



CENTRAL AUSTRALIAN WOMEN'S LEGAL SERVICE Inc.

Submission No. 8

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Secretary
Joint Committee of Public Accounts and Audit
Parliament House
Canberra ACT 2600

20 May 2004

By facsimile: (02) 6277 2220



Dear Sir / Madam

Indigenous Law and Justice Inquiry

We refer to the Indigenous Law and Justice Inquiry and enclose our written submissions on specified terms of reference that in our experience are particularly salient to Indigenous women of Central Australia.

Background - The Central Australian Women's Legal Service Inc. ('CAWLS').

The Central Australian Women's Legal Service Inc. is a community legal service funded by the Commonwealth Attorney General's Department and located in Alice Springs. CAWLS was formally established in 1997 and currently employs two part time solicitors, a part time paralegal, a full time office administrator and a consultant bookkeeper.

We provide legal advice and representation to women of Central Australia, participate in law reform, provide community legal education, and submissions on legal policy. In addition to our Alice Springs office we provide by-monthly legal advice clinics and community legal education workshops at Tennant Creek and Alekerange.

Subject to resources, legal casework is provided for women who cannot obtain legal assistance from any other service and who cannot afford the cost of private legal representation or assistance, or, where it is not practical or appropriate to access other legal services or private legal representation and it is practical and appropriate to access CAWLS.

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

In providing legal services to women in Central Australia, CAWLS has a special focus on women who face impediments to accessing justice for reasons of race, culture, poverty,

language, sexuality or disability. Special concern is extended to women who are affected by domestic violence, Aboriginal women in remote communities, and women who financially cannot afford to access existing legal services.

In addition to the general legal service CAWLS also provides the Alice Springs Domestic Violence Legal Service to women of Central Australia. Funded by the Northern Territory Government, the domestic violence legal service provides legal advice, support and representation to women who have experienced or are experiencing domestic violence, and conducts community legal education workshops in Alice Springs.

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

For the same period approximately 20% of CAWLS clients identified as Aboriginal. Approximately 10% were from the Tennant Creek Region and Alekerange, and approximately 4% from other areas outside Alice Springs. 60 % sought assistance with respect to family law matters and 10% with respect to issues of violence against them.

a) The distribution of Aboriginal and Torres Strait Islander Legal Services resources amongst criminal, family and civil cases.

It is crucial that legal services for Aboriginal people are adequately funded. Equality before the law is unobtainable if Aboriginal people cannot access an appropriate legal service provider or participate fully and confidently in legal matters that affect them. This requires the structure, proficiency and cross-cultural expertise of a specialised aboriginal legal service provider.

In our experience the most significant factor affecting available resources is the level of funding, which dictates the level of service available, and a services ability to reach and adequately service clients. Additional resources to appropriate service providers would assist to reduce existing limitations.

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

c) The access for Indigenous women to Indigenous-specific legal services.

Subject to available resources CAWLS provides high quality and cross culturally appropriate legal services to Indigenous women of Central Australia, and in particular at Alekerange and Tennant Creek through legal advice clinics and community education workshops.

All of our Indigenous client's experience one or more barriers to accessing legal services. In addition to these barriers, once a legal service is accessed further impediments can be imposed as a consequence of inappropriate structural or service delivery issues, for example, the failure to provide appropriate or effective cross cultural services, female staff, or to engage an interpreter or cross cultural brokers as required.

Indigenous women in Central Australia experience barriers to accessing legal services as a consequence of history, race, culture, poverty, language, and disability. These barriers are exacerbated where women reside in remote communities, do not have access to transport and or cannot easily travel to attend a legal service due to family or cultural commitments. For example, it is not unusual for Indigenous women in Central Australia to live 200 or more kilometres from a legal service.

For the period 1 July 2002 to 30 June 2003 approximately one third of CAWLS clients were in receipt of social security benefits, CDEP, or received no income at all, and approximately 20 % were part time employees. The impact of such restricted incomes is to preclude many of these women from accessing private legal representation or assistance due to the costs involved.

The majority of Aboriginal women who access CAWLS speak English as a second, third, fourth or even fifth language. Without access to an accredited interpreter many of these women are unable to participate fully and confidently in legal matters that affect them. In some cases these women are precluded from obtaining advice and or pursuing legal right and entitlements.

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

CAWLS was formally established in 1997. In our view, the **most pressing legal issue affecting Indigenous women of Central Australia remains access to justice.** By this we mean access to an appropriate lawyer, being heard by the justice system, working 'proper way' within the justice system, being informed of one's legal rights, entitlements and options, and being able to participate in a fully informed way. This includes community legal education, law reform and community development, which seek to address and redress existing barriers to access to justice. It also requires that service provider staff complete cross cultural training, and education in racial and gender discrimination.

In addition to these barriers, to effectively service Indigenous women legal service providers must consult women in the Indigenous community that they wish to provide services to before the service commences community visits, and ensure that the voices of women in the community are heard and acted on in determining protocols and structures for service delivery and organisational models.

d) Tendering of Indigenous legal services.

CAWLS submits that the provision of Indigenous legal services should not be subject to tender, and tendering of Indigenous legal services is not consistent with best practice for government service delivery.

In our view best practice for government service delivery of Indigenous legal services requires a legal service delivery model and structure that incorporates local Indigenous representation and Indigenous decision making structures.

Specialised Indigenous legal service providers, including the Northern Territory Aboriginal legal aid services and Northern Territory women's legal services, already represent and reflect the Indigenous community that they service. In addition to this these services have a demonstrated experience and sensitivity to pertinent cultural and logistical issues, and the capacity, expertise and proven history to effectively represent Indigenous clients whilst strategically pursuing redress of structural inequalities via law reform and legal policy submissions.

In the Northern Territory only specialised Indigenous legal services possess the particular expertise, community networks, service delivery framework, and appropriately skilled and trained staff to ensure best practice delivery of Indigenous legal services. These attributes are essential components of effective aboriginal legal service delivery.

We express the strongest possible reservations about the tendering of Indigenous legal services, as existing and potentially alternate legal service providers already operating in the Northern Territory are not able to provide best practise without duplicating existing structures.

We finally and most importantly note instructions from a previous consultation with Indigenous women that the issue of autonomy, self determination and a sense of being strong culturally must be respected and reflected in legal structures – and this requires appropriate consultations with many different Aboriginal communities. Government and lawmakers must consult with Indigenous Communities and the voices of Indigenous women must be heard and listened to.

We thank you for the opportunity to raise these issues. Should you require any further information or wish to discuss this further please contact the writer on 8952 4055.

Yours Sincerely,
Central Australian Women's Legal Service Inc.,



Vanessa Lethlean
Solicitor / Coordinator