



**Submission to Senate Select Committee
on Regional and Remote Indigenous
Communities**

May 2008

INTRODUCTION

1. Legal Aid Western Australia (“Legal Aid”) is the largest provider of legal services to disadvantaged people in Western Australia with nine offices across metropolitan and regional Western Australia including East and West Kimberley, South West, Pilbara, Goldfields and Great Southern regions. Legal Aid also provides services for Christmas Island and Cocos Island. Legal Aid’s experience in the provision of legal services in remote and regional Western Australia puts it in a strong position to make informed comment on the how to improve the wellbeing of these regional and remote Indigenous communities through better resourcing of the justice system to improve access to the legal system.
2. In Legal Aid’s experience, unique issues arise in the provision of justice in Western Australia due to its size, diversity of population and the geographical isolation and remoteness of many people and communities. Ensuring better access to justice poses particular challenges within Western Australia, to ensure that those people isolated within the community have their rights upheld and are given the same opportunities as those in metropolitan and less remote areas to access a legal system that can meet their needs.

Legal Aid believes the disproportionate number of Indigenous people in WA in custody, before the courts, and with children in State care is inextricably linked to health, housing, education and training and welfare problems in these communities. Improvements in the justice system will have reduced impact unless they are part of a holistic approach drawing on the strengths of these communities at the same time as well as addressing the problems in health, education, and welfare.

3. Western Australia’s size and Indigenous diversity creates a number of challenges for Australian and State Government policies. This submission covers:
 - a. The delivery of services to Indigenous communities particularly in relation to programmes for offenders;
 - b. The need for adequate resources to ensure access to justice in remote communities; and
 - c. The need for eligible people in regional and remote areas to be aware of entitlements under Redress WA and criminal injuries compensation.
4. These recommendations would, if implemented, impact positively on the wellbeing of regional and remote Indigenous communities.

5. Legal Aid submits that current policies in regional and remote Indigenous communities need to be overhauled to better meet the needs of the communities and to make the communities safer and makes the following recommendations.

SUMMARY OF RECOMMENDATIONS

- a. Commonwealth and State funding be allocated to expand the level of legal assistance provided to regional and remote Indigenous communities to make the level of assistance more comparable to that received in metropolitan areas.
- b. For programmes to be effective in reducing crime in regional and remote areas they need to be accessible in those areas, tailored to local conditions after consultation with local communities and employ local Indigenous staff wherever possible.
- c. Positive incentives are needed to attract psychologists, psychiatrists and other mental health workers, including those with expertise in working with children and young people, to regional localities.
- d. Pre-sentence programs should be extended to regional areas and delivered in consultation with local Indigenous communities.
- e. Appropriate services and systems should be put in place for children and young people charged with sex offences and those on the Sex Offender Registry.
- f. Supported accommodation should be established in regional areas for people with mental illness and should reflect local community requirements.
- g. Regional bail hostels should be established.
- h. Local community members should be resourced in all regional and remote Indigenous communities to act as community liaison and support persons on issues concerning tenancy, employment, welfare and related areas.
- i. A community bus and driver should be allocated to each remote Indigenous community accessible by road.

- j. Culturally appropriate communication technologies and support services are needed in all regional and remote Indigenous communities.**
- k. Recommendation 8 from Coroner Hope's inquiry should be implemented as soon as possible.**
- l. Government agencies (eg the Department of Housing and Works, WA Police, the Health Department, the Department for Child Protection) should have co-ordinated administrative boundaries to assist people to more easily access services and utilise a multi-function government office centre.**
- m. Remote and regional Indigenous communities should be resourced with expanded facilities for children and young people to promote a healthy and safe community, to create meaningful job opportunities and for the supply of services that assist with the prevention of harm.**
- n. Funding needs to be available for the ongoing training of all of those who work in the justice system in remote and regional Indigenous communities to ensure the responsiveness of the system to local needs.**
- o. Use of Justices of the Peace in remote and regional Indigenous communities needs to be confined to exceptional circumstances only.**
- p. Video link facilities should be made available in all communities for the purpose of bail applications and hearing matters where it is not practical to have a magistrate physically present.**
- q. Family Court of WA funding be increased to expand the Child Related Proceedings programme to regional areas.**
- r. Adequate funding is needed to ensure qualified interpreters are available as needed.**
- s. Community courts should be established in all remote and regional Indigenous communities where supported by the community.**
- t. Additional resources be allocated to implement recommendations (b) and (d) listed above.**

- u. Drug and alcohol rehabilitation facilities and services are needed in regional and remote areas with specific programmes for children and young people.**
- v. The number of drug and alcohol rehabilitation facilities should adequately reflect the number of drug and alcohol affected members of the community.**
- w. Funding of child protection needs to be adequate to ensure regular contact between parents and children if this is in the child's best interests and recommendation (a) needs to be acted on to ensure legal representation of parents and children in protection and care matters.**
- x. Additional resources should be provided to assist in the provision of advice to regional and remote Indigenous communities to assist in eligible applicants accessing compensation under Redress WA and criminal injuries compensation.**

THE IMPACT OF STATE AND TERRITORY POLICIES ON THE WELLBEING OF REGIONAL AND REMOTE INDIGENOUS COMMUNITIES

6. Although this submission focuses mainly on this term of reference, the measures outlined would impact positively on the security of children in regional and remote Indigenous communities and it is submitted that without meaningful employment and enterprise opportunities in these communities, the long term wellbeing of these communities is at risk.
7. Legal Aid notes that funding has recently been allocated to establish a Legal Aid office in the East Kimberley, for the appointment of a magistrate and additional court staff to reduce delays and to fund the outreach services provided to Indigenous communities in the north-west by Kimberley Community Legal Service. Additional Commonwealth funding is required to enable Legal Aid, Community Legal Centres and the Aboriginal Legal Service to provide the level of legal assistance required in remote and regional Indigenous communities so that the level of assistance is more comparable to that received in metropolitan areas. Legal Aid submits that service provision is both more difficult and different to that required and provided in metropolitan areas and that the level of funding has not historically reflected the different needs in service provision in remote and regional communities in WA. Legal Aid submits the same is true of service provision in health, education and welfare which has adversely impacted on the wellbeing of communities.

RECOMMENDATION:

- a. **Commonwealth and State funding be allocated to expand level of legal assistance provided to regional and remote Indigenous communities in order to make it more comparable to that received in metropolitan areas.**

**PROGRAMMES, SERVICES AND OTHER SUPPORT FOR
INDIGENOUS OFFENDERS AND THOSE INVOLVED IN PROTECTION
AND CARE AND FAMILY COURT MATTERS IN REGIONAL AND
REMOTE AREAS**

8. There needs to be local input from Indigenous communities into the design and delivery of programmes so that they are relevant and useful to local people and take into account the circumstances of a particular locality. The employment of local Indigenous staff greatly assists in relation to this and it is important for there to be local contacts for facilitators providing programmes on circuit to assist with input into offender treatment strategies and for the provision of interpreting services if needed.
9. Indigenous offenders in regional and remote areas should have access to a similar range of pre-sentence and post-sentence programmes as offenders in metropolitan areas. Offenders in regional prisons should not have to travel to metropolitan prisons from regional prisons to access suitable programmes for rehabilitation.
10. Programmes, especially for rehabilitation, should be regionally available. One possible method of delivery is through programme facilitators travelling on a regular circuit to deliver custodial and non-custodial programmes, or as otherwise determined in consultation with local communities.

RECOMMENDATION:

- b. **For programmes to be effective in reducing crime in regional and remote areas they need to be accessible in those areas, tailored to local conditions after consultation with local communities and employ local Indigenous staff wherever possible.**
11. Coroner Hope's 2008 coronial report¹ into Aboriginal Deaths in Fitzroy Crossing in the Kimberley highlighted problems with health and mental health services, education and child protection. Legal Aid supports His Honour's recommendation that there be a general increase in health services to improve the health of Aborigines in particular compared with other Western Australians and mental health services be extended to enable Kimberley residents to be treated for serious mental

¹ A. Hope, State Coroner, Record of Investigation into Death Ref No:37/07

health problems without having to leave the Kimberley. Legal Aid understands that this problem is not confined to the Kimberley region, with reports of concerns about lack of local mental health services being reported from our Offices across the State.

12. It is considered that having a psychologist as part of a regional services team is very important as often there is a need for offenders to address issues such as stress, grief and emotional problems which manifest themselves through substance abuse and family violence.

13. Regular access to a psychiatrist and mental health workers is essential to ensure supervisory orders are available rather than custodial sentences where appropriate. For example, even in a larger regional area such as Carnarvon, a psychiatrist only visits once a month. Legal Aid is aware of cases where offenders with mental health issues have been placed in custody in remote and regional areas in similar circumstances in a metropolitan area they would have received a supervisory order or bail rather than remand would have been an option if the appropriate support services were available.

14. The problem is more acute for children and young people. There is a lack of professional assistance available, there are very few mental health professionals whose expertise is in dealing with children, and few mental health agencies willing to take children on (this may be because of accommodation issues). Regional areas such as Broome rely on “fly in, fly out” professionals from either the Family Court or the occasional situation where professionals can be brought to Broome for a short period of time. This can lead to a delay in obtaining independent expert evidence and experts in all matters. The delay is particularly important and potentially detrimental to children in protection and care matters. The Family Court provides their own professionals but in areas such as the Kimberley this is generally only once over a three monthly period when they are on circuit in the Kimberley. Small measures may achieve significant change, for example, better utilisation of the independent expert would lessen delays if they were able to arrive before the actual court for longer periods of preparation or if there were more frequent visits by independent experts or more frequent Family Court circuits. This is not just an issue for young offenders but also for children and young people the subject of Family Court and protection and care proceedings and their families. In situations where mental health treatment is required the waiting list to access services in regional and remote areas is seriously impacting on the ability of people to access these services. In Albany, for example, the waiting list to access mental health services varies from 3 to 6 months. In circumstances where such treatment is a prerequisite for the reunification of families (eg in protection and care matters) this can have very serious and detrimental consequences.

RECOMMENDATION

- c. Positive incentives are needed to attract psychologists, psychiatrists and other mental health workers, including those with expertise in working with children and young people, to regional localities.**

15. Pre-sentence programmes developed in Perth in relation to dealing with offenders committing offences involving family violence, offenders motivated by substance abuse and mentally impaired offenders should be extended to regional areas in consultation with local Indigenous communities.

RECOMMENDATION

- d. Pre-sentence programs should be extended to regional areas and delivered in consultation with local Indigenous communities**

16. Diversionary programmes should be available for child sex offenders throughout Western Australia. The Victorian Law Reform Commission in the **Sexual Offences Final Report 2004** identifies that research indicates that often young sex offenders have been victims of sexual abuse themselves (p462 [10.4]) and that treatment can lower the risk of recidivism (p466 [10.14], p469 [10.28]). The Report states that South Australia has a diversionary process for young people accused of sex offending. 31% of sexual assault cases finalised within a 6 and a half year study were disposed of by way of conference (p475 [10.42]). Half of the young people who went to a conference undertook to participate in a sex offenders treatment program (p475, [10.44]).

17. The appropriateness of children and young people being placed on the Sex Offender Registry with everyday reporting needs to be reconsidered especially for those in remote and regional communities given its punitive nature in many cases and the almost unavoidable barriers to compliance in such areas. The Registry's appropriateness for dealing with the vast majority of sexual offences for children and young people is questioned.

RECOMMENDATION

- e. Appropriate services and systems should be put in place for children and young people charged with sex offences and those on the Sex Offender Registry.**

18. Supported accommodation for people with mental illness and substance abuse problems is lacking in remote and regional Aboriginal communities across the State eg Hedland. The provision of supported accommodation may assist reduce the

numbers of people inappropriately placed in custody because of satisfactory community based alternatives and in the case of parents whose children have been placed into care would facilitate the ability of these families to maintain contact with each other to facilitate their prospects of reunification.

RECOMMENDATION

- f. Supported accommodation should be established in regional areas for people with mental illness and should reflect local community requirements.**

19. Regional bail hostels should be provided to reduce the number of remand prisoners from remote areas having to spend time in prison awaiting the determination of their cases. Such bail hostels could also provide services such as drug and alcohol rehabilitation services. As a consequence of the current pressure to find non custodial accommodation for young people on bail magistrates in regional locations such as Kalgoorlie perceive that they have no alternative but to request that the Department for Child Protection (DCP) make room available for these young people in what limited local hostel accommodation that is available. The purpose of this accommodation, not usually more than 6 beds to 8 beds, is to accommodate children who have been taken into care for whom there are no other placement options available. Demand for this accommodation is high and for this accommodation to be shared between young children in these circumstances and young offenders is not beneficial to either group.

RECOMMENDATION

- g. Regional bail hostels should be established.**

CASE STUDY: KIMBERLEY

There are no child detention facilities in the Kimberley at all so any child who is refused bail or is required to be placed in detention is transferred to Perth thousands of kilometres from home and any family contact or support. They are placed into an alien culture if they are young and have never been outside the Kimberley before. They would have only a very small peer group in detention in Perth and are often understandably intimidated and overwhelmed by the dominant culture of the other detainees. There should be a bail hostel and a detention centre in the Kimberley for those young offenders. There should be more hostels or safe house accommodation for children and their families so that they can escape the effects of overcrowding, alcohol abuse and physical and emotional abuse and in this way lessen the likelihood of offending.

RESOURCING REMOTE COMMUNITIES AND PROVIDING ACCESS TO THE LAW

20. The full range of family law and civil law remedies need to be accessible to people in remote communities, particularly remedies that provide protection in areas of family, consumer, employment, tenancy and public liability law. Access to such remedies is very limited in remote communities.
21. Without access to adequate housing and income support, without the ability to access remedies arising from potentially exploitative credit providers or unscrupulous salespeople, and without the ability to comprehend the intricacies of family or child welfare law, individuals remain powerless, and children, as the most powerless individuals, suffer the most both economically and socially. Critically, such family difficulties impact directly on families' ability to best provide for their children's health, welfare, education and security.
22. These aspects of the law are often even more conceptually remote in remote communities than the criminal justice system, but the ability to understand and pursue remedies for wrongs in these critical aspects of family and community life have the potential to add exponentially to the social health of individuals, families and communities. Legal Aid notes the recent State budget allocation for two remote community workers in Warnum and Oombulgarri and suggests the provision of community workers be extended to all remote Indigenous communities.
23. While access to community legal education and support from outside the local area is important, of greater impact would be the existence of a local community resource person in each community to do outreach work and who can identify issues and assist individuals to access legal information and advice, and to assist local individuals to provide the necessary instructions in order to progress their claims.
24. This worker would work in an outreach capacity and be able to work both with a local individual or the community to ensure that they understand their rights and available remedies. The community resource person would also work with service providers such as Legal Aid, the Aboriginal Legal Service, Kimberley Community Legal Service, private practitioners, courts and tribunals to ensure they understand the cultural and social background of the claimant or respondent so that this can be properly integrated into any hearing or settlement. Such workers could also work with the Indigenous community contacts established as part of the Indigenous Women's Project funded by the Commonwealth Community Legal Services Programme for example, as in the East Kimberley.
25. Not only would this provide a local resource, it also increases the knowledge and skills extant in the local community and further adds to the community's employment opportunities.

RECOMMENDATION

- h. Local community members should be resourced in all regional and remote Indigenous communities to act as community liaison and support persons on issues concerning tenancy, employment, welfare and related areas**

26. Funding is needed to transport people from remote and regional Indigenous communities to court, for example, in situations where there is no public transport and drivers are unlicensed, and no private transport.

RECOMMENDATION

- i. A community bus and driver should be allocated to each remote Indigenous community accessible by road.**

27. To assist with better compliance with orders for those in remote and regional Indigenous communities, improved communication services are needed to enable those who are often transient and without their own phone to comply with a supervisory order.

RECOMMENDATION

- j. Culturally appropriate communication technologies and support services are needed in all regional and remote Indigenous communities.**

28. Legal Aid supports Coroner Hope's recommendation² to establish a multi-function government office centre ("a one stop shop") where Aboriginal people can get assistance in respect of the problems they face from a multi-agency office. Legal Aid would use such a centre as a valuable community link.

RECOMMENDATION

- k. Recommendation 8 from Coroner Hope's inquiry should be implemented as soon as possible.**

- l. Government agencies (eg the Department of Housing and Works, WA Police, the Health Department, the Department for Child Protection) should have co-ordinated administrative boundaries to assist people to more easily access services and utilise a multi-function government office centre.**

² A. Hope, State Coroner, Record of Investigation into Death Ref No:37/07, p.53

29. More recreational facilities for children and young people are needed in remote and regional Indigenous communities to help lessen the cycle of offending.
30. Access to family violence counsellors is virtually non-existent in many remote and regional Indigenous communities making it difficult to address protective concerns as well as assisting with rehabilitation in criminal matters.
31. The provision of local services that can provide supervision of the time that parents spend with children in care or the subject of protection and care proceedings and Family Court proceedings where the need for such supervision has been identified needs to be prioritised. The lack of resources to support parents to develop parenting skills incorporating supervised therapeutic contact, intensive assessment and associated reunification processes is a serious problem for affected families.

DCP Offices across the State report difficulty in recruiting people to do this work. Where they do exist these workers are only available for protection and care related matters. In locations such as Albany, for example, there is only one service providing supervision for Family Court ordered supervised contact in the region. The service is unable to meet demand. See paragraph 56 below and also Recommendation (w).

32. The creation of meaningful job opportunities in consultation with local communities to address real needs would assist in the rehabilitation process and lessen the likelihood of re-offending.

RECOMMENDATION

- m. Remote and regional Indigenous communities should be resourced with expanded facilities for children and young people to promote a healthy and safe community, to create meaningful job opportunities and for the supply of services that assist with the prevention of harm.**

RESOURCING THE JUDICIAL SYSTEM

33. There needs to be adequate funding of Legal Aid, Community Legal Centres and the Aboriginal Legal Service to ensure the regular provision of outreach and Community Legal Education services in criminal, family, civil and in particular protection and care matters. Funding also needs to ensure that representation is provided at all courts held at remote and regional Indigenous communities to avoid delays in criminal and protection and care matters due to lack of representation and consequential adjournments. Such funding would also ensure appropriate outcomes and ensure children and parents are empowered in the often disempowering process of State intervention in the family in protection and care matters. As noted

above, Legal Aid congratulates the State government on the initiative to appoint additional funding for a magistrate and court staff and a new Legal Aid office in the East Kimberley, which will assist in the redress of these issues in this area.

RECOMMENDATION

- n. Funding needs to be available for the ongoing training of all of those who work in the justice system in remote and regional Indigenous communities to ensure the responsiveness of the system to local needs.**

34. Courts should be encouraged to be innovative in accessing support services for those appearing before the court in regional and remote areas, especially those with a mental illness, for example by accessing the forensic mental health nurse for assessments via video or telephone links from Perth.

35. The judicial system has to be adequately funded to ensure that Justices of the Peace only deal with criminal and civil matters in *exceptional circumstances* without leading to an undue delay in matters being dealt with. For example, Justices of the Peace should only make decisions in relation to after hours remands where a magistrate is not available, rather than consider bail. Similarly, Legal Aid has serious concerns about Justices of the Peace regularly hearing criminal charges and restraining order matters. Often young people are remanded in custody until a magistrate is available when in comparable situations a magistrate would have granted bail.

RECOMMENDATION

- o. Use of Justices of the Peace in remote and regional Indigenous communities needs to be confined to exceptional circumstances only.**

- p. Video link facilities should be made available in all communities for the purpose of bail applications and hearing matters where it is not practical to have a magistrate physically present.**

36. Family Court of WA funding should be resourced to expanding the Child Related Proceedings programme used in Perth to parties in regional areas. This program has recently been evaluated and the benefits to parents and children have been identified. Parties who live in regional and remote areas do not have the benefits of access to this programme unless they make the decision to commence their Family Court proceedings in Perth. Legal Aid understands that, in regional areas such as Albany and Bunbury, this practice has commenced because of the perceived advantage to parties of inclusion in this programme over that which is locally available.

RECOMMENDATION

- q. Family Court of WA funding be increased to expand the Child Related Proceedings programme to regional areas.**

37. The lack of Indigenous interpreters in remote and regional areas has a significant impact on Indigenous clients of Legal Aid. Qualified interpreters should be available in all legal matters to ensure proceedings are comprehensible including in care and protection and family law proceedings. Some clients spend weeks in custody before a bail application is made because of a lack of Aboriginal interpreters. Occasionally other inmates are used as interpreters. Sometimes due to a lack of access to Indigenous interpreters in the north of WA, there is also reliance on Aboriginal court liaison officers to interpret, which is inappropriate and undermines, and may be in conflict, with the role they should be playing. Also there are occasions when young people from remote areas are remanded to Perth and no local dialect interpreters are available.

RECOMMENDATION

- r. Adequate funding is needed to ensure qualified interpreters are available as needed.**

38. Court, police and Department of Corrections jurisdictions could be structured to cover the same regions so that there is better co-ordination between all services and to minimise delays in dealing with criminal matters. For example such a change would assist in avoiding delays in the provision of reports for sentencing and ensure the best use of the Departmental resources and programs available. This would also allow better resourcing of police prosecution services to minimise delays in setting trial dates. For example, in the Pilbara, the Officer-in-Charge of the local police station usually does the prosecuting but does not do the trials unless they are very minor. For more serious trials the prosecutor for Tom Price, Paraburdoo, Onslow and Exmouth is located in South Hedland. If there is a trial in Tom Price on the Tuesday of the circuit and in Onslow or Exmouth on the Wednesday he will have to drive from South Hedland to Tom Price, then drive to Onslow Wednesday morning, then drive back to South Hedland

39. Judicial officers should have available the same sentencing options regardless of geographical location, including for young offenders. This will require staff resources to supervise community-based dispositions and to allow access to services for rehabilitation such as anger management counselling, drug and alcohol counselling, and family violence counselling. The same level of services for rehabilitation for those in custody should be provided, regardless of the location of the detention facility.

40. Legal Aid sees the Aboriginal community courts already established in Western Australia as a positive development but believes this initiative should be extended as soon as possible. The establishment of and ongoing funding for community courts in all remote and regional Indigenous communities where courts are held would be helpful where the community supports such an initiative.

RECOMMENDATION

s. Community courts should be established in all remote and regional Indigenous communities where supported by the community.

41. Currently without access to community based dispositions in regional and remote Indigenous communities accused persons may go up the sentencing hierarchy when a lower penalty may have been more appropriate. Also a supervisory order may be needed to lessen the likelihood of re-offending rather than the imposition of a fine. It is important that all attempts at rehabilitation are explored, where appropriate, rather than a custodial disposition because of the lack of alternatives. From experience we also note that there are very limited rehabilitation options in some regional and remote areas. Clients from remote communities often spend days in police custody in sweltering conditions before being brought before a court. Where a person is arrested they should be brought promptly before a court and where there are impediments to this occurring these should be overcome through resource or process changes. Legal Aid understands the potential resource implications of providing services of this nature, however, we believe that to give real meaning to the concept of equality before the law and to stop a revolving door on offending, their inclusion is essential.

RECOMMENDATION

- t. Additional resources be allocated to implement recommendations (b) and (d) listed above.**
- u. Drug and alcohol rehabilitation facilities and services are needed in regional and remote areas with specific programmes for children and young people.**
- v. The number of drug and alcohol rehabilitation facilities should adequately reflect the number of drug and alcohol affected members of the community.**

CASE STUDY: HEDLAND

There are no alcohol and drug rehabilitation facilities in and around South Hedland. This means those who need the services have to go to Perth or Broome and there is often a waiting list. This can be especially detrimental to the well being of children when physical contact with a parent is impossible for several months during the rehabilitation process.

42. Where a child has been removed from his or her family by the State, a court should deal with their case expeditiously.
43. Every child who is separated from one or both parents has to be given the opportunity to maintain personal relations and direct contact with both parents on a regular basis. This should be the case unless it is contrary to the child's best interests. This requires the provision of resources for regular supervised contact in child-friendly locations when supervision is required. Currently the Department for Child Protection appears to have great difficulty recruiting contact supervision workers and residential staff for what limited hostel accommodation is available in regional locations, in the context of increasing numbers of children being placed into care and a lack of foster and family placement options. From anecdotal information collected from practitioners across the State, including the Kimberley, South West, Great Southern, Murchison and Gasgoyne areas, most babies who are taken into care have not more than two contact visits each week of not more than two hours duration, often in a DCP Office. The situation is not much better for older children and, if the contact supervisor is sick or on leave, contact will often not take place at all.
44. Children need to be kept informed of the progress of proceedings involving them such as being advised when applications are being made for their care and protection. Child representatives should be available where appropriate and at an early stage in proceedings.
45. Department for Child Protection placement of children in a culturally appropriate placement sometimes causes overcrowding with consequential problems. Housing policy needs to be flexible and responsive to changed situations. Incentives are required to attract people to consider becoming foster carers as the increasing numbers of children being taken into care in regional areas across the State is placing an enormous demand on the limited resources that are available.

RECOMMENDATION

- w. Funding of child protection needs to be adequate to ensure regular contact between parents and children if this is in the child's best**

interests and recommendation (a) needs to be acted on to ensure legal representation of parents and children in protection and care matters.

CASE STUDY: KIMBERLEY REGION

There are extremely limited resources in the Kimberley for arranging contact with children if they are not placed with extended family. In Broome there is Katherine House where children are placed but there are simply not enough protection workers to enable sufficient contact time with parents.

In other parts of the Kimberley the Department for Child Protection (DCP) often relies on women's refuges or safe houses which makes it extremely difficult for contact for either one or both of the parents and often contact cannot be supervised at all. Even when the child is placed with extended family members there will often be personal conflicts between varying members of the family and again without sufficient child protection worker supervision or facilities for contact to proceed and are difficult or do not happen at all.

Relevant placement for cultural and reasons associated with the legislation is acknowledged but consideration needs to be taken to account of the logistical practicalities of remoteness in the Kimberley, that is, the children are placed with extended family in Balgo but the parents are in Broome. In that case contact is virtually impossible except by telephone. Also it seems the DCP are becoming more reluctant to provide financial assistance for the parents or the carers to facilitate contact with children and their upkeep.

A large amount of Legal Aid time is consumed in trying to deal with parents' issues that would be more appropriately dealt with, by other agencies, professionals, or DCP. There are simply not enough services available to clients who require assistance. Many of these matters are not strictly legal issues and could be best dealt with by paralegals, social workers and counsellors.

A similar problem to the above is where children are placed with extended family. There is generally not enough support for the extended family despite the insistence by DCP for security tests and other assessments. Placing children with extended family can lead to difficulties particularly with over crowding in the carer's family. Again there may be personal conflict issues and difficulties with contact with the parents or co-operation with the Department.

ACCESS TO COMPENSATION - REDRESS WA AND CRIMINAL INJURIES COMPENSATION

46. Legal Aid provides assistance in compensation cases, and has been particularly involved in recent years in providing legal advice and litigation support to children who were abused in the care of the W.A. Department for Child Protection (DCP) or its predecessors. A large proportion of the children abused in care come from the Indigenous community (although urban dwelling Indigenous children probably predominate).
47. Out of the community interest in obtaining justice for those abused in care, has come the Redress W.A. scheme announced by the W.A. State Government in December 2007. The Redress W.A. scheme will cover those who as children were abused while in State care in Western Australia. The Redress W.A. scheme will cover adults who, as children, were abused in State care, including Stolen Generation children. There were up to 3000 Stolen Generation aboriginal children who were placed in institutions (“Bringing them home”, the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children From Their Families – April 1997).
48. There will be a number of eligible applicants living in regional and remote Indigenous communities. It will be important that those people are informed of their right to apply for compensation.
49. In response to Recommendation 23 of “Bringing Them Home”, the W.A. Government established a Records Taskforce to identify, locate and preserve records associated with aboriginal people. This will form a useful resource to inform eligible applicants provided Government resources are directed to the task.
50. Another area of need that will be arising from recent Government policies is the need to inform and advise and represent victims of crime in regional and remote communities. There is a large amount of law enforcement activity around allegations of sexual abuse in Kimberley Indigenous Communities. Significant efforts are being made to prosecute wrongdoers. Significant efforts should also be made to compensate victims of crime in those communities. Those victims would often be children, who are unable to take action on their own behalf.
51. Law enforcement and welfare agencies need to facilitate the opportunity to obtain appropriate compensation for those victims of crime and in this way contribute to the wellbeing of the communities. Consideration needs to be given to how counselling which is offered as part of the Redress scheme is to be offered in remote Indigenous communities. Legal assistance can be provided by the Aboriginal Legal Service, Community Legal Centres or covered by Legal Aid outreach work and community legal education.

RECOMMENDATION

- x. Additional resources should be provided to assist in the provision of advice to regional and remote Indigenous communities to assist in eligible applicants accessing compensation under Redress WA and criminal injuries compensation.**

ACCESS TO LEGAL ASSISTANCE - COUNTRY LAWYERS GRADUATE PROGRAM

- 52. One of the needs of regional and remote Indigenous communities for many years has been access to legal assistance and representation in remote and regional communities.
- 53. Legal Aid is a partner in the Country Lawyers Graduate Program (together with Aboriginal Legal Service, The Law Society of Western Australia, and Community Legal Centres).
- 54. Legal Aid is playing the key role in providing the training and professional development of the eight lawyers in the inaugural intake in 2008.
- 55. The program has been supported by the State and Federal Governments, and incentives such as regional allowances and housing subsidies are part of incentives attached to the program. However, to ensure long term commitment and retention of the graduate lawyers, in rural, remote and regional Western Australia, Government could look to further incentives, such as HECS reductions for those who serve the community in rural, remote and regional Australia (Australia 2020 Summit – Initial Summit Report, page 7).
- 56. Similar schemes may be needed in other areas to ensure professionals are recruited and retained if the expertise is currently not available locally such as community workers, youth workers, and social workers.