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Proof Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Reference: Indigenous Law and Justice inquiry

THURSDAY, 22 JULY 2004

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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Thursday, 22 July 2004

Members: Mr Charles (*Chairman*), Ms Plibersek (*Vice Chair*), Senators Hogg, Humphries, Moore, Murray, Scullion and Watson and Mr Ciobo, Mr John Cobb, Mr Georgiou, Ms Grierson, Mr Griffin, Ms Catherine King, Mr Peter King and Mr Somlyay

Senators and members in attendance: Mr Charles, Mr John Cobb and Ms Plibersek

Terms of reference for the inquiry:

To inquire into and report on:

- (a) the distribution of the resources of Indigenous legal aid services between criminal, family and civil cases;
- (b) the coordination of Indigenous legal aid services with Legal Aid Commissions through measures such as memoranda of understanding;
- (c) the access for Indigenous women to Indigenous-specific legal services; and
- (d) the ability of Law and Justice program components to recruit and retain expert staff.

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Committee met at 9.00 a.m.

CHAIRMAN—The Joint Committee of Public Accounts and Audit will now recommence taking evidence, as provided for by the Public Accounts and Audit Committee Act 1951, for its inquiry into Indigenous law and justice. I welcome everyone here this morning. Yesterday the committee took evidence in Darwin, and we have also held public hearings in Sydney and Canberra. The level of access to legal services for Indigenous people can vary widely across different urban, suburban and regional areas. Today in Alice Springs we will explore the level of availability of legal services in remoter areas of Australia, some of the problems associated with servicing remote communities, and the cross-border limitations that apply to legal services.

The committee are concerned to determine how providers can complement one another to ensure an adequate distribution of service to Indigenous people. We are particularly interested in determining how the access to legal services by Indigenous women can be improved in domestic violence and family law matters. This morning the committee will take evidence from representatives from a variety of organisations that provide legal advice, representation and referral services to Indigenous people in Central Australia. The public hearing phase of the inquiry will continue in August with a public hearing in Adelaide and thereafter with travel in western New South Wales.

Before beginning, I advise witnesses that the hearings today are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will attract parliamentary privilege. Finally, I refer any members of the press who are present to the committee's statement about the broadcasting of proceedings. In particular, I draw the media's attention to the need to report fairly and accurately the proceedings of the committee. Copies of the committee's statement are available from secretariat staff.

[9.02 a.m.]

LETHLEAN, Ms Vanessa, Solicitor/Coordinator (Job share position), Central Australian Women's Legal Service Inc.

TAYLOR, Ms Janet, Solicitor/Coordinator (Job share position), Central Australian Women's Legal Service Inc.

CHAIRMAN—Welcome. Thank you very much for coming. We also thank you for your submission. Do you have a brief opening statement you would like to make or may we proceed to questions?

Ms Lethlean—We do have a brief opening statement. Initially, we thank the joint committee for the invitation to attend this morning to give evidence. We note that with the time frames of the inquiry and our organisational resources we have not been able to undertake specific consultations with Indigenous women. Where we have had an opportunity to informally canvass the issues in relation to the inquiry with Indigenous women of Central Australia, they have expressed concern and strong opposition to the tendering of Aboriginal legal services in Central Australia.

CHAIRMAN—What formal or informal area do you cover?

Ms Lethlean—The Central Australian Women's Legal Service is funded by the Commonwealth Attorney-General's Department to provide a legal service to Indigenous and non-Indigenous women in Central Australia. That extends down south, pretty much to the border, and up through to the Barkly in the north.

CHAIRMAN—East and west to the borders or beyond?

Ms Lethlean—Not beyond.

CHAIRMAN—Is the community of Yuendumu in your area?

Ms Lethlean—In reality, the issue is actually one of resources. The funding from the Commonwealth government provides for one solicitor's position, which Janet and I job-share, a part-time paralegal position and one administration officer. With respect to those resources, we are able to provide an Alice Springs based service. We run a bimonthly clinic through Alekerange and Tennant Creek. Yes, we would be in a position to provide legal advice to women of Yuendumu, subject to resources. In reality, we do not provide a legal advice clinic in Yuendumu. Because of the logistical issues in terms of Indigenous women accessing legal services, telephone conversations for advice are often inappropriate or inadequate.

CHAIRMAN—Are you familiar with some of the new programs that they are trying there? We heard in Sydney that community justice groups are here to stay:

They are on the increase in New South Wales. They are really taking over in the top end of Queensland and the Northern Territory. The big picture for community justice groups is that you have the community of Yuendumu looking now at different levels within that community justice. They call it their community high court. They are dealing with all the issues of safety, violence, law and lore too in that framework.

The lady who gave us that information recommended very strongly that we go to visit them. So we asked about this issue yesterday in Darwin, and they said no, this issue was yours. So I thought I would ask.

Ms Lethlean—Regarding the issues that you are raising in terms of the services that we provide, I think there is linkage and commonality with the community of Alekerange, where we provide a bimonthly legal advice clinic. I am aware that Yuendumu, Alekerange and one or two other communities within Alice Springs are working on an integration of Indigenous and non-Indigenous legal systems. The issues that you are raising fit within that. For example, at Alekerange they have what they call the Kurduju committee. That is a committee made up of senior and appropriate elders who have roles and functions in relation to the administration of Indigenous justice and non-Indigenous justice. We are not actively involved in working with that committee. On occasions we have been asked to provide community legal education to women who sit on that committee and also to formally address that committee.

CHAIRMAN—One of the things the committee is showing some interest in is alternative paths to justice and learning, as much as anything else, particularly how legal issues impact on communities and Aboriginal women and how they can help to empower themselves and to rid their communities of some of the violence and inappropriate behaviour. Are you intimately familiar with some of these issues or could you point us in a direction where we might get more direct assistance?

Ms Lethlean—I think, given we are a women's legal service, the issues that you are raising actually affect both Indigenous and non-Indigenous communities. The statistics in the Northern Territory are very high in relation to all forms of assaults on women, both physical and sexual. We acknowledge that it is a particular area of concern. That is why we are auspiced to provide the domestic violence legal service in Alice Springs. One of the issues that you are raising that I want to respond to is the need to have an integrated system for Indigenous women which acknowledges the reality of life on a community and the reality that Indigenous legal systems are operating and have a significant impact on decisions that Indigenous women make in relation to those matters. For example, there are pathways through both the Indigenous justice structure and the non-Indigenous justice structure in trying to address those concerns, to reduce the levels of assault and the levels of behaviour that the community is concerned about.

CHAIRMAN—Have there been or are you aware of attempts in this area that have failed or have been seen to have failed to the point that they have damaged the whole issue or structure of greater attempts to give Aboriginal women more access to legal services and more understanding of their rights within society? Would some of these attempts be inappropriate?

Ms Lethlean—I think in our experience we focus more on how you actually effectively deliver an appropriate service to Indigenous women. We do canvass that in our submission in terms of acknowledging the need to work effectively and to liaise and collaborate with Indigenous women in the individual communities and to note that what may work well in one

community will not necessarily effectively transport to another community; that it is a two-way process in terms of having good outcomes; that, in terms of having an effective service delivered, it really needs to have a holistic, multidisciplinary approach.

CHAIRMAN—But you said in your submission:

In light of the severe disadvantage experienced by Aboriginal people in the Australian legal system, we submit that particular attention needs to be paid to removing the barriers that prevent Aboriginal people from enforcing their rights and participating fully and confidently in legal matters affecting them.

Would you like to tell us a bit more about what the barriers are as you see them?

Ms Lethlean—We do go on to specifically address those at pages 2 and 3. The barriers that we have identified include history, race, culture, poverty, language and disability. We then specifically state that those barriers are exacerbated for women who reside in remote communities. For example, in relation to poverty, it may well be that women do not have access to a telephone. It may well be that they do not have easy access to a car and that they are in fact unable to travel the 200 or 300 kilometres that may be required to have an appointment with a lawyer if there is no outreach clinic. In relation to issues of language, we identify that the majority of Aboriginal women who access our service speak English as a second, third, fourth or possibly a fifth language. That means that there is then a need to engage an interpreter and/or a cross-cultural broker. We would note that, where we work with women from a non-English speaking background, we have free and almost immediate access to interpreters through the telephone interpreter service. That is not the case in the Northern Territory in trying to engage an Aboriginal interpreter. It is hard and we do not currently have free access to Aboriginal interpreters. So that is a particular difficulty.

CHAIRMAN—Not just access but you do not have funding for interpreters either, do you?

Ms Lethlean—We do not receive particular funding in relation to engaging Indigenous interpreters. We do have a budget line that we have established through the Commonwealth funding that we receive and it is small. But we do use it when we go to Alekerange to engage an interpreter for the clinic. So that occurs.

CHAIRMAN—When you were talking about barriers you said:

Indigenous women in Central Australia experience barriers to accessing legal services as a consequence of history...

How does history create a current barrier? I understand culture, race, poverty, language and disability, but I did not understand exactly how history creates a barrier.

Ms Lethlean—I think it would have been useful to have Indigenous women here to talk to that specifically. In my experience, my understanding is that a number of Indigenous communities have been disempowered and have not had access and have not been able to establish communications that have been two-way and that have worked well. So with regard to a number of service providers, there is not that experience there which is positive and which is a two-way system. In our submission when we have talked about concerns in relation to tendering and strongly expressed our concern specifically in relation to tendering of Aboriginal legal

services, the experience of Indigenous women with regard to accessing legal services is that there are barriers in accessing services that are not specialised and in which there is not an understanding of prior experience.

CHAIRMAN—You are both women dealing with women’s legal issues and you have really formed the backbone of Central Australian Aboriginal women’s legal services. Do you have a view that it is more difficult for a male lawyer to interact with Indigenous women when trying to discuss legal issues which may have cultural implications as well?

Ms Lethlean—In Central Australia and certainly with the Indigenous women that we work with there are very clear cultural protocols in relation to how certain matters are discussed and whom they can be discussed with. For example, if there has been a sexual assault and an Indigenous woman wishes to have legal advice in relation to that, there are cultural protocols as to whom those issues can be discussed with. Even to engage with a lawyer to discuss those issues sometimes can be outside of that protocol. It is extremely hard for a number of Indigenous women to even sit down with a female lawyer to discuss those issues. Those matters are clearly exacerbated where the lawyer is a male. For that reason, some women choose not to seek legal advice or are unable to seek legal advice where the lawyer is a man.

Ms Taylor—Having said that, we do run a referral and advice centre. And we do refer a lot of our women to the civil section of the Central Australian Aboriginal Legal Aid Service, and they get excellent service there. The majority of the women are happy to access that civil service, and it is run by two male lawyers. So, on that level, it depends what legal issues you are actually talking about.

CHAIRMAN—When you are talking about domestic violence and sexual assault issues, is it appropriate within their culture that they talk to anyone? Is there anyone they can talk to and feel comfortable about it?

Ms Lethlean—To be fair, I do not think that we are the right people to be addressing that particular question to, because the cultural protocols will vary from one community to another, and how they apply will depend on the actual circumstances or issues.

CHAIRMAN—Understand that the question is asked in the context of us wanting to get the best possible advice about what is happening on the ground and what assistance we might recommend be provided to help to make things better in the future, not to make things worse or to tell people how to go about their affairs. We are simply trying to come to grips with how what is happening now which is better than what used to happen can be made better yet again. Does that make sense?

Ms Lethlean—I certainly think that it has been a very positive step to have women’s legal services or designated female practitioner positions to address those types of issues. It certainly facilitates the possibility that Indigenous woman can raise those matters in those forums.

Ms PLIBERSEK—I noticed in your submission:

CAWLS current legal casework focuses on family law, human rights and anti-discrimination law, employment and unlawful termination matters, and compensation matters.

If you have a woman come to you with a criminal matter, do you refer them to a legal aid service?

Ms Taylor—Yes, we do. It depends: obviously we refer Indigenous clients to the Central Australian Aboriginal Legal Aid Service, and non-Indigenous clients are usually referred to the Northern Territory Legal Aid Commission or to a private practitioner accordingly.

Ms PLIBERSEK—On page 2 you state:

Subject to available resources CAWLS provides high quality and cross culturally appropriate legal services...

There are two of you job-sharing one lawyer position. How much unmet demand do you think is out there? Could you even begin to guess?

Ms Lethlean—I think the demand is just huge, and it is one of the issues that is discussed when we talk about our capacity to provide further outreach clinics. That is an area which is very significant. It is very resource intensive to service remote area communities. That is certainly a very significant area of unmet legal need. I would have thought you could probably put on an additional 10 lawyers, and all the support staff around that, and you still would not have addressed all of the existing legal needs.

Ms PLIBERSEK—Do you do one outreach clinic once a month?

Ms Lethlean—Every second month.

Ms PLIBERSEK—In an ideal world, how many outreach clinics would you run and how often?

Ms Lethlean—I think that question requires some consultation with each of the communities, but my expectation is that each community would say that it would be appropriate for lawyers to sit down, on country, and talk about issues, and that that would be what the communities would be seeking.

Ms PLIBERSEK—How many communities would there be in your geographical area?

Ms Lethlean—There are probably 15.

Ms PLIBERSEK—What do you do when you run the outreach clinics? Can you describe what it is like to run an outreach clinic?

Ms Lethlean—In terms of the preparation for travel to an outreach clinic, all of that needs to be organised. All the files need to be identified and packed; the entire loose-leaf service needs to be packed, all of our legal resources need to be packed, together with precedent documents in relation to the Family Court jurisdiction and other jurisdictions. That takes some time. We need to make contact with our existing client base to make appointments, and we need to sort out where those appointments will be. They will not always be in the same location, for various reasons. We then basically fuel up the car and drive four hours to get to Alekerange. We arrive at Alekerange and we have got protocols in relation to what we need to do when we arrive. So we

touch base with the community council there, we touch base with the women's safe house, and we touch base with the women's centre. That is partly so that if there is cultural practice which is occurring—sorry business, for example—and we have not had pre-notification and it is not appropriate that the clinic take place, then that can occur at that time.

We then undertake our legal appointments with clients, either new or existing, and we then have a community legal education. That can involve going through to people's individual houses, because that is the appropriate place to sit down and take legal instructions. It can involve driving a short distance out of the community and sitting under a tree. We do not know, when we start, whether the clinic will be two hours, four hours or six hours. It depends on what occurs that day. We then drive through to Tennant Creek, and that is a further two hours, and then the next day is again a full clinic day and we do community legal education at that time.

Ms PLIBERSEK—With the community legal education that you do, do you set the topic before you go, or do you respond to needs when you get to the community?

Ms Lethlean—The community legal education program that we run out of Alekerange and Tennant Creek—but in particular Alekerange—is worked out in consultation with the women. They identify the topics that they want addressed and then we do the preparation, but invariably there is a range of issues that occur on the spot. Often it is reflective of what is happening within the community and they want some advice in a group situation. Again that is being responsive to cultural protocols. It may well be that an issue has arisen and the individual woman involved may not want to raise that publicly or privately. It may well be raised through family in that type of environment. So there is a clear need to be flexible and to be able to address issues as and when they arise.

In terms of the topics that we have delivered in the last 12 months, we have done topics on going guarantor and buying second-hand cars; we have done CLEs in relation to injuries in the workplace, injuries through motor vehicles, and injuries caused through crime. We have done community legal education in relation to family law and also in relation to prison visits, which was a request. That was about what rights family members have, how you logistically go and organise that, how you get transport down to Alice Springs for that to occur, and how many visits can occur during a one-month period. We have also had requests for a CLE in relation to copyright and artists. That is probably the range of what we have recently delivered.

Ms PLIBERSEK—You say that your legal casework focuses on family law, human rights, antidiscrimination law and so on. Do you actually appear in court with people or do you have to farm some of that out to the other legal services because of your resources?

Ms Taylor—We are generally an advice and referral centre. Part of our guidelines are that if another appropriate legal service can do it, a matter is referred. Having said that, we do limited casework and we do appear in court. That is in relation to family law matters. We do CVAs, which are crime victim assistance matters; we do antidiscrimination matters; and we have appeared on employment matters. We do matters as they arise and, obviously, it is a resource issue and subject to allocation at the time.

Ms PLIBERSEK—One of the things that has come up in our inquiry is that there would be times when a woman would approach an Aboriginal legal service and ask for assistance, but

because the legal service had previously dealt with her partner—say they have got a family law matter but they have previously dealt with a partner on a criminal issue, for example. Do you get a lot of women referred to you in that circumstance, who have been referred on from an Aboriginal legal service, for example, because of a conflict issue within the legal service?

Ms Taylor—Conflicts always occur in legal services, so we get occasional conflict cases which are referred on appropriately—either to us or to another service provider that can adequately deal with that person.

Ms PLIBERSEK—But it is not a big part of your workload?

Ms Taylor—They will refer to private practitioners as well.

Ms Lethlean—It is not actually a substantive part of our legal practice, but there are a number of service providers in Alice Springs, and where that conflict does arise there is an appropriate referral made. It works two ways. Where we can appropriately refer an Indigenous woman to CAALAS, we do so. I should note that I think the establishment of services like Central Australian Women's Legal Service and CAAFLU really do seek to address that conflict issue and they do achieve that to a significant degree.

Ms PLIBERSEK—We heard yesterday that the Northern ALS was setting up Chinese walls, as they call them, within their service so that they can deal with issues where they have previously represented one half of a couple and now they are going on to represent the other half of the couple. Do you think that it is better to have separate services or do you think that it is possible to set up these sorts of discrete sections within a legal service? It is all right if you do not have a view; you are allowed to say that too.

Ms Taylor—I think it is ideal to avoid that situation if you can. But obviously in all organisations, you are going to have to build Chinese walls. There are always going to be conflict situations, particularly in Central Australia when you are dealing with the population that you are dealing with. You are always going to encounter some sort of conflict with families and otherwise.

Ms Lethlean—I also think it is a resource issue. If there were sufficient resources, if a matter could be dealt with in a straightforward way, which means external referral, that is preferable. I doubt that organisations have what you term a Chinese wall if there is an appropriate alternative referral place.

Ms PLIBERSEK—Back onto the issue of interpreters, you mentioned that the expense and availability are issues for you. Ideally, how would you deal with that? Presumably you would not set up a telephone interpreter service, for the reasons that you have outlined with poor access to telephones and so on.

Ms Lethlean—We would still say that a telephone interpreter service should be established. There are a number of Indigenous women who can work effectively through the telephone. I have a number of clients where, in English, I can actually secure instructions, and I am very clear that those instructions are fully informed. So we would strongly advocate that there should be a telephone service for Indigenous languages. In addition to that we would say that the

Indigenous interpreter service really needs to be resourced to appropriately respond to the logistical realities. That means they need to have a capacity to have a worker at Alekerange, at Yuendumu, to engage someone who is presumably living on the community to perform those functions.

Ms PLIBERSEK—In relation to having a worker living on the community, the northern women's legal service was saying that they employ people. I presume the reason you do not do that is a resource issue?

Ms Lethlean—It is definitely a resource issue. We do engage a woman who lives on the Alekerange community as our interpreter. That is to facilitate the legal advice clinics. My understanding of the Top End Women's Legal Service that you are talking about is that it initially arose through a CDEP program. I am not sure whether that is still the case. It is a fantastic structure to have in place because there is far more ownership and knowledge; it is much more of a two-way pathway process and that would be ideal. But for us it is a resource issue.

Ms PLIBERSEK—Have you investigated using CDEP funding for something like that?

Ms Lethlean—We have not looked at that. There are a number of concerns around engaging people through a CDEP program to provide professional services.

Ms PLIBERSEK—I have two final questions. The first one is that you have mentioned on page 3 of your submission, in the third last paragraph:

In addition to language barriers the majority of our Aboriginal clients require cultural translation of Australian legal concepts. Many concepts that are axiomatic in the Australian legal system do not readily translate into Aboriginal concepts. This conceptual gulf is pronounced in both criminal and civil law. In the absence of a cultural broker informed legal process is impeded and substantive legal rights can be lost.

Can you give us some examples of where the concepts, as you say, do not match up?

Ms Lethlean—The general issue there is that when we talk about the Australian legal system and process and procedure, quite often for Indigenous people it is not something that they have had an exposure to, or they have not had a full understanding or been fully informed about that process and procedure. One issue that can frequently arise is in relation to the time frames. Under Indigenous legal systems—this is my understanding—issues are quite often addressed at a very early stage and finality occurs relatively shortly thereafter where a wrong is perceived to have occurred. That is very different from the non-Indigenous legal system. For example, re the complaint of discrimination based on race or based on gender, the time frames can be two, three or more years. It is very hard to actually sit down and explain that to someone. When you are talking about outcomes and processes and procedures, you need a fully informed discussion covering, 'We need instructions; we need an affidavit; we need to file the complaint; the process then is...' and to go through that.

CHAIRMAN—For what it is worth, as a non-legal person, I too find it incomprehensible that it can take three years to do all this.

Ms PLIBERSEK—The final thing I want to ask you about is something that the chair raised earlier about alternative models of justice. In New South Wales we have circle sentencing; in Victoria they have Koori courts. We have had a discussion with one or two of the witnesses about whether issues of violence are appropriately dealt with in communities where, in the leadership of the community, the attitudes to domestic violence, for example, might not be on the side of the woman, so to speak. It might be that you end up with a group of people deciding something about a sexual assault or domestic violence matter where they do not think domestic violence is so unusual or so much to be frowned upon. Can you talk about your experience in that? Do you think that crimes of violence against women would be appropriately dealt with in alternative justice models?

Ms Lethlean—Again I would say that each of the communities would need to be consulted in terms of the matters that they felt would be appropriately addressed that way. In my experience, in Alekerange certainly women are aware that there are both the Indigenous and the non-Indigenous legal systems and that they can opt for either to try and seek resolution. It is not unusual that clients come to us having initially engaged in that process and are pursuing alternative outcomes through the non-Indigenous legal system. I am aware that there are differences within various communities of Central Australia and the Top End as to how effectively an Indigenous legal system can address those issues given some of the structural myths and perceptions, and that occurs in both Indigenous and non-Indigenous communities.

We recently undertook very specific consultations with women at Alekerange in relation to the Northern Territory government's inquiry into Aboriginal customary law. The very clear and unanimous voice of women was that both laws need to work together effectively and both laws need to hear what is being said. But the Indigenous law says very clearly that it is not okay to bash woman. It is not okay that woman end up with life-threatening injuries and that their children are witness to that. That is a very clear message, so regardless of how those issues are dealt with in the community, and regardless of whether it is through the alternative Indigenous legal systems, the women there are saying very clearly that law-makers need to be cognisant and responsive to that.

Ms PLIBERSEK—I take your point about it being an issue in both Indigenous and non-Indigenous communities. The difference is that no-one is proposing for non-Indigenous communities that you snatch a bunch of blokes off the street and give them the power to decide whether someone who is accused of bashing their wife will actually suffer consequences for it. We have had evidence of people leaning towards that in Indigenous communities, and that, to me, seems again to put the responsibility for what has happened to women onto the victim of the violence rather than onto the perpetrator.

Ms Lethlean—I would have to say that, in our experience, that is not unusual in relation to women who are making applications for restraining orders. There are still a lot of pressure points and a lot of myths about who is responsible for what is occurring, and I think there are still beliefs amongst a range of members of the community and service providers that the victim in fact has contributed to this occurring. And that is not correct, but obviously in a range of areas there are still those beliefs.

Ms PLIBERSEK—Thanks.

Ms Lethlean—Just finally on that point, I think it is very important to explore options for women and what the outcomes can be. So, if Indigenous women see as a real possibility for positive outcomes the establishment of what you term an alternative legal process, then I think that really does need to be canvassed and pursued.

Mr JOHN COBB—I think Tanya has probably covered most of the questions I had, but did you just say a while ago that the perpetrator can choose in some circumstances which system he uses?

Ms PLIBERSEK—No, the victim can choose.

Mr JOHN COBB—That makes more sense. You both make up one permanent position between you?

Ms Lethlean—Yes.

Mr JOHN COBB—Have you both been doing that for a fair while?

Ms Lethlean—Both Janet and I have almost 10 years post-admission experience, we both have probably seven or eight years experience working with Aboriginal legal services and we have both been the solicitor coordinator via job share for three years with Central Australian Women's Legal Service.

Mr JOHN COBB—Tanya asked whether you have to turn work away. If the figures are to be believed, there must be an enormous amount of work out there, but does it actually come to you? On the evidence, how much work actually comes to you that you simply cannot handle?

Ms Lethlean—There is a huge range of requests that are just unmet in terms of community legal education, advice and casework. By way of example, at the moment we are probably carrying three files which relate to discrimination based on race. In my experience, probably only three per cent or five per cent of the requests for legal advice in relation to complaints based on race discrimination end up by way of a complaint filed. Of 100 women whom we might see who potentially have a legal matter—a complaint of discrimination based on race—probably only three will actually end up being a complaint which is filed. That is for a number of reasons.

Ms PLIBERSEK—You talked about it earlier.

Ms Lethlean—Yes. And there is a huge unmet need. A lot of that is about difficulty in terms of engaging in the legal system, difficulty and barriers to pursuing legal rights and the impact, if you reside in a remote community, of actually doing that.

Mr JOHN COBB—So you would not turn away work that was violence related but you would turn away work which is not seen as absolutely vital to be done now.

Ms Lethlean—We will always seek to refer an Indigenous woman to an appropriate service provider. And it is endemic in this type of service that everyone does overtime. Everyone does far more than what the service is resourced to provide, and there is still an unmet need.

Mr JOHN COBB—Do you do Indigenous-specific women’s work or all females?

Ms Lethlean—We do both Indigenous and non-Indigenous.

Mr JOHN COBB—I am not clear from all this whether you look after child issues as well—violence where children are concerned.

Ms Lethlean—Our service is funded by the Northern Territory government to provide a domestic violence legal service. That service is based in Alice Springs and it provides a service to women in Central Australia. There will be occasions where the violence is directed towards children, but more commonly it is directed towards our client who is an adult woman as well as the children, or the children are witnesses to it. We always seek to address both of those issues in terms of servicing our client. In terms of conflict, there is potential for conflict to arise where an adult woman attends our service. There are children and the adult woman chooses, for a variety of reasons, not to proceed with a restraining order, but it may well still be appropriate that someone service the children separately from the mother or the woman who has attended.

Ms PLIBERSEK—Who would you refer that work onto then?

Ms Lethlean—We would certainly look to refer to the Central Australian Aboriginal Family Legal Unit.

Mr JOHN COBB—It must be a very complicated relationship between you and the Aboriginal family unit, is it?

Ms Lethlean—No, it is very straightforward. We have got referral protocols and we network and collaborate effectively. They operate in Tennant Creek in addition to our service, but they have a different service focus. It is clearly distinguished between the service providers as to how that operates.

Ms Taylor—Our relationship is very good.

Ms Lethlean—Could I assist you by clarifying that in any way?

Mr JOHN COBB—So if there is anything to do with child sexual assault, do you deal with that?

Ms Lethlean—In terms of the civil aspects we may well assist, in relation to a possible application under the Crimes (Victims Assistance) Act or other issues arising. We do not do criminal legal work.

Mr JOHN COBB—So you would ensure, in a sense, that the rights of the child are being looked after. Okay, thank you.

CHAIRMAN—You said in your submission:

For the period 1 July 2002 to 30 June 2003 approximately 85% of domestic violence legal service clients identified as Aboriginal and approximately 30% of these clients resided outside Alice Springs in remote communities.

My question is: why only 30 per cent?

Ms Lethlean—Who reside outside Alice Springs?

CHAIRMAN—I was really quite surprised when I read that. I went back and underlined it and put rings around it. I would have thought the majority of Indigenous people in your area of responsibility did reside outside Alice Springs. Is that not true?

Ms Lethlean—The statistical issue that you are raising there is that there are a number of Indigenous and non-Indigenous women living in Alice Springs, and they would constitute that other 70 per cent.

CHAIRMAN—I understand that, but don't the majority of Aboriginal women live outside Alice Springs?

Ms Lethlean—I am a bit unclear on the question.

CHAIRMAN—I would have thought that the demographics would be such that more than 50 per cent, the majority, of Indigenous people in the region for which you are responsible—that is, the southern Northern Territory, from the middle of it downwards, border to border—would live outside Alice Springs.

Ms Lethlean—The population of Alice is about 28,000, and the remainder of the population resides outside. A number of women who are unable to access an appropriate service in relation to a restraining order will not be serviced. The police in some situations will take out an urgent restraining order, but this question goes to the huge, unmet need of women residing in remote communities. If they cannot pick up the phone, if they cannot sit down with a police officer, if they cannot get into Alice Springs, they will not be serviced in relation to a restraining order.

CHAIRMAN—Is part of that issue also tied up in culturally not understanding (1) the formal legal system itself (2) how you access it or (3) what you would do if you did access it? Is that all tied up in that?

Ms Lethlean—That is correct.

CHAIRMAN—Would a lack of education in one's rights and in dealing with those rights within the formal structure be a major factor?

Ms Lethlean—We think that there is a general understanding about the availability of a restraining order, but that does not necessarily translate to a capacity to actually engage in that system, to be fully informed about what those possibilities or options are and then to have the application filed and served. The funding that we receive from the Northern Territory government is limited to providing the service in Alice Springs.

CHAIRMAN—We did read in one submission, and we discussed it yesterday when we talked to witnesses, about two Indigenous people who had spoken about domestic violence issues, and one person said that women hit men as much as men hit women, that women should be bashed when they speak too much, and on and on, and the other one said the opposite. If that incidence

of understanding or lack of understanding of what is appropriate is widespread, that might also affect the number of people who actually contact you, might it not?

Ms Lethlean—I would certainly reflect on the comments that the Alekerange women raised, that were previously put to you in relation to their position on family or domestic violence—that is, they find it unacceptable and they want that widely understood and understood through the legal system.

CHAIRMAN—Sorry, I should have made that clear. It was a male, not a female, who said that.

Ms Lethlean—The statistics in the Northern Territory very clearly indicate—and it is reflected in who is attending the services—that the victims are overwhelmingly women and that the perpetrators are overwhelmingly men.

CHAIRMAN—You do not need to convince us.

Ms Lethlean—But for the record.

CHAIRMAN—For the record, we were absolutely convinced before we ever got here. It is just that we were surprised that that attitude prevailed.

Ms PLIBERSEK—The chair is really talking about being surprised that that attitude was expressed publicly in a situation with a number of legal workers and legal support workers. That is the context in which it was given to us.

Ms Lethlean—From our perspective we would say that it is not an acceptable understanding or position to take in relation to those very serious issues. Nonetheless, there are a number of people who have those perspectives.

CHAIRMAN—We need to deal with that, don't we?

Ms Lethlean—Indeed.

Ms PLIBERSEK—Can I ask a quick final question? You are quite clearly opposed to the tendering out of services. Why exactly do you think it is a bad idea?

Ms Lethlean—Just in terms of adding to what we have already put in the submission and being brief, we have two particular experiences in relation to tendering. One would be that, under our casework guidelines, where we can refer we are required to and we do so. The normal outcome of that, when the referral is to a private practitioner, is that we are required to take on an agency role because the private practice ordinarily does not have the logistical or the specialised skills required to work effectively. So they do not necessarily have a linkage into interpreters or cross-cultural brokers. They do not necessarily have the capacity to hop in a car and drive 200 or 300 kilometres. All of that undermines the ongoing capacity in terms of that file or that complaint, that legal matter.

The second issue that I will briefly talk about is that in 2000 the Northern Territory government tendered out the domestic violence legal services. The experience in the Top End was very different from the experience in Central Australia. We retained the funding in Central Australia. In the Top End it went to a private legal firm. In 2003 the Northern Territory government reviewed both of the services. There were very positive responses from stakeholders in relation to the Alice Springs based service. There were a number of concerns—very serious concerns—raised in relation to the tender to a private practice firm in Darwin that went to the very heart of being able to effectively service. As a consequence the Northern Territory government has reviewed—

Ms PLIBERSEK—We heard yesterday that the Legal Aid Commission had to take it over.

Ms Lethlean—Yes.

CHAIRMAN—And they have a three-year contract now.

Ms Lethlean—We say that that experience really shows that private legal practice is not, without further skills, able to actually effectively undertake that service provision. As we state in our submission, it needs to be a holistic service; it needs to incorporate Indigenous representation; it needs to incorporate Indigenous decision making structures; it needs to be cross-culturally appropriate; it needs to have the logistical capacity to service remote communities; and it needs to be highly specialised.

Ms PLIBERSEK—And you are not going to make money out of doing that?

Ms Lethlean—I can't possibly imagine that it would be more cost effective. I think that is the experience the Northern Territory government has had with the Darwin based DV service.

CHAIRMAN—Thank you for coming and for your straightforward answers. If we have further questions you will not mind if we put them to you in writing?

Ms Lethlean—Of course not. Thank you.

Proceedings suspended from 9.54 a.m. to 10.03 a.m.

GILLICK, Ms Vicki Maree, Coordinator, Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council

SMITH, Mrs Margaret, Executive Member, Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council

CHAIRMAN—Welcome. Thank you very much for coming. Do you have any comments to make on the capacity in which you appear?

Ms Gillick—I should probably declare to the committee that for a number of years I was the chair of the Central Australian Women's Legal Service Committee. I also worked for Aboriginal Legal Aid here in the criminal section for a year or so.

CHAIRMAN—I will just put on the record that I would like to thank the Alice Springs Town Council for turning on the airconditioning since it is so hot. We really value that. Do have a brief opening statement that you would like to make?

Ms Gillick—Yes. It is fairly brief. As the committee members are probably aware, if they have read the submission, there are two prongs to it. One is the access or lack of access to legal services for our members in the remote cross-border region, of which we have provided you a map. The other is the lack of resources, funding and so on for this organisation—which is a major service delivery, policy and advocacy organisation in the region—to be able to employ its own in-house legal and policy adviser. That is a major problem. I am the coordinator at the moment. The previous incumbent was in the job for 16 years. I have been here since October. I have acted in the job previously. I happen to be a legal practitioner. That is merely a happy or unhappy coincidence, whichever way you want to look at it. I only advise the employer. I do not and cannot do individual work.

Since the demise of the Pitjantjatjara Council Legal Service there has been an even bigger gap in services. If you read the submission you will see that we are not arguing that the women's council should necessarily take on that work, particularly in the area of family law and child matters. That would be hugely problematic for us. There would be conflict or perceived conflict by our members. There is already, as you can see in some of the examples that have been given.

The legal services that do exist are already stretched. I am sure you have heard this wherever you have been. Certainly I know that CAALAS works very hard to cover an enormous region. The Central Australian Women's Legal Service is limited in what it can do with its resources. Similarly, CAAFLU does not extend to our members, nor does, for example, its equivalent in Port Augusta. The Aboriginal Legal Service in Kalgoorlie does not get out to the remote areas. So there is a very big gap where women cannot get easy access to advice on family law, child matters, criminal injuries, other personal injury matters or any other easy legal advice, even down to superannuation distribution for deceased estates, which is quite a common matter. There is probably not a lot of wills and probate issues, because most of the people in our region would not bother with a will, but there are often superannuation or compensation matters. It is extremely difficult.

We are called upon for that advice because we sat for many years next to the Pitjantjatjara Council Legal Service which had, over a number of years, many very good legal practitioners who would assist the women's council for no fee or who would assist individual members. That has gone and has left a very big gap for our members. There are more and more calls upon us, which for the reasons set out in the submission—and I hope they are set out clearly—we just cannot meet. Nor should we. We really do think there should be a legal service to deal with that region. It should be based in the main regional centre and have an outreach component.

CHAIRMAN—You cover a huge area. Does the area that your council covers include the community of Yuendumu?

Ms Gillick—No. Our membership eligibility is in our constitution. The member communities are what constituted the original Pitjantjatjara council when it was formed, which was probably back in the seventies or very early eighties. That includes the Ngaanyatjarra leaseholds—the 99-year leases—in Western Australia, the AP lands—the 105,000 square kilometres in the north-west of South Australia—and four southern Northern Territory communities: Mutitjulu, Docker River, Imanpa, where Margaret is from, and Aputula or Finke. They are considered to be related by language, culture and family connections. They are Western Desert language speaking areas. So are Kintore and Papunya, I guess, but they are not part of our region. Yuendumu is north-west of Alice Springs. It is actually a Walpiri language speaking community, which is quite different from our membership. It is just the way the original membership of that council that was formed in that region was set up. Yuendumu is mainly a Walpiri speaking community. That is quite a different language group from what we are dealing with, which is Yankunytjatjara, Pitjantjatjara and Ngaanyatjarra speakers.

CHAIRMAN—In your submission you suggest that poor policing of the region is a serious problem. The submission states:

By the time police arrive the suspect has often fled the scene, evidence is hard to find and his family has had ample opportunity to persuade potential witnesses not to come forward. This frequently means that women and children in the cross-border region are assaulted with impunity.

Is it different across borders from within any remote community?

Ms Gillick—Do you mean from other remote communities in other parts of, for example, Western Australia such as the Kimberley?

CHAIRMAN—Or in the Northern Territory or elsewhere.

Ms Gillick—There are similarities. I think you will find more Northern Territory remote communities where the permanent sworn police presence is higher than in other parts of our region. For example, as of very recently on the AP lands in South Australia there have been six or seven extra police on a fly in, fly out weekly basis, including an inspector on a four-week rotational basis. But none of those 11 major communities and the various homelands in that 104,000 square kilometres has a permanent sworn police officer in the community. I think Marla has a contingent of four officers. There are not usually more than three around because of leave and training and so on. So at the moment there are some additional police, but they are moving around the lands. In the Northern Territory, for example, Ali Curung has a police station with a

sergeant and a couple of constables, as does Yuendumu. Kalkaringi, which is a gazetted town but is right on the doorstep of that land trust, has a police station. There are numerous Northern Territory communities that do not, but if you counted them you would find there were more that do.

There is a new police station at Kintore, which the women's council was very active in lobbying for and which can deal with our members at, say, Kiwirrkurra, just over the border. We understand that things have improved vastly there since the establishment of that cross-border police station. So there are plenty of places in a similar situation. On the Ngaanyatjarra lands, there is soon to be a police station at Warburton. At the moment, as I think we refer to in our submission, there is nothing between Yulara and Laverton in WA. It is a huge area. I have not sat down and measured it, but I think it is probably more neglected generally than other parts. I am happy to be corrected on that, but I think there are more staffed police stations in other parts of the Territory.

CHAIRMAN—One of the things the committee has been interested in is the multiplicity of agencies or organisations that deal with the issues into which we are inquiring. Can you describe your relationship with the more formal agencies that do deal both with criminal law—domestic violence and sexual assault—and with family law issues. Do you have any formal relationship with, for instance, the Central Australian Women's Legal Service?

Ms Gillick—What will often happen there is that we will have members of our communities who are, for some reason or another, living either short term or longer term in Alice Springs. They would be Pitjantjatjara or Yankunytjatjara speakers who may be in town for short or long periods and they may be assaulted or have some problem with welfare. Because the women's council has been running that domestic violence service for 10 years they will very often, although not always, come to us. We try to encourage women who are in town to use the town based services because we are very stretched and we are funded to deal with our members in the cross-border region. If they are living in town then there is probably an argument that they are not strictly speaking at that time in the membership region. It is also helpful to us if they can be dealt with by the Women's Legal Service. So we do work with them.

At the moment we are going over old protocols that we have had with the Domestic Violence Legal Service for calls. We are looking at rejigging those a bit and updating them. So there is contact there. As to family law, the women's council actually submitted to the Family Court in 1999. I think you will find it in there. Jane Lloyd and I did that submission. We were trying to get some Family Court counselling services for our region. The result was that the two Aboriginal family consultants at the Family Court in Alice Springs now travel to the Anangu Pitjantjatjara lands in South Australia when the north-west Magistrates Court is sitting. We work quite closely with them. We do not want to do family law. We refer people to them and to CAALAS if it is within their jurisdiction and they can possibly help, and they do if they can. So we do work with those other agencies. Our members are not town based—they are not generally Alice Springs based. So there are limits to those services, as you will see in the submission, as to what they are allowed to do and what they can do for our members.

CHAIRMAN—You said in your submission that the Family Court in Alice Springs has file research which indicates a steady increase in cases where at least one party resides in an NPY

member community at the time of the intervention. Have you had any discussion about the nature of the increase or why there are increases?

Ms Gillick—I would imagine that some of the increase is manifested or shows up because of the very fact that there is someone to deal with it. The Aboriginal family consultants are out there regularly with the sitting magistrate when he is on circuit. Within the last few years people have become more familiar with that. Margaret may be able to add to that. There is another reason—

CHAIRMAN—Would you like to take that on notice and send us a letter?

Ms Gillick—I can briefly mention one of the other reasons. This is anecdotal, I suppose, but young women from Western Desert communities are more frequently marrying up with men from outside their own regions—from the Top End, as far away as Maningrida and Milingimbi, and from places like Papunya. If the marriage breaks down and there are disputes over children, people are probably becoming more aware of the fact that they can approach the Family Court or the Aboriginal family counsellors about that.

Ms PLIBERSEK—Have you both travelled to be here today? Neither of you are Alice Springs based, are you?

Ms Gillick—I am based in Alice Springs, but Margaret came in from Imanpa on the bus yesterday.

Ms PLIBERSEK—How long did that take you?

Mrs Smith—Four hours or so.

Ms PLIBERSEK—Thank you for making the effort to travel to talk to us. We appreciate that.

Ms Gillick—We also have another executive member who is sitting in the gallery, Mrs Nura Ward, who drove in from Ernabella yesterday.

Ms PLIBERSEK—We appreciate your coming. We are all from New South Wales or Victoria, so it is quite a different thing hearing about some of your experiences up here. Three hundred and fifty thousand square kilometres sounds like an awful lot of area to cover. You were saying that it is hard for the Adelaide based Aboriginal legal rights movement or CAALAS in Alice Springs to cover the legal needs of your communities. Who do you think should be covering those legal needs? Do think that you need a separate legal service—and I notice in your submission that one suggestion is that you could just get some extra money and buy legal advice as you need it—or would you be better off funding one of these services to provide an outreach service to your communities?

Ms Gillick—I think the reference to buying in services was in relation to in-house legal services. We do not want to run family law, child or crimes compensation matters.

Ms PLIBERSEK—Who do you think should be providing advice, including family law advice, to men and women in the areas that you represent?

Ms Gillick—One of the suggestions that we talked about this morning was to have a legal service here that could deal with civil matters in our region. I suppose that might be seen to be adding yet another layer and funding bodies may see that it is more economic to add it to something that is existing, but it really needs to be something that can deal with the cross-border region and do some effective outreach work.

Ms PLIBERSEK—Where would you physically locate such a service?

Ms Gillick—It would have to be in Alice Springs, because otherwise we could not recruit staff. We have enough difficulty recruiting staff to live in Alice Springs. Our work is quite difficult and requires bush travel, as would this service. Certainly, as far as I am aware, most of the other Aboriginal organisations based in town or in the region have similar problems recruiting. Central Australia is not really, in my view, flavour of the month any more as a place that people want to come to work like it was perhaps in the seventies and eighties.

Ms PLIBERSEK—It is this cold weather you are turning on for us!

Ms Gillick—There is that, too! That is not the main issue. I think it will have to be based in Alice Springs. It is the regional centre. But there needs to be a capacity to travel. Again, the Pitjantjatjara Council Legal Service over many years offered a very good service with a number of staff, many of whom stayed for seven, eight, 10 or more years.

Ms PLIBERSEK—What happened to it?

Ms Gillick—I suppose there was politics between organisations. You are probably aware of some of the business that has been going on with the South Australian government and AP, if you have been reading the papers. Have you followed the Bob Collins appointment?

Ms PLIBERSEK—Yes.

CHAIRMAN—Yes.

Ms Gillick—I do not know all the details of it, but prior to that there was a dispute between AP, the landholding body, and the Pitjantjatjara council as to who should be, among other things, employing anthropologists and lawyers. I believe the Pitjantjatjara Council Legal Service eventually folded in 2002. I am not privy to all the reasons why, and it is not necessarily our place to discuss it. I do not know all the ins and outs of it. The landholding body, on my understanding, now have the funding to employ those people and I think they engaged a junior solicitor in the last couple of weeks, but I have no idea whether that person will be doing personal injuries and crimes compensation or just dealing with land related issues for the landholding body. I cannot imagine that they would be in a very good position to deal with approaches from men and women with personal injuries sorts of matters. That could be very difficult for them, and I have no idea what their brief is anyway.

There was a time when the Pitjantjatjara Council Legal Service employed—I should declare that I actually worked at the Pitjantjatjara Council Legal Service for a couple of years back in the nineties—me and other women. The women's council, for example, almost always had either a female lawyer or a male lawyer who was experienced and whom they trusted to go and get quick

legal advice on contracts. Women could be referred on to them for family law matters. The legal service did not do criminal or family law matters, but they would refer women on to whoever was available and the organisation could get quick advice.

Ms PLIBERSEK—Who could you refer them to?

Ms Gillick—It was limited, but occasionally when I worked there we would refer family law matters to private practitioners in Adelaide. There was quite a good relationship with a couple of firms in Adelaide at the time. They would take on personal injuries claims, and occasionally we would refer family law matters and they would see if they could be legally aided to take them on. People would normally pass the means test because most of our members had very low incomes. But there was also the problem of their being expected to act as the agent because they had no-one locally to do it. That happens with our domestic violence service. Even if something like a crimes compensation claim is referred to a private practitioner, be it here in Alice Springs or in Adelaide, you will still be asked to see the alleged victim and get a statement, and it is really not work that we can cope with. There is enough domestic violence work for three or four staff, and we have one at the moment for the region.

Ms PLIBERSEK—On page 7 of your submission you give this example:

The lack of Family Law advice and representation has on occasion resulted in domestic violence victims being unable to retain custody or residence of their children. There have been instances where abusive family members have used children to prevent women from dealing with domestic violence.

You go on to say in the second paragraph:

... some Family Violence Prevention Legal Units (FVPLU), such as those at Port Augusta and Alice Springs, have previously provided limited Family Law advice and representation when the lawyer employed had the necessary expertise. As of early 2004 FVPLU are no longer permitted to deal with Family Law matters.

Can you expand on that a little and tell us what impact you think having even less access to advice on family law is likely to have on people in your communities.

Ms Gillick—It is certainly not uncommon for people to have disputes over access to children, as it is not uncommon in any part of our society. I think it is fair to say that people do get pretty serious and distressed about it. You have both sides of the family absolutely equally convinced that they have the right to that child. That happens in a lot of families, but we probably have more involvement with extended families with our members, because the child is seen more as a child of the extended family, not just two parents. When writing this submission, we were advised, I think by ATSSIS, that this was the case—that they could not do family law matters. When the Port Augusta Family Violence Prevention Unit was assisting our domestic violence for a bit, it was mainly because there was a woman working there who had pretty extensive family law experience, and she was willing to go out of her way to assist a couple of clients on the AP lands, even though that stretched her resources a fair bit. So it sometimes can depend on who is there and how generous they might be—even though it is out of their immediate region—and what sort of expertise they have. And I think that was the case there: that person went on to work somewhere else and, in any event, now they are not permitted to provide that sort of service.

Ms PLIBERSEK—Are people in that case just not getting family law advice?

Ms Gillick—Yes, that is right: they are often not. On the AP lands, if you have the map there, the South Australian sector of our region is where the Alice Springs based Family Court counsellors visit the Magistrates Court circuit. We understand there is nothing much at all on the Ngaanyatjarra lands—the Western Australian side. Unless people could make their way to Kalgoorlie or to Perth, I do not believe there is any relatively easy way of getting family law advice. In the Northern Territory, yes, it is possible through CAALAS, and they will tell you what resources they have, but our understanding is that they have one family lawyer who has to deal with family law matters in the entire CAALAS region, which is not the same as our region. They would have to deal with people from ALS for Northern Territory communities.

We operate tri-state; most services do not. That is the other difficult issue to grasp—I am not suggesting that you do not grasp it, but CAALAS operates in the Northern Territory. That is their jurisdiction. We only have four member-communities in the Northern Territory. We do not think there is anything happening, really, on the Western Australian side, and there are limited services offered by two occasionally visiting Family Court consultants in South Australia and nothing coming up from Port Augusta or Adelaide, because they are not resourced. They are not funded or able to do it.

If people are charged with criminal offences in the region, our view would be that they would be able to get representation, whether it be from the Legal Services Commission of South Australia, ALRM—Aboriginal Legal Rights Movement in South Australia, which does seem to very stringently apply their rule of acting only where both parties are Aboriginal—or from the Aboriginal Legal Service based in Kalgoorlie. One way or another, if you have to front up in court on a criminal matter, you can get representation—as it should be, because a lot of people run the risk of custodial sentences—but, if you have civil matters or family law matters, you really are at the mercy of the very few, under-resourced, scattered resources available.

Ms PLIBERSEK—We have been told by a number of Aboriginal and Torres Strait Islander legal services that they prioritise criminal matters because of this issue that people might end up in jail if they do not have proper defence. But I guess our concern as a committee is that the consequences of not getting proper family law advice are the sorts of things that you have pointed out here—children being used to keep women in relationships where there is domestic violence—and its most tragic consequence can be people dying. We see it as just as important.

Ms Gillick—But that is not to say that you should take from criminal services to supplement others. Having worked in the criminal jurisdiction here, I would say—and, again, CAALAS could verify this—that well over 90 per cent of the defendants going through the criminal jurisdiction in Alice Springs are Aboriginal men. My personal view—and I think women's council members would agree, because they have family members who are charged with offences as well—

Mr JOHN COBB—Agree with what?

Ms Gillick—That they are entitled to representation and that having some family law service or civil service should not be at the expense of people being represented in the criminal jurisdiction.

Ms PLIBERSEK—One of the issues in any case is that the issue of conflict of interest can come up. So where a service may previously have represented, say, a man in a criminal matter, even 10 years later they will not represent his wife in a dispute between the two of them. I do not think we are proposing taking money off Aboriginal and Torres Strait Islander legal services to deal with family law matters, but we are curious about whether they can be dealt with appropriately by organisations because of the problem of conflict of interest or whether we actually do need separate women's services to deal with family law issues, domestic violence issues and even sexual assault and child sexual assault issues.

Ms Gillick—Geographically it is a large place but, population wise, it is a very small place. Again, I imagine that some of the CAALAS submissions might deal with this, but I would certainly lean towards the separation. If the women's council even arrange to help people come to a meeting with welfare, people perceive us as taking a particular side. I cannot see in my lifetime, for example, that we are going to get over those sorts of attitudes. I think the reassurance and safety of women and kids is one reason for that separation, and also so that there is seen not to be a conflict. I know you can have Chinese walls and all the rest of it, but you have got a pretty small population and you have got Aboriginal people working in organisations who are often related to clients so they may have male and female family members coming in and out of the service. You may be able to somehow streamline matters so that you would have a women's legal service that could cover a very big region and not necessarily have a separate one for our region, but there certainly needs to be something put in place where our members can have better access than they do to services.

Ms PLIBERSEK—We heard yesterday, when we were in Darwin, from the Top End Women's Legal Service. One of the things that they do a little bit differently to the central women's legal service, because I think they have got a bit of extra money, is employ two women in each of the communities that they look after for five hours a week each. They are community liaison workers within the Aboriginal communities that they service. Do you think that that would work in your area, or do you think that this issue that you have identified, of worrying about people being seen as taking sides in a conflict, would be a problem if you were employing community workers?

Ms Gillick—Are you talking about domestic violence work or other work?

Ms PLIBERSEK—They do a lot of domestic violence but it seems like people come to them with a broader range of issues, not just domestic violence—family law, sexual assault.

CHAIRMAN—It was a bit of everything, wasn't it? They were Aboriginal women.

Ms PLIBERSEK—They were local women in the community. Two women were employed in each community so they had a bit of support—they were not the only ones.

Ms Gillick—We have employed women to work in domestic violence in communities. We have had a couple of successes and we have had some very difficult cases. We are constantly asked by funding bodies why we are not employing Anangu women to do domestic violence work. The reason is that not many women want to do it. The ones who do end up being very pressured by family—sometimes by men. It can be extremely dangerous work. We have had a couple of reasonably long-term Anangu domestic violence workers. The most recent one has

gone on to bigger and better employment but she certainly copped her fair share of pressure. She was a former client and an excellent advocate. But it is not easy for women to do that work. I think it is fair to say that they do not just get pressure from men; they get pressure from female relatives of everybody. It is very difficult. Family obligations surpass everything else in terms of importance in many respects.

I do not want to speak out of turn but it is a difficult thing for our members. The women's council executive and members over the years have really grappled with this. That domestic violence service has been incredibly busy, incredibly well supported and well regarded for 10 years. But sometimes it is difficult for people to separate the issues. Even the women who want to run a really good domestic violence service can be faced with: 'Hang on, that's my son going to jail.' That is one very major reason why it is difficult to get Aboriginal women in communities to do that work. They have to live in a community that might have only 100 people in it, and it is like: 'I'm the DV worker so I'm off to ring up women's council or the police.' It makes their lives unbearable at times.

In terms of other work, it may be good to have a contact point. It would certainly be good to have that or some outreach as long as the women doing the work in communities felt that they were free enough to do that work—that their family commitments allowed them to do that work and that everybody in the community could approach them equally. Maybe that is easier in some Top End communities or bigger communities. In some of our communities it could be quite difficult. Because of avoidance relationships and other family issues not everyone would necessarily feel that they could approach a person.

Ms PLIBERSEK—You have raised a very interesting issue in the submission. On page 22 you talk about current orthodoxies and the notion of self-determination. You are basically saying that it is not really fair to say that Aboriginal communities are the only ones that have to sort out their own problems—that you actually do need outside help and a balance between letting people take responsibility and have self-determination and empowerment and just saying, 'This problem is too hard for us, we are going to put it back on the local community.' It is really interesting that you have given these two examples—these two dot points.

Ms Gillick—What page was that?

Ms PLIBERSEK—Page 22.

Ms Gillick—I do not think we have page 22. Maybe I deleted that and you were not supposed to get it!

Ms PLIBERSEK—I will just read to you what it says here:

When this attitude informs policy the results may be that Indigenous communities are expected not only to deliver their own essential services, but also to take on some of the statutory responsibilities of the state, such as law enforcement, child protection and the administration of justice.

This approach can lead to unsatisfactory situations including:

- Programs and proposals ranging from night patrols in almost totally dysfunctional communities to demands that Australian law allow sex with "promised wives" under the age of 16;

- An expectation that “the community” will somehow come up with innovative ways to, for example, get rid of drug traffickers or change entrenched attitudes to violence;

Rhetoric about “culturally appropriate” service delivery harnessing the “authority of elders” in order to prevent “family violence” may serve to mask a system of organised neglect that tolerates massive human rights abuses.

This is one of the things that people have talked to us about before during our inquiry in other states—for example, in New South Wales someone was talking to us about circle sentencing, where the older people in the community get together and decide what is going to happen to someone who has been convicted of a crime. One of the things that I have some concerns about is applying that to situations where there has been violence. If someone has been bashing their wife and then you say to her, ‘What punishment do you want?’ quite often the woman does not want their ex-partner punished. You are putting the responsibility back on the woman instead of putting the responsibility on the man. Do you have a view about this?

Ms Gillick—I think Margaret would like to raise the issue of pressure to drop charges.

Ms PLIBERSEK—Can you tell us about that, please?

Mrs Smith—After ringing the police and reporting the matter to the police, when the time comes to go to court the wife does not want to testify. She will drop the charges every time.

Ms Gillick—Not every time necessarily.

Mrs Smith—No, but it does happen. Then the police will not come.

Ms PLIBERSEK—Mrs Smith, one of the things they changed in New South Wales a few years ago is that, where there has been domestic violence, they do not make it the woman’s job to press charges anymore—the police have to press charges and they cannot drop the charges. The police are in charge of taking it through the courts. Do think that would be better in your situation, where you take the responsibility away from the woman and make the police responsible—and responsible for violence orders as well?

Ms Gillick—It is my understanding that there is a no-drop policy in the Northern Territory too, but I do not know whether it is enforced to that degree. So the police say, ‘We are not going to drop it.’ Even if the woman says she does not want to go on with it, the police may say, ‘There might be some other witnesses.’

Ms PLIBERSEK—If they attended the scene, they have evidence.

Mrs Smith—At the moment we get evidence through—

Ms Gillick—Yes, you have to have evidence.

Mrs Smith—You have got to have a photo taken and all that stuff.

Ms Gillick—If there is not much physical evidence and there are no police in the community or no police close by, then it is—

Ms PLIBERSEK—Hard to proceed.

Ms Gillick—You are talking more about community justice circles of people attending court and deciding or contributing to what the penalty may be. Certainly the women's council has not supported that in the past, because you can have people related to the offender contributing to the decision. It can work for or against the defendant, I guess. Certainly the women's council has made other submissions saying that Australian law should apply to perpetrators of assaults against women and sexual assault offenders. Those submissions have been very clear.

My understanding is that certainly in the past the women's council executive have not supported people sitting in court contributing. I have seen that myself on the AP lands when doing domestic violence advocacy. The magistrate might say, 'I want to hear from the community.' Who is the community? Someone's family member might come in and say, 'I'm a senior member of the community, and I just happen to be this fellow's father,' or uncle or whatever. It can work both ways. The organisation have put as a whole that it is not a way they want to have these matters dealt with.

Mr JOHN COBB—Margaret, we were talking about the pressure that domestic violence workers come under. Would it be fair to say they would come under a lot more pressure in one of your communities than in Alice Springs?

Mrs Smith—I think it would be good to have somebody from the bush in town to help out.

Ms Gillick—Women's council are always saying that it would be good to have more Anangu working in domestic violence in our communities, but it is very hard for them. That is what we have just been talking about. The question here is—and you might not know the answer—is it easier in town?

Mrs Smith—I think it is easier in town.

Ms Gillick—What if you are in town camp?

Mrs Smith—It is easier in town. You are closer to the police and everybody. You have a lot of help in town. In the bush, there is nothing—nobody to help.

Mr JOHN COBB—As one of the few non-legal bodies appearing before us, do you see the separation of jobs within the legal services that are available to Aboriginal people—in other words, women's services, family services and children's services that are separate to mainstream Aboriginal services—as being essential?

Ms Gillick—Are you asking whether there should be separate Aboriginal legal services?

Ms PLIBERSEK—No. Should there be separate services for women and children, separated out from criminal services?

Mrs Smith—You have to protect the women and kids.

Ms Gillick—I think we have also mentioned in our submission that there are men in our region who are missing out on services for civil matters.

Mr JOHN COBB—I accept that.

Ms Gillick—We certainly think that they should be dealt with. You could have somewhere that could deal with civil crimes and comp matters. Personal injuries, motor vehicle accidents and stuff are fairly general; any service could really deal with those. I think it would probably be quite cost efficient to have something that could deal with women in the region, whether or not it was attached to something else.

Mr JOHN COBB—Basically, you think it is good to have separate services?

Ms Gillick—Yes, I think it is.

Mr JOHN COBB—I do not think it has been talked about today, but the use of phones for legal advice and assistance is something we have heard a lot about but not seen a lot of actual evidence of. Do you think it can work for your scattered communities? Obviously it would be a lot easier if it could. Does it work? Is it used?

Ms Gillick—CAALAS or even the other legal services would probably have more experience of this than us.

Mr JOHN COBB—I am asking somebody outside the legal system who sees the results of it.

Ms Gillick—I will continue. Our members use the telephone a hell of a lot to contact us, but a number of our staff speak a language. If they do not speak a language they can understand Aboriginal English or they will have enough language to get by. To try to explain complex matters over the phone, however, is very difficult. I have difficulty in explaining complex matters face to face to the executive at executive meetings, and at times I need a very experienced interpreter. Interpreters are very difficult to find. In my experience not many young people want to train as interpreters. Primary and secondary education levels are very low. If you do not have a good grasp of English then your interpreting skills are inevitably truncated. The better your knowledge of both languages, obviously the better your interpreting skills. It is very difficult for people to deal with complex matters over the phone. I cannot really imagine in the foreseeable future that it would be easy to set up people getting anything more than very basic advice over the phone.

For example, Centrelink apparently has an Indigenous call centre. It is based in Palmerston, just out of Darwin. But, as far as we have ever been able to ascertain, there are no Western Desert language speakers at the other end of the phone. Some Aboriginal people answer the phone, but there are no actual interpreters. They are very difficult to get. A lot of Aboriginal people that I had contact with when I was working at CAALAS did not necessarily, even if they were good interpreters, want to do hospital and court interpreting all the time, because they found it sometimes difficult.

Mr JOHN COBB—I think you have answered that: you do not think it will be terribly successful. There are various different forms of Indigenous legal services and you must deal all

that are relevant to you. Do you think that their current form is the right way to go? I guess you would say that they want more resourcing. Do you think that what is available is the right way to go?

Ms Gillick—This is not something I have really discussed with our executive. I suppose this would have to be a personal view. My observation in recent years is that, whether it is a community legal service for women in a remote area or an Aboriginal legal service doing mainly criminal work, it is getting more difficult to recruit staff. There is not really a career structure, as such, for people. So there are probably better ways in which they could be run, particularly in remote areas where you have community legal services that do not necessarily have close supervision. They are separate little entities unto themselves a lot of the time. One might have only one solicitor who would therefore, I think, need to have an unrestricted practising certificate, so you are looking for someone with five years experience who does not mind working in a very remote area. One aspect is that it needs some sort of structure that makes it more attractive and easier to recruit staff, maybe with some sort of connection between the legal services so that they could move around a bit after a while and it is not seen as a limited time or necessarily a dead end or where they could say, ‘I’m going to do a couple of years in Wyndham, Kununurra or somewhere,’ and then they do something else.

Mr JOHN COBB—In other words, there needs to be more incentive.

Ms Gillick—Not just money incentives but some sort of structure that encourages people to want to work in outlying areas.

Mr JOHN COBB—That is always going to be difficult when you have separate services.

Ms Gillick—Yes.

Mr JOHN COBB—If we could get over the employment or the availability of legal—

Ms Gillick—Staff.

Mr JOHN COBB—The staff problem. Do you think the way they are working at the moment is more or less the right way to go? It does not matter what you do, you will have those staff problems that have to be dealt with.

Ms Gillick—I suppose that ideally you would like to see the day when you did not necessarily have to have separate Indigenous legal services.

Mr JOHN COBB—But we are dealing in realities.

Ms Gillick—Yes, we are dealing in realities and I certainly would not like to see the bar lowered as it is with non-Aboriginal legal services, where the means-testing is such that unless you are really impoverished it is very difficult to get a service. I think that in the foreseeable future we certainly need to keep them and I do not think tendering them out, particularly in places like this, is going to get a very good service for people.

CHAIRMAN—Thank you very much for your submission and thank you for coming so far to talk to us. We will have to move on. Otherwise, we will deny other witnesses the opportunity to talk to us. If we have any further questions, could we put them to you?

Ms Gillick—Please do.

CHAIRMAN—Thank you very much.

[10.58 a.m.]

CLARKE, Ms Phynea Christine, Senior Client Service Officer, Central Australian Aboriginal Family Legal Unit

DAVIS, Mrs Lillian Kay, Client Service Officer, Central Australian Aboriginal Family Legal Unit

SHIEL, Ms Victoria Leanne, Solicitor, Central Australian Aboriginal Family Legal Unit

CHAIRMAN—I welcome representatives of the Central Australian Aboriginal Family Legal Unit. Do you have a brief opening statement?

Ms Shiel—Yes. By way of giving you an overview of our service, we were established in October 2000. We have funding for five positions—a legal position, which I fill, and four other positions that are Indigenous positions. Two of the people in those positions are here. We are funded to work in specific, targeted communities. Our service involves work in Alice Springs, Yuendumu, Papunya, Hermannsburg and Tennant Creek. As for what our work covers, we do legal based work such as court appearances and advocacy for victims of domestic or family violence, restraining orders, some family law work and some work for victims of sexual assault. As well, we have a broad focus on education—there is a big need for education in the community—and we undertake education and community development work. That is us in a nutshell.

CHAIRMAN—Thank you. I have been particularly looking forward to your coming here today, because our secretariat has obtained some information about you from the *Indigenous Law Bulletin* web site.

Ms Shiel—The author of that is here today.

CHAIRMAN—A witness who appeared before this committee in Sydney said:

Community justice groups are not going to go away. They are on the increase in New South Wales. They are really taking over in the top end of Queensland and the Northern Territory. The big picture for community justice groups is that you have the community of Yuendumu looking now at different levels within that community justice. They call it their community high court. They are dealing with all the issues of safety, violence, law and lore too in that framework.

The witness thought that the committee should go to Yuendumu. To the extent that you are familiar with it, can you tell us about the alternative justice path in that community?

Ms Clarke—We were invited to attend what was like a pre-court hearing. We have mainly helped the Yuendumu women at the women's centre. They are also members of the justice committee. They sit down and go through the list with the magistrate, giving them an update on how well the perpetrators have been going since the incident and which way they could go—whether they should do community development work or whether they should be sentenced. We were not present at all the law and justice committee hearings, but we have sat in with the

women because they are our first point of contact when we attend Yuendumu court sessions. We go to the women's centre and help them out with legal education on restraining orders. Not all Indigenous women understand restraining orders.

CHAIRMAN—How large is the community?

Ms Clarke—I think the population is around 1,000.

Ms Shiel—Yes, it varies between 500 and 1,000. I would also like to address that question. Prior to working at CAAFLU, I spent five years as a criminal lawyer at CAALAS and I used to go to Yuendumu on a regular basis. The law and justice committee started with some elders who were very involved in taking petrol sniffers away from the community to a remote outstation where they could not sniff petrol. These women were doing a really good job of addressing petrol sniffing. It started with Mrs Peggy Brown, who, while I was in court making submissions, would tap me on the shoulder and say, 'He should be locked up,' or, 'Give him bail.' The magistrate noticed that she was regularly giving input, and she was then invited to address the court. From there it turned into a situation where input was being given by a group of people who understood the full history of the offenders and of the community. It is invaluable because bush courts like Yuendumu traditionally are extremely busy. It is a process whereby you do not address the court for a particular length of time about someone and you might not know the full story either. These law and justice committees are people living within the community and who are respected within that community, and they have important things to say. The Yuendumu committee has been assisted by CAAFLU through the provision of legal assistance and contact with the women in their other roles on night patrol and in the women's centre. It is certainly an important way for the courts and the people who visit the centre to get a fuller picture of that community and its people's roles other than the role of the offender, which places them in the court.

CHAIRMAN—We are interested in alternative paths. I am not one who believes a great deal in imposition from on high, but if there are alternative ways to view these issues which have a greater degree of success—that is, reduced recidivism, increased community awareness of what violence really does and a reduction in sexual violence and these sorts of matters and the need for the formal law to intervene—then they should be encouraged. In the model that you have described—and I think Tanya would question this—if people who were biased were put in the position of being an elder or advising the magistrate, isn't there the potential that you could wind up with inequitable outcomes?

Ms Shiel—Yes, there is always that potential and that is a real concern. People are related on communities. You can often have situations like those we find in our work. I can think of a particular example where a woman might be a strong spokesperson at her community against domestic violence but if her son is involved, her position is, 'That woman is just making trouble for him. He did not break a bone.' So I think you do have situations where people do have, understandably, personal bias and interest. But I think models where community does have an input are important ones to explore and develop.

CHAIRMAN—Would it be true to say that what works in one community might not work in another?

Ms Clarke—We also service Papunya and they have not got a law and justice committee there. It does seem to work at Yuendumu, but nothing is happening at Papunya for law and justice.

CHAIRMAN—On your web site you state:

The legal representation and advice covers:

- Restraining orders and other protection;
- Compensation for victims of crime;
- Family law;
- Support for victims attending court ...
- Support during mediation ...
- Advocacy for families coming into contact with the Northern Territory Family and Children's Services.

How on earth do you integrate all these matters with other services such as the Central Australian Women's Legal Service? Are we funding overlap? Are we funding several lots of administration and bureaucracy?

Ms Shiel—Certainly the work is there for all the services. You referred specifically to CAWLS. What tends to happen with the CAWLS service and our service is that CAWLS do a lot of the restraining order work in town. The figures that you queried with them showed a lot of town based restraining order work. If work comes up in town that is not to do with a relationship between a woman and her husband or her ex-partner, they are matters that are usually referred to our service. So we will assist in restraining orders where a mother might want to take out a restraining order against her daughter. We do act for men seeking restraining orders as well. So our town based work is different to CAWLS's town based work. We do restraining orders at Tennant Creek. We are the service that appears in court for restraining order matters in Tennant Creek. In our target communities if a restraining order matter is urgent the police take out that urgent order at the time by calling the magistrate. If it is a non-urgent matter then it is referred to us and we take instructions and appear for the woman at the bush circuits or in town. We do have discrete functions that we fulfil.

CHAIRMAN—Do you also refer matters to a legal aid service?

Ms Shiel—Yes, we do refer matters to the Central Australian Aboriginal Legal Aid Service and also to the Northern Territory Legal Aid Service as well.

CHAIRMAN—There are an awful lot of organisations, aren't there?

Ms Shiel—Yes.

Ms PLIBERSEK—I wondered if you wanted to talk a little bit more about the outreach service that you are running and a bit more about the type of community education you do with that outreach service. What are the kinds of topics you cover and what sort of reception do you get?

Ms Clarke—In Tennant Creek, for example, we work with the sexual assault counsellor. We have gone into the high school at Tennant Creek. The sexual assault counsellor has mainly covered what you do if you are sexually assaulted. CAAFLU have also attended and we just

introduce ourselves and let them know what we do and that we can assist in compensation claims as well. We have also just gone to the Anyinginyi Congress up in Tennant Creek and tried to set some sort of protocol, and with the Tennant Creek hospital as well. They do have the first contact with victims going into the hospital and we have tried to set up some sort of system where they can do referrals to us, because that is our targeted area. Also, on the education side, we have worked closely with the Domestic Violence Counselling Service and had input into town camps up in Tennant Creek. We have also done it here in Alice Springs where we have gone into the town camps and asked if they want legal help or advice or training on restraining orders and compensation. The reception has not been that good because it is a pretty hard subject when you do speak about domestic violence or sexual assault cases.

Ms Shiel—We have found that a lot of incidental education works well in this area, because it is often hard for women who go and talk to a service that is recognised as a domestic violence service. It is like telling everyone in that community that there is an issue, so we are looking at alternative ways to educate people. Something that we have had meetings about at Hermannsburg and that we are about to set up is a program where women go along and sit down there a few days a week and do painting and things like that. While people are painting, it often frees their mind up to talk about other topics anyway. So there is that incidental education where we are not letting everyone know that someone is a victim or that someone wants to know about domestic violence or compensation, but just sitting down in those ways.

We have had two camps where we have taken, most recently, young people from the town camps of Alice Springs. We took them out of town and had a three-day camp and workshop. There were counsellors there to deal with issues that came up and a film was made. The young people scripted this film themselves about domestic violence and education, and that package has just been put together. We are going to take that round to the schools and sit down and talk to the young people, because something that we are very aware of is that there is a lot of work that needs to be done, as far as community education goes, in relation to restraining orders and domestic violence and what is acceptable. Women will often say, ‘But it was okay for him to hit me because he is my husband,’ or they might only complain if the person who hit them is not their husband. There is a lot of room for education and we are looking at how to do that in ways that are culturally appropriate and do not shame the people whom we are presenting the information to.

Ms PLIBERSEK—We were talking a bit earlier about Yuendumu, the community law and justice committee. Do you think whether that works depends a bit on the size of the community? In a very small community, the pressure on people from family members or friends or relatives would be a lot more than in a bigger community where you sort of dilute that a little. Would it also depend a lot on the individuals? You mentioned this lady, Mrs Peggy Brown. You need someone like that to make it work, don’t you? You need an outstanding leader. Do you think that every community would have a person like that, or is that a bit hit and miss as well? Is that impossible to answer? It is all right; if you have no answer you are allowed to say, ‘There is no answer to that.’

Ms Clarke—In some of the communities that we address there are strong Indigenous women, but not in all cases—or they may not be as outspoken as Mrs Peggy Brown.

Ms PLIBERSEK—You would have to be a very brave person to take that role on, wouldn't you?

Ms Shiel—You could get completely overwhelmed, as well. One of the other family violence units in Kempsey has actually put together a model for supporting the people who take on that role—identifying the people whom families often go to or who are required—to make sure they do not burn out. The pressures would be huge if you were someone seen as fulfilling a role like that.

Ms PLIBERSEK—And you do not walk out of your office at five in the afternoon, do you? If you are living in a community like that, people will be talking to you all the time, seven days a week, at any time of the day or night. It is a huge role to put on to someone, isn't it?

Ms Clarke—The ladies out at Yuendumu have spoken to us about that. They do not just work normal hours. It is always after hours and after midnight and they have victims running to their houses as well, looking for safety. No-one gets paid after hours, but they still want to protect the women.

CHAIRMAN—We will come back to Tanya, but I want to ask whether there has been a marked reduction in domestic violence and sexual abuse cases in Yuendumu as a result of these activities. Do you know?

Ms Shiel—We looked through our statistics prior to coming along. Certainly there does not seem to be a trend towards a reduction. It depends on a whole lot of factors—whether women are going forward to the police, whether the police are acting on information. I could not say yes or no; I could not answer that.

Ms PLIBERSEK—Sometimes an increase in reporting might look like you have an increase in the incidence of crime but in fact you have people coming forward where they used not to.

Ms Shiel—Yes, there would be a whole lot of reasons, so I could not give you an answer.

Mr JOHN COBB—How do you go about making people aware that you are there to be approached, that you are available?

Ms Shiel—When we go to our target communities?

Mr JOHN COBB—Yes.

Ms Shiel—Each community is different. That question has come up a bit, I have noticed. There are different approaches in different communities. We usually touch base with the police. Beforehand we would have had some feedback from, and talk with, the community. Then we talk to the police. We always go to the clinics and see people there. Papunya has a World Vision centre. We go and talk to the workers there. We go to women's centres. In Tennant Creek we work out of the domestic violence counsellor's office. We go there and get work that way.

Our service is fortunate in that Phynea and Lillian have been with the service since its inception, so they are recognised. Women will come up and tap them on the arm and they will

walk away and talk. A lot of it is subtle in that way. We are fortunate that these two are recognised. We wear T-shirts with our logo on them. We also give them to people, so people recognise it. We also have bags with the logo and the address on them. So people always have our phone number if they have a bag. They might have their things in the bag. They ring our free-call number.

Mr JOHN COBB—In other words, you make contact with those who avail themselves to some extent and use word of mouth. I assume that works reasonably well for family violence—women who are being assaulted or whatever. What about child violence or child abuse?

Ms Shiel—In Tennant Creek we have a close working relationship with the sexual assault counsellor. We work together with her on cases. At the moment there is a large number of people in Tennant Creek and Elliott, a community 200 kilometres further north, who have pressed charges in relation to sexual assault matters. The counsellor is providing counselling to those people and also giving information to us and organising meetings with the victims of sexual abuse, their guardians and us. We work with services that provide counselling where possible.

Mr JOHN COBB—Is it mostly because of a mother or a relative that you find out that abuse is going on? How does it mostly come to you—directly via the family or indirectly?

Ms Clarke—It has happened with referrals—for example, with the Family and Children's Services, who are based at Tennant Creek, or with the sexual assault counsellor. They make referrals directly to us.

Mr JOHN COBB—So mostly, when you get hold of it, it is already in the process, as it were.

Ms Clarke—Yes, through counselling.

Mr JOHN COBB—It is a recorded fact.

Ms Shiel—We come across matters often when we do crime victims assistance—that is a large part of our work. Parents will sometimes bring matters to our attention in relation to compensation or their child, their niece or the person in their care, so we will assist them in that way but then ensure that they get counselling and appropriate referrals from us.

Mr JOHN COBB—Would you get one child case for every 20 female assault cases, or not even that?

Ms Shiel—Probably not even that.

Ms Clarke—It would not be that high, really.

Mr JOHN COBB—So do you have any suggestions about how we should deal with it and get people to come forward on it? Do you have any suggestions about what we could do to make it easier to deal with?

Ms Clarke—Just education: deliver really good, strong education packages to schools, for example.

Ms Shiel—I think it is important to make sure that whatever service is delivered is a culturally appropriate one—to be aware that sometimes the victim themselves cannot talk about what happened; it is someone else's role to talk. They might feel more comfortable talking to an Indigenous person or an Indigenous female person who is not a family member. I think getting people to talk about those types of things that are happening to them really needs a culturally appropriate delivery. We have been out to communities with a sexual assault counsellor, and—as I said before—for women and children to go up to them is to tell everyone that they have been sexually assaulted, so they will not go. So it is about working out ways that are culturally appropriate, and that will differ from community to community, from language group to language group, to do it effectively.

Mr JOHN COBB—I do not think children of any culture—it does not matter which—will come forward to say they have been abused. So really you almost have to try to get to the mothers, don't you?

CHAIRMAN—I will go back to your web site again, where you say:

... we believe we have an important role in providing advocacy and community development. We would like to focus more on prevention rather than only reacting after violence has occurred.

You go on and talk about kinds of strategies, and then you say:

We prioritise the work we do with young people and work closely with youth services.

Would you like to tell us a bit about what that involves, and, secondly, how successful you have been—or if you know whether you have been successful or not?

Ms Clarke—With CAAFLU, it is like we are at the tail end of everything. We do restraining orders when the assault has happened, and also with compensation cases they have been assaulted. So we have focused on going into schools, at Papunya and Yuendumu, and also worked with women at Hermannsburg and given them legal education. We have shown videos about the legal systems—how a restraining order works, if anything should happen.

We have also sat down with schools and given them picture stuff. In other states they have little booklets. We do not actually have one at CAAFLU, but we do intend to get one done. We have pictures, educational material, and we have sat down and gone through all of that sort of stuff. We have gone through videos with them, shown them videos and then asked them questions about what they want to ask us.

We have attended a youth camp out at the Harts Range. We did little scenario acts where youth were selected from various town camps in Alice Springs and we worked with them. They did paintings and they also worked with youth workers—the Alice Springs ASYASS group. It mainly focused on stopping violence and on them giving their stories about what they have seen growing up in town camps.

Ms PLIBERSEK—With all the educational things you are talking about, are you trying to get kids to understand that, if something bad happens to them, they can go and talk to someone

about it? Do you talk to them about who they can talk to? Is that what is happening with the education?

Ms Clarke—Yes. We dealt mainly with youth from, I suppose, ages 14 to 18, but we have only had compensation claims with children.

Ms Shiel—But, yes, it is about saying that there are people out there, and I think that networking is a good way of getting that message across. We sat down with some young people at one of the youth places just recently and had a talk. Lilly and Phynea are both on the video that we are about to release, so they will be identified further as the people to contact. It is about letting people know that there are services and that they can go there and it is all right to go, and that what happened to them is wrong. Education has to be at that basic level.

Ms PLIBERSEK—Is anyone dealing with kids under the age of 14? Is it part of the school curriculum, for example? In New South Wales they have protective behaviours in the curriculum for quite young kids. I know that it is not your area. We are totally off the topic we are supposed to be discussing but it is just so important.

CHAIRMAN—No, it is not; it is part of prevention.

Ms Shiel—I am sorry, I do not know. The schools are receptive to people going in and talking, but I do not know whether it is part of the standard curriculum. No school has ever said no, has it?

Ms Clarke—No.

CHAIRMAN—It gets back to the issue that we were told about yesterday in Darwin: two different men were at a conference and one said that it is wrong to bash your wife, or it is wrong for men to hit women; the other said that it is fine, that it is all right, it is okay. We were just appalled to hear that. I suppose that, if some people still think that is all right, it is appropriate to teach young children in school or in some other setting that it is wrong.

Ms Shiel—That is right.

Ms PLIBERSEK—Or at least that it is not a secret. There probably would not be many kids who think it is all right. There would be some but there would not be many. The challenge is to convey that it is okay to talk about it and to say, 'These are the people you can talk about; this is who you can go to.' That is the big thing with young kids, I think.

Ms Shiel—We were at Yuendumu last week and at the women's centre there some men raised a concern—it was on this whiteboard there—that women might be going to safe houses to shame men, so education needs to take the form that it is okay to speak out if something happens to you.

Ms PLIBERSEK—And that family violence is not a secret to be kept in the family.

Ms Shiel—Yes, it is not a secret. It is not just husband and wife business; it is about breaking that perception.

Ms PLIBERSEK—Do you need interpreters much?

Ms Clarke—Yes, we use interpreters here in Alice Springs. We use the IAD and the OAD. When we have gone to our targeted areas we have been lucky in that other ladies have been around who we can get to help us in interpreting.

Ms PLIBERSEK—Do you need more help in that area? Are these ladies who help you out doing that as volunteers?

Ms Clarke—Yes, that is right.

Ms PLIBERSEK—Is that satisfactory?

Ms Clarke—It would be good when we go out for bush courts if they did get paid. We have just been lucky in the past when we have explained a restraining order. It would be good if they were paid.

Ms PLIBERSEK—One of the things we are looking at in the inquiry is the proposal to put legal services out to tender. Do you have a view about whether that is a good or a bad idea?

Ms Shiel—I think it is a bad idea. Prior to this job I had 13 years in Aboriginal legal services, so I will declare that, but I just think that Aboriginal legal services go that extra distance for clients. I could not imagine, particularly in this area, a tendered out service doing the work that field officers do—chasing clients up, sitting down with them. It would not be cost effective to deliver the level of support and service that is currently provided. Our distances are remote. There is a lot of travel involved. There is a need for local Indigenous people to work in the legal services. The level of expertise in a lot of Aboriginal legal aid services rests with the field officers and the local staff with that local knowledge. I fear that would be lost if things were tendered out. Usually there is more of a turnover of legal staff than non-legal staff. The wealth of knowledge often is in the non-legal staff, and they would be the ones that perhaps would not be employed if it were tendered out. They are constantly educating the lawyers. It is a thankless job. Lawyers come along and the field officer, director or whoever might pull them aside and educate them. That provides a better service for clients, and I think to remove that would be to throw clients up against an alien system and they would not be getting assisted properly.

CHAIRMAN—But if you tendered for that service and provided it, it would not be any different. Who actually funds you now?

Ms Shiel—We are auspiced by CAALAS. We were funded through ATISIS, but I believe our portfolio has just moved to Attorney-General's. We are one of 13 family violence units.

CHAIRMAN—Then you are funded by A-G's. Thank you very much for coming. We appreciate your advice. If we have any further questions, you would not mind if we contact you in writing, would you?

Ms Shiel—No, not at all.

CHAIRMAN—Thank you very much.

[11.34 a.m.]

BAMBER, Mr David John, Principal Legal Officer, Central Australian Aboriginal Legal Aid Service Inc.

MILLER, Mrs Patricia Ann, Director, Central Australian Aboriginal Legal Aid Service Inc.

CHAIRMAN—Welcome. Thank you for your submission, which we have read. Do you have a brief opening statement?

Mrs Miller—Yes. The Central Australian Aboriginal Legal Aid Service was incorporated on 26 October 1973, so we have been around for over 30 years. We have serviced probably two-thirds of the Territory, but we started here in Alice Springs in 1973, with five staff members. We have now grown to something like 22 staff members and often 25 when we have part-time workers in. The geographical area, which is described in the submission, is quite large. We deal with about 16 language groups, and that is supported by an interpreter service as well as Aboriginal people on staff who speak various languages. The area that we cover is quite large, and most of our staff have been trained in four-wheel driving for long distances and doing safety checks, which is most important of all in this area. They have to have water on board and make sure that they drive roadworthy motor vehicles. That is all I would like to say.

CHAIRMAN—Thank you very much for that. In your submission you said that the CAALAS client base is substantially larger than that of the Northern Territory Legal Aid Commission. Could you tell us both how and why?

Mrs Miller—As I said, we probably deal with a client group of 18,000 in this area, and we also have people coming back to us more than once. The NT Legal Aid Commission does the Alice Springs township and Tennant Creek. We do not find that they go to outlying areas as we do.

CHAIRMAN—We have also understood from other witnesses that a very high percentage of legal aid work is on criminal issues. Is that your experience too?

Mrs Miller—It certainly is our experience. However, within our legal service now we have three different departments. Criminal law is the main area that we work in, but we also work in family and civil law. You have just heard from the domestic violence unit, which is an offshoot of us in administration only. Over the years I have been very supportive of domestic violence units. I spent 5½ years in the early to mid-eighties on the mainstream community house here, which cares for women. I was an inaugural committee member on that and assisted Chief Justice Alastair Nicholson set up the Family Court counselling service here in town. Our experience in the whole range of legal assistance is quite vast.

Mr Bamber—I can add some statistics if that would help you. You have heard about family law issues this morning. At the moment CAALAS have nine lawyers. I am the Principal Legal Officer, and I also act as a criminal lawyer in day-to-day court matters. We have two full-time

civil lawyers and a full-time family lawyer. The full-time family lawyer has a case load at the moment of 146 open files. Of those files, she has opened 73 this year. Thirty-one of the clients are males and 44 of the clients are females. Of the file types, 17 are contact and residence orders, two are recovery orders, two are relocation orders and the others are child support and paternity orders. Of those direct family law types of matters, 14 people are Alice Springs based and the rest are from out bush.

For the child in need of care matters we represent 20 mothers and other family members who are trying to deal with departments where children have been taken and we are acting for seven males. Nearly all of those are people from out bush. We represent people from Wingellina, Warburton and Kiwirrkurra, which are all in Western Australia and we act for people from South Australia, so certainly, in family law with one lawyer, we are doing quite a lot. In terms of our civil files we have 682 files open at this moment. Four hundred and seventy of those were opened this year. Of those over 50 per cent of the clients are women—the person whose name the file is opened in—and they are a mix of people from all over our region, including a spill over into some Western Australian and South Australian communities.

Besides that, if you have seen our attachment, you will see the number of courts we represent in criminal matters. We have three magistrates permanently sitting in Alice Springs. Today is a normal sort of court day. It is winter so the court lists are a bit shorter than in summer. On the list this morning there are 30 or so Aboriginals who will be represented by us. There are about six non-Aboriginals who will be in the court this morning.

CHAIRMAN—Should you be there instead of here?

Mr Bamber—I have four other lawyers who will be there today to deal with our 30. That is a full workload for an experienced lawyer. We are saying that we do have a very broad client base. We service a large area. We give a legal service in all areas of law, subject to some categories where we do not operate.

CHAIRMAN—Thank you. You were here when I asked the Central Australian Aboriginal Family Legal Unit about the community justice group in Yuendumu. Are you familiar with that model?

Mr Bamber—Yes, I am.

CHAIRMAN—What is your view?

Mr Bamber—It is a developing model. It is one of about three that are operational at the moment in our group. It is growing. I suppose the issue is how formalised it becomes or whether it remains as a sort of an informal situation. At the moment, it is informal in the sense that the group will meet with stakeholders prior to court and discuss issues and then make recommendations or community feelings known both about types of matters and about individuals. Within that context, we have to appear for the individual to advocate for them in the court and then the magistrate as the sitting tribunal will determine what he takes from what we advocate and the information he has from the community justice group. The thing is whether the community justice group gets involved in a more formal way in the sentencing deliberation

process. It has not gone to that extent at the moment. That is a possible way these groups may grow.

CHAIRMAN—Would you or Mrs Miller or, indeed, maybe you would speak on behalf of any of your organisation's other personnel have a view on whether that is a positive development or does it have some very negative downsides?

Mr Bamber—It is positive, and I think it is positive in this way: our clients do live in two worlds and they are in the main subject to their own laws, and these groups offer the possibility of a nexus so that there is some juncture, I suppose, from what is happening in the community. Cultural factors and Aboriginal law factors that are applying are not going to be dealt with directly in the courts, but there is a sort of a nexus and feedback from what is happening on the ground in the communities. I think it is positive in that way. On the other hand, we as lawyers have a difficulty in the sense that we are still appearing in our system on behalf of the client, who is an individual. We have to advocate on behalf of the client, which may be at odds with the community view or a view that is coming out of the community.

Mrs Miller—Also, when different people appear before that panel of people, there is also the problem of whether they are actually related to the people sitting on that panel. Quite often there are difficulties with the elected council. Then there is another council—the council of elders. Quite often the council of elders overrides the elected panel. Where Mr Bamber is coming from is from representing his client in the European legal system, whereas this other system is still going on regardless of the white system. It has an end result and they will have a result as well. I think it clears the way for people to be dealt with, but they are still going to be dealt with in the other system, regardless of the outcome.

CHAIRMAN—There may be a major gulf, may there not, between the traditional elders—the community elders—and elected individuals?

Mrs Miller—There probably is a relationship and a kinship whereby the elected council still has to respect the elders. Quite often with the kinship system, the strength is so binding that they cannot step outside of that. They will put their hand up and say, 'I can't deal with this—you have to get somebody else.' So people will always tell the court or the police that they are not the appropriate person to be dealing with that defendant. It will be general knowledge that it is because of that kinship relationship.

CHAIRMAN—You seem to have a view that at Yuendumu this is a positive step forward, but there is no such thing as a universal model that would work for every community, is there?

Mrs Miller—I am not specifically talking about Yuendumu. There are three operating councils—Lajamanu, Alekerange and Yuendumu. I have a lot of extended family that live in the Alekerange region and I am just going on what they tell me from personal experience.

CHAIRMAN—And they think it is positive?

Mrs Miller—They think it is positive, but they also know that this other thing happens as well. It is twofold. They definitely think it is good, but it only becomes not good when the other influence is there.

CHAIRMAN—I have got you. It is good but it could be a risk?

Mrs Miller—It could be risk and it could be run better with the educational process about white law. I am sorry to use those terms—it is just easier for me.

CHAIRMAN—How would you propose that the educational process be expanded?

Mrs Miller—I think that in itself has to go back to the community that you are working with. They are the people that decide on the process. It is very hard for people living away from those areas, because they do not live there 24 hours a day, seven days a week and all that sort of thing. It all depends on the environment as well.

CHAIRMAN—Doesn't it also go back to school?

Mrs Miller—Definitely. But, regardless of whether you are highly educated, if you are a cultural person, even if you live in town, that still plays a major part in your family life and your existence.

CHAIRMAN—We may say we think we understand, but we would be kidding ourselves if we thought we really understood because we are not there. You said the Northern Territory Legal Aid Commission:

... is restricted in its service provision to Indigenous people in remote areas of Central Australia because it does not attend court circuit ... does not employ Aboriginal field officers ... and has a formal application process ... for a basic grant of aid, which many Aboriginal people would find difficult to access.

We have heard from other respondents that, as a generality, many people in remote communities—and many Aboriginal women, particularly—would not be comfortable with the Legal Aid Commission process or staff.

Mrs Miller—I think the Legal Aid Commission here do a really fine job with the resources that they have. We find that people who use the Northern Territory Legal Aid Commission go there by choice, and they have an option to do that; are briefed by other firms to go there; or are redirected there. People do prefer us. We are available for everybody in our geographical area, and quite often people from interstate areas—whether they are just passing through, have come for a holiday or are staying for a while—access our service. We have people on our files from Queensland, because there is a tribal group that crosses the state boundaries. That is similar to the Pitjantjatjara region, which is the three-states area. We often get clients—Mutitjulu and Yulara people—who come over the border and present themselves at court. That is similar to the police station being set up over in the Western Desert area at Kintore, where we have just held a bush court. That is right over near the WA border. People who come into this area come from all over the country and use our service. There is no restriction on that use. The availability is for everybody.

Mr Bamber—On top of that is the welcoming nature of the organisation. In terms of just coming into a service—and the service has been there for quite a long time—people know that they can walk in the door. People know that they can walk in the door if they have half a dozen kids with them or a whole big family group. They can sit out the front all day and eat their lunch,

come in and use the toilets and all of those sorts of things that go to a matter of access and that do not appear in the paperwork or whatever. We have an 1800 number. All the community advisers know us. If there is any problem, anyone can ring a free number and get to us. We are accessible in that way. I think that is very important. Our clients do not want to be put off and they like somewhere where they feel welcome and can sit around. Then someone who actually wants the legal advice will come up.

CHAIRMAN—You are funded by whom?

Mr Bamber—We were funded through ATSIC, then ATSSIS and we have just gone into A-G's.

Ms PLIBERSEK—Do you have a lot of unmet demand in the region that you serve?

Mr Bamber—There probably is in the sense that you can create work or that we are now mainly involved in work where we are the agency between the individual and the government—whether it be the police, the prisons or Family and Children's Services. We are there as an advocate for people in need. I suppose you could create areas to litigate and you could produce more work.

CHAIRMAN—Lawyers are good at that!

Mr Bamber—We are not that sort of service. We deal with whoever comes through our door. If they can squeeze into our guidelines, we take them. Whoever wants us and is Aboriginal, we will act for. And we are flat chat all the time working. We have people from NPY lands, but if we could go out further into NPY lands I am sure we would get more work.

Ms PLIBERSEK—Were you here for the evidence we had earlier today from the NPY Women's Council?

Mr Bamber—Yes, I was.

Ms PLIBERSEK—My next question was to be: if you had the resources, would you do outreach in that area?

Mr Bamber—We could. There is always going to be a jurisdictional problem though. We will act for people from that area, but we need a link to the Territory. For example, say a child comes in from South Australia to Alice Springs Hospital, a doctor sees that the child has some problems and FaCS here get involved and decide to take the child. We will then act for the Aboriginal person from the NPY lands in their dealings with the department. But, if it is happening over the border and they are going to deal with a South Australian department or a South Australia court, then we have to put that person over to ALRM or another legal service there.

Ms PLIBERSEK—Basically, it is the people who come to you. We heard this morning that there would be women who would need help with family law matters in those areas, yet you have no way of contacting them unless they contact you, do you?

Mr Bamber—Most of the child in need of care work will come because the department will advise them to contact us or let us know that there are people. The straight family law stuff

comes from when people ring us up from a community. The example was given this morning of where someone has married out of the local clan group, their child has been taken and they want to recover the child. We will act in those circumstances. If we were down there more, I think we could probably do more. On the other hand, I think to a certain extent that within traditional groups there is not quite as much demand for that interpersonal type stuff as there is for dealing with the departments and the agencies.

Ms PLIBERSEK—That is not really what the NPY Women's Council said to us this morning. If I understood that evidence correctly, they were saying that they felt there was a distinct lack of help in areas like family law and that not being able to access that sort of legal advice had very bad effects, particularly for women and children.

Mr Bamber—I think what they were saying, to a certain extent, is that that was particularly a problem for the people who were focused in the other direction. We do service Finke, Docker River and Mutitjulu. We have lawyers going out to Mutitjulu and Docker River. We can be seen in those places. Obviously we do not go out across the border into Western Australia and we are not dealing with those courts, so I am not disagreeing with what they say. The people who have reason to come into Alice and contact us or who are in our actual geographic area certainly can and do access us for family law. But we only have one family lawyer. We could do more if given the chance.

Ms PLIBERSEK—Mrs Miller, you mentioned earlier that you helped Alastair Nicholson set up the Family Court counselling service here. Is that accessed a lot by Aboriginal people?

Mrs Miller—It was not in the early stages but, now that it is better known in the wider community, it is certainly being accessed by more Aboriginal people. As part of our family law policy, people do not just come in and start the case straight away. Our lawyers direct them to the Family Court counselling service so that they can see whether something can be achieved without them going through the court process. I think the main aim of the Family Court counselling service is to stop those types of dealings with the court system. It is working quite well.

Ms PLIBERSEK—Are there many Aboriginal workers in that service?

Mrs Miller—There is a female officer and a male officer. For the area that they cover, there could be more. They are the only two that I am aware of at the moment.

Ms PLIBERSEK—I want to go back to the fact that you have now employed a solicitor to do family law matters. Different services say different things about the importance of doing family law work. Some have told us that, with the resources available to them, they cannot really do anything more than criminal law work because they see keeping people out of jail as the priority. I am very interested that you have made a decision to put resources into family law. Why did you do that? What have the benefits been?

Mrs Miller—It is probably threefold. While we are primarily a criminal service we saw all these other things happening. When I was on the women's community house committee I saw quite a lot of women who were in need of our services but there was a perception out there that we did not cater for women. Nationally that was probably the case but certainly here at the

Central Australian Aboriginal Legal Aid Service women have always had access to our services. That is probably more so now because we have the family service set up as well as the civil section.

Quite often when men are incarcerated, our service still assists women and children—for example, by redirecting them to different resources for Centrelink, helping them get access for visits and so on. Quite often we are the service that picks up the pieces when somebody is incarcerated for long periods of time. It can just be a matter of helping them fill in forms, for example. Just recently Centrelink moved from an office directly behind where we are situated to one further towards Anzac Hill. A lot of people did not know where that was so our shopfront was inundated with people coming to find out. I was chatting to a Centrelink officer and said that I should send them an account just for letting people know they had moved three streets away. All that traffic ended up at our front counter. For legal aid to be available to people for all things is probably unique in itself.

Mr JOHN COBB—You deal with all facets of law, as you have just said yourself. Isn't it a very clear point of law that, no matter which territory you are in, if you have any knowledge of abuse of children it must be reported to the police? That is true, is it not?

Mr Bamber—There is mandatory reporting for certain groups of people in certain professions.

Mr JOHN COBB—Is that adhered to, by and large? I am obviously not suggesting that you would not report, but in a general sense do you think it happens?

Mr Bamber—Certainly it happens in relation to professional groups that are subject to mandatory reporting provisions. That is how cases get started in Family Services.

Mr JOHN COBB—Is it any harder in Indigenous groups? Obviously a professional would really be putting themselves out on a limb if they did not report it. What about the general community groups?

Mr Bamber—I suppose it depends on the context in which people are seen. For example, if a community does not have a doctor on-site and a doctor is coming in and out infrequently then it may be harder for them to pick up the signs that they would pick up if they were there all the time, or something of that nature. That is not strictly my area, but I think it comes down to the basic services and how well they are delivered.

Mr JOHN COBB—It was put to us at one of our hearings that services obviously give preference to criminal cases—and I guess it is partly because the law forces you to—rather than to family law. Your own figures show that—in terms of what you can deal with.

Mr Bamber—They show that we give preference in the sense that we act for clients according to their needs. Our clients come to us with various problems. In criminal matters, a lot of our clients are presented to us in the custody of the police. For example, last year we had 3,100 criminal clients and 420 of them were women. That is just a matter of fact. That is how many Aboriginal people were in court and needed legal representation. We would be happy to

increase our representation in other areas of the law. Obviously the more chances we had to develop the more we would develop.

Mr JOHN COBB—There is a certain resource, and we can argue at any time about whether or not it should be bigger. But it was put to us at one of our hearings—I think it was in Sydney—that, given that there is a certain resource, a repeat offender who has offended for a third time should not be preferred over a family law case.

Mr Bamber—You cannot operate on that basis. We are trying to be a resource to people who really need it. Imagine if we went out to the bush courts and had all these clients coming to us—we are their lawyer—and had to tell some of them that we could not act for them, because they have been in trouble before, while telling others that we can act for them. We really would lose all our credibility. It would be the thin end of the wedge. With the clientele we have, it would see the end of us if we started to make those decisions on the ground. We go out to the bush, and all the clients in the bush courts are our clients. We are the only lawyer; we are it. If we are going to start imposing rules whereby, for some bureaucratic reason, we have to knock back some clients and take others, it is just not going to work. It is not going to be efficient. I think it is going to be the thin end of the wedge.

Mr JOHN COBB—Do you think there are adequate avenues open to people for representation in family law cases other than by you? Do you think they are the right structure? How would you change things?

Mr Bamber—It is good that there are now some other non-private places to which we can refer people when there is conflict. There are CAAFLU and CAWLS. There are really only two lawyers in two organisations, but they are an alternative. Alternatively, where there is conflict we can brief private lawyers. We can fund a client to see a private lawyer. In certain circumstances, that can be the way to go. But obviously our preferred option is to have people who are used to dealing with traditional people and who are to some extent set up to deal with them.

Mrs Miller—Just adding to that, I do not think the service has ever preferred criminal over family or civil in any matter. It is just a term that we have never ever fitted into. Whoever comes through the door gets a service and gets sound advice as to what to do after that. We have never preferred one or the other.

CHAIRMAN—Thank you very much both for your submission and for coming today and giving us your forthright answers. We could stay for much longer but we have some aeroplanes that will not wait, I am afraid.

Mrs Miller—They only come into town once a day.

Resolved (on motion by **Ms Plibersek**):

That the committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing today.

CHAIRMAN—I thank all the respondents in Alice Springs and outlying places who have appeared before us today, those people who have sat in the gallery and listened to us, the bloke

running the TV camera, my colleagues, our secretariat staff and, as always, God bless Hansard. I declare this public hearing closed.

Committee adjourned at 12.11 p.m.