

The Senate

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Legal and Constitutional Affairs  
References Committee

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A possible contempt in relation to a witness to the  
Committee's inquiry into Access to Justice

September 2009

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## MEMBERS OF THE COMMITTEE

### Members

Senator Guy Barnett, **Chair**, LP, TAS

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### Participating Members

### Secretariat

Mr Peter Hallahan	Secretary
Ms Monika Sheppard	Senior Research Officer
Ms Cassimah Mackay	Executive Assistant

Suite S1. 61	Telephone: (02) 6277 3560
Parliament House	Fax: (02) 6277 5794
CANBERRA ACT 2600	Email: <a href="mailto:legcon.sen@aph.gov.au">legcon.sen@aph.gov.au</a>



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# **A possible contempt in relation to a witness to the Committee's inquiry into Access to Justice**

## **Report to the Senate**

### **Introduction**

1.1 This report has been prepared in accordance with the requirements of the Resolutions agreed to by the Senate on 25 February 1988 in relation to Parliamentary Privilege, and in particular, resolution 1(18).

1.2 The report relates to what the committee considers to be a clear case of a contempt.

### **Facts of the matter**

1.3 Ms Rowena Puertollano of Broome, Western Australia, made a submission (Attachment 1) to the committee's current inquiry into Access to Justice in April 2009. Ms Puertollano signed the submission as Coordinator, Broome Family Violence Prevention Legal Service (FVPLS). There was no request for confidentiality or any apparent reason under the committee's operating resolutions to withhold the submission from publication. Accordingly, the submission was received as a public submission from an individual, and designated as submission no. 8. It was posted on the Parliament House website listed under Ms Puertollano's name, notwithstanding the signature block which detailed her position.

1.4 On 18 June, Ms Puertollano contacted the committee's secretary by phone and advised that she had received a "written warning" from her employer, the Aboriginal Legal Service Western Australia (ALSWA) for having made the submission. Ms Puertollano supplied a copy of the written warning (Attachment 2), which was signed by Ms Katrina Carlisle, Manager, FVPLS, to the committee secretary by facsimile the same day. The warning letter states that:

This letter constitutes a formal written warning, regarding a matter which has been deemed "Serious Misconduct" on your behalf.

1. A letter dated 27 April 2009, and signed by you, as Coordinator of the Broome FVPLS, was submitted to the Senate Standing Committee on Legal and Constitutional Affairs.

...

This matter is viewed as a very serious breach of Organisational Policies by Senior Management at ALSWA, and consideration has been given to dismissal...

1.5 The committee met on Thursday 25 June 2009 and discussed the matter. The committee authorised the Secretary to send a letter to Ms Carlisle advising that this was a potential contempt of Parliament and a criminal offence, recommending that the

warning letter be withdrawn and seeking an assurance that Ms Puertollano would suffer no disadvantage for having made a submission. A letter (Attachment 3) was sent to Ms Carlisle in the terms agreed to by the committee on Monday 29 June.

1.6 Mr Dennis Eggington, Chief Executive Officer of the ALSWA, responded on 10 July to the committee's letter. Mr Eggington's response (Attachment 4) disagreed with the committee's advice to the ALSWA that the letter of warning issued to Ms Puertollano may constitute a breach of Parliamentary Privilege. Mr Eggington maintained that:

The letter was a legitimate warning to an employee of ALSWA, and was concerned with the employee holding herself out as representative of ALSWA without permission from Senior management. This is what Ms Puertollano's submission to the inquiry did.

1.7 Mr Eggington also asserted that Ms Puertollano had signed a confidentiality agreement to which she agreed to be bound:

Further, we advise that when Ms Puertollano commenced her employment in September 2008 she signed a confidentiality agreement in which she agreed to be bound by the "Responsibilities of Staff" outlined in the ALSWA Policy and Procedures Manual and referred to in the letter. All employees including Ms Puertollano are expressly advised by the ALSWA Policy and Procedures Manual that no staff member is prohibited from participating in political or Aboriginal or Legal Community activities in their private capacity.

1.8 Mr Eggington stated that although the organisation did not accept that the warning letter may amount to a contempt, it was prepared to withdraw the letter. Mr Eggington's response went on to outline the proposed advice to Ms Puertollano.

1.9 The committee met in Perth on 13 July prior to a public hearing which had been scheduled for that day. The committee considered Mr Eggington's letter and considered Mr Eggington's assertions to be incorrect. The committee prepared a further letter (Attachment 5) to Mr Eggington, which was signed by the Chair, Senator Barnett, and delivered by hand to Mr Eggington at the public hearing on 13 July by the committee's secretary.

1.10 The ALSWA gave evidence to the committee's inquiry later that day, but the matter of Ms Puertollano was not raised with the ALSWA representatives.

1.11 The ALSWA prepared a letter withdrawing the warning letter on the same day, addressing it to Ms Puertollano at PO Box 919 in Broome. This letter (Attachment 6) was copied to the committee secretariat and was received on 16 July.

1.12 On 28 July, Ms Puertollano wrote to the committee secretary seeking confirmation of action by the committee on her behalf, and of the ALSWA's response and acceptance of their responsibilities. (Attachment 7) Ms Puertollano also advised that she had tendered her resignation. The committee secretary responded to Ms Puertollano in writing on 3 August (Attachment 8) and also by phone the following



day, on 4 August. In the subsequent conversation, Ms Puertollano indicated to the secretary that she had not received the ALSWA's letter of 13 July which withdrew the written warning.

1.13 On 4 August, the committee secretary phoned the ALSWA senior Legal Adviser, Mr Peter Collins, to advise that it appeared that Ms Puertollano had not received the advice from the ALSWA withdrawing the written warning. Mr Collins undertook to follow up in relation to the matter, and also provided a copy of Ms Puertollano's letter of resignation. (Attachment 9)

### **Committee's conclusions**

1.14 The committee notes that Ms Puertollano did sign the letter as Co-ordinator, Broome FVPLS, and that she apparently did so without the consent of her employer, who maintained that she was not authorised to represent the views of the organisation. However, the committee does not accept that Ms Puertollano was attempting to put forward her views as representing the views of the FVPLS.

1.15 Apart from the signature block, at no point in her submission did Ms Puertollano claim that the submission was the submission of an organisation. Further, her submission shows that she was in strong disagreement with the policies of the organisation. It is therefore difficult to construe her submission as made in other than a private capacity. That she signed the submission as co-ordinator of the FVPLS in Broome serves only to establish her identity and that she was well placed to comment on the policies and practices of the organisation.

1.16 However, the issue of whether Ms Puertollano's submission was made in an official or a private capacity is irrelevant. The procedures for the protection of witnesses laid down by the Senate are unequivocal. In the committee's opinion this matter appears to be a clear case of interference with a witness and also molestation of a witness, both contempts.

1.17 The committee was concerned about the ALSWA's resistance to the committee's warning that this was a possible breach of privilege, and its apparent view that its action was legitimate and justified. It was only after follow-up action by the committee that the ALSWA acted to withdraw the written warning.

1.18 The committee acknowledges that the ALSWA did intend to withdraw the letter of warning, but notes that its communication of this letter to Ms Puertollano may not have been immediately effective.

1.19 The committee is particularly concerned about the wording of the ALSWA's letter to Ms Puertollano withdrawing the letter of warning. The letter is conciliatory to the extent that Ms Puertollano's freedom to participate in a private capacity is acknowledged. However, the letter also states that:

I remind you that you remain bound by the "Responsibility of Staff" provisions in the ALSWA Policy and Procedures Manual with respect to communications in your capacity as an employee of ALSWA."

and it concludes with the words:

It follows that no action will be taken against you by ALSWA as a consequence of any evidence you have or may give to the Committee in a private capacity.

1.20 The committee is of the view that the last four words of the concluding sentence can be interpreted as continuing to assert the right to take further action against Ms Puertollano if she gave evidence in terms other than those laid down in the letter. While this is now obsolete due to Ms Puertollano's resignation from the organisation, it does appear that the ALSWA has not resiled from its original views about its rights to control the flow of information to the committee and to discipline staff members who give evidence to committees without authorisation. These views appear to be still held despite two attempts by the committee to dissuade the ALSWA of them. They are clearly incorrect and not consistent with the Senate's resolutions.

1.21 The committee has considered the question of whether the possible contempt interfered with the committee's conduct of the inquiry. The committee considers that any interference was marginal, as the written evidence had already been given, and Ms Puertollano had not been selected to give further oral evidence.

1.22 The committee is nonetheless of the view that that the matter is serious and should be referred to the Standing Committee of Privileges. The committee is mindful of the principle repeated by that committee in its 85<sup>th</sup> report, and also of its findings:

...the Committee of Privileges has advised in its reports over a long period that the fact that an action might otherwise be lawful does not in itself present a defence against findings of contempt of the Senate. The committee first declared this principle as far back as June 1989...<sup>1</sup>

....

This committee understands and appreciates the difficulties involved for a person acting in good faith, and on advice, in handling such matters. That said, the committee must continue to send a message to all who are in a position of authority over, or otherwise attempt to intimidate or punish, a witness before a Senate committee, however insubordinate or improper the behaviour of a witness seems to be. As all its reports on improper interference with witnesses have emphasised, the committee regards this as the most serious of all possible contempts...<sup>2</sup>

1.23 When giving evidence to a Senate committee, an individual's employment conditions, policies and guidelines, including confidentiality agreements however described are of no effect and the witness must be able to assist the committee in complete freedom, and without suffering any disadvantage as a consequence, regardless of whether the evidence is given in an official or a private capacity. The

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1 Senate Standing Committee on Privileges, 85<sup>th</sup> report, p. 7.

2 Senate Standing Committee on Privileges, 85<sup>th</sup> report, p. 8.

committee felt that this essential principle has not been understood by the ALSWA and its universal application needs to be restated.

1.24 The committee is also conscious of the broader implications of this case. The committee can understand that organisations may wish to ensure that there is a clear demarcation between when individuals present evidence in an official or a private capacity, and that sometimes this line can be blurred, particularly when individuals give evidence in a private capacity but with the benefit of the experience of their employment. The committee requests that the Standing Committee on Privileges committee consider providing some further guidance and restatement of principles on this matter for the benefit of prospective witnesses, employers and other associated persons, as well as committees who must deal with these potential issues in the course of their inquiries.

### **Recommendation**

**1.25 The committee recommends that a possible contempt by the Aboriginal Legal Service Western Australia in relation to a witness who submitted evidence to the inquiry into Access to Justice be referred to the Standing Committee of Privileges.**

**Senator Guy Barnett**

**Chair**



## **Attachment 1**

**Submission by Ms Rowena Puertollano to Access to  
Justice inquiry**



Committee Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

27<sup>th</sup> April, 2009

Dear Committee Members,

Aboriginal Women's Access to Justice

I am a Yawuru/Bard woman from Western Australia's Kimberley Region and currently the Coordinator of the Broome Family Violence Prevention Legal Service. I write this submission drawn from the women that have spoken to me on their concerns within the Kimberley region relating to "Accessing a culturally appropriate Domestic Violence Legal Service".

I support Hannah McGlade's submission to bring to the Senate Committee's attention, on the ongoing "Inequities that prevent access to Justice for Aboriginal Women" of my community and other Western Australian communities.

The rates of Domestic and Family Violence are exceedingly high in the Kimberly and NT region. It is well documented that this crime is a gender-based crime and that the services responding to victims need to have Aboriginal women's business their main priority.

I refer to the "Australian NGO Shadow Report on the Implementation of the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) 10 October 2005 Prepared by Koorie Women Mean Business with the National Network of Indigenous Women's Legal Services" and support these recommendations:

*We recommend that the CEDAW Committee*

- *Recommend that Government include consultations with local Indigenous women on identified sexual assault, family and domestic violence initiatives as part of program development, implementation, monitoring and evaluation particularly as programs respond to local concerns in rural and remote locations.*
- *Recommend that the Government seek the advice of Indigenous women to review the statutory 900 child protection mechanisms as they affect Indigenous children, to halt the damage being done by the existing regime.*
- *Recommend that the Government undertake a concerted and rigorous efforts under the Commonwealth Community Legal Services Program, to fund and monitor programs to assist Indigenous women in accessing legal services, and providing input into the system of administration of justice.*

Commonwealth, Attorney Generals Department response to victims/survivors of Domestic and Family Violence and/Sexual Assault has funded 31 Family Violence Prevention Legal

Units throughout Australia. However, current auspice arrangements in place for WA FVPLS (Broome, Kalgoorlie and Carnarvon under the WA ATSILS is flawed with administration, governance and conflicting priorities in addition, has failed to adopt policies and practices in ensuring that Aboriginal women feel safe to access the FVPLS services. Our women have said that they do not feel safe to approach the Broome FVPLS unit because of this Auspice arrangement.

This auspice arrangement has disempowered myself the coordinator of the Broome FVPLS to deliver a culturally appropriate FVPLS unit taking in local women cultural protocols and the needs of the client group being 100% aboriginal women and children.

This Auspice arrangement not only failed to consult Aboriginal women of this community and removed myself from Senior Management discussion on how the FVPLS will deliver service and negotiating Policies and practices that are reflective of the AGD FVPLS Operational Framework 2006 but contradicted it's Operational Framework in it's request to provide a 'culturally appropriate and sensitive service'.

The Attorney Generals Department and Auspice body has failed to provide a Risk Management Policy addressing the "Conflict of interest" that exists between the two services (victims v perpetrators). It does not show how ATSILS male dominated environment, challenges perpetrators on not tolerating any forms of violence against women in the community. It is understood that the Commonwealth AGD has not informed the state AGD of this arrangement and how the conflict of interest will be managed and if this has been undertaken, I the Coordinator have not had this provided to me.

In addition to this, family relationships, amongst women, children, victims and survivors of Domestic Violence and Sexual assault in the community not only lies with the immediate family but extended which therefore see's the safety and support within this region, failing women and families in their need to seek refuge, support and safety elsewhere such as in the city. This, is purely because there are no FVPLS Units or refuge shelters allocated in the city for country women to access, therefore, in support of an FVPLS Unit to located in Perth, I see is a need as a 'ground level' worker.

The lack of culturally appropriate Aboriginal Women's Legal services not being available in the 'city' will see, Aboriginal women, children, victims/survivors being forced to accept the surroundings and environment they live in and the 'perpetrator's families subjecting them to more abuse because they want better for their families. This situation also denies women, families and victims and survivors, the right and opportunity to strengthen themselves and live a violence free life.

Under the Government's National Plan of Action against violence to women and ensuring that all Aboriginal women and children have access to appropriate legal support and assistance, under the current Auspice arrangement of the WA FVPLS Unit's, severely lacks the substance to the National Plan to increase the safety and access to justice for Aboriginal women as Aboriginal women within my community will not, access the service because of this arrangement and because ATSILS supports the men who use the violence.



It is also a concern to note that, Aboriginal women's distinct legal needs, were recognised by the Australian Law Reform Commission, 1994 Inquiry, Equality Before the Law: Justice for Women' but was not backed up in establishing a 'separate legal service, staffed and managed by Aboriginal and Torres Strait Islander women for Aboriginal women.

The Commonwealth Attorney Generals Department has supported decisions that removed myself a female Coordinator from healthy recruitment practices to the Broome FVPLS. The Auspice Administration section completed all recruitment process without my input to where previously our unit was staffed at 100% women to now 25% women. My position within this structure has been modified from being the Manager of the day to day management of the organisation to an admin worker with no capacity to make any decisions relating to finance and service delivery.

It is culturally inappropriate for our women to be removed from being consulted on local and cultural protocols that are reflective of women's business. In addition, AGD has removed my credibility as a local woman within the community in permitting staff to conduct services and access to communities without the need of Community Protocols' being met.

This arrangement not only loses the integrity of a FVPLS Unit but becomes a well funded resource that our women will not use.

I would like to think that this letter will not fall on deaf ears or not be considered 'as an urgency' to address and prevent more violence happening.

I thank you for your time and hopefully, will in the future, have some positive and proactive outcomes to address this concern.

Yours sincerely

Rowena Puertollano  
Coordinator  
Broome Family Violence Prevention Legal Service

28<sup>th</sup> April, 2009



## **Attachment 2**

### **Written warning issued to Ms Puertollano**



## WRITTEN WARNING

**Name of Supervisor filing report:** Katrina Carlisle  
**Position:** Manager, FVPLS  
**Name of Employee concerned:** Rowena Puertollano  
**Position:** Coordinator – Broome FVPLS

---

This letter constitutes a formal written warning, regarding a matter which has been deemed "Serious Misconduct" on your behalf.


1. A letter dated 27 April 2009, and signed by you, as Coordinator of the Broome FVPLS, was submitted to the Senate Standing Committee on Legal and Constitutional Affairs.
2. The ALSWA Policy and Procedures Manual (which applies to all ALSWA employees), clearly outlines the "Responsibilities of Staff" in Section 7. This section states:

*Aboriginal and non-Aboriginal staff are highly valued employees and are encouraged to actively contribute to the Objects of the ALSWA and the goals and priorities set from time to time. However, staff should be aware that all major decisions rest with the Senior Management Committee which acts to implement the decisions and directions of the Executive/Governing Committee. ALSWA staff are expected to behave in ways that affirm the authority of the Senior Management Committee and the Executive/Governing Committee as follows:*

- *Decision Making - Staff should not make decisions or act on behalf of the ALSWA without being specifically delegated this authority by the Chief Executive Officer. This includes the giving of written or verbal references, which may only be given with the direct authorisation of the Chief Executive Officer on each occasion.*
- *Accountability and Consultation - Staff should behave in a professional and respectful manner when dealing with Aboriginal clients or other members of the Aboriginal Community, remaining mindful of their responsibility as representatives of the ALSWA. Staff should consult their line manager for ongoing direction and assistance in undertaking their delegated duties and should regularly report on their activities to their line manager. Staff should advise their line manager or the Senior Management Committee of any information or events that may affect, either positively or negatively, the ALSWA's reputation and ability to achieve its Objects.*
- *Community and Political Involvement - Staff members wishing to participate in Aboriginal or Legal community activities (committees, projects, studies, etc) as an ALSWA representative must seek the prior approval of the Chief Executive Officer or the appropriate member of the Senior Management Committee. Individual staff are free to participate in political or Aboriginal or Legal Community activities in their private capacity but must not hold themselves out as a representative of ALSWA without permission from Senior Management.*

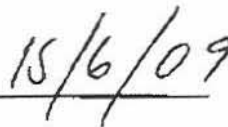
3. As an employee of ALSWA, you are required to seek the approval of the Senior Management Team of ALSWA, prior to submitting any such document. You have failed to do this and this action breaches ALSWA's Policies and Procedures.
4. As indicated to you during a phone discussion regarding this matter on Friday 12 June 2009, this matter is viewed as very serious breach of Organisational Policies by Senior Management at ALSWA, and consideration has been given to dismissal on the grounds of "Serious Misconduct". Your actions have placed undue pressure on ALSWA and the service it provides within the community as a whole, but more importantly, you have jeopardized the Auspice arrangements currently in place for the Broome FVPLS. It must also be noted that, the Broome FVPLS is performing its role and service within the community because of the current Auspice arrangements, and it could easily be argued that if ALSWA had not taken up the request to auspice the Broome FVPLS, that this service would not be operating at all, which would have been a great loss for the communities of the Broome Region.
5. This matter should be treated by you as very serious, and any further breaches of ALSWA Policies and Procedures will warrant, further disciplinary action and dependant on the seriousness of any breaches may include dismissal.
6. Any response you wish to make to this written warning will be recorded in a record of written warning and attached to a copy of this letter for inclusion in your personnel file.

Signed: \_\_\_\_\_



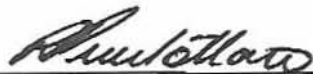
Katrina Carlisle - Manager - FVPLS

Date \_\_\_\_\_



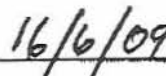
I acknowledge receipt of the original of this letter:

Signed: \_\_\_\_\_



Employee

Date \_\_\_\_\_



## **Attachment 3**

**Letter dated 29 June 2009 to Ms Katrina Carlisle,  
Manager FVPLS, from committee secretary**







THE SENATE

**STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
REFERENCES COMMITTEE**

29 June 2009

Ms Katrina Carlisle  
Manager, FVPLS  
Aboriginal Legal Service of Western Australia Inc  
7 Aberdeen St  
EAST PERTH WA 6004

Dear Ms Carlisle

The Senate Committee on Legal and Constitutional Affairs References Committee has received a copy of a warning letter issued by you to Ms Rowena Puertollano in relation to a submission made by her to this committee's "Access to Justice" inquiry.

In that letter, you state the following:

*This letter constitutes a formal written warning, regarding a matter which has been deemed "serious misconduct" on your behalf.*

- 1. A letter dated 27 April 2009, and signed by you, as Coordinator of the Brome FVPLS, was submitted to the Senate Standing Committee on Legal and Constitutional Affairs.*

...

*This matter is viewed as a very serious breach of Organisational Policies by Senior Management at ALSWA, and consideration has been given to dismissal...*

The committee has considered this letter and has directed me to write to you to advise you that the letter may constitute a contempt of Parliament and a criminal offence on your part, (as the person who signed the letter), and all members of senior management at ALSWA who were party to the decision to discipline Ms Puertollano.

Relevant Parliamentary resolutions provide:

***Interference with witnesses***

*(10) A person shall not, by fraud, intimidation, force or threat of any kind, by the offer or promise of any inducement or benefit of any kind, or by other improper means, influence another person in respect of any evidence given or to be given before the Senate or a committee, or induce another person to refrain from giving such evidence.*

***Molestation of witnesses***

*(11) A person shall not inflict any penalty or injury upon, or deprive of any benefit, another person on account of any evidence given or to be given before the Senate or a committee.*

Such action may also constitute a criminal offence under Section 12 of the *Parliamentary Privileges Act 1987*. Penalties may include fines or imprisonment not exceeding six months.

The committee has directed me to inform you and all persons who were party to this decision of the potential implications of threatening, disciplining or otherwise disadvantaging Ms Puertollano in any way that may be linked to her submission or any evidence that she may give. The committee has also asked me to strongly recommend that you withdraw the letter. Any further action on your part, or that of anyone else taken against Ms Puertollano as a consequence of her submission or any evidence that she has given or may give to the committee will be subject to further action by the committee and possibly by the Senate.

You should also be aware that the Senate's resolutions require the committee to report the facts and its conclusions on this matter to the Senate, which will then decide whether the matter should be referred to the Standing Committee on Privileges. As such, further investigation and action by that committee against you and all members of senior management at the FVPLS who were party to this decision is possible.

The committee seeks a written assurance from you and from the FVPLS management that Ms Puertollano will suffer no further disadvantage as a consequence of her having made a submission to the inquiry, or in respect of any further evidence that she may give.

Any further communication on this matter should be directed to:

Committee Secretary  
Senate Legal and Constitutional Affairs References Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Phone: +61 2 6277 3560  
Fax: +61 2 6277 5794  
Email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Yours sincerely

Peter Hallahan  
Secretary

## **Attachment 4**

**Letter dated 10 July 2009 from Mr Dennis Eggington,  
CEO, ALSWA, to committee secretary**





10 July 2009

Mr Peter Hallahan  
Secretary  
Standing Committee on Legal and Constitutional Affairs  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600



**By Facsimile: 02 62775794**

**Aboriginal Legal Service**  
of Western Australia, Inc

**Perth Head Office**  
Piccadilly Square  
7 Aberdeen Street  
Perth WA 6000  
ABN 61 532 930 441

PO Box 8194  
Perth Bus Ctr WA 6849

T 08 9265 6666  
F 08 9221 1767

**Toll Free**  
1800 019 900

Dear Sir,

## **ACCESS TO JUSTICE INQUIRY – SUBMISSION BY ROWENA PUERTOLLANO**

We refer to your letter to Katrina Carlisle dated 29 June 2009.

We are responding on behalf of Ms Carlisle and as the Senior Management team at the Aboriginal Legal Service of WA (Inc) (“ALSWA”) who were party to the decision to issue the Written Warning dated 15 June 2009 to Rowena Puertollano (“the letter”).

In your letter you state that the Senate Standing Committee on Legal and Constitutional Affairs (“the Committee”) has directed you to raise a number of matters. We will respond to them in turn.

- 1. The letter *may* constitute a contempt of Parliament and a criminal offence.**

We do not agree with this serious suggestion.

The letter was a legitimate warning to an employee of ALSWA, and was concerned with the employee holding herself out as representative of ALSWA without permission from Senior Management. This is what Ms Puertollano's submission to the Inquiry did. See points 2 and 3 of the letter.

Further, we advise that when Ms Puertollano commenced her employment in September 2008 she signed a confidentiality agreement in which she agreed to be bound by the "Responsibilities of Staff" outlined in the ALSWA Policy and Procedures Manual and referred to in the letter. All employees including Ms Puertollano are expressly advised by the ALSWA Policy and Procedures Manual that no staff member is prohibited from participating "in political or Aboriginal or Legal Community activities in their private capacity".

The letter was in no way intended to inhibit the freedom of Ms Puertollano to express her personal views. Nor was it intended in any way obstruct the Committee in the performance of its functions. We apologise if this was the impression created with the Committee.

**2. The Committee strongly recommends that the letter be withdrawn.**

Although for the reasons set out above we do not accept that the letter may amount to a contempt, we are prepared to withdraw the letter. We propose to confirm in writing with Ms Puertollano that we in no way seek to inhibit her contributing to the Committee's "Access to Justice" inquiry. We will remind her that in future she should make it clear that she is doing so based on her own views and not as a representative of ALSWA, in accordance with the terms of employment.

3. **There may be further action by the Senate Standing Committee on Privileges.**

We understand this procedure.

We request that when you report on this matter to the Senate that you take account of our bona fide intention in relation to the letter, our intention to withdraw the warning letter and confirm with the employee that she is free to participate in the Committee's inquiry and the absence of any culpable intention on our part (see Odgers Senate Practice, Chapter 2, p 65).

4. **The Committee seeks a written assurance that Ms Puertollano will suffer no further disadvantage in consequence of her submission.**

We trust that our responses to items 2 and 3 above satisfy the Committee's request in this regard.

Yours faithfully,



**DENNIS EGGINGTON**

Chief Executive Officer





## **Attachment 5**

**Letter dated 13 July 2009 to Mr Eggington from Senator  
Guy Barnett, committee chair**





*Adopted by Cllce  
at private meeting  
13.7.09*

## STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

13 July 2009

Mr Dennis Eggington  
Chief Executive Officer  
Aboriginal Legal Service of Western Australia Inc  
Perth Head Office  
Piccadilly Square  
7 Aberdeen Street  
PERTH WA 6000

### Access to Justice inquiry – Submission by Rowena Puertollano


The Committee has received your letter of 10 July in which you responded to the letter sent to you by the Secretary of the Committee on 29 June concerning the warning letter issued to Ms Rowena Puertollano.

The Committee has considered your response and determined that you be advised of the following:

1. The Committee notes that you have indicated that you are prepared to withdraw the warning letter. We now seek your commitment to do so.
2. The Committee notes paragraph 3 of page 2 of your letter.
3. The Committee notes that you do not object to Ms Puertollano contributing to the Committee's inquiry in a private capacity and that you have undertaken to advise her in writing of this. The committee requires a copy of that correspondence.
4. The Committee notes your rejection that the warning letter may constitute a contempt of Parliament and a criminal offence. The Committee now advises that you are incorrect in this regard. The Parliamentary privilege resolutions expressly prohibit any influence, disadvantage or threat of disadvantage to a witness on account of their evidence or of evidence that they may give.

*Delivered by hand  
to Mr Eggington  
at level 39 Conference Centre  
2 The Esplanade Perth  
on Mon 13.7.09*

5. The Committees advises that the confidentiality agreement to which you refer cannot in any way restrict Ms Puertollano's interaction with the Committee and that any attempt to restrict such activity will also be viewed by the Committee as a contempt and dealt with accordingly.
6. As noted to you in the Secretary's letter, any further action against Ms Puertollano as a consequence of her submission or any evidence that she has given or may give to the Committee will be subject to further action by the Committee and possibly by the Senate.



Handwritten signature of Guy Barnett in black ink, consisting of a stylized 'G' followed by the name 'Guy Barnett'.

Senator Guy Barnett

Chair

Cc Ms R Puertollano

## **Attachment 6**

**Letter dated 13 July 2009 from Mr Eggington to committee secretary, attaching letter to Ms Puertollano**





13 July 2009

Mr Peter Hallahan  
Secretary  
Standing Committee on Legal and Constitutional Affairs  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

**By Facsimile: 02 62775794**



**Aboriginal Legal Service**  
of Western Australia, Inc

**Perth Head Office**  
Piccadilly Square  
7 Aberdeen Street  
Perth WA 6000  
ABN 61 532 930 441

PO Box 8194  
Perth Bus Ctr WA 6849

T 08 9265 6666  
F 08 9221 1767

**Toll Free**  
1800 019 900

Dear Sir,

## **ACCESS TO JUSTICE INQUIRY – SUBMISSION BY ROWENA PUERTOLLANO**

We refer to your letter to Katrina Carlisle dated 29 June 2009 and to the letter from Senator Guy Barnett to Dennis Eggington dated 13 July, 2009.

Please find attached a copy letter sent to Ms Rowena Puertollano.

We thank you for your consideration and should you wish to discuss this matter further please do not hesitate to contact me.

Yours faithfully,

**DENNIS EGGINGTON**

Chief Executive Officer



Your Ref:

Our Ref:PC:dr

13 July 2009

Ms Rowena Puertollano  
Co-Ordinator  
Broome FVPLS  
PO Box 919  
BROOME WA 6725

**Aboriginal Legal Service**  
of Western Australia, Inc

**Perth Head Office**  
Piccadilly Square  
7 Aberdeen Street  
Perth WA 6000  
ABN 61 532 930 441

PO Box 8194  
Perth Bus Ctr WA 6849

T 08 9265 6666  
F 08 9221 1767

**Toll Free**  
1800 019 900

Dear Madam,

## **WRITTEN WARNING ISSUED BY KATRINA CARLISLE**

I write to advise that the written warning issued to you by Katrina Carlisle dated 15 June, 2009, in relation to the submission made by you to the Senate Committee's Access to Justice Inquiry, is hereby withdrawn. Your personnel file will be amended to reflect this fact.

I remind you that you remain bound by the "Responsibility of Staff" provisions in the ALSWA Policy and Procedures Manual with respect to communications in your capacity as an employee of ALSWA. However, you are, of course, free to contribute to the Senate Committee's inquiry in a private capacity. In that respect, ALSWA does not wish to inhibit your freedom to express your personal views in any contribution you make to the Committee. In that respect, the provisions of the ALSWA Policy and Procedures Manual cannot and are not intended to restrict your interaction with the Committee in any way.

It follows that no action will be taken against you by ALSWA as a consequence of any evidence you have or may give to the Committee in a private capacity.

Should you wish to discuss the contents of this letter, please do not hesitate to contact me.

Yours faithfully,

  
**DENNIS EGGINGTON**  
Chief Executive Officer



## **Attachment 7**

**Letter dated 28 July 2009 from Ms Puertollano to  
committee secretary**





28<sup>th</sup> July, 2009

Rowena Puertollano  
Po Box 37  
Broome WA 6725

Senate Committee Secretary  
Australian Senate Standing Committee on Legal and Constitutional Affairs  
Parliament House  
Canberra ACT  
2600

**Attention:** Mr Peter Hallahan, Senate Committee Secretary.

**Re: Inquiry into Access to Justice and Parliamentary Privilege.**

Dear Mr Hallahan,

Further to my discussion with both, yourself and representatives on the Senate Standing Committee on the 24<sup>th</sup> June, 2009 in relation to both my submission and receipt of 'Letter of Warning' from my employer, Aboriginal Legal Services, Western Australia, my understanding in this discussion and response to this concern was that:

- ***A formal request to ALSWA from the Senate Committee to withdraw the 'letter of warning' issued to me, be actioned immediately .***

Since this discussion, I have had no update or acknowledgement that:

1. A request to ALSWA to withdraw the letter has been sent from the Committee
2. No receipt from ALSWA acknowledging this request by the Senate Committee

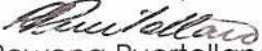
Due to the written warning that ALSWA has refused to withdraw with or without the formal request from the committee and the conduct of ALSWA, has effectively undermined my role as coordinator and as a result of this, has left me no other option but to seek other employment. I effectively resigned from my position on 31<sup>st</sup> July, 2009 and I consider this has been a case of constructive dismissal, where I have been placed in an untenable position by ALSWA.

Finally, I would like confirmation in relation to ALSWA 'breach' of Parliamentary Privileges in the following:

1. Confirmation a letter has been forwarded to ALSWA via Committee
2. Confirmation of ALSWA'S response and acceptance of their responsibilities in their breach
3. Confirmation on all processes relating to the breach being followed through to the full extent of the law.

I look forward to the Committee's support, acknowledgment and response to this request in the near future.

Yours sincerely,

  
Rowena Puertollano

## **Attachment 8**

**Letter dated 3 August 2009 from committee secretary to  
Ms Puertollano**





**THE SENATE  
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
REFERENCES COMMITTEE**

3 August 2009

Mr Rowena Puertollano  
PO Box 37  
BROOME WA 6725

Dear Ms Puertollano

Thank you for your letter of 28 July.

I can confirm that two letters were forwarded to the ALSWA via the committee. The first was sent to Ms Carlisle, and that letter advised the ALSWA of the possible breach of Parliamentary Privilege and recommended that the warning letter be withdrawn. This was dated 29 June, and was sent to the Perth offices of the ALSWA.

I can confirm that the ALSWA did respond to the committee's first letter. The committee then prepared a further letter to the ALSWA on 13 July, which was signed by the Chair, Senator Barnett, and hand delivered by me to the Chief Executive Officer, Mr Dennis Eggington in Perth on that day. A copy of that letter is attached.

It is unclear from your letter of 28 July whether you received any letter from the ALSWA withdrawing the written warning. I am advised that on 13 July, Mr Eggington wrote to you stating that the letter of warning was withdrawn. According to the letterhead, this letter was sent to PO Box 919, Broome, and a copy was provided to the committee. Could you please advise of whether you ever received a copy of that letter and if so, the date on which you received it?

You ask for confirmation of all processes relating to the breach being followed to the full extent of the law. They are being followed to the full extent as prescribed under the Parliament's resolutions. The committee is currently preparing a report to the Senate on this matter, and in that report, the committee is likely to publish all correspondence on the matter. (This has been past practice in such cases, but I am not able to pre-empt a decision of the committee to publish). It will then be a matter for the Senate to determine whether the matter will be referred to the Standing Committee on Privileges for further action.

I have tried to ring you but the phone number I have for you isn't answered. If there is a better number I can call, please let me know of it and I will ring to advise of any further developments.

Yours sincerely

Peter Hallahan

Secretary





## **Attachment 9**

**Email exchange of 4 August 2009 between Mr Peter Collins, Director Legal Services ALSWA and committee secretary, attaching letter of resignation dated 27 July 2009 written by Ms Puertollano**



**Hallahan, Peter (SEN)**

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**From:** Hallahan, Peter (SEN) on behalf of Legal and Constitutional, Committee (SEN)  
**Sent:** Tuesday, 4 August 2009 4:09 PM  
**To:** 'Peter Collins'  
**Cc:** Legal and Constitutional, Committee (SEN)  
**Subject:** RE: Rowena Puertollano - Letter of Resignation from Broome FVPLS

Dear Mr Collins

Thank you for forwarding this. The advice from Ms Puertollano was that PO Box 919 in Broome was an old address no longer used by the FVPLS. I understand that she has a private mail box and if she is contacted, she should be able to tell you this.

Peter Hallahan  
Secretary

-----Original Message-----

**From:** Peter Collins [mailto:PCollins@als.org.au]  
**Sent:** Tuesday, 4 August 2009 3:52 PM  
**To:** Legal and Constitutional, Committee (SEN)  
**Subject:** Rowena Puertollano - Letter of Resignation from Broome FVPLS

Dear Sir/Madam

Please find attached letter of resignation from Ms Puertollano addressed to Katrina Carlisle of ALSWA.

I have been advised by Peter Hallahan that ALSWA's letter to Ms Puertollano advising of the withdrawal of ALSWA's formal warning was sent to an incorrect postal address.

I advise that ALSWA will endeavour to locate a correct address to ensure that Ms Puertollano receives this letter.

Thank you for your consideration and should you have any queries please do not hesitate to contact me.

Peter Collins  
Director Legal Services  
ALSWA



Rowena Puertollano  
Po Box 37  
Broome WA 6725

27<sup>th</sup> July, 2009

**Attention:** Katrina Carlisle, Manager ALSWA/FVPLS

**Re: Resignation as Coordinator Broome FVPLS Unit.**

Dear Katrina,

It is with the greatest of regret that I am tendering this letter of resignation which is to take effect as of the 31<sup>st</sup> July, 2009. Could all entitlements accrued, be adjusted accordingly and in line with ALSWA procedures and processes.

I have throughout my time in the Broome Family Violence Prevention Legal Service, thoroughly enjoyed each and every working moment I have had to undertake to ensure the women, children and families in the Kimberley, keep receiving the best in the service this unit has had to offer.

I have also taken on board some of the challenges I have had to experience in ensuring the services continuation but most importantly, to know that in my heart, I am walking away from something that I have tried so hard to keep as being a part of the healing process for the families, women, children and to some extent men in this region.

Katrina, it has been a pleasure working with you and knowing you. Your support for me through the challenging times has not gone unappreciative and I thank you for that.

To the staff within the unit, I would like to thank them all for their support and wish each one of them the best in what they do and would like to achieve. I have worked with some wonderful staff within this unit and take those memories with me.

Finally, I would like to wish you all the best in the overseeing of all WA units under ALSWA.

Yours sincerely,

Rowena Puertollano