



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

**Reference: Indigenous Law and Justice Inquiry**

WEDNESDAY, 30 MARCH 2005

DUBBO

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## JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Wednesday, 30 March 2005

**Members:** Mr Baldwin (*Chair*), Ms Grierson (*Deputy Chair*), Senators Hogg, Humphries, Moore, Murray, Scullion and Watson and Mr Broadbent, Ms Burke, Miss Jackie Kelly, Ms King, Dr Laming, Mr Somlyay, Mr Tanner and Mr Ticehurst

**Senators and members in attendance:** Senator Hogg, Mr Baldwin, Mr Broadbent, Ms Grierson and Mr Ticehurst

**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 10.14 a.m.**

**CHAIR**—Today the Joint Committee of Public Accounts and Audit will commence taking evidence, as provided for in the Public Accounts and Audit Committee Act 1951, for its inquiry into Indigenous law and justice. Firstly, I recognise the traditional owners, the Wiradjuri people, and the hospitality they provide by allowing us into this area. I welcome everybody here this morning to the committee's first public hearing of the new parliament into Indigenous law and justice matters.

This hearing signals the continuation of hearings in Canberra, Sydney, Darwin, Alice Springs and Adelaide on these matters during the previous parliament. This morning the committee will begin taking evidence from organisations that are responsible for providing legal advice and representation to Indigenous Australians. Witnesses include representatives from local Aboriginal legal services and a community legal centre. This afternoon we will hear from community organisations that help Indigenous people and use legal services. We will conclude today's public hearing with some evidence from the local office of the Legal Aid Commission of New South Wales. They have requested an opportunity to address and update the committee concerning the progress of the request for tender for Aboriginal legal services in rural and regional New South Wales. The public hearing phase of the inquiry will continue tomorrow morning with an inspection of the community justice programs in the Northern Territory and in the afternoon with a public hearing in Perth.

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 be recorded by Hansard and will attract parliamentary privilege. Finally, I refer any members of the press who are present to a committee statement about broadcasting of proceedings. In particular I draw the media's attention to the need to report fairly and accurately the proceedings of this committee. Copies of this committee statement are available from the secretariat staff.

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

That the submission from the Western New South Wales Community Legal Centre dated 17 March 2005 be accepted as evidence into the sectional committee inquiring into Indigenous law and justice and authorised for publication.

[10.16 a.m.]

**DAVIES, Mr Richard, Principal Solicitor, Western Aboriginal Legal Service**

**FERNANDO, Mr Ted, Chairperson, Western Aboriginal Legal Service**

**WRIGHT, Ms Lorraine, General Manager, Western Aboriginal Legal Service**

**CHAIR**—I take this opportunity to welcome representatives from the Western Aboriginal Legal Service to today's hearing. Thank you very much for coming today. Do any of the representatives of the organisation present wish to make a brief opening statement before we proceed to questions?

**Mr Davies**—We have provided a written submission to the committee, and I will now make a brief opening statement. First I will give an overview of our legal service. We have been operating for over 27 years in this area, providing legal assistance to Aboriginal people. We have done this over an area covering roughly the area of the western division of New South Wales, but also going as far east as Mudgee. We go up to the Queensland border north of Lightning Ridge, down to the Victorian border at Dareton and Wentworth, and out to Broken Hill, Wilcannia and the South Australian border. As the committee would appreciate, the delivery of legal services over such a vast area creates major logistical challenges for us which we have nevertheless been able to meet over the years.

Our legal service provides primarily a criminal legal service. That is both historical—that is a service we have provided for those 27 years—and is also enshrined in the guidelines that have been laid out for us by ATSIC and which have since been adopted by the federal Attorney-General's Department since assuming responsibility for us last year. Our No. 1 priority is the delivery of legal assistance to people who are at risk of being in custody, which means criminal proceedings by and large, and there is a very good reason for that. Both historically and in the current context the criminal laws in this state are fairly severe. Over the last 10 years the number of Aboriginal people in custody in New South Wales has increased dramatically. There are now approximately a total of 9,000 people in jail in New South Wales in any one day. Ten years ago approximately 14 per cent of those were Aboriginal people. Today that figure is closer to 20 per cent, so in our respectful submission the need is greater than ever for Aboriginal people to be represented by an Aboriginal legal service.

That is not to say that we are not mindful of other areas where legal assistance can be provided. Two out of our total of 13 solicitors are civil solicitors—and by 'civil' I mean family law and other non-criminal legal assistance—and, as far as I am aware, we are the only Aboriginal legal service in New South Wales that provides a civil service to Aboriginal people. Sydney ALS provides family law assistance but ours is the only one, as I understand it, that provides assistance in civil matters. I should also indicate that our policies about whom we represent differ from those of some of the other Aboriginal legal services in New South Wales. In criminal matters we will represent a defendant even though the alleged victim of his crime is also an Aboriginal person. In civil matters, because of funding shortfalls, we apply a policy of not representing people if the other party to the proceedings is Aboriginal. Roughly, looking at



our statistics, the percentage of criminal law clients we represent who are female is between 25 and 30; in the civil and family law area it is approximately 50. To some extent our representation of women reflects the demographics, from what I have read of them, in terms of Aboriginal people appearing before the courts who have been charged with criminal offences. There has been a significant increase in the number of Aboriginal women appearing in court on criminal matters and a dramatic increase in the number of women going into custody in New South Wales.

**CHAIR**—Thank you very much, Mr Davies, for that opening statement. Before I get my committee involved in this, I have a question for you. You stated that you have two civil law trained solicitors and 11 criminal law trained solicitors. What percentage of those is male and what percentage female?

**Mr Davies**—At the present time one of the civil solicitors is female and of the other 11 criminal law solicitors three are female.

**CHAIR**—You have stated to the committee that, as for the proportional representation of women, 25 per cent of your criminal cases involve females and that for family law matters it is 50 per cent. For other civil law matters what is the representation of females?

**Mr Davies**—It is 50 per cent as well. That is a rough estimate.

**CHAIR**—That is fine—and anyone else can join in with an answer too. If you were to break your total budget down, what percentage would be spent on criminal law, family law and civil law?

**Mr Davies**—It would be overwhelmingly criminal law, for the reason that the criminal lawyers have to travel a lot whereas civil lawyers tend to be based in Dubbo, although they are responsible for other areas. I would be guessing—and I would be prepared to take that question on notice and furnish details—but roughly I would imagine that, taking into account all of the costs of operations, the criminal law work would consume about 85 per cent of the budget.

**CHAIR**—For the committee's reference, could you perhaps state what the funding is for your organisation, the Western Aboriginal Legal Service?

**Mr Davies**—It is roughly \$2.2 million.

**CHAIR**—Could you take the earlier question on notice because I would be very interested in looking at the break-up and the statistics on it. Is your bias towards criminal law representation and defending on the basis that that is where the demand is or are you not taking on family law or civil matters because of the nature of criminal law and the need for people to have an adequate representation?

**Mr Davies**—Firstly, we are governed by the guidelines that were set for us which set priorities for the delivery of legal services. That put criminal matters right at the top. Secondly, it is a response to a demand, in that many Aboriginal people in our area are being charged with criminal offences, appearing in criminal matters and ultimately facing the risk of going to jail. There is a real need to provide legal assistance to Aboriginal people facing the criminal courts

because, in my respectful submission, that is where the community dysfunction starts. The dysfunction in Aboriginal communities has developed into a generational thing. From my observation the constant contact with criminal law from a very early age spreads, like a cancer almost, into other areas of Aboriginal community life.

**CHAIR**—Do you believe that ATSILS should be confining their service to criminal law cases?

**Mr Davies**—No. I would readily agree that there is a great need for Aboriginal legal services, not necessarily just the existing ones. There need to be Aboriginal legal services that address issues that, for reasons of professional obligation such as conflict of interest, we are unable to address. These include providing assistance to the victims of crime, becoming involved in seeking apprehended violence orders and providing greater representation in family law matters. Care proceedings are a big issue out here. Care proceedings are a symptom of the general dysfunction of many Aboriginal communities. There is a real need for a legal service to provide those services. The difficulty we have is that those services are incompatible for professional reasons with the services we currently provide. So certainly, in my submission, there need to be legal services to address those needs because they are not being addressed by Aboriginal legal services at the moment.

**CHAIR**—Mr Fernando, do you have any differing views or do you support that statement?

**Mr Fernando**—I support just about everything that Richard said. One of the things that I might mention is that, when you are dealing with civil matters in conjunction with criminal matters, the cost escalates in a far greater way. At the moment we are virtually just running on a shoestring budget. I think if we had to try to deliver a civil service with the budget we have it would be near to impossible.

**CHAIR**—In a civil action, if there is a success and there is a monetary value at the end of the case, do you claim back from the person you are representing any of the costs paid out by the legal service?

**Mr Davies**—No, the civil matters we are involved in are generally matters that ultimately do not involve orders for costs. We do not have the resources to conduct complex civil matters. Our guidelines preclude us from becoming engaged in commercial disputes, corporate disputes, organisational disputes, native title and defamation.

**CHAIR**—What about workplace injury?

**Mr Davies**—Because we do not have the resources to fund those types of proceedings in terms of getting medical reports et cetera, we assign those to private solicitors who then provide the service on a speculative basis, as I understand it, and carry the disbursements forward to the finality of the proceedings. We certainly provide the preliminary assistance but we assign those matters to private lawyers who are better equipped.

**CHAIR**—Do you have any differing view to that, Ms Wright?

**Ms Wright**—No, I agree. With the limited resources in getting those dollars back in and because the issues are so complex, we do assign them out to other areas.

**Mr Davies**—With family law proceedings there are ordinarily no orders for costs involved. They can be expensive, and we have had a blow-out in the last six months of costs associated with family law matters. If they go to a hearing we brief counsel to appear. They are often heard in the Family Court at Parramatta rather than locally, which requires instructing agents and briefing counsel, and there are no costs to be recovered at the end of the day.

**CHAIR**—Finally, before I hand over to members of the committee, of the 13 solicitors that you have engaged through the Western Aboriginal Legal Service, do any have Aboriginality?

**Mr Davies**—No, they do not.

**CHAIR**—Have you sought out any Indigenous people with legal training to come on board?

**Mr Davies**—We advertise positions in the *Sydney Morning Herald* and on the Law Society's web site.

**CHAIR**—Do you take on young people doing legal studies at university and bring them in for work experience in your service?

**Mr Davies**—We have an Aboriginal woman starting next week. She is currently studying at the legal workshop at the ANU. We have in the past mentored and supported a young man who is now employed in the New South Wales Attorney-General's Department. I did not mention our field officers earlier. We have five field officers. It is a condition of their employment, although it is not always enforced, that they are either undertaking a paralegal course at the Tranby Aboriginal College at Glebe in Sydney or agree to undertake that. One of our field officers completed that course last year. It provides an introduction and I think even credit units to undertaking a law course at the University of Sydney.

**Ms Wright**—We also encourage school students who are wanting work experience to give them a look at the legal side of things with a view to pursuing a career in the legal area.

**CHAIR**—Tremendous. I will now hand over questions to the committee. On my left I have Senator John Hogg, the deputy chair, who is from Queensland; Ms Sharon Grierson, the member for Newcastle; Mr Ken Ticehurst, the member for Dobell from the Central Coast—otherwise known as Tumbi Creek; and Mr Broadbent, the member for McMillan in Victoria.

**Ms GRIERSON**—What is the trend in family law matters? Is it increasing or has it suddenly begun to increase? Is it focused on the bigger regional centres in your district?

**Mr Davies**—There is a lot of family law work to be done in rural areas. I cannot tell you offhand whether it has increased. Mr Lamond from the Legal Aid Commission might be able to enlighten you further. He would also agree that there is a problem in arranging representation for people in family law matters, because the private profession has, by and large, decided not to continue to do legal aid family law work in this area. So there is a problem arranging—

**Ms GRIERSON**—Who has decided not to?

**Mr Davies**—The private profession.

**Ms GRIERSON**—Private practitioners, basically?

**Mr Davies**—Yes.

**Ms GRIERSON**—That makes it very difficult when services are not available and hearings are in Parramatta, if you want to pursue that. It seemed to me that that deficiency must put on pressures that lead to eventually more legal services being needed. What is the picture in terms of youth accessing these services? You have talked about a spiralling situation and the success to be had if you could get in early. What is the picture in this huge district?

**Mr Davies**—We start appearing for children as young as 10—as soon as they are capable of being charged with a criminal offence. It varies from town to town and from year to year, but it is a constant issue, particularly in the more remote towns of Bourke, Brewarrina, Wilcannia and Dareton. The Children's Court has just commenced an intensive court supervision program at Bourke and Brewarrina, which is modelled in part on the Youth Drug and Alcohol Court in Sydney. It involves a whole-of-government approach to the issues facing children and brings them back before the court on a regular basis so that they are not left unsupervised and so that the court can monitor their progress on a regular basis.

**Ms GRIERSON**—How do you bring together the legal service and the support services for young people appearing in courts?

**Mr Davies**—It is very difficult, in my experience, to fully coordinate the needs of our clients with support services in this area. There is one drug and alcohol facility in Dubbo, operated by the Ted Noffs Foundation. There is virtually nothing in the way of child psychologists or adolescent psychiatrists in the area. The Department of Community Services and the Department of Juvenile Justice unfortunately seem to work a nine to five day, five days a week, and often we need their support on the weekend when children are arrested.

**Ms GRIERSON**—Would it be fair or unfair to say that the legal services are so absorbed in providing direct legal support for people charged that there is little resource left for mediation, dispute resolution, life programs and those sorts of processes?

**Ms Wright**—Yes. I think the limited resources we get do not allow for any preventative or real education programs. We need to look at preventative programs as well. I will give you an example from Dubbo. The Dubbo community working party looked at some of the youth issues—you would have seen a lot of things in the media—and had a forum here in Dubbo and brought in all the other youth services, so it was giving exposure for youth to have a look at what is around them and at who is here and to connect up with some other services. On that note, there were so many youth groups here that nobody knew how many we had.

**Ms GRIERSON**—So coordination was a bit of a problem?

**Ms Wright**—That is right.

**Ms GRIERSON**—Can you tell me a little bit more about care orders—what the procedure is and what the outcome generally is?

**Mr Davies**—It is not my area of expertise but it involves the Department of Community Services being notified that there is a child at risk. They can take immediate measures without resort to a court, although sooner rather than later the matters have to be put before a magistrate.

**Ms GRIERSON**—You are basically telling me that there is not any representation for families who are caught up in those care orders?

**Mr Davies**—We provide assistance for parents, provided there is no conflict between the parents. If there is any history of domestic violence between husband and wife then to appear for them both can create a conflict, so we bail out totally in that situation. Unfortunately, it is often the case that there is a history of domestic violence which has, to some extent, led to the child being in need of care in the first place. But we do assist parents in that regard. The Legal Aid Commission offers assistance, and I think they fund a children's representative in care proceedings.

**Mr TICEHURST**—Mr Davies, you made a comment along the lines that the representation of Aboriginal people in jails has gone from 10 per cent to 20 per cent, and you also made a statement saying that the state laws are severe. What did you actually mean? Are laws more severe on Aboriginal people? What do you see is the reason for the doubling of the number of Aboriginal people in jail?

**Mr Davies**—I think what I said was that over 10 years the percentage of Aboriginal people in jail has risen from 14 per cent to now 19.8 per cent. When I say that laws are severe, over the last several years the bail laws—for good reason—have been greatly tightened so that more and more Aboriginal people who are classed as repeat offenders are finding it difficult to obtain bail, and they end up in custody. Also, the general administration of criminal law over a period of time has resulted in higher and higher sentences. Once upon a time, if someone was going to jail, a short sentence of under six months was fairly common. Now if anyone is going to jail, they go to jail for, at the very least, six months—and in my experience it is for much longer periods.

**Mr TICEHURST**—Besides Tumbi Umbi Creek, I also had quite an involvement in family law issues. Some years ago I had a group called Dads in Distress come to me and they said that more fellows commit suicide per year because they do not have access to their kids than are killed on the roads. Do you find that same situation happens here with Aboriginal people, that non-custodial parents in particular who are denied access to their kids have a tendency towards suicide?

**Mr Davies**—I do not have any personal knowledge of any such cases—do you, Ted?

**Mr Fernando**—No, not really. I suppose it is an area we do not delve into a great deal. Our resources do not cater for us to venture out into different areas as much as we would want to. If we were resourced to the extent that we could get into these civil areas and investigate what you are talking about, it would be an advantage to us, not so much from the point of view of a solicitor—as Richard is—but from the point of view of a person who is very interested in what is happening back in those smaller communities out there. But, because we are not funded to go

into those areas, it is very difficult to break out from where we are now, looking at criminal rather than civil cases. I do not think that anyone would deny that if we had the opportunity and the resources where we could break out into those areas we would be quite happy to do so.

**Mr TICEHURST**—There are a number of proposed changes to family law now which will alleviate some of the circumstances—and I am not sure whether you are aware of those. There are some very positive moves underway to look at mediation and counselling before legal involvement. From some of the studies we have done it is legal involvement that causes the problem and the escalation in costs. There is a white paper out at the moment where lots of those issues are discussed.

Also for a lot of domestic violence issues particularly around Tuggerah Lakes area command—the local police area in my area—they have actually formed a group there, combining DoCS, police and the Central Coast Area Health, where they take an almost zero tolerance approach to domestic violence. They have found that they have been able to reduce AVOs quite dramatically—by more than 40 per cent—by making both parties to AVOs responsible for the activities that they are undertaking. I do not know whether that sort of activity is being pursued here in this area to reduce domestic violence. Domestic violence of course leads into criminal behaviour as well as family law problems.

**Mr Davies**—There is a mediation service available at Dubbo courthouse. I do not know to what extent that is accessed because we do not involve ourselves in seeking or defending Aboriginal domestic violence orders unless they are associated with a criminal charge. There is a mediation service available and used by people that go to court for an order or that wish to impose an order.

**Mr TICEHURST**—I thought I heard you say earlier that some children are involved in criminality because of family involvement over a period of time—is that correct?

**Mr Davies**—That is only from my own observations; I have made no study of it. The involvement in the criminal justice system seems to become generational. If the parents go to jail regularly and if the parents engage in domestic violence regularly, then the chances are that the children will, either through neglect or by reason of poor example, similarly get involved in those sorts of activities.

**Mr TICEHURST**—It is almost a parallel to welfare dependency.

**Mr Davies**—Yes.

**Ms GRIERSON**—Family violence prevention legal services have been set up this year in Dubbo and Brewarrina—is that correct?

**Ms Wright**—There was tendering not so long ago in relation to a family violence preventative unit. I think Forbes won that tender. We have a family violence unit over at Walgett. Those units were set up about six years ago. There is one at Kempsey.

**Ms GRIERSON**—I am picking up a picture that there is not a lot of coordination by the overarching body. How would you feel if, under the new tendering process, the legal services

were to be put under the control of, say, one firm for the whole of New South Wales? What do you think would be the outcome if tendering led to a Sydney based firm taking on all services in New South Wales?

**Ms Wright**—I think people out west and past the Blue Mountains believe that past history shows that they did not get serviced. I think that issue needs to be addressed to ensure that the services are on the ground and they are out here. Everything does not happen in cities. There are also people on this side of the Blue Mountains.

**Ms GRIERSON**—Do you think local knowledge is important to the success of these programs?

**Mr Fernando**—I do not think that there is anything more important than local knowledge when it comes to delivering a service. I think anybody who works out in the community will tell you that the needs out here are totally different from the needs of people in Sydney. That was one of the reasons some 30 years ago that there were breakaways from the one legal service. If we were working back 30 years ago we probably would still have had one legal service in New South Wales. I am totally against setting up, again, one legal service in New South Wales, because I do not think they would be able to actually cater right across the board for the different needs of each and every community. Working, as I do, out in the western areas—I am a field officer for the CDEPs, and I get around to towns such as Collarenebri, Walgett, Goodooga, Bourke, Wilcannia—the needs of each and every community are different. I must say that, if it went back to one state legal service, it would cause more problems than I think the government could handle.

**Senator HOGG**—I have a couple of questions on the ability of your organisation to retain solicitors. How large a problem is that for you? Also, how difficult is it to attract solicitors to your organisation?

**Mr Davies**—Historically, we have not had trouble attracting solicitors. The trouble has been keeping solicitors. There are a number of reasons for that. The salary structures that we offer are not competitive with those offered by comparable organisations, such as the Legal Aid Commission, the Director of Public Prosecutions Office or even private practitioners. The difficulty is that most of our lawyers come from the coast, or often the big cities, and keeping solicitors out in the backblocks for any long period is difficult. I do not make any judgment about this—I can understand where they are coming from—but they can only live in a place such as Bourke, Broken Hill or Walgett for so many years, if their background is citycentric. Another difficulty is that we cannot offer any career structure. The job they get is the job they keep. There is scope to become a senior solicitor, or a principal solicitor, in one of our offices, although nobody seems to be terribly enthusiastic about becoming a principal solicitor.

**Senator HOGG**—So your job is safe!

**Mr Davies**—We have two solicitors in Walgett, one in Bourke and two in Broken Hill. The turnover of solicitors has increased in recent years. We had to replace nine out of 13 last year, and that includes people who came and went within the year.

**Senator HOGG**—Replacing people is, of course, a cost in itself?

**Mr Davies**—Definitely. Another problem has been the uncertainty arising out of the overall tendering process, over a period of a couple of years now. Even before it was announced there were rumours of it for a number of years. I think people started seeing a risk in there not being a long-term future in working for Aboriginal legal services while that uncertainty was around.

**Senator HOGG**—Has this led to a downgrading of the service that you are able to offer people—particularly in criminal trials, where it is so important that they are well represented—or is that affected at the margins?

**Mr Davies**—It means the work is being done by, perhaps, less experienced solicitors who learn very quickly. At present, apart from me—and I have been practising 27 years—the most senior criminal solicitor we have has been practising for about three or four years. They do not do criminal trials. We brief counsel. We have a financial arrangement with the Public Defenders Office in New South Wales. We brief the private barristers, otherwise, to appear in trials. But they do appeals to the District Court. They do defendant matters and sentence matters in the local courts. They learn very quickly. They do not have the luxury of sitting around and watching other people do it for very long. But there is that difficulty of inexperience, and that is going to become a bigger problem in New South Wales, because the cabinet, I believe, has given in principle agreement to a new procedure for dealing with strictly indictable matters which involves, firstly, the DPP, rather than the police, deciding before a charge is laid what the appropriate charges are to avoid overcharging et cetera. It also involves a compulsory conference with the Crown Prosecutor and a representative of the accused to nut out pre-trial issues, appropriate charges and pleas. That is something a lot of our solicitors will not have the experience to undertake, so we have a problem there.

**Senator HOGG**—So this will further eat into your funding?

**Mr Davies**—It will. We will need to brief barristers earlier, who will be fully abreast of the matter when this compulsory conference comes along.

**Ms GRIERSON**—How much will the proposal to fund one month in advance and then post-fund every other month for the rest of the year affect the retention of staff and the provision of services?

**Ms Wright**—It will have a big impact. We are funded at the moment on a quarterly basis. We acquit the grant and then get a new release of funds. If we do not have those resources on the ground—

**Ms GRIERSON**—You just will not be able to commit them.

**Ms Wright**—That is right. It affects forward planning and contracts. It makes it really hard to go into contracts for your motor vehicles and all your resources that you have to deliver your service.

**Mr Davies**—It goes back to solvency and if in any one month you have got big items to pay, like professional indemnity insurance.



**Mr BROADBENT**—Obviously the \$2.3 million of your budget, Lorraine—if I can call you ‘Lorraine’—is practically all used on criminal activity rather than civic and family or women’s. Women’s comes into it a bit, but really the demand consumes it all.

**Ms Wright**—That is right, yes.

**Mr BROADBENT**—You mentioned, Mr Davies, that 20 per cent of the population of inmates of jails in New South Wales are Indigenous. About 1,800 people are in New South Wales jails at the moment. How many of the 1,800 are from rural New South Wales?

**Mr Davies**—I am unable to provide you with an answer to that question. I can take it on notice and try and obtain the answer from the Department of Corrective Services, possibly.

**Mr BROADBENT**—I was really looking to just your scan of it.

**Mr Davies**—Quite a fair number of them would be.

**Mr BROADBENT**—A large number?

**Mr Davies**—I would say so, yes, judging from the number of people we farewell to jail on a weekly basis.

**Mr BROADBENT**—You mentioned a dramatic increase in Indigenous women entering the justice system. Would you like to comment further on that?

**Mr Davies**—I am just relying on statistics I have seen provided by the New South Wales Bureau Of Crime Statistics and Research. I have forgotten the period now. I can take that on notice, too. There was something like a 250 per cent increase in the number of Aboriginal women in custody over that 10-year period, I think.

**Mr BROADBENT**—Does the system we are currently employing have any relationship to that?

**Mr Davies**—In terms of provision of legal services?

**Mr BROADBENT**—Yes. Either we are failing badly or we are doing so well that we are putting more people in prison. What are we doing? Is there a correlation?

**Mr Davies**—We could always do better with more resources. For example, mental health is a big issue. Professor Allan Fels recently wrote a letter to the *Herald* suggesting that 46 per cent of people entering New South Wales jails suffer from some form of mental disorder. We spend a significant part of our budget on obtaining psychological and psychiatric reports for our clients. That is as far as it goes. Services for the treatment of mental illness are not really on the ground the further away from Sydney you get.

**Mr BROADBENT**—I have two last issues to raise: one on an early intervention program for young offenders and the other on a similar intervention program for female offenders.

**Mr Davies**—There is a crying need for them. Without pointing the finger, these are all programs in areas where the federal government has some responsibility, but the prime service delivery is the responsibility of the state governments.

**Mr BROADBENT**—I understand that.

**Mr Davies**—Basically, they have operated a tough on crime policy but they have not really put the resources into the other half of the equation and been, to quote Mr Tony Blair, ‘Tough on the causes of crime.’ If you are only going to be tough on crime, you are going to have an escalating prison population without ever dealing with the reasons for people going into custody.

**Mr BROADBENT**—For those who listen to Radio National, all the young men on death row in California had histories as troubled children.

**Mr Davies**—Yes, I heard that program yesterday.

**Mr BROADBENT**—That is a very important point to make today, I think.

**Ms GRIERSON**—Would the contribution of drug and alcohol abuse to crime still be the single thing you would love to be able to impact on that would save you a lot of work?

**Mr Davies**—Yes, drugs, alcohol and mental issues—

**Ms GRIERSON**—Mental illness that is induced by drug and alcohol abuse.

**Ms Wright**—There are other social issues within the community as well, such as education and employment. People want real jobs—they want a job. That is something that needs to be addressed. I think education is the key to a lot of things within our community—knowing where the services are, knowing how to access those services and preventative measures. There is a whole range of things. Training is another issue we need to look at.

**Mr Fernando**—Our system, through our service provision, is actually failing us to a certain extent when it comes to children. I was approached at Collarenebri, which is a small community of 600 people, by the school principal the other day and asked for help through the CDEP system. In the two months of school this year we have had 21 suspensions and 17 of those were Aboriginal people. The kids are playing on the system there: if they play up, they get suspended. They are smiling about that—‘Great, I don’t have to go to school tomorrow.’ I think the system is failing and this is leading to the crime rates. Kids are playing up in school and when they get to the age where they will leave school there is no doubt it is going to escalate further, and that is the great concern that I have.

**CHAIR**—I am glad you raised issues like that. Following on from Mr Broadbent’s question about early intervention, what support does the Aboriginal community provide to help with early intervention?

**Mr Fernando**—Like we said earlier, we are not funded to go into that area. If we could—

**CHAIR**—I am not talking about your legal service; I am talking about the broader Aboriginal community taking control. You see, you cannot always hand things to government to bring up our children. It is the role and responsibility of parents and broader communities to play a part. So I am asking: what part does the broader community play to help in early intervention to try and address the problems before they become a major issue for the individual?

**Mr Fernando**—If we had these shared responsibility agreements across the board in different areas, in CDEPs, legal services and other things, and we got more involved with the school system—

**CHAIR**—I am not talking about government money fixing a problem. I am talking about the community and community attitude in addressing the problems within that community.

**Ms Wright**—Again the community—and I will come back to the working party—looked at all those issues in terms of our taking on that responsibility too. It is not always for the government to put in the dollars to fix the problem. There is a feeling in the community that we need to get in and do more in relation to early intervention and even to diversion programs. We need to start looking at those areas as well. The feeling of people here—at least that I am aware of—is that it is something they want to address.

**Mr Fernando**—Back in the days when I was going to school, the Aboriginal people got a pretty raw deal—I am not making excuses here—and they did not want too much involvement in the school system. We went from that period to a period where drugs and alcohol have played a major social role. We are now going from that period to a gambling period where pubs and things are being funded by poker machines. That has been putting social pressures on families, particularly in the smaller communities where there is not a great deal of entertainment. We have probably one club in Collarenebri, and that is as much as we have got. So we have to look at something where our children can be amused by doing other things rather than them getting into mischief.

**CHAIR**—You spoke about drugs and alcohol. Is petrol sniffing a major problem in the areas that you represent?

**Ms Wright**—We have had petrol sniffing in the region that we cover.

**Mr Davies**—From my experience, the children of Wilcannia and Broken Hill—who are by and large Wilcannia people—seem to get into petrol sniffing at a very early age, and it becomes a real problem. Ultimately, it leads to brain damage.

**CHAIR**—How do you determine the order of priority in criminal cases? If a range of people have been charged with offences, how do you determine which ones to provide the legal service to? How do you determine which ones to invest the time and money in?

**Mr Davies**—We appear for everybody, provided we do not have a conflict of interest. In other words, if someone comes to us and we are currently acting for the alleged victim of that person then we refer that person on to the Legal Aid Commission. Our guidelines require us to take on all comers.

**CHAIR**—You have a budget of \$2.2 million. You cannot provide every legal service to every person for \$2.2 million.

**Mr Davies**—All the local court stuff is dealt with, by and large, by our salaried solicitors. We often have to assign matters to a couple of others. But District Court matters are handled principally by a public defender or by public defenders, and then we have to pay private barristers to fill in the gaps—but we manage it.

**CHAIR**—One thing that has been put forward by a variety of people who have provided submissions to this committee is the need for a separate legal service for women. I would like your views on that. Also, what percentage of women come to you seeking representation on criminal matters as against family law and other civil matters? And, more importantly, what sorts of crimes are women being charged with? You say the number of women in jail on crime matters has increased. Could you outline for us what sorts of crimes they are committing now that they were not committing before, and what percentage of women do you represent on criminal matters?

**Mr Davies**—About 25 to 30-odd per cent of our total criminal clients are women. Their crimes cover the range. We would have a number of domestic matters where the woman is the perpetrator rather than the victim and, sadly, about 50 per cent of the murder cases in which we provide legal assistance involve women, and usually the victim is the partner.

**CHAIR**—So 25 per cent of the criminal cases that you handle involve women. What percentage of those cases are for crimes such as murder and serious assault?

**Mr Davies**—In my experience, the majority of crimes committed by women are dealt with to finality in the local court. We have very few women who go to trial in the District Court. When a female client gets up to that stage it is usually for murder, which goes to the Supreme Court. By and large, crimes committed by the women we represent are matters capable of being dealt with in the local court—minor domestic violence, street fighting, shoplifting, larcenies and some break and enters. The women do not get as involved in the break and enters as the boys do.

**CHAIR**—The next question may appear to be a little sexist, but it is not meant to be—it is of an inquisitive nature. Are the women who are committing those crimes now greater in number? Are they led into the criminal activity by males or is it of their own volition?

**Mr Davies**—I think it is independent of men.

**CHAIR**—So it is not part of a gang mentality, where people are involved with a peer group or a gang of people and go out to commit crimes?

**Mr Davies**—You occasionally see some girl gangs, but they are girl gangs not girl and boy gangs. Occasionally a man and a woman commit a robbery or a bag snatch. More often than not, they are both involved with drugs and are partners. But I cannot really generalise about where the instigation comes from.

**CHAIR**—When we talk about alcohol and drug related crime, what percentage of crime would you say is related to alcohol and petrol and what percentage would be caused by drugs, such as marijuana and so on?

**Ms Wright**—Most cases of domestic violence stem from a substance abuse, whether it is alcohol related, drug induced or whatever it may be. There are also other things that cause it. They are your social issues like gambling. All that has an impact on those issues.

**Mr Davies**—The majority of property offences would be committed by people with drug habits.

**Ms GRIERSON**—Can you provide legal services completely separate to the social services? Is it possible to do it completely separately and leave the rest of it to other bodies, or is it best if you have some coordination between those activities?

**Mr Davies**—It is definitely best to have the coordination. They cannot operate in a vacuum.

**Ms GRIERSON**—So you would have no proactive or preventative approaches.

**Mr Davies**—The lack of mental health services, for example, and the limited drug and alcohol services in this area also make it very difficult for us.

**CHAIR**—Thank you very much for coming today, making a submission and answering the inquiries of this committee. I really appreciate the time you have provided to this committee. I have found it most valuable.

**Mr Davies**—Thank you very much for the opportunity to address you.

[11.10 a.m.]

**BARKER, Ms Roslyn, Consultant, Western New South Wales Community Legal Centre**

**HAUSIA, Mrs Mary Ann, Consultant, Western New South Wales Community Legal Centre**

**WANDMAKER, Ms Kate Rachel, Principal Solicitor, Western New South Wales Community Legal Centre**

**WILSON, Mr Eric, Chairperson, Western New South Wales Community Legal Centre**

**CHAIR**—I welcome representatives of the Western New South Wales Community Legal Centre to today's hearing.

**Mr Wilson**—I am the chairperson of the organisation. With me is Kate Wandmaker, who is a principal solicitor. Also with me is Mary Ann Hausia, who was a member of the FPA—Family Planning Association—a former Western Aboriginal Legal Service bookkeeper. She set up an organisation called Mygunya, which was a women's organisation, in this region in the 1990s. Roslyn Barker, on my left, is an Aboriginal circle sentencing officer attached to Dubbo Court House. She has been a court officer for five years and was formerly a Department of Education and Training Aboriginal education officer based at Broken Hill. She comes from Brewarrina, where she was the first secretary ever to be employed by an Aboriginal Legal Service. Mary Ann Hausia comes originally from Wilcannia. She has been in Dubbo for a long time and has worked for the Western Aboriginal Legal Service for 16 years.

**CHAIR**—I am not sure whether you were in the room when we commenced the hearings but I advise the witnesses again that the hearings today are legal proceedings of the parliament and warrant the same respect as the 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 that you give today will be recorded by Hansard and will attract parliamentary privilege.

I refer those members of the press who are present, or have just come in, to the committee statement about broadcasting of proceedings. In particular I draw the media's attention to the need to report fairly and accurately the proceedings of this committee. Copies of the committee's statement are available from the secretariat. Do you wish to make a brief opening statement before we proceed? I remind you that we have received this morning your submission dated 17 March. It has been distributed to members.

**Mr Wilson**—So that you know who we are and what experience we bring to the table: Kate Wandmaker is a former solicitor with the DPP in Dubbo and was an Aboriginal Legal Service New South Wales Ltd solicitor at Walgett before the Western Aboriginal Legal Service took over that region. She remained at Walgett. She also worked at Broken Hill for a number of years and now lives in Dubbo.

I was the first solicitor employed by the Western Aboriginal Legal Service in 1978. I am one of three solicitors. I am the longest serving solicitor, having been employed for 12½ years in that organisation. I am a former barrister and was in private practice in Dubbo for 6½ years doing virtually all legal aid criminal matters. I have been a public defender based in Dubbo for the last seven years. So, in effect, I have 27 years experience in the region. I lived in Broken Hill for seven years and I lived in Wilcannia for one year—in 1981.

In relation to the terms of reference, we might be able to continue with a number of the questions you addressed to the Western Aboriginal Legal Service. Kate Wandmaker will be able to say something about the distribution of family, civil and criminal matters in the community legal centre's work. I have some knowledge of the 1980s and the Western Aboriginal Legal Service. We employed a civil solicitor for six years. It was a self-funding position after about five years but during that lead-up period we had only five solicitors funded by the Western Aboriginal Legal Service, compared to the 13 that are now funded, yet we still covered the same area.

Five of us split our wages into six so a civil solicitor could start to be employed. That was the situation for the whole time that person worked, because that position was never funded in the eighties. That solicitor was a man by the name of Maithri Panagoda, who is now a partner in Carroll and O'Dea, a large Sydney firm. In fact, during the 1990s, following the finalisation of the royal commission, the Western Aboriginal Legal Service, through Carroll and O'Dea and Maithri Panagoda, were able to finalise two cases that arose out of deaths in custody situations—the Quayle case and the Boney case, where civil action was taken against the various authorities involved. They are the only two finalised civil cases taken by families as a result of the royal commission. They resulted in settlements. The Quayle case, in which I was junior counsel—that was the civil matter; I was also the solicitor that represented the family at the coronial inquest and the royal commission—proceeded to evidence before it was finally settled.

That little excerpt is an illustration of the continuation of the influence of Western Aboriginal Legal Service solicitors—some 15 years later, after we first started working in this area—in the provision of a result that would not have been able to have been provided in any other way. It involved the then solicitors in WALs. It involved me, as a private barrister who had intimate knowledge of the situation, and it involved Maithri Panagoda, a formal civil solicitor who had handled that part of the WALs work during the 1980s. That is an example of the need to continue legal services in the present way. Without that involvement, it would not have happened in the way that it did.

In relation to whether we have had anyone involved in training, I would say this. While we—Mary Ann and I in particular—were at WALs, Scott Hawkins joined our service as a statistics bloke. He had left school at 17, did TAFE and was with us for seven years. Following that period of time, when we worked our statistics up into something that meant something—this is before ATsIC decided they meant nothing and invented their own particular green form—Scott went to university in Sydney. He is qualified as a lawyer and works in the Attorney-General's Department in Sydney. Through the legal service we have made some attempt to try to involve the local community in bettering their situation in terms of qualifications.

The community legal centre likes to be involved in the coordination of service provision. It means that we have contact with all the other service providers. The public defender has its room

in the legal aid commission in Dubbo. I have almost daily contact with the Western Aboriginal Legal Service through my work and through personal relationships with people that work in it. People like Mary Ann and Roslyn do their work outside but do work that contributes to Indigenous access to justice and, with their background, are involved in providing their considerable experience to help others, particularly young lawyers as they come through the system, to do this sort of work.

Mary Ann has some background on access by women, and the others with me might want to say something about that. I can say something about the number of women I appear for in very serious criminal matters. I have prepared some statistics in relation to that. In relation to term of reference (d) on the recruitment and retention of staff, I have prepared a summary as to the length of time that all Aboriginal legal service solicitors—Western Aboriginal Legal Service solicitors I might say quite distinctly—have been with the organisation from year 1 through to 1976, finalising on 30 June, which we thought would be the demise of the Western Aboriginal Legal Service through the tender process. I can actually hand that up to you if you want to include that as part of the submission.

Starting with that, at the back we have done an analysis of how long people remained with the service. During the years 1978 to 1990, 20 solicitors were employed by the Western Aboriginal Legal Service. In the period of time from when we started with two in 1978, we increased the funding to four by June 1978 and increased it to six, with an extra solicitor in Broken Hill, based on increased caseload, by 1990.

During that time, between 1978 and 1990, 20 lawyers were employed for an average of four years and 10 months each. In the period from 1990 to 1996, lawyers Nos 21 to 51 were employed. That was a period when the royal commission funding was increased. It increased the funding to Aboriginal legal services to allow an increase in the number of people they employed. Historically, that is why WALS now has moved to having 13 lawyers. It was through a submission that we put in in 1991, in fact. One of the things I did when I first came to the bar was write that submission. The average in that 10-year period was two years and one month, so there was a considerable turnover. Between 2000 and 30 June 2005, solicitors Nos 52 to 76 were employed, which is quite a large number, and the average is one year and five months. So you have had a reduction in the amount of time that solicitors stay employed. That is a problem faced by virtually all of the service providers in western New South Wales. Private firms, legal aid commissions, community legal centres, Aboriginal legal services and even the DPP have difficulty attracting professional people to come and live in the country. You all know about it. It is the same problem with doctors, dentists and pharmacists. I hand up those figures in table form.

**CHAIR**—I have a supplementary submission to the one accepted earlier. It is titled, *The analysis of length of service of solicitors employed by the Western Aboriginal Legal Service; Western Aboriginal Legal Service Ltd employed solicitors, 1 January 1978 to 30 June 2005*. Is this accepted into this section of the committee inquiry into Indigenous law and justice and authorised for publication? That has been moved by Senator Hogg. There being no objection, it is so resolved.

**Mr Wilson**—The public defender's work is an important part of the coordination of legal service delivery through Aboriginal legal services. The public defender has reached agreement over a number of years with the coordinated Aboriginal legal services peak body, COALS, and



then has made individual service agreements with Aboriginal legal services based on the amount of work that a public defender might be able to provide for that particular service. The Aboriginal legal service then provides an amount of money to the public defender—which in the end funded an extra position in the public defender system. It funded two at one stage.

There are only 22 public defenders in New South Wales, so it is a very small service in terms of personnel. I am the only public defender that lives west of the Great Dividing Range. My area is particularly limited to Dubbo, Broken Hill, Bourke if I can do it—although I have not been able to go there for two years—Coonamble and Parkes. There are private practitioners at the bar in Dubbo, Orange and Cudal. They actually provide a fair bit of criminal work and supplement my work in legally aided matters.

I have done a summary of all of the people I ever appeared for in terms of serious indictable criminal matters over the last 13 years—from August 1991, when I went to the bar, to December 2004. It includes the number of criminal trials and sentence matters where trial matters pleaded guilty. These are people that would be tried by a jury if it went to that or were tried by a jury or pleaded guilty and were sentenced. In that 13½-year period I finalised 524 criminal briefs, 209 criminal trials and 315 sentence matters. Of those, I did 97 trials instructed by the Western Aboriginal Legal Service and appeared for 153 people on sentence, instructed by the Western Aboriginal Legal Service. It fluctuates, but it has meant a brief disposal rate of about 40 a year—or one a week, if you look at it like that—in really serious criminal matters. I hand that up. I have put a star next to the period of time where I became a public defender.

**CHAIR**—Is it the wish of the committee that the supplementary submission from Western New South Wales Community Legal Centre entitled, ‘Summary, District and Supreme Court trials and sentences, Eric Wilson, Barrister, Dubbo, August 1991 to December 2004’ be accepted as evidence in this section of the committee inquiry into Indigenous law and justice and be authorised for publication? That has been moved by Ms Grierson. There being no objection, it is so resolved.

**Mr Wilson**—Questions were asked of the Western Aboriginal Legal Service in relation to the number of women and the number of people in custody that they appear for. In terms of the work I have done, I have gone through my book and extracted the custody status of all the people I appeared for in that 13-year period at the time their matter was disposed of—that is, whether they were found not guilty and walked away or whether they were found guilty and got locked up and whether they were in custody at the moment of sentence. Of those 524 finalised briefs, 252 were in custody at the moment the matter was finalised. That is how serious it is. That is 48 per cent.

**CHAIR**—When you say finalised, were they found innocent?

**Mr Wilson**—If they are found not guilty—no-one is found innocent—that is the end of that case. If they are found guilty they have to be sentenced, so the matter is adjourned to another day, you get psychological and psychiatric reports and pre-sentence reports from the probation and parole service and then they come back. You might appear for someone for five days in a trial, but they have gone through a committal process in the local court. The Western Aboriginal Legal Service appeared for them right at the start. The matter was adjourned for the preparation of the brief and service, then there was another adjournment for committal, and it might take two

or three of those adjournments. So someone who goes through a very serious criminal matter will end up being in court at least a dozen times before the matter gets to the end, and it may be over a 12-month or 18-month period. So there is a fair bit of commitment to that in terms of resources.

The number of Aboriginal males who were in custody at the moment their matter was finalised was 165, which was 65 per cent of the total; the number of Aboriginal women was 12, which was five per cent of the total; the number of other males was 72, which was 29 per cent of the total; and the number of other females was three, or one per cent of the total. In that 13-year period, I appeared for 12 Aboriginal women and three others who were in custody at the moment their serious matter was disposed of. All that might tell you that there is a big disproportion regarding Aboriginals as a percentage of the population. If Aboriginal people make up 10 per cent of this region, which is pretty accurate, they should make up a far smaller proportion than that represented in those figures. I hand up that particular item.

**CHAIR**—Will there be more submissions to come?

**Mr Wilson**—No, that is it.

**CHAIR**—Is it the wish of the committee that the supplementary submission from the Western New South Wales Community Legal Centre titled *Incidence of Aboriginal persons in custody and the disposal of indictable matters in superior courts by Eric Wilson as private barrister and public defender* be accepted as evidence to the sectional committee inquiring into Indigenous law and justice and authorised for publication? There being no objection, it is so ordered.

**Mr Wilson**—I think someone else should say something now. I have had enough to say.

**CHAIR**—Do any other members of your group wish to make a statement or add to what has been said?

**Ms Wandmaker**—Not at this stage. I will basically rely on the submission.

**CHAIR**—What is the budget provided to you for operation?

**Mr Wilson**—We did not bring our actual stats, but we have a four-component budget. We have a general budget that runs at somewhere around \$175,000 or \$180,000. That employs Kate as a principal solicitor and it employs a receptionist-statistician and a coordinator-bookkeeper. We have a rural women's outreach solicitor, which is a separate project funded federally—this is all federal funding, but some of it is through different departments—for \$66,000. These are round figures. The Office of the Employment Advocate also funds an EEO position for \$62,000. That is now a solicitor. They give advice and community legal education in relation to employment problems—unfair dismissal and things like that—and the rights of people, which is a big problem in this area.

We conduct outreach via the rural women's outreach solicitor and the employment officer at times. In our early period we had a big program within the Community Development Employment Programs for Aboriginal people in the west of New South Wales, through one of our earlier employment officers. There is funding for a financial counsellor of \$52,000, and that

funding is provided by the Department of Family and Community Services. The financial counsellor provides assistance to people who come in with any form of financial problem. During the tax period we have an additional person who helps with that.

**Ms Wandmaker**—As a volunteer.

**CHAIR**—So the ballpark figure is around \$360,000?

**Mr Wilson**—Yes, it is in that range.

**CHAIR**—And that is 100 per cent federally funded, is it?

**Mr Wilson**—Yes. However, the centre also receives approximately \$19,000 per year in supplementary funding from the state government.

**CHAIR**—You talked about Mygunya. It was a program that was set up according to your submission to network communities such as Bourke, Brewarrina and Walgett with the Dubbo community but that failed because of internal politics, not because of funding. Can you outline what that group was to do and why it failed.

**Mrs Hausia**—I was a founding member of Mygunya. It was set up to assist Aboriginal women and children in outlying areas to escape from domestic violence. It was made up of people from those different communities. I think eventually what happened was that the Dubbo directors tended to have too much say in the running of it, and it eventually failed. It did not have the support that the Western Aboriginal Legal Service had with regard to getting legal support when it was needed over what direction to take. It was the Western Aboriginal Legal Service that assisted me to get Mygunya up and running in the early days.

**Mr Wilson**—You were working there at the time.

**Mrs Hausia**—Yes, I was bookkeeper and office manager for the Western Aboriginal Legal Service but I was still able to be involved in the community and have an idea of what the community needed, through having contact with women from various other towns.

**Ms GRIERSON**—That would have been a very new experience for women, I would have thought.

**Mrs Hausia**—It was.

**Ms GRIERSON**—It would have been very hard for it to succeed, given the fact that women had not had that sort of governance experience and residential experience. Certainly, taking on an emotional area that is really fraught with family problems would have been a huge ask for that organisation to succeed in.

**Mrs Hausia**—It was a huge ask—and you know in-house politics. I do not know if it was mentioned before but Dubbo is made up of a lot of factions within the community, and when that starts moving—

**CHAIR**—Is that tribal—in other words, different sectors within the land councils?

**Mrs Hausia**—No, not land councils; it is just people in general.

**Ms Barker**—I think it came from about 30-odd years ago with the housing commission and their resettlement scheme that brought people from Brewarrina, Bourke and all those outlying areas to places like Dubbo, Mt Druitt, Newcastle and Orange.

**CHAIR**—So that is where the tribal aspect comes from—people from different regions coming in?

**Ms Barker**—Yes, exactly, and this is the result of that scheme.

**Mr Wilson**—At the present time, an enormous number of people are moving from the far west of New South Wales and the river towns—particularly Walgett, Brewarrina, Bourke and Wilcannia—to Dubbo. We know that because we know the families, and we know they might have had one or two relatives here. Suddenly all their brothers and sisters are coming and bringing all their kids, and there are areas where you can see a big problem.

**CHAIR**—Excuse my ignorance again but are people from Brewarrina and Bourke all members of the Wiradjuri land council group? No?

**Mr Wilson**—Once you come and live here—

**CHAIR**—Does the catchment area for the Wiradjuri group not extend to Bourke?

**Ms Barker**—It does. There are the Wiradjuri people, the Wankamurra people from Bourke, the Barkandji people from Wilcannia, the Ngemba people from Brewarrina and the Murrawarri from outside. Then you have the Kamilaroi people living here. They have welcomed us into their country. We participate in the land council and other things.

**CHAIR**—The reason I ask is that my electorate predominantly has the Worrimi people. You have the Worrimi people down south to Newcastle then you have the separate Worrimi people to the north around Forster-Tuncurry and up through Gloucester. The electorate then borders to Mindaribba, which I think goes down into your area, Newcastle.

**Ms Barker**—We do participate in activities and different things.

**Ms GRIERSON**—Just to clarify, I noticed in WALs's submission that they felt that one of their successes had been having a director from every area. Could you have a director from every area and still end up with some dominance of clans or families or groupings?

**Mrs Hausia**—I would say it could happen.

**Ms GRIERSON**—But it helps to distribute that sort of representation?

**Mrs Hausia**—Exactly.

**Mr Wilson**—WALS's model started with 17 directors in 1978. They in fact had extra directors from Dubbo, Bourke and Broken Hill.

**CHAIR**—Because of the population base.

**Mr Wilson**—Yes. Over time WALS has trimmed it to 12, I think. So in that way you prevent groups becoming overly predominant.

**Mr BROADBENT**—Mr Wilson, I have not decided yet whether I would like to have you on the half-forward flank, on the forward pocket or roving all day in a Victorian football team.

**Mr Wilson**—I am a union coach.

**Mr BROADBENT**—I realised I would be right out of order somewhere here! Obviously you are not very excited about the tendering process. You might like to comment on that. I will ask you a couple of questions, if you do not mind.

**Mr Wilson**—I gave evidence in front of that. That was published in 1980. The reasons the Ruddock report said that Aboriginal Legal Services should continue to exist as separately funded, separately functioning, separately run organisations are the same today, and the services are even more importantly required today, because of the social problems that are arising within the community in relation to the movement of people, extra population, problems in schools and drug and alcohol problems. There are not enough resources being put into the community on that side of it to deal with things. There is no Aboriginal rehabilitation centre in this area, outside of Orana Haven at Brewarrina. There was one in Broken Hill when I lived there. It went backwards and became something else. There is a very limited number of those. Weigelli at Cowra is another one with an Aboriginal foundation. There are a limited number of places for people to go and there is a rising drug problem, particularly in Dubbo. There are quite a number of women who commit offences or are involved in drug use. A lot of offences are committed because of drug use. The courts say that drug use is not an excuse.

**CHAIR**—Twenty years ago, the predominant problem was pretty much 95 per cent alcohol. How much now is alcohol and how much is drugs?

**Mr Wilson**—That is anecdotal, isn't it? But, with regard to appearing for someone, 95 per cent of the cases you do have a component of either one of those things or both, or, as Richard said, mental health problems. Every time you appear for someone, you get a psychiatric or a psychological assessment. It is enormous. You cannot wave a wand and say, 'Here's a white firm of lawyers—Mallesons Stephen Jaques or a firm from Sydney—and they are going to send in their suited boys and girls—the brigade that got 99.6. That is what it takes to do arts/law now. If you draw those people into the system through that process of selection you do not get the right sort of people to come and do this work. They have never stepped inside a tin house in their life but there are still tin houses within the Western Aboriginal Legal Service's area. There are a lot fewer than when I started. In September 1979, I counted 29 tin houses on the Mallee and Wilcannia. Now there are probably none. There has been social progress.

**Ms GRIERSON**—Is there a role for paralegal officers? Your field officers must do some sort of liaison work, but is there a role for a different level of training for paralegals, or is that professionally not acceptable to you?

**Mr Wilson**—There are courses you can do. Southern Cross has got a paralegal studies course at Lismore.

**Ms GRIERSON**—Have you seen any evidence of those people coming through?

**Mr Wilson**—Our daughter was employed by the Western Aboriginal Legal Service.

**Mr BROADBENT**—As part of the tendering process is the delegation of responsibility part of the problem?

**Mr Wilson**—Who is going to come and fly to Bourke? There is a list in Bourke every fortnight. There is a list in Wilcannia every month. There is a Broken Hill list every Monday and a Dubbo list every Wednesday, and you might have 20 Aboriginal people appearing every time. So you have got to have two or three—and they will cry. If city lawyers have to do five at once they will sink through their boots—and I will not use the other form. When I did Wilcannia on my own and Broken Hill for eight years, in that time I appeared for 40 and 50 people in a list in Wilcannia. You can only do that from experience and knowing who they are. The real problem that the ALS faced in the mid-70s was that they used to fly blokes in and out to appear in Walgett and in Brewarrina, when they could not get people to go there. Aboriginal legal services field officers from those places—Broken Hill, Bourke and Brewarrina—set up an independent legal service to provide representation that worked. It still works. The Western Aboriginal Legal Service has got the biggest reputation in Australia now, virtually—certainly in New South Wales—of any of the other Aboriginal legal services.

**Mr BROADBENT**—Is it your professional opinion, from the experience you have had over many years in representing Indigenous men and women, that currently there are Indigenous women in jail because there was not an appropriate centre to send them to—or any other options?

**Mr Wilson**—Circle sentencing is an option. That is one of the new options in terms of a process that the local court employs to divert people from that process.

**Mr BROADBENT**—Would there be fewer people in jail today if there were a rehabilitation centre?

**Mr Wilson**—The process of sentencing in the Court of Criminal Appeal and guideline judgments tell you that unless you put a person in jail you have not provided the right penalty, except in exceptional circumstances mostly. I have appeared for women charged with manslaughter—originally murder—and they have walked away with a bond in their particular case. But mostly that will not happen.

**Mr BROADBENT**—What do you think of mandatory sentencing, Mr Wilson?

**Mr Wilson**—There are people who commit relatively minor offences. For example, there is the case of Dodd in Coonamble very recently, where an 18-year-old boy put his hand through a window of a lady's house, knowing she was inside, and stole her handbag. The mandatory minimum term is five years. If you plead not guilty and run a trial, you start at five years and then you chip away if there are special features of the case. I appear for people who years ago would have had bonds for cases, and they are now doing three years with 18 months on the bottom. And there are driving cases and all forms of other cases such as assault where the level of custodial involvement is increasing because of the expectation, driven through politics, that people should be locked up out of sight, out of mind, with no rehabilitation, no extra funding for probation and parole services and no community based programs.

**Mr BROADBENT**—On page 3 of your address to the committee, which we received today, you said:

In addition, there is the issue of discriminatory treatment of Indigenous people within the criminal justice system. For example, research on the treatment of Aboriginal people at various stages of the criminal justice process found that compared with non-Aboriginal children Aboriginal children:

- were less likely to receive a caution from police (even first offenders)
- were more likely to be charged rather than given a diversionary option
- had a higher likelihood of being refused bail
- were more likely to receive a sentence at the more severe end of the scale
- were more likely to be sent to an institution

With the \$42 million—though you are not getting a very large share of what the government is spending in this area—why is the interface leading to poorer outcomes rather than greater outcomes?

**Ms Wandmaker**—It is certainly my view—and that is all that I can put—that the matters highlighted in that section you just read out relate to interactions between the police and Aboriginal people, things that are outside the control of the justice program in relation to providing legal services to Aboriginal people. Also, reports have shown many, many times that the results in court in relation to Aboriginal people are very different. If a child is more likely to be spoken to by the police then the child is more likely to have adverse interaction with the police, and they are more likely to have more matters on their record when they come to court. Those things continue to compound themselves. That is certainly, in my view, the reason there is such a disproportion.

**CHAIR**—From what you are stating here in your submission, there is a described bias by the magistrates and a described bias by the police against Aboriginal people.

**Ms Wandmaker**—That has certainly been the finding of a number of reports in the area.

**Mr BROADBENT**—I have one last question on a different subject: further in your report, over on the next page, you talk about employing an Indigenous receptionist. One of my great concerns is that governments can come up with all sorts of proposals and programs but if there is no interface where people actually access the program it is useless because we cannot get the person who has a problem to access the program. You say here that even just the employment of an Indigenous receptionist has aided the program.

**Ms Wandmaker**—Yes, that is right. Currently it is a female and she is employed on a traineeship. That is the only way we have been able to access that position—it is not a created position as such—and to employ that person as an additional position, because of the traineeship.

**Mr BROADBENT**—Should there be traineeships for young solicitors and future barristers in the Indigenous area?

**Ms Wandmaker**—That is certainly my view, yes.

**Mr Wilson**—You have got to open up the criteria for the way people go into tertiary education. I would not get into my arts-law course anymore. It is a process of selection. If you have a person in the country that goes to Dubbo High School, for instance, even if they get a university index score of 70, they are not going to get into even an arts degree. You have got to get people through other programs. Our son, Roslyn's and my son, is in fact a trainee in the bank, in year 11. He works one day a week in the Commonwealth Bank and goes to school four days a week. That is an Indigenous enterprise through the Aboriginal employment strategy here in Dubbo. Things like that slowly might change. There are two boys in that position, one in the ANZ. They are doing the higher school certificate at the same time as they are training in an area. All sorts of flexible thinking is required to provide those resources in the country.

**Mr TICEHURST**—You mentioned in part of your submission that unfair dismissal was a problem with employment of Aboriginal people. What did you actually mean by that?

**Mr Wilson**—I was saying it was a problem in relation to community legal centres. It is part of the work.

**Ms Wandmaker**—It is a large part of our employment workload. We are also funded to provide advice to people in relation to Australian workplace agreements, employees who are entering those agreements.

**Mr Wilson**—That is a large proportion of what people come and talk to our employment advocate about.

**Ms Wandmaker**—It is not particularly in relation to Aboriginal people.

**Mr TICEHURST**—Because they are dismissed unfairly or because they cannot get a job because of that unfair dismissal provision?

**Ms Wandmaker**—No, that is not my understanding. It is certainly not that it is any more likely to happen to Aboriginal people than non-Aboriginal people, but that there are a number of people who are dismissed unfairly from positions, and we provide advice in relation to what is a fair and what is an unfair dismissal.

**Mr TICEHURST**—Also, we are talking about this high proportion of Aboriginal people involved in all sorts of criminal events and otherwise. What proportion of the police force is Indigenous?



**Ms Wandmaker**—I would have to take that question on notice. It is not a very high proportion, as I understand it. The police force also has difficulties with retention of Aboriginal staff because of the internal problems within certainly the New South Wales Police.

**Mr Wilson**—We tend to know those people. Over time, wherever you go in the west of New South Wales, you know what stations have got Aboriginal employees.

**Mr TICEHURST**—You are also saying that Aboriginal people are 15 times more likely to be involved in offensive language and behaviour charges. Is that related to the levels of family values?

**Mr Wilson**—It is about presence on the street and police perception of what they do.

**Ms Wandmaker**—It is my understanding that the situation is that Aboriginal people are far more likely than people of Anglo descent people to be out in the street—talking to people in the community and just being out in the street. When I first went to Walgett I was amazed at how many people were just sitting around on the street. It is part of the culture, as I understand it. That can be offensive to other people in the community who want, for example, to get into the bank and feel that people are obstructing their way, when really people are just talking to their cousins, finding out what the news is or just communicating with people. As I understand it, culturally that is the way it has always happened. A lot of other cultures in the world do the same.

**Mr BROADBENT**—Chair, I would like to comment on that—but I will never break in again, never. Our family spends a lot of time outside. Our neighbours do not like it.

**Ms Wandmaker**—Is it in the backyard or the front yard? We spend a lot of time outside, but it is always in the backyard.

**Mr BROADBENT**—It used to be both.

**Ms Wandmaker**—Yes, it can be something that people find confronting.

**Mr BROADBENT**—I am glad you raised that today, because it is most interesting.

**Mr Wilson**—You have the trifecta. If you have a house where there are problems—and there are dysfunctional families in Aboriginal communities—some people, children and others, spend time away from their houses as a result. You get this to-ing and fro-ing effect—that police are monitoring them and watching them. The police pull them up and say, ‘Where are you going?’ They say, ‘Get fucked,’ and they are arrested. Then you have the trifecta: resist arrest and assault police. It is something we have lived with as lawyers since we worked in the Aboriginal legal service.

**Ms Wandmaker**—Of course, it is no surprise to anyone that the relationship between police and Aboriginal people in New South Wales has historically not been very happy.

**CHAIR**—I asked WALs a question about taking on young people—people from university or, indeed, even children doing legal studies at schools—for work experience in legal training. Do you involve many in your organisation for that exposure and experience?

**Ms Wandmaker**—We attempt to. We have great difficulty. Some community legal centres, particularly in capital cities, have great arrangements with universities and schools in relation to the intake of students. Unfortunately, we have great difficulty in accessing those, because there is no university that teaches legal studies. But we are certainly open to that and we have been approached by students. We also would be more than happy to encourage school students to do work experience. We have been approached on a couple of occasions. I personally have suggested that, whilst they are more than welcome to work with us, they may benefit more by working with the Western Aboriginal Legal Service, particularly if they are Aboriginal. If that is the sort of area they are interested in, I have suggested that on occasion—and also because WALs do more court work than we are inclined to do.

**Ms GRIERSON**—What is the coordination and interaction like between the different legal services—WALs, yourselves, the Legal Aid Commission, the Outreach Women’s Program and all those other activities? Mary Ann, you said you worked in some of those other areas before. Do you just know what is happening or do you meet and coordinate—what happens?

**Ms Wandmaker**—The cooperative legal service delivery model is now being piloted in our region.

**Ms GRIERSON**—Yes, you mentioned that.

**Ms Wandmaker**—That involves all of the people who provide legal services, but it also includes domestic violence court support workers and the tenant service—all people who are involved in the range of issues where people attend court or are involved in legal issues. We meet once every three months in the pilot and that continues.

**Ms GRIERSON**—Is that a funded pilot?

**Ms Wandmaker**—No, it is unfunded.

**Ms GRIERSON**—You are all just doing that cooperatively?

**Ms Wandmaker**—Yes. Certainly it seems a little false, if I can say that, because we do all know each other. I see that the benefit of that type of thing is when somebody new comes to my position who is perhaps from outside the region.

**Ms GRIERSON**—It would help with the retention, if people feel a bit involved and supported.

**Ms Wandmaker**—That is right. Certainly at the moment, most of the people that are involved in that have previously had connections—usually through the Western Aboriginal Legal Service. Most people know how that works. It is certainly of assistance but in some ways it is probably not as effective as it would be in other areas.

**Ms GRIERSON**—So is the police system or the court system represented in that?

**Ms Wandmaker**—The courts are. The police are not.

**CHAIR**—Senator Hogg, do you have any questions?

**Senator HOGG**—My questions were all answered very well in the first instance by Mr Wilson so I am not going to ask any questions of this group.

**Mr BROADBENT**—I have one general question. From my point of view, legal centres across Australia have been seen as anticonservative and antigovernment groupings of people who just wander together and conspire against us. From my understanding of the legal services that I have been involved with, I know they are up to their neck in what they actually do and do not have a lot of time for politics. Is that so?

**Ms Wandmaker**—That is my understanding. That is our situation.

**Ms Wilson**—It was always the case with WALs. We were just doing case after case after case. That is the case with community legal centres. That is the case with me now.

**Ms Wandmaker**—We are specifically funded to provide assistance, more so to the government in relation to law reform—and unfortunately even that is not something that we really have the opportunity to provide a lot of detail on because we are answering people's inquiries constantly. There is a great need for legal services in our region.

**CHAIR**—Mr Wilson, Ms Wandmaker, Ms Barker and Mrs Hausia, thank you very much for coming today and providing information to our committee. It has been very valuable and extremely informative.

**Proceedings suspended from 11.57 a.m. to 12.16 a.m.**

**GORDON, Mrs Elsie Anne, Coordinator, Dubbo Women's Housing Program****HAUSIA, Mrs Mary Ann, Consultant, Western New South Wales Community Legal Centre**

**CHAIR**—Mrs Gordon, we really appreciate your filling a position that became blank in today's inquiry process. I also take this opportunity to inform you that today's hearing is public and this phase of the inquiry will continue throughout the next two days. I would advise you, as a witness, that hearings today are legal proceedings of the parliament and, as such, 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 be recorded by Hansard and will attract parliamentary privilege. Before we proceed to questions, would you like to make a brief opening statement?

**Mrs Gordon**—I have been with Dubbo Women's Housing Program since 1991. The Dubbo Women's Housing Program is part of a statewide program; there are 23 sister schemes throughout the state. This year the program will be celebrating 20 years of service to the state. I believe that New South Wales is the only state with a women's housing program. The program is managed by a community based management committee, whose members come from the community, government sectors and the private sector.

I have a background in community education, where I have worked in partnership with the women's legal service situated at Lidcombe in conducting information sessions and giving legal advice to the community. My experience with women and legal service goes back to around 1992. I was one of the founding members of the New South Wales Western Community Legal Centre situated in Dubbo and have had a lot of input into the delivery of the local service in that region. I take part in community education and in the past have attended statewide conferences on issues of child sexual assault in Aboriginal communities and violence against women across all sectors.

Women's housing was a lone service when first established. We now have, sitting with it, a Domestic Violence Court Assistance Scheme, attached to which are two specialist Aboriginal workers. We also have the Domestic Violence Counselling Service, attached to which is one Aboriginal position. I might add though that, within the services in which I work, Aboriginal workers outweigh non-Aboriginal workers—and I will add Grace Cottage, because I do a bit of work there. Regarding my involvement with the community legal centres into which I have had input, I guess my background is in women's and children's access to services and the law.

**CHAIR**—Thank you again for making the time to come and see us today. What percentage of your housing program is targeted specifically at Indigenous people?

**Mrs Gordon**—We target 50 per cent.

**CHAIR**—You have spoken about sexual assault and domestic violence. You were quoted in the Dubbo *Daily Liberal* of 21 October 2003 as saying:

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The reported rate of sexual assault, domestic violence and abuse of children is currently very high in this region compared with the rest of NSW ... the sexual assault rate is double the average State rate...

Can you expand on that and provide further information or statistics that support claims that 'the reported rate of sexual assault' et cetera? We are seeking any additional information you may have on that.

**Mrs Gordon**—I cannot even remember reporting that, but I guess the stats regarding that would have come from the ABS. I have a feeling that might have come from the violence against women specialist worker and not totally from me.

**CHAIR**—But it does attribute the quote to you.

**Mrs Gordon**—I understand that, but I would say that the data would have come from the violence against women specialist worker.

**CHAIR**—We will move on from there, if you wish, as we can cover that later when we see representatives from East Dubbo Women's Group. What specific housing issues do you have? Obviously it is a women's housing program, but what happens when there is a family reconciliation? Are they then excluded from the housing program?

**Mrs Gordon**—No. We work to the goals of the clients in the program. We believe that the answers lie within the clients. We work within the boundaries of the support the client would like us to offer. I am not quite sure of the percentage, but quite a few—maybe a third—return to the family home. That is respected, and our door is always left open.

**CHAIR**—As part of your housing program, is a series of houses allocated to you by state government that you can utilise?

**Mrs Gordon**—As part of the women's housing program and through the Office of Community Housing, we own seven houses.

**CHAIR**—Can you access or get priority with community housing provided by the New South Wales department?

**Mrs Gordon**—We have a partnership with community housing, which is part of the Western Plains Housing Scheme, whereby we have three other houses. Community housing is the landlord and we are the support.

**CHAIR**—How do you work your rental return? What do you charge for rental of these houses?

**Mrs Gordon**—It is 25 per cent.

**CHAIR**—It is 25 per cent of what?

**Mrs Gordon**—Income.

**CHAIR**—Is rental assistance paid by the government included as part of that income?

**Mrs Gordon**—No, we do not include that.

**CHAIR**—Do you collect that separately?

**Mrs Gordon**—No, that is theirs. The other issue is that our houses are furnished; we put in washing machines, fridges, TVs, lounges and beds.

**Ms GRIERSON**—What is the length of stay?

**Mrs Gordon**—Three to 12 months. Sometimes, waiting for a house to become available, it may be a little longer than that.

**Ms GRIERSON**—Are these houses respected or are they targeted in any way?

**Mrs Gordon**—No, they are respected. Sometimes we have a few problems with neighbours regarding screens being off windows, garage doors not being locked and that type of thing. But other than that, they are respected.

**Mr BROADBENT**—Does that mean that there are problems with neighbours?

**Mrs Gordon**—Not a great deal. I will just highlight something. Just after Christmas we had a phone call from a neighbour—it was a rental house and its owners made the phone call. They said that their hose had been stolen and was over the fence. They went and knocked on the door and asked for it to go back; it was given back. There was no problem, but they just wanted us to be aware of that.

**Mr BROADBENT**—I am glad you get those phone calls too.

**Mrs Gordon**—At one stage we went through this standard—as in, standard of the street—and, as I said, there were screens off the windows, garage doors that were not locked and side gates that were not closed, but we have never had any other issues.

**CHAIR**—How many families would you put through housing each year?

**Mrs Gordon**—It varies between about eight and 12, and that is because some families are carried over into the next financial year as we work with financial years in reporting to the Department of Community Services.

**CHAIR**—How do you get funding for your housing program?

**Mrs Gordon**—It comes from the Supported Assistance Accommodation Program, which is administered by the Department of Community Services.

**CHAIR**—How much are you allocated for that?

**Mrs Gordon**—About \$146,000 a year, off the top of my head.

**CHAIR**—Would that \$146,000 include your salaries?

**Mrs Gordon**—Yes, and the office.

**CHAIR**—How many people are employed by the program in your office?

**Mrs Gordon**—We have two support workers for 24 hours a week, me for 24 hours a week and a bookkeeper five hours a week.

**Senator HOGG**—Are the families that you help only those in the Dubbo area?

**Mrs Gordon**—No.

**Senator HOGG**—How far afield do they come from?

**Mrs Gordon**—We have had people from interstate. We allocated a house to a lady from Warren in the last couple of days. We have had people from Sydney. It is based on the need at the time, the criteria that we have and the issues that affect that family. Some families have multiple issues.

**Senator HOGG**—So it could be to get a family out of an existing community?

**Mrs Gordon**—I think we have done that once. The others turn up in Dubbo and are looking for housing. They could come from interstate for that as well.

**CHAIR**—How many of the families have a male partner incarcerated and are waiting for his release?

**Mrs Gordon**—Not many at all.

**CHAIR**—So it relates to separation, domestic violence and other issues?

**Mrs Gordon**—And financial breakdown and community ostracism.

**CHAIR**—What percentage would be financial breakdowns as opposed to domestic violence?

**Mrs Gordon**—A high percentage of them would have domestic violence as an issue. That could be in the past and they are still working to alleviate those issues, but it could also be immediate.

**Senator HOGG**—Are these people referred to you, or do they seek you out? In other words, are there other community organisations referring them?

**Mrs Gordon**—Yes, they are referred. Sometimes it is by family, sometimes it is by service providers.

**Mr TICEHURST**—Is Grace Cottage a cottage as such, or is it an office?

**Mrs Gordon**—It is a cottage and it is an office for three services.

**CHAIR**—We will be covering that with the next group that is coming to see us. I have made the same mistake.

**Mr TICEHURST**—We had a Rose Cottage in Wyong. It is actually a refuge for women which provides a lot of support programs. Is all your housing stock in Dubbo, or is it around the area?

**Mrs Gordon**—It is all in Dubbo.

**Mr TICEHURST**—What about people outside the area?

**Mrs Gordon**—If people outside the area contact us, we support them by telephone. If they come to town, we will see them to give them support. Housing within their own area is very difficult because smaller towns do not have public housing. It is more private rental.

**CHAIR**—Are you able to accommodate people in private rental?

**Mrs Gordon**—From our service?

**CHAIR**—Yes.

**Mrs Gordon**—Yes. Some choose to go into private rental. Given that it is a lot more expensive to do so, a majority would go into Department of Housing—

**Mr BROADBENT**—You mentioned community ostracism. Can you flesh that out a bit for me?

**Mrs Gordon**—If somebody in the community reported a law-breaking activity that may be happening then that family might be targeted for that. So if they speak up about or report something that is happening that they do not like, they are targeted for that. Also, if they have had a breakdown in the relationship with their partner and the partner's community is in that area—sometimes that happens to the women as well—they are targeted with regard to the breakdown of the relationship.

**Mr BROADBENT**—How often would you be unable to place a need?

**Mrs Gordon**—Every week. At least four to five times a week, because we are not crisis housing; we are medium-term. Most people need the crisis housing straightaway. They need time out to think about whether they should move on or go back, they want time out to think what they can put in place to go back home or they need time out to think about what is out there to help them to move on. Even that crisis period is not well catered for in a lot of ways.

**Mr BROADBENT**—Have you got a crisis housing group that you work with?



**Mrs Gordon**—Yes, we do have crisis accommodation in Dubbo. It is utilised by the western region as well, so it can be full sometimes. People come in from towns within the western region to seek refuge.

**Mr BROADBENT**—Do people coming from the far west who move into Dubbo come to you? Do they get referred to you?

**Mrs Gordon**—Yes.

**Mr BROADBENT**—Do you have to be careful where you place them in Dubbo?

**Mrs Gordon**—We do. If we have got a lady who we want to place in east Dubbo and she feels it is too close to the family she might be having issues with in respect of separating, we would have to work to try and settle her somewhere else.

**CHAIR**—Is there much family to family conflict?

**Mrs Gordon**—Not a great deal, but there is some, yes.

**CHAIR**—So it does not really rank as a percentage or an area of concern, as against domestic violence or when a family separates? You do not get situations of a family wanting to move from east Dubbo to west Dubbo because of conflict with another family group?

**Mrs Gordon**—Not a great deal within our service, but then it is a little bit different because our housing is not permanent. Even if it were, they would still have to move again.

**Ms GRIERSON**—Is the housing you are able to provide one house per family?

**Mrs Gordon**—Yes, we work that way. In the past we have realised that it does not work out by having more than one family in the house.

**Ms GRIERSON**—If domestic violence is a major issue, as it is with many of the people presenting for housing, do you refer them on for legal service?

**Mrs Gordon**—Yes.

**Ms GRIERSON**—Can you tell me about that process? What do you find works best? What do you do?

**Mrs Gordon**—When we work with a family we talk about what issues are bringing them to our service. When we identify them that then is in a support contract, and we work on those issues. Most of the time there are issues around family law, so of course they need family law advice. Appointments are made, if the client chooses that we make the appointment for them, with the community legal centre, or the client will make the appointment themselves—it is up to the client. With regard to domestic violence, the same process is followed, but there are times when we need urgent legal advice. If we cannot contact solicitors locally via the telephone for the client, we actually ring the women's legal service or the Indigenous Women's Program in Sydney to get access to services for the women.

**Ms GRIERSON**—Does it happen a lot that you have to turn to Sydney?

**Mrs Gordon**—From my experience, probably not a great deal, but there are other staff members in the building that may do that.

**CHAIR**—Mrs Gordon, thank you very much for appearing before the committee today and for your interesting information. I have one final question about the seven houses that you have. Are they integrated? Are they in traditional sectors which are in the lower economic grouping or are they widely dispersed throughout Dubbo? I do not know the geography of Dubbo that well.

**Mrs Gordon**—When they were first purchased 19 years ago they were purchased around town and in different areas, so they are not just in one area. Apparently, two of those houses—and this was before my time—were located next to some legal people, the police prosecutor and a policeman, and I believe that some arrangement was made in regard to changing those houses over. Consequently, we got two houses from the Department of Housing stock and the Department of Housing got two houses in pretty up-market locations.

**Ms GRIERSON**—That does not sound like a good deal.

**Mrs Gordon**—No, it does not—for the service and for the clients. Since then, one of those Department of Housing houses was handed back to the Department of Housing, and we have another house through the Office of Community Housing.

**CHAIR**—I tend to look at the social problems we have, and I see that segregation of people away from being integrated into the broader community only exacerbates problems, as demonstrated in two recent cases. One was the Macquarie Fields riots, when there was a general community feeling that people were lumped together rather than dispersed throughout the whole community, and the other was the Redfern riots over the death of the young fellow named TJ. What is your view on that? Do you think that people are actually looking for housing that is clustered together so that they do not feel they are the odd person out in a community, or do you think that we should have housing dispersed more broadly throughout the community to help prevent this problem of people only engaging with their racial or financial peers—or whatever sectors of the community they may be from—and seemingly unable to break through or reach out past that sector?

**Mrs Gordon**—It is a very hard question. I guess the issue is that people have become accustomed to living in areas where the Department of Housing stock sits. For the majority of people that has been fine, but for some people it has not been. And then we have the issue of problems within our communities. The majority of people in those communities have built social capital, and that in itself is something that everybody needs. If you moved people into spot purchasing around town, there are people who would move and agree with that, but there are people who would not because they would feel more isolated moving into spot purchasing around town. I would prefer to work with the community and try to work with what they wanted.

**CHAIR**—I accept that you have to be careful, when placing people in houses, that you do not isolate them from available support networks or from transport to gain access to services. But I am also very aware from my area that, when people are just dumped into one area, it can create huge community problems because they are always regarded as the people from ‘that area of

town'. They have that social affliction placed upon them and largely, without rhyme or reason, that tag is put on their children. I just thought I would get the views of a professional who is engaged in this area.

**Mrs Gordon**—When area planning is being driven by government services, the community is consulted but it is not heard. I also think that sometimes decisions are made that might be more in favour of the government services than the community. For instance, I believe that the preschool that is allocated to west Dubbo was supposed to go in the Gordon estate—but it is now sitting within the south-west end of west Dubbo. That causes a problem for the Gordon estate with regard to transport because the transport runs from the Gordon estate into town and then from town back around again. So it takes about 1½ hours to get to the preschool at west Dubbo by public transport. Public transport is an issue and, when you look at planning, things like that should be considered.

**CHAIR**—Thank you very much for appearing before the committee today.

**Mrs Hausia**—The Western Aboriginal Legal Service was the first organisation that was approached by the relevant government departments to auspice the funds to purchase all these homes for the Women's Housing Program. I was given the position of organising a committee of Aboriginal and non-Aboriginal women to purchase these particular homes. I want this committee to know that it was the Western Aboriginal Legal Service that let me have the time to be involved in women's issues and to get these homes up and running. There were criteria when purchasing those homes and one of those was that they not be purchased in a dead-end street. There were quite a few other requirements.

**Mrs Gordon**—And they should not be beside a police prosecutor, either.

**Mrs Hausia**—Well, yes, that was as tricky one.

**CHAIR**—Thank you for appearing before the committee.

**Proceedings suspended from 12.43 p.m. to 1.35 p.m.**

**DOOLAN, Ms Ellen Narell, Chairperson, East Dubbo Women's Group**

**DOOLAN, Ms Michelle Grace, Secretary, East Dubbo Women's Group**

**FERNANDO, Ms Christine Joyce, Youth Officer, East Dubbo Women's Group**

**PEACHEY, Ms Catherine, Treasurer, East Dubbo Women's Group**

**CHAIR**—Welcome. 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 be recorded by Hansard and will attract parliamentary privilege. Would you like to make an opening statement about your group? As you have provided no submission to the committee, perhaps you would like to tell us a little about what you do, the services you provide, how you operate and how you are funded.

**Ms E. Doolan**—Our organisation was started 12 months ago by a group of women within the east Dubbo housing estate. We are a non-profit organisation. The reason we started was the lack of services in our area to address some of the issues. The population up there is largely Aboriginal, but there are also non-Aboriginal people within that area.

**CHAIR**—What percentage of the people in that east Dubbo estate would be Aboriginal?

**Ms E. Doolan**—Probably 75 per cent.

**CHAIR**—How many homes are in that area?

**Ms E. Doolan**—There would be at least 200.

**CHAIR**—Because we do not know the geography of Dubbo that well, I assume east is the other side of the bridge that we came across?

**Ms E. Doolan**—Yes.

**CHAIR**—What other townships or areas are around the east Dubbo housing area, or is it an isolated community?

**Ms M. Doolan**—It is mainly a residential area. The area we live in is largely public housing. We have two schools in the area, and the university and hospital are nearby.

**CHAIR**—How are you funded? Are you in receipt of any funding?

**Ms M. Doolan**—Our application for a neighbourhood facility was lodged with the Department of Housing. The Department of Housing provide premises for community groups to link their tenants with service providers. We placed an application with them and, as part of that application being granted, we were given a \$5,000 starter grant. We have also operated on an

extra \$2,000 from the Premier's Department. Another agency in town had funds available to fund Christine's position as youth worker, but all other people involved in the centre do it on a voluntary basis.

**CHAIR**—How many people do you have in your staff and facilities?

**Ms M. Doolan**—There is just the one position. There is a total of 20 members in our women's group.

**CHAIR**—What sort of things does your women's group do and provide in the way of support services for members of the community?

**Ms M. Doolan**—Actually having the facility in such a central location is useful: the centre is readily accessible by any of the tenants in our area. We try to provide women living in the area with a link to outside services. It is mainly for them and for families.

**CHAIR**—So you are running it as a drop-in service and as a link between other government services and community service providers?

**Ms M. Doolan**—Yes.

**CHAIR**—How many people access your service?

**Ms M. Doolan**—We isolated a period of time last year of three months when we had over 900 people actually come through the organisation.

**CHAIR**—How do you find government cooperation, whether local, state or federal, interacts with the work that your group is doing?

**Ms M. Doolan**—We have actually had a low profile. We have not had the resources to actually get the message out to a lot of the services that we are there. The way we have operated for the last 12 months is to actually go along to local committee meetings and things like that to talk about what we do, in the hope that other services will link back up with us at some stage. Some of the services have done that.

**CHAIR**—So, if a family woman comes to you with some problems, what steps do you take from there? Do you provide counselling on site? Or is it only a referral service to other groups? Do you bring counsellors or legal aid or medical help to the person?

**Ms M. Doolan**—Our group's aim is to provide a refuge-type setup for women in crisis. We have identified a lot of domestic violence in our area just from actually getting them through our doors. We have had a real focus on providing activities for the children on the estate. As a result of that, some of those women have actually taken the next step, linking with people and other services to look at taking out apprehended violence orders. We have an adolescents' counsellor who comes in on a weekly basis.

**CHAIR**—Is the East Dubbo Women's Group specifically for Aboriginal women or is it open to all members of the community?

**Ms M. Doolan**—It is open to all members of the community.

**CHAIR**—Do you find that Indigenous women are perhaps reluctant to step forward and seek help on domestic violence issues?

**Ms M. Doolan**—Absolutely. Domestic violence in our community and in other communities like ours where the population is predominantly Aboriginal has been an acceptable way of life. There have not been a whole lot of education programs for those women who actually live in isolation in their homes. We see a real need to actually get programs into our communities so we can actually get women thinking that domestic violence is not the blackfella way—it is a crime and it needs to be dealt with as such.

**CHAIR**—Excuse my ignorance: of the people that you are seeing about domestic violence, is the issue physical domestic violence or do you also have people that are coming to you where they are being mentally tormented and abused as well?

**Ms M. Doolan**—It is right across the board. It is physical, and in a lot of the emotional violence the financial side is a huge one, particularly if the partner is a gambler or whatnot—a heavy drinker.

**CHAIR**—When you refer to gambling in this area, what form of gambling is it? Is it poker machines or horse racing? Where is the gambling problem predominantly?

**Ms M. Doolan**—Dubbo is a city with lots of facilities like the one we are in now. We have an inn or a tavern that is just up the road from us. It is about half a mile up the road and it has got all of the facilities there—like a TAB, for example.

**CHAIR**—All of the temptations—

**Ms M. Doolan**—Sure.

**CHAIR**—without any of the support services for those that are in trouble.

**Ms M. Doolan**—Absolutely.

**Senator HOGG**—What sort of support are you getting from the men in your community for the group that you have formed? Are you getting any support?

**Ms M. Doolan**—They have been behind the idea right from the start. We have been careful to involve the elders in our community in the process, and therefore we have gained a lot of support from husbands. The way we furnished our building was by calling for donations so that we could have equipment and stuff like that, and the men did a lot of the canvassing in the early stages. Of late, we have had men come through the centre and ask us what services are available to address alcoholism and things like that.

**Senator HOGG**—So not only have—

**Ms Peachey**—They have had a couple of meetings to form their own group.

**Senator HOGG**—If you could expand on that for us it would be helpful and enable us to see the impact. Your group has not just impacted on women; it is also having an impact on the men. You say they have formed their own group. I presume men have come to you for help as well?

**Ms M. Doolan**—Absolutely. We have been able to link with mental health services and other counsellors within the area health service to get these guys to that next stage, I guess, which has been a huge task for us. But we are happy that the men are coming and using the centre because their children are using that centre as well.

**Senator HOGG**—Obviously, there would not be a pronounced reduction in domestic violence to start off, but the centre would start to have an impact on what is happening within certain families in the community. Is that a fair assessment? It seems to me that you have the solution in your own hands.

**Ms M. Doolan**—We believe so. We believe it is a model. It is something that has grown out of isolation and desperation. The farmers talk about it in terms of being in a drought. That is how it was for us living up at East Dubbo. Services could not link without community, because we did not have a public facility up there which they could come and hold workshops and training at.

**Mr BROADBENT**—So there was no community house there at all?

**Ms M. Doolan**—No.

**Mr BROADBENT**—It says here in one of your early press releases that you targeted a particular house. Is that the house you eventually got?

**Ms M. Doolan**—Yes.

**Mr BROADBENT**—Can you tell me that story?

**Ms M. Doolan**—Basically, it is a three-bedroom fibro home. It is right in the centre of Collins Avenue. We also have the vacant block next door, so it has become a real community facility in terms of the women and the children using it for a lot of the programs that Christine, as youth worker, was able to run. We also run other programs, such as literacy programs.

**Mr BROADBENT**—Is the playgroup still going?

**Ms M. Doolan**—The playgroup still operates on a Wednesday morning. From that playgroup, we have had some of the parents enrol their children in long day care. We believe that is a way of exposing the children in our estate to that early part of learning and socialising and things like that.

**CHAIR**—You are the youth worker. Are you involved with the playgroup?

**Ms Fernando**—Another lady, Emma Clarke, runs the playgroup. I help when she needs me. For the kids up there, it is something they have never had. A lot of the playgroups around town they cannot get into. They can walk to this one.

**CHAIR**—When you say they cannot get into the playgroups, hopefully it is not because of racial segregation.

**Ms Fernando**—No. They are on lists.

**Mr BROADBENT**—Can I go back to where we were a minute ago? You talked about there being a very good outcome here, with children stepping on from the playgroup and being socialised by their mothers in a new way. Are there other programs that you have in place at the moment which you have had some good news stories come out of?

**Ms M Doolan**—Firstly, with the playgroup, it took the women 12 months work prior to getting the house to encourage a lot of the teen mums to come along to the playgroup. One of the things we identified as the reason a lot of those women were not going outside of their homes was domestic violence. Emma coordinates the activities of the playgroup. She is supported by Orana Burnside. It is a must that one parent comes along with the children. It has been really good for those women. What Emma has done is brought in some service providers to give information in an informal way to those mums.

**Mr BROADBENT**—Fantastic. I am very interested in what we call community driven success stories, which obviously the East Dubbo Women's Group is. We are here inquiring into how Indigenous women particularly are interfacing with legal services when they need them. Do you recommend to some of the people who attend your centre that they go to an Aboriginal legal service? Do you think that the Indigenous women you are dealing with are able to access legal services? Is it easy for them?

**Ms M. Doolan**—Some of the inquiries that we have had since we have been operating have related to legal matters. We have been able to work with the legal aid commission in town and have had a civil solicitor come out to the building to make it known that they are available to assist people in the area if they need it. But that is the only contact we have.

**Mr BROADBENT**—Have locals availed themselves of that service?

**Ms M. Doolan**—Yes.

**Mr BROADBENT**—They have?

**Ms M Doolan**—Yes.

**Mr BROADBENT**—So it has been a good outcome?

**Ms M Doolan**—Yes.

**Mr BROADBENT**—Great.

**Ms GRIERSON**—How many hours does the centre operate? Does it open every day?

**Ms E. Doolan**—It does not close, basically.



**Ms GRIERSON**—That is wonderful.

**Ms E. Doolan**—When we initially wanted to set up, we looked at different auspice organisations and we found that they tended to run between 9 and 5, and our community starts from 5 p.m. to 9 a.m. So we are flexible. We are staffed by volunteers. A lot of the stuff we did initially was because a lot of our women had been isolated or in domestic violence situations or whatever. They did not have a lot of training and they were not going to leave the community to upskill at TAFE or anything like that. The real issue for us was our children and linking them to and keeping them in school. We link with the Red Cross to have a breakfast program there daily. That breakfast program is staffed by one of the women from the community. They feed up to 70 children a day. That is 70 children that are in school.

**Ms GRIERSON**—That is at your centre or at the school?

**Ms E. Doolan**—That was an initiative from our group.

**Ms GRIERSON**—And the school took it up?

**Ms E. Doolan**—No. We still keep that happening.

**Ms GRIERSON**—Good.

**Ms E. Doolan**—Another initiative was the walking track, on which the children are walked safely to school with women in bright yellow t-shirts. We looked at that safety thing. The women have gone off and had child protection training, first aid training, loss and grief training and domestic violence training. So we have been skilling the women in the community. Others have gone off to adult literacy. There were family groups which had children with epilepsy, so they went and did some training. People in the community did whatever training was relevant to them, rather than—

**Ms GRIERSON**—That is excellent. What about the youth programs? You are obviously trying to keep the kids busy and occupied so they are not into less positive things. What age groups of kids is the centre managing to succeed with?

**Ms Peachey**—Pick an age group, because you get kids coming along whether they are five or 15. If you set a program that is for 15-year-olds, you get the younger—

**Ms GRIERSON**—The young guys all want to do it.

**Ms Peachey**—kids turning up anyway. The older ones will bring their little brothers and sisters along to the programs as well.

**Ms GRIERSON**—But you are managing to get the young teenage kids?

**Ms Peachey**—Any programs that we do, we try to get them to assist the adults that are on the program and to be responsible for those younger ones. From that, a number of our kids are now on the Dubbo City Council youth group. One was picked to go on the New South Wales children and youth commission reference group.

**Ms GRIERSON**—That is a success story.

**Ms Peachey**—That is something that he would never have done without support and so on from our group and the kids from east Dubbo.

**Ms GRIERSON**—Do you find you have to intervene a lot with schools when kids are in trouble or anything? Do you just empower mothers to do that or are you doing some of that?

**Ms Peachey**—If the mothers come to our group for advice on what to do or where to go or to ask, ‘How can we do this?’ or to say, ‘I’ve got this complaint,’ then we do what we can.

**Ms GRIERSON**—What about the involvement of the elders—the elder women? How are you doing that?

**Ms E. Doolan**—We do not make any decision unless they make it first. Culturally as Aboriginal women we would not move unless they have their say. That is evident in that when I wanted the house, way back when, I drank 25 gallons of tea before they considered what I wanted to do. It was a long, slow process, and I had to convince them. So we would not operate without their say-so.

**Ms GRIERSON**—And you feel you really have their sanction, support and encouragement?

**Ms M. Doolan**—Absolutely.

**Mr TICEHURST**—I would like to congratulate you women. I think what you have done is tremendous. You have been involved in the community, found a solution and done it off your own bat. I think that is really tremendous and you should all be congratulated for what you have done—including, obviously, other people working with you. Michelle, you were indicating earlier that there might be a tradition within the Aboriginal male society where they are the boss and they will thump their wives, as it were. Is that something that goes back into Aboriginal culture or is it something that has grown out of our society now with the problems with alcohol, drugs, gambling and all the modern-day stuff?

**Ms M. Doolan**—What we are hearing is that it is actually the impact of having to live the white man’s way and the issues that those guys face. We actually hear a lot of issues about not being able to get a job, self-worth and everything like that.

**CHAIR**—Is it an issue of there being an increased rate of domestic violence or is it that more domestic violence is being reported?

**Ms M Doolan**—In our area we think it is that there is more being reported.

**Mr TICEHURST**—What about with education of boys? Are you able to get hold of the boys—bring them up through the playgroups and the activity groups—so that they are more able to avoid that type of behaviour when they get older? Have you had any success in that way?

**Ms M Doolan**—We had a boys’ program last year which we ran after about half a dozen women came at different times to the centre as single mums and said, ‘I’m at my wits’ end. My

boy's playing up. Can you people help me out in some way?' We linked with an education officer in a local community based organisation who works with Aboriginal males in the 12 to 24 age group. Her role is to work in with the schools and the communities to try to put in place structures so those boys stay at school—and to do positive things during that crisis time. A lot of these boys said that they did not have positive male role models in our community, so she was able to get together a team of male workers and take those boys out of town to an Aboriginal camp and to provide backup support for those families in their homes away from the centre.

**Mr TICEHURST**—That is great.

**Ms M Doolan**—That has been a real positive, because there was a lot of antisocial behaviour and stuff around the community. Because their mums actually came and said that, it was a cry for help and we were able to link in with a service provider.

**CHAIR**—Besides your program which is steering people towards early intervention and mentoring programs for boys, what other programs are you aware of that specifically go down the track of early intervention and mentoring?

**Ms M Doolan**—We do not actually see a lot of programs here in town, because of the isolation of our community. A lot of programs that are run are unfortunately run on the other side of town, which is west Dubbo. They have a large community facility there. For some reason the service providers use that facility all the time to run workshops, particularly parenting workshops and things like that. We found that we had to travel across town to access those and be back across this side of town to be there for the children.

**CHAIR**—Do you get many people from west Dubbo coming over to the east Dubbo group?

**Ms M. Doolan**—Yes, we work with them.

**CHAIR**—Why would they be coming from west to east?

**Ms E. Doolan**—It is Wiradjuri country. It is our mothers' country, so we do not make a division.

**CHAIR**—There is not a west Dubbo women's group?

**Ms E. Doolan**—There is, but we have not seen that as separate—they have given us two bridges now. Anything they are doing we encourage and support, and vice versa.

**Ms GRIERSON**—We have had presentations today and there are a lot of Indigenous women here. There are not many Indigenous men here. Are Indigenous men involved in the support services? Are they actively involved on the ground in services in Dubbo?

**Ms E. Doolan**—Like I said, this is Wiradjuri country. The women come first here. There are a lot of Kamilaroi men here and they know the business. Culturally, if you have a look at a lot of the Aboriginal organisations in this town you will see they are run by females. We have a lot support from those men but it is just growing them to a level where they want to come public.

**CHAIR**—They are quite happy to be the sensitive new age guy.

**Ms Peachey**—With respect to men, it has a lot to do with pride. When we ask them to come and help us and do things they will but they will not go and do it themselves. They will not take the first step.

**CHAIR**—That is why I asked the question about domestic violence. Is it on the increase or are people becoming more willing to report it and seek help? It is breaking down those barriers of seeking help or getting involved that is one of the key issues.

**Ms GRIERSON**—These sorts of services would be seen by many men as women's business, would they?

**Ms M. Doolan**—Absolutely.

**Ms GRIERSON**—That is why we are saying that the lack of jobs, employment opportunities and other things that contribute in other ways to family life is very threatening.

**Ms M. Doolan**—We had a day last year where we brought in Indigerelate from the coast and they ran a men's workshop at the centre. The feedback was that there are not a lot of services set up to help males coming out of jails or whatever to re-enter society. They definitely say that they need help.

**CHAIR**—Where is the place closest to here for incarceration?

**Ms M. Doolan**—Bathurst.

**Mr BROADBENT**—I refer to the socialisation of the children. That is making them school-ready, I take it? Is that part of the program? I was blessed to be part of a conversation during the break and we talked about the need for respect for our elders. Ellen, you went through that with the 25 gallons of tea that you drank to get the show on the road. Secondly, there is the need for programs that have an equal response to that of the socialisation of the children. Part of the conversation was that we as a society are becoming very well aware of the past. In the processes you have been through to come to this point, you have decided that you are not going to accept the future for your children. You have taken a stand by socialising the children. Is there going to be any ongoing support that will help them with their education?

**Ms E. Doolan**—Absolutely. One of our programs just before Christmas was a literacy program in which we linked with CSU. Thirty-four of their second-year teachers came into the community and read for half an hour, four afternoons a week. That program was so successful that they will come back. There will also be a maths program.

As for the respect factor, a lot of our families have been devastated through violence, death within communities and the separation of communities. A lot of families here in east Dubbo, and even in west Dubbo, have come from outlying communities and are readjusting. We find that, before we can even get to the respect factor, we have to support these families to find their place. We have to act as role models for the children and teach them the kinship structure and how we are not our own bosses—we are still answerable to elders within our community. Otherwise,

respect is just another word to them. We have to be role models along that journey to teach our children, but at this point there are a lot of things going down. We should show love to and provide care for those children. I firmly believe that education will be the answer for change in a lot of circumstances. If we support those families and get those kids through primary school and into secondary school then they have better choices for change.

**Mr BROADBENT**—I will not tell you the whole conversation I had with the group of ladies outside, because it got a bit rough and ready and I was wearing a few bruises. But I will put this to you—one of the things that came up in the conversation was that a number of Indigenous students get suspended from school and that puts them on the street. Would there be a place or a case for someone who was suspended from school to go to one of the community centres, like the one you are running, rather than just going onto the streets—to have the option to stay at school or come to one of the centres?

**Ms E. Doolan**—No. That was put to me last year by a principal and I said, ‘We fought too hard to get into the education system. We need to work together in partnership to ensure that our children can be in the system. We have to look at a more holistic approach. If kids are suspended, for whatever reason, they come back into the community with people who are under-resourced.’ There was no middle ground. I said, ‘No, because that is taking them out of the system and putting them back in the community. We want to keep them in the system.’

**Mr BROADBENT**—I know you are working with the schools. I do not want to be confrontational, but do you think that a number of us in the community—I will not say teachers—are not taking the responsibility that we should be taking in our vocations?

**Ms E. Doolan**—Yes.

**Ms M. Doolan**—Absolutely. I think a huge problem is cultural awareness, understanding the kinship structure and the complexities that exist within Aboriginal society and acknowledging that we can work with parents without looking down our noses at them. Parents are key people; they are the most vital people in their children’s lives. We need to work out solutions so that children stay at school.

**Mr BROADBENT**—Do you think there is a place for people like me, particularly, to do a short or long course on Indigenous customs and processes? That could go not only to members of parliament but to schoolteachers and all those people in our mainstream services.

**Ms M. Doolan**—Absolutely. Cultural awareness needs to happen and it needs to come from the local people so that you guys have local knowledge—something that is really relevant to central western New South Wales rather than something that comes out of Central Australia

**Mr BROADBENT**—So you think local government members, state government members and federal members in their local areas should be doing cultural awareness courses that are defined by local people.

**Ms M. Doolan**—Absolutely.

**Ms Peachy**—I think it is too easy for teachers and principals to suspend kids nowadays.

**Mr TICEHURST**—It is a cop-out, isn't it?

**Ms Peachy**—Yes, I reckon it is. If you delve deeper into the background of a suspended child you will find that there is some sort of emotional or health problem behind things that explains why that kid is doing what they are doing. By talking to them you might find out that they are living with their grandparents instead of their proper parents, one parent is in jail, one parent is an alcoholic, one parent is on drugs or something like that.

**Mr BROADBENT**—Can you stop there. Mr Chair, can we have all that again from Catherine, please? I could not hear the last bit. We have a symphony orchestra somewhere in the building!

**Ms Peachy**—If you delve into the background of a suspended child you will find that there is some sort of emotional problem that is affecting their schooling. They might be responsible for younger kids at home, there might be only one parent—usually the mother, but a grandmother or aunt might be looking after them—or something might have happened, such as someone dying. There are any number of reasons why kids do what they do. I do not think teachers take all that into account and delve deeper into why kids are doing what they are doing. Aboriginal kids, especially, do not like going to counsellors at their school, for one reason or another. It is our cultural background.

**CHAIR**—Thank you. We have really enjoyed the enlightening discussion we have had. On behalf of the committee, I wish you all the best with your future endeavours. We have taken your statements on board. You have made a very valued contribution. Thank you very much.

**Mr BROADBENT**—You can take it from the Chair's remarks that his congratulations to you are a unanimous sentiment of this committee.

**Proceedings suspended from 2.11 p.m. to 2.25 p.m.**

**BONHAM, Ms Teena Marie, Aboriginal Health Worker, Grace Cottage**

**HAUSIA, Mrs Mary Ann, Grace Cottage**

**GORDON, Mrs Elsie Anne, Grace Cottage**

**CHAIR**—I welcome the representatives from Grace Cottage. I advise you that the hearings today are legal proceedings of the parliament and warrant the same respect as proceedings of the House or the Senate. 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 be recorded by Hansard and will attract parliamentary privilege, and we ask that the media not record this part of proceedings. Would you like to make an opening statement?

**Ms Bonham**—I am the Aboriginal health worker at Grace Cottage and work with families who are affected or at risk of being affected by family violence, sexual assault and child protection issues. I am an Aboriginal woman and a mum—that is what I am first and foremost. I am also a member of the West Dubbo Aboriginal Women's Group, and so is Mary Ann. Elsie Gordon is the coordinator of the Dubbo Women's Housing Program. The West Dubbo Aboriginal Women's Group have a strong connection with Grace Cottage. If we are ever fortunate enough to receive funding, we would like the women's group to be our auspicing body until we are an incorporated body. What else would you like to know?

**CHAIR**—What is Grace Cottage?

**Ms Bonham**—Grace Cottage is a family service. There are four services that work from Grace Cottage, including the Family Support Service, that supports families with children from nought to 12 years old. So we are quite unique in the fact that we actually work with men, women and the whole family. We have got the Families First service, who cover Narromine—and they covered Dubbo until the funding ceased in June last year. They work with families with children from nought to nine years old. They are a very early intervention and prevention service. Then there is my service, which is working with all Aboriginal families and the community with family violence, sexual assault and all the other things.

**CHAIR**—How is Grace Cottage funded?

**Ms Bonham**—My service is funded through New South Wales Health. We are funded through a whole lot of different places. Families First is DOCS funded through the community assistance package. Family Support is funded through DOCS in the same way. Reconnect is FaCS funded, and that is a youth service. Each service has got Aboriginal people employed, also at manager level. Most of those positions are not identified.

**CHAIR**—How many people would you actually have working at Grace Cottage?

**Ms Bonham**—Eight, with the bookkeeper.

**Senator HOGG**—Not much has been said about sexual assault. Are we talking about young children?

**Ms Bonham**—We are talking about the sexual assault of children through to 80-year-olds.

**Senator HOGG**—How prevalent is it? Is it something that goes unreported because it is taboo to speak about, like in many parts of society?

**Ms Bonham**—From the people that I have encountered, I am facing a lot of adult survivors of child sexual assault, so it has been unreported up until the time they actually came to seek help and support.

**Senator HOGG**—Has it been unreported because there have not been the avenues to report it?

**Ms Bonham**—Speaking at a personal and professional level, the legal system has not been a great place for Indigenous women and children, or Indigenous people. So I guess the fear of the legal system has also stopped us. Just the dynamics of child sexual assault itself stopped us, or prevented us, because of the secrecy and the grooming and what goes with child sexual assault.

**Senator HOGG**—What is the fear of the legal system? What do you mean by that? I am not trying to be smart.

**Ms Bonham**—I can just talk from a personal level. My mother actually sought legal assistance, when we were young children, about sexual assault and she was shunned. They said, ‘Look, this was by a white perpetrator.’ So it was like: ‘Don’t worry about it. There’s nothing you can do. The children are too young’—or for whatever reason. If that happened to my mother then it probably happened to a lot of other women. The fear of our children being taken, because of the stolen generation, is still very much within our communities. Even though we are doing a great deal of work and there have been a lot of barriers broken down, those fears are still there. And there is the fear of the whole family being broken up.

**Senator HOGG**—Do you believe the only recourse to the issue of sexual assault is to the law, if we can put it as such, or is there a proper process for resolution within your own community which may be better than seeking access to the law?

**Ms Bonham**—No, I think the law is what we have to go by. I think that there probably needs to be scope in the law for it to be not so confronting, even when being interviewed. While the JIR team are really good at doing their interviews with children, it is still a horrific experience. Then the child has to relive that in the courtroom, and that is just horrific. That goes for women victims as well. I think that legislation needs to change how we give evidence and how that process is done so that a person is not retelling their story, retelling it and retelling it, because it is a very painful experience.

**Mr TICEHURST**—That probably applies to women generally. I think there was a case recently where a young lady would not go to court because she did not want to relive it, so the bloke has got off.



**Ms Bonham**—That was a horrific thing. It says: how much can one person take?

**CHAIR**—I do not know how to couch this question properly; so again, please excuse me.

**Ms Bonham**—Do it simply, please.

**CHAIR**—I will do it simply, but I am not wishing to offend anyone, so if I do so it is inadvertent. To use the white man's term, the 'age of consent' for women to enter into sexual intercourse is 16 years of age. My very rudimentary understanding is that there was not that age placed upon Aboriginal girls in the remote communities. Can you comment on that bit? Consent is always the issue.

**Ms Bonham**—I have tossed that one around in my own head. There was a case a couple of years ago where a man said, 'She was my bride; she was promised to me,' and there was a big political debate about it. I have tossed it around. I cannot sit here and say that I am an expert on culture, because I do not think that I have the knowledge to do that. What I do know of our culture, and my own analysis of it, is that there would have been a time in a young woman's life in our culture when we reached womanhood—whether or not it was 13—when from our bodies and the women's business stuff that would have been evident. You may have been 18 and still not have been classed as a woman within our culture. Today I do not know about the really remote communities. I do not think there would be too many in New South Wales that would still practise traditional law, customs and culture.

**CHAIR**—Culturally is there an age, or is that something just imposed by European settlement as a law that is outside the custom and tradition of the Aboriginal people? Consent is acknowledged as a totally separate issue. Sexual assault is sexual assault, regardless of the age of the person who is not consenting.

**Ms Bonham**—In today's society—and I can only speak, probably, for the elders in my family—it would be a cultural alibi if they were to say that it is culture to take a 14-year-old girl. That is within my own family. I cannot speak for any other community. I do not know how you two ladies feel about that.

**Mrs Hausia**—The problem is that, whether it is culturally appropriate or not, the age at which young girls and boys engage in sexual acts is getting so much younger. That is the way society is today. They see so much on TV and they hear it on the radio. A hair conditioner is advertised and the ad asks, 'How hot are you?' and 'How cool are you?' It is in kids' faces every day of their lives.

**CHAIR**—Is there enough being expended on safe sex education programs for young people in Indigenous communities to avoid STDs or unwanted pregnancies?

**Ms Bonham**—There are a lot of really good programs—I have attended a few, and I learnt stuff—and we have a lot of Indigenous educators in the field for young people. I think there is a gap, though. The greatest place to get kids is at school, but the education department puts up walls about who they want in the school, what they want taught at school. That is where a whole government approach has to take place—Health and DOCS and the education department have to say: 'Come on; this is the forum. We have got the kids here. Let's do it.'

**Mrs Hausia**—I work 14 hours a week for FPA health—that is Family Planning. I started last June. One of my roles is to go to various Aboriginal organisations to encourage women to come along and have women’s business checked up and everything else, and also to encourage health literacy programs in the schools. So it is just starting off. I am the only Aboriginal worker for FPA in New South Wales.

**CHAIR**—In the whole of New South Wales?

**Mrs Hausia**—Yes.

**Ms Bonham**—Mary Ann just coordinated a training program.

**Mrs Hausia**—It was a peer education program that happened through FPA health, teaching young women how to take control and to encourage other young women to make the right decisions.

**CHAIR**—Culturally, is it acceptable for younger boys to be sexually active? I do not profess to have a great knowledge of Aboriginal culture. That is why I ask the questions. Is it part of the culture that from a certain age—whether it is a young age or older—that they be sexually active?

**Ms Bonham**—What do you consider young?

**CHAIR**—As a father of fourteen-year-olds, I get very worried.

**Ms Bonham**—That is young.

**Mrs Hausia**—It is quite common.

**Ms Bonham**—It is very common.

**Mrs Hausia**—As a parent, it is very hard.

**Ms Bonham**—Once again, I cannot speak for other language groups. I can only speak about those things from within my family context, and from what people I have spoken to have said. There is a sense that the kids are getting younger and younger. It is a shock to the older people that this is happening, so I guess that it is not part of the culture.

**CHAIR**—Very much so. I hear reports that people have done studies and they might say, ‘The average age of young girls commencing sexual activity is 13 and for young boys it might be 13½.’ Is it any different in the Indigenous community or do you think they follow the norms? There is no cultural acceptance of kids starting sexual activity younger?

**Ms Bonham**—No, there is not a cultural acceptance of it. We do not want our babies out there doing that. I think that, for a lot of young people, being sexually active at a young age can be an indicator of abuse at a younger age. That is the reality, which is sad. It could even be an indicator of violent homes or something like that. If things are not good at home then we look for something that feels good anywhere, and if that is a relationship with a 13-year-old kid then that

is what happens. Sometimes there are 30-year-olds who prey on our 13-year-old kids, and the kids class that as a relationship and do not see it as abuse.

**CHAIR**—Given that we are largely talking about legal services, how do you find backup and support through the Grace Cottage of the legal services provided to the Indigenous population?

**Ms Bonham**—Are you talking about the Indigenous legal services?

**CHAIR**—Yes, or legal services in general.

**Ms Bonham**—I guess the problem with the Aboriginal Legal Service is that they have a policy that they do not represent Aboriginals against Aboriginals. Because of funding and things like that, we never get a regular solicitor. Because of the circuit, one client does not see the same solicitor all the time so the solicitor is not following that person's case the whole time. They have to retell their story and they get frustrated. I am the legal centre's serial pest—I ring up asking everything all the time. They are really great.

**CHAIR**—Would it be fair to say that you mostly represent the victim?

**Ms Bonham**—I do support perpetrators of crime through court. That is because they have come into contact with me because of underlying issues. Usually they are referred to me for drug and alcohol problems or depression, or they might be referred to me through probation and parole and they might have a court case going, so I support them through that.

**CHAIR**—You said earlier that the Aboriginal Legal Service will not work with Aboriginal against Aboriginal—they will not represent both sides.

**Ms Bonham**—Yes. That would be in family law cases—there may be a conflict of interest.

**CHAIR**—So it is a matter then of first in, best dressed, whether you are the victim or the perpetrator?

**Ms Bonham**—No, they will not represent either party. But if the case were against us they might ask me if I would mind them representing Mary Ann—and if I gave consent then they might consider doing that.

**Mrs Hausia**—And then refer on to another legal practice.

**Ms Bonham**—Yes. I guess the frustrating part for us, particularly with family law, is finding solicitors that will take on a legal aid case. With family law cases we have rung all over the state looking for solicitors. There was a case where a woman was in court and the judge said, 'If you don't have a solicitor here next time we are just closing the case.' In this case it was this woman against DOCS, so it was pretty important that she had representation. To the magistrate it looked like she didn't give a damn, and there was no-one there to say she had been exhausting every avenue trying to find a solicitor.

**Mr TICEHURST**—Do you have an incidence of teenage mothers in Aboriginal culture comparable to in the rest of society?

**Ms Bonham**—Do we have more?

**Mr TICEHURST**—Is it comparable? Is it about the same?

**Ms Bonham**—We have quite a few teenage mums.

**Mr TICEHURST**—Are they single mothers, primarily?

**Ms Bonham**—No, they have partners, but a lot of the time the relationship dissolves. I do not know why, but I do not look at non-Aboriginal people to see how many kids they have got. I will start now, I suppose—now I have found a gap!

**Mr TICEHURST**—There are a lot of issues there. Some people at schools and some of the other community groups say to me they have problems with children having children, so there are teenage mothers who really do not have much life experience. Would you be supporting younger women in Aboriginal society with the same sort of—

**Ms Bonham**—Yes, I do a lot of that, but I guess the uniqueness with Grace Cottage is that the Families First service actually works with that parenting stuff to support the parent and then might refer that person on to me if there are underlying issues such as family violence. So the case management that happens between the four services is quite unique, and Reconnect is actually a youth service too. The case management is done really well at Grace Cottage; it is like a one-stop shop—people do not have to go all over the place.

**Mr TICEHURST**—There used to be a saying that there was no training for two occupations—one was parents and the other was politicians.

**Ms Bonham**—Yes.

**Ms GRIERSON**—Do you have a lot of grandparents raising their grandchildren?

**Ms Bonham**—I think so. That came up at the West Dubbo Women's Group and we spoke about it when that \$3,000 bonus came in. We have a lot of grandparents and aunts and uncles rearing our loveys, and when that came up they said there would be a whole new generation of unwanted children that we would be rearing. To us, \$3,000 is a lot of money. It is a means to an end.

**Mrs Hausia**—It is to a 13-year-old.

**CHAIR**—It is to a politician too—trust me!

**Ms GRIERSON**—Is there cooperation amongst the women's organisations? We have just had the East Dubbo Women's Group and now we have the West Dubbo Women's Group. Is there cooperation or do you tend to focus on different things?

**Ms Bonham**—I guess we—all the people in groups in Dubbo that I have spoken to—all have a common goal and that goal is equality and a better future for our children and for women. We all have different perceptions of how we get to that point, but we are all invited to be part of any

of those groups. West Dubbo is accessible to the whole of Dubbo, and we can go to East Dubbo and do things. We have done things in partnership before.

**Ms GRIERSON**—So there is really no divide?

**Ms Bonham**—There are factions in Dubbo. I would be a liar if I said otherwise, and I would not be taking any notice of what you have got me under on that piece of paper.

**CHAIR**—Those factions came out through the Mygunya group.

**Mr BROADBENT**—What is your background training, Teena?

**Ms Bonham**—Life experience.

**CHAIR**—The university of hard knocks?

**Ms Bonham**—Yes, that one. Other than that I have worked in schools, I have worked with Home Care and I have done a lot of training through work. I did a certificate IV course that was developed particularly for the strategy that I work under..

**Mrs Gordon**—Non-government organisations look more towards experience with workers than qualifications. I feel our management committees in non-government organisations are very supportive and further our careers. I have a background in nursing. I helped out in ASSPA committees and homework centres, I worked for Aboriginal Hostels and then I got a job at women's housing. My role there was Aboriginal support worker. I attended a lot of training through our training unit. We have a training unit within SAP, our funding body. I went on to become the coordinator because of the training I was able to attend. Even though I have no qualifications, I have done a lot of training and I could probably get recognition of prior learning. I am too lazy to do that; it takes time. The NGOs look a lot more for life experience.

**Ms GRIERSON**—The ASSPA program has identified people and given them a voice. That has allowed us to realise their strengths and encouraged them to take on these roles. It is wonderful.

**Mrs Gordon**—Health have an agreement that all staff that are funded under the Aboriginal Family Health Strategy have a \$10,000 a year training budget and they have also worked with the Education Centre Against Violence in Sydney to develop a certificate IV program for all the workers to attend. Teena has done that and she has also done the certificate IV at TAFE, along with other training.

We base a lot of our work on narrative therapy, which is people telling their stories. Both Teena and I have attended narrative therapy training, and the narrative centre from Adelaide, the Dulwich Centre, came to Dubbo last month to teach narrative therapy. Next month they will come and work with men separating from violence. We also had input at the Probation and Parole Service into a holistic service for men separating from violence, which was an Aboriginal program. Even though we do not work with them, we had input into developing that program.

**CHAIR**—I must draw it to a close there, because we are now running way over time.

**Mrs Gordon**—I think Teena might have wanted to share some of her experience.

**Ms Bonham**—My niece was the young woman who died in custody in the last week. She was found hung in Bathurst. This is a forum where we may be able to think about preventing other young women from doing that. She had been failed in many ways. I am not bitter; it was inevitable. I know that she did it, but way back when, as a child, this young woman was a victim of horrendous abuse. She had not just been failed by the system but by our family system as well. No-one ever heard her story. They only ever saw a drug addict or an alcoholic standing in front of them. Her crimes were all drug and alcohol related.

I spent Friday night in the cells with her. They let me stay with her because she was quite violent, angry, sad and scared. She had actually ripped her shoelace out that night to try and do it. I talked to the nurse at Corrective Services and said, 'This is where she's at: she's scared and she can't go back,' and things like that. So they medicated her. On Wednesday when I went to Bathurst to identify her body I said, 'How did you determine that she didn't need to be on suicide watch?' I am not having a go at non-Indigenous people—do not get me wrong—but it was non-Indigenous people who were assessing this little girl. They never invited her family to be part of that assessment.

There are gaps that might need to be looked at and maybe addressed through some diversionary programs. I am not justifying the crimes that she did or anything like that, but right at the beginning when she was a young person and came into contact with the criminal justice system someone could have probed a little bit deeper and said, 'Why does a young person do this?' They have to be punished for their crime and heal at the same time so that they do not continue to commit crimes. She was a victim of horrendous abuse and she used drugs and alcohol to cope. She became a part of the justice system and she could not escape from it.

**Mr BROADBENT**—Teena, is there some program in the processes of the legal system that we could be running for Indigenous women? I do not want you to answer the question now. You probably could think of a number of programs that could be incorporated into the legal system. You might like to sit down with Mary Ann and Elsie to see what you would do if you had the freedom to do whatever you wanted to do. One might be along the lines you have just proposed. I wonder whether you could put a note together and get it off to the committee.

**CHAIR**—On behalf of the members of the committee—I think I speak for all of them—we are very sorry to hear about the tragedy in your life. We do thank you for sharing it with us.

**Ms Bonham**—I just hope that you might make changes.

**CHAIR**—We have heard the message loud and clear about early intervention into people's lives as one of the best ways of fixing a problem, rather than after the fact. That message has come through very clearly. Thank you for coming today and thank you for sharing that information. We wish you well with the work that you do at Grace Cottage.

**Ms Bonham**—The Golbri men's group from West Dubbo are the unsung heroes in this community, because they have also taken a stand. They organised 'Reclaim the Community' over there with the West Dubbo women's group. Have you met with them? They are talking

about those things. They have driven the community night patrol. They really are exceptional people with the work they are doing for crime prevention.

**CHAIR**—It is not just all about crime prevention; it is about preparing people better with life skills.

**Ms Bonham**—Yes. That is it.

[2.58 p.m.]

**APPS, Miss Natalie Jacquelyne, Work Experience Student, Dubbo Regional Office, Legal Aid Commission of New South Wales**

**LAMOND, Mr Graham Francis, Solicitor in Charge, Dubbo Regional Office, Legal Aid Commission of New South Wales**

**CHAIR**—Welcome. Before I begin, 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 be recorded by Hansard and will attract parliamentary privilege. You have requested an opportunity to update the committee on the concerns that you have regarding the tendering out of Indigenous legal services in regional and rural New South Wales. Would you like to make a statement?

**Mr Lamond**—Thank you for the opportunity to appear today. As has been discussed earlier, with the reconstitution of the committee, which is why this opportunity was given to me, things have moved on from when Mr Bill Grant, CEO of the Legal Aid Commission of New South Wales, and Louise Blazejowska gave evidence before the committee. My reason to contact the committee was to give an insight into the distinction that exists between our office and those in other areas of New South Wales—I cannot speak for other states—because of the distinction between the Western Aboriginal Legal Service and other ALSs in the state.

You have heard a lot, obviously, today from representatives of WALs and also from Eric Wilson, who is a former principal solicitor to WALs. I also had the privilege of working for that organisation for 5½ years. I was present when evidence was given earlier this morning, and one thing which perhaps was not stated was the slight distinction they have with the policy of black on black. I noticed Teena referred to it with respect to family law and the like. When it comes to criminal law, WALs has not had a non-black on black policy. Other ALSs—and I cannot speak for the evidence they gave—do not appear in matters where a criminal charge arises from an allegation involving another Aboriginal person. So in a domestic violence matter they would not appear for either. In those cases the Legal Aid Commission invariably picks up the perpetrator, and, one would hope, the victim's interests are represented by the state, by the police service. That is, I suppose, the dynamic which is across the state.

The Western Aboriginal Legal Service does not have that policy, so it has meant that, proportionally, far more Aboriginal people are represented by the WALs in their region than are represented in other regions. The impact that the Aboriginal legal service has upon the Legal Aid Commission is therefore greater in this region than in other regions. That was the main purpose for coming and seeking an audience with the committee.

Before I do go on—if you would not mind me commenting on Teena's evidence particularly—Teena and I worked closely with that young woman who tragically killed herself recently. I have known that young girl since she first came into the system. Comments were made earlier about the statistics being bad and getting worse and about whether that is a representation of a failing



on behalf of the lawyers. Self-interest suggests that I cannot say it is, because I was part of the deceased girl's process through the courts, culminating most recently in her suicide. It is a complex dynamic. I do not think it is fair to say that. My experience with the Legal Aid Commission—I have now been heading the Dubbo office since its inception 2½ years ago—is that we see very similar dynamics and similar statistics from the Legal Aid Commission side, representing predominantly non-Aboriginal people. So the rates of incarceration, or the prison numbers, are increasing. So I do not think it is a reflection of a failing within the ALSs.

The primary submission that the Legal Aid Commission made was that they are successful, they do work. That was said even though my experience with WALs would suggest that other ALSs hang on to a policy which I do not necessarily accept. That is just my professional view about non-black on black. I do not see how a body that is set up to be a specialist organisation to represent Aboriginal people can hold on to that, because there are vast numbers of Aboriginal people going through the court systems that are not represented by the specialist organisation that is set up to handle them. That is why I suppose WALs is a very useful case study, because I think it has been highly successful. It has a fantastic reputation within the legal community. There are a number of very successful advocates who have gone on to greater things from their time with WALs. Eric is one example of public defenders, and a number of other public defenders started as very junior solicitors at WALs and learnt the ropes at WALs.

**Ms GRIERSON**—Do you think they have discussed that? Have they countenanced changing that policy?

**Mr Lamond**—It is something that I understand has been raised, particularly in closed-door discussions—which I was not party to—with respect to how to deal with the proposed tender and how to deal with the suggestion that it should be a state-wide body and not fragmented, as would be the preferred model, particularly for WALs's continued existence. I think that is something that is creating a great deal of discussion. There are some bodies which are holding out. WALs, I understand, clearly is pushing that that policy be removed.

**CHAIR**—One of the things that is echoed in a large range of submissions from various players all over Australia is that only Aboriginal legal services can understand and infiltrate the Aboriginal communities to provide the service that they need. What are your thoughts on that?

**Mr Lamond**—It is undoubtedly true, and I can use my own experience as an example of that locally. I am finding that members of the Aboriginal community who know me because I have been working in this area for 11 years—in the same field and previously with the ALS—will seek out my services even though I am no longer with the ALS. There is this idea of familiarity with a solicitor whom they know has in the past worked for one of their organisations. The Legal Aid Commission would pride itself on the awareness courses that have been run. Some of the evidence that people gave earlier was that cultural awareness seminars are conducted by the commission for commission solicitors to improve that awareness. Leading on to one of the terms of reference, the sad reality is that the vast majority of legal graduates have probably never met an Aboriginal person, let alone had an Aboriginal person come to their house and sit down for a cup of tea or a drink or had an Aboriginal person as their friend. It is probably geographical more than anything else.

**Mr BROADBENT**—Can I push you to expand your answer to that question? The sad part about Indigenous involvement in all aspects of the interface in programs run by the government, by legal aid or by whoever, is that in every situation there is fear. In the previous sad example we talked about, the point is that that girl was scared stiff. Fear itself was driving her as much as the problems she faced. Throughout today's hearing I have heard time after time that organisations are doing better because they have a receptionist or because they have an Aboriginal outreach worker or because of the interface created by the Aboriginal women in east Dubbo that has created the opportunity for them to express themselves in new ways so there is a benefit for the next generation. Do you have any ways where you can see further interface happening?

**Mr Lamond**—The commission has in its offices three Aboriginal people. The office manager, who is currently on leave, claims Aboriginality, a clerical officer claims Aboriginality and we have a young trainee receptionist. That is part of the commission that is being championed by the CEO to not only create employment opportunities but also get that front of house face for Aboriginal people. My experience with WALs before I left in 1999 is that after the restructuring of the ALSs in 1996 and the tender processes brought in by ATSIC there was a seeming backlash from local Aboriginal people because they did not believe that that organisation was theirs. There was even a reluctance to come into the office. It was certainly not a criticism of the people who were working at WALs at that time but it was the perception. How you break that down is extremely difficult. Familiarity is the only way. When we get out to the community with outreach services it is us going out to people or Aboriginal organisations rather than expecting the Aboriginal person to come to us.

**Senator HOGG**—In evidence this morning Mr Wilson—I do not know if you heard him—gave us the length of time that solicitors stay.

**Mr Lamond**—Yes.

**Senator HOGG**—I thought that was very telling indeed because in the 1978 to 1990 period it averaged four years and 10 months. In 1990 to 2000 it went down to two years and one month. Between 2000 and 2005 it has averaged one year and five months. We have also heard from other witnesses today that the difficulty—I think Teena said this—is that there is no consistency in the person they are seeing through WALs and similar services. In your view, how can that be overcome to give better representation to the Indigenous community in very important legal matters?

**Mr Lamond**—I was one of the people who perhaps extended those statistics a bit better than they could have been because I stayed a bit longer than the average at WALs. One of the reasons I left was that my partner and I had a family. Working for WALs, given the stresses and the time and the distances travelled, was not consistent with family life. Creating a career structure is something that the ALS has failed in doing. I think that is reflected in those statistics.

**CHAIR**—What I am trying to get to is: is it a career structure, is it a matter of the funding that the legal service is getting or is it both, or is there some other factor there that has not yet been mentioned that we need to tap into?

**Mr Lamond**—My thoughts immediately are that part of the discussions that have been going on before the committee are assuming that there is a pie which needs to be divided up between

legal services for fighting crime, civil and other things. Something like Grace Cottage should not be included in that pie because it is the wrong pie. It is a fabulous, community based service—I know Teena through my work with her—which should not be coming out of that pie. It is a different idea. It gets back to preventative measures.

**CHAIR**—It is all too fractured. There are too many people trying to provide the same service.

**Mr Lamond**—The commission has piloted a cooperative legal service delivery pilot to try to do that. From our point of view, from the way that the Dubbo office of the Legal Aid Commission tried to utilise its resources, it has been a valuable tool in that we see ourselves as the last resort. Obviously we are not—people come to us first. But where no-one else is providing that service, then we must step in and provide it. For western New South Wales, we have been able to map out what services have been provided. Where there was a gap, we have been able to fill it. So it has been very useful in that respect, to try to decrease that doubling up. The point you made earlier was that a lot of this is past the post. As soon as you get lawyers involved, it is past the post. My concern with a lot of the discussions that are had on this point is that people say, ‘We need more lawyers’. We do not need more lawyers. Some of these issues have been dealt with by community workers, by drug and alcohol counsellors, by things that are set up like that. You do not need more lawyers to hold someone’s hand when they go to court. There is certainly a role for that in many areas. It is my perception that it is a common belief that that is what we have to do—get more lawyers.

**CHAIR**—That is why I have asked my question, and I still want to come back to it. It is not necessarily a matter of putting more money into getting more lawyers. You may start to break some of the difficulties down by having the lawyers stay longer. I am not trying to put words in your mouth. I am trying to get the solution from you, rather than me offering up the solutions by decree. There may be something we have not even thought of.

**Mr Lamond**—One of the problems I have had with the readings is that the cart is before the horse in determining how much money is going to be spent in this analysis of the problem, and how it is to be spent. There is the assumption, I suppose, that if there has been a bias towards crime, there has been a wrong allocation of resources. I think it is the reality, because we deal with life and death situations with people in custody, that we are going to give that a greater priority than someone who has a civil debt, which theoretically could be dealt with by someone else. That is my approach to how those resources have been allocated, and the Sophie’s choice, or the Hobson’s choice—

**Ms GRIERSON**—We are talking about Indigenous legal services, and we have heard about that sad and tragic incident of a death in custody. You and I know that there have been so many resources inquiring into how to address deaths in custody. Where does a legal service stop and where does it begin with a person in that situation?

**Mr Lamond**—Obviously I could not help her because I appeared on the bail application—which is currently the bail law—with her terrible record, which was almost exclusively drug related. Teena knew much more about her background than perhaps I was privy to—and appropriately. I am dealing with the legal aspect of her life, not so much with her past. So the law essentially meant that she was going to be locked up. What other structures could have been in place to try to save her life once she was in the system? I think Teena commented that ‘You

had these people who obviously totally misjudged this girl to allow her to be able to take her life'—

**Ms GRIERSON**—There seems to be a need for a more seamless delivery of services that cross from legal to support. I think one thing that Teena said was terribly important, and I have probably never heard anyone say it quite so clearly: how do you get healing with punishment? That person is not ready for a rehabilitation program—of course they are right in the middle of a criminal case or possibly incarceration—yet the healing process obviously has not kicked in at any time in that person's life.

**Mr Lamond**—But then I would say that the difficulty we start getting into is state and federal jurisdiction.

**Ms GRIERSON**—It is terrible—it comes out in these inquiries.

**Mr Lamond**—These are federal issues, but most of the day-to-day stuff that we are dealing with are state issues. State crime is the vast majority of crime that we and the ALSs deal with. There is some Commonwealth crime.

**Ms GRIERSON**—Commiserations to you too. I am sure it has been a very bad situation for everybody.

**Mr Lamond**—Sadly, she is not the first person who has been in that situation—non-Aboriginal people have also been there.

**Mr BROADBENT**—Mr Lamond, I note you are ably assisted today by Natalie Apps. So now she is in the *Hansard* again! I want to talk about another divide, which you have just raised, between federal and state. I was trying to put it to you before that we need more liaison persons of Indigenous descent. However, isn't there another problem in the groupings—tribes—and therefore a cultural divide? In the tragic circumstance that has been described today you would actually have to have the right liaison person to go into that situation, wouldn't you?

**Mr Lamond**—I suppose ideally, yes. But in that sort of crisis situation, I would like to think that there could have perhaps been a more approachable or a more appropriate person dealing with it. In the situation of the young girl we were talking about, I do not think she had anyone. I do take your point, though.

**Mr BROADBENT**—I am sorry, I should not have taken you back to that situation.

**Mr Lamond**—I do take your point that that will always be a difficulty. Witnesses at today's hearing like Mary Ann Hausia, who is part of the circle sentencing, and Ros Barker are working their way through negotiating that. You probably heard about the pilot that was initially run in Nowra and came out to Dubbo. It has now been taken to Brewarrina and further to Bourke and Walgett. The difficulty they will have is in finding someone who is accepted by the community as a representative of the community. Even in my relatively short experience in western New South Wales—11 years or so—I have seen some of the older structures breaking down, where the elders perhaps are not as respected as they traditionally would have been. That is obviously my non-Aboriginal perception of it. Most recently a young Aboriginal bloke was sentenced for a

very serious matter. He was saying that some of the drug and alcohol issues that affected the community meant that he had no guidance. There were no elders, or the elders that existed could not get through to him because so many other people who were his contemporaries and his parents' contemporaries were horrible role models. They were just hopeless role models. So, at the tender age of 23, he has spent the last 10 years in institutions.

**Mr BROADBENT**—When the member for Dobell and I today walked the streets of Dubbo to find the best sandwiches, which we did—

**CHAIR**—Are you being paid to get this in *Hansard*!

**Mr BROADBENT**—Absolutely, at the video shop on the corner.

**CHAIR**—Is this cash for comment?

**Mr BROADBENT**—There were a number of other services that we noticed along the way: the Aboriginal employment service and so on. If we kept walking we would probably find a lot of others. The west group seem to need to pull something together for themselves, while the east group already have a community centre. So you have these small groupings of people taking issue at a very small, localised level and addressing issues that are important, and they are successful. However, the nation is trying to throw a lot of money into a place like Dubbo through all the different support services. The criticism was, 'Hang on, we've got Green Corps,' but there are 6,000 Aboriginal people here and 150 places for Green Corps. Would you comment on that? Is there a place for an inquiry into how we could rationalise some of these services?

**Mr Lamond**—At the risk of giving evidence that has been recorded, I can tell an anecdote from my experience which I think might answer the question about the benefits an inquiry would have. I used to regularly appear at Bourke local court. List days out there are the days that every fresh matter comes into the court and then older sentence matters come before the court, as distinct from, say, hearing defended matters. At Bourke there were always two WALS solicitors and we would regularly appear for about 20 to 25 people each.

There were three groups out there which started running simultaneously. One was the CDEP, the government's development employment program which is still running and has always been the Aboriginal Work for the Dole—it started in some of the Aboriginal communities out west here and was the model that was picked up. There was a Bourke enterprise development agency, which the Bourke Shire Council got special funding to run, and there was a thing called SkillShare, which unfortunately was axed. With those three organisations running simultaneously in the township of Bourke, we got to the stage where during one morning tea at Bourke local court on a list day we were sitting around going: 'Where is everyone? Have the police made a mistake—have they adjourned things to the wrong day?'

**Mr BROADBENT**—There was a 100 per cent drop?

**Mr Lamond**—There was an incredible drop. This is anecdotal; I cannot back it up with any meaningful statistics. But it was apparent to everyone at court, the magistrate included, that something had happened. Sadly, once the Bourke enterprise development agency ran out of money and SkillShare was axed, the lists went back to the rate at which they had been. I really

think that an inquiry is needed, because it is not just unemployment but underemployment that affects some of these rural communities. Perhaps, hopefully, it is good management that you have come to Dubbo. I think it is a great case study because it is a town that grows not perhaps by generating its own industry but by—

**Mr BROADBENT**—Being a centralised point.

**Mr Lamond**—economic refugees coming into Dubbo to look for better options from some of the smaller communities west and north that are dying out, such as Gilgandra. Their populations have been decreasing for years and the population of Dubbo has been correspondingly growing. In Dubbo you have that mix of a number of different traditional groups coming together and having difficulty in addressing their land. That has been addressed with circle sentencing. The model in Nowra was that the elders of that community would say, ‘You have wronged your community,’ and the model I had to adopt in Dubbo was: ‘You’re a visitor on our land and you have wronged our community.’ They are trying to address it in that respect.

**Mr BROADBENT**—What has kept you in Dubbo?

**Mr Lamond**—That is a question I think of often. Certainly the work. Despite the professional difficulties, the opportunity for me in developing my own career has primarily kept me here. But I actually have suddenly realised that I like the place.

**CHAIR**—I have some questions for Miss Apps. What university are you studying at?

**Miss Apps**—Charles Sturt in Bathurst.

**CHAIR**—How long have you been doing that?

**Miss Apps**—This is my third year.

**CHAIR**—How long have you been at Legal Aid in Dubbo doing work experience?

**Miss Apps**—This is my second day.

**Mr BROADBENT**—It is a pretty heavy day.

**CHAIR**—From your studies at university, what is your opinion and interpretation of the way that legal services are provided to the Indigenous communities in Australia?

**Miss Apps**—I had not really heard of the Western Aboriginal Legal Service, which is here. Obviously I had heard of Legal Aid and I figured they covered a lot of Aboriginal cases. I have heard of Aboriginal legal services as well, but I did not know much about them, other than that they took most of their cases.

**CHAIR**—Do you have any preconceived idea of what they are about and how they work, and is that preconception, after listening to the evidence today, being diminished?

**Miss Apps**—No. What I heard today was pretty much what I thought.

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**CHAIR**—I just thought it would be interesting to ask a person who is actually studying law what their views are. Do you have anything you would like to add to the committee?

**Miss Apps**—I am from Wellington, a small town near Dubbo. It has a large Aboriginal population, so I have grown up around them.

**CHAIR**—As a young person growing up in a small town with a high Aboriginal population, what challenges did you face as a young non-Indigenous person in that community?

**Miss Apps**—It is hard when there is a lot of racism. Half of the town is racist; half the town is not racist. They do not know who they can trust—who we can trust. There is a lot of that in the school against the white teachers. There are a lot of family orientated groups.

**CHAIR**—Without positioning yourself, is it your intent, when you finish your law course, to come back to the bush to work or go to the city?

**Miss Apps**—I am actually not doing law, but I would like to stay in the country if I can.

**CHAIR**—Thank you very much for coming along today. Mr Lamond, is there anything you would like to say in closing?

**Mr Lamond**—I have had a few ideas. One thing I would like to remark on, from the small amount of evidence I have heard today, goes to the distribution of resources. I think there is a real issue about the reality of legal service delivery when you compare crime to family, state and other issues. With crime, you have the state against an individual, so in some respects it is easy to choose a side. You run into incredible difficulties in civil—it is an individual against an individual, almost invariably. In family, of course, it is always individual against individual. It gets even more murky and complex when you have to deal with care proceedings and children. Professional legal conflict does not arise as often in crime as it does in family law. Obviously, it arises every time in family law.

That is an issue that goes to the necessity, from my point of view, for the ALSs in this region. We need more service providers, quite simply, to overcome the problems we have in finding representation for everybody. Teena touched upon that when she said that with family law there is a difficulty in finding representation for both sides—that is, if we take one, of course our office cannot represent the other, and no-one else in the Legal Aid Commission currently can. I think the issue of conflict was addressed previously.

**CHAIR**—How do you pick which side?

**Mr Lamond**—As rudimentary as it sounds, sometimes, when it comes to family law, it is first through the door. But there is an obligation on the commission to find representation for the other side, and, out here, that is extraordinarily difficult. The memorandum of understanding was an attempt to try to address that. It has not been highly successful, though, I must say, because there is a perception—and I do not make any comment on this—that the ALS could not get involved because it would be perceived to be taking sides. Even though the commission, technically, would be funding both sides, a commission solicitor would be appearing for one side

of the family law dispute and the ALS for the other. The ALS did not want to get involved because of the perception that it would be taking sides.

I made a submission to the board of WALs about this, to try to say that this is not how we would operate it. The response was, 'No, the perception would be divisive,' so you have one service provider who is not able to assist in that regard. The Legal Aid Commission in Dubbo came into existence because the private profession, for many reasons—and I could get into a detailed lecture about the reasons—stopped being part of the duty solicitor scheme. They were not prepared to take on legal aid matters. It gets back to the career part of what is going on in rural communities whereby professionals do not want to make careers out here. The legal profession is ageing and there has been a reduction in the number of young solicitors coming out here who are prepared to remain in the country. Private firms contracted by the commission have been the traditional providers of legal aid services, so where there is not an office, the way it is usually managed is that a junior solicitor within a private firm will be a delegated solicitor for the commission. That is an ongoing problem. It is a problem we face every day when trying to find representation for people where there is a conflict, in all areas of law.

**Ms GRIERSON**—Do you think women specific legal services have a place, or is there a danger of them becoming so specific, so separate, that they become lesser?

**Mr Lamond**—I do not want to appear to be saying, 'No, they don't have a place,' because of course they would be performing a role. Teena has touched upon the necessity for women to have greater access to the criminal justice system. It just depends on whether that is the best way of going about it, and I am not equipped to talk about that. I think the danger would be that you would take away money from areas that are chronically underfunded anyway to fund that area. When it was mooted previously, that was my reaction to it: that you cannot take it away from us—because we are starving anyway—to create another service.

**CHAIR**—Thank you for coming today to provide information to our committee. At this point we would normally move that the committee authorise publication of the transcripts of today, but because we have heard information that may attract sub judice, we need to take advice. So we will hold that over until we have been appropriately advised. There is no objection to that by members of the committee. On behalf of the committee I would like to thank all of the witnesses who have given evidence to the public hearing today.

**Committee adjourned at 3.30 p.m.**