact visits since that date.

APPELLANT: I would just like to point out your Honour--

HIS HONOUR: Just wait a minute until I've read the  
 affidavit. Yes I've read that.

O : The only other matter was I wanted to call  
 who has given evidence before the Children's  
 Court just to indicate to your Honour some matters which I  
 think are important to your Honour's decision.

HIS HONOUR: What matters might they be?

O : They go to the question that was raised  
 yesterday. Your Honour asked whether the Department made  
 certain concessions and I think I did make a concession  
 that the Department's attitude to this was that if the  
 mother would accept surveillance by the Department and  
 would undertake some therapy that there might be  
 restoration of the trial. I perhaps was somewhat forward  
 in making that concession and in fact your Honour I'm  
 instructed now that there would be great difficulty in the  
 Department undertaking any surveillance in relation to  
 this particular child, if the child were returned to the  
 mother on the basis that there are simply not any persons

in the Department who are prepared to enter into a working relationship or try to enter into a working relationship with Miss

5 HIS HONOUR: What not a single one?

O : Well they're my instructions that it would be extraordinarily difficult your Honour.

10 HIS HONOUR: Is that an omission of defeat on the part of the Department?

O : Possibly your Honour, it is possibly. The Department of course has a responsibility under the  
15 legislation to look after this child and that's why these proceedings were originally brought before the Children's Court and that's why the matter is being pursued today. The Department however in discharging that responsibility in my submission the Department does not have to put its  
20 workers to unnecessary risks and in my submission and certainly with the evidence of Mr who was the Acting Director of the Region of DOCS now. He is of the opinion that placing any of his workers into a  
25 position where they have to work closely with Miss would endanger them.

HIS HONOUR: Well there was a suggestion made at a very early stage I notice by the Department's psychologist  
30 that because of the problems in the Department and the attitude which Dr found an understandable reaction by the appellant that it might be an idea to involve another agency.

O : Yes.

35 HIS HONOUR: Well that didn't seem to get off the ground. That's in Mr report of 2 November 2001. Indeed the Department came up with the idea when the Magistrate was suggesting some sort of case conference not only were they  
40 resistant to it but they then claimed they couldn't delegate their authority. Now to my mind I would have to be persuaded that that was the case because my understanding is that the Department often engages outside  
45 professionals to assist in all sorts of different ways.

O : Yes that's so your Honour.

HIS HONOUR: So it seems to me the Department has taken a very fixed idea even when the Magistrate was trying to  
50 work out some sort of a solution there seemed to me to be a very strong resistance to any working out of the problem.

O : Well your Honour that may be the way it looks on  
55 paper but as my instructions are--

HIS HONOUR: It's not just on paper it seems to permeate the whole way with the Department's approached this.

Although even now is at odds because obviously Mr had a strong idea that the child should be returned to the mother as did Dr and Dr

5 O : As did originally the Department your Honour. In fact my instructions are that when this matter was first brought before the Children's Court back in December 2000 when the original orders were made the Department's application was that there should be a supervisory order made and in fact it was the Magistrate.

10 HIS HONOUR: Yes I understand all of that I've read the papers.

15 O : And your Honour it was only when the relationship between the Department and Miss broke down while she had the care of the child over that period during the beginning and towards the middle and through the year 2001 that--

20 HIS HONOUR: Yes I understand all of that.

O : In my submission your Honour looking at what the Department has done, it's not a case where the Department has simply said well this is just too hard we're not going to try to assist Miss . The Department has in fact done everything possible to assist Miss

25 HIS HONOUR: I don't accept that I think it has gone a long way to try to but I don't think it's pursued all the possibilities as I've just demonstrated.

O : Well one of the things that Mr could certainly tell your Honour would be the availability of other services. Certainly I know that and have both been approached and they have responded in certain ways.

35 HIS HONOUR: Yes but there are many more organisations than just those two.

O : Possibly but that would be something perhaps Mr could--

40 HIS HONOUR: Alright we'll call him.

< (10.30AM)

SWORN AND EXAMINED

50 O : Q. For the record is your name ?

A. That's correct.

55 Q. You're the Acting Director, Region of the Department of Community Services?

A. That's correct.

Q. And your address at the moment is, I think, care of

the  
Services? of the Department of Community

A. That's correct,

5 Q. Indeed you are familiar with this particular case are you not and indeed you've given evidence in the Children's Court proceedings?

A. That's correct.

10 Q. You've just heard what his Honour had to say about concerning the availability of services other than the Department of Community Services to assist in first of all the surveillance of the child and Miss . What do you say as to the availability of such services?

15 A. The specific services that could assist Miss would include private practitioners, would include the Department of Health.

20 Q. When you say private practitioners, what do you mean by that?

A. That would be psychologists or psychiatrists in private practice.

25 Q. So that's looking at what would appear to be the borderline personality disorder?

A. Yes that's correct.

30 Q. In that issue and what about the other issue though which would in effect be fundamentally stepping into the shoes of the Department so far as surveillance and those sorts of things are concerned?

35 A. The only two other organisations who could provide, or three organisations who could provide that level of support and in-home surveillance would be the organisation, organisation and the

HIS HONOUR: Q. What about ?

40 A. don't have to my knowledge a fully comprehensive service based in the

Q. Have you made enquiries?

A. Not specifically.

45 Q. Why not?

50 A. Based on my knowledge of the service networks in the there offer a range of broad generic support services but not with the degree of intensity or skill that would be required to support this case. I'd be happy to make further inquiries but I'm very confident on the advice.

55 Q. Well I'm a bit surprised that you came into the witness box unprepared?

A. Your Honour the issue of hasn't been previously raised with me.

Q. Yes but it doesn't have to be, you knew for some

period of time that people were interested in other possible organisations. You were quick to tell me that and were not interested, well that was information that's old, that appeared before the Magistrate.

5 A. When I canvassed with my staff the availability of support agencies with the resources and the clinical skills necessary to support this case my clear advice from my staff was that and were the only 10 two organisations based in the who had that degree of expertise. The further organisation was the and--

15 Q. Is that under Health, is it?

A. No is a departmentally funded community based family support program. The 20 whilst they can provide a whole range of valuable practical support services, do not have the people with the necessary clinical training that would be necessary to provide the support and monitoring for the condition Miss has.

25 O : Q. First of all in relation to those clinical skills that you're talking about, I take it, are available through staff?

A. Yes.

30 Q. And I think you indicated that they were not prepared to take this case on?

A. No indicated to my staff, or my staff advised me that they indicated to them they weren't even prepared to consider a referral and one of their reasons I understand is Miss

35 and as a result of that they felt there may have been a conflict of interest.

40 Q. What about the referral?

A. I had meetings with personally. They undertook to consider providing a support service. They 45 indicated to me that any services provided would be entirely dependent upon full co-operation and commitment from Miss to working with their service. I asked them for a formal proposal with costings. Subsequently advised me they weren't prepared to do that or prepared to consider such a referral further.

50 HIS HONOUR: Q. Did they actually advise that in writing or was it oral?

A. No that was oral your Honour.

55 Q. Because when the matter was before the court, the court was informed that they had never got back to the Department and therefore that was taken to be a sign that they weren't interested. What is the true position?

A. Subsequently I contacted the former manager for the services and he indicated that upon consideration he felt the needs of this case were beyond the capacity of his organisation to put forward a

constructive proposal.

Q. Why did you make that inquiry afterwards, after that evidence was given to the court?

5 A. Because I was keen to look for alternative avenues both in terms of the support but also alternative avenues in terms of facilitating contact for Miss with her daughter subsequent to the making of the care order.

10 Q. You mean since May of this year?

A. Yes, well the contact I made was before that but I was still very much looking for resourcing in terms of assisting with a contact regime given the fact that--

15 Q. Well the Department doesn't seem to have done much since that. They seem to have completely over reacted in this affidavit to the access visit in June where understandably Miss was upset at the fact that she was no longer being called "Mother". Can't you see the enormous impact it must have had on her?

20 A. I can appreciate the impact that this issue has on Miss, as I can appreciate the impact that similar issues have with other parents whose children are in care and with young children--

25 Q. No I'm not talking about other cases I'm talking about this particular case. It seems as though your employee took a very, very negative attitude to the whole thing. It seems to border on the unprofessional for her to have reacted in the way that she did. Instead of trying to calm the situation she bowls in and says, "This has got to be terminated". Now surely it could have been handled with much greater diplomacy and tact?

30 A. This history of this matter is all attempts have been made to resolve the complex--

35 Q. Yes but if they're being handled in the bull in a china shop way that this affidavit clearly discloses how can you say that?

40 A. I can tell the court that this issue is consistent with our experiences in working with Miss. That no matter what approach or how sensitively we try to approach--

45 Q. Well there was a complete lack of sensitivity on that day, indeed reinforcing what Dr had said right from the start, can't you see that?

50 A. I would ask the court to consider that that particular incident has to be considered in light of the history that numerous departmental officers have had with Miss and the extreme difficulty no matter how hard we try to engage Miss and resolve such issues amicably and I would put to the court that that is atypical with the experience the Department normally has with working with parents in similar circumstances.

55 O : .In relation to that and with the greatest respect your Honour, the intervention by the case worker

on that particular occasion, that access visit was only after the mother had obviously become extremely agitated and was--

5 HIS HONOUR: Yes but instead of snatching the child away from the mother there surely could have been some sort of dialogue that was far less threatening and yet the social worker as she describes herself seems to have barged in with complete lack of sensitivity to what was a dramatic moment for Miss . I mean I find the whole way the Department's handled this subject to what I said earlier a mixture of the highly sensitive, as is demonstrated by Dr and and quite insensitive on other occasions depending upon the worker.

10  
15 O : Well that may be the way it appears your Honour but perhaps--

20 HIS HONOUR: Look I've read all of the materials and I can see that there's been great tension within the Department as to what the proper course to take was and perhaps still is.

25 O : I'd ask through your Honour of course that this witness perhaps comment on what your Honour has just suggested that in fact it is a heavy handed approach on the part of the workers.

30 HIS HONOUR: I think I know what the answer's going to be.

O : Well this gentleman has a great deal of experience in my respectful submission.

35 HIS HONOUR: Well I'm happy to hear what he has to say.

40 WITNESS: One of the reasons for my personal involvement in this matter as initially the manager for the cluster was the degree of conflict and tension that existed between Departmental officers and Miss in quite difficult circumstances. My intervention was to attempt to explore ways in which we could resolve issues and resolve issues supportively in a way that ensured was protected and in a way that attempted to provide Miss with the necessary therapeutic interventions and support. A range of strategies were tried in terms of enlisting neutral parties. As indicated to the court initially we sought to take an approach to this matter at the lowest level of intervention we could possibly consider in terms of a supervision order. I have changed the caseworker personally on a number of occasions in an attempt to find a caseworker who has a personality type and has the capacity to engage with Miss . We have attempted, on numerous occasions to have case conferences with Miss in order to reach agreement around these things and very quickly those case conferences end up in very rapidly in periods of extreme conflict. We have worked extensively with members of Miss family in terms of working through them in attempting to put in



place some support networks and monitoring and  
Miss family inform my staff that despite their  
best endeavours that have been unable to effectively do  
that. Your Honour whilst I appreciate how the records  
look and I appreciate the comments from the

I can't identify any other alternative  
strategy that I think would put in place an appropriate  
support network for and an appropriate therapeutic  
support network for Miss . The Department attempted  
to ensure she received the necessary therapeutic  
intervention. That required a simple approach to her GP  
with a referral to a psychiatrist who indicated his  
preparedness to work with her even those most simple of  
processes proved extremely problematic and conflictual.

HIS HONOUR: But you said Dr answered that by  
confirming that he thought that she didn't need any such  
care and that he hadn't suggested that there be further  
appointments.

WITNESS: My understanding from Dr evidence when  
cross-examined in the Children's Court is that he felt  
very strongly she would benefit from on-going therapeutic  
intervention.

HIS HONOUR: But the reason why it hadn't happened was he  
hadn't encouraged it. Isn't that so?

WITNESS: In meetings between members of my staff and Dr  
he indicated to us that he felt that she would  
strongly benefit.

HIS HONOUR: Yes I know that but he hadn't encouraged her  
to pursue it. He had in effect said there's nothing  
psychiatrically wrong with you and left it that without  
engaging further appointments.

WITNESS: From the conflicts of Miss operating  
within the community I can appreciate his position. The  
Departments concern is the impact of Miss  
condition--

HIS HONOUR: Yes I understand that but you're wondering  
away from the particular question I raise, that is to say  
that Dr himself acknowledged that he hadn't  
encouraged her to return to him and given her the idea  
that she didn't have to.

WITNESS: My recollection under cross-examination  
Dr moderated that view.

HIS HONOUR: Well he did say that she was in need and  
perhaps he put it higher than that, strongly perhaps of  
some psychotherapy. I understand that but I also  
understand the history that he created the impression in  
her mind that it was not essential. That might have been  
convenient for her to hear. Nevertheless he did confirm  
that.

WITNESS: I appreciate that he confirmed that in the  
 context of Miss capacity to function as a member  
 of the community. From my perspective where my primary  
 5 consideration has to be--

HIS HONOUR: No, no I'm not talking about that I'm just  
 interested in how she saw it and how the Department saw  
 10 it, they were obviously at cross purposes.

WITNESS: Yes I appreciate how Miss would see that.  
 I would ask the court to consider that what I have to  
 consider as the responsible manager is the impact of that  
 in terms of best interest.  
 15

HIS HONOUR: Of course ultimately the court has to do that  
 to.

WITNESS: And I do appreciate the inherent conflict in  
 this matter as what may be in the best interest of  
 Miss as a parent and what may be in the best  
 interest of .  
 20

HIS HONOUR: Yes Mr O  
 25

O : Q. Just in relation to that matter it was  
 certainly when the orders of the Magistrate were first  
 made in December 2000 Miss entered into certain  
 undertakings did she not and one of those was that she  
 would seek ongoing therapy with a psychologist or  
 30 psychiatrist?

A. Yes.

HIS HONOUR: Yes that's the very thing I'm exploring  
 that Dr led her to believe that it wasn't  
 necessary.  
 35

O : Well your Honour I know where your Honour is  
 coming from I've read the transcript and I see what  
 Dr said that it may be that in Miss mind  
 that he led her to believe that she really didn't need any  
 further assistance. Be that as it may she at the same  
 time or around about that time appears to have entered  
 into an undertaking with the Department so whether the  
 Department understood.  
 45

HIS HONOUR: Well she subsequently went to Dr twice  
 in February.

O : Yes your Honour.  
 50

HIS HONOUR: I think this thing's been very badly handled.  
 I mean what the Department's fears in the end result might  
 be well based, I'm not arguing against that possibility  
 and I rather think it's been very badly handled.  
 55

O : Well your Honour in my respectful submission if  
 it's been very badly handled it's been badly handled

because of the difficulties that have been created.

5 HIS HONOUR: Look it's badly handled on both sides that's what I'm trying to say I'm not taking any particular viewpoint about that at all.

10 O : We seem to be losing sight of who this, what these proceedings are all about, who these proceedings are all about, they're about the welfare of this child.

HIS HONOUR: Understood.

15 O : Not whether Miss , you know, should have the child or not it's whether as a result--

HIS HONOUR: Mr O I'm perfectly aware of what this case is all about.

20 O : I apologise and I didn't mean to be disrespectful. That's I think the evidence of this witness your Honour.

HIS HONOUR: Do you have any questions Miss P

25 P : Yes I do.

<CROSS EXAMINATION

30 P : Q. Mr when you contacted and , those people that you contacted received information as you perceived it about Miss , is that correct. Perhaps if I could clarify that more. or did not have the opportunity to have a personal assessment or interview with Miss to make up their mind as to whether they would take them or not?  
35 A. That's correct.

HIS HONOUR: Q. Nor did for that matter?  
40 A. That's correct, but if I could add the Department had no objections to them doing that that was decisions made by both of those organisations not to proceed further.

Q. Yes but that would have been on information fed by the Department to a degree would it not?  
45 A. To a degree--

Q. Why would not make up it's mind about it without at least having an interview Miss . I mean it all smacks of pre-decision doesn't it?  
50 A. I've become involved in this matter approximately 18 months ago your Worship and I know there is a history of the Department with Miss and her family for many years.

55 Q. I know about that I've read it.  
A. It maybe that both of those organisations have had prior contact with Miss and the circumstances of the family and I don't know that and I certainly cannot--

Q. Well doesn't that indicate some prejudice on your part that you said that and you don't know it, what's your answer to that?

5 A. Well I respectfully would say to your court is that in exercising my duties in all matters I would seek to avoid the issue of prejudice.

Q. I hope so but it is not an example of prejudice on your part?

10 A. I don't think so your Worship.

Q. It's hard to acknowledge isn't it?

15 A. Your Worship if evidence was put before you that would suggest that I was prejudiced I would be happy to consider that but in--

Q. Well I've just put a scenario to you in which it's my view that you showed prejudice and you say, you can't see that. It doesn't give me much confidence in your professional view Mr

20 A. What we did in this case your Worship was we approached both organisations to commence discussions with them about their capacity to provide support services to this family. We provided organisations with the  
25 information that we had. As I indicated earlier one organisation--

Q. Have you got a letter in writing showing--

30 A. No I'm afraid I don't, your Worship because the negotiations never got to the point where we were able to formalise it because indicated to my staff that they weren't prepared--

Q. Well there was a conflict of interest there and that's understandable.

35 A. --to consider it. I personally asked if they could give me a written proposal for reasons that only they can respond to, they did not provide that information and then subsequently indicated to me that  
40 they weren't prepared to move forward with it.

Q. Yes but that was after the hearing and after you knew that they hadn't responded and nobody got on the phone to find out why they hadn't at the time that the evidence was  
45 given before the Magistrate and that's the very thing that leads me to the view that the Department has taken a pre-judged view of the whole thing.

50 A. The Department in putting any matter before the Children's Court and in particular this matter has to make judgments and very difficult judgments as to our position on this issue--

Q. Yes but in the end result the court makes the judgment, not the Department. The Department is there to assist and try with the guiding light of the philosophies to try to restore children to their parents if it be  
55 possible and practical?

A. The judgment I formed as the manager responsible for

5 this is that as we had not been able to engage Miss  
at even the most basic level around the issues that needed  
to be addressed that I would need to put before the court  
the option that it was the Department's view that  
come in to long term permanent care with the Department.  
Obviously your Worship that the Children's Court in  
10 considering that had a contrary view and it asked the  
Department formerly to do other things, we would have done  
those other things.

Q. Even the Magistrate right towards the end of the case  
wanted a case conference and that was resisted by the  
Department.

15 A. That was resisted by the Department based upon our  
experience that on numerous occasions as documented in the  
evidence--

Q. Yes but the Magistrate was suggesting that the thing  
20 be started again, that the process be started again  
because he obviously felt much the same as I do although  
his ultimate decision went against that proposition--

A. Yes in regard to that particular issue we attempted to  
establish a further case conference through Miss  
solicitor

25 Q. Well it's not disclosed in the evidence in fact it was  
rejected according to the evidence that I read. The  
Department said it was too late in the day and they  
weren't prepared to do it, full stop.

30 A. And the Court accepted that based upon our prior  
attempts to in fact do that very thing.

Q. Well the Court didn't accept it they were persuaded to  
35 think it was too late because the Department said it was  
too late. In other words the Department was guiding the  
Court away from what the Court had in mind. That's the  
way I see it.

A. Well the Court accepted the Department's views on that  
40 particular issue.

Q. Well how do you know the court accepted, it had no  
choice surely?

45 A. The Court could have ordered a compulsory mediation or  
a compulsory conference or compulsory ADR in which in this  
case the Court did not do that.

Q. Yes but the Department said it was not interested,  
50 full stop, and that's a point which reinforces my view  
that the Department has taken a pre-judged view of this  
whole thing and gone against the advice of Dr and  
Dr and indeed , the psychologist in his  
report of 2 November 2001. Is that not so?

A. The Department--

55 Q. No is it not so, either yes or no?

A. I'm sorry your Honour I don't fully understand your  
question.

Q. Well don't worry about it then.

P : Q. Mr you indicated in your earlier evidence that private persons could be engaged to liase with Miss , why hasn't that happened, is that a matter of cost to the Department, is that the reason?

A. As I've indicated the Department approached the two organisations with the capacity to do that--

10 Q. No, I'm talking about--

HIS HONOUR: No you're talking about individual psychologists or psychiatrists?

15 WITNESS: The Department has always encouraged Miss to see a psychologist or a psychiatrist and the Department is prepared to meet the costs.

P : Q. Has that been put in place, you're saying that that's the case but was that actually done?

20 A. The responsibility for accessing private services, and particularly in terms of a psychiatrist is Miss talking to her GP and obtaining a referral to a psychiatrist of the GP's recommendation.

25 HIS HONOUR: Q. You don't need that for a psychologist. Has the Department ever got on the phone to one of the psychologists in the area and said would you be prepared to see Miss ?

30 A. Miss has always resisted doing that and--

Q. No, no, no I said has the Department ever made an appointment with one of the local psychologists?

35 A. No the Department has not.

Q. Why not?

40 A. Because Miss has never indicated to the Department in any way that if we did that that she would be prepared to go along with it.

P : Q. Well she was prepared to go along with Dr , what makes you think that she wouldn't be prepared to go along to another doctor?

45 A. Because the Department was quite willing to accept Dr as an appropriate therapist. So given the fact that there was a willingness to accept Dr as an appropriate therapist why would we look for an alternative. There is no reason for us to look for an alternative.

50 Q. Well was that proposition put to Miss that her costs would be covered, you knew she was on a benefit?

55 A. The issue of costs in seeing Dr is not an issue because with a GP referral she would be entitled to claim any costs associated with that through Medicare. The Department clearly indicated it's willingness and in fact on occasions did assist with meeting transport costs where Miss could attend.

HIS HONOUR: Q. Alright you were then informed that Dr [redacted] or at least at a later date that he thought she needed psychotherapy, that didn't have to come from the psychiatrist that could have been done by a psychologist of whom there are a number of competent people in this community. Now why wasn't something done about that?

5  
A. Because Miss [redacted] has originally indicated that her willingness to see Dr [redacted], the Department had no objection to her seeing Dr [redacted]. The Department regarded Dr [redacted] as an appropriate therapist. I would have no reason to seek an alternative.

10  
Q. Yes but we've already been through that because Dr [redacted] led her to believe she was okay and didn't really need anything?

15  
A. That's not my understanding of Dr [redacted] evidence, my understanding of Dr [redacted], was whilst he felt that the therapy was not critical was in fact clearly indicated that she would benefit from on-going therapy.

20  
Q. But did he make any arrangement to refer her to a psychotherapist or to have therapy? The answer is no?

25  
A. Because he would have been able to provide that therapy himself.

30  
Q. Well he didn't ask her to come back for it. I mean this is what amazes me about this whole exercise that nothing seems to have gone right for Miss [redacted], nothing was going right from the day that the Department took her child away from her. It's just one service after another. That's the way I see it. Now in the end result your fears might be right but how do I know?

35  
A. All I can assure the Court is that and whilst the Court may say, well in hindsight or with the benefit of hindsight did you try this or did you try that and I accept the validity of that is that the Department was prepared to consider any option for Miss [redacted] to obtain appropriate psychotherapeutic support and intervention. The Department did everything within it's power within the options that it could consider or options put to it to make that support and service available. The difficulty in this is Miss [redacted] inability to accept the fact or recognise that she needs that psychotherapeutic intervention.

45  
Q. Yes but Dr [redacted] explained why she formed a resistance to the Department's approaches. She may well need that therapy but she's hardly been led to see that it was necessary by Dr [redacted] who made no additional appointment, encouraged her in the view that she was mentally okay and of course that probably added to her paranoia about the Department and its activities.

50  
A. I can appreciate the Courts perspective and I can appreciate Miss [redacted] perspective on that but the Department on numerous occasions and in the Children's Court hearings both the initial Children's Court hearings and the subsequent ones clearly indicated our strong

believe and our willingness to assist and facilitate Miss gaining access to necessary psychotherapeutic interventions. The Department explored every option put to it that we hadn't considered in terms of making that available. The Department was willing to provide the resourcing necessary to make that available. The fundamental difficulty underlying all of this is Miss inability to accept and recognise the need for that therapeutic intervention and that's the fundamental difficulty I think we all had in this particular matter.

P : Q. In relation to assistance from other organisations did your Department check for example with the Pharmacy where she was taking the child to see the early childhood nurse?

A. One of my staff members Miss certainly did that and her evidence is before the Court and then involved in the transcripts at this stage I would have difficulty recalling the specifics of that evidence but it is a matter of record.

Q. But those inquiries were only made well after the child was taken from her?

A. Again I could only refer you and the Court to the transcripts and Miss affidavit.

Q. Well would the Department accept that if she was seeing that early childhood nurse at the pharmacy and all the notations and reports were positive and the child was meeting all her milestones, what concern would the Department have?

A. The Department has never in these proceedings indicated any concern about the physical care or the physical development of our concern has been in terms of emotional and psychological safety and emotional and psychological development. There has never been an issue brought to me or any evidence that we've sought to put before the court about her physical care and her physical development and the Department in the initial care proceedings made it very clear that that was not our concern. Our concern was around the psychological safety and development for given the circumstances in which she was living.

Q. Isn't that the whole crux of the matter, the Department is saying something that might happen, might occur. There's absolutely no evidence thus far to say that the child has been in any way deprived or not cared for, it is the Department's concern that somewhere down the track that child might be affected if her mother has an episode arising out of her borderline personality disorder. What I'm saying to you sir is that it's all at the moment up in the air and Dr has already indicated that people suffering from that type of personality disorder as they get older it tends to fade away and it's not a problem any more?

A. The Department has a statutory obligation to not just



respond to instances where serious harm or abuse has occurred but as a statutory mandate to intervene where we have evidence to believe that harm might occur. There is pre-emptive powers in the Children's Care and Protection Act. This action was taken based upon the judgments made by my staff and me that the circumstances of current care, the history of the care of her siblings, Miss demonstrated behaviour in terms of working with Departmental officers, her resistance to accepting the fact that she had a mental health issue and needed therapeutic support led us to make the judgment that it was highly likely that future care would be jeopardised. If I could just continue with one thing, there have been issues put before me and issues raised by the in terms of current behaviour, the issue was put - and we're talking about some behavioural indicators, head banging and a range of other clinging type behaviours. The issue has been put that those behaviours were as a result of a separation from her mother but in the evidence before the Children's Court and certainly in my view based upon my experience those behavioural indicators could just as likely and in my view more likely indicate at an early stage that was already beginning to experience some damage to her psychological wellbeing.

HIS HONOUR: Q. That goes against what Dr thought though doesn't it?

A. The evidence as I recall it before the Children's Court was just as likely, based upon my experience an extensive experience I would say it's a bit more--

Q. I don't think Dr put it that way at all, she said it was possible.

A. It's possible but the concern I have as a Senior Departmental Officer is I see matters where we've had to take action before Children's Court where children have been seriously damaged and I believe I have a statutory responsibility and a professional responsibility to take the action required in this matter to actually minimise or prevent that harm occurring and I accept the fact that that requires some judgments and I accept the fact that those judgments are controversial but the view I formed as the Senior Manager responsible for this is we have a professional obligation to put it before the court.

P. : Q And it's quite often that your statutory and professional obligations there's conflict there isn't there?

A. Of course and one of the conflicts in this matter has always been in the best interest in Miss as a mother and the best interests of and in this matter the Department despite all it's efforts has not been able to reach a position where the interest of both can be obtained and the Act requires me then to put weight on the child.

Q. Now Dr is a person that had something like 11

years experience working solely with children and adolescents in a based area?

A. From my recollection, yes.

5 Q. So would you accept that her expertise would amount to something?

A. I certainly accept that her expertise would amount to something.

10 Q. And Dr was the Dr that the Department engaged to initially have the clinical assessment put before the Court?

A. No the Department engaged the Dr was the clinician appointed by the clinic, we  
15 didn't choose Dr specifically.

Q. In relation to Dr report she indicated did she not that that trauma experienced by the child, the head banging, the clinging was more than possible that that was  
20 caused by whisking her away from her mother?

A. That was Dr opinion, yes.

HIS HONOUR: Q. Didn't that cause you considerable concern?

25 A. Yes.

P : Q. And at a time when the child was not only being breastfed but was sick at the time?

A. Yes.

30

HIS HONOUR: Q. What was the idea of taking three policemen and an officer without any warning--

35 APPELLANT: Actually there were two more policemen on my front doorstep, that was what was inside the house, there were more outside.

HIS HONOUR: Q. What was the idea of that it seemed like a military operation worth of the SS?

40 A. I wish to remind the court that prior to taking that action on my direction we approached the Children's Court, we advised the Children's Court in affidavit material that that was our intention. We advised the Children's Court of the reasons for that. We did not - we were not  
45 required by legislation to do that because was a ward and I would have the statutory authority to make that decision without consultation with the Children's Court that my view was that given the contention of this matter and in the interest of openness and due process that I  
50 wanted to advise the Children's Court and give the Children's Court the opportunity to either order or recommend to me not to take that action. We took with us some police officers, given the fact that Miss has  
55 previously threatened harm to Departmental Officers and given the fact that we needed to ensure that in removing we could do so safely. We also took with us members from the mental health team, from the Health Service to ensure that if Miss required it she could

receive the appropriate psychiatric support and interventions because we recognised that this was going to be distressful. I wasn't present during the removal but the advice from my staff is that despite the fact the police officers were there it was handled sensitively. Miss was upset and I would expect that, that's exactly why we took mental health professionals with her, not to constrain her or control her but to provide the necessary psychiatric support given the fact that we knew it was going to be dramatic. We took extreme care to be open to provide the court with the options. Miss solicitor was present in court and had every opportunity to seek orders restraining us from that removal. I wasn't present in the hearing but I understand the court accepted the fact that that was going to occur. Miss knew we were arriving because my advice is that her solicitor rang her and told her. So every care was taken--

APPELLANT: About three and a half minutes.

WITNESS: --to minimise that trauma and to provide independent bodies with the opportunity of saying to me as a Senior Departmental Officer, don't do it.

P : Q. When you finally decided to take that step that wasn't for any impending danger to the child, it was simply because she hadn't attended to the psychotherapy?

A. No the reason that we took that step and I'd have to refresh my memory in terms of the details from the evidence before the court because we documented it and we gave that to the court was following an extreme incident where was exposed to extremely verbally, aggressive and violent behaviour from Miss

Q. It wasn't directed against the child?

A. No it was not directed against the child, but the child was exposed to that behaviour.

HIS HONOUR: Q. Well Dr didn't think that was very significant at all did she?  
(No verbal reply)

P : Q. And I think Dr clarified that it's a totally different thing to be screaming at the child than for the mother to be verbally abusing somebody else and at the whole time she was holding the child?

A. I have two concerns about that, the exposure of children consistently to extreme levels of violence--

Q. Sir you're saying consistently?

A. Yes consistently.

Q. We're talking about one incident?

A. No we're talking about a pattern of incidents that led us to the Children's Court and continued after we were before the Children's Court on a regular basis.

Q. Well what were those patters of incidences?

5 A. The patters of incidence is that each time that we attempted to do as the Court required us to do in terms of previous orders we ended up in extreme incidences of conflict with Miss . No matter what actions or how we approached it how informally or supportive we tried to approach it we ended up in that conflict.

Q. And was not always present in any event?

10 A. was present on many of those occasions and was exposed to that.

Q. She was not present on all of those occasions in any event was she?

15 A. She was present on most of those occasions, I'd have to check the records.

Q. And some of those altercations took place over the telephone didn't they?

20 A. Some of them did but I would also remind the court of evidence put before the Court in some of those instances was not only present she was in Miss arms and my concern on one of those occasions that could have been accidentally hurt given the severity of the range and the potential for an accident.

25 Q. Mr in relation to that incident that you're talking about wasn't she hold in her left arm on her hip?

30 A. I'd need to refresh my memory but she was certainly holding, I forget which arm she was holding the child on her hip. My specific concern because I saw that was this little child's head bouncing around because Miss was storming around the room and--

35 Q. Well how old was the child at that stage?

A: Very young.

Q. Two?

40 A. No less than that I'd have to check the affidavit.

HIS HONOUR: Miss P I think this particular instance has been gone into enough.

45 P : I have nothing further your Honour.

HIS HONOUR: Miss do you have any questions of the witness?

50 APPELLANT: Yes your Honour I most certainly do.

Q. I'd like to go back to the part where access was not, you, I asked your Department could access be done elsewhere, you didn't want that--

55 HIS HONOUR: Is that a question?

APPELLANT: Q. Yeah I'm getting to the point, sorry that - do you recall me actually speaking to you and

saying that I've approached myself as your Department?

A. Yes.

5 Q. You can recall me doing that?

A. Yes.

10 Q. So didn't even to attempt to arrange it or yourself where you just told the Magistrate, is that right, you told the Magistrate that somebody in the Department had?

15 A. The advice from my staff was that when they discussed this matter with weren't even prepared to consider a referral.

20 Q. Wrong, wrong, that is a blatant lie and I think you're aware of that as much as I am. If we go back to this paperwork. I'm just wondering, he is under oath isn't he to tell the truth?

HIS HONOUR: Yes Miss but can I just ask you to ask questions and not make statements.

25 APPELLANT: Q. Do you recall also saying that the reason you didn't want to do it, it wasn't who refused, it was you yourself and was because of the fact that

and if I can recall--

30 O : Your Honour I'd ask that the witness be allowed to answer the question.

35 WITNESS: I think I've already answered that question previously my understanding one of the reasons may have been reluctant to provide the support was for exactly that reason.

40 APPELLANT: I challenge that as totally being incorrect and I actually - we can subpoena the boss there from actually who offered to do the access, okay.

HIS HONOUR: That's not a question.

45 APPELLANT: No that's not a question, it's a fact, I'm just correcting some of the facts that probably aren't necessarily right.

50 Q. Something else that was put to me that with what's happened and I mean I don't expect you to actually probably tell the truth here but I'm going to ask the question anyway and that is that some - a lot of this material is typical to that that would be used if the Department would be using a woman as a surrogate, would I be right. To make it because surrogacy is illegal in 55 Australia isn't Mr , are you aware of that, that using a woman for surrogacy is illegal in Australia?

HIS HONOUR: What's the relevance?

APPELLANT: I'm just wondering he works for a department I would like to know is it illegal and is it a criminal offence?

5 HIS HONOUR: Well it's got nothing to do with this case.

10 APPELLANT: Well it sort of has because I think that the only reason that a lot of these issues have been made out your Honour that a lot of this stuff is just in my head is a good way to probably put it down as, and in actual fact you know damn well there's nothing wrong with me. I know and so does a lot of other people, I am qualified--

15 HIS HONOUR: Miss just ask questions please.

APPELLANT: Q. Have you used me as a surrogate mother?  
A. I don't understand the question, I'm sorry.

20 Q. Mr the Department--

HIS HONOUR: Look I don't think the Department's there to go into surrogacy I disallow that question.

25 APPELLANT: Can I reword the question your Honour?

HIS HONOUR: No we're not here to investigate surrogacy, it's not an issue before the court.

30 APPELLANT: I think we could be ..(not transcribable).. to that.

35 Q. One other thing where you said that psychological or educational needs, you didn't doubt my home, my home has been clean and tidy, is that correct?  
A. That's correct.

40 Q. You've never been to my home so how would you even know?  
A. The advice of my staff is that that's correct and that's not an issue.

45 Q. And you're aware that was reading at nine months of age, are you aware of that?  
A. I have no evidence and I would be very surprised if any child could.

50 Q. Your staff did because she did it in front of them, are you aware that now at two and a half can no longer read, no, I'm just going to make sure I get the answers?

55 A. Developmentally I'm not aware of any history of anywhere that says a child can read at nine months of age. I'm certainly aware that and am pleased to know that had access to books and was able to look at and enjoy books at that age.

Q. Are you also aware that certainly gone backwards since leaving my care, even to this day on my

last access visit is                    nowhere near as advanced as what she was at 18 months. She's actually gone back and can't do things that she was doing before she even left my care?

5     A. That's not my advice.

10    Q. Really, you're aware that                    was drinking out of a cup without using a drinking cup, liddie thing because I spent so much time and patients with the child. Okay so obviously the point I'm trying to make is certainly her educational needs were being met obviously if the child could read at nine months is that right. Your workers can confirm that because they actually were profoundly moved when I actually showed them when she walked over and read a book. The other thing was that you state that that wasn't the issue it was her psychological and the emotional trauma. It's been proven in the last proceedings that the emotional trauma and the psychological effects were obviously caused by your Department, not whilst the child was with me. There was no psychological - the child never even cried, the child was the most happiest little baby there was.

25    HIS HONOUR: Well that's theory has already been explored by Miss P

30    APPELLANT: Yeah I just like to double, go over that but because I am the one whose ability is being questioned that the needs to the child, okay I'm wondering if you say that your best interest for that child is what you say it is, it just doesn't seem that way to me and I - if your best interests were for that child, (1) DOCS role is to maintain the family unit wherever possible, provide whatever support there is available. There is so much more support out there I could have go which I didn't get from your Department from day one. Never once did I get any support--

40    O            : I'd ask that this be put in a form of a question.

45    APPELLANT: Q. I'm wondering why your Department didn't provide the support that's out there. I'm a welfare worker I'm aware of what's out there in the field. Your Department obviously have no knowledge of any of those. Does your Department - do you feel that those workers might need a bit more retraining as to what's out there?

50    HIS HONOUR: Miss                    you're giving us a lot of information but you're not asking a question or if you do you pass onto the next question before the answer's been given to the first question. It takes time but just put one question at a time.

55    APPELLANT: Q. What I meant is that if I'm aware and I'm just some run of the mill lousy mother that is aware of these things that are out there, why aren't your Department workers aware of some of those things out there

that you could recommend. Is there a way that you could see learning from this that your Department might be able to initiate in further proceedings with families that you might be able to offer more assistance than what you're doing, do you think you're really doing the best is what I'm saying?

A. In all matters where we have difficulty or conflict the approach I take as a senior manager is to very much say to staff what can we learn from our experience in this and how can we do things better in the future. In your matter, in this matter we continually looked at our approaches and continually sought to explore ways in which things could be better resolved and sadly, unsuccessfully. I will just add and I meant to add in terms of an earlier question. Certainly I consulted on this matter with the people I'm responsible to in the organisation particularly in terms of the criticisms of the Department from the so those criticisms where the were very critical of the Department were certainly referred to senior people in our organisation for review and the advice I got back following that review was pretty much to support the approach that we had taken being conscious that we were before the Children's Court and also open to the scrutiny of the Children's Court.

Q. One other question. You're aware that , is that right?

A. Yes.

Q. Not a political stunt or anything like that would be a result of any of this?

A. Certainly not.

Q. Or the fact that and the media has exposed the Department on so many occasions of inappropriateness within and what you have done to children.

O : I object to that.

APPELLANT: Q. No I'm asking is this a personal attack I'm trying to still explain why would somebody go hell for leather bring five armed police officers through a single woman who's sitting at home breastfeeding a sick baby in a rocking chair, sitting there, why would it warrant five armed police officers and gung ho and mobile treatment team.

HIS HONOUR: That's already been canvassed.

APPELLANT: Q. Are they the procedures you take with every removal?

A. No not with every removal but certainly in removing any child what I have to consider, I have to consider three things. Once that decision is taken the safety of my staff, the safety of the child and the safety of other people present where I have concerns about those safety



issues I will make sure that I have the necessary support people in place to ensure that those safety issues are maintained. That's what we did in this case.

5 Q. So that can be a normal procedure?

A. Yes it sometimes happens, sometimes it doesn't happen.

Q. About the place where you placed

10 A. Mm.

Q. Is it true that her name is  
, yes?

15 A. That's certainly true their first names are and given some of the history of this matter and threats you've made to the Departmental officers I'm not prepared to divulge the full identity or address of those foster carers.

20 Q. That's fine, we wouldn't expect that but the other thing is, is it true that actually can't conceive, give birth to children herself can she?

O : I object.

25 HIS HONOUR: Yes I uphold the objection.

APPELLANT: There's a reason your Honour because I really believe that this man has used me as a surrogate mother and I'm trying to point out that there is a criminal law and this could be--

HIS HONOUR: I disallow the question it's offensive.

35 APPELLANT: It's offensive?

HIS HONOUR: Yes.

40 APPELLANT: I find it offensive being used as a surrogate mother your Honour and then to be told I'm mad and it's all in your head if I try and say something.

HIS HONOUR: No I've made a ruling that we're not interested in the concept of surrogacy

45 APPELLANT: No more questions.

<RE-EXAMINATION

50 O : Q. You were asked by Miss P whether, I think it was put to you by Miss P that there was no evidence that was likely to suffer any emotional trauma by being the plaintiff of the mother or words to that effect and I think you did though, did you not have considerable historic evidence in relation to other children?

55 A. Yes.

Q. and particularly?

A. Yes.

Q. as well?

A. Yes.

5

Q. And no doubt you took that into consideration did you?

A. I certainly took it into consideration but I was also very careful to keep that in balance in terms of looking at notes and experiences and certainly my experience would say that whilst history is important, history is not always a foreteller of the future but certainly in terms of the events in this case as they unfolded and the conflicts that developed the exposure I'd have every reason to believe that in this case history is likely to repeat itself.

10

15

Q. I ask you this, the incident that you spoke about where you say that you say the child on the Miss hip and being swung around and the head moving in what you regard as a somewhat dangerous fashion?

20

A. Yes.

Q. Is that the incident that you relate to in your affidavit material of 7 November 2001 at paragraph 11 which was an incident that occurred on 26 July?

25

A. That's correct, yes.

Q. And you say in that affidavit material that at that particular time it was during a case conference?

30

A. That's correct.

Q. When there were attempts being made to engage or involve Miss in therapeutic intervention?

35

A. Mm.

Q. First of all the case conference was something I take it Miss had been invited to?

A. That's right, certainly.

40

Q. And with the idea of being to engage Miss in working with the Department and form some sort of relationship?

45

A. And reaching agreements with Miss and my recollection is her mother was present and reaching agreements about the various issues that have been canvassed her today, so how often we go to baby health--

Q. Can I just ask--

50

HIS HONOUR: Mr O this hardly arises out of cross-examination it's the original evidence that was given. I'm well aware of what the circumstances were.

55

O : It does arise out of something that your Honour said and it was a comment that your Honour made to this witness where your Honour said that really what happened during that period and leading up to the child being removed was, I think your Honours words were "one service

after another".

5 HIS HONOUR: This is the one incident that's referred to that's actually documented, everything else is left vague and this is the isolated evidence.

O : Indeed and what I wanted to get from the witness was what happened from 26 July until 12 October.

10 HIS HONOUR: Well it's covered in the material.

O : Well as long as your Honour is happy. Nothing further your Honour.

15 <WITNESS RETIRED

. SHORT ADJOURNMENT

20 HIS HONOUR: You have no further evidence Mr O ?

O : No thank you your Honour.

<APPELLANT(12.03PM)

SWORN

5 P : Your Honour, just before this witness starts, I  
was made aware during the morning break that Miss  
wanted to call one witness and she had been seated at the  
back of the Court. I've now asked her to wait outside of  
the Court and it wouldn't be anything very much, just she  
again knows Miss , will be more for her character.

10

HIS HONOUR: All right, thank you for that Miss P .

APPELLANT: Also I was going to call up as well, so  
maybe he should wait outside as well.

15

HIS HONOUR: Yes, would you mind waiting outside please.

HIS HONOUR: Q. Could you state your full name and your  
address for the record please?

20

A. My name's , I live at

Q. Are you employed at the moment?

25

A. At the moment I'm doing a little bit of voluntary work  
for a, for a second hand shop and I do bread deliveries  
for the church, but I'm not doing--

Q. Paid work?

30

A. --paid work at the moment because I'm on leave because  
of a sexual assault which occurred at the

Q. Are you on social security?

35

A. I'm on a disability pension now, because of the  
proceedings that have come about I've been sort of too  
stressed to go back into the welfare field at this point  
of time and probably it's, these proceedings now will  
affect my, will and certainly probably will forever now  
affect my career in the field of work in which I'm a  
professional in.

40

Q. You gave your address as what?

A.

45

Q. And is that where you've been living for some time?  
A. Yeah, about two and a half years I've been living  
there now.

50

Q. And is that the three bedroom home that you describe  
in your affidavit?

A. Three bedroom home, yes it is, yes your Honour.

Q. And are you living there by yourself?

55

A. Yeah I live there by myself and I do have who  
comes and stays over quite often with me because he's a  
support person for me, he also lost a child to SIDS like  
myself and we've, we see, we're a bit more like a mutual  
friend sort of thing at the moment where he's still going

through difficult times. I do do voluntary work there as  
a--

Q. So what's full name?

5 A.

Q. And is there a relationship between you or not?

10 A. No but it could possibly be and I'd like there to be because I think he's a really sweet guy and I think he's really genuinely concerned--

Q. He's not living there though?

15 A. No, no he lives only a couple of doors up though, he lives with his mum who's very elderly, he does a lot for her, so I think if it ever come to it, I don't think we could really ever live together anyway because his mum can't, is incapable of lots of things, so.

Q. And so how's your health been in recent times?

20 A. I think I'm a pretty healthy person. I'm aware that a lot of the, it certainly bothers me a lot of what's gone on and I do think about it a lot and I mean I do wake up through the night and lay there and I seem to be, my brain's like it's ticking over--

25 Q. Are you on any--

A. --my hair's falling out.

Q. Are you on any medication?

30 A. No I'm not, no.

Q. And when did you last see your GP?

35 A. I was quite sick after reading one of the documents, it caused me to be very unwell and my mother had to come down as I collapsed in my hallway and my mother took me to the doctors.

Q. How long ago?

40 A. That would have been probably during, just after the last proceedings, a day or so after the last proceedings.

Q. What was the diagnosis, do you know?

45 A. It was just stress which had caused a really major migraine.

Q. Did he put you on any treatment?

A. No he was going to give me a needle but I'm petrified of needles, so I just sort of didn't take a needle.

50 Q. And have you had to seek any psychiatric treatment over the last 12 months?

55 A. No and it hasn't been required. I've, I have spoken to Dr and he said, "Look, I don't think there...", he didn't, like I said, he didn't even know why I even went to him in the first place and I said because I've got no choice, if I don't come and see you they're going to take my little girl. And he said, "Is that the only reason you're here?", he said, "Does a doctor recommend

it?", and I said no but it took me a lot to get Dr to even write a letter to recommend me to one but if I didn't I wasn't going to have the child.

5 Q. If it became the case that you were referred to an agency for assessment?

A. Yeah.

10 Q. If the child were to be returned to you, for assessment and for support in the form of supervision, would you give an undertaking that you would consent to those courses?

15 A. For sure I've, I've always done that. I actually have approached different places about doing courses myself. Actually--

Q. No so much doing a course but undergoing, particularly psychotherapy, as Dr has recommended?

20 A. Depending on what's involved in it. I don't really like, I don't really like sort of being, I, I, actually I do have some sort of, I do have a counsellor which was given to me by the and they've me now one that, which is a 24-hour a day.

25 Q. This is in relation to this assault at the ?

A. It's in, in relation to an assault, two of my other children are placed with two men who are--

30 Q. I noticed in one of your documents or in evidence somewhere you said you'd been recently paid some compensation?

35 A. That compensation has actually been through now but it's had to have been stopped because one of the Department workers threatened me that if I continued with the proceedings that he will make sure that my child, that, he, he just pointed out--

40 Q. Which department are you talking about?

A. Department of Community Services worker and he pointed out that if I was to pursue the matters any further, he would make sure that, he didn't say it in so many words, he insinuated that my children are the ones who will be possibly hurt if I do anything.

45 Q. Tell me about your claim for victims compensation, were you getting some counselling paid for by the Victims Compensation Tribunal?

50 A. Yes I was your Honour.

Q. And when was that?

A. I had counselling back about 1995 when I first decided to go forward to the police about the assaults which have occurred.

55 Q. So how long did the counselling continue for?

A. I only ever had it a couple of times and the lady said to me--

Q. When was it last, when was the last one?

A. About two weeks maybe or one day last week I, I rang, I was quite upset and quite traumatised.

5

Q. And are you counselled by a psychologist?

A. She was a counsellor with the Victims Compensation Board.

10

Q. So it took place over the phone?

A. It's a telephone one and she then gave me a list of numbers and told me where I could go.

15

Q. Did I understand that you have, that the Victims Compensation have given you some compensation?

A. They haven't as of yet because I've had to drop the proceedings because of the threats made by but they've told me I've got another three months and they needed some more paperwork.

20

Q. Do you have a solicitor appearing for you on that?

A. No, no. And to be honest, I don't really want the money, I just wanted the threats to stop, that was all I wanted and I just wanted justice.

25

<CROSS-EXAMINATION

P : Q. If you have some teary episodes and feel stressed over these matters that are going on, what do you do to help yourself?

30

A. I'm actually an aroma therapy masseuse as a hobby because I took that up because I found it was the most least stressful thing I could do for myself. So I, so I do that and I also do yoga, so I go and sit on my head for two hours and it makes me feel better sometimes. Majority of the time I find my own self-help things. Actually when my father passed away he left me with a whole pile of books which was herbal and natural ways and my mum now buys me just lots of different oils which I make which, which I, I use for different ailments or headaches or stress or, or whatever. And I find actually that it really, it really does work and I enjoy that and it's something where I think a lot of the times I've sort of put everybody else, majority of the time before myself and then I neglect myself by doing that, so it's like, it's a bit like a pick me up for myself, like yeah.

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Q. What about professional people, do you have access to the counsellor that you had for the victims compensation?

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A. Yeah, she's given me details and numbers and she said any time, 24-hours a day, she's given me a 24-hour a day phone number. I can't recall what her name was but the week before that I spoke to a gentleman by the name of

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because he certainly had concerns of where my children were placed and he asked me was the Department aware of it and I said I try to tell them, they don't want to listen. He then said, "Can you get the matter before a

magistrate", I said a magistrate helped them do it I think and with that he said, "Look, we'll see what we can do". I said look - and I, he then went and got my file and then read that yes there had been threats by the Department if I was to pursue the matter any further and it was then that I received correspondence back. She said, "You just hang in there and like if you need anything, you just ring this number and there'll be someone there within, like 24-hours a day around the clock". They said, "You don't have to be frightened, you don't have to be scared and you don't have to put up with their threats any more".

Q. And do you have any neighbours or friends in the immediate vicinity who can assist you in any way if need be?

A. , a lady that I brought here today, she's also a welfare worker, she works for the . She's fully qualified.

HIS HONOUR: Q. As what?

A. As a, she's a welfare worker as well but at the moment she's working for which works with aged and elderly people in their homes. And I spoke to her and I asked her if she had any background knowledge of adult assault victims or whatever and she said and we just got talking and I explained to her some of my situations and I asked her if I needed, and no I don't mean to push the friendship, but if I need her she's only straight across the road, can I, can I talk to her if I need someone to talk to and she said, "For sure", you know, "That's what friends are for" and she said, she was a little bit certainly disturbed at the way I felt and what I'd been put through and she said as another welfare worker she was quite surprised that a department would literally, and in her words, "Attack a victim" like what has happened.

O : I object to this.

P : I'll just stop you there.

HIS HONOUR: Q. Yes, go on.

A. And as far as a SIDS contact, I've got , which is five houses away from me. I still have moments where I do get a little bit paranoid, like especially when I did have , I get very frightened that my baby might stop breathing as two out of, actually three out of four of my children have all had sleep apnoea and that's where and I have become such good friends there and we sit and we talk for hours on end over different things that bothers him and different things that bothers me and I sort of sit there and say, "Yeah, that's normal" and he sort of bounces it back and goes, "Yeah, that's normal too" and I think well that - yeah, I think I've got a great support network there. And then there's my mum who's always there, she's just--

Q. So you're on good terms with your mother at present?

A. Really good, really really good actually. We, we do,



we try and do a lot of things together and we must be on good terms because she lent me her car.

Q. How often do you see your mother?

5 A. I try and see her at least once a week but last week, I've just designed her office and room for her. I'm an artist as well as a hobby, so she got me to do her, her room which I spent pretty much nearly all weekend with her and then I lent her car yesterday or two days ago because  
10 I had to do a Camp Quality, not really a Camp Quality but a little boy I know who's got, who's involved in Canteen, wanted to meet and I did too so I went too, so I try and balance the things in my life with you know, if I can find a child that wants to do something that I  
15 want to do and I try and do that too and--

Q. Do you care for other people's children in the area where you are?

20 A. Yeah, children actually. Because she works, over the school holidays I looked after her children and they were really really naughty but that was okay, it made me miss mine even when mine are naughty and got a little boy, he's got one survivor. He actually had two children but like I said one from SIDS but, and his little  
25 boy and me get on so well, like every time he's at his dad's place now, he makes his dad come down and, "Go and get " and I get up there and he always wants to play shoot the ducky around the backyard, around--

30 HIS HONOUR: Q. How old is the little boy?

A. His little boy is four and then I also read to him every night that he's at his dad's, he comes down and sends his dad, he's got a collection of books and I've been trying to teach him to read, so.  
35

P : Q. And just one final thing, his Honour asked you a question earlier as to whether you'd be prepared to seek professional help. What was your response to that?

40 A. Definitely, I've never not, I mean if there's something out there that can help me, I'm more than happy to, to take it on.

Q. So when you say help you, do you feel that there maybe is something?

45 A. I think I've certainly got some issues that, not so much with or my children, certainly but, but issues where I'm haunted, maybe's the word I'm looking for by, by things that have happened in my past and I certainly am, I don't know, I wouldn't, I don't think I'm paranoid or  
50 anything like that but I certainly don't like my kids out of my sight because I just think in this is a day and age where we probably can't really afford to. So I mean if someone can convince me that like and yeah.

55 Q. But at the moment you feel quite calm and normal and able to cope?

A. For sure.

Q. With the support system that you have?

A. For sure, I think the support networks I've, I've got myself and it's been through no help with the Department, they're actually support networks that I've always, I mean  
 5 I'm sort of pretty good at that, usually I'll sort of hide under my feelings or emotions for so long but then when I burst it's like, "Help me". And I ring if I run out of ideas and you know.

10 Q. And just one final thing, do you feel looking at hindsight, you are coping better now than what you did say in 1995?

A. By all means. In 1995 I was certainly going through a lot of, I was getting a lot of nightmares and a lot of  
 15 traumatic, a lot of things that happened to me in my childhood that I'd blocked out were coming back to me in my dreams at night and it was really frightening, where some nights I'd get to the point where I didn't even want to go to sleep because I was so scared. Now, I mean I  
 20 don't do that, I think that the aroma therapy, the yoga and the different things I've taken on in life have certainly helped that side of things.

Q. Just with your other children, and  
 25 is it?

A.

Q. , when you were having these problems back then were the fathers of those children around to assist  
 30 you?

A. father was. dad always, has always picked up ever since the day we separated back in 1990, has always picked up every second weekend, part of the school holidays and  
 35 every Monday and Wednesday night he would pick him up for dinner, or every alternative Monday night. If it was the weekend that he'd slept at his dad's, the following Monday would be - hang on, it's going to sound confusing to you, it took me years to finally figure out how it was, but  
 40 yeah it would be one weekend and then the following weekend it would be the Monday night and the Wednesday night. And always had a great relationship with his dad and the Department I mean doesn't even know, comes to my house, two, three, four times a  
 45 week. But the Department you know has done everything to stop and has also tried to manipulate I believe his thoughts to a certain point about even seeing me. But loves coming to see me. Actually  
 50 come with me to meet and everything the other night and he really enjoyed it and he comes up, we go, we get pizza, he comes up and raids my kitchen and doing extremely well

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HIS HONOUR: Q. You realise if you were to get back

she might have some behavioural problems because of the separation and the fact that she's grown older and the like?

5 A. I'm sure that that would be inevitable.

Q. So if that were to occur, how would you cope with that if it looked as though it was getting out of control?

10 A. To be honest I think she'd be that probably happy and I don't think she'd even get a chance to think twice now.

Q. Maybe that is the case but what if it goes the other way and she's obviously unhappy, what would you do about it, what would your plan be?

15 A. I think, I guess what I would do would be probably to involve her with the people who she knew, which I've tried to do that through, each one of my access visits I've taken with me a person who knew each time because we always had a lot of young people, a lot of children, a lot of, always had a lot of friends coming to visit and  
20 knew all of them you know and you can, you could see in her face, sometimes at the access visits it's like she's looking at "Who's that?", you know, and all of a sudden I would go, "Do you remember , remember ?" and we'd talk about something they did and it would trigger off  
25 those thoughts--

Q. That sounds very good but my problem goes a bit further than that if you saw that she was--

30 A. I would certainly probably--

Q. Say she was banging her head on the floor for example?

A. Yeah.

35 Q. And acting out in other different ways by shouting or rebelling, what would you do about that?

A. I'd probably put on, I've got a lot of relaxation music and--

40 Q. No but in the form of getting outside help?

A. Well I believe, actually I have approached the , which is a organisation which runs for children who do have some sort of behavioural problems and they apparently, have said to me that if need be that they would certainly take it on. They usually like to deal with boys but not necessarily but they do  
45 have things with that. And I also rang who runs a program called and they teach--

Q. What's that for?

50 A. --parents and, and the child can attend those courses with the parent and they will teach the parent different sort of negotiating skills and how to react to a child's behaviour if a child is not acting appropriately or whatever. They just teach different disciplinary things  
55 that helps bring the child back on par. And then there's also--

Q. Have you heard of

Centre?

A. I have heard of them yeah, I have heard of that. I think it was called something different but when I worked in the field, I think it was called Day Care.

5

Q. What do they do?

A. Which run a program for immediate respite for children and families in need of, usually in urgent need if, if there was a major emergency or something like that, that the child could be picked up by a department worker or by somebody for I think up to 36 or maybe 48 hours. I'm, I've been a little bit out of that younger age of the welfare field for a while. My professional is maybe, is usually with eight, nine, ten up to teenagers.

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O : Q. You've given some evidence about and you've said that so far as you're concerned he's been influenced in some way by the Department, is that right?

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A. I sort of think that something has occurred.

Q. That something's occurred when the Department's sought to influence thinking so that it's against you in some way, is that right?

25

A. There were things, my, my children have been brought up a lot like me in many ways and that is that they know that I disapprove of liars and/or just blatant dishonesty and I found that when did go and stay with his father, and I didn't really disagree with going to live with his dad because he did get to a stage in his life where I felt that the male influence was what he more so needed in his life at that time. I didn't really like it but in reality it was the best thing for

30

But behaviour very much did change as well. His school work deteriorated, his respect for people, and not just myself, I watched the way he would speak to my family, other family members, my daughters, as well as his grandmother and I don't approve of children being disrespectful to their elders.

35

40

Q. And do you say that that's because of something that the Department has told him or has influenced him in some way, is that--

A. I believe that the Department was the only people around other than his immediate family which could have had any influence, so one leads me to believe that it is the possibility that it, there could have only have been the Department's involvement.

45

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Q. When was the last time you saw ?

A. Tuesday afternoon, we spent quite a few hours, he come up, we had dinner, we took him, he, he went this Camp Quality kid with us in to meet

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Q. You see he's been in the care of his father has he not for some years?

A. Since 1998, August 1998.

Q. And he was committed to the care of his father by the Court, wasn't he?

5 A. Yes but it really didn't require that, would have been able to as it was--

Q. Just answer the questions, he was committed to the care of his father by the Court, wasn't he?

A. Yes, he was.

10 Q. And he's not a ward of the State, is he?

A. I never said that he was a ward of the State.

Q. No just answer my questions?

15 A. I never said that he was a ward of the State.

Q. You see I want to suggest to you the Department has had nothing to do with for a number of years, have they?

20 A. No because you haven't followed up, even with the notifications that have been put through, the Department still hasn't even followed up with the notifications.

Q. But see you've made suggestions--

25 A. I'm not the only one that's made notifications, other people have.

Q. You've made suggestions to his Honour that the Department is trying to influence in his thinking against you?

30 A. In the beginning yes that's exactly what did occur, told me himself thank you, or is my son lying.

Q. You've read the affidavit material haven't you relating to your other children and ?

35 A. Yes.

Q. And you've read no doubt the affidavit of Mr of 28 February, where he indicates he had a conversation with where, this is in February of this year, where said that you said to her, "You're not my child"?

40 A. Well she's not, you made her a State ward, so that means that the child is no longer mine or my responsibility.

45 Q. All right so you don't deny that you said to "You're not my child"?

A. Well she's not if you make her a State ward.

50 Q. But you don't deny you said, "You're not my child", could you just answer the questions?

A. No, I'm not denying that I said that, you've made the order.

55 Q. Do you think that that might have had a negative impact on , you saying that to her?

A. No.

Q. You don't think so?

A. Of course not. I saw \_\_\_\_\_ only last Sunday, which the Department doesn't know about neither and \_\_\_\_\_ was overwhelmed.

5 Q. You saw her last Sunday?

A. Yes, spent all day with her last Sunday and then when her father picked her up, actually Saturday, and then she wanted to stay the night at my place, her father wouldn't let her. It's not \_\_\_\_\_ choice any more.

10

Q. Was that an arrangement that you made between and--

A. No actually, I was doing--

15

Q. Would you just listen to my questions please Miss \_\_\_\_\_ ?

A. Okay.

20

Q. Was that an arrangement that you made between and her father, her staying with you on Saturday?

A. Her father's not allowed near me because he's facing some inappropriate sexual--

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Q. The answer is no then, it's not?

A. No, that's right.

Q. How did it come about that \_\_\_\_\_ came to your home on, I take it it was your home, on Saturday?

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A. I was at my mother's place where I was doing a design, a room design and office area and whilst I was in the kitchen, I was making a coffee or whatever before I started and the next thing I saw a little pop past the window and I thought it was some of the other children in the street because the minute they know I'm there they always want me to do cartoons for their bedroom walls, and I didn't realise it was \_\_\_\_\_ and I sort of had to look twice and I said to mum, "There's \_\_\_\_\_", and she just come flying through the door, ran down the hallway.

35

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Q. So she'd come to visit your mother?

A. Yes.

Q. And you just happened to be there?

A. I was there, yes.

45

Q. That was fortunate that you happened to be there, wasn't it?

A. Well I'm there most weekends.

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Q. And you got to see \_\_\_\_\_ for the whole day you say?

A. Yes and then \_\_\_\_\_ rang, when she went home with her dad and rang to find out, "Is my mummy still there, is my mummy still there?".

55

Q. And tell me this, how did \_\_\_\_\_ get to your mother's place?

A. It wasn't arranged, a car pulled up, \_\_\_\_\_ got out of the vehicle, \_\_\_\_\_ went inside, my mum didn't know

she was even going there, my mum didn't know that was dropping her off and he gave no idea or indication or letter or anything else saying even when he'd be even back or if he would.

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Q. So you saw this did you, you saw the car pull up and get get out of the car?

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A. I saw a car out the front, actually no, I heard a vehicle but I didn't sort of think any more of it because my mum lives on a busy street. It was as I turned and that's when I saw the little head run past the window, the car had already left - thank you.

15

Q. When was the last time before that that you saw ?

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A. The last time I saw has probably been 18 months, nearly two years, since the Family Law Orders, there was a Family Law Order made in this Court and then the very next day I was threatened at the Court to sign her over voluntary or I'll never see her again.

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Q. So it was 18 months or two years ago, was it?

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A. That was 16 December the Family Law Court here made an order, the very next day I was threatened at which was the 17th and I've seen her maybe, I saw her maybe six to eight times in that first couple of months and then DOCS stopped me seeing her at all and I wasn't allowed to ever see her again and then it was said that that was choice.

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Q. Wasn't it the case Miss that said she just didn't want to see you?

A. That's what you say, tells me quite the contrary when I see her, so it's actually quite conflicting, like a lot the paperwork.

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Q. Can you tell me this, you saw last Saturday, when was it before last Saturday you last saw are you able to give us a date?

A. Probably 18 months, I can't recall the exact date but it was a very long time ago.

45

Q. You know that Mr has said that in February he spoke to , that's February this year, some six months ago?

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A. I don't doubt that he spoke to , he informed me that he did too. I mean I haven't, I mean that's hearsay, I don't know whether he did, I wasn't there.

55

Q. You're quite sure that at your mother's place last Saturday, you're quite sure she was there?

A. Well it looked like , I didn't DNA test her or have a DNA test to find out that it was definitely that child but my perception was that it certainly looked like and it acted like and actually because I cuddled her so much, she said, "Be careful mum, my face is going to pop" and so yeah, that was

Q. When was the last time you saw ?

5 A. The last time I saw was in courtroom. She sat there one day as the solicitor said that she doesn't want to see me any more.

Q. Don't tell us what the circumstances were, just tell us when it was?

10 A. I can't recall the exact date.

Q. Was it a month ago, a year ago or two years?

15 A. I can't recall, it was when, it was when the Children's Court made a decision in regards to and . She had a day off school and attended the courtroom with a gentleman known by the name of and . Other than that I have no idea the date, I don't have even that particular paperwork with me today.

20 Q. Some time ago though, certainly many months ago?

A. Probably, it would have been a while ago, I really can't recall when.

25 Q. And you're aware are you not that has said that she also didn't want to have contact with you, you know that that's part of the Department's case?

30 A. I'm aware that that is what the Department has told me, yes. has very much changed and also deteriorated in her school since being in the Department's care, she's had to repeat a year of school, she's had to have more counselling than a child has never needed in her life and has certainly been upmoved several times whilst in the Department's care as well.

35 Q. Do you remember reading in Mr statement where she said, this is , saying "She - meaning you - will have to write to me and tell me she has changed", i.e. before she will see you again?

40 A. Sorry, can you repeat that, that statement?

Q. Do you remember saying to Mr , "Well look, mum will have to write to me and tell me she's changed before I'll see her again", do you remember reading that?

45 A. was very cross--

HIS HONOUR: Q. No, do you remember that?

A. I don't, well no not really, I don't really recall that.

50 O : Q. You don't?

A. I do remember something--

Q. I take it you've never written to ?

55 A. --along that, I do recall something along words to that effect and that was because she was cross with me because I wrote her a letter when she told me she'd hacked all her hair off and I wrote that my, was not very impressed about anybody hacking her hair off and I'm not



very impressed about that. And it was that reason that  
 didn't want to see me and I'm sure if you speak to  
 her, she will inform you of that. used to write to  
 me on a regular basis, send letters. I used to but and  
 5 then I just didn't even bother any more. When I realised  
 what was, what the Department's involvement was with the  
 child, that your intentions were to eliminate me even  
 seeing the child, I thought, "Well hey, back off". When I  
 had enough evidence I would have taken it to the media.

10

Q. You saw your mum last Saturday obviously?  
 A. I've seen her since then.

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Q. When was the last time you saw her?  
 A. Tuesday.

20

Q. Tuesday, good--  
 A. Actually she's been to my place this morning because I  
 do bread deliveries to poor people.

25

Q. She as at your place this morning, so this morning was  
 the last time you saw her, is that right?  
 A. I didn't actually see her, I was asleep, she  
 deliveries me bread from the church and I do church  
 deliveries for poor people.

Q. And she knew this case was on today?  
 (no verbal reply)

30

Q. Did you ever tell her this case was on?  
 A. Yeah I probably told her, I don't doubt that. I  
 probably didn't tell, I usually tell her, I mean she knows  
 nearly everything so I probably did tell her.

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Q. Surely this is the most important thing that's  
 happening in your life at the moment, isn't it, these  
 proceedings?  
 A. Yeah.

40

Q. That's the case isn't it?  
 A. No it's the most important thing in life, the  
 best interest for , not particularly mine.

45

Q. But you see you've told the Court you lay awake at  
 night worrying about things?  
 A. Yeah.

50

Q. They're things concerning , aren't they?  
 A. What's that got to do with my mother?

55

Q. I think you're suggesting to the Court that you would  
 certainly have a lot of support from your mother were  
 to be restored to you?  
 A. Yes, that's right.

Q. And yet you're not sure whether you told your mother  
 that these proceedings were on today?  
 A. I, well I more than likely did, I can't recall exactly

when I told her but she was aware that they were coming up.

5 Q. I want to suggest to you that your mother has said to persons from the Department in the past--

A. Wrong, that's a lie.

Q. Could you just listen to--

10 A. I already know because I spoke to her about it.

Q. Could you just listen to my question before you answer it. She said to persons from the Department that she has concerns about you, hasn't she?

15 A. That's a mother's job. All of our mothers are concerned about us.

Q. And she said--

20 HIS HONOUR: Mr O , I'm not sure if this--

O : It's just leading to one thing your Honour and it's a question of why--

25 HIS HONOUR: I'm not sure if it's a proper way of, unless you're calling the mother as a witness, I don't think I should allow this.

30 O : Q. Can I just ask this then. Your mother is not going to give evidence in these proceedings on your behalf, is she?

A. I haven't asked her to actually because I didn't want to have, it's bad enough you persecuting me and my child and the destruction that has already gone on--

35 HIS HONOUR: You don't have to tell us the reasons, you're not asked to tell us the reasons.

40 O : Q. Can you tell us this, you'd agree wouldn't you that you've had very difficult relationships between caseworkers from the Department - when I say between, I mean you and caseworkers from the Department have had very difficult relationships in the past, haven't you?

45 A. It's like a man with a gun, you have to call them sir and if I don't do what they want, then they have punishments for that and that's already in the paperwork.

Q. And in fact I take it you would find it very difficult would you not to work with any person from the Department in the future, would you not?

50 A. I'm sorry you may have got me wrong, I've actually worked in the welfare field since 1983. I've had many children even placed in my care by the Department itself. I've worked with over 500 street kids and I've, and when I returned back at the PCYC that's 180 young people a night.  
55 I've never had a problem with your Department until I've never stumbled across something to this extent.

Q. All right, well who is it that you've had a problem

with in the Department of late?

A. You just seem to be isolating them out and sending them at me, I just don't, I just don't like the attitude of the workers that have entered my yard. I don't enter theirs with an attitude.

Q. Could I just ask you this, is the current caseworker?

A. At this point.

Q. Do you know ?

A. I've met the guy.

Q. Do you have a problem with him?

A. I have a, I don't have a problem with him as far as access but I do have a problem with him as far as I asked him for a copy of an Act, which is the Child Protection legislation put before the Government and I've asked him for a copy well over five months ago and it has not been done, so obviously we have a problem when paperwork does not get or, get through. Obviously I wanted that for a particular reason. Is there something that someone's trying to protect me or to stop me from reading in that legislation maybe, perhaps.

Q. So you were relying on Mr to get you a copy of the legislation, is that right?

A. I asked him specifically, he said that he would do that and he hasn't even done it to this day.

Q. Did you ever ask anyone else for a copy of the legislation?

A. Yes I actually, I approached , I approached our State local member, they, our local member wasn't aware of the legislation at that point of time, they had tried to access it through Office as well as other avenues and got back to me and they said, "Apparently all Department of Community Services officers have a copy of that legislation", and so I approached the Department for it.

Q. What about--

A. Because I'm sure there are--

Q. What about asking , do you remember when was your caseworker?

A. Yes, I remember

Q. How did you get on with ?

A. Didn't really have a problem with her, she doesn't seem, she hasn't done anything to offend me or threaten me in any way at this point.

Q. So did you have a good working relationship with her, do you think?

A. I think she's, she seems very confident, very knowledge, I respect her for her, for her work ethics I suppose. I think she does her job very professional, I'm

aware that she used to be a JIT worker and I certainly hold those people in high respect, anybody who works in that field is certainly, it's not an easy field to work in.

5

HIS HONOUR: Q. When you said a JIT worker, what's that mean?

A. Joint Investigation Team, she was a, a worker.

10

Q. With the Department?

A. With, actually JIT is actually a joint team of the Department of Community Services and the New South Police Service.

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O : Q. So that these two officers, that is and , have both been caseworkers who have become involved with you in relation to your access to , that's the case isn't it?

A. Yes.

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Q. All right, we can step one back then. We then have , you didn't have a good relationship with her, did you?

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A. No I didn't, I found her very abrupt when I asked her for identification when she approached my place, she didn't always have it on her, she stole property out of my house, she didn't return the property, it resolved in a court order and some of the property got returned. I don't like thieves and I don't like liars.

30

Q. What do you say she stole from you?

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A. She stole a bag out of my house which I used to use whilst I was breastfeeding and in that bag contained things like my hair tie so I could keep my hair out of the way when I breastfed, earrings, hair ties, books, some personal information, some of my prenatal and antenatal notes, as well as the baby's blue book. But they were all in a bag actually which nobody had any right, there was no court order issued to actually take or remove anything out of that bag.

40

Q. Of course and you know don't you that there's no legislation which allows officers of the Department to take anything from your home, you know that to be the case, don't you?

45

A. Well that's not what I was told, I thought that was to be the case however I was then informed by in the, when I took out an AVO order about, I didn't have a problem with surveillance but I certainly had a, there's a difference between surveillance and stalking. And when, when that occurred he and the magistrate at informed me that at any time you can walk into my house, search my body, my premises or anything if there is any reason to, without a court order or warrant, so I've agreed to that. I don't necessarily think that it's right.

55

Q. Tell us this, do you recall speaking to some police,

at Police Station, where you suggested that DOCS were involved in child prostitution rackets?

A. Yes.

5 Q. Do you believe that to be the case?

A. For sure, without a doubt. I have paperwork here which can certainly prove that.

Q. And you have that here, do you?

10 A. I believe so.

Q. Whereabouts is that?

A. Probably in the back of the room.

15 Q. All right, would you be able to get that now?

O : Might the witness step down from the witness box?

20 HIS HONOUR: Yes.

WITNESS: This is a police file with the police statements made into , there are other gentlemen in here who are named.

25 HIS HONOUR: Q. Has this got to do with child prostitution and the DOCS?

30 A. This has got to do with the Department being told many times to contact the detective because DOCS were paying for the representation and representing these men to get the children off me to give to them.

O : Q. Are these statements that you've made to the police, are they?

35 A. They're police statements and medical and some of the statements there from Dr which some and a little bit in there has been pointed out that yes I am an assault victim and in one of Dr reports also went into detail that they were the partners and the ones who DOCS are placing the children with. I also have police event numbers in relation to another case which is if you all have a pen here you can access, which is original file reference number, police file reference number. It was than that file was transferred to a gentleman by the name of Mr , who was the head of Police Station. That file number was . Then it was sent on to , who apparently was the Police Commissioner, who is no longer now the Commissioner, any inquiries in regards to this case now must be forwarded to Internal Affairs.

45 Q. These are statements that you have made, are they not?  
A. Yes.

55 Q. And they are statements that--

A. One of those is a confession.

Q. They're statements that you've shown, that you've

obviously made to the police, aren't they?

A. Yes.

HIS HONOUR: Q. Who's the confession by?

5 A. The confession is by a police officer himself, which is why any further inquiries must now go through Internal Affairs if you want those details. That's why I've given you the file numbers.

10 C : Q. Is Internal Affairs investigating this matter at the moment?

A. They've already investigated this particular matter.

15 Q. So are you saying that the police are also involved in this prostitution racket?

A. I believe that, I don't know whether or not prostitution is a way of making money off a child, I'm not sure what the Department's role or who would be making money of it. Maybe that is not a word I maybe should have used. But I cannot understand why a Department would represent two men knowing that there are statements in and several offences and medical evidence to back and prove it, why the Department didn't at least make those calls to check before they gave the children to them.

25

Q. is the father of one of the children, I think that's the father of ?

A. Yeah , yeah.

30 Q. And is the father of ?

A. Yes.

Q. I think you've made allegations have you not that they're involved in some sort of paedophilia?

35 A. There's police statements here.

Q. They're statements you've made to the police?

A. These are the statements and these are the things I have no wish to change, they are exactly word for word that I can recall, exactly the offences.

40

Q. These are statements you have made to the police about these two men, that is and committing acts of paedophilia, is that what the statements are?

45

A. The statements of are of that because at the time I was a thirteen-year-old child at a birthday party, he used to do inappropriate things. The Department I've pointed out many times, I've made notifications, I've put the information through to the best that I can. The allegations and the assaults with was was present in my bed while he used to anally sexually assault me, after he would get some drugs from his mobile treatment team, drug me and then I would be in obliterated limbo land from these so-called psychiatric drugs, which is what your client wishes me to be on, maybe so they can commit further offences. I don't understand why. One could only--

50

55

Q. Further offences against you?

A. Well that was how most of these offences were committed upon me.

5

Q. Who are you suggesting would commit further offences against you?

A. Nobody now because I've got my own bodyguards which, I've got bodyguards, I've got whatever you want, like.

10

Q. You've got bodyguards, yes?

A. You bet I do.

Q. You've just suggested though that the Department want you to get on to some sort of medication, I take it so that offences--

15

A. The Department did try to pursue that in the first place, so I gathered I was going to be threatened again and assaulted again once they do that.

20

Q. So that you could be drugged in some way, is that what you're saying?

A. Well mobile treatment team, as your friend there has suggested, that he called in the mobile treatment team in a way to possibly convince me the day that was taken. Mobile treatment team refused to do it because they were aware of what happened the first time when they handed over drugs to somebody, it gave him the power then to do what he did to me, which was highly filthy and very painful.

25

30

Q. Anyway, you're certainly no taking anything at the moment which causes you, well you're not taking any drugs at the moment, are you?

35

A. No I haven't had, I haven't taken anything, I haven't even smoked marijuana since '95 and I have only just stopped taking Panadol. There was a week I was on Panadol because my, it was toothache and my tooth snapped.

40

Q. When you spoke to police on 2 November 2001, you suggested that would need a bodyguard 24-hours a day and that someone was going to pay for what had been done to you and to your girls, do you remember saying that to the police officer?

45

A. Yes I do recall saying that, yes.

Q. You don't deny that?

A. No I don't deny it, I as, I was very angry at the time.

50

Q. And you also said--

A. She probably will need a bodyguard because when there are a lot of people who do know that yes I am a childhood sexual assault victim and that these perpetrators know where I live and the Department gave the perpetrators my address, which I was not impressed.

55

Q. But you were suggesting to the police that

would need a bodyguard, weren't you?

A. Yeah.

Q. Because you were suggesting to the police--

5 A. Well I gathered I'm going to want one, so she might want one.

Q. --someone was going to do her some harm, weren't you?

10 A. Yeah, I would think that if I gave a child molester or men pending child paedophilia questioning or whatever and I went and gave them kids on a regular basis, I'd certainly be scared for my safety.

Q. You see I want to suggest to you the threats that you made were that you would do some harm to ?

15 A. No I'm a hippy, hippies don't hurt anybody.

Q. You're a hippy?

20 A. Yeah I'm like a hippy, I'm an artist, music, like we don't hurt anybody.

Q. Well why did you say this to the police, why--

A. We just seek justice.

25 Q. Can I just read this to you. This is a statement by a Detective from the New South Wales Police Service, where she says, "Further she said she would or would have someone follow home from work so that she would know where she lived and then something would happen to her later"?

30 A. That's right, we didn't need to serve the Court papers on her at her office, we could have followed her home to serve the Court papers.

35 Q. What did you mean by something would happen to her later?

40 A. Well once people know where a woman like that lives, that of course there would be repercussions. If I knew where a perpetrator lived or somebody who was assisting perpetrators, I would be, gees I wouldn't feel real safe.

Q. I want to suggest to you that that was a threat, wasn't it, that was going to be--

45 A. I was very angry when I said what I said.

Q. --injured?

50 A. I was very angry with her and, and certainly anybody who hurts my children would certainly and I don't think, I mean maybe my opinion is that that probably what you lot would think outwardly but because you're here in front of a magistrate, wouldn't have the audacity to say it.

55 HIS HONOUR: Could I just interrupt there Mr O Reading through this material, reference was made to a statement by Constable which purportedly was before the Court and which I could not find a copy of amongst the papers.



O : It's next to the affidavit of of  
8 November your Honour. I can certainly hand up--

5 HIS HONOUR: Maybe I didn't look far enough.

O : It's attachment 1 to the affidavit of  
dated 8 November.

10 HIS HONOUR: Yes, I've got the affidavit.

O : It's a one page--

HIS HONOUR: 8 November 2001?

15 O : Yes, you don't have it?

HIS HONOUR: It doesn't seem to be here. You say it's an  
annexure.

20 O : That's as I have it.

HIS HONOUR: Her care plan's attached to it.

25 WITNESS: Is that this statement here, where I was, where  
I was threatened to withdraw or kindly asked to retract  
the statements made by a Department worker, is that what  
you're looking for, 9 November?

30 P : Your Honour, I may be mistaken but my memory  
kind of tells me that that evidence of Detective  
was in the form of a COPS entry, like an event number  
attached to somebody's affidavit. Detective didn't  
make a separate affidavit.

35 O : No, it's not an affidavit of .

HIS HONOUR: It was a statement withdrawing allegations,  
was that the one?

40 WITNESS: A statement withdrawing, I've got it here. DOCS  
never wanted a copy of this stuff, I've asked them.  
That's the only copy I've got, that's where they wanted me  
to withdraw it. This is where my victims compensation had  
45 been approved and was up for determination, they needed,  
required more paperwork. But then I had to withdraw it  
because of what--

HIS HONOUR: Yes but that's a statement by you.

50 WITNESS: Isn't that the one that you wanted?

HIS HONOUR: I don't know.

55 WITNESS: To withdraw because--

HIS HONOUR: All I saw a reference was made to it and I  
couldn't find it and then I was reminded that - in any  
event, what was the drift of it Mr O ?

O : The drift of it was your Honour that it's set out in paragraph 3 of Mr                      affidavits to what occurred and the drift of it was as I've already read out that                      , who as I understand it is a Detective from the                      area, indicates in this statement, which is a one page document, that she received a message from Constable                      at                      Police Station where Miss                      --

HIS HONOUR: Yes, I've read it.

WITNESS: Actually I think that was made the day that                      , when I went up for an access visit and her face was so severely marked whilst she was in DOCS care, I was very upset and I went straight down the police station and I was, excuse the word, I know I'm going to use it, spewing, I was not impressed.

O : Q. Well you see you made a threat though didn't you to cause injury--

A. When I see a child's face that looked like that.

Q. You made a threat to cause injury to Miss                      , didn't you?

A. I made, I didn't think it was a threat, no, it was a statement.

Q. That she would be followed home and something would happen to her?

A. Yeah more than likely get served with paperwork and please explain.

Q. That wasn't what you meant, was it?

A. Course it was.

Q. She could have been served at her office with please explain, you know that?

A. Well that's what I ended up doing and please return my goods that you stole from my house.

Q. You could imagine can't you that when Miss                      received that knowledge of that threat having been made--

A. What about it?

Q. --that she would have been very upset, wouldn't she?

A. One would think so.

Q. She wouldn't want to be your caseworker any more, would she?

A. I didn't want her to be.

Q. No?

A. I found her very threatening every time she entered my yard, it's not nice feeling threatened or being threatened, it's not nice when the boot's on the other foot.

Q. You said in your evidence something about the magistrate being part of a conspiracy, do you remember saying that this morning?

A. This morning I said that, did I?

5

Q. Did you say it, I might have misheard you but I understood you to say something about the magistrate - can I ask you this, I'll put it another way?

A. I can't recall what I said.

10

Q. Do you think that, you already said that the Department is part of some sort of a conspiracy so far as you're concerned, do you think the magistrate--

A. Well I've never seen such a set up in my life.

15

Q. Do you think the magistrate was part of that conspiracy as well?

HIS HONOUR: Which magistrate are you talking about?

20

WITNESS: Well we're, well youse are all paid by the same governing body.

O : Q. The Children's Court magistrate who made the order in May of this year first of all, do you think that that magistrate, that's magistrate ?

25

A. I didn't think he was a magistrate representing an equal justice system which was supposed to be there to work in a fair way. I certainly do not think he was that whatsoever.

30

Q. So you think he was--

A. He also, he also removed from a courtroom at one stage for breastfeeding a baby too in a children's courtroom.

35

No, I have no respect for that gentleman as he had no respect for me as a woman or my basic, or my child's human rights.

Q. Yes but do you think that he was part of the conspiracy, the conspiracy that you've spoken of--

40

A. You're the one that's mentioned conspiracy. I believe that your Department has set out to destroy me and my family and has done so. Whether or not you had a magistrate involved in your pursuit to be able to do that, is only you would know that.

45

Q. You've had some counselling a couple of weeks ago I think you said?

A. Yes.

50

Q. That was counselling through the Victims Compensation Board?

A. Yes, it was.

Q. Who did you speak to there, who was the person?

55

A. I didn't actually get the lady's name, I did but I was very upset at the time and - the week before that I spoke to a gentleman by the name of , that was, that's his

first name but the rest of it I didn't quite get, so.

Q. So you've been contacting this counselling service on a fairly regular basis?

5 A. No actually I've only ever used it once before and then like I said a week ago, two weeks ago and then again last week and they, they were the first, yeah, that's probably about it, three times.

10 Q. And were you speaking to them about this assault that had occurred, was that the nature of the counselling?

15 A. Yes, that's what the victims compensation was for. That's what it was to be sorted out over but they are certainly aware of, because of the material that's gone before them, that, what I'm saying and, and that I do need help. Like well, not necessarily help but assistance in helping me to deal with, to get on with my life in, okay knowing what's happened to me and stepping forward and then going on a bit further and then taking a step back and saying, "Okay, it's happened, now how do we get on, how do we move forward".

20 Q. This is following the assault that occurred, is that right?

25 A. We--

Q. Getting on with your life after this assault?

30 A. After dealing with the effects, I mean at that, over, over back several years ago there was a time when I was going through a really hard time and trying to get over some of the effects of some of those assaults and the things--

35 Q. Aren't we talking about an assault that happened at the , is that right?

A: Several assaults have occurred on me.

40 Q. Several assaults. Well you've sought victims injuries compensation, haven't you?

A. Yes.

45 Q. Is that in relation to several assaults or in relation to just one assault?

A. They have all the paperwork to do with all the assaults that have occurred on me.

Q. And where have those assaults occurred?

A. Where have they occurred?

50 Q. Yes?

55 A. At different premises, some when I was babysitting, some actually with a person who you've now since made a DOCS carer because her boyfriend is now in gaol for rape and bashing with baseball bats, so she's a DOCS carer. She's one of the ladies I used to babysit for when one of the perpetrators assaulted me many times, that's another--

Q. Have any of these assaults you say been assaults where

the perpetrator, the person who's assaulted you has been a DOCS worker?

A. No.

5 Q. And yet you say do you that the Department or someone from the Department, and I think you mentioned the name

A. Right.

10 Q. Has told you that you better not pursue this compensation claim, is that right?

A. Yes I believe that there is a possibility that he's an acquaintance of , maybe they attended the same Catholic school maybe.

15 Q. So you say that has told you that you better not pursue the claim against , is that right?

20 A. He has told me that I shouldn't take things any further in the best interests for the children--

Q. When did he tell you that?

A. --and did I understand that information and I think--

25 Q. When did he tell you that Miss ?

A. When did he do that?

Q. Yes?

30 A. Actually it was going on for quite a while, DOCS were aware that he was coming to my place doing visits once a fortnight as I read through the paperwork, his visits were nearly every second day, those, and it was there that those things had sort of gone a little bit further. I made, I went down to the police station and dropped, 35 dropped the majority of those--

HIS HONOUR: I'll take the luncheon adjournment at this stage.

40 WITNESS: 9 November.

HIS HONOUR: I'm reliably informed that would have the expertise to form an assessment as to whether they could assist in supervising or giving support to the 45 appellant if the child were to be returned and could perhaps also even give psychological support or arrange for it. And I'm just wondering whether inquiry could be made of that organisation as to whether that is so or not.

50 O : I will get some instructions but I'll certainly try and do that over the luncheon break your Honour.

HIS HONOUR: All right, I will adjourn now and perhaps some inquiries can be made.

55 <WITNESS STOOD DOWN

LUNCHEON ADJOURNMENT

## RESUMPTION

O : Your Honour, in relation to the matter that your Honour raised before lunch concerning some enquiries have been made through Mr and he's not been able to get in touch with as such. He's just said there's nobody there at the moment but he was able to get in touch with and also and they both and his understanding is that would have a similar sort of regime, but they both say that they can offer centre based family counselling services which means that you actually go to them, they won't come out to the home.

HIS HONOUR: That's how I would have understood, certainly

O : Sorry, your Honour.

HIS HONOUR: I was involved with for over 30 years, yes I'm aware of that.

O : That they provide no resources for intensive support, supervision and surveillance. That they are really preventative in nature. They look to--

HIS HONOUR: I certainly understood that about but I had been informed that is prepared and is capable of doing what--

O : At this stage we just can't answer that, your Honour. We can't say one way or the other. I hear where your Honour's coming from and I do note the time already. I just don't think we'll finish this matter today anyway. It would seem to me that perhaps the appropriate thing to do would be to adjourn the proceedings to allow proper enquiries to be made of and then perhaps we could--

APPELLANT: What about the other options, either of ?

O : --inform your Honour a little bit more fully.

APPELLANT: That's right near, that's not far from my house, that's like a five minute walk.

HIS HONOUR: Where's that?

APPELLANT: , it's in at which is very, sort of, a five minute walk from my house, I don't have transport and they have--

HIS HONOUR: , who runs it?

APPELLANT: I believe it's run by the Area Health Service I think and it offers a broad range of different things for families, parents, children with behavioural problems.

I mean obviously if                    was to be returned I mean she's obviously in quite a state if she's banging and self hurting herself.

5 HIS HONOUR: That's some time ago, I just put that as a possible scenario, I hope she doesn't bang her head.

10 APPELLANT: I would hope not neither but certainly I know the last time I did see her which was over a month ago she looked quite well and happy and went through my bag and got my keys and said, "I'm ready to go home now Mum" and I thought well--

15 HIS HONOUR: In any event it's just a suggestion at this stage. The person in control of                    is Mrs                    . She would be the person to contact.

20 O                    : What I might suggest, your Honour is this that provided Ms                    is agreeable to this that we would approach these organisations and give them an outline of what the problems are as we see them and ask them for their advice as to whether they would have services available that might be able to address the issues in this case. Obviously there would be certain things which would normally be treated as confidential and which would require--

HIS HONOUR: Yes, for sure.

30 O                    : --that's why we would require Ms agreement for confidentiality to be waived.

HIS HONOUR: Do you have no difficulty about that?

35 APPELLANT: I'm already, the Department's already breached confidentiality on a few occasions.

40 HIS HONOUR: I'm not going into what the Department's done any further today.

APPELLANT: I thought they were able to do that anyway.

HIS HONOUR: Well they probably are but--

45 APPELLANT: I've had one bloke with two baseball bats and a crowbar came at me from the Department.

50 HIS HONOUR: --just for the sake of greater caution they just want you to consent, that's all.

APPELLANT: Yeah, as long as they're actual, the facts that they do hand over to an organisation aren't their hypotheticals or their stories, as long as it's actual facts. I mean I wouldn't--

55 HIS HONOUR: I just at this stage want to know whether it's feasible for                    or any other similar organisation--

APPELLANT: I've actually approached \_\_\_\_\_ and  
as well as \_\_\_\_\_ who have agreed and this  
was done well before a lot of this stuff was even agreed  
5 upon. It was DOCS who didn't want to do it then. This is  
where we've got conflict.

10 HIS HONOUR: Yes, all right, I know there's been some  
difficulty and that's what I'm trying to work to overcome.

P : Your Honour, if it would assist I was thinking  
perhaps as the more independent person here that--

15 HIS HONOUR: It might be better if you made the approach  
and then nobody can say that a false scenario was put to  
the organisation.

20 P : That is more what I had in mind, neither one  
nor the other can say that either one has influenced the  
other. If I could arrange an assessment.

O : We'd be agreeable to that course.

25 HIS HONOUR: Thank you, Mr O . Miss P , you  
contact Mrs \_\_\_\_\_ and see what she has to say about it.

P : I'll see if I can contact a range of things and  
then maybe those options can be discussed with the  
Department.

30 HIS HONOUR: It's a two pronged thing. One is whether  
they would be prepared to attend on the home from time to  
time to give her any support that she might need in a  
maternal role or cope with any difficulties that the child  
35 might have on the child's return. But secondly, also  
either provide or arrange psychotherapy in order that  
Dr \_\_\_\_\_ suggestion can be pursued. So there's two  
aspects to it.

40 APPELLANT: Can I ask something, your Honour? I've  
noticed these characters before on some quite serious  
stuff and they were having psychotherapy. Is this like  
some sort of like, because don't even try and put me in  
that basket. I suppose it's hard to tell the difference  
45 between a perpetrator and a victim and it's easy--

HIS HONOUR: Don't be too suspicious about it because  
Dr \_\_\_\_\_ did say to the Court--

50 APPELLANT: Just wanted to make sure, that's all.

HIS HONOUR: Nobody's treating you as a person who's off  
the planet. It's just that you have had problems in the  
past and--

55 APPELLANT: My problems have been people of those similar  
things. If they were behind bars we probably wouldn't  
have a problem.



HIS HONOUR: That may be the case but in any event  
Dr thought that it wouldn't do any harm and might  
do some good and nobody's saying particularly that you're  
5 having as severe the problems that you had years ago.

APPELLANT: There were just a lot of similarities. I mean  
I didn't mean to overhear but the fact is that they're  
recommending Dr . These guys are making out I'm all  
10 this, that and the other and reading through some of it I  
found quite offensive what they've done and now I'm being  
recommended the same treatment as a bunch of perpetrators,  
like and I'm finding that a bit--

HIS HONOUR: For all I know you might not need  
psychotherapy but Dr did suggest that you might and  
15 that it would be a good idea if you had some.

APPELLANT: Right, okay.  
20

HIS HONOUR: He's independent. He's not the Department.

APPELLANT: Yeah, but it's the Department's  
recommendations in the first place which has brought about  
25 all this and I mean I'm just--

HIS HONOUR: That may be so but for the moment I'm just  
trying to get answers to questions. Is it possible that,  
and you did tell me earlier you said you'd give an  
30 undertaking to co-operate.

APPELLANT: Yes, I've given undertakings to co-operate and  
go to anything this is going to meet needs. If  
there's something that needs aren't being met--  
35

HIS HONOUR: Well this will--

APPELLANT: --and I think that that's what's more  
important here.  
40

HIS HONOUR: --you see the Department's concerned that  
because of problems you've had in--

APPELLANT: Than them trying to clear up a defamation of  
45 character lawsuit against them.

HIS HONOUR: Just listen please. The Department's  
concerned that because of problems you've had in the past  
that they may under the stress of your maternal role  
50 reappear.

APPELLANT: Like the stalker from DOCS might come back and  
reappear and then they can say it's all an illusion.

HIS HONOUR: We're not talking about stalkers, we just  
want to know if or some other organisation that  
has specialist capacity can keep an eye on things just to  
make sure that everything's going well, both from your  
55

point of view and your daughter's, okay? It's nothing too--

5 APPELLANT: Just they've, never anybody care so much.

HIS HONOUR: --wrong about that I'm sure. What about future mention of it? Perhaps it could be mentioned next week?

10 O : Yes, your Honour. Can I also just suggest this, your Honour that I appreciate Miss P offer to approach these organisations but I think it needs to be done in such a way with greatest respect to Miss P in a way such that the evidentiary material that is presented to these organisations is fair and covers all areas that really need to be addressed by these organisations. For instance I would have thought that the expert reports of Mr and Dr and Dr would need to be sighted by whoever it is that's going--

20 HIS HONOUR: I think that if the person who's got to make the decision wants to inspect any of the documentation that person should have that opportunity. That can be arranged through my associate.

25 O : Thank you your Honour, that'd be satisfactory.

30 HIS HONOUR: It's not as though one would want to hide things from the person who may be put in a difficult position of knowing whether they want to be involved or not.

O : Indeed, yes it should be laid on the table.

35 HIS HONOUR: So Miss P you can tell whoever you speak to that if they want to know more about it to contact my associate and any of the documents that have been put before the Court will be made available to them.

40 APPELLANT: Can I just ask your Honour one thing and I don't think if the Department's got nothing to hide, is there a problem if I go to the media with some of this stuff? Do they have a problem with that at this point?

45 O : Yes there is.

APPELLANT: You do have a problem with that, do you?

50 HIS HONOUR: I have a problem with it too because this is a closed court.

APPELLANT: I understand this part of it but I'm just wondering some of the other paperwork I'm sure would prove more than interesting for the media and--

55 HIS HONOUR: No, no, we're not--

APPELLANT: --as I'm a bit concerned for--

HIS HONOUR: --at the moment whatever happens you can go to the media in due course but at the moment please don't go to the media.

5

APPELLANT: Right.

HIS HONOUR: Because this a closed court and it's a closed court because we want to protect--

10

APPELLANT: Well I gathered they wanted the media involved because they did actually give the child to the media there at one stage which was and then they said, no he's not capable when they found out and took him off her and that's where I'm a little bit, what are we trying to hide here?

15

HIS HONOUR: It's not part of my function to really be thinking about the media because this is a closed court.

20

APPELLANT: Right, because a Current Affair, I just would like the Department to know that Current Affair is interested and also and I have their business cards and things.

25

HIS HONOUR: They should remain uninterested for the moment.

30

APPELLANT: Well they will at the moment but I mean that's why I thought I'd ask permission. Is there any length of time that it might take?

35

HIS HONOUR: No, I would imagine that Miss P will be able to complete her enquiries inside a week.

APPELLANT: Okay, so I don't get to see again. The main concern is the child and I would love to see that child and--

40

HIS HONOUR: It's up to the Department to--

APPELLANT: Yeah, there's been a lot up to the Department. Thank you.

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HIS HONOUR: How about we mention it again, say next Thursday be all right?

P : I think that's fine by me, your Honour.

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HIS HONOUR: In the meantime some thought can be given to whether access should continue.

O : Yes, your Honour.

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APPELLANT: Access hasn't been continuing up until this point.

O : Please Miss , I'm speaking to his Honour at

the moment.

HIS HONOUR: Miss , I know it's not continued. I know what the situation is so just--

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APPELLANT: Yes, but they made it out to be that they were.

HIS HONOUR: Yes Mr O ?

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O : Your Honour, access was to take place yesterday and access has not been cancelled as such, it will be postponed. I would imagine that it would be in the next week or so. Mr will ensure that that takes place.

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HIS HONOUR: All right, well there you go. So in any event--

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APPELLANT: Thank you your Honour for getting them to do that.

HIS HONOUR: I'll mention it at 9.30 next Thursday.

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ADJOURNED FOR MENTION THURSDAY 5 SEPTEMBER 2002 AT 9.30AM

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