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CARNARVON
5 Francis Street

25 September 2003

The Secretary
The Senate Legal and Constitutional Committee
Room S1.61
Parliament House
CANBERRA ACT 2600



Dear Sir/Madam

INQUIRY INTO LEGAL AID and ACCESS TO JUSTICE

I am the Convener of the Country Practitioner's Committee of the Law Society of Western Australia and a member of the Northern Region Law Society. I write to you in my personal capacity as a practitioner in the City of Geraldton.

I wish to appear before the committee to make a presentation demonstrating a significant, serious and long-standing absence of satisfactory delivery of Legal Aid to rural Western Australia, particularly in the Albany, Geraldton and Gascoyne regions.

This situation has been recognised by the Honourable Attorney General of Australia, Mr Daryl Williams QC, the Government of the State of Western Australia and the Legal Aid Commission of Western Australia, but continues to exist.

LEGAL AID IN WESTERN AUSTRALIA

There are seven Legal Aid offices in Western Australia. Three of these service the Perth metropolitan area. The other four are located in the cities of Bunbury and Kalgoorlie-Boulder, in the town of South Hedland and in the town of Broome.

GERALDTON/CARNARVON

The City of Geraldton is approximately 420 kilometres north of Perth. By road this is approximately four and a half hours. The City of Geraldton has a population, according to the 2001 census of 19,275. However many of the outer suburbs of Geraldton are in fact part

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of the Shire of Greenough. Including these areas the population is 29,996. The City of Geraldton is an important regional centre, and is the largest city in Western Australia north of the Perth metropolitan area.

There are eleven resident private legal practitioners in Geraldton. In addition to this the Aboriginal Legal Service of Western Australia Inc employs one lawyer, the Geraldton Community Legal Centre employs two and the Domestic Violence Advocacy Service employs one. There is no office of the Legal Aid Commission and no regular Duty Lawyer service is provided.

There is one resident Magistrate in Geraldton, His Worship Dr Michael King SM. His Worship's Circuit takes in the towns of:

- Dongara, 65 km south of Geraldton;
- Kalbarri, 159 km northwest of Geraldton;
- Leeman, 133 km south of Geraldton;
- Morawa, 170 km south east of Geraldton;
- Mullewa, 99 km east of Geraldton;
- Northampton, 51 km north of Geraldton; and
- Three Springs, 171 km south east of Geraldton.

There are no private lawyers in any of these towns, or in any of the surrounding towns, whose matters are dealt with at those Circuits.

The Town of Carnarvon is approximately 900 kilometres north of Perth. By road it takes approximately eleven hours to drive between Perth and Carnarvon. According to the 2001 census Carnarvon has a population of 9,152. It is the regional centre for the Gascoyne Region of Western Australia, which includes the towns of Exmouth and Denham and the Shark Bay World Heritage Area. This region has a population of 16,011.

There is a single lawyer employed by the Aboriginal Legal Service of Western Australia resident in Carnarvon. There are no lawyers in private practice in Carnarvon, nor is there a Community Legal Centre, Domestic Violence Advocacy Service or other provision of legal services other than the ALS. There is no office of the Legal Aid Commission and no regular Duty Lawyer service is provided.

There is one Magistrate resident in Carnarvon, Her Worship Sue Richardson SM. Her Circuit takes in the following towns:

- Cue, approximately 500 km south east of Carnarvon by air and 900 km by road;
- Denham, 115 km south of Carnarvon by air and 223 km by road;
- Exmouth, 367 km north of Carnarvon;
- Meekatharra, approximately 530 km south east of Carnarvon by air and 1013 km by road;
- Mount Magnet, approximately 560 km south east of Carnarvon by air and 816 km by road (343 km east of Geraldton);

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- Onslow, 490 km north of Carnarvon;
- Paraburdoo, approximately 460 km north east of Carnarvon by air and 636 km by road;
- Tom Price, approximately 500 km north east of Carnarvon by air and 706 km by road;
- Wiluna, approximately 700 km west south west of Carnarvon by air, and 182 km east of Meekatharra by unsealed road.

(The above distances for Cue, Meekatharra and Mount Magnet assume travel by sealed road from Carnarvon to Geraldton on the Northwest Coastal Highway, from Geraldton to Mount Magnet on the Geraldton Mt Magnet Road and between Mount Magnet and Meekatharra by the Great Northern Highway. Alternatively, there is an unsealed road, only accessible by four wheel drive between Carnarvon and Meekatharra of a length of 620 km.)

The total area of the Midwest and Gascoyne regions of Western Australia which is served by these two Magistrates is approximately 500,000 square kilometres.

There are no lawyers in any of the towns in this region with the exception of Geraldton (15) and Carnarvon (1, ALS).

ALBANY and THE GREAT SOUTHERN REGION

The City of Albany is approximately 500 kilometres southeast of Perth, on the south coast of Western Australia. According to the 2001 census the City of Albany has a population of 29,571, of which 15,675 live in the built-up area known as the city of Albany and the balance live in rural areas which form part of the local government area.

The Lower Great Southern Region, for which Albany is the regional centre has a population of 50,461.

There is a single lawyer for the Aboriginal Legal Service, two part-time solicitors for the Albany Community Legal Centre and twelve lawyers in private practice in the city of Albany. There is also one private practitioner resident in the town of Denmark approximately 50 kilometres west of Albany. The Legal Aid Office in Bunbury provides a duty lawyer service to Albany on two days every fortnight.

There is a single Magistrate resident in Albany, His Worship Mr Robert Glynn SM. His circuit takes in the following towns:

- Esperance, 483 km north east of Albany (although the Esperance circuit is to be taken over by the Kalgoorlie Magistrate in November 2003);
- Gnowangerup, 198 km north of Albany;
- Katanning, 171 km north of Albany; and
- Mount Barker, 50 km north of Albany.

In November 2003, the Kalgoorlie Magistrate will take over the Esperance circuit and the Albany Magistrate will take over the Narrogin circuit, 274 km north of Albany and 206 km south east of Perth. The area covered by the Albany Magistrate's circuit is currently

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approximately 100,000 square kilometres, although with the hand over of the Esperance circuit and assumption of the Narrogin circuit, this area will be reduced to approximately 60,000 square kilometres.

DELIVERY OF LEGAL AID TO REGIONAL WESTERN AUSTRALIA

The Cities of Albany and Geraldton are of similar size to the Cities of Bunbury (28,682) and Kalgoorlie-Boulder (28,818). They are both considerably larger than either the Town of Port Hedland (13,099 including the South Hedland townsite and rural areas within the local government area) or the Shire of Broome (18,507 including rural areas within the shire).

There are six legal aid lawyers in Bunbury, one of whom is part time, four in Kalgoorlie and three in each of South Hedland and Broome.

Although it can not be disputed that there is a requirement for Legal Aid Offices in these regional centres, the need for such a centre in Albany, Carnarvon, and Geraldton is just as great, if not greater. This raises an issue of the allocation of legal resources to regional centres in Western Australia. One possibility may be to relocate legal aid lawyers from Perth, Bunbury or Kalgoorlie to Albany, Carnarvon or Geraldton. While this would constitute progress towards addressing the lack of legal aid resources in both towns, it does so at the expense of the areas already serviced.

Recently, a restricted practitioner was added to the staff at both the Bunbury and Kalgoorlie legal aid offices. Arguably, legal aid resources would be better spent in providing services to regions where there is currently no service instead of increasing the allocation of resources to those towns already serviced.

The ideal solution would be to increase the funding of legal aid to allow for the establishment of centres in Albany and Geraldton of similar size to those in Bunbury and Kalgoorlie, and a centre at Carnarvon of a similar size to those at South Hedland and Broome.

To give an example of the impact of the lack of legal resources in the Midwest/Gascoyne region, I wish to give the following example. I was recently briefed by solicitors in Perth to appear in the Carnarvon Court of Summary Jurisdiction in a Family Law matter. The client was legally aided. The hearing was scheduled for 2.15pm on a Friday and so I drove from Geraldton to Carnarvon, leaving at approximately 7.00am and arriving around lunchtime. The other party had applied for Legal Aid, but had not at this point been granted Legal Aid, and had received assistance in preparing his affidavits from the Goldfields Community Legal Centre in Kalgoorlie which is approximately 1,000 kilometres away by air and close to 1,500 kilometres by road. Much of the road is little more than gravel tracks. As a result of the complexity of the particular case and the lack of professional assistance to both parties during the earlier stages of the litigation, the matter was transferred to the Family Court of Western Australia in Perth. This means that the party in Carnarvon must travel some 900 kilometres to Perth to attend Court and obtain legal assistance.

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In addition, the lack of lawyers generally in the town of Carnarvon has a significant impact on the provision of legal services. Some persons, who do not meet the means test in order to receive a grant of legal aid, are faced with the additional expense, when contracting with a private lawyer, of meeting that lawyer's travel costs from another city to Carnarvon. This can add several hundred dollars to the cost of being represented in Court. A full fare economy return flight from Perth to Carnarvon costs \$715.36. In addition, the client may have to pay for the lawyer's overnight accommodation, or for time spent in transit.

We have been seeking to have a Legal Aid Commission office in Geraldton for over 15 years but to no avail. Successive Premiers of Western Australia, Commonwealth and State Attorneys-General, Legal Aid Commissions and members of Parliament have been made aware of and acknowledged the shortcomings in the provision of Legal Aid services in rural Western Australia. However to date there has been no action to rectify this deficiency.

Yours faithfully

GEORGE GIUDICE