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SENATE

SELECT COMMITTEE ON REGIONAL AND REMOTE
INDIGENOUS COMMUNITIES

**Reference: Effectiveness of state, territory and Commonwealth government policies
on regional and remote Indigenous communities**

FRIDAY, 9 OCTOBER 2009

PERTH

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**SENATE SELECT COMMITTEE ON
REGIONAL AND REMOTE INDIGENOUS COMMUNITIES**

Friday, 9 October 2009

Members: Senator Scullion (*Chair*), Senator Crossin (*Deputy Chair*), Senators Adams, Johnston, Moore and Siewert

Senators in attendance: Senator Adams, Senator Johnston, Senator Pratt, Senator Siewert

Participating members: Senators Abetz, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Eggleston, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Joyce, Kroger, Ludlum, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Stephens, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

Terms of reference for the inquiry:

To inquire into and report on:

- a) the effectiveness of Australian Government policies following the Northern Territory Emergency Response, specifically on the state of health, welfare, education and law and order in regional and remote Indigenous communities;
- b) the impact of state and territory government policies on the wellbeing of regional and remote Indigenous communities;
- c) the health, welfare, education and security of children in regional and remote Indigenous communities; and
- d) the employment and enterprise opportunities in regional and remote Indigenous communities.

WITNESSES

BARNAO, Mr Vasudeva, Holistic Counselling and Holistic Health Trainer, The West Australian Indigenous Traditional Culture and Healing Project	12
BARNAO, Ms Kadambi, Holistic Counselling and Holistic Health Trainer, The West Australian Indigenous Traditional Culture and Healing Project	12
BRADSHAW, Mr Malcolm, Director, Business Services, Legal Aid Western Australia	2
CHANEY, The Hon. Frederick Michael AO, Private capacity; and Chair, Desert Knowledge Australia.....	61
COLBUNG, Elder Ken Nundjan Djiridjakin, Elder, The West Australian Indigenous Traditional Culture and Healing Project.....	12
COUNCILLOR, Mr Ross, Manager Consulting Services, Department for Child Protection	47
FONG, Mr Neil, Assistant Commissioner of Aboriginal Justice, Department of Corrective Services, Western Australia	76
FREEMANTLE, Mr James Malcolm, Chairman, Liquor Commission of Western Australia	35
GAUNT, Acting Commissioner Darryl, Regional Commander, Regional Western Australia, Western Australia Police	112
GEORGE, Detective Inspector Steven Alan, Western Australia Police	112
HOLBROOK, Ms Jodie, Policy Manager Community, WA Local Government Association	123
MARSHALL, Mr Andrew John, Manager, Research and Analysis, Department of the Attorney General, Government of Western Australia	85
MITCHELL, Mr William McLennan, President, WA Local Government Association.....	123
MURPHY, Mr Terrence, Director General, Department for Child Protection.....	47
O’CONNOR, Ms Anna, Lawyer, former Acting Solicitor in Charge, Goldfields Regional Office, Legal Aid Western Australia.....	2
ORD, Mr Duncan, Executive Director, North, Department of Indigenous Affairs, Western Australia.....	95
PAYNE, Mr Alexander (Lex) Leslie, Director, Regions, Legal Aid Western Australia	2
SCOTT, Ms Michelle, Commissioner for Children and Young People, Western Australia	24
SEIVWRIGHT, Detective Inspector Darren Francis Charles, Assistant Divisional Officer, Sex Crime Division, Western Australia Police	112
SIMMONS, Mr Dennis James ‘Kaiber’, Aboriginal Culture and Media Trainer, The West Australian Indigenous Traditional Culture and Healing Project.....	12
SKESTERIS, Mr Robert, Executive Manager, Indigenous and Community Diversity Unit, Western Australia Police	112
TANG, Ms Jacqueline Therese, Deputy Commissioner, Offender Management and Professional Development, Department of Corrective Services, Western Australia	76
TAYLOR, Ms Noela, Executive Director, Policy and Reform, Department of Indigenous Affairs, Western Australia	95
WALKER, Mr Patrick, Director General, Department of Indigenous Affairs, Western Australia.....	95

Committee met at 9.05 am

ACTING CHAIR (Senator Johnston)—The Senate Select Committee on Regional and Remote Indigenous Communities is holding this public hearing as part of its inquiry into regional and remote Indigenous communities. The committee heard evidence in Narrogin yesterday and is now hearing from people and organisations here in Perth. On behalf of the committee, I would like to acknowledge the traditional owners of this land on which we meet. We pay our respects to the elders and seniors past and present of those traditional owners.

The committee is next due to report to the Senate on 26 November 2009. It welcomes submissions from interested people and organisations. Before the committee starts taking evidence, I advise that all witnesses appearing before the committee are protected by parliamentary privilege with respect to their evidence. Any act that disadvantages a witness as a result of evidence given before the Senate or any of its committees is treated as a breach of privilege. I also remind witnesses that giving false or misleading evidence to the committee may constitute contempt of the Senate. These are public proceedings, although the committee may agree to any request to have evidence heard in camera—which means in private—or may determine that certain evidence should be heard in camera.

I am very pleased to say that the Western Australian Indigenous Traditional Culture and Healing, or WAITCH, project is giving a welcome to country this morning. Thank you very much to these young fellas and all the people involved in presenting this welcome to country. Over to you.

A welcome to country was then given—

Mr Colbung—A very big welcome to the Senate committee. Our concern is for what is the past for you but is part of our history, and that is the protection of the sites. We ask the Senate committee to understand the Aboriginal way as well as the whitefella way. We want to say thank you and welcome to our country. We hope that you can understand the sort of difficulty that I have getting up here. I was born in 1931. Since that time I have contracted all the diseases you brought in; thank you very much. I am much weakened by them but my spiritual faith is upheld and I can stand before you now due to the strength that is in the spiritual guidance that is received by human beings. We take pride that we can mix with white people. We can be happy to be together. We have been here longer than you, but we hope that you, in your stay, enjoy it as much as we have. Thank you.

ACTING CHAIR—Thank you very much.

[9.11 am]

BRADSHAW, Mr Malcolm, Director, Business Services, Legal Aid Western Australia

O'CONNOR, Ms Anna, Lawyer, former Acting Solicitor in Charge, Goldfields Regional Office, Legal Aid Western Australia

PAYNE, Mr Alexander (Lex) Leslie, Director, Regions, Legal Aid Western Australia

ACTING CHAIR—Welcome. I remind you that information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. We have your submission. Mr Payne, do you have a short opening statement for us?

Mr Payne—The only opening statement I will make is to refer to the submission which we have provided. I thank the committee for inviting us to speak to that submission. In it we have outlined what we consider to be some of our concerns and issues from the Legal Aid perspective. They are wider than just the criminal law area and go to the areas of family law and child protection. We have outlined where we see some of the gaps. Our recommendations are outlined in the executive summary in that submission.

One other major I will draw to the attention of the committee is—and you may already be aware of this—a recent address by the Chief Justice of Western Australia. It was a presentation to the joint development day at the Department of Corrective Services. The title was ‘Corrective services for Indigenous offenders—stopping the revolving door’. I am not sure whether you have already seen or are aware of that submission. I have a hard copy here which I can hand up. That can be accessed on the Supreme Court of Western Australia website. I have just printed the website cover sheet and a copy of the submission.

ACTING CHAIR—Thank you very much.

Mr Payne—In that submission—and I am referring to the submission of the Chief Justice of Western Australia—he refers to the gap between the living conditions of Aboriginal people and those non-Aboriginal people in the community. Of course, the gap is even wider in regional areas. It is also a huge gap for non-Indigenous people in regional areas, particularly in Western Australia where, in remote isolated regional areas, you have situations where English might be the third or fourth language for some of the Aboriginal people out there.

The Chief Justice goes into the many social issues, which are very difficult to find solutions for without appropriate financial resources and appropriate people to go to regional areas to provide those support services. I can say that at Legal Aid, even in the recruiting of lawyers, it is very difficult to get lawyers to go to some of the remote regional areas. It is not too difficult to get lawyers to go to Broome. We act for everyone, and in some of our offices—Kununurra, Kalgoorlie, Port Hedland and even their Wheatbelt outreach service—the larger proportion of our clients are Aboriginal people. We often work in tandem with ALS, backing up each other because one of us might not be able to attend.

The Chief Justice, in his submission, refers to the high rate of incarceration of juvenile Aboriginal people being of particular concern. It is a good submission and I would recommend that the committee takes it into account. He also covers the issue of driving offences and the problem that is coming up everywhere. I know that you are not necessarily concentrating on the criminal area, and driving offences is a state responsibility. We have made certain submissions to the state in effect that in some situations there should be an amnesty and people should be given permits to drive, at ministerial discretion, to get them back to square one, because people are caught in a revolving door: they might be driving just from A to B, have never had a licence but they can drive, and it is the only way they can get from A to B. There may be no moral culpability—they are not drinking, they are not reckless; they are just driving without a licence, but because of their record of no licence they will go to jail, and then a further suspension will occur. That suspension does not take effect until they get released from jail. For prospects of employment, particularly in regional areas, almost always you have to have a licence if you are working for any of the mining companies. So that is one area we have concentrated on from a Legal Aid perspective, because we see it day in, day out, in the courts through duty lawyer services. You would know that, Senator Johnston.

Senator PRATT—I am looking at the recommendations that you have put forward to the committee, one of which points to the level of assistance that is available in remote and regional areas and the need to make it comparable to that in metropolitan areas, which demonstrates that there is not currently equity of access to Legal Aid services. To what extent is the lack of access to services resulting in the unnecessary detention of Aboriginal people?

Ms O'Connor—We have given some examples in the submission, but one issue is that magistrates often do not have the same range of sentencing options in remote areas that they have in metropolitan areas, and even larger regional areas such as Kalgoorlie. That means that people might, for example, get a fine when they may require a supervisory order to address the underlying issue behind their offending, but that supervisory order is not available.

Even if they are put on orders, sometimes it is a really brief intervention by the community justice officers because they do not actually live in the community. It is a brief intervention when they go to the community on a monthly or bimonthly basis, and the top-up on supervision is often by phone. The counselling or program requirements for many orders are virtually nonexistent in those remote communities. Even the community service work is often not available in those areas, because of a lack of supervisors. Sometimes the work, even when it is available, is not really meaningful work that helps develop skills that might flow on to subsequent employment.

That is a significant issue. It means that the underlying issues underlying the offending behaviour are not really being satisfactorily addressed. I think our submission draws out that there is a flow-on effect in that that is not just a criminal issue; it is in relation to protection and care issues. A lot of the offending is related to inhaled and volatile substance misuse as well as alcohol misuse, and there is often quite a lot of violence. Children are exposed to that violence. Even if the children are not removed they are still being exposed to that, and the inadequate service provision impacts not just in the criminal jurisdiction but also in relation to care and protection or child abuse issues.

The volatile substance misuse issue in the more remote areas, even with the introduction of Opal fuel, is far from 100 per cent solved, because young people and adults still have access to paint and get petrol from tradies and so on when they are in town. Particularly for young people it is an issue. We have raised the behaviour in the submission. Things like possessing deleterious substances are criminalised and lead to being charged when really it is a health issue and leads to mental health issues. Again, there is inadequate service provision. At the moment, there are some great juvenile justice workers up in, for example, the remote communities, but the service provision is often limited just to information sessions on how to avoid harm from using these substances. There are not the service provisions of, for example, drug rehabilitation facilities or even councillors in the community on a regular or constant basis to really work with the young people or adults in a more intensive way. There is a residential rehabilitation facility in the Northern Territory that in odd cases people have had access to, but not through Western Australian orders. That sort of facility would be really useful in Western Australia, but it is just not there at the moment.

Senator PRATT—In the context of that, clearly your comments point to one of the big contributors to offending behaviour and, therefore, to high rates of imprisonment: the lack of access to preventative services, whether they are for addiction or to prevent other forms of offending behaviour. Your submission also highlights culturally appropriate services. Could you contextualise what you are talking about in that sense as well?

Ms O'Connor—There are some good programs—for example, in the Ngaanyatjarra Lands—such as there are. There is a good cross-border domestic violence program that runs in the Northern Territory and Western Australia in some of the remote areas. That has had a lot of Indigenous input into it. But overall there is a need for both community consultation about what the best program provision might be and also Indigenous trained workers to offer the services. Our submission touches on even more trained and qualified interpreters even to access the justice system in some of the remote areas. And it is not just the remote areas; often the people end up being brought to places like Kalgoorlie and we need interpreters there, and they are just not readily available.

Senator PRATT—One of the themes that came out of talking to the health bureaucracy yesterday was culturally appropriate services and the inadequacies there. One of your recommendations talks about local community members being resourced to act as community liaison and support persons on issues concerning tenancy, employment, welfare and related issues. I would imagine some of that would also cut across legal issues when people are perhaps confronted with a particular charge and they really do not have a full understanding of what their legal position is. Could you talk about some of those issues for us please?

Ms O'Connor—There needs to be a more holistic approach to sorting out some of the issues. You really cannot address all of the issues from a justice perspective without looking at those broader issues. I think the intention in our submission was that that be done through community consultation, so the community is deciding what sort of level of support, what program intervention, and what community legal education or other community education is needed to offer a more integrated intervention program in these communities. It is really difficult, even for our organisation, to provide outreach to some of the more remote communities. We do go there regularly, but we go there for court. We go on the magistrate's plane and by the time we get through court you have not got time to do much outreach work or community legal education

work because you have got to fly back. If we had some sort of capacity in the communities for community trained workers who could do some of the community legal education work and other community work impinging on health and housing and so on, that sort of intervention strategy could be really useful as a broader strategy. There is a need in civil areas as well; it is not just criminal matters.

Senator PRATT—You spoke about the role of magistrates and about how they have limited sentencing options.

Ms O'Connor—Yes, often they do.

Senator PRATT—I want to ask you directly about what needs to be done about that. Clearly, how that has been established is a matter of state law. What actually needs to happen to fix that problem?

Ms O'Connor—Lex or Malcolm may wish to add something, but I think it is basically a question of service provision in those communities and of having the workers to provide that service. For example, with alcohol counselling, your counselling could be filling in a worksheet when your first language might not be English and you might not even be literate. You really need the workers there on a longer term basis, even if it is for three- or six-month periods—something more regular than once every now and then. Once a month or once every two months and then phone intervention is not adequate. Drug and alcohol counselling in Perth would be far more intensive than that. If the actual workers were available in the community for adults and young offenders then the same orders that are imposed in Perth could be imposed and have real meaning in those remote areas. They can be imposed now; it is just a question of whether people are getting the service provision that they get in Perth with really meaningful intervention and both supervision and program intervention.

ACTING CHAIR—It is pretty difficult in Warburton or Blackstone, isn't it?

Ms O'Connor—It is. Workers do go there, and I think the juvenile justice and community justice service workers are doing the best they can in the interventions they do. It is just that they cannot be there for the amount of time needed to give that really meaningful support for those program issues—for example, alcohol counselling, family violence and so on. Even that very good family violence program is only available at certain times and it is run around all the communities. Even it is not as available as people might require.

ACTING CHAIR—Do we coordinate their arrival with, say, the magistrate visiting Warburton? Are all the service providers that are essential to those sorts of orders that the senator is talking about in attendance on that day?

Ms O'Connor—Yes. Juvenile justice would normally drive there, and then they have a little bit more time in the community. CJS normally goes on the magistrate's plane. Sometimes if, for example, an interpreter needs to come then someone may get bumped off the plane, which is an added difficulty. The court circuit is once a month, but it is about what happens in between. Even in the not quite as remote areas like Laverton alcohol counselling is still not as readily accessible as in Perth or even in Kalgoorlie. Yet Laverton is not a dry community, so it is quite a big issue.

Senator PRATT—What about accessibility to legal aid services specifically? You have made a recommendation about that. What needs to be done? Are there people fronting up to court et cetera without the level of representation that they would have received, for example, had they been in Perth? I have in mind some of the complexities that happen in small communities where everybody knows each other et cetera.

Mr Payne—In my view there is an accessibility problem, simply because of remoteness and people out there who might not know about us. Legal Aid tries to represent everyone who qualifies for legal aid or to assist by way of a duty lawyer in the criminal law area or by legal advice or legal education. People can telephone Legal Aid on the information line, but even being able to make a telephone call can be extremely difficult. I do not think the access to legal aid is any worse than in the huge sprawling suburbs north and south of Perth. The demand for legal aid is overwhelming; the demand for free legal services is overwhelming. The only way you can contain demand for legal services is by doing what private lawyers do—charging a price—and that impacts upon the demand.

Ms O'Connor—It would be great if Legal Aid and ALS could be in these communities before court, not just flying up on the day of court. But, for example, to get to Warburton it would be over a 10-hour drive and sometimes the roads are impassable, so it is just not feasible. It means you are picking up things on the day, as we do everywhere, even in Perth. So there is just that lack of opportunity. The community legal education role is harder in these communities because of not being able to go there in the same way as if the community was easier to access.

Mr Payne—I do not think legal aid is the important thing here. It is the backup services and other things. We can fly in and fly out the magistrate, and that is the problem in a way. Everyone flies in and flies out or everyone drives in and drives out, and then there is another month when there is no-one there and no backup. I would like to refer to the Chief Justice's submission again. On page 14 he refers to the importance of programs being where the offenders are and to the importance of country. He talks about how the effectiveness of that program is totally related to it being where the person comes from. The starkest example is where the magistrate does not know what the problems are, thinks it is a psychiatric problem and so remands the person to Graylands in Perth for assessment.

Senator SIEWERT—This is an issue in other states as well. Some other states have outreach programs that travel around to communities. Is there any program that you are aware of that goes out to some of the communities that we are talking about in WA, separate to the magistrate's plane going?

Mr Payne—No.

Ms O'Connor—Just straight legal outreach programs. I think some CLCs have done some community work where they can.

Senator SIEWERT—On a consistent basis? In South Australia, for example, there is a program that is consistently taken around communities. It is like a travelling roadshow, but on an ongoing basis; it is not just a one-off process. The services are still restricted because they go there about every six weeks, but at least the community knows somebody will be there every six weeks.

Ms O'Connor—I think the Family Violence Prevention and Legal Services Centre that recently started in Kalgoorlie hope to do some outreach work in some communities, but they are not going to get to Warakurna and Warburton and those remote communities. I understand that a Northern Territory service provider is likely to come in and try and do some outreach work. The Family Violence Prevention and Legal Services Centre will try and do work in the communities closer to Kalgoorlie, and I think the Goldfields Community Legal Centre will try and do something similar. Recently they have been restructuring what they are doing in terms of that outreach function, but they will not get to those remote communities on a regular basis.

Mr Bradshaw—Senator Pratt, if I may go back to your question about the ability to provide services, I suppose one of the issues we are facing more generally in terms of servicing remote communities, including Indigenous communities, is accessibility and actually having people on the ground in certain base areas. Our presence around the state is in places like Albany, Kalgoorlie, Bunbury and Geraldton, and then there is a gap between Geraldton and South Headland so there is a large expanse of territory in that area where we have no base from which to provide services. We are servicing that area on a periodic basis from Perth and Geraldton. It is a large piece of land and a significant gap in our capacity to provide services.

Senator PRATT—What are the implications of that gap in terms of how it affects individuals who need legal representation?

Mr Bradshaw—I suppose a general implication of social exclusion. The Law Council of Australia has recently provided a report on remote and regional communities in terms of access to justice and the importance of delivery of legal services. Its conclusion was that the lack of access to lawyers and legal services generally in remote and regional Australia leads to a situation of social exclusion and the various problems that come with that.

Senator PRATT—For example, might it lead to someone being unnecessarily detained or held in lockup?

Mr Bradshaw—For example, there may be a situation in which a person has been arrested and is being held in custody, but due to the circuit nature of the magistrates system, that person may be detained in custody for a significant period until they can see a lawyer provided by legal aid, and the capacity of legal aid to provide those lawyers on a regular basis is somewhat constrained.

Senator PRATT—If someone is being detained, is being held in lockup and has not seen a lawyer, it would appear to me that there is a false economy as it costs a lot of money to keep someone in lockup versus the cost of getting someone legal representation. But the state is responsible for one and the Commonwealth is funding the other. Can that be rationalised by saying it is a false economy if someone ends up unnecessarily in police lockup for an extra few days, an extra week or an extra few weeks because they have not had access to legal services—is that kind of scenario possible?

Mr Payne—It does happen, but there has been a lot of work done in that area recently, particularly because of the recent coronial report into the death of a male Aboriginal elder. The transportation of people in custody and the holding of people in custody has been a concern for a number of agencies and there has been a working group.

There are big steps which could be made in that area to stop that from happening by greater use of videotechnology and better training of JPs if they are going to be making bail decisions which is a question which is debated to and fro. If you cannot use videotechnology, you can use telephone technology on bail applications. There is also training of police sergeants taking into account when considering bail what will happen if it is refused in the sense that the person might have to be held. These police stations cannot hold them more than overnight. They will be transported to the nearest prison. Of course it goes without saying what has happened recently.

Ms O'Connor—One positive development since the time we wrote our submission is that there is a bail hostel in Kalgoorlie now at least for young offenders. That is a start and they hope to replicate that in other regional areas. At least young people are not always being remanded. For young people from the lands it is not ideal to be in Kalgoorlie but it is probably better than being in Rangeview in Perth.

Senator PRATT—How long might someone be held in custody before they are sentenced without having access to legal services or an opportunity to apply for bail? How significantly would that vary from the metropolitan area?

ACTING CHAIR—Is there a differential? It is eight hours isn't it? Are we seeing that being breached in regional and remote areas?

Mr Payne—No. The fact is that the bail decision is made but the decision might be against granting bail and that is the wrong decision in my view in some instances.

Senator SIEWERT—Why is the decision made against granting bail?

Mr Payne—Many reasons. In the Bail Act there are various considerations they take into account. Of course bail should really be simply the guarantee that the person is going to attend at court. But there are other reasons which are listed such as protection of the community or protection of other people who might be involved in the particular instance. There are many reasons in the Bail Act. One of the problems in my view is that there might be some need to amend the Bail Act and take into account the fact that, if they are not granted bail, it involves transportation from somewhere like Warakurna into the Eastern Goldfields Regional Prison.

ACTING CHAIR—In Western Australia the Law Society requires us all to attend legal education to maintain a practice certificate. We have a group of lawyers turning up, doing work with trusts, secession planning and a whole host of completely irrelevant, useless material simply to maintain a practice certificate. Why wouldn't the Law Society want to see lawyers accumulate their points by doing a certain amount of hours of work per annum for the Aboriginal Legal Service particularly. I am not sure whether we have Aboriginal legal aid any more, it is all Legal Aid WA isn't it?

Mr Payne—No, it is still the ALS.

ACTING CHAIR—Why wouldn't we do that. You might say, 'Who's going to be able to take instructions cold?' That is the history of turning up to Leonora, Laverton, Meekatharra or Norseman. You turn up, you take instructions cold and you battle your way through a list because the magistrate is leaving that night and you do not want to leave people in the can. You

have to get the job done. Why wouldn't the Law Society want to see people able to acquire their points by doing service out in the community? Isn't that a reasonable way rather than sitting in some exotically airconditioned hotel for a day bored into oblivion?

Mr Payne—Leaving aside the points issue, there is quite a bit of cooperation from private law firms. In our Country Lawyers Graduate Program, Legal Aid is in a collaborative arrangement with the Law Society, ALS, the Commonwealth aboriginal family violence prevention program and the CLCs. The whole objective of that program is to get lawyers to basically swear allegiance to work so many years in regional areas. It is much like the old bonded system of teachers, but all we have is the understanding that they want to work in regional areas. That has been very well received and is working very well, although at this moment we still have problems putting lawyers into, say, Fitzroy Crossing, even with people in that program. Big firms have donated a lot of time to help set up that program in areas where their expertise lies. For example, in that program we had to set up a different employment agreement because different agencies were being worked for at different times, and one of the larger law firms did that pro bono. Another large law firm provides lawyers on a pro bono basis to go to some of our regional offices and work for us for up to a month just so that they can get lawyers who get an opportunity—

ACTING CHAIR—That is fantastic.

Mr Payne—It is.

ACTING CHAIR—When the magistrate in, say, Leonora is conducting an inquest or a warden's court, for instance, there will be two silks and about three other lawyers, and they do not start until three o'clock in the afternoon because of the list. Why aren't we on the front foot, having all of that legal expertise? It is not difficult to go and have couple of them take instructions and process a few under suspension type driving matters that the magistrate has to wade through a record on and that you can resolve quite straightforwardly?

Mr Payne—It is a good point.

ACTING CHAIR—Is there a sense of, 'We all have to muck in'—

Mr Payne—Everyone who is at that court at that time.

ACTING CHAIR—Yes—'and then we can get on with the stuff that we're being paid for'? I just think that there is not enough awareness that when you are in a remote or regional place like Norseman, for instance, you do not just sit there waiting for your matter to come on but actually go and see the legal aid guy and say, 'Can we give you a bit of a hand?' The Law Society needs to be on the front foot with that.

Ms O'Connor—There might be some confusion about how quickly people get seen if they are in custody. The bulk of people, even in remote and regional areas, will be seen on the day they present after being first held by the police. It may be difficult getting instructions by video link or telephone before their hearing, itself by video link or phone, but a lot of them are in person in the cells. The ones who make an unsuccessful bail application just get remanded as they would in Perth, as has been indicated. The complexity of a matter may mean that our advice

might be, 'Don't go for bail today,' but that would be the same in Perth. That is not a unique feature of remote areas. People are not being remanded for long periods because they cannot access legal advice, from our point of view. They are getting that initial advice and then representation, the same as they would in Perth. The only way it does not work as well as you would like is if you have to get instructions by phone or video link. That is really difficult, particularly with Indigenous clients. When you have never met them it is tricky.

Mr Payne—Of course the big gap is in civil and non-criminal areas. All the agencies service the criminal areas pretty well as best we can. You do get some occasions where everyone chips in—the private lawyers and that—and they all help each other. I suppose that does happen more often than not. But the big gap is when you are at court and the first person to see you is somebody with what is for them a complicated civil problem—a debt problem, say—and they have been waiting a month for the lawyer to come. They have all their documents and there is just no way of being able to deal with it in any way that could do it justice at all. There is no-one else: there are no other lawyers and there are not even other people like financial counsellors. The problems are often more financial—for instance, there is no way of someone getting out of debt—and there are not even people to help with that.

Senator PRATT—Because this inquiry is about remote Aboriginal and regional Aboriginal communities, what kinds of complex legal problems are there where Aboriginal people specifically have cases that are too complex to be dealt with in the manner that we are talking about?

Mr Payne—They are probably in the care and protection area. With parents of Aboriginal kids, I get the feeling when I travel out there that once a child has been made a ward of the state that is the end of it and there is no way back. Those people are not getting advice and often you will find in some remote regions Aboriginal people fear the Department for Child Protection more than they fear the police. This is just crucial so that we do not repeat our mistakes. Those parents need to be given advice that their legal rights have not ended there, that the child may only be made a ward of the state for two years, that they can reunify and that whatever the behaviour is that caused the department to take that child away can be changed. That is not something you are going to be able to advise on and deal with on the spot. Of course, Aboriginal people have all the same sorts of problems we have with debt and things like that.

Ms O'Connor—Housing.

Mr Payne—With the example I gave of a person who arrives at nine o'clock with a debt problem, that could be an Aboriginal person. There is no difference. There is no way of being able to resolve that. You might have an Aboriginal person who turns up at court—this is a little bit more complicated than usual—and they might want their firearms licence reinstated. It is a legal problem. They cannot do it; they have tried to file their affidavit or whatever at the police station and it is too busy to get the duty lawyer. Those sorts of issues have an impact.

Senator SIEWERT—You may not know this because it is related to the Kimberly, but the federal government has been running a program for financial counselling over the last 18 months or so. The name of it has escaped me for a second; it will come back to me. I am just wondering have you noticed any of the new programs that have been introduced recently—the new welfare reform processes—

Ms O'Connor—Income management.

Senator SIEWERT—Yes, income management. Have you noticed any changes in response to those programs?

Ms O'Connor—They have not been introduced in Kalgoorlie, so I will not comment.

Senator SIEWERT—Yes, most of them are in the north west.

Mr Payne—I suppose you would have to ask some of the people who are actually living with it and who are impacted by that and are actually seeing it. If I had somebody here from our Kununurra office, I suppose they could talk about that. Sorry, I cannot comment.

Senator SIEWERT—Okay.

ACTING CHAIR—I think we are out of time, Senators. Thank you very much, Mr Payne, Ms O'Connor and Mr Bradshaw. We appreciate your submission. Thank you for the Chief Justice's paper; that will assist us greatly. Thanks very much for your assistance today.

[9.55 am]

BARNAO, Mr Vasudeva, Holistic Counselling and Holistic Health Trainer, The West Australian Indigenous Traditional Culture and Healing Project

BARNAO, Ms Kadambi, Holistic Counselling and Holistic Health Trainer, The West Australian Indigenous Traditional Culture and Healing Project

COLBUNG, Elder Ken Nundjan Djiridjakin, Elder, The West Australian Indigenous Traditional Culture and Healing Project

SIMMONS, Mr Dennis James 'Kaiber', Aboriginal Culture and Media Trainer, The West Australian Indigenous Traditional Culture and Healing Project

ACTING CHAIR—Thank you very much for coming. Is there anything you wish to add about the capacity in which you appear today?

Mr Simmons—I am a Noongar man from the Yued tribe, and I am here as a representative of the WAITCH committee.

ACTING CHAIR—Thank you for your didgeridoo playing this morning. You are obviously a very competent didgeridoo player.

Mr Colbung—I am a member of the WAITCH committee. I was born in 1931, and at the time there were sets of rules and regulations different from what we have today. Fortunately, we are able to bring non-Aboriginals to the table with us, whereas previously we could only bring Aboriginals. Now we have a different set of rules. The country has grown up.

Ms Barnao—We are all equally part of the WAITCH group in that sense, but we have different roles. My role is with holistic health training.

ACTING CHAIR—Who is going to make an opening statement?

Ms Barnao—We are going to do five minutes each, because I know that, although you have had our submission, it is a little bit out of the box, so we thought we might need to explain a little bit.

ACTING CHAIR—Over to you.

Ms Barnao—Having heard the Legal Aid people reinforces what we are saying today about the need for a holistic approach and a holistic interface, particularly to regional and remote communities. Our group, which is around this room and outside of it as well, really represent that holistic interface between the Indigenous people, many of whom from regional and remote communities are here in Perth either for short or permanent stays. All the Aboriginal people here today are connected by familial ties and tribal ties to people from across the South Australian border, right through the south-west, up through the north and even to Arnhem Land. The

concept that regional and remote is very separate and distant is not quite the same idea that Aboriginal people have themselves. Perhaps with the colonial history of Australia we have cut off a lot of the links between these communities. Part of what we are hoping to give you a new idea for today is making more dynamic use of technology to link these places up.

For about 24 years my husband and I have been doing volunteer work. We do not get paid for our services, but we are very happy to give them. I run a kindergarten and also a women's program with good success at the Gnangara community. We were doing that on top our normal work, which is to run holistic health training at a tertiary institution. Some of the health services also got to the community there, but the big breakthrough happened when through those holistic health services to the community Nundjan, as we call him, became very aware of the similarity between the way we did our holistic health and the Aboriginal traditional cultural approach. This led to a very great deepening of our relationship and afforded us experiencing the Aboriginal form of holistic health and their philosophies and views, which we saw as being amazing tools for healing and renewal of the Aboriginal people in every community.

At that time we began what we have done ever since, providing free training to Aboriginal people wherever they come from. My husband will speak more about how we do it with the technology for wherever they come from, but we have seen it being incredibly effective. Although the little booklets that were given out to you hold the submission that is already online and you have no doubt read it, we have also included some letters from the Aboriginal alcohol and drug services and from people who are doing wonderful work working throughout the Great Southern region with a small amount of training from us over the last seven years. Just so that you understand, even though we are based in Perth in the centre of Joondalup we have been able to provide services that are self-funded. I have just listened to the legal aid service and there is so much we could do—not very big, expensive things. There are very cheap ways to link people up. We feel that this is a really big problem. Our programs have been delivered there and as a result of the WAITCH project going up on the parliamentary site we are getting people from Narrogin and Broome and other places asking us, places where there has always been interest but now we are seeing more. Thank you very much for taking our submission and for hearing it today.

Mr Colbung—Thank you to Australia for being interested enough to now invite us to the table to speak. I was born here in 1931 and I remember the time when it was seen by us as a concentration camp more than a native settlement. Now we have the pleasure of joining in with the rest of Australia and becoming part of one big happy family, hopefully. We hope that in the future we are able to become involved in the politics and take our place. You have had a senator, Senator Bonner, up there sitting with you, so there is an understanding of who we are, what we are and where come from. We are concerned about the protection of our traditional heritage and that traditional heritage needs further protection and understanding. I have been engaged in learning from the material that we have. It is medication that is a combination of traditional and sacred material but we also have an understanding of the earth itself as a part of ourselves. We would hope that we can continue to join with you in celebrating that fact. We make provision through our organisation which is looking to secure land, not just to secure land to then have it broken up and taken away from us.

I welcome the senators here and encourage you all to come to an understanding that we are people, that we aim to walk ahead, that we are people who are the living of the dead. Our old people came from the Stone Age to become the Aborigines of Australia now. We are people. We

are people. We are people, so I commend us to you as people, not as European or half-European Aboriginals but fully blown human beings who can come and present a case to you. In 1831 our people were placed in a situation where we were seen as flora and fauna.

Today I can stand before you as a human being and you are able to observe that I am able to speak for myself. I have been across to England and Europe to seek out one of our heroes and bring him back—that was Yagen. In doing that, I understand that you have to work together, Aboriginal and non-Aboriginal, otherwise you get nowhere. Therefore, we have a team of Aboriginal and non-Aboriginal people who work together and who have brought together an understanding and a commitment to the spiritual wellbeing of everybody as well as ourselves. I thank the committee for doing that. It is very strange, I know, to come to a committee with a majority of females there. I think it serves you well that you do have them because it is the hand that rocks the cradle that rules the world.

Mr Barnao—An individual human is no different to a society. If you look at a society of people who have suffered trauma and the tools for getting through that have been taken away from them then you get a traumatised people, just the same as you get a traumatised human being if the same things are taken away. The point being that as white society and Aboriginal society have progressed they have started to realise this is a reality. An individual human being, if they go through trauma and they suffer from stress, will normally go to substance abuse. Why? To relieve their state of mind and to relieve their mental torment and torture. I think there is a parallel between a society and individual human beings.

The approach to date to help Aboriginal people in education and health mainly comes from a western European perspective, which is in some ways at odds with the Aboriginal cultural values and views of life. What we are offering is education and training that we believe would be more appropriate to Aboriginal cultural values and the Aboriginal understanding of life. A lot of natural holistic healing has its roots in or is based in Indigenous culture. That is a big difference to the normal medical model that is used.

Our system of holistic health includes using native plants at low dosages. As far as the TGA is concerned, it is completely safe. The difference between the normal allopathic model and this model is that people can have the tools to go out in their community and heal themselves in their community without having to have a doctor's prescription or having to have this or that, which, to me, becomes very important. This medicine also has its roots in Aboriginal culture. Ken had polio at 12. He was healed by the Aboriginals. The hospital could not do anything in Subiaco, so they gave him to his elders. He was cured within 24 hours. This is documented fact. You can check this out.

The other area we specialise in is holistic counselling, working to heal dysfunctional relationships between individuals and within communities. Where I feel we offer something unique is that we are offering certificate I, certificate II, certificate III, certificate IV and all the way to diploma. What does this mean? This means that somebody can do a little bit of education, get some healing tools in their pocket and work on themselves and be within their community.

If you look at the Aboriginal way of being, the healer in the community played a pivotal role in their culture in the past. What happens if you get somebody who starts to get healing skills firsthand is they can then go back into their community, start to relieve the stress, start to relieve

pain and start to get some runs on the board for relieving that traumatised state of mind. Then they become a functional part of their community and respected by their community. To me, this becomes a great plus.

Secondly, you are not getting a top-heavy financial thing which needs people to come from outside who are paid high wages. You are starting more of a naturopathic model, healing from within, so the trauma becomes healed and then people can start living productively. The point is, while they are doing cert I, cert II or cert III they are learning in an academic sense; they are getting an education and learning the value of an education. They are getting towards a diploma, doing biochemistry and all the normal health subjects that are taught, and they have an incentive to do this because they are getting runs on the board for themselves within the actual community they are working in.

Another thing we wish to achieve with the WAITCH project is the bringing together of communities of people who are separated from each other. Let me put this model to you. What we want is an established centre in Perth which will give regeneration and a buzz inside the people who attend. It will become like a watering hole where they get some education and they get tools to help themselves when they are back in their communities—and it will help the communities. We do not only want to establish that centre. Being an RTO and doing distance learning is one of our specialties, so we have the infrastructure in place for distance learning and we have state-of-the-art technology. We can have 10 webcams come in at once and we can have a number of people online. That is a facility that we already have. We can do distance learning in other countries as we are well established.

Our point is that when you get somebody to come to Perth to look at a model of how things could be and then go back to the community, you do not want them to go back there and be isolated and then traumatised, because a lot of the work you have done would then be lost. We want to establish the networking, and this is where the online environment comes in. At our centre we hope to have an Aboriginal doctor—and that is looking good at the moment—who is also there for conditions that need medical attention. We would have the central things, rather than spending all the money and finding the infrastructure does not exist in the communities to support it. How do you support it from back here? You give them the healing tools to go out. Not only that; you have an online community of Aboriginal people who are like the go-getters, who really want this to happen. They network with each other about the problems and how to resolve them, how to find solutions. With satellite technology and especially with the new broadband coming out, we believe this is very achievable if we can get moving on it. It is not just Indigenous healing; it is actually a bridge to white society and also education. It is going hand in hand with education, so it is almost to heal what they are doing.

I do not know where you all come from or what your relationship is with natural health or alternative health, so we have given you some feedback in relation to the Aboriginal drug services here in Perth and the results they are getting. We have other people using a range of government counselling services and getting good results. I have also included a CD which I want you to look at—it should self-load. It has three sections. One is about the ancient Aboriginal use of native medicine. The second shows us on *Ray Martin* live, which we have included because the challenge for us was to heal the audience live—and you will see the results we actually got. If you doubt the efficacy of the healing, I think that is worth seeing. The other one is about its use in hospitals in Perth: what has been achieved here and the respect it has got. I

want to put that there because I think it is very important that you start to see that natural healing is not coming from trying to prove ourselves or anything like that. What we are focused on is getting the job done on the ground. We know that a lot of people are going to put submissions to you et cetera, but we want you to feel that this is something credible, something that is working, something that is very effective, and you can see the education program that goes with it.

Mr Simmons—What I would like to see for my people is no different from what you fellas already have. We were invited to come here. We parked out there. We came in and we followed the protocols. You are sitting there and we are sitting here. That, to me, is no different from the corroborees that we would like to have back in our country. We invite people from all the areas, regional and remote, to come down. We sit together, we talk together and we have the fires. The boys practise their culture and we learn together. The flower essence healing is really important to us because it is a way of us getting back to how we were healing ourselves in the old days. Through our elder Pop Nundjan we have been able to not only do the healing stuff but also keep the culture in place, which is really important.

I am a single parent. I have three sons that I look after and a daughter. My daughter is 20. She has a two-year-old daughter. I am a grandfather. I have an 18-year-old son, a 12-year-old son and a seven-year-old boy, but I also have four or five boys from the area who come to me and I give them culture. None of these boys or my daughter have ever been in trouble with our law—because that is the most important to us—or with your law. I think that just goes to show the importance of the culture and what it means to us as a people. Culture is very important to us. It is a foundation for us, but there are other things we have to have an understanding of. We have to understand the wider community because that is all around us. We as a people need to know what is going on there. We build on our foundation of strength, which is our culture. If we can bring that back to our people, I think you will find better Aboriginal people in the community. It is really important.

Regional and remote people have been coming together for thousands of years. We have sites out here where people have come from as far away as the Northern Territory and the eastern states. A lot of these sites are being destroyed. They are left there but we are not being given any room to practise the culture. This is important. We are not saying that people should not build houses and have jobs. We are not saying that at all. We understand that they need that. We are saying give us more room around sites to practise culture. We can run tourism there. We can bring people in and give them understanding. Then, when it suits us, when it is the right time according to our culture, like at Birrup when it is a little bit warmer, we can hold corroborees there in private for our younger people. We can teach them respect for the elders and for the community, the animals and the people around them.

There is a myth in our community that sitting around together listening to country and western and drinking alcohol is part of our culture. It is not. It is not part of our culture at all. Our culture does not have drugs or alcohol; it is spiritual. One of the things we are lacking in today's society is spirituality. We can get healing from the doctor's surgery and we can go to the AMS. The AMS is just a white organisation with Aboriginal people working there. They are a bit more understanding, but at the end of the day they are running a clinical organisation. They give me tablets and say, 'These tablets will be good for you, but these are the side-effects.' I do not know what is in them. I know what is in the plants that the elders and my pop give to me. I know about that, so I am more willing to go that way for me and my children than to clinical stuff.

What I am saying is that for us land is important and it is something that we do not have to practise our culture. You have got it here. You have got a place where you can come and people can talk. We need that too. It is very important for us. It can be done in a way where everybody has a win. It does not have to be about clearing people out or anything like that. It is just a smarter way of developing sites around the area, in the urban areas and outside. Let us face it, all areas will be urban one way or another. It is just like keeping a golf course or heritage sites, places like that where our culture can be practised. Thank you.

ACTING CHAIR—Thank you very much.

Senator SIEWERT—I would like to explore a little bit more the idea of the centre, your vision for the centre and how far you have progressed it. I also want to hear about your concepts of the certificate I, II and III. Let us talk about the centre first and then we will talk about the training.

Mr Barnao—With regard to the centre, we have a sacred site that we have put through for approval. If that comes through then we will have that land.

Senator SIEWERT—Can I ask where it is?

Ms Barnao—It is in northern Wanneroo. It is already a registered site but we are hoping that because it was a place with caves where Aboriginal people lived during the ice age it is by that tradition appropriate to have a place—

Senator SIEWERT—It is a meeting place.

Ms Barnao—As well as being the waitch dreaming site, where the waitch eggs and the waitch spirit come to the land.

Mr Barnao—And the purpose of that centre is to have the education—the cultural education and the healing education—to be a hive of activity and, we believe, a model where white people and Aboriginal people can truly integrate their culture but maintain respect for the Aboriginal culture. But it is not just about the respect; it is about the functionality of their culture. The functionality is super important.

Ms Barnao—What we did not mention is that it goes up to degree course level. You can take someone from cert I in training, with the whole Indigenous holistic perspective into all models. We teach parts of the Eastern health philosophies as well as Western ones, but it comes through from the Indigenous interface, so people can get the sciences as well as all the other things.

Senator SIEWERT—So from a funding perspective you have funding or are seeking funding—

Ms Barnao—We have not had enough funding—

Mr Barnao—That is our weakness. What we want is a building and then we want to be able to have people come to Perth from remote and regional areas to go through some training and go back. Then we want to—for those who are really passionate, strong—teach how to set up that

web interface so that we keep that communication, we keep that link and keep the link to other people.

Ms Barnao—So the funding is for the technology.

Mr Barnao—We need funding for that as well, for the technology in the remote and regional areas.

Senator SIEWERT—If the courses were accredited, people would get funding to attend.

Ms Barnao—They are. They get that through the normal system, not just Abstudy; they usually can get hold of funding to do government accredited courses.

Mr Barnao—What we are saying is that they are government accredited courses but it is hard for them to get it and we are not going to succeed.

Ms Barnao—We are coming from the point of view that we sit in our classroom and we have someone from Japan, Germany and Brazil in with the class, and we think: ‘Why can we have them and we can’t have someone from a regional and remote community? Why is this happening?’ We have heard that in India all those remote villages are being linked up with their satellites everywhere. Why is that not happening here?

Nundjan wants me to mention that our eldest daughter, who is a social worker, did her clinical practice in mahi tahi mental health in Auckland, and there the Maori people have the most amazing services. I know that we cannot do apples for apples with the Maori situation, but with such a small economy the number of appropriate holistic interface services is impressive. Even in a hospital they will have a marae built where they can go and sit and be, to feel part of their culture around them in times of crisis. They have elders travel with them to every psychiatric visit someone might go to, or to a doctor. They have all these services in a much smaller economy. That is what we asked ourselves when she came back: ‘Why haven’t our Aboriginal people got that here?’

Senator SIEWERT—In terms of the certification—cert I, II, III and going through to a degree—how far are you progressed in negotiating that process?

Mr Barnao—We already have cert IV to degree. The other ones are in the pipeline.

Senator SIEWERT—So all that is already accredited.

Ms Barnao—Yes, since 2002.

Mr Barnao—So we are not seeking to establish something that is already established. We have the infrastructure for delivery now.

Senator SIEWERT—What I am also attracted to—and we have been travelling and have gone to various states—is using some of the courses to engage people in skill building as well. I know you mentioned earlier that it is a way of getting people interested, and then they expand

their language skills and numeracy as well as all sorts of other skills. You sound like you are building that into the courses that you are running.

Mr Barnao—Yes. As I said the first I, II and III are just to get them some skills for themselves and their families. Then those who do not have the education are going to be learning basics for language and other things. As the course goes on, it goes far beyond that. They learn Western disease models. They learn nutrition. The other thing we talk about is the gardens and things like that. We want to make things organic so that people have the tools to help themselves. At the same time the education side of it is learning everything that a normal person would learn in an education program but stuck in an institution.

Ms Barnao—You have to remember that if people have a fire going inside them and they are having something change in their lives, that is important. Most of us would have been good with an education as long as you come out feeling self-confident and you have that fire. If you have that within the training, we have seen it, it is just fantastic. We started off with a cert IV level, so we are going down and we have gone up to incorporate all of it from the VET sector right through to the education department and universities articulating people right through a process that they are enjoying that was not about the schoolroom which everyone hated.

Mr Barnao—That is where the centre becomes important because it is a place of culture and they can come down and see that. That to me is inspiring.

Mr Simmons—Empowering the young people with communication and skills is something that I do. I am also an actor, I am a WAAPA graduate and I perform plays all over Australia as well as in Europe. On Saturday I am going to South Africa to be involved in a film about the Laverton area. I am also the host of a TV show called *Noongar Danjoo*. When we set up that TV show it was all about positive things because our children watch TV so we wanted to show all the positive things that Noongar people are involved in. That show is on NITV but it is only with Foxtel, so you have to have Foxtel to watch it. I have not actually seen that show. It has won a national award in its first year and we are in the process of doing it again. I get a lot of feedback. People talk about me on that show. I have seen the tapes. When we finished it they gave me tapes and the kids scratched them up and lost them or whatever. It is still on NITV, but I do not have access to that.

ACTING CHAIR—When you say it is on Foxtel, I am not familiar with that channel. Which channel is it on?

Mr Simmons—It is NITV, National Indigenous Television, and that is being shown on Foxtel. You have to go to Foxtel.

ACTING CHAIR—You have to get a particular package that includes that channel.

Senator SIEWERT—Yes, you have to have Foxtel.

ACTING CHAIR—I have got Foxtel but I have not got that channel.

Senator SIEWERT—Better fix that!

ACTING CHAIR—No-one told me that it was available.

Mr Simmons—There is no way in the world I want to get Foxtel. I am trying to get my kids away from the television but that show would be very important. It would be a good thing to have.

ACTING CHAIR—Have you had any success in getting one of the mainstream free-to-air stations, the ABC, to take it on?

Mr Simmons—I am in the process at the moment of going to the ABC and seeing whether we can put it on the ABC so we can actually get it here for the Noongar people but it takes time.

ACTING CHAIR—You know we have Senate estimates coming up. I want to mention to you that we can ask the ABC what they are doing about it. I will give you a card at the end of today and we can discuss that further, but it is important.

Mr Simmons—As you know the media was very negative for our people so the positive feedback is very good. It is inspirational. They already have that in Broome and I have watched that a couple of times. It is really good to see people out there doing the culture and doing good things in the community.

Senator SIEWERT—Intergenerational trauma has come up repeatedly through the inquiry. It came up again yesterday when we were in Narrogin. It seems to me that what you are talking about starts to address the issues around intergenerational trauma.

Ms Barnao—It is causal for all the things probably that have come before you. If I had that same background, maybe I would not be here. We see that and our volunteers who are our community are seeing this come up everyday. Even just negotiating the health system with the trauma is difficult, let alone the legal system and all these other things I heard earlier this morning. How are they going to cope? The people in the redress service who use our training tell me that the people are so traumatised and someone is going to give them a cheque. What on earth are they going to do with that to improve their lives?

Mr Barnao—It is \$18,000. So they bring up the trauma and they give you a token payment. I find that insulting.

Ms Barnao—It is not going to work to solve all the problems.

Mr Barnao—It does not resolve anything.

Ms Barnao—Of course they need help.

Mr Barnao—And it is good to give the help, but—

Senator SIEWERT—Sorry, I did promise that was my last question.

Senator PRATT—I have two questions. It is probably slightly a side issue to this inquiry, but one question relates to intellectual property and traditional medicines. I know there have been

some policy mistakes in relation to that in the past and I want to hear your comments in relation to that.

Mr Barnao—In relation to that, I should probably give you a little bit of an understanding of how we have come together. Basically, I personally developed the healing modality used before Kadambii and I met. I am saying that, as far intellectual property goes, we would like a framework to protect the intellectual property of the Aboriginal people. I am trying to say that we should not put it into one bundle and think it is just going one way, because it not. This is a true integration of peoples.

ACTING CHAIR—Does the biodiversity rights legislation accommodate traditional medicines and have exemptions for the use of traditional medicines?

Ms Barnao—It is a very wavy line and it is very hard to read which way it would actually work.

ACTING CHAIR—It is a very good question, Senator.

Senator PRATT—I have an interest in that topic, so feel free to make contact with me on those issues. You have also talked about some of the special skills that you teach through your program in terms of traditional culture. One of the things that there is a lot of emphasis on in this inquiry is the role of Aboriginal health workers and the role they have in negotiating, navigating and creating access for people to health services. I just wanted to ask you about the kinds of skills that need to be added to the role of an Aboriginal health worker, keeping in mind that they already have a large diversity of responsibilities.

Ms Barnao—We are bringing on board an Aboriginal lady, Rosemary Kickett, who has done training in Melbourne. This is all about Aboriginal and Torres Strait Islander mental health first aid. I do not know if you have heard about that. We are going to run that from our centre until such time as the WAITCH project operates. We can give them a whole lot of added skills, such as those in the letters you have got in the booklets, how you can bring the people back through their culture, make them feel connected that way and give them the holistic healing process, which is not a person behind a desk in a white coat or in an institution. They will get better outcomes in the field by not having to just do Western stuff because they have only been trained with that stuff; they will actually have the interface tool for the people they want to reach.

Senator PRATT—Clearly, many of the health issues confronting Aboriginal populations in Western Australia do interface with the acute and pointy end of medicine, but a lot of that can be prevented through good preventative health strategies. It is a key role of Aboriginal health workers to work with their communities to develop that. What kind of emphasis do you put on preventative health in the work that you do?

Mr Barnao—A huge amount. We talk about nutrition. We talk about what white people take for granted, basically.

Ms Barnao—We also use what we have learned from Nundjan, because Nundjan has told us that 98 per cent of the food they ate—and he showed us the documents from explorers from the Wanneroo area where they noted down all the food—was vegetable food. I will give you a very

awful example from right here in Perth of what happens to regional and remote people, which could happen to people anywhere. There is one institution, which is like a hospital outreach place, and those diabetic people who are in there for dialysis every two days, often from remote areas, get served up cakes and biscuits and the worst diabetic food on earth. It could kill them. They going to the hospital to try and save them and they are trying to kill them in the actual centre. If you had holistic training with people this would never have happened.

ACTING CHAIR—Who runs that centre? Is it privately run?

Ms Barnao—No.

ACTING CHAIR—Does the state run it?

Mr Simmons—It is run by Aboriginal people. They have tried to make it like an Aboriginal organisation but they have all the same protocols as a non-Indigenous place and just put Aboriginal people in there. So it is still clinical, and there is no real understanding of nutrition and things like that.

Senator ADAMS—You have obviously found this problem. What have you done about it?

Ms Barnao—We anonymously rang up the health department, but we did not want to cause problems for the Aboriginal people who run the centre.

Mr Barnao—We do not want the politics. All we want is to do the work.

ACTING CHAIR—That brings me to the governance issue. It seems to me that there is a lot of potential, and many of the things you have mentioned we saw on the ground in Narrogin yesterday. We would see a lot of benefit if an organisation such as yours could actually put its roots down in these little communities. If I am the lotteries commission or the state or federal government, what are you going to tell me about your governance, if I am to write you some cheques?

Mr Barnao—As an RTO we have to run like a normal organisation with all the inspection models et cetera.

ACTING CHAIR—Registered trainee organisation, is it?

Mr Barnao—Yes.

Ms Barnao—That is within the WAITCH project at the moment.

Mr Barnao—We are looking for models that we can actually work with that give financial stability and credibility so that we can actually function. So we are open to models and we want to get them and set them down.

ACTING CHAIR—Without putting too much of a whitefella burden on you, are you an incorporated body?

Mr Barnao—We are in the process of becoming incorporated.

ACTING CHAIR—That is the first step. Thank you very much, particularly Mr Colbung, for coming along today. It is very much appreciated and it is very nice to see you again. We hope that you turn up to future Senate committee hearings on Indigenous matters.

Senator PRATT—And thank you for your welcome.

ACTING CHAIR—Yes, indeed.

Mr Colbung—Thank you for bringing so many beautiful girls here!

[10.39 am]

SCOTT, Ms Michelle, Commissioner for Children and Young People, Western Australia

ACTING CHAIR—Welcome. You have received information about parliamentary privilege. Would you like to give us a short opening statement as to your duties, functions, roles, aspirations, hopes and whatever else you want to talk about.

Ms Scott—As I indicated, I am the Commissioner for Children and Young People. It is a relatively new position here in Western Australia. I am the first commissioner for WA and I took up my position in December 2007. I have my own legislation, the Commissioner for Children and Young People Act. I am an independent statutory officer, I report to the Western Australian parliament and I have a joint standing committee to which I report.

The legislation in Western Australia is unique in some respects. I have a role to advocate for all children and young people under the age of 18. In Western Australia that is about 500,000 Western Australians throughout the state. My legislation also says that I must give priority to Aboriginal children and young people and also children and young people who might be vulnerable or disadvantaged. There are currently about 25,000 Aboriginal children under the age of 18 and over 60-odd per cent of those live in regional and remote communities throughout the state.

In very broad terms, my role is to advocate for improvements in all children's wellbeing and for better programs, policies and legislation to enhance their wellbeing. Since I took up my role I have been travelling throughout the state. I have travelled extensively, although not to every place—including not to Narrogin yet. I have been to the Kimberley on several occasions and I have been to the south-west. I have met with children and young people, their families, community organisations and government agencies. That travel has been very informative and invaluable to me as commissioner in helping me to understand the complexity of issues confronting children, young people and their families. I would be happy to talk with the committee about that experience.

I was here before and listened to the people who previously gave evidence to you, such as Mr Colbung. I would like to mention to the committee that there are two aspects to my role: firstly, turning the spotlight on some of the critical issues and the gaps in services, programs and legislation that might enhance and improve the wellbeing of children and young people. Secondly, I also have a role in providing very positive initiatives that are occurring in the community and the positive way in which children and young people are involved in shaping their future. I notice some of the previous attendees spoke about the very positive role of Aboriginal children and young people in helping shape their future as well. I have seen many fine examples of that.

My office is quite small and so my approach is really to be as strategic as possible in relation to the issues that I focus on. For the committee's information, some of the issues that I have been focusing on are the early years at the state level and seeking to engage with developments

through the COAG agenda. I also have been focusing on issues to do with juvenile justice. I have a real interest in that area and am happy to talk to the committee about that.

In terms of regional and remote communities and services for children, as the committee perhaps discovered, there are some very fine examples in those communities of particular services for Aboriginal children as well as non-Aboriginal children. However, my concern is the fragmentation, ad hoc nature and lack of services in those communities. There are very basic services that just do not exist in those communities. One of my key areas has been focusing on advancing the interests of children and young people in regional and remote communities. Just to give you one very simple example—which I am sure the committee has already seen some evidence of—in a community as large as the Kimberley community, there is not one child psychologist employed by mental health services for the whole of the Kimberley region, not one, despite the trauma and complex social issues which those children and their families experience. Those are some of the issues I have been focusing on.

ACTING CHAIR—Is that because they cannot get one or that they just do not have a position?

Ms Scott—It could be those things, but from my discussions with the health department they just have not employed anyone in those regions. There are issues around, for example, alcohol restrictions. I have been a very strong advocate of alcohol restrictions in the communities that are calling for them. One of the first communities I visited was the Fitzroy community. I met with a wide range of people, those for the restrictions and those against the restrictions. I have supported the restrictions because I think they offer practical, tangible relief to families and greater protection and safety to children. The committee members may be aware that, in a community like Halls Creek, three schools of children were invited to comment on what they wanted in Halls Creek. The consultant who did that work for the Halls Creek shire thought kids would say they wanted more activities, more employment or this or that. The two top priorities for children in Halls Creek were to have alcohol restrictions and to stop abuse. That is another reason why I am supportive of it. The voice of the children themselves is very strong on these issues. They want greater protection; they want greater safety.

I was going to say, though, that alcohol restrictions alone are insufficient. We need a comprehensive suite of services and programs that supplement, complement, reinforce and build capacity in the community. A child psychologist is a critical ingredient when you have families who are traumatised. Parenting programs are critical to that. Safe houses are critical to that. Positive programs for kids—whether they are before school, after school or holiday programs—are part of the suite of programs that you need, as are alcohol and drug programs and employment programs. From my point of view, as commissioner, on the ground that systemic approach is absent and there needs to be much better cooperation between the state and federal governments in delivering those sorts of reforms.

ACTING CHAIR—Thank you very much, Commissioner. Before I go to the other senators, just briefly: you put a report in to the joint standing committee up there on the hill—at the back of us here.

Ms Scott—Yes.

ACTING CHAIR—What happens?

Ms Scott—The committee are relatively new, too. They are very interested—

ACTING CHAIR—There is a big difference between interest, writing cheques and starting to do the things the things that you are talking about, isn't there?

Ms Scott—Yes. Could I give you a specific example. The early years in Western Australia—zero to eight years—have been neglected for over a decade. My approach to all members of parliament is that children need to be a priority for all members of parliament and for the community as well. I will give you a couple of examples. Child health nurses are a critical support for Aboriginal kids as well as non-Aboriginal kids. They were a critical support for me as a parent. We have had an increase in our birthrate of 20 per cent in Western Australia over the last five years, but we have not seen an increase in the number of child health nurses in over 20 years. In South Australia, they have a very good home visiting program. The committee may be aware of it. It is specifically targeted at Aboriginal children, where an Aboriginal child is entitled to 34 home visits over the first two years of their life. In Western Australia we aim to provide 20 child health nurse visits for Aboriginal kids over the first five years of their life. I want to emphasise to the committee that that is an aim; it is not actually something we necessarily deliver on.

I suppose, in answer to your question, I want to indicate that it is not just the current government but the previous government. Children need to be seen as a real priority by all members of parliament and all members of the community as well. In WA the early years have been neglected and we need to give them more priority. I have said that in my reports and I will continue to say that until we have a change.

Senator ADAMS—Thank you for that and for your submission—it is very good. As you are probably aware the committee has visited Fitzroy twice, which is quite rare.

Ms Scott—Great.

Senator ADAMS—Also, we were recently in Halls Creek. What positives do you see coming from the Fitzroy community two years on from the alcohol ban?

Ms Scott—I think there are some significant positives. I am hoping to visit them again shortly. I have been in contact with members of the community and the University of Notre Dame has issued two reports on Fitzroy and the benefits. I think there is less alcohol and there is less family violence. I think children generally are safer. There have been fewer acute hospital presentations. I think all of those are very positive, immediate benefits for children and their families. But as I indicated, behind that we need to bring in some capacity building—some very tangible progress to build the capacity in families to parent. We need positive programs for children.

You probably heard that there is a great sports facility in Fitzroy, and particularly boys are the beneficiaries of those. Girls and other family members have raised with me the lack of sporting activity opportunities for girls. Also, if you are not a sporty kid, what sort of other activities might you get involved in? Even on a basic level like that, there is a lack of facilities. My visit to

Fitzroy predated the new school opening—it has opened now which is fantastic. The staff I met talked to me about the trauma that the kids have experienced in Fitzroy. The staff compared this to their own children and how their children might experience the death of their grandparents or maybe some other tragedy. There are multiple tragedies in those children's lives and they need multiple strategies to be put in place. I feel a lot of positive things have come out of the alcohol restrictions. My concern, though, is if we just rely on that we will not deliver the more positive outcomes we can get from a range of other programs. There is education; there are before school programs, holiday programs, after school programs, basic things like that, that need to be introduced in those communities.

Senator ADAMS—Following your report, have you been able to get more service providers into the area? I know housing is a huge problem there—

Ms Scott—It is.

Senator ADAMS—as far as getting people to stay rather than fly in and fly out? Has there been any movement by the state government based on the fact that more service providers are needed? Are they doing something about it?

Ms Scott—I think there is a recognition. From my point of view, there has not been as much action on the ground as I would like to see.

Senator ADAMS—Are you still agitating to get that followed up?

Ms Scott—Yes, that is right.

Senator ADAMS—The Halls Creek alcohol restrictions are fairly recent. What feedback have you had from Halls Creek?

Ms Scott—Once again, it is positive. There is great strength in those communities that lobbied very hard, particularly women. The women I met raised with me that their primary interest was children and their concerns about children. I have been very keen to support those families and community leaders who have advocated for that. I have to say too, the police have been strong advocates in those communities when I have met with them. The benefit already for Halls Creek is less family violence. When I was in Halls Creek, predating the alcohol restrictions, I think the police reported to me 80- to 90-odd per cent of reports to them were family related violence fuelled by alcohol and there has been a significant reduction in that. I think we are seeing some of the parallel benefits that we have seen in Fitzroy.

Senator ADAMS—Something that really interests me especially—and I note that you have mentioned it in these two communities—is foetal alcohol spectrum disorder.

Ms Scott—Yes.

Senator ADAMS—What follow up have you had from that, and has there been any research? I know that Carol Bower has done quite a lot with the Telethon Institute for Child Health Research. Are you pushing that as well?

Ms Scott—Yes. In Fitzroy the community raised their concerns with me about foetal alcohol spectrum disorder, and I met lots of families who were caring for a child, and obviously I went to the school and had discussions with the staff who were concerned about it. I have also had representations from places like Derby. Immediately after that visit to Fitzroy, I met with the director-general about that issue and also had conversations with the Telethon Institute, who are also doing work. The health department has a health advisory network which is developing a model of care. The department for communities here is active to some extent on this issue. However, what was missing for me was a concerted effort and also just very practical advice to parents or guardians who might be caring for a child who has foetal alcohol spectrum disorder. So I met with the Director General of the Disability Services Commission initially, and I have just met with him again recently about what further can be done to offer that sort of practical assistance. I think in Australia generally this issue has not been given the emphasis that it needs to, and there are some positives here in Western Australia. We have the institute and those other initiatives that I talked about, but it needs to come together in an integrated, holistic way. I know there has been some attention given to Commonwealth and state ministers, but it probably needs a lot more attention.

The researchers are keen to point out to me too that it is not occurring just in Aboriginal communities but also in non-Aboriginal communities; but it is in response to those communities that I have raised it. I think it is a very important issue, and I do not think it has been on the radar of health professions in the way that it needs to be. In a place like Fitzroy, not only do they not have child psychologists but they also do not have access to other good professional support. With respect to having someone assessed as to whether they have foetal alcohol spectrum disorder, you are aware of some of the complexities involved in the training of health professions to do that, but in Fitzroy they said to me that the paediatrician comes once a month. If he misses the plane, because Qantas cancels the flight or some other incident happens, the person does not get assessed. Once they are assessed, what supports would you put in place in Fitzroy, and what expertise could you bring to a community like Fitzroy? There are significant challenges, and I have admiration for the people of Fitzroy, who, in the absence of good, cooperative effort by state and Commonwealth government, are getting on with developing something in their own community to try to make something work. You may have met with June Oscar and heard about what they are trying to put in place specifically around foetal alcohol spectrum disorder.

Senator ADAMS—I think it is really good that it has been raised and flagged as a problem, because the diagnosis for children who do not have the facial features is very difficult. As far as trying to get the experts up there and actually being in the community to stay there, once again we go back to what you listed here with the housing and lack of social infrastructure. It is very, very difficult. Have you had any movement on that issue? Indigenous housing is, of course, very important for this committee, and the state has to get on with that, as do the federal government.

Ms Scott—That is right. This week the Treasurer and the Minister for Housing released a major report by the social housing task force, chaired by Ian Carter from Anglicare, and it has very comprehensive recommendations. If some of those were implemented I think we would see a change on the ground.

My job is really to try to influence others, as you are alluding to. I know from the agenda today that you are meeting with the Director General of the Department of Indigenous Affairs.

The issues that I raised in my report I raised with him, and he is very aware of my concerns about these issues.

Senator ADAMS—So you are really acting as a watchdog, which is great. Good luck with what you are doing.

Ms Scott—Thank you.

Senator SIEWERT—Could I just go back to FAS for a minute. In your discussions with the disability commission, how extensively did you go into the issues around whether it should be classed as a disability? As we understand it, one of the issues around getting funding and more attention to it is the issue around whether it is a disability and also, as you alluded to before, the different aspects of FAS.

Ms Scott—My view is that it is a disability and it should be treated as such. In Western Australia there are levels of support. Level 3 is the highest—so you get everything—and, with level 1 and level 2, there are fewer services provided. I said that, as a minimum, depending on the incapacity caused by the FAS, kids should be receiving at least level 1 and 2 services. In Western Australia—and I think you may have heard from Country Health yesterday—disability services in regional areas are delivered through Country Health. One of my meetings in the next week or so is with the head of Country Health about what they are doing about that particular issue in country areas and regional areas. But I think it is an issue nationally as well.

Senator SIEWERT—Yes, it definitely is. I have a question around the alcohol restrictions. The comments that you have just made about Fitzroy and Halls Creek have coincided with the evidence that we have received in terms of the drop in alcohol related violence, domestic violence et cetera. The statistics are all coming down. As you have articulated, the issue is resources. The way it has been described to us is that this has developed a window of opportunity for us as a society to get in and address the underlying causes. Overwhelmingly, the evidence to us is where the resources are not being delivered—and you talked about the issue regarding child psychologists—and resources are not available for other support services. And where it is in, for example, Fitzroy and Halls Creek, there is no house. So there are a couple of organisations that have got money to put staff on and they cannot put them on because of housing.

In general, I note the issues around alcohol restrictions are likely to be coming up in other centres as well. Where I see the strength in them is where it is community initiated. Have you provided advice to the state government around how we deal with this on a broader scale? My concern is that, if we do not allocate those resources, the impact of the restrictions is going to go down. And already there is some evidence in Halls Creek, for example, where there has been a slight rise in statistics—not as much as it was before. People are going to start not wanting alcohol restrictions because you get this short burst of benefit and the long-term impact potential positives are lost because we have not injected the resources. Is that discussion happening?

Ms Scott—That is certainly my position. It is my position to the directors-general and also to the relevant ministers, and all my public comments have been along those lines. I am concerned that there is a great risk that the benefits of the alcohol restrictions will be lost and people will

say, 'Why did we do that? It hasn't delivered the benefits.' That is because alcohol restrictions cannot deliver the benefits that we are talking about long term.

I would like to make a couple of other related comments. It may be a question of additional resources, but in some cases it is not additional; it is actually redirecting some existing resources. I will give you an example. In the early years in Western Australia, we invested significant funds at a state level. So we have state government funds and Commonwealth funds and in Western Australia we also have the mining sector, the not-for-profit sector and philanthropics contributing to that area. What we do not do is measure effectively other programs affected. Do they deliver the outcomes? Also, in terms of enhancing children's wellbeing, are they delivering the outcomes we want?

I have travelled around and seen the programs out there, and the committee may have seen some fantastic programs. For example, in Warmun, there is a wonderful early childhood centre run by the Save the Children Fund and the community. In Wyndham there is a similar program. They are absolutely fantastic. They have been evaluated by Edith Cowan University. The Warmun one is one of the best practice programs of working with Aboriginal communities. In Wyndham I met some of the young mums and saw and heard the benefit of going along to a positive program like that where the kids are learning to play and they are learning about child development, and you can have the child nurse come and all that sort of thing. In one case a young mum said that both her kids were low birth weight and she did not understand that drinking and smoking were part of that. Now she knows that and she is giving talks to the other young mums. So it is a very positive program owned by the community. Those programs make a difference. They need to be sustained over the long term.

Senator SIEWERT—We are touching on my next question. That is exactly what we have heard around Australia. We have heard that there are a lot of positive programs but the long-term funding is not there, and you are getting the stop-start happening.

Ms Scott—That is right.

Senator SIEWERT—So they are dependent not only on long-term funding but also key people. You are not getting that institutional memory and learning handed on.

Ms Scott—Yes.

Senator SIEWERT—So what do we do? The stop-start funding is a critical issue across Australia. We need to learn from the positive programs. We seem to repeat a whole lot of the programs that do not seem to produce the benefits but not the positive programs. What do we do to address those issues?

Ms Scott—One of the things I am advocating at the state level is something that you might be interested in at the Commonwealth level. I absolutely agree with you: there is a short-term funding program. The two programs that I mentioned were funded under the Communities for Children program. They were due to expire on 30 June this year. I do not normally advocate for individual programs but I did in relation to those programs. At the same time, the government was talking about closing the gap, reducing infant mortality, increasing life expectancy and better outcomes for Aboriginal people, I was concerned that here in WA in communities that do

not have many resources we were going to see two very basic programs that could long term deliver better outcomes for those Aboriginal communities, and I am very pleased that the federal government reversed their decision and continued the funding—at least for the next three years. But we are talking about programs that should be funded for at least 10 years—or maybe a generation—to make a difference, because that is the sort of program that you need in place.

I have called for two or perhaps three things here in Western Australia. Firstly, that we have a plan about what we are doing in the early years—and we do not have a strategic plan. I have also been calling for a measure of outcomes, key indicators, in relation to the early years, zero to eight. In Victoria they have a report every two years on how Victorian children are faring. There are 34 outcome indicators. They do it by local government. So you can see, for example, that immunisation rates in, say, the Western Australian community of Willagee might be low. They also produce another report on best practice programs—‘If you want to do something about immunisation rates in Willagee, these are the four or five best practice evidence based programs you should invest your money in.’

What concerns me about the COAG agenda and other initiatives is that we are reinventing the wheel in some cases. How do we develop our own corporate knowledge about best practice programs? The mining industry and the private sector have said to me that there is no one place you can go to—and I am talking here about Western Australia—where, in the early years, you can get that evidence based information. When I travel in regional and remote communities, I hear things like, ‘I’m developing the first ever program,’ and I say, ‘Do you know about so and so over in that community who is also developing the first ever?’ People are not in touch and there is no repository—that the Commonwealth does not have that; that the state does not. So there are wasted resources reinventing—for example, the not-for-profit sector coming up with an idea that somebody else has already had but they do not know about it. I think that is a waste of resources.

I also think we should stop funding things that are not working and invest the money in the things that are working. Unless we have that good outcome reporting and that evidence base, we continue to make poor decisions. The other overlay here in Western Australia in regional and remote communities is the activity of the Commonwealth and the state. How can we make sure that all of those resources that are going into those communities are as effective as possible?

Senator PRATT—Following on from Senator Siewert’s theme of sustainability of ongoing funding, there is a perception that regional and remote communities are highly subsidised but if you look at things like health spending, people in rural and remote areas receive only a fraction of the health dollar compared with people who live close to services. I am wondering if you have done any examination of the issues of systemic lack of service that children living in remote Aboriginal communities have compared to those who live in big, regional centres or in metropolitan areas.

Ms Scott—I have not done the detailed research and analysis that you are referring to. I can say, though, that when I visit the community I gather a lot of intelligence on the ground about what is happening and in my discussions with directors-general and departments it is clear that some of these services just do not exist, so to that extent I have identified some of the gaps but I have not done the research and analysis that you are talking about.

Senator PRATT—So in that sense you would have a service like after school care that exists in a metropolitan primary school that perhaps has federal government subsidies for childcare and other subsidies attached to it as well as a few fees but that subsidy and that service does not exist in many of the communities that we are talking about. Can you think of other examples of the kinds of services that are missing that other children are able to take for granted?

Ms Scott—Besides the ones that I have already mentioned which are school based and to which you have just referred, lack of access to good quality childcare is a major issue. In some communities like Kununurra, services and also parents have raised that with me. One particular example that comes to mind is a young mum whose child was 50th on the waiting list saying her child would be 50 by the time she got her place. Childcare is a significant issue. Another issue in some of these communities is just around access to good quality education. Some communities do not have access to TEE subjects and that is an issue. Even places like Newman do not have access to the positive programs of just community activities that I talked about.

Senator PRATT—It seems to me there is an argument that many of the population bases are not big enough to provide the full range of services but, in effect, sometimes what you seem to get in place of that is nothing and that perhaps we need to pick strategically integrated and holistic services that pick up a number of different functions and rethink the kind of model that we are providing. What kinds of services would suit children in these communities from the work you have done?

Ms Scott—One of the models that I have been promoting is an integrated service model at the local school. Fitzroy is a good example where one of the hubs that is planned is federally funded. That is a unique opportunity to bring in a whole range of programs: the child health nurse; playgroups; toy libraries; maybe after school care; and any kinds of therapists who might visit like a speech therapist or an OT. All of that can be provided in one location. That is a model that I am very supportive of. It is a model that parents generally like because it is in one spot.

In places like Bunbury people are calling out for that sort of model. In places like Armadale, the committee might have heard about Challis Primary School, where the principal is very good and tries to bring all those services in. In Western Australia there is an absence of that integrated service model. That is what I have called for in places like Fitzroy.

The other thing I would like to pick up is that we also need to think about different models of funding. For example, one of the significant challenges in regional and remote communities is that every department is doing its own thing. Some communities may have reported this to the committee. In some communities it could be a matter of several government agencies coming into that particular community within a short period of each other. In a place like Fitzroy, they are asking for new models of service delivery and new funding models, which is not departmental driven. You might have one agency being given the lead responsibility. The money is pooled to provide a range of services. That is a different way of thinking about funding and it is a different way of service delivery. They are some of the things that I have proposed to government here rather than everyone being in their own silos doing their little bit in a non-cohesive way. So that is quite important.

Senator ADAMS—You could use that like the concept of the multipurpose service with the health services for small communities.

Ms Scott—Yes, absolutely.

Senator ADAMS—That is the same sort of thing, except that you are not going to that level; you are looking specifically at the children.

Ms Scott—That is right.

Senator ADAMS—The flexibility is so important for rural communities.

Ms Scott—It is.

Senator ADAMS—Getting that concept through is something that I have been involved with for a long time. There is a difference in a community such as mine in Kojonup. We had 0.2 of an FTE of an IT technician and the same with a dietician/podiatrist. How are you going to get those people? When it became a regional multipurpose service, we were given all those services, sometimes for two days a week, which was wonderful. That is the sort of thing—just taking it down to services provision for children.

Senator PRATT—With respect to training for those delivering children's services and youth services in rural and remote communities, I want to ask about training people within the community to deliver those things and whether you have done any work on those issues. It is terribly difficult to organise mobile trainers, although that is an emerging model here in Western Australia, including training people in child care and children's services. I wonder what opportunities you think might exist there.

Ms Scott—I think that is a very important area. There are some positive examples. I am not sure whether you went to the child protection hostel in Halls Creek. It is one of the models that I think are very positive. It is a child protection hostel where kids who are at risk or may be taken into care can be accommodated. They have a high proportion of Aboriginal people working there, so that is very good. When I was there, they were also developing a model with TAFE for on-site training—supervision and training at the hostel. I thought that that was a really good model in terms of training Aboriginal people in the community so that they got formal qualifications and accreditation for their experience and training. That builds the capacity in the community. So I think that is a really good model. With IT and technology, we should now be able to deliver a whole range of things, as is done in some of the schools. In Newman, the high school has a relationship with Shenton College. For certain TEE subjects, kids do the videoconferencing to Shenton College. That is a fantastic initiative. I do not see why we cannot do that in other areas. I think training Aboriginal people and others in the local community is a key issue.

I think you were talking earlier to one of the people who attended prior to me—Mr Colbung—about Aboriginal health workers. In Western Australia there are five Aboriginal child health workers employed in entirety in the health department for the whole of the state. The department estimates there is a need for at least 500. So we have Aboriginal colleges and TAFES training Aboriginal people, but that is not translating into a workforce of Aboriginal people, and obviously that is what some of the communities are calling out for.

Can I also go back to one point where we were talking about the multifunction service? From time to time issues about governance are raised. They are important for community organisations, and I think there is an important issue in terms of governance for government; governance in terms of how we do our business, how government agencies work together and how the Commonwealth works with the state and with its agencies and the state. There are real governance issues that need to be addressed.

ACTING CHAIR—Commissioner, thank you for coming along today. We are very much in your debt for the assistance you have given the committee.

Ms Scott—Thank you.

Proceedings suspended from 11.20 am to 11.32 am

FREEMANTLE, Mr James Malcolm, Chairman, Liquor Commission of Western Australia

ACTING CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Freemantle—I am also the author of the report that the government commissioned into the Liquor Act some two or three years ago. A number of reforms were made to that act on the basis of that report, and the new liquor act under which we are now bound came into effect two years ago.

ACTING CHAIR—Would you like to make a brief opening statement.

Mr Freemantle—The issue of alcohol generally is a contentious one, but your interest is in Aboriginal people in remote and regional centres. When the report was being done to look at and reform the original Liquor Act, the task force visited a number of regional and remote centres to form an opinion firsthand as to what it thought the issues were. The very great percentage of the recommendations resulting from that were accepted by the government and encapsulated in the legislation, now the Liquor Control Act 1988 as amended. On the issue of alcohol in remote communities, there is no doubt in my mind from what we saw both in the context of doing that report and in my role in the Liquor Commission that it is a major scourge of remote and regional centres. The problem is, of course, that less Aboriginal people drink than white people; however, when they do drink they tend to drink to excess, and that is where the issue lies. It is the minority of these people that cause an enormous amount of trouble, and an enormous amount of effort is being made to try and reduce this harm.

The Halls Creek example, which has just been determined by the director and then went on appeal to the commission, which reaffirmed the director's commission to ban takeaway full-strength alcohol, is already seen to be a major positive for getting these communities back on their feet. It was done at Fitzroy Crossing, and the Fitzroy Crossing experience has been, on all reports, a good one. There is also provision within the act for the minister, on the application of remote communities, to ban alcohol in those communities—the so-called dry communities—and the reports that we have had to date have been that that has worked successfully and that those people who have applied for those bans on alcohol for their communities are satisfied with the result. There are, of course, issues of policing: there will always be people who will run it to the edge of these communities, who will run it into the communities if they can. However, generally speaking, it has given the minister power to assist these people.

The point I would make is that no liquor control act, however well phrased, however well constructed, is ever going to solve the problems that alcohol causes in remote communities. All we can do is, I believe, provide an intervention point, a drawing of breath, if you like, that gives other agencies a chance to operate. Halls Creek, again, was a basket case, if I can use that expression. Health workers would not go there or they would go there and stay for a short period of time. It was very difficult to get school teachers there. It was very difficult to get any sort of health or what I would call social professional to go out there for long enough to make much difference.

If you clean up the alcohol problem, and so a lot of the threat to their physical safety, their quality of life improves dramatically as the town becomes a safer and better place and therefore you have some chance to reconstruct those communities. I am always reluctant to simply say, when there is a problem, 'Well, what the government should do is ...' However, it will require a strong lead from government agencies, housing, health and education, to build on this 'breath taking', where we have got rid of the problem for the time being—and I suspect it will be a permanent change because those who are drinking in the Indigenous community purely and simply for the sake of getting drunk and being under the influence of alcohol permanently will move on.

That is another difficulty, of course: the argument is that you simply move the problem somewhere else. I believe that you will never, ever attack it in 687 Indigenous communities spread throughout Western Australia simultaneously. You would never have the resources and you would never be able to do it; it is impractical. If you can move the main root of the problem to one place or a succession of places—and I feel sorry for the people in Wyndham, Broome, Derby, Geraldton and those coastal cities and towns that will have to bear the brunt of this, no doubt, as a wave of prohibitions and dry areas pushes the danger drinkers out into those places—but if they are concentrated in those big population centres, then in my view action can be taken by the Indigenous people themselves who run some very good programs in Kalgoorlie, Geraldton and Broome. If you resource them, they can look after these people and do something for them. They cannot do anything for them when they are stuck out Halls Creek, Fitzroy Crossing and a lot of these remote communities.

I was going to go on to make one more point but perhaps I will not because I think you will have heard a fair outline of the sort of damage that has been done out there and, if so, there is no point repeating it. But some of the evidence that was led in the Halls Creek application is pretty ordinary, to say the least: intrafamily violence is normal; children having sex at 12 is normal; pregnant 14-year-olds drinking alcohol is normal; spending your sit-down money on grog and gambling instead of food for kids is normal; threatening the elderly until they give you their pension money is perfectly normal. Over 25 per cent of babies born in Halls Creek have foetal alcohol syndrome. This is the issue. It is not just confining the harm to people sitting under a tree drinking large quantities of alcohol and passing out or beating up the person next to them; it is a whole ripple effect that goes through that community. Half of all those babies born were a result of rape and non-consenting sex of some description, and suicides and homicides were rife.

Fitzroy Crossing is interesting because that is the first place where we have been able to have a decent look at the follow-up statistics. Hospital admissions and police call-outs have been more than halved within a short period of time, since the ban on full-strength liquor takeaway.

ACTING CHAIR—What is the period of time?

Mr Freemantle—Fitzroy Crossing was—

Senator ADAMS—It has been two years.

Mr Freemantle—Yes, I think it might be two years now.

Senator ADAMS—2007 it was.

Mr Freemantle—Yes, it was 2007. Halls Creek has had a history of various bans, inquiries and one thing and another, and they have not made a great deal of difference. This was the last and final, if you like, draconian step that simply said: ‘Full-strength takeaway is banned. If you want to drink, you will do it in licensed premises.’ The rationale for that was that there are a number of sanctions about serving alcohol to drunk people or people who have had enough to drink in a licensed premises. What you can do with them when they are out under a tree is another story. Perhaps I will confine my remarks to that and allow you to ask questions. I am happy to make a statement on any other issue you might like.

ACTING CHAIR—Thank you very much.

Senator PRATT—I want to ask about liquor taxes. Clearly, it is a federal issue but it is one that you would have an interest in. There are a range of products on the market subject only to a very small wine tax—cask wines et cetera. Could you confirm the extent to which cask wine, the product of choice, is continuing to contribute to alcohol abuse?

Mr Freemantle—The general correlation would be between the cheapness of the alcohol and the alcohol content—in other words, bang for your buck. Cask wine has probably the biggest bang for your buck. A cask has an alcohol content of 14 per cent. It is in bulk and it is cheap.

Senator PRATT—Would you support measures that would see alcohol taxed according to its liquor content and wine brought into that same category?

Mr Freemantle—I would. I think you have to be consistent and my view is that it should be done on the alcohol content.

Senator PRATT—Do you think that is likely to have any effect on the problems?

Mr Freemantle—I worry whether it will or not in that there is a substitution effect. I think the alcopops tax, how ever well intentioned, probably did shift consumption to see people making their own alcopops—buy a bottle of vodka, go home, mix it with fruit juice, drink it and then go out. It might be cheaper to do it that way and they may have drunk more because it was not a particular measure; it was simply slurped into a container with some fruit juice and drunk. A lot of these people probably had no idea what they were drinking. It probably did more harm. I do not know. I do not think there is any reliable evidence that I am aware of on this. There is some measure of a drop in demand as price rises. It follows the normal economic principle, but we do not have objective measures yet of the substitution effect.

Senator PRATT—Whilst these measures are viewed positively, people have raised issues of equity in that people who are light drinkers like to have the opportunity to enjoy a drink with a few friends. Are there tensions in these communities because of these restrictions? If so, how are they being resolved?

Mr Freemantle—I think it has created some tensions to the extent that there is this view, and it is not unreasonable, amongst the local population and the tourist transient: ‘We are disadvantaged because we are being sensible. All we want to do is buy a couple of slabs. We will put them in our four-wheel drive and they will last us for the next week or 10 days or whatever until we get to the next place.’ Yes, they are at a disadvantage for that. The interesting thing is—

Senator PRATT—A couple of slabs in a week still sounds quite a lot to me.

Mr Freemantle—I am talking about a group of people going four-wheel driving. The point is that it is better to drink it over 10 days than four hours. It is a difficult one. I understand the attitude of the people in the town. They are restricted because of it. The feedback seems to be that they are getting relief from the social problems, so they are prepared to put up with that amount of inconvenience in order to get the benefits from what is being done.

Senator PRATT—That is certainly the feedback that I have had, but I wanted to put the question to you so we can balance out both sides of the argument.

Mr Freemantle—In fairness, the Liquor Commission is an appeal body. Theoretically, all we do is hear applications for a review of the director's decisions where parties are unsatisfied with those. We review the evidence that was before the director and decide whether he came to the right decision or not. However, inevitably in all the evidence we see—both the evidence that was before the director and oral submissions to us—these are conclusions I would draw largely based on what has been put to us in submissions at the Liquor Commission.

Senator PRATT—Can you tell us what kind of process a community goes through in order to become a dry community. There are remote Indigenous communities that have some control over that themselves as opposed to a community like Halls Creek, which is more diverse than that.

Mr Freemantle—It is generally easier for the remote communities because there would be a greater commonality of view and there would be a group of people, very often women, who simply say: 'Not good enough; we've got to do something.' They can make applications to the minister. It is not all that difficult a process. As far as I am aware, where an application has been made, the minister has generally granted it.

As far as the bigger places such as Halls Creek and Fitzroy Crossing are concerned, I am not sure how the minister would react if he got an application to ban alcohol. I am not sure of the conditions that are required, but I think the minister has to be satisfied that there is a community based desire, not just a view that, 'I want to go and live in Halls Creek and I don't like alcohol, so I'll apply to have the place declared dry.' It has to be Indigenous people and it has to be on community grounds—this is the wish of the community, not just a minority.

Senator PRATT—So, if other communities wanted to follow the leadership of Halls Creek and Fitzroy Crossing and come to the same decision, how would they go about that?

Mr Freemantle—They would go to the director and simply ask him to impose certain bans on the licensed premises there as to what sort of alcohol they sold.

ACTING CHAIR—Petition the director?

Mr Freemantle—No, just make an application.

ACTING CHAIR—But how does he determine that it is a broadly based approach?

Mr Freemantle—As far as I am aware, that application can be made by an individual, who can simply say, ‘I am aware of the harm in this community.’ The matron of the hospital—we are not allowed to call them matrons anymore—the director general of health for the area, a doctor or whoever can say, ‘I am really concerned and want this.’ Such a person would probably want to get the support of the local council and some of the Indigenous people to give it some substance, but the director would have to take it on its merits. He would inquire as to what the general feeling was and form an opinion as to whether what was asked for was in fact sensible.

Senator PRATT—What kind of evidence do you look to in order to reach that end? Clearly, if someone puts a proposal on the table, there is quite a lot of work to go through, people that would need to be consulted et cetera to arrive at that ultimate point.

Mr Freemantle—Yes.

Senator PRATT—There are probably a number of hurdles along the way. What are those hurdles that need to be addressed?

Mr Freemantle—Bear in mind that you should probably have the director here for this. The director would make a wide inquiry when he got an application; he would not do it simply on a whim. He would probably either have a hearing or ask for submissions from that community. He would advertise that this was being considered and give people 28 days to respond. He would take all of that into consideration and then make a decision weighing up what was before him as to whether this or that restriction should be put on a liquor outlet or some sort of licensed premises.

The other way around this is that the act provides for accords where the local police and licensed premises get together and have certain agreements: they will not sell flagons before midday, they will not do this, they will not do that, they will not sell between nine and two every second Thursday—which is pension day—or that sort of thing. They are done by consent. The director then has the power under the act to make that a binding agreement.

Senator PRATT—Can you tell me what has been done to make that process accessible to community leaders. You hear a lot—‘The grog is bad; we’ve got to do something about it’—but it is quite a complex bureaucratic process that needs to be pursued, and often people can be quite alienated from those kinds of processes. What do you do to pick up on where different communities might need support to set some objectives and goals and work with you to achieve what they want to do?

Mr Freemantle—I do not know. I think it is quite a difficult one.

Senator PRATT—Would you mind taking that on notice?

Mr Freemantle—Certainly. When I say ‘I do not know’, it is not so much the legal process, but I am not sure how and what might be done to stop that feeling of alienation from the bureaucratic process—what might be done to make these people better educated or more aware of the steps that can be taken. But I am very happy to take it on notice and get the licensing authority to give you some form of response as to what is being done or could be done.

Senator PRATT—If, in considering that issue, you do not think that there is a transparent enough process to make it culturally accessible—for example, to a group of elders who wanted to pursue this—is it the kind of thing that we should be considering a recommendation around, or do you think it is in hand? That is something you can ponder.

Mr Freemantle—From what we have seen, there is a good awareness amongst these communities as to what powers they do have, and the number that have been lodged with the minister and agreed to are well publicised. I do not think that the remote communities feel particularly alienated from the process. I think the most difficult ones are the people who throw their hands in the air in the regional centres. Look at Geraldton and Kalgoorlie. Some of the things that happen at Kalgoorlie are awful.

Senator PRATT—Yes.

Mr Freemantle—That is a police thing and an enforcement issue. Once again, you have to resource your local police and liquor director to be able to do it. Some of the practices that I was aware of when I was there looking at it, just from walking around and seeing what happened at 6.30 in the morning in back yards of hotels, gave me great cause for concern. The real problem, and where it is so difficult for people to do things, is actually in the bigger centres sometimes.

Senator PRATT—And the sense you got, for example, was that Aboriginal communities would like to see some change but are coming up against white drinking culture in the big centres up there, where they really do not have the capacity?

Mr Freemantle—They would. Those communities in Kalgoorlie are divided because there would be a solid percentage of the Aboriginal community that would disagree—because of the migration in there of grog from further out—about the issue of alcohol. Any mounting of some sort of effort to clean up the grog issue would be resisted strongly by elements, sometimes quite senior elements and male elements, very often in the Aboriginal community. It is not easy for the people in those towns to get things done.

Senator PRATT—Addiction is a very powerful thing.

Mr Freemantle—It is.

Senator ADAMS—As you are probably aware, this committee has been to Halls Creek and Fitzroy twice. We had evidence from the Kimberley Aboriginal Law and Culture Centre about a regional alcohol management plan. I know that you have got that going, but they were very worried about plans being just that and when there will actually be some implementation and what will happen. Could you give us a quick briefing on where that plan is at the moment?

Mr Freemantle—No, I cannot. The commission, in law, is there to review decisions made by the director. It is not part of any policy forming. Policies are formed by the body of case law that has built up. We can look at the body of evidence and we can see where the commission's thinking lies and where the licensing authority's thinking lies. That is a question, once again, that should be directed to the director-general. We are obviously aware that these sorts of things are being done, and we are aware that the Halls Creek application, which we, in the end, endorsed just recently. It was as a result of about the 11th inquiry in Halls Creek over a period of time

which has led to various things being done. This was the final step. The most draconian step of all was simply to say, 'We will ban that particular class of alcohol.'

Senator ADAMS—I must say it was very pleasant to go to the dinner camp at Halls Creek on our visit and see three residents there. That was it this time, in comparison to our visit a year ago.

Mr Freemantle—I am encouraged by that. The Liquor Commission or the licensing authority cannot solve the alcohol problems of remote communities. What we can do, as I say, is give them some breathing space. That element has been cleaned out; they have moved on. Hopefully, they will migrate to the coast. This is a very personal opinion: I do not subscribe to the idea that moving them on is not helping. I think it is, because in the end you will concentrate them in places where it is possible to provide them with services. Geraldton has done it. The police and other elements in Geraldton have worked very well with the local Aboriginal people to stop them being incarcerated and get them into centres where they can be looked after. Yes, you let them out at seven in the morning and they will go back and buy alcohol and go to the beach and then come back at two o'clock being a damn nuisance, and the whole thing will repeat itself.

The other interesting thing in Halls Creek is that alcohol was banned on a Sunday, and the immediate necessity for police intervention and the number of hospital admissions dropped dramatically on Sundays. So I think it is a very good thing as a first step and a very, very good intervention point to allow these communities to do something for themselves, but they require assistance.

Senator ADAMS—They certainly do. I just want to move on to the exodus. Some of the evidence we got was that some of these people had gone to Broome or Derby but all of a sudden decided they wanted to go back, and they have come back. But they have had that bit of drying-out time and they are actually coming back into their communities and not really causing the problems they did before. The fact is that they might have gone to Broome or Derby for three months and then, missing the family and all the rest of it, wanted to come back. They have taken time to get their act together a bit, and when they came back the grog was not there and, therefore, they have got on with whatever diversionary sort of program there was.

Mr Freemantle—I am extremely encouraged to hear it because it means, hopefully, that the things the licensing authority are doing are at least and at best not counter to other efforts that are being made and assisting them, and maybe they are the catalyst for these things to occur. That is an extremely good, positive outcome if that is occurring. Also, if they are coming back in dribs and drabs, it means they are not all coming back at once and starting that camp mentality again. Instead they get absorbed back into the community and it is harder for them individually perhaps to become the way they were, because what is left of the community has now become the majority and there are community sanctions if they start to cause trouble. But you cannot enforce community sanctions if you have got 20 or 30 strong men seriously affected by alcohol doing all the things we are talking about.

Senator ADAMS—No. I know, from speaking to the president of the Shire of Derby-West Kimberley, about the difference there. A number of the people who did go into Derby are slowly disappearing, obviously trekking back to wherever they came from. They were really worried because they thought that was against some of the bans at Halls Creek. Now it is not nearly as

bad as they thought, so hopefully it will continue to go that way. Can you give us an idea of the number of communities that have alcohol restrictions or are dry communities in the Kimberley?

Mr Freemantle—I do not know the exact number, but there are eight or 10 that I am aware of, and they have done that on application to the minister.

ACTING CHAIR—So the commission is not actually involved in, let us say, Balgo, which I think is a dry community—

Mr Freemantle—No.

ACTING CHAIR—You do not actually have a role in that?

Mr Freemantle—No, other than to punish someone who ran grog into that community.

ACTING CHAIR—What are the penalties for that?

Mr Freemantle—They are quite severe. They include confiscation of the vehicle. There are some quite severe monetary and economic penalties for running grog into such communities. I am not sure whether you can be jailed, or get a custodial sentence, for repeat offences; I do not think so. Yes, some of the vehicles out there are pretty second rate, but there are also some good ones. I saw grog being run when I was in Kalgoorlie and, I tell you what, if the bloke had lost the four-wheel drive he was driving out, stacked with grog, he would not have been happy—plus a \$5,000 fine. It would have been a very expensive trip.

ACTING CHAIR—Are you catching many people doing that?

Mr Freemantle—No.

ACTING CHAIR—I would not have thought that it is a big offence.

Mr Freemantle—The fact that we are not catching too many is a combination of two things. I think the communities themselves have taken it in hand to ostracise people who do it and try and stop it happening. The police who have a hell of a job with those distances have done all they could possibly be asked to do. If they are made aware that something is happening on a particular track, they will do their level best to go in and intercept that and grab the offenders, so the feedback we have, that I am aware of, is that it has worked.

ACTING CHAIR—You can go through the feedback that we have, too. The initial data in some of the reports that we are just looking through now that are coming in particularly on Fitzroy Crossing and Halls Creek—and two years is not a very long period of time—is very encouraging. On the flipside I am concerned that it is hard enough to get anybody, including small businessmen who want to run hotels, into towns like Fitzroy Crossing and Halls Creek. We have moved the goalposts on them. They have purchased liquor licences that were full licences for the distribution of alcohol. Now they are not allowed to sell and so a substantial proportion of the value in their asset has been diminished. What is happening to them?

Mr Freemantle—There is no provision under the act for any compensation where a restriction imposed by the director on the licensing authority has been imposed to the economic detriment of a seller of alcohol. In fact, the act specifically excludes economic loss as a ground for appeal, so it is very tough on them and you can argue that that cannot be permitted to go on because we have seen that stopping the supply of the full strength alcohol takeaway has given people a real chance and it has been worth doing. But there is the question in this case of the licensee of these premises whose business has been all but ruined.

ACTING CHAIR—A particular liquor store in Halls Creek was wiped out overnight.

Mr Freemantle—So the issue of compensation is certainly something that could well be considered in those circumstances. On the one side you could argue that there have been creeping restrictions and there were certainly some warning signs when he took that licence on, but your point is valid. He could perhaps turn his hand to something else, but more particularly the value of his asset has been dramatically diminished. I do not know how you handle that. Whether the government will compensate is a matter for the government.

ACTING CHAIR—Is there anything before the commission about that?

Mr Freemantle—No, nor in the act. In fact, economic grounds are virtually specifically excluded.

ACTING CHAIR—So that when you hold a liquor licence you take the rough with the smooth. They are at the behest of the conditions that may be unilaterally imposed without notice.

Mr Freemantle—That is true.

ACTING CHAIR—That is another matter for other times and other places. You mentioned that the director holds hearings if he is approached by members of the community. Does he actually go into Fitzroy Crossing and Halls Creek and hold a hearing?

Mr Freemantle—For the last one on Halls Creek other than this one I think Peter Minchin from the department went up there and had an inquiry about alcohol, one of a string of them. Normally, if the director was going to have a hearing he would probably hold it in Perth, I suspect.

ACTING CHAIR—Isn't that a bit problematic?

Mr Freemantle—It is, but looking back I would suggest that he has generally called for submissions and then determined them on the papers.

ACTING CHAIR—In other words it is a desktop hearing?

Mr Freemantle—I think he has restricted hearings to very specific circumstances. The commissions tended to go the other way on the basis that we are free from the rules of evidence and court procedures. We are charged with making sensible decisions as quickly and with the least formality that we can and our view has been that if we are going to try and uphold the precepts of natural justice and procedural fairness and a lot of these people feel that they have

been able to get up and speak, that has gone a long way for them to feel that they have had a fair go even though they are restricted to material that was before the director.

ACTING CHAIR—Can you give us an example of what hearings you have undertaken, what submissions you have entertained and what inquiries you have made in respect of this particular area of administration?

Mr Freemantle—Halls Creek is the first one where, very specifically, it was all about harm minimisation in the Indigenous community. The act provides for identified at-risk sections of the community, one being the 18- to 25-year-old drinker. The other is that Indigenous communities, among others, are specifically recognised as an at-risk group. In these cases we can only review what was before the director. The act is quite specific that this is a review hearing but it is not a *de novo* hearing. We do not go back and get fresh evidence or anything else. We are simply a review body that takes evidence *ab initio*, while I am getting into the Latin, but not *de novo*. We can go right back to what was before the director—but not even read the director's determination, other than whether it was yes or no—and make our minds up.

ACTING CHAIR—But you cannot hear any evidence or make findings of fact that are different to what he made.

Mr Freemantle—No. We might come to different conclusions.

ACTING CHAIR—Yes.

Mr Freemantle—For instance, in the Halls Creek thing they attempted to lead evidence of what had happened at Fitzroy Crossing. We said that that was not before the director when he made the decision and we had to exclude it, albeit that it was pretty powerful stuff. It is that sort of thing.

ACTING CHAIR—You probably did not need any advice as to what had happened in Fitzroy Crossing anyway, did you?

Mr Freemantle—No, we all read the papers, unfortunately. However much you and try and put it out of your mind, we all have preconceptions as human beings. The job is to try and put it aside as much as you can and determine it on what is in front of you or, more particularly, what was in front of the director. That particular clause in the act was designed to stop what was prevalent in the court system previously, where they would lodge an application to the director, wait for the director to come back and tell them what was wrong with it and why he would not do it, and then go to court and say, 'We know all the things that we have got to say to the judge, so we will start all over again and address all of the things that we now know that the licensing authority wants.' It was to try and stop that process and say, 'You fire your first and best shot to the director; if you don't like what he says, you have got the right to go to the commission and have that decision reviewed.' It is actually not an appeal; it is just a review of that decision. The director says, 'There is what was in front of me; I made my decision on the basis of that,' and that is what we have to review. Very often these people are represented by counsel, and we can get them in and ask them questions. They can make submissions on the material such as, 'I do not think the director has put enough weight on this issue', 'I do not think the director understood this' or 'We are arguing this.' But they cannot come back with fresh material and say

that the director did not like such and such and that they have subsequently found out at Fitzroy Crossing other information which they think is material. It is, but we cannot add that to the body of knowledge that we are basing our review decision on.

ACTING CHAIR—Has there been any great level of dissention amongst the AHA or licensees generally as to the way this has been done?

Mr Freemantle—I do not think so, other than the case in Halls Creek—and there was no doubt there that the family that ran that liquor outlet very obviously opposed the application; you would not blame them.

ACTING CHAIR—Yes, their whole livelihood had just disappeared up in smoke.

Mr Freemantle—That is right. They were well represented and made a good fist of it. The AHA is a lobby group for the hotels. It makes no secret of the fact that its position is based on what it thinks is best for the hotels. It will always put the best spin possible for the hotels and it tended to resist a number of initiatives that are now encapsulated in the new act. It has also been vocal on certain issues that have been before the director.

ACTING CHAIR—Does the commission publish a newsletter or any type of information that highlights what changes in liquor licensing have yielded in terms of social policy outcomes?

Mr Freemantle—We are required to report annually to the parliament.

ACTING CHAIR—An annual report.

Mr Freemantle—It then becomes a public document. The director and the department put out a number of policy notes and guidance notes on how to apply for a licence and what you should take into account.

ACTING CHAIR—They are fairly narrowly focused.

Mr Freemantle—They are quite narrowly focused on how to get a licence, what you have to cover, what the public interest means, what you have got to establish and that sort of thing. We do not. We simply publish reasons for our decisions, which, once again, are publicly available, and we publish an annual report.

ACTING CHAIR—Does the annual report get into the broader context of this area of licensing? The two towns in the Kimberley for instance, do you talk about those at all?

Mr Freemantle—Yes, we would have discussed those. This one would not have made this annual report, but in the next report we will give a synopsis of this and it will bring out clearly that the commission's view was that harm minimisation outweighed the other considerations.

ACTING CHAIR—The figures are undeniable that there has been a huge positive outcome in these two towns over the relatively short period of two years in terms of domestic violence, crime et cetera. All I am seeking to do is to have the organisations responsible for the administration of the act, as the last appeal body, talk about those outcomes.

Mr Freemantle—We do not. I am not sure there is any reason why we should not. Maybe there is. I would have to think about that one too. In the end, you would liken it to the court where judges issue a newsletter about the interesting cases they have had. In that case, the law reports do comment on what the judge said and looked for and what was important or not.

ACTING CHAIR—The difference, I perceive, is that the judicial officers are administering the law.

Mr Freemantle—We are an administrative appeals tribunal.

ACTING CHAIR—Whereas here, you are an administrative body dealing with a licence for a commodity that has a down side.

Mr Freemantle—Yes.

ACTING CHAIR—There is enough scope in what I have just said about that area to indicate that we cannot simply view the distribution and licensing of the sale of alcohol as a commercial licensing matter alone or in a vacuum.

Mr Freemantle—No. I would agree absolutely with that. The whole preamble to this liquor control act, the long title of the act and the fact that ‘control’ was inserted into the title at the last review, talks about harm minimisation. The commission’s position has been very much your position that if alcohol was not a harmful substance, potentially and actually, then you would not need a liquor control act. It would simply be another retail commodity. But because it is harmful, you need an act to prescribe the conditions under which it can be sold and consumed. The act would back your view, absolutely.

ACTING CHAIR—Mr Freemantle, thank you very much for the assistance you have given the committee and for taking the time to coming along this morning; we do appreciate it.

[12.13 pm]

COUNCILLOR, Mr Ross, Manager Consulting Services, Department for Child Protection

MURPHY, Mr Terrence, Director General, Department for Child Protection

ACTING CHAIR—Welcome. Mr Murphy and Mr Councillor, would you like to make a short opening statement?

Mr Murphy—We will make it short because I think the value in this is the opportunity to have some dialogue. I will ask Ross to follow me briefly as well. The first thing I would say about the Department for Child Protection is that the name casts our role a bit narrowly. As well as dealing with child abuse and children in care resulting from that, we remain responsible for the residual welfare responsibilities of the state government. Individual and family support is how we characterise those.

With respect to Aboriginal issues, we have made a strong attempt in the department to make Aboriginal business everybody's business. Ross will speak more about that following me. With respect to remote and regional communities, I would like to touch on a number of specific initiatives, some of which have been formally evaluated and show real promise. The first is having what we call community child protection workers available in remote and regional communities. We have 29 of these across the whole state but the majority are in country areas. In particular, we are in 12 remote community locations.

ACTING CHAIR—Do you know which ones they are?

Mr Murphy—They are: Kalumburu, Oombulgurri, Warmun, Balgo, Dampier Peninsula, Bidyadanga in the Kimberley, Jigalong in the Pilbara, the Ngaanyatjarra Lands, two people in Warburton, one in Blackstone, and one coming in Warakurna, in that central lands area. We have yet to place a person in Burringurrah, in Murchison, and we will be doing so as soon as we can, and—depending on how you characterise it—in Wiluna. Wiluna is actually a town rather than a remote community but it is difficult to tell the difference.

ACTING CHAIR—I think it passes the rural and remote community test.

Mr Murphy—Yes, it is pretty close.

ACTING CHAIR—That is the 12th. It is pretty good.

Mr Murphy—Yes, 13 people, 12 locations. They have been built up since—I cannot remember the year; Ross may know—the Gordon inquiry in this state into Aboriginal child abuse. We work totally in tandem with the police service, located at multifunction police stations in those remote communities. The role is a dual one. It is both child protection, with its statutory responsibilities, and also working with the community and through the community to try to help the community to identify and to take action itself on risks to children and all the associated issues such as domestic violence and so on.

Senator ADAMS—A quick question: what qualifications do child protection officers have, or ought they to have?

Mr Murphy—We have been backwards and forwards through having qualifications or not. We do require all our people to have qualifications now. A basic degree in the social sciences is our preference, and by far the majority of our staff have social work qualifications. That capacity of those workers is a key initiative, I think. Beyond that, we have specialist workers that we call youth and family support workers—some 26 across the state and really fairly evenly balanced. The thing to note about them is that they are employed by us but have no statutory responsibilities. Very deliberately, the message to Aboriginal families who are their target clientele is that these people are only here to help. They pose no threat to the—

ACTING CHAIR—So they are not reporting to the police or anybody else.

Mr Murphy—The reality and the necessity is that they work as part of our system and we work with the police and other agencies. But, by having no statutory responsibilities, and with the emphasis on engagement, relationship and how we can help families cope, it has them one step removed. That is a helpful strategy. I did not mention that both the community child protection workers and those youth and family support workers have been the subject of formal evaluations over recent years. They are positive evaluations and they are available.

The Strong Families program is a very longstanding program through interagency case management coordination, bringing together all the agencies that are involved with particularly problematic families. It has been very successful by virtue of it being overloaded and having waiting lists. But it really is just a mechanism to make sure all the agencies who are working with any given family are around the table and the responsibilities are well defined. A lead agency is appointed and actions are monitored. That is backed by a coordinating governance structure at regional and central level.

There are just two more issues. The first concerns responsible parenting services. The state has an act called the Parental Support and Responsibility Act, and it provides for compulsory audits of parents to engage in parenting services. No audits have been issued. The act was designed in such a way that there would be several stages before audits would or should occur. We have responsible parenting services in most but not all country areas in the state. We have them in the Kimberley and Peel areas to the extent that they are regional. This service is very successful in engaging families in quite a defined program that is aimed at changing their parental behaviour to become more effective, particularly with older children. It has an adjunct program, called Best Beginnings, which runs in more areas of the region. This program does the same thing as the other program but it is for younger children. It is very much targeted at parents who are right at the pointy end of being problematic. The big challenge there is making that applicable to Aboriginal communities. We have done some really interesting work, I think, in adapting what is a very unavoidably predictable, clinical language based way of working with Aboriginal communities in the Kimberley.

Lastly, there is income management. You would be aware that in cooperation with the Commonwealth government this state is implementing income management as a child protection measure. As a pilot program, it encompasses our capacity to refer to Centrelink people whose income should be compulsorily managed—and that can be up to 70 per cent of their Centrelink

benefit. The other side of the coin is for people themselves to elect to have their income managed. They are the two sides of the coin. Obviously, if we are talking to somebody about compulsory income management, it is far more preferable that they be encouraged to take up voluntary income management and continue to work with us. That is available only in the Kimberley regions. Minister Macklin has just announced that it will be extended to all the metropolitan areas in Perth, which is very welcome. We are keen for it to be state-wide at the earliest opportunity.

ACTING CHAIR—What is the hold-up there?

Mr Murphy—It is Centrelink's capacity to roll out the BasicsCard—the plastic card that stores accept for purchases and so on. It is simply a matter of having sufficient resources to do that. We think this is the viable approach to income management nationally. Cape York is terrifically interesting in this respect. I think it was only recently reported in the *Australian* that there have been some really positive outcomes from income management in Cape York, but this involves a complex set of governance arrangements that are probably unique to the Cape York Peninsula. The Northern Territory is another story with which we are all familiar. In both areas, income management applies only to Aboriginal people.

In relation to income management as a child protection measure, while a lot of Aboriginal people have been involved in this measure—in the Kimberley, it involves almost exclusively but not entirely Aboriginal people—it applies right across the board. We think it is a much more viable model for national roll-out.

ACTING CHAIR—Can you tell us how it practically works?

Mr Murphy—To oversimplify it: if we are confronted with the situation where we think a family's management of their income is contributing to their neglect of their children—so the money is going on booze or gambling or it is being overtaken by family obligations—we will make a decision as to whether or not we will refer them to Centrelink. Our decision requires all sorts of consultations and checks and balances. Nine times out of 10, Centrelink will follow our referral to have that family's income managed. The family would then work with Centrelink. Centrelink will say to them: 'Right, this 50 per cent to 70 per cent is managed. This is where it goes—rent and other compulsory bills for utilities and the like. The rest goes on a BasicsCard, and you get the remainder in cash.' We do that for up to 12 months, but we try to nominate a period. Case management from the department is concurrent. So it is not just income management; it is part of what has to be a whole suite of intervention. At the same time, for some families, it will be the dominant intervention, but it is never a single intervention.

Senator ADAMS—On your income management: how many people have you prosecuted so far?

Mr Murphy—In the Kimberly there are about 200 people on income management—about 160 voluntary and 40 compulsory. As I said, there are two sides to the coin. It is not an approach where we sweep all parties in front of us. That said, we think it is still building in terms of numbers.

Senator ADAMS—Are you getting more voluntary ones coming forward when they see how the other families are coping?

Mr Murphy—In the Balgo community, for example, a substantial number of people got together and elected to go on voluntary income management. It makes real sense. It actually makes paying the bills and your rent and all these things easier.

Senator PRATT—You can do that for me!

Mr Murphy—Yes! Centrelink has previously had some capacity for that, but it was a more laborious system. This is a simpler version. I might ask Ross to say a general word before we get into the specifics.

ACTING CHAIR—Mr Councillor, we are interested to hear what you have to tell us.

Mr Councillor—We are probably at a time in the department when it is in a good position. I have been with the department for 24 years. I started out looking after kids—taking kids into care and challenging families to do the right thing by kids. We are at the point where the department has had a big image problem. We took kids away. We still get approached with that today. But the way that we are looking at it now is that this is a time of choices. Some of our families are making the wrong choices. It is not about assimilation policy or anything like that; it is about the rights of kids. So that has been the agenda that we have gone with.

The department is into integration. In the past, where we might have had a certain service for Aboriginal people, sometimes it was not a good service. So what we are trying to create at the moment is thinking for everybody's kids. Every kid should have the basic right to be looked after and cared for. The integration within the department is something we are learning at this point in time. We are looking at training our staff and getting qualifications, particularly for Aboriginal staff as well. It is a really big change and it is showing the department that we are a learning organisation. Sometimes we do not get it right, but we want to at least try to get it right and we want to keep honing those skills. We have got to look at getting Aboriginal staff accredited through training around child protection—social work training and tertiary. We are putting all of those things in place now.

It is taking some of the fear out of what we do. When you look at income management, I was a big part of the selection of people to go to those communities. The first part of the selection is that they go through the department's processes and then I take them out to the community and get the community to select the people that they think are the best people to work with their community based on their presentation and their interest to be in the community. That has been a really good thing. We have tried to cater for men's and women's issues.

One thing that falls off the agenda in a lot of our communities is the kids. For a number of years, every time we fight to get it back on the agenda, something else comes up. Native title has sort of pushed that to the point where they are more worried about native title than they are about kids. We have these people out there trying to work with the families on how we can make good decisions around our kids and trying to engage the men in those processes, because most of the time they leave that to the women. So we are just trying to engage them in a different way. It is like the last frontier that we are going into and for a number of years we have been out there with

the police doing that type of work, but it is a service that is fortnightly or monthly depending on the rain and all the other environmental issues that you have to consider. This is really the last frontier. We are getting out there and it has been really well received by the people. In the talks in Warburton and with the families in Blackstone they are saying: 'We want a proper service that will keep our kids safe and that will help us make decisions around that with our community. We are not frightened to make those decisions, but we need to know what they need to be.'

Income management is a big thing that has been talked about in the community. They have seen what goes on in the territory and they are saying in the lands that they need something like this. We fight with them all the time. One of the stories that will stick with me for a number of years is that in Blackstone they said: 'This old fella was sitting down. He was proud of his grandchild being born. The mother went down to the shop with the bonus money and bought TVs—everything that she needed. When she came back he said to her, "What did you do that for? This money is for this kid." She went to the little baby, looked at her and said, "This baby doesn't know."' It is that money that has been spent. They are saying: 'We see kids that come to our homes starving. We are not going to turn them away, but we want these people to be responsible.'

So they are looking at income management not to control people's rights but to make sure that kids get a fair deal there and that their parents will not be spending that type of money. That is why they are looking at that sort of stuff. A lot of our staff are frightened to use that, because they are thinking about the Stolen Generations and those types of things. I have been going around with Centrelink and talking to a lot of our staff to take the fear out of them. This is a tool such that, if I had had it when I was doing my 10 years of casework, there may have been a lot of families still together. Some of the statements that our mob made here are, 'You can have this kid; I'll make another kid.' Those are the types of things, so I am glad we are going down that line. The old people have been saying to charge them. I do not know whether we will get to that point, but they are saying we need to take this because otherwise we are not going to have a community and we are not going to have a future. It starts with our kids and that is our investment. So income management, if we use it in the right processes and do not associate it with their rights but with the rights of the kid, is a winner. It has been a really good program. It has been a good incentive.

There are voluntary processes in that. I have families that I work with and I see the kids change—see them healthy, coping and so proud to show you their fridge full of food when before they would come to us for financial assistance most of the time. This is helping them to cope with their environment. Income management is also seen to release the pressure for women sometime, because the men want to spend all the money and if the women do not give it to them they end up in a lot of fights and stuff like that. That is the reality. We are trying to bring a tool in that can give us some flexibility in helping the women and the children. They can say, 'I haven't got any money; here's the card,' and they can go and test the card, and it might not be something—

ACTING CHAIR—They can't come back with a slab.

Mr Councillor—Yes. It releases the pressure for them. So sometimes it works really well. Sometimes that is just an issue.

Mr Murphy—I table some very brief general information about our overall approach to Aboriginal issues.

ACTING CHAIR—Thank you very much.

Senator ADAMS—On the card, what we found in the Northern Territory once they introduced it there and it was starting to become really popular was that, when there was a funeral on and a lot of the people moved over to some of the communities on the edge of Western Australia and the Northern Territory, they had their card with them to get their food but the card did not work. So what is going to happen there? Is it going to be interchangeable within the different states?

Mr Murphy—That is our understanding. There were some early glitches, basically—highly publicised early glitches from our point of view—but our understanding is that Centrelink has pretty much sorted out using the common BasicsCard. Far be it for me to speak for Centrelink, but this is an approach that requires individual stores to sign up. It would be great if there were a universal electronic solution.

Senator ADAMS—It would be great if we had those stores that are still refusing to sell Opal fuel. I think the BasicsCard should not be allowed to be used within those recalcitrant stores that are causing us a lot of grief in that respect. They should not be allowed to have the BasicsCard. They should let the other stores in some of the communities have it instead.

Mr Murphy—Anything that encourages those service stations and stores to take up Opal fuel would be greatly appreciated. It is a bit like the alcohol restriction that you were talking about before. The introduction of Opal has provided a respite—not a solution, but a breathing space.

Senator PRATT—Mr Councillor, you touched on the question of the legacy of the stolen generations and, as a result of that, the mistrust that some Aboriginal families have of child protection services. You highlighted some of the ways of building up trust and addressing that. To what extent is it still a problem and what is the key to resolving those problems in terms of letting families know that there are services there to support them and help them overcome any parenting problems they might have and that that is the first step?

Mr Councillor—It is pretty hard to engage a family when you have to look at the kids' issues in a way that sometimes might result in their removal. Some years ago we did a consultation with Aboriginal communities and asked, 'What are some of the things that we should do when we come and talk to you about sometimes taking your kid off you?' Some of the things that they said were, 'You should be honest in your approach with us,' and, 'You should be able to let us know.' When we engage with those types of families our work is away as difficult, because we go from the public to the private. A lot of families view it as a private issue and they sometimes associate it with the stolen generation or not having a say. It is about giving them that type of good advice, and that is what we try to do in the Aboriginal engagement with a number of positions throughout the organisation. That advice is pretty well critiqued by Aboriginal officers in support of case workers. But the sticking point is always going to be how you stop a practice when normally people only see the practice in front of them. To whatever extent that is done it will always leave some memories. So we try to work in such a way that we leave the door open. There are some things that they need to do, and we are honest in our approach with them.

Sometimes it is very difficult, but as a learning organisation those are the things that we are addressing and supporting. But on the day it is always going to be a difficult case.

Mr Murphy—Covered very briefly in the documents we have supplied is our approach to child protection. One of the issues that bedevil child protection systems around the world is: how do you do child protection work? In alcohol and drugs there is a dominant paradigm of how you intervene in those issues, and it is very well known and accepted. With child protection, as we see over and over and are experiencing in this state, they get into trouble, there is a review and there are a dozen or more rules and regulations. At the end of the day the systems are so choked with rules and regulations that they cannot do anything anyway. That is a bit of a caricature, but nobody much steps back and says: how do we do this work? We have adopted an approach which was developed in Western Australia and has been adopted around the world in various locations, although not universally, called the ‘signs of safety’. That system has grown over the last 15 years or so. In essence, when it comes to Aboriginal people it operationalises those notions that Ross was talking about: being honest, being upfront and involving people. We do not make our decisions behind closed doors. We make them around the table with the family. We talk in plain language. We talk about behaviours, not courses and concepts.

There is a nice little paper on our website if you want to read more about it, but essentially it is about operating in an open and transparent way with the family and with the extended family with the idea not that it is all about whether or not we take away the kids but that it is about how that family can demonstrate that the child is safe and how we can bring in other members of the family, the extended family and perhaps the alcohol and drug agency or the Aboriginal medical service to help make sure the child is safe—building safety around the child. That is a simple exposition of it, but it does mean that we have a way of working that our workers have grasped. It is quite complex and it requires high levels of skill. Imagine having families talking about these issues around the table and doing it openly and in language everybody understands. The feedback from Aboriginal families has been as simple and compelling as, ‘For the first time we know what the welfare is on about.’

Mr Councillor—And sometimes a kid’s vision or memory of growing up can be a bit of a trauma for them, but it has given them an idea of what they can talk about. Once the child has articulated that, you present that to the parents and the parents can see that and they say, ‘I never really understood what I was doing to my child,’ and that has come out in some of these remote communities. So it has been a really good thing and it has recognised that the family needs to do something.

Senator PRATT—In the context of that same discussion, I would like to talk about the prevention of child abuse and neglect and the role of the Department of Child Protection in that regard. You have highlighted a number of workers that you have got. So I presume the 13 workers that you have got placed in communities work both in that direct intervention but also in broader community development to prevent child abuse and neglect.

Mr Murphy—Yes.

Senator PRATT—Can you highlight that part of their role, particularly in terms of the skills and resilience that they are working to develop both in parents and in supporting children?

Mr Murphy—It probably will not be as precise as you might wish, because working in those communities can be very messy work, obviously. It can be reactive and it depends on partnerships that establish between all the services providers and the community. I will provide an example of what I think is one of the better ways to characterise it. We had a meeting of our Aboriginal Affairs Coordinating Committee this morning and we are concentrating on Oombulgurri—a community that has been phenomenally dysfunctional over many, many years. It was the one community that was deliberately not dry in the state. We were all very clear as heads of agencies that we had to get our child protection workers, the health workers, the teachers and the police to be supporting a mens group, a womens group, youth activities—in the absence of youth workers—and footy coaching and that the way to do that is not to do it for now and forever but to work with community people to support and encourage them to take on the role.

There are cross statutory committees and an Aboriginal advisory committee—and the chair of that joins our directors-general group. Our Aboriginal members said that, in doing it that way, it encourages a sense of responsibility among the community—for example, you coach the footy team because it is the community's footy team. It is not a paid job. Everybody does these things. That is a bit of snapshot of how to work—trying to work in as concrete a way as possible to establish community structures or social capital in those communities and work in a way that gets them sustained by their own communities by the people themselves. Sometimes it is really successful and sometimes people are so scrambling to catch up with crises and getting the coalescence of services that they are not there yet.

Senator PRATT—Can you explain from your department's perspective the coordination of this approach? Clearly, to achieve those kinds of goals, there needs to be collaboration with any number of difference agencies that are active in those communities as well as the communities themselves, which leaves responsibility for that community development a bit ad hoc—although largely it should be community generated. What are the particular challenges there, particularly from a governance point of view for communities themselves and I suppose also from where we sit and where you sit from a government's governance point of view?

Mr Murphy—This is one of the sixty-four dollar questions—and one for which there is no simple formulae answer. I think that would be our experience. That said, a strong community council that is actually responsive to the community is essential. You see it over and over again where a community council is either absent or, as with Balgo, in administration for years and years struggling to get that engagement—a gap filled by perhaps the community health committee Palyalatju and to a lesser extent other community committees that engage community. Oombulgurri was run by thugs for a number of years—they are moving through the courts, so it is not something that I would be concerned about being quoted on—but now there is a terrifically energetic council which has real promise.

We tussled in looking at Oombulgurri as to whether you should have a dedicated community development position. We shied away from it on the basis that, really, the government and government-funded or philanthropically funded workers in any community should be coalescing and driving that community development aspect as part of their role—and with that way of handing over to the community. It is not that the community development person could not do that, but it tends to create another step in the process. That said, there is no right or wrong here,

and we are very deliberate with our community child protection workers having that as at least 50 per cent of their role. The reality is that in a lesser in-crisis mode it is more than 50 per cent.

The last point I would make is that you are a long way from anything in a remote community. Ross can comment because he is from the Pilbara. They can become very inward focused and everything is magnified. Even the obvious things happening—for example, the agencies meeting and working together cooperatively—can sometimes break down. It is horrible and stupid to watch when that happens, but it is the responsibility of the bosses from government to help put it back together and demand a strong expectation. It is just the harsh human realities in those communities.

Mr Councillor—I would add that we try very hard not to break that relationship that those positions need to create in order to continue working in a role and trying to build the resilience within that community to really look at the safety of children and what needs to happen. It is one of those: ‘What would be the response in terms of notification of a kid being at risk?’ That would be passed through to the district to respond to that so that we can leave that relationship intact. But it is not the watered down version of those positions shying away from issues; we will deal with them, but we will deal with them in the right way and in a way that retains the relationship. It is a fine line. At the same time, we are trying to build womens group, the mens group and finding what the community’s responsibility is. Who is responsible for a kid? Is it the community or the parents? It is working with all those types of people. We talk about Aboriginal child rearing practices, and we want to bring that out into the daylight so that people can see it and see how you do it. It is those types of things. Some of those things are happening in Warburton. Those are the real challenges in those types of communities in trying to respond—not just when it comes to taking children away or for the hard reasons but also trying to celebrate the good things about people’s development and people’s interest in kids. It is very much a role that has a lot of that with it.

Mr Murphy—If we have to take a child away from a family in Warburton and have not engineered another family to do it in an Aboriginal way, we bring someone in from Kalgoorlie to do that so that the worker in Warburton has not fractured her relationship with the family.

Senator ADAMS—Could you give us a quick update on the implementation of the recommendations from the Gordon report.

Mr Murphy—We consider that all the recommendations have been implemented. We will have greater or lesser success with them, but the multifunction police stations, our presence in remote communities and the youth and family support workers all emanated from the Gordon inquiry, as did the extension of the Strong Families program. The bigger issues that Gordon raised are perennials for government, such as how you get collaboration and coordination across multiple agencies. It is a perennial issue; it will always be with us. My own view is a bit contrary to some of the worries that people raise. I think that government agencies work together quite well. We have joint arrangement with police, with health, with education. We have to work very hard to make them work because everybody gets busy in their own work. But you can make them work if you work hard and if you have the right mix of formal arrangements, agreements and structures—and you are always adjusting that—and an emphasis on relationships and can-do attitude problem solving. I am not a Pollyanna, but government continually tries to collaborate and is continually calibrating its structures to do so. It is not the case that there is an attitude of:

'If only we didn't all work in silos.' The welfare department has never been able to work in a silo. We do not have that luxury. We have to work with education, with health and particularly with police.

Senator ADAMS—As far as the crisis centres go—men's and women's shelters—we have found that in a number of communities the women are being catered for but often it is the men who are considered to be the perpetrators. Where do the men go? How are we getting along with that?

Mr Murphy—I think there is a lot more work to be done. I would like Ross to make some observations about Aboriginal men in particular, but I think we have a lot of distance to travel in getting a good response to perpetrators that actually helps change their behaviour. We do have a good program called Breathing Space that provides some accommodation here in Perth. It really does help a lot of men to change their behaviour and get back with their families, but it is quite limited in its capacity.

Senator ADAMS—Mr Councillor, looking more at the remote communities, is work being done in that respect?

Mr Councillor—It is. We went out to Wiluna and did a report on the community. The women strongly identified that: 'Our men are missing out. Our men are the main problem, why our community is like it is at the moment, with a lot of alcohol, a lot of kids being unsafe and women using the safe centre.' They identified that we should be doing something. We are looking at supporting the community child protection worker out there with another position. There might be a part-time position for a man and a woman to work with those identified groups, to try to work through what it might mean to be a dad, what it might mean to support your wife and what it might mean to keep your children safe. So we are looking at that angle, but we have to look at whether it is a community thing or whether it is about the perpetrators of violence against women or children. It is very hard to know which way to go, but we do know that our men do need some type of service that is about changing their world and the way that they see things.

Senator ADAMS—Their world is changing very rapidly. We have had a lot of evidence from the Northern Territory that the young women tend to be staying at school longer. They are the ones who are getting the real jobs and a lot of the young men in the more remote communities, once they go through initiation, will not go back to school with the kids. Now they are finding at 18 and 19 that they are missing out and they cannot get a job. There are jobs there for them but they cannot get them because their education has not caught up. Consequently, they are starting to find themselves completely alienated from their communities and they are not confident in the way they used to be. It was mentioned in the Kimberley area that women are being catered for with shelters and help but the men tend to be just left out. If they have committed some act they are alone and really have problems.

Mr Councillor—The other side of it is that Aboriginal society, Aboriginal culture, is breaking down. That is becoming a really big issue for us. It is raised by a lot of the old people that we talk with. We go into those Aboriginal communities and do an audit and look at what the issues are and how people respond. They are saying to us: 'Our young men do not listen to us any more. They are not interested in our culture. We might not teach them a lot of the culture because

they do not want to listen.’ There are other values coming into play with them moving away from the community. Finding their role or a job within the community sometimes is very difficult. When we were able to tell them that this is a common thing that is happening everywhere, some of those communities were relieved because they thought it was just their struggle.

Senator ADAMS—They thought it was just them.

Mr Councillor—Yes. So it is really difficult to look at how you sail close to society but keep the cultural practices. Where is the balance? Sometimes the struggle for our men is knowing what that might be. I think we have to give them more awareness of how to function as a family. None of us have had practice at being a parent. They do not give us a handbook. They do not tell us how to be a good parent. We mainly master it by using what has been passed on to us from our own parents. It is about how we look at life. If you look at community life from the point of view of a young bloke, there is not a lot of value in it. There is not a lot that they can see. They see things on the TV and want to practise them elsewhere and sometimes they like that. There is a choice to break away, and sometimes it is without the rules that are seen by society as good rules. That is the kind of challenge we face.

ACTING CHAIR—Mr Murphy, you have child protection officers in 12 locations. What do you get in terms of remuneration if you are a child protection officer?

Mr Murphy—You certainly get extra. I do not have the exact figures with me.

ACTING CHAIR—What is it roughly?

Mr Murphy—There is an attraction retention package that would put about a 25 per cent bonus on top.

Mr Councillor—I think it is around \$130,000.

Mr Murphy—That is the package.

ACTING CHAIR—Does that include a car?

Mr Councillor—That is the wage structure, the car, rent-free accommodation.

ACTING CHAIR—Let us take Warburton, for instance.

Senator ADAMS—At Balgo they have someone.

ACTING CHAIR—Balgo is a pretty good example. Where on earth is a person going to live in Balgo or Warburton?

Mr Murphy—They have to provide a house.

ACTING CHAIR—Who is ‘they’?

Mr Murphy—We have to provide them with a house.

ACTING CHAIR—What do you provide them with?

Mr Murphy—A very good house.

Mr Councillor—Jigalong has a good house. It is two-storey.

ACTING CHAIR—Beautiful. Okay. You have convinced me. I might pay more attention next time I am out here.

Mr Murphy—Sometimes they are some of the best houses because they are the newest and have been built to entice people.

ACTING CHAIR—The package sounds to me to be reasonable. Is it the same package or a better package than what I am going to get as the child protection officer in, say, Bunbury?

Mr Murphy—It is much better. There are extra holidays, a 25 per cent bonus and your car and housing are totally paid for. So there is enough to attract people. Where we have the most difficulty and what we are looking now is Meekatharra, Laverton, Leonora and Wiluna.

ACTING CHAIR—I was just about to raise those issues.

Mr Murphy—And also Fitzroy and Halls Creek.

ACTING CHAIR—What are we doing about those? This is a substantial outlay for your department obviously, but it is, without putting too fine a point on it, the primary focus. We have just had \$1.5 billion worth of intervention in the Northern Territory because of these issues. This select committee runs for three years and, effectively, we are looking at these issues to see that when we go to Senate estimates we do not just get a bureaucratic line about how well it is all working. We actually have to get down and get dirty a bit, if you will excuse that expression. I would have thought that the 12 locations are good—and I offer no criticism whatsoever—but I would have thought there were potentially 35 or 40 that need this sort of attention.

Mr Murphy—Those 12 are the biggest remote communities. Even though we have 286 or 300 remote communities in this state—it is a moving feast—focusing on those dozen big ones covers off most of the places we would want to be. Maybe half as many again—

ACTING CHAIR—So Meekatharra and Leonora—

Mr Murphy—But then we come to towns that are predominantly Aboriginal. We have enormously increased our staff capacity and the strength and resilience of our staff teams at Halls Creek particularly and also Fitzroy Crossing, although we have a bit of a recruitment crisis there at the moment. There are much bigger numbers. To attract people to those places they get some additional moneys and some additional benefits with housing, but it is a continuous challenge. We are looking to make that up with the professional development opportunities, special sponsorships and the like.

ACTING CHAIR—So there is a distinction between a remote community and a remote town?

Mr Murphy—Yes.

ACTING CHAIR—Is that a legitimate distinction when it comes to Fitzroy and Halls Creek?

Mr Murphy—With Fitzroy and Halls Creek it is more and more so because those towns have a lot of resources. The capacity to drive somewhere else is not as absent as it is in Balgo, Bidyandanga and even the Dampier Peninsula. I think our real difficulties lay within Leonora, Meekatharra, Coolgardie and Mount Magnet—and I almost also put Moora and some of the Wheatbelt towns. In Narrogin and Katanning we have very good teams that I am very confident about, but it is those very small towns that are reducing in size and services.

Senator PRATT—Clearly there is a challenge in child protection in general terms, but then does the cultural appropriateness of the services that are available in those much smaller towns become even more problematic again?

Mr Murphy—I think that is a very fair point. One piece of paper we gave you is our Aboriginal employment strategy. Our target is to get from about 11 per cent to 20 per cent. We have set very ambitious targets for particular regions. In the West Kimberley at the moment we are at 50 per cent, which we are very happy about. That is where we should be. The other side to that though is that, as Ross indicated, we really have to get all our people being competent working with Aboriginal people. We need to set up our systems and learning so that that occurs.

Senator PRATT—What is the key to being successful at that?

Mr Murphy—I think the child protection practice approach that we talked about and having Aboriginal staff. If you do not have any Aboriginal staff in a location, it is very hard to learn from them. Then the learning occurs at both an organisation level and locally from our Aboriginal staff being leaders. You will see reference to a position that we have in each district that we have not touched on: Aboriginal practice leaders. It is an upgrade of a previous position that has delivered some results but not enough. We regard that as being critical to Aboriginal business being all our business and everybody's business.

ACTING CHAIR—This is the last question, Mr Murphy, because we have run out of time, unfortunately. We can probably talk about these issues all day. How long have you been in the position you are in now and how often do you come before a state committee and discuss these issues?

Mr Murphy—I have been in this role for two years. I think this would be my third or fourth parliamentary committee appearance, state and Commonwealth.

ACTING CHAIR—We are Commonwealth. I am more interested in the state ones.

Mr Murphy—I think it is two of each.

ACTING CHAIR—And they were well attended?

Mr Murphy—Yes. The state ones better because there is a lot less travel involved.

ACTING CHAIR—And the sorts of questions they asked were similar to the sorts of things we have discussed?

Mr Murphy—Absolutely. Not withstanding our adversarial political system, or how you characterise it, there is no question that there is a bipartisan will to understand and look for practical solutions and to get it right. That is, notwithstanding the political competition, in every encounter with state and Commonwealth politicians.

ACTING CHAIR—On behalf of the committee, thank you very much for coming today. It has been most beneficial. We do appreciate your time.

Mr Murphy—Thank you. We appreciate the opportunity.

Proceedings suspended from 1.06 pm to 1.40 pm

[1.41 pm]

CHANEY, The Hon. Frederick Michael AO, Private capacity; and Chair, Desert Knowledge Australia

ACTING CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Chaney—Desert Knowledge Australia is a statutory corporation of the Northern Territory. I put those two qualifications because not everything I say will necessarily be able to be sheeted home to Desert Knowledge Australia. I have strong personal views on some of the matters we are discussing.

ACTING CHAIR—I should tell you that one of our senators has been called away to matters personal to her office and another has been called away because of family health reasons, unfortunately. Would you like to give us an opening statement and the remaining senators will ask you some questions.

Mr Chaney—I would. First of all, thank you for the opportunity to appear. I note that the terms of reference for the committee include:

(a) the effectiveness of Australian Government policies following the Northern Territory Emergency Response ... in regional and remote Indigenous communities;

(b) the impact of state and territory government policies on the wellbeing of regional and remote Indigenous communities;

Insofar as I am making a submission on behalf of Desert Knowledge Australia, the submission I am making relates not so much to policy but to the capacity of government to actually implement policy. I think the two are separate but, of course, very closely and intimately related. It is also not an Indigenous issue; it is an issue which affects the white communities in the Kimberley, the Pilbara, the Goldfields and indeed in all of remote Australia, but it impacts particularly heavily on Aboriginal communities and therefore is relevant to this inquiry.

The objective of my appearing before the committee is really to suggest, when it is considering reporting further, drawing attention to the fact that the effectiveness of policy is inextricably linked to the structure of government, to the governance of governments in about Australia. This is an area which is peppered with good intentions. I make this submission on the basis that I am strongly supportive of the government's COAG objectives. They seem to me to be evidence-based and sensible. I think the capacity to deliver on those objectives is much more limited than this committee, the parliament, the government or the opposition would wish. The first report of this committee dealt with the role of state and territory government policy and talked about regional governments in section 4.55 and following, and indicated that the committee was aware of Desert Knowledge Australia's 2008 report on developing initiatives to revitalise remote Australia, and quotes a small section of that report.

I would like to clarify that this document, the remoteFOCUS *Prospectus*, which I will tender—I do not know whether it is too large to incorporate into *Hansard*, but I would like it if it could be—is not a Desert Knowledge Australia document as such in that it is the work of 28 people who met here in Perth drawn from around Australia, including the Northern Territory, people with long experience of working in the desert and it therefore represents something of a group view about what we describe as the crisis in remote Australia. I would like to put that before you and say that it is essentially a prospectus which is aiming to encourage ongoing discussion and debate on issues which we think lack appropriate attention and remedy.

Senator PRATT—Was that the remoteFOCUS group?

Mr Chaney—Yes. The document includes the names of the people who participated, including some current senior public servants, people like John Sanderson with very long experience in working in Indigenous and in non-Indigenous remote area activities. At the informal meeting I had with the committee, which neither of you senators were present at, I drew attention to a short document and left it with the secretariat. It is headed ‘principles and areas for reform’. I think it is important that I provide the context for this. Essentially what we are doing is continuing to draw together discussion and debate in various parts of regional Australia but also in metropolitan Australia. For example, we will be presenting in Canberra in a month or two on the principles and areas for reform, the case for change, the principles that should be applied in getting change and the fact that we are developing proposals for reforming government resourcing arrangements, government service arrangements, government arrangements generally and community and regional structure capacity arrangements.

All of this may sound a bit esoteric, but I can assure the committee it is not and that if you work in remote Australia it quickly becomes apparent that government under its present structure is struggling to meet its ambitions to achieve its policy objectives and I am sure the community is well aware of that. The fact that there is a crisis in terms of the capacity of government to deliver is most simply illustrated by the fact that there are so many special measures, so many special interventions. The Northern Territory intervention is but one and one of the more recent ones. You can go back to 1992 to the national commitment document when Commonwealth and state agreed to work in a new way. You can follow through to the COAG trials which under the previous government were, in my view, an utterly sincere attempt to make the present system work, an attempt which I think everyone would say was a failure—not a complete failure but a failure overall. The intervention, which I am sure was effected with the best of intentions, is deficient as all of the other interventions have been in terms of the other issues which are raised in remoteFOCUS.

Let me very quickly touch on some of these principles. I hope the committee would accept the point that the special efforts that are currently being made in the Kimberley involving the Commonwealth and the state and in the Pilbara principally involving the state at this stage—but I think with the hope of Commonwealth involvement—are further examples of the fact that the normal processes of government are simply not effective in dealing with the issues of concern to the white community let alone the issues of concern to the black community.

In other words, I suppose what I would like the committee to conclude after proper consideration of all the issues it is looking at is that there is in fact a systemic problem that underpins the cycle of external and / or failed interventions in remote Australia’s Indigenous

communities. New initiatives are constantly announced and implemented but do not lead to the intended result because the structure of government is deficient. To avoid any possibility of misunderstanding, this is not an attack on government policies past and present; it is not an attack on public servants. It is saying that within the present structure the best of intentions will simply not be realised.

Where do we go from there? There are principles that we have said need to be applied. I am going to leave you with this document and again I hope that it might be incorporated into *Hansard*. First of all you need different approaches in remote Australia. Regional and local differences including Indigenous demography, culture and land tenure within remote Australia need to be taken into account and significantly affect approaches taken in the way government works and for governance generally.

Remote Australians are entitled to have a say in the policies that affect them as any person in a democracy should and that is manifestly not available for people in remote Australia. Local decision-making and accountability should be maximised, governance arrangements should emphasise accountability to service users, constituents and outcomes for output accountability which is the present system. Red tape, administrative and stakeholder management should be minimised and local costs of doing business should be taken into account. There should be fair and effective access to services and enduring, bipartisan national commitment to sustainable development in remote Australia. I am gabbling away a bit here but I am leaving a written record of this, which I hope might be helpful. What we are saying is that there needs to be a focused effort to really deal with these issues in a way which leads to substantial change in the way government itself operates.

To further underline that in this opening statement I think in terms of Indigenous disadvantage we actually do know a great deal. There is a brilliant essay by Noel Pearson, which has just been published in the *Quarterly*, entitled 'Radical hope'—I commend it to the committee I think it is a splendid piece of work. I have just finished writing a 2½ thousand-word response to it. He makes the point that government has a total lack of memory. I think that is absolutely true, but if you look at what government is currently writing in its various elements and I use 'government' widely, I think we have learnt a good deal. I refer the committee to the recent report of the Productivity Commission, and I am talking from the summary version because the full report is too heavy to carry to this meeting. On page 9 of the overview document it says:

Analysis of the 'things that work', together with wide consultation with Indigenous people and governments, identified the following 'success factors':

- cooperative approaches between Indigenous people and government—often with the non-profit and private sectors as well
- community involvement in program design and decision-making—a 'bottom-up' rather than 'top-down' approach

This is of course the reverse of the intervention.

- good governance—at organisation, community and government levels

Government is included in that and—

- on-going government support (including human, financial and physical resources).

It notes:

... the lack of these factors often contributed to program failures.

After 50 years of involvement in these issues with the Aboriginal community I totally endorse those four points. I think from my personal perspective they capture the learnings.

I now refer the committee to the *National partnership agreement on remote service delivery* which is an agreed document between the Commonwealth and the states. I think it is in the interests of this committee because what it does is represent the views that governments have been prepared to sign up to about how things might work. I think again it is a document which reflects that we have learnt something from the past. It speaks the right language. It talks about Indigenous people in remote communities receiving and actively participating in services. It talks about improving governance and leadership, increased economic and social participation, personal responsibility, engagement behaviours and all of those things. How could one disagree? In paragraph 21 it says:

The States, the Northern Territory and the Commonwealth share the following roles and responsibilities, working in partnership to:

...

(c) establish whole of government regionally based operations centres supported by locally based staff from agencies of the State/Territory and Commonwealth governments. Regional operations centres will work across government with local Indigenous people and other stakeholders to develop Local Implementation Plans and ensure that they are implemented in a timely and accountable way;

(d) ... agree on service delivery priorities between community groups and governments, and non-governmental and private sector organisations where relevant, consistent with the COAG targets.

It all sounds fine until you get to the time lines, which suggest implementation time lines which in my view are not consistent with the sort of level of cross-sectional engagement that is required. There is a real internal conflict. Again, I particularly refer the committee to schedule C, which says under the second listed principle:

Engagement with Indigenous men, women and children and communities should be central to the design and delivery of programs ...

Again, I personally endorse that. The schedule continues:

Programs and services should be directed and resourced over an adequate period of time to meet the COAG targets.

I emphasise 'adequate period of time'. C9 in that schedule says:

Indigenous engagement principle: Engagement with Indigenous men, women and children and communities should be central to the design and delivery of programs and services.

Then it lists, (a) to (f), things about the quality of that engagement and so on.

Senator PRATT—Which number was that?

Mr Chaney—C9. I could be tempted to read this document in full, but time does not permit that, so let me simply refer you to C10, subparagraph (c)(ii). Subparagraph (c) reads:

building the capacity of ... Indigenous people and of services to meet the needs of Indigenous people ...

It recognises that programs and services should not 'erode capacity or capability of clients' or impact negatively on the outcomes of other programs and services. I put it to the head of FaHCSIA that the principle that might be followed by the government and its departments was, 'Do no harm,' which I think is captured in that paragraph. 'Do not do something if it is going to make things worse,' would be a simple principle to apply.

Why do I draw your attention to that? Because I think that in these documents you can see that there are learnings from the past which are valuable in terms of the chore you have. The problem is the gap between performance and intent. The gap is between intent and capacity to deliver. I have brought along an example, which is one of many that I have come across. I come across these continually, I would have to say. Let me say also that I raise these with FaHCSIA. I have very positive and constructive discussions with FaHCSIA on some of these things, and I know good, hardworking public servants are trying to address them. My point is that the system means that these things perpetually reoccur.

I give you this example: the shire of MacDonnell is one of the new shires under the local government reorganisation in the Northern Territory. A wholly Aboriginal shire council has been elected. I met with the shire in my capacity as chairman of Desert Knowledge Australia and in the context of Remote Focus. They were pretty shattered; I think that would be a correct description. On the one hand they were in very good order because they had just completed a course of self-imposed governance training which had included envisioning the future they were trying to work towards. I thought it was a copybook example of people building capacity in an entirely appropriate way to do an important statutory task. Their task is, of course, the delivery of services to Aboriginal communities across a vast area of the south of the Northern Territory. To explain why they were somewhat unhappy, let me quote from a letter they wrote to me subsequent to my meeting:

Thank you for taking the time to talk with us last week ...

I will leave this letter with you.

... it was very good for our Council to talk to you about how we can make the future better for our Council and people in our Shire by looking at how we can work better with the Territory and Commonwealth Governments.

Of course, one would have thought they could expect a high level of working together given this sort of sentiment.

We would like to ask you to please advocate for MacDonnell Shire Council when you visit Canberra, and ask Government to work alongside us to figure out a better way ...

Their concerns were that, a day or so before I met with them, they had received out of the blue a communication from the Commonwealth and the Northern Territory government about those governments having agreed a bilateral agreement between them:

... setting up a new unit within the NT Department of the Chief Minister ... and part of their role is to implement the plan, and improve communication between the Commonwealth and Northern Territory so that service delivery ... can be improved. The *A Working Future* document talks about more changes and growth for two MacDonnell shire towns, and these changes will affect all people in our Shire.

They went on to say:

When we spoke about all of these documents, our Council felt like there were so many big plans and changes going on, all at once and we have not had the chance to be genuine partner in the planning ...

Their point is that they were an add-on. I have had discussions with the minister about this and it is my understanding, as of this morning, that a reply to the letters they wrote to the Prime Minister and to the Chief Minister—both of which I have here with me—is in train.

I will put the point simply and leave with you their more detailed comments, because I think they are illustrative of the problem. Here you have what appears to be a group of Aboriginal people conscientiously trying to engage in a statutorily authorised process for the delivery of services through municipal government and all of a sudden they feel that rolling over the top of them is this whole other exercise of the key towns which are the subject of the COAG arrangements. However admirable the COAG arrangements, this is a simple example of how the idea of bottom-up engagement is not in fact followed through in reality.

I would like to suggest to the committee that this is related to the structure of government, because government is very large and is trying to deal with a myriad of circumstances across very different parts of Australia, both within an area like the Northern Territory but across Australia. To do this by centrally devised plans, policies and administration is, I think history tells us, something of a folly. Of course it can produce some positive results, but this committee is established because, as the Productivity Commission reported at the last COAG meetings, the outcomes are not what any of us have hoped—and I include me in the ‘us’. So I am not here having a shot at anyone; what I am saying is that the structure dictates that this sort of thing is endlessly repeated.

The minister has just come back from the Ngaanyatjarra lands, and I am grateful that she took the time to visit a community with whom I have regular communication. They are the subject of a centrally devised policy approach which involves the phasing out of CDEP. That is likely to have a massive impact on the capacity of those communities to govern themselves. I, again, happen to support the thrust of the government’s policy changes: better focus on education, better focus on employment et cetera. I do not quarrel with the government’s policy objectives. What I am saying is the one-size-fits-all approach leads to very clumsy and, in the end, unworkable processes, perhaps made a workable if you had very experienced permanent officials on the ground working with communities to manage those things through to an outcome. We know that is not the circumstance. Recently, along with Bill Gray—a very experienced ex-public servant, head of departments, and very experienced field officer—I gave a seminar at FaHCSIA and DEEWR on the problems of delivery. One of the points made very forcefully at that time was that we do not even have people trained to do this sort of work, let alone a sensible structure within which they should work.

Mr Chairman, I am sorry if I have been rather garrulous. The point I want to hopefully bring the committee to is to see that we could go on saying, 'Oh, well, this hasn't worked so we need a new policy'—that is the approach—when the real problem is not the need for new policy, it is the implementation of policy in a way which works, in a way which has already been identified by the Productivity Commission, among thousands of others.' The minister for Aboriginal affairs two ministers back, Senator Vanstone, said something like: 'We need policies which are Canberra supported not Canberra controlled.' Well, that is not the way it works. So I am really asking the committee to think about the fact that this is not a policy problem so much as an implementation and a structure problem.

Senator PRATT—I am familiar with some of the work that Desert Knowledge have done on governance issues. Indeed, their work points really to governments' governance.

Mr Chaney—Yes.

Senator PRATT—I want to ask you this, given the experience you have in these issues. What government confronts, to some extent, is the need to create a political mandate to radically change the way it does business. What do you think is required to build up momentum to have that massive rethink? Clearly, you have institutions like the Productivity Commission saying, 'You need to do this.' We may well produce a Senate committee report that adds some weight to that. We are well versed in the history of the intervention, the political pressures that have gone with that and the way those have played out in the media. But what is that really demonstrates and creates a political mandate to get on with this without really being seen as political failures, even though really we know it is a path with a greater chance of success?

Mr Chaney—I am not sure that I correctly understand your question, but I am sure you will pull me up and put me on track if I am not. I am somewhat mystified that the major political parties in Australia have not really taken very serious note of the implications of the Royalties for Regions campaign. That campaign was very successful in a political sense. It drew support across regional and remote areas, where that party had not had support before. It was of no surprise to me, because in my very wide travelling across regional, remote and rural Australia, I had picked up that immense sense of discontent with government—not with any particular government, not with any party, but with government as being totally irrelevant and unhelpful to them. It seems to me that there is a huge, evident sense of dissatisfaction which increases exponentially the further you get from the major capitals. I think this is a serious political issue. I am a bit mystified that all political parties have not seen that the issue of the way government functions and operates outside the metropolitan areas needs to be addressed. I think there is a political imperative here. I am not—perhaps rather than my continuing—

Senator PRATT—That is exactly to my point.

Mr Chaney—I would have to say that I put this now to people in all political parties. I am not here as a political spokesperson for any political interest. My interest is in seeing good government in these regions. I have had discussions with people in the government party in Canberra, with the opposition in Canberra and with people in the National Party. I must say that the lack of purchase surprises me.

Senator PRATT—I have only participated in this select committee for a short period of its history, but in the evidence that I have seen the lack of flexibility attached to the pots of money that are available in many different communities—whether they are regional or remote—is a big problem. It seems to me that, hypothetically, people latch onto things like Royalties for Regions as a good response to that. However, I do not necessarily think Royalties for Regions has been structured in a way that will necessarily deliver that. You still point, I think, to the correct conclusion about the kind of appetite to say, ‘Actually, we want more local input and local control so that we actually have capacity to drive local solutions.’ What does it look like in the context of Desert Knowledge’s work? Do we pool our pots of money and create new governance structures?

Mr Chaney—Can I have my sheet of paper back? I mean the shorter of the two. We have tried to analyse out the four areas. I thought I had kept it for a moment, but I must have handed it up. We are not purporting at this stage to say we have all the answers. We can point to things that are being done to make the present system work. You might point to the Groote Eylandt regional partnership agreement, which I think is a leading edge example of that. I would point to the effort that is being made by FaHCSIA at the moment in the Ngaanyatjarra lands to engage in a new way and a better way. Fundamental to what we are saying is that, for a start, you need to reform the resourcing arrangements. Really, that is the money, which is what you are talking about with respect to Royalties for Regions.

Australia has a very long and honourable political tradition of dealing with these financial imbalances across Australia. The Grants Commission has been going for a very long time. The principle of the Grants Commission is that it should try to equalise the capacity of governments to deliver services to people without regard to the differential financial capacity of the individual states and territories—fantastic. It is an exercise in idealism, and at the moment there is a huge struggle going on about what that should mean for Western Australia, New South Wales, Queensland and so on. But the principle is long established. The Grants Commission has for a long period established that additional payments should be made because of the factors of remoteness and the factors of Aboriginal population. Additional money flows are quantified and flow through. What is the problem? The problem is, of course, that there is no guarantee that those moneys flow through to deal with issues of Aboriginal remoteness. There is an area that we say cries out for further examination and reform, just to take one piece of the action.

Senator PRATT—Can I ask you what other knowledge you have in relation to that issue? For example, people commonly say: ‘Stop throwing money at remote communities. It’s a waste of time.’ But it never ceases to amaze me how little of that money actually ever arrives in those communities in actual rollout of services. The expenditure of our health dollar is a clear example of that. Someone in a remote community may have a third as much spent on them as is spent on someone like me, who lives in a metropolitan area. To what extent have we inadequately unpacked that problem?

Mr Chaney—There are numerous studies on this. If you go right back to the Charles Court government, a then backbencher, Kim Hames, the present minister for Aboriginal affairs, produced the Hames report. It was a committee report from all of the chiefs of service delivery agencies. I think that report showed uniform underexpenditure on Aboriginal communities. I think there are numerous studies that bear out the point that you have made. Of course, the problem of the eating up of resources through bureaucratic processes is now notorious through

the CDEP program. It is one of the issues that are seen as somewhat scandalous and which are getting high-level attention from the minister. A large amount of money has been eaten up on administration and as yet there are no houses on the ground.

If you talked to the people who did the review of the intervention, the Yu group, I think they would say this. I have not read their report recently but I think it contains examples of very large administrative expenditure and of the building of significant new areas. I may be confusing conversations I have had with a member of that group with what I have read, but I was told that in one community there had been no attention paid to the Aboriginal housing at all but that a significant number of buildings had been erected over the hill. That was known by the Aboriginals as 'intervention city'. I think this is, in a sense, endemic to the structure we have. If you are trying to do it centrally, it becomes necessary to have this vast bureaucratic apparatus. You have to actually be prepared to have a decentralised decision-making authority. Perhaps you need to make people accountable for outcomes but less accountable for some centralised process. This is an area where, from an Aboriginal perspective, I think Aboriginal people will uniformly tell this committee, 'We don't know where the money's being spent.' I think that would be a near uniform view.

A lot of the money is spent on outcomes which are ineffectual. If you read Tess Lea's book, *Bureaucrats & Bleeding Hearts: Indigenous Health in Northern Australia*, you will find a really interesting anthropological study of public servants engaged in the Territory health service. You have probably read it. It is a study of people who know that their work is not being effective. It is quite expensive to run that service, I am sure. Look at the educational effort in places like the Ngaanyatjarra Lands with the most dreadful outcomes. Again, that is why I commend Noel Pearson's recent article which is probably about 60 per cent on the education issue. Aboriginal people in remote locations were being well educated generations ago. Senator Johnston would know some of the Mount Margaret Mission people known to me—people of competence, both Aboriginal and non-Aboriginal competence, if I can put it that way, from generations ago. They write beautiful English. They speak good English. They have been able to hold down serious and senior jobs in government. A girl from the mission, the late Sadie Canning, became the matron of the hospital. To be quite honest, it is shameful that present outcomes are so poor compared to some of those historic outcomes.

I am not an education expert, but I do know from my work with the Polly Farmer Foundation that if you can get beyond simply relying on a bureaucratic structure and get local partnerships of parents, industries, schools, teachers and kids you can make a big difference. I do not want to be advertising one of my favourite organisations but, to give you a very nice snapshot, no Aboriginal child had ever finished year 12 at Tom Price up to 2007. One of our students got through in 2007 and seven got through in 2008, and two got into WAAPA. This is because instead of relying simply on the system you do something special, something different. It was supported by miners and by the community. I do not want to go into detail, but what I am saying is that you can reform service arrangements. In a way this is closer to your brief. I am asking you to say: how do we get past the eternal need to reform service arrangements and get systems that will work as a matter of normalcy?

I will give you another example of a service arrangement thing which is new in the Kimberley and it is based on a similar model to the Polly Farmer model. A young woman, Kate Smith, who has just done a PhD but has worked out of Derby for five years, came and talked to me about

how to provide services for disabled, elderly and infirm Aboriginal people. It is difficult in the Kimberley. We talked about that model and Kate has pulled together the relevant government agencies, non-government agencies and the community, and they have a local partnership for the purpose of delivering those services to aged and disabled people. I am told HACC has put in money and various agencies in Health, I think, have put in money. They have done a chuck-in system, so that they are not going outside the departmental remits. The community is a partner. I think Frontier Services are involved and the University of Western Australia through Kate is involved. But there is a local manager and it is locally resourced. They can do things on the ground. There are people locally employed to do those tasks. It is locally managed and controlled. That is very different from trying to do it from east Perth. That it is an example of working within the status quo to get a decentralised model. I could talk about lots of examples of that. Essentially, they are all examples of cobbling together special arrangements because the normal processes do not work very well, not because they are bad policy and not because they are bad people but because structurally it is just unsound.

Senator PRATT—The committee has also heard a lot of practical examples to that effect, particularly in the Wheatbelt yesterday.

Mr Chaney—It is not just a remote area problem. It is really a non-metropolitan problem. This is one of the most urbanised countries in the world, and it is a fantastic country, where things work well for most of us, but I am sure that all of you who have bush representation or bush backgrounds would know of that deep well of discontent which is not a matter of prejudice or fancy; it is based on the reality that the deal is unfair. It is not unfair because of malice; it is unfair because of the structure.

Senator ADAMS—While we were up north in the Kimberley recently we had a number of people coming and saying that their communities were not getting services. These are not the non-gazetted towns, and the roads are not being graded and the rubbish tips are causing all sorts of problems. There are also fire hazards because they do not have any hoses or a trailer or anything to protect them. So we really have not got to the bottom of who should be responsible for these rubbish tips in those communities. The rubbish tips were probably the worst because they have got rubbish going everywhere. We heard examples of a where contractor had been in and dug a great big pit but then the community had filled it up with used car bodies instead of putting the rubbish into it and those sorts of things. Do you know who really should be responsible? The communities do have not any money.

Mr Chaney—I think that is a really interesting question to illustrate the point I am trying to make. The Commonwealth and the states entered into an agreement about a year and a half ago or longer whereby they agreed that local government should undertake normal municipal services delivery in Aboriginal communities. I am sorry; time goes so quickly at my age that I cannot tell you whether this was two years ago or a year ago—

Senator ADAMS—It was not that long ago.

Mr Chaney—My point is that the same lament that I get from the shire of MacDonnell was the lament I heard when I went to the local government managers' association conference. Over two days, they basically said this: 'We think it is a good idea. We think we should have responsibility for municipal services. That is what we were established for. But we do not know

what they mean. What services are they saying we are going to be responsible for? What are the rules? What is the money? And, by the way, we do not actually know how to do it, so we need to be helped to feel our way into this.' I thought it was an absolutely honourable and decent response to the governments of the Commonwealth and the states saying, 'We want local government to undertake municipal services.' What do they mean by that? It was a two-party agreement where it needed to be a three-party agreement. I think all of that has stalled, hasn't it? I have lost track of it.

Senator ADAMS—It has, the argument being that they were happy to do their own gazetted towns. As you know, a lot of the Aboriginal people are now going back out to the smaller communities or to their out camps and there are just no services for them. They have a community committee but they do not have any funding. The shires are saying, 'No, they are not our responsibility; they are on a road going to a pastoral lease and they do not pay rates—

ACTING CHAIR—They don't pay rates.

Senator ADAMS—and therefore we are not doing anything.'

Senator PRATT—They are on Crown land, to which health regulations do not even apply.

Mr Chaney—This is where I think there is a failure. To try and sort that through from Canberra is ridiculous. Even from Perth it is ridiculous. Circumstances vary so much. For example, if you take purely Aboriginal communities, the circumstances in the Ngaanyatjarra lands are not the same as the circumstances in the Mardu country in the East Pilbara. They are very traditional people in each case but in very different circumstances. My submission is basically that to deal with those practical issues you need locally based, bottom-up solutions for working them out instead of having this top-down way. In respect of the top-down way, I do not in any way criticise the intention of the Commonwealth and states in entering into that bilateral agreement for service delivery. But it left us completely in the dark about what the hell it meant.

Senator ADAMS—And who was going to do it.

Mr Chaney—Yes, and what they were supposed to do, at what cost and at whose expense. In a way, what you have done in your question is to raise yet another example of what is a huge systemic problem. Trying to look at it just as a policy problem is a mistake, because the policy problems arise from the fact that the policy is being considered on the wrong scale and at the wrong location. Some of these things have to be put closer to the people who are involved, and that is the sort of structural stuff that we are encouraging discussion of. This is about reforming the money flows, reforming how the government service arrangements work, reforming governments' own arrangements and reforming regional structures.

I could spend a very pleasant day with the committee talking about different things that are being done, good attempts to deal with these problems. The Groote Eylandt Regional Partnership Agreement involves BHP, the land council, the Northern Territory government and the Commonwealth. Most importantly, it has some skilled facilitators in the persons of Neil Westbury and Bill Gray, who are probably known the committee and who are as experienced as you can get in this field. What the process is doing is confronting governments as well as the community with their deficiencies. It is lowering the water in the pond and showing where the

problems are. Many of the problems are in terms of the way government performs. Many of the problems are in the way Aboriginal people perform. But there is an honest disclosure of what the problems are and how to deal with them. This is not unique but it is unusual to get that degree of focus with that degree of expert help with all of the relevant parties at the table. But that is the way this remote area service agreement in theory suggests you should work. It is getting the theory and the practice together that is difficult, and I do not believe you will get the theory and the practice together while it is all being done from the centre. That is another way of putting this case.

Senator ADAMS—We questioned FESA too and got the same sort of answer. It is still not resolved and as a committee we are not really sure who is going to carry out these functions.

Mr Chaney—This committee will have just the same problem as any central person trying to look at this across Australia. Local government arrangements are different in every state, the circumstances of Aboriginal communities are different in every region and the circumstances of the modern Aboriginal community are different in every region. You cannot even compare the Kimberley and the Pilbara. Everybody seems to approach these things with a good heart. The Premier of Western Australia says, ‘We really want to make sure that this time the developments in the Kimberley will make a difference to Aboriginal people,’ and I think he believes that. You have the Commonwealth coming to the party in the East Kimberley with some money. My point is these are all ad hoc responses to a system that does not work. This is a plea, not for the endless pursuit of an immediate policy response to that problem, but for saying: is there a framework within which these problems would be dealt with in a more logical and coherent way with a strong local bottom-up input and with a proper flow of money? That is what this discussion is about—not being dependent on a political deal done because of a successful campaign for Royalties for Regions, but replacing Royalties for Regions with a long-term principled money flow that does a fair deal for regional Australia. I think that is the ambition, quite frankly, of the man who ran the Royalties for Regions campaign. From my discussions with him I think that is what he would like. He would like to see an institutional solution to what at the moment has a political solution. Political solutions come and go.

ACTING CHAIR—But isn’t the problem with the level of personal responsibility that I think your paradigm brings with it actually having transparency in terms of outcomes? Getting the sorts of people we need onto the ground adjacent to where the problems can be solved is the perpetual problem of almost every field of endeavour that we have. Mining companies have successfully done it, but their incentives have always been very tangible. Government does not provide that, to my way of thinking. I agree with you, but we need to provide some clear indication in Canberra that you must have done some time at the coalface.

Mr Chaney—The point was made in our seminar to FaHCSIA and DEEWR that at the time Bill Gray went into the field you first had to do a full year’s training at the School of Civic Administration and you then had a further period of what was a sort of apprenticeship or testing out, but no-one was let loose on working in the community until they had been properly trained for the task. That, I might say, evoked considerable interest, and I think that is being looked at. The point I would make is that, yes, that is a significant problem but if you do not address the structural issue as well, including the Public Service structural issue, you will not solve it.

At the moment the Public Service is structured in a way which is quite inimical to developing long-term expertise in working with Aboriginal communities. There is no career path. If you are a level 6 or a level 7 or a level 8, or whatever the levels are now, you are expected to be able to work in Treasury, Finance, Social Security—or FaHCSIA now; there is no such thing as Social Security anymore. What you had in the old days—and I am sorry to sound like I am speaking up for the good old days—was a career path for people who spent 10 years in the field and who did not get a senior job in head office until they had established themselves in branch and regional areas as having expertise. Someone like Bill Gray spent 10 years in Arnhem Land; Neil Westbury: God knows how many years; Mike Dillon, now on the minister staff: many years in remote Australia. I have to say that as minister, 30 years ago, wherever I went would find an experienced on-the-ground officer or officers who knew the community, could introduce me to the community and could explain the background of the community. I am not saying it was perfect but, I tell you what, it was hell of a superior to what I see today. So that is another structural issue.

The second structural issue that goes to your point, Senator Johnston, is that if you take all decision making out of the regions, the best people will not stay in the regions. One of the things that has happened over the last generation in Australia administratively is that we have hollowed out the extent of decision making outside the state capitals. There is a very interesting example in hospitals: hospital boards were local and had quite a say in the local community, but that has substantially gone. If you look at it, people working in the regions are usually not a serious part of policy making or important decision making. They look back to the head office. They are accountable to head office and it is to head office they hope to be promoted. Again, this is endemic. This is a systems issue.

If there are no serious centres of power in the Kimberley or in the Pilbara or in the Desert, then your people who wish to exercise authority and have senior jobs will go to where the jobs are, so there is a leaching out of talent, if you like, and of people. I think that is a problem right across remote Australia. That is another part of this governance structure that is difficult—accountability outputs, accountability back to head office; the serious decision making. And let me put in a third structural problem. There is always this talk of policy, and people who are skilful at writing policy are promoted. The real problem is not policy, it is implementation. If I can again go back into the mists of time when I was running Social Security, or when I was Minister for Social Security—I cannot say I was running it—I have never forgotten Tony Ayres saying to me: ‘The people who are valued in Canberra are the people who write well. If you deliver services you are a lesser being. The fact that you have to organise to deliver a million cheques to the right people on time every week is a rather lesser task.’

The problem is that we do not value people who manage for outcomes. I do a lot of work on the margin of the mining industry, because they are so rewarding to work with in this field. When the mining industry goes from where it is they appoint people on the ground to manage. I may have referred this committee to—and I would commend it if I have not—a publication by Rio Tinto which came out of Canada on dealing with indigenous communities. The principles that are set out in that report are very clear: you must have senior people involved, you must have stable—et cetera. It is a copybook and a far better, in my view, example of bringing together the learning than the Commonwealth-state national agreement. It improves on this by several degrees. It draws together what you need to do and, again, I think this committee would find that document interesting. I think it is on the web.

Senator PRATT—What is it called?

Mr Chaney—It is a document of Rio Tinto's which came out late last year, and I think it is 'Working with indigenous communities'. If you have any trouble getting the reference, I can get it to you. I could have brought it today, but I did not think of it.

I may seem a bit frustrated here; I am very frustrated because the Productivity Commission, in words of one syllable and in four concise paragraphs, lays down some fundamental principles for success in the field you are talking about. The issue is: how do we match structure and practice and delivery to those principles? That is the big question for this committee in my humble submission. Otherwise, you will just be the latest people giving some advice on the latest problem. I have spent a lot of my own life doing that, and it is an honourable thing to do, but I actually think that we have to try and get beneath that a bit and say, 'Is there a way that we can stop these problems occurring as regularly and in such bad form as they do?'

Our view is that you have to go to governance of government as an important part of that solution. That covers all the things, including the things that Senator Johnston raised about the capacity of public servants and their training et cetera. At the moment, the best trained public servant would be operating in a suboptimal structure.

Senator PRATT—What is the extent to which you think Indigenous and Aboriginal governance has been basically scapegoated for the system's failings, really the failings of governance structures which belong within the province of federal and state governments?

Mr Chaney—For a start, let me answer that with a generalisation. One of the reasons there is not the success we should have in this field is that there is no political sanction on failure. You can always blame the blackfellas. Have you ever heard a teacher being blamed for failing to educate an Aboriginal child, or a principal of a school for the school's failure to educate Aboriginal children? I just mention schools as one of the range: it is never anybody's fault except those bleedin' blackfellas'. There is endless scapegoating.

I gave the example of the shire as a single example of the new universal Aboriginal experience. They set off to try and do the right thing and then things over which they have no control roll over the top of them, or the policy changes. I am not pretending that there have not been scandals of maladministration in Aboriginal organisations, but when ATSIC was funding something over 3,000 organisations, if there were 10 per cent of them not going well that is more than one every working day. That is what attracts the attention of the minister. For a long time we had a Registrar of Aboriginal Corporations who, in my view, had a punishing response to failure rather than a capacity-building response to failure. The last—not the current—Registrar of Aboriginal Corporations put an entirely new capacity-building approach: what can we learn from this? How do we build and go forward?

I think part of the reason for the failure of ATSIC, apart from its fundamental structural incoherence—which was not an Aboriginal fault; that was parliament's fault and the government's fault—was that no government, including the government that set it up, mentored and worked with the board to build its capacity. I think there were three layers of audit: problem arises, send it to the auditors, punish. I gave you the example of the MacDonnell Shire. If ever I have seen a group of people conscientiously trying to do the right thing, it was them. They were

in their first year and a half of operation and they now find themselves bemused by the fact that a whole lot of stuff is happening over the top of them. I would say that is absolutely typical of Indigenous experience. So that is a long way of saying, yes, I think scapegoating is a problem.

Senator PRATT—It is good to have that on record. Thank you.

ACTING CHAIR—We have had an hour—

Mr Chaney—You have been very generous.

ACTING CHAIR—You have been very generous with us and, on behalf of the committee, I thank you. That is a very valuable submission to us and I hope we do it justice in our report.

Mr Chaney—Can I ask you to take this prospectus. I am not a very tidy presenter and when the DKA people read the script they will be tearing their hair out. That sets out where we are at and what we are teasing out. We are in the process of building models now, which we will then workshop in the community.

ACTING CHAIR—Maybe we need to come back again next year and have a look at some more of those models.

Mr Chaney—We would be very happy to keep in touch. I thank the committee for its time.

ACTING CHAIR—Thank you very much, Mr Chaney.

[2.42 pm]

FONG, Mr Neil, Assistant Commissioner of Aboriginal Justice, Department of Corrective Services, Western Australia

TANG, Ms Jacqueline Therese, Deputy Commissioner, Offender Management and Professional Development, Department of Corrective Services, Western Australia

ACTING CHAIR—Welcome. Who is going to give us a brief opening statement?

Ms Tang—We understand you are looking at the services and policy impacts on regional and remote areas. Just so you understand the way we have divided up our presentation, with respect to questions on offender programs, education and prison employment programs, I am in a position to answer those in detail, and Mr Fong is in a position to talk about the work camps that we offer in the remote regional areas and also about community youth justice, particularly in the preventative area. We have not given you a prior written submission, but we do have two documents that we can provide to you at the conclusion. One details the type of programs that we offer in both custody and community and the other is an overview of my particular division, the directorate that covers psychological program services, mainly within prison. We can explore that further if you wish to. We can leave that with you, rather than you thinking you have got to take all that detail in verbally. I will leave it there, now that you know the different responsibilities we have, and perhaps leave it to questions from you and others.

ACTING CHAIR—In terms of Indigenous offenders, particularly from remote communities, what do you see from the administrative correctional point of view as the biggest challenge?

Ms Tang—The biggest challenge for us as a department is the expectation of communities generally—that is, Indigenous and non-Indigenous—that we will provide programs regardless of where offenders are. I listened to Mr Chaney's evidence, and it is quite right to say that the implementation and the appropriateness of staff delivering programs in remote areas are hugely important. Firstly, it is about the program itself. If you are running group programs, having the right number of offenders is a problem. Generally, running a program involves eight to 10 people. Having those people in the same place at the same time within a remote community and then having the facilitators there is difficult. Some programs that we run quite intensively within the prison system are 460 hours. The reality is that the integrity and the logistics of such an intensive program just do not happen. So we have to be realistic and say that we do not deliver intensive programs in communities, largely for those reasons. We have to manage the expectation of those communities and be honest and say we cannot deliver that service, rather than saying, 'Yes, we'll get to you next year.' We need to be very clear about what we can provide and what we cannot.

ACTING CHAIR—The logistics in Western Australia obviously present an on-the-ground deficit type problem, so we resort to our regional centres. If we are lucky we are in Leonora, but if we are not we are in Kalgoorlie.

Ms Tang—We are more likely in Kalgoorlie.

ACTING CHAIR—What do we do, if anything, out at, say, Warburton? When the magistrate flies in and the sentencing options are on the table, we probably have to cross off 70 per cent of them because they are not available.

Mr Fong—On the community correction side of things, one of the issues is that the numbers of people on the ground are very low, as Jacqui just mentioned, but we have staff visiting on a regular basis from Kalgoorlie. Going back to the sentencing options of the judiciary, that does not really allow them to do much. We have staff drive there and they will spend a week at a time in the lands. They will have ongoing communication working with the offender and then come back to Kalgoorlie. As I already mentioned, unfortunately that really does not achieve much.

ACTING CHAIR—So the stock in trade has to be quite a large bus, obviously. I remember one instance that I am sure you will recall where a magistrate put everybody in jail at Warburton. That presented to your department a massive logistical problem. We have to take people away from the community, which in itself presents a massive problem because they have no further relationship maintenance with their family, friends, land and all of that. What are the solutions? Have we got any?

Ms Tang—In relation to whether people are imprisoned or not and again referring to Fred Chaney's submission, I worked in Kalgoorlie for a considerable period of time when the only contact you had with Warburton was by radio control, and you had no presence at all. So the service that is provided now, whilst it is still not significant, is certainly more than it was as recently as 20 years ago. The first question is whether a person should go to prison because of how serious their offence is. You are certainly going to have people that will always be imprisoned. For others it will be: is there another, community based option? There is the ability to have officers go out there regularly to supervise people on community orders and to have community work as well, but there is not much beyond that. You are relying on the community to provide feedback, and there are no programs.

ACTING CHAIR—Let us say the magistrate goes to Leonora, Laverton, Warburton and Blackstone, your officer has to go and do the Leonora crowd, then the Laverton crowd—there are probably two of them, are there?

Ms Tang—There are usually two.

ACTING CHAIR—In their four-wheel drive?

Ms Tang—Yes.

ACTING CHAIR—Then they will do Warburton and bat on out to Tjukurla, Blackstone or wherever. They will probably be away for a month, will they?

Ms Tang—They are usually away for a full week.

Mr Fong—There is generally a week turnaround at a time, yes.

CHAIR—That is a pretty big effort in a week.

Mr Fong—It is, yes.

Ms Tang—They are not only dealing with the court circuit, they are also dealing with the people who have been released by the Prisoners Review Board and are on parole, so there are supervision requirements. They do not only prepare for the court—as in presentence reports, either verbal or written—they also supervise the people who are already on community based orders or released from prison plus the current court work.

CHAIR—So Corrective Services is doing the job of presentence reports too?

Mr Fong—That is right.

CHAIR—Excuse my ignorance of that; I think it might have changed since I was involved.

Ms Tang—No, it is the same.

ACTING CHAIR—That is an enormous burden, when you have the same people back in a 30,000-population town, with the satellites of Kambalda, Coolgardie et cetera, preparing work on a daily basis for the normal list that flows through district, supreme and summary jurisdictions in Kalgoorlie. So one week out of every four your officers are away, or do you have enough officers to cover being away and still having some in town?

Mr Fong—I do not have the exact list but, yes, we do. There are specific officers who are allocated to servicing the lands as well as the general Kalgoorlie areas. What I was going to mention earlier is that at the moment we are looking at a whole range of technologies, using videoconferencing and other mechanisms to try and overcome that tyranny of distance. There are issues with the capacity of broadband and other things out there. But, as you mentioned, the ability of our staff to keep up with the magistrates who are generally flying while they are driving makes it pretty horrific and places lots of strain on them.

ACTING CHAIR—What happens if he has to be in court in, say, Laverton and the next day he is doing Warburton? Do your people have to drive through the night?

Mr Fong—My understanding is that at the moment they try and stagger it. They will have two cars on the road; one will be in one location where they are running a court and the other will continue, so they will hopscotch each other.

Ms Tang—At times they might accompany the magistrate.

Mr Fong—Yes, at times they are on the plane with the magistrate.

Ms Tang—Can I also say something about a comment Mr Chaney made about the public service situation and incentives. When people at public service levels, as in level 5 or level 6, are travelling out, apart from reimbursement of your accommodation and meals there is no other incentive to do that type of work than passion for the job. If you are travelling you are not paid an additional disadvantage allowance or anything for being away from your family for that period of time. With respect to programs staff I have, we introduced in the last 12 months an Aboriginal facilitation unit where they are travelling throughout the state, largely in the north

and across to Eastern Goldfields, delivering programs to offenders in custody. They can be away from their families for up to 20 weeks of any one year, but there is nothing that I can offer them as an incentive over and above their standard wage for a programs officer which is the same wage as they would get if they were delivering locally in Hakea or Casuarina prison. So you are relying on the absolute commitment and dedication of staff because the structure of the public service is such that you cannot provide that additional service. All you can do is say you will reimburse them for what they paid for their accommodation and their meals—and even that is a complication because when you are travelling through the Central Desert it is not as if you can rock up to a restaurant and have a pleasant meal. You have to purchase your meals beforehand and cook for yourself. All those things are a disincentive. What you end up with is people doing that work who are so passionate and committed you get the best work out of them, but you are relying on those individuals to do that work. And it should not be that way.

ACTING CHAIR—And they are pretty hard to replace, I should think.

Ms Tang—Or get in the first place.

Mr Fong—Yes, very difficult.

Senator PRATT—Clearly there must be a shortage on that basis of people wanting to do that kind of work. How is that best addressed? You have pointed to the kinds of incentives that perhaps should be in place.

Ms Tang—We are looking, particularly in relation to the Aboriginal facilitation unit, at working with the department to see whether we might put to government how incentives might work using a clear case example of people who are doing lots of travel and the impact of that. It is significantly important for the offenders who we work with and for the department. We are using that as a bit of a test case. In relation to community corrections officers and juvenile justice officers there is an issue for recruitment and retention across the state. The further you go in distance the harder it is to get people to work. If you do generally, as in my case, you get an early graduate. You go out to work in the country because that is where the jobs are. As you get more experienced, you head back to the city. You are in danger of having a new recruit in the regions. The best option is to recruit locally and then you have to consider the training components of that because you are actually recruiting Aboriginal people and then asking them to come to Perth to do three to four months of training away from their families and that is a disincentive right from day one. That is the other issue for us.

Mr Fong—The other disincentive as well is most Aboriginal people in regional areas reside in public housing. With the change in policy if you are earning a particular amount of money, you lose that public housing. I think the committee would be aware that the availability of housing in remote areas is almost non-existent and what is available is extremely expensive particularly in the mining areas. So not only are we expecting people to come and work for us for not much reward, but we also penalise them by removing their public housing from them. It is a very big problem for us.

Senator ADAMS—What are you doing to rectify it?

Mr Fong—We have put a number of submissions to the government asking for alternative evaluation or assessment for these people. It is very early days because we are not the only department obviously who are suffering with that change in policy. We have not had a response yet that I am aware of.

Ms Tang—In relation to GRO Housing in the Kimberley and Roebourne the commissioner made a decision, I think it was possibly two years ago, that people would not be required to pay the rent on GRO Housing that had been awarded to them. That was an incentive for them to remain there. The issue is the extent to which we can offer housing to locally recruited people who fit the guidelines of not having a home within 50 kilometres of the area. It comes down to what is available in the region. If there is limited housing in the region, no matter how much the department asks for or could subsidise, which is a cost back on the department, if the houses are not available then it does not matter who requests it. One of the issues that you may want to talk about is the Derby prison development. A major aspect is getting in early in the request in relation to GRO Housing to ensure that we have sufficient housing from day one and even for contractors prior to that so that it is not just seen as an afterthought or having people coming in a caravan.

Mr Fong—That program is in place and we have the building happening. Of course if we do recruit from the people in Derby, we still face the same problem of their eligibility for GRO Housing.

Senator ADAMS—Do you pay an incentive bonus or anything like that?

Mr Fong—We are not able to. We are subject to the public sector regulations.

Senator ADAMS—We had another department earlier on and they were actually doing that with a package that included the car and the house. This was for their community protection officers. They were able to do a reasonable package. Again, if there is not a house available it all falls to bits.

Ms Tang—They may be able to do that for senior staff. I do not know what staff levels they are talking about, but if we are talking level 5 or 6 then they are just not eligible for vehicles generally so that may be an issue for us. We do have regular interagency meetings with child protection, so the particular packages they have put up it is something that we could ask them about.

Senator ADAMS—It sounded quite reasonable. There are only 13 people out there at the moment, and they have provided homes for them. On another committee we visited Balgo to go and have a look, and they were really decent houses. Falls Creek is certainly trying to do that as well for their people.

Mr Fong—That was part of the MFPPF program.

Senator ADAMS—As far as rehabilitation or educational programs for these probably regular offenders, how are you dealing with that?

Ms Tang—As far as education, we only offer education services to offenders in custody throughout the state. There is an education and vocational training area or unit that operates within each of the prisons. Within community there are only limited education services, and that is in the metropolitan area. But it is very minimal. Within the juvenile detention centres in Perth, because they are juveniles and are at a compulsory education age, we offer that—principally because it is statutory but also up to the age of 17 because that is the client group.

With respect to the issue of community programs, it is not something that we are proud of at the moment. In June 2008 it is fair to say that we reached our worst delivery outcomes for programs across the board across the state for both adult custody and community. Since then we have reviewed the service delivery model for programs and significantly improved service delivery in custody. Our focus has been on offenders in custody in relation to the delivery of programs, and we have seen a significant increase—in some respects, in excess of 100 per cent, because we were off a very low base.

In relation to community programs, we now moving to that as our next priority. We have increased the community programs. We were running very low. In some places, we were running no programs and in some areas we are still on a zero delivery. The major focus has been in custody and we are now moving to improving community programs. that presents its own logistical problems. We are focusing on the community in the metropolitan area. Within a custody environment at least you get the ability to contain people and have them within one site. Once people move into the community it is harder across the metropolitan area to run those programs, particularly as you run programs over, say, 20 weeks. Having someone consistently be within that area—not itinerant and moving across the metropolitan area or to regional and back—and then maintaining that motivation and interest is a skill in itself, particularly in motivating people to remain in that program. Some can argue, ‘If you don’t do the program, we take you back to court or to the prisoners review board and you go to prison.’ Yes, you can do that, and we do do that when people do not comply, but we also have to offer the opportunities to people to readily access programs—and that is something where we have a lot of improvement to do.

With respect to regional areas, apart from Bunbury and Albany and Geraldton—where we only run indigenous family violence programs to support the court—we do not run community programs in regions in the northern or eastern Goldfields areas, largely because we do not have the staff available. Whilst it is said that we should engage with local communities, the more intensive and more theoretically based a program needs to be—and if you are actually required to deliver it with psychologists or social workers—the people are just not there.

Senator PRATT—Which reasons were they?

Ms Tang—The Pilbara, Kimberley and eastern Goldfields.

Senator PRATT—And you are not able to deliver those—

Ms Tang—Adult community programs. As part of our service delivery model, with each of the regions we are actually looking at taking the programs people that we have based in prisons into the community. They will still deliver programs to those who are serving custody but they will be more readily available to deliver programs within the community. So our focus has been

in custody across the state, moving towards community—basically metropolitan and some regional. We have to be completely honest with the committee and say that remote delivery of programs is not happening in the short term due to lots of logistical problems and the fact that it is an expensive option and also that, in real terms, we do not have the staff or the skills to be able to deliver those programs.

Senator PRATT—Is there any policy work happening on what it would look like if, in an ideal world, you were able to do that?

Ms Tang—To be honest, the policy work has not been done. The reality is that we are focused on how we deliver in the metropolitan area and deliver on what we have right in front of us. In the regional areas we are looking at how we can partner. We have subcontracted out program delivery, and agencies are coming into our regional prisons to deliver drug and alcohol, domestic violence and medium-intensity programs. But, as far as remote areas, no, we have not done that work.

Senator PRATT—Clearly, once someone goes to prison it is quite expensive. If you are looking at sentencing options and you are trying to create the local sentencing option versus sending someone to a prison, sending someone to prison is very expensive.

Ms Tang—Yes.

Senator PRATT—Clearly it is also expensive to service a regional and remote community, but how do the figures add up if you were to look at the different models?

Ms Tang—I do not know how the figures would add up. There is a complication with assessing how much it costs for an individual prisoner. If you remove that prisoner, you cannot take that money with them because a lot of the costs associated are fixed costs. Unless you close down a unit within a prison and actually reduce the staffing related to that prisoner, you actually do not save the money. So it is not a matter of saying, 'The costs—

Senator PRATT—It depends on how many people you take out.

Ms Tang—That is right. The more people you take out at the same time. That reduces your overall costs. So unless you can close down a unit in a prison or you can close a prison down, you cannot realise those costs within the short term. Even if you close a unit down and you have not reduced your staff, you still maintain those high costs. The costs associated with remote delivery are particularly high in relation to travel and employment of staff. But I have not done the equations.

Mr Fong—The equations have not been done, but there are also some other things that are happening, including the expansion of the work camps. There has been some policy work around expanding those as well as extending their capacity to have educational facilities as well as the training facilities there. Some of the things that are being looked at, other than just prisoners attending work camps, are the logistics of people who are on orders to attend those work camps.

Senator PRATT—Can you explain to the committee what a work camp is?

Mr Fong—In various areas we have established very minimal security prisons. I think the largest one we have got can house 25 people. They are prisoners who are assessed as minimum security. They are able to go out there. They have two uniformed officers who will work with them. They do reparation work with local shires, community organisations and basically anyone who needs some work done. Part of that has been educational training. They can attend TAFE et cetera while they are there. They have been limited because the work camps which have been developed to date have pretty well been based on facilities and/or land which we have obtained through CALM, the Aboriginal Lands Trust or something like that. However, a couple are being planned at the moment which are going to be purpose built. We are looking at turning those into hubs. The larger ones will have the education and training facilities. We are hoping that they will be 40-bed facilities and are looking at taking out small teams of up to 10 to various areas so that they can do work and education if necessary.

Senator ADAMS—Where will they be?

Mr Fong—We are going to redevelop Wyndham. It is just a small one at the moment. The second one is going to be in the Wheatbelt—the location of which is yet to be decided—and the third one will be at Warburton.

Senator PRATT—Can I ask about the opportunities that work camps might provide to retain community connectivity, Aboriginal law and culture et cetera? Is that part of the model?

Mr Fong—That is one of the reasons for setting up the hub and then going out to the smaller communities, even if we have a work camp in the Kimberley, which is such an expanse, and there are a number of language speaking groups there. Our objective behind the hub is that if, for instance, a group of people are coming from Kalumburu to participate in a program in Wyndham, we will be able to get them there and they can do a week- or a two-week stint at their local community to maintain their cultural connections.

Senator PRATT—It is commonly put that, for some Aboriginal people, their being held in correctional facilities is part of their normal life. To what extent do you believe that that is true? And how important is it to change some of these models and how do you get around that view?

Mr Fong—I suppose there is some anecdotal evidence that it is seen as a rite of passage. Interestingly, when I had a discussion with the men's outreach group in Broome yesterday that issue came up. They were very keen to produce DVDs or messages from the prisoners themselves who are seeking to break that myth to say that it is not that great in here. There are discussions happening, but at this time there is not a lot else.

Senator PRATT—From a community point of view—and this is not so much an issue for you as it is for government more broadly—prison does not become a deterrent for some people to engage in offending behaviour.

Ms Tang—Whether you are Aboriginal or non-Aboriginal and your circumstances are so poor or you are living in such poverty, imprisonment clearly cannot be a deterrent.

Senator PRATT—That is right.

ACTING CHAIR—Mr Fong and Ms Tang, thank you very much for coming along and assisting us today. The committee appreciates the time that you have given and the valuable information you have delivered. Thank you.

[3.12 pm]

MARSHALL, Mr Andrew John, Manager, Research and Analysis, Department of the Attorney General, Government of Western Australia

ACTING CHAIR—Welcome. Do you have an opening statement for us?

Mr Marshall—I would like to present to the committee some broad initiatives in which the Department of the Attorney-General is involved in trying to get around what I have heard repeatedly, which is the tyranny of distance, the problem of remoteness and so on. We are certainly working as hard as we can to come up with answers to those problems.

ACTING CHAIR—The structural inadequacies of a top-down approach?

Mr Marshall—That too, actually. And I will address some of the issues that Mr Chaney and Ms Tang raised. We are putting a lot of stock in video conferencing. We are at the point where we have video conferencing facilities in all our metropolitan courts, in 24 regional courts and in three of what are called MFPFs—multifunction police facilities—and we are continuing to roll them out. We are also making changes to the Bail Act so that that can take into account remote hearings. We are putting a lot of stock in the technology. It is not the whole answer because, as I think Mr Fong said, there are still some problems with trunk lines and some of the broadband is not as good as it could be. However, we are certainly going in that direction and we are trying to roll out technology to more and more courts. Of course, our video conferencing facilities are not just for us; they can be used by anybody in the community. That is the whole idea, particularly with the MFPFs.

I was interested in the discussion about policy and the fact that policy-makers are generally Perth-centric. How do you get around the issue of Perth-centric policy-makers? I guess I am an example of one of them.

ACTING CHAIR—I think we all are.

Mr Marshall—Yes, politicians are as well. And how can they possibly conceive of the unintended consequences of policies in remote communities? What are the actual consequences in remote communities of what might be a good idea to us? We received funding from the state government through what is known as the ‘mining inquiry’; it was a major inquiry into justice. We have been working from slightly before 2006 on setting up a formalised structured engagement process with Aboriginal communities. What has now sprung out of that work is local justice forums and local justice agreements. We currently have about 31 of them throughout the state. If you give me enough time, I will talk about some of the other things they do, which is around brokering initiatives within the communities in which they operate. They give us an excellent two-way or vice versa entry into communities. I am talking about some fairly remote communities that have a local justice forum. We can tap into that forum in terms of policy developments. We support the forums with a number of coordinators who, unfortunately, because they have to support a large number of these forums, do not get to them as often as they

would like to. However, these forums certainly assist us. Later, I might talk about the other jobs that they do.

The other issue that I would like to talk about is a very big one that I think you are probably aware of called the Cross Border Justice Scheme. I will not talk in detail about the project, because I think you are probably aware of it. The legislation for this scheme is now in place in all of the states and is just about to kick off. I thought I might just talk about some of the things that you may not know about that project. Some of them are significant in the terms of reference for this committee. For example, the origins of the cross border justice project is, as you probably realise, pretty significant, pretty cutting-edge and pretty unique in Australia. The origin of the scheme was as a result of the significant women of the NPY Lands who approached the department. In about 2004-06, our Director-General was in that area on a visit when this issue was raised. I think the women should be pretty proud of what they have achieved. It started off as an initiative of the WA government, following on from the NPY women, and then quite quickly SA and NT came on board.

The state of Western Australia took on the very complex role of creating the model legislation upon which the other states then implemented through their own legislative structures. Bear in mind, we have all got different legislative structures. The project has been a long time in development and it certainly has been used as a model for other initiatives. We must also thank the Commonwealth because it amended the Service and Execution of Process Act to combine the changes that we were making. It has been a pretty big and significant initiative, which we are quite proud of.

I might talk about some of the initiatives that were in our submission, which we submitted via DIA. We also submitted another submission around the Aboriginal sentencing court in Kalgoorlie. The Department of the Attorney-General supports the courts. To some extent, courts have had a fairly limited role in the justice process, but that is now very much broader than it was. I refer you to the WA Law Reform Commission report released just last week on what is called 'court intervention programs'. Courts are now doing more than just simply sitting there, with people coming before them, judgments and decisions being made and people moving on. The courts are becoming more involved in what happens to people after they are sentenced. The Kalgoorlie court is an example of that.

I will briefly tell you about the Aboriginal sentencing court in Kalgoorlie. It was set up about three years ago. It is only offered to Aboriginal people in Kalgoorlie who initially come through the mainstream Kalgoorlie court. If they plead guilty and, after they have spoken to their legal representatives, they can go through the Kalgoorlie Aboriginal court or through the normal mainstream court for sentencing.

ACTING CHAIR—At their election?

Mr Marshall—Yes.

ACTING CHAIR—So the prosecutor cannot oppose?

Mr Marshall—No. It is done after guilt has been established or pleaded, and it is really a sentencing option. The primary difference is that we have the services of, in some cases, elders

and in other cases other respected persons in the community. They sit on the bench with the magistrate and are fully involved. In fact, there is not a bench; I used that word but there actually is not a bench. The idea is that it is a round table. They are totally involved in the sentencing process. Clearly, in the end, the magistrate is the sentencer, but the process arriving at the sentence is fully discussed with the elders and the other respected persons. We are in the process of evaluating that to see its impact primarily on recidivism—reoffending—rates. But it has a very good name and reputation in the Kalgoorlie area.

ACTING CHAIR—Is it for community members alone or is it for town Aboriginal people too? Is it for any Indigenous person?

Mr Marshall—It is for any Indigenous offender, yes. The people on the bench or around the table are generally community elders or other respected persons.

ACTING CHAIR—They would probably be known regionally in those circumstances?

Mr Marshall—Yes. That is being evaluated at the moment. One initiative of the last few years is that we have introduced community sheriff community development officers, which is a bit of a mouthful. Essentially, you have heard about the problems with Corrective Services in their ability to manage orders of the court. In a sense, we have a similar problem in that, if people are not jailed or put on community based orders—which are the options—the next penalty most frequently given out in regional courts in particular is fines. Fines also present a lot of management problems. We have eight Aboriginal officers whose job is to assist people in paying their fines by arranging time-to-pay arrangements, which are allowed under the legislation. Also, we have a scheme going now with Centrelink so that with the person's consent we can actually garnish Centrelink payments. It is with their consent; it is not something we can override.

ACTING CHAIR—It is really not a garnish then, is it?

Mr Marshall—No, it is not in the strict sense of the word. They permit us to take regular payments from their Centrelink accounts.

ACTING CHAIR—So it is an administrative measure that makes life easier for them to satisfy the fine.

Mr Marshall—Yes.

ACTING CHAIR—That has been an issue for a long time and has been resisted by the Commonwealth for forever and a day, and you have now achieved that.

Mr Marshall—Yes, but of course it is by consent.

ACTING CHAIR—It was always. The standard expression from an Indigenous person in any court in Western Australia who was not of a primary language was, 'Guilty, guilty, time to pay.'

Mr Marshall—Yes.

ACTING CHAIR—That was all he could say—

Mr Marshall—Yes.

ACTING CHAIR—because he knew that was the solution. Now we can take the money and he remains at liberty.

Mr Marshall—Yes. There are a lot of people who go through the courts, and remote and regional Aboriginal people are not aware that they have the option of time to pay. They do not have to pay the fine in full at once, as long as they make arrangements and agreements to pay. I understand the minimum rate accepted these days is as low as \$15 a week. That is the requirement. That then satisfies, at least at that point in time, the fine.

ACTING CHAIR—We have come a long way.

Mr Marshall—Yes. We also have Aboriginal court liaison officers in about nine regional courts. Their job is to some extent parallel to that job but is to explain court processes to Aboriginal people, to go out into the communities to talk about the way the court works and to be a go-between or liaison between the court and the people involved. We have those as well. We also have two Indigenous officers in the Family Court, which is quite a recent initiative in this state. Unfortunately, they are at this point metropolitan based. Their job is to attempt to explain the very complicated nature of Family Court legislation or processes to Indigenous people involved in the Family Court.

There are a couple of other things, without boring you too much. We have an Aboriginal mediation service, which you may be aware has been running for quite a long time. They essentially fly to wherever there is a trouble spot in the state. By ‘trouble spot’, we mean there are Aboriginal issues—possibly feuding—and the idea is to prevent those escalating into actions that could constitute criminal behaviour. These people are metropolitan based but they can go to any part of the state.

ACTING CHAIR—How many times have they been to Narrogin?

Mr Marshall—I am not sure, but I know they are called frequently to the south-west, in particular to Albany and surrounds. In relation to what I was talking about before on court intervention programs and how courts are expanding their role to some extent, we are very firmly committed to family violence courts, as a specialist type of court, where the court process and the programs that support it are integrated. We have a number of them in the metropolitan area, but we have developed one in Geraldton. I mention that one in particular because it is a little bit like the cross-border justice project that was initiated by Aboriginal people themselves in Geraldton. It is actually managed and overseen by an Aboriginal reference group, so they have a major impact. Again, really the court is tailored to be non-threatening. It is, again, not a bench. The magistrate sits with Aboriginal people and deals with those issues. Sorry I went on a little bit, but that gives you some idea of the initiatives that we are trying to implement to get around the issue of distance and access to services.

ACTING CHAIR—No, no. That was very good.

Senator PRATT—You mentioned there was a review of the community court. Is that currently underway?

Mr Marshall—Yes.

Senator PRATT—When is that likely to be completed?

Mr Marshall—I think the results will be known quite soon.

Senator PRATT—Is there anything that you can tell us about it?

Mr Marshall—No, I cannot. It is with the Attorney and he will make the announcements in his time, I guess.

Senator PRATT—Can you be sure to make that report available to us?

Mr Marshall—Yes. He certainly will make something public around the future of that court.

Senator PRATT—I would be interested to know this. I assume the evaluation will look at whether it is as effective at reducing crime and preventing reoffending.

Mr Marshall—Yes, certainly. It is looking at reoffending rates. We are fortunate enough to have an interesting process. All the Indigenous offenders go through the Kalgoorlie mainstream court and then the ones that are appropriate and who plead guilty go through the Aboriginal sensitive court. The others go through the normal, mainstream Kalgoorlie court. We are able to compare them.

Senator PRATT—Provided it does stack up as a model, what would you say about challenges in duplicating such a model in other regions? Different regions have slightly different needs and community emphasis and bias. Has any of that stuff been examined yet?

Mr Marshall—It was set up with the intent of being applied elsewhere, providing the evaluation stacks up, but it will have to be tailored to every area it goes to. Kalgoorlie was chosen because of its hinterland and the communities that surround it. We have had great cooperation from the judicial officers in Kalgoorlie in supporting this.

Senator PRATT—I am not sure if this has been covered in my absence, but I wanted to ask about translators and interpreters. Have you discussed that at all? I am concerned about the extent to which I hear people are denied access to proper legal representation or do not really understand the justice process that they are engaging in when English is their second language. Even if it is their first language, there may be concepts that they are not really used to using. What is being done to address those problems?

Mr Marshall—We do access translation services where they are available, and they are available in the Kimberley area and in the metropolitan area.

Senator PRATT—Do you mean for Aboriginal—

Mr Marshall—Yes, for Aboriginal dialects. My understanding is that there is a broader initiative around translation services that in fact goes well beyond courts. Presumably the same sorts of issues arise in a number of other technical areas, like medicine. How do doctors explain complicated medical conditions to people? It may even be broader than just the state; I think the Commonwealth might be looking at some nationally consistent accredited translation services.

Senator PRATT—So currently you are talking about the use of formally accredited interpreters for those services—

Mr Marshall—Yes.

Senator PRATT—and where there is no formally accredited interpreter available there will be no interpretation?

Mr Marshall—In those courts where we have the Aboriginal community liaison officers they sometimes act in that role—providing, of course, they are cognisant with the dialects in that area.

Senator PRATT—Is it an issue that has come up in the community court? I imagine you have elders who may speak some of those dialects.

Mr Marshall—Yes. I think also that the judicial officers have become adept over the time it has been running, which is three years, in explaining as best they possibly can some of the concepts of English law and the use of the language.

Senator PRATT—I am not sure if this has been asked. I want to ask you about the Aboriginal Justice Agreement, which is a framework for bringing together Aboriginal people, government and non-government agencies to address justice issues. Can you tell us about that group and how it is progressing?

Mr Marshall—I may have discussed some of that at the beginning.

ACTING CHAIR—You touched on it.

Mr Marshall—I touched on it in relation to how we can use the structure we have set up, which is 30-odd local justice forums supported by us. We can use them in a two-way policy conversation when we need to. They support the Aboriginal Justice Agreement. I did say I was going to mention that one of their roles is to broker services and initiatives at the local level. I have some examples—I will not bore you with all of them—where the local Aboriginal reference group has operated to broker an outcome. I will give you one example—an interesting one, because it involves corrective services, whom you have just been talking to. Last year, the Eastern Goldfields Regional Prison for the first time allowed a sorry-time visit by elders to the prison. The prison superintendent recognised that prisoners were grieving and wanted to help them. Advice from their regional coordinator—that is the HAA—helped identify the elders for the visit, advised what was required of the visit and encouraged the prison to allow high-security prisoners to join the sorry circle. It has been positively commented on by the Office of the Inspector of Custodial Services in the state. It is just one example that I have. I have quite a few of them here.

Senator PRATT—Is the Aboriginal Justice Agreement engagement framework in Perth—or are you talking about having local committees in each region?

Mr Marshall—Yes.

Senator PRATT—We have had quite a lot of evidence to this committee that has talked about delivery of services being too centralised and not flexible enough. What you are talking about here would seem to be a step in the right direction and away from those inflexible and centralised models. Is it working so far and is it going to build enough momentum to garner more of the things that are currently being done outside, taking resources from elsewhere and bringing them in to make them more localised and more flexible?

Mr Marshall—It certainly has the dual initiatives of trying to garner as much local initiatives as it can. But, yes, its other job, under the umbrella of the Aboriginal Justice Agreement, is to, in a sense, broker resources to come into local and regional areas for some benefit. The local justice forums each have a plan, which is their priorities for crime and justice in their local areas, and they have initiatives, tasks and activities coming from that. Some of them involve other departments, and their job is then to broker the involvement of other departments.

Senator PRATT—Thank you.

Senator ADAMS—Just one question: would you explain what the issue is with the role of JPs? As we have moved around there have been a number of comments made about the role of JPs in bail applications and those sorts of issues.

Mr Marshall—I think it could be rightfully said that our justice system, particularly our regional and remote justice system, would not be able to operate without justices of the peace.

Senator ADAMS—That was what confused me because I am a JP myself. I am thinking to myself why has everyone got their knives into JP's? I am wondering what brought it on?

Mr Marshall—We could not do without justices of the peace in regional and remote areas. The government has responded—as you might be aware—to the coroner's findings in relation to the death of Mr Ward and has identified issues of training, particularly for those justices of the peace who do a lot of criminal work. A lot of justices of the peace do not actually deal with criminal work.

Senator ADAMS—They do in the rural areas.

Mr Marshall—They do signing of documents and things like that. There is an emphasis on, firstly, to improve training, particularly introductory training when they first become JPs and, secondly, a move to try and have them under the supervision of other more senior JPs who have had experience or even make it a role for the magistrate in the local area. Magistrates are busy people. As you have heard, they circuit all over the place, they fly here and they fly there.

ACTING CHAIR—Mr Ward was under sentence from two justices wasn't he?

Mr Marshall—He was remanded to the prison at Kalgoorlie from Lenora or Laverton.

ACTING CHAIR—Mr Marshall, you obviously have a very comprehensive knowledge of what is going on with respect to the administration of justice for Indigenous people. What is your official title?

Mr Marshall—At the moment I am Acting Director of Policy. Clearly, a significant part of our policy—as it is in many departments—is dealing with issues of Indigenous offending.

ACTING CHAIR—It sounds almost like it is exclusively dealing with that.

Mr Marshall—Not exclusively, but it is a major part. There is no question about that because it is no secret that the rate of Indigenous involvement in the justice system is too high.

ACTING CHAIR—How often do you meet with your counterparts across the Northern Territory, Queensland and South Australia, for example?

Mr Marshall—In relation to the cross-border justice project, we have been meeting with Northern Territory and South Australia fairly regularly.

ACTING CHAIR—I mean more broadly and with respect to the initiatives that you can all put on the table and say, ‘We have had some success with this and this is our work.’

Mr Marshall—Yes, we do that quite regularly. I notice one of your terms of reference is around sentencing options. We have currently got a review going of the state sentencing act, which is the primary act around the sentencing of offenders. It is a statutory review so it is looking at the existing act but, in the process, we are also putting together a paper around other innovative sentencing options. The key one is—we have had requests from our Chief Justice and other heads of jurisdiction—can we come up with, or has anybody come up with, a community based option that could work in regional and remote areas with a low overhead of supervision? As Ms Tang was talking about, the biggest problem is supervision. That is the golden egg that we would like to try and come up with.

ACTING CHAIR—It is a pretty big wish.

Mr Marshall—It is.

ACTING CHAIR—My next question follows on from that. How long have you been in your position?

Mr Marshall—Prior to the Mahoney inquiry, we had the Department of Justice which was formed in 1993. In 2006, the department split and I moved into the Attorney-General’s Department, which is more associated with the administration of courts and the administration of justice.

ACTING CHAIR—What is the big winner—or there might be several—that you have seen in terms of Indigenous justice projects or programs that you think we got right? Tell us about the ones that have impressed you that have been—without being too patronising—winners out there.

Mr Marshall—It is pretty difficult to determine particular ones. I think most of the programs we are running do have a degree of success. As I think Ms Tang was saying—

ACTING CHAIR—That is against a background of pretty abject failure, isn't it?

Mr Marshall—Yes. I think some of the programs that have been more successful are the ones that have involved Indigenous people more in the development of the programs. As I said, Cross-Border Justice was initiated by the people of the NPY themselves and is probably going to be the biggest single change in the way we do criminal justice.

ACTING CHAIR—So what did those women out there have to go through to get your interest?

Mr Marshall—It was, as I said, initiated by our director general paying a visit to the lands at the time and talking to officers and community representatives. It came out of that process. They then formalised that by writing to the government.

ACTING CHAIR—So they fronted the director when he was out there—

Mr Marshall—Yes.

ACTING CHAIR—and said, 'We've got this huge problem of bad guys ducking across the border.

Mr Marshall—Yes. There were issues around drinking and grog-running across the borders and so on, and this was a problem to the communities.

ACTING CHAIR—Surely you knew about that before these ladies raised it.

Mr Marshall—Yes, but I think we are very much in the mould of looking after our own states, and this breaks that mould.

ACTING CHAIR—But they had to stamp their feet to get attention.

Mr Marshall—Yes.

ACTING CHAIR—And then who led? Was it Western Australia that led the charge?

Mr Marshall—Yes.

ACTING CHAIR—Did we have any resistance from the other states initially?

Mr Marshall—No, the states came on board. As you can imagine, there were complicated negotiations around what were called service-level agreements: how exactly are community justice officers in one state going to manage offenders from another state? Of course, the legislation was extremely complex; the states had to legislate according to the model. But I am

pleased to say that all the states have now come on board. It is intended that the cross-border project will commence in November.

ACTING CHAIR—Did the director go out there specifically to deal with that issue?

Mr Marshall—No, he went out there on a routine visit.

ACTING CHAIR—So it was just broadly. Where else is he visiting, and what are they putting at his feet in these other communities?

Mr Marshall—The director general was up in the north yesterday and the day before. I am not sure at what stage her feedback—

ACTING CHAIR—Sorry; ‘she’.

Mr Marshall—It is a she now. Prior to 2006 it was a he.

ACTING CHAIR—Thank you very much, Mr Marshall. That was most informative. The committee appreciates your valuable time and all of your considerable expertise in this area. Thank you very much.

Mr Marshall—Thank you very much.

[3.43 pm]

ORD, Mr Duncan, Executive Director, North, Department of Indigenous Affairs, Western Australia

TAYLOR, Ms Noela, Executive Director, Policy and Reform, Department of Indigenous Affairs, Western Australia

WALKER, Mr Patrick, Director General, Department of Indigenous Affairs, Western Australia

ACTING CHAIR—Thank you very much for taking the time from your very senior positions in Western Australian Indigenous affairs to come to our committee. Mr Walker, I take it you have an opening statement.

Mr Walker—Just a brief one.

ACTING CHAIR—Very good. Does anybody else have an opening statement? No? Over to you, Mr Walker.

Mr Walker—Thank you for the invitation to appear before this committee. I would like to make a brief opening statement, but I would first like to acknowledge the traditional owners of the land on which we are meeting, the Wadjuk people of the Noongar nation. I pay my respects to their elders, both past and present.

DIA provided a submission to the committee earlier this year which described in detail some of the challenges facing regional and remote Aboriginal communities. It also outlines the range of policies and programs across government that seek to target the needs of Aboriginal people in Western Australia. We have subsequently provided additional information in response to specific questions raised by the committee following hearings held in the Kimberley earlier this year. It is not my intention to revisit any of that information, although of course I am happy to take questions from the committee after my presentation if you require further information.

What I would like to do today is highlight some of the ways that we are trying to do things differently in WA with regional and remote Aboriginal communities. As this committee would be only too well aware, previous decades have seen successive governments, millions of dollars and the best intentions in the world fail to make an appreciable difference to the lives and wellbeing of Aboriginal people living in WA and, indeed, Australia generally. It is clear to me that we do not just need to do things better; we need to do things differently. We need to completely reinvent the way we, as government, engage with and provide services, infrastructure and support to Aboriginal people.

To this end a number of important new arrangements have been developed in WA. Firstly, the Aboriginal Affairs Coordinating Committee—AACC—is a statutory body that has been re-established to coordinate the activities of anyone or any entity providing services and assistance to Aboriginals. The AACC consists of the directors general of the Department of Indigenous

Affairs, the Department of the Premier and Cabinet, the Department of Health, the Department of Education and Training, the Department of Child Protection and the Department of Housing, as well as the Under Treasurer and the Commissioner for Police. In order to further the AACC's aims, the group is committed to developing collaborative and innovative service models that are both practical in nature and able to militate against systemic issues and blockages. At this point it is worth noting that the directors general around the table control between them a significant proportion of the state's budget and thus have the ability to get things done. We have not only the ability but the will. There is a genuine commitment and a spirit of collaboration around the table when we meet, although we understand that the challenges are very real and that the solutions may take some time to achieve.

As an example of this, the committee has identified three priority locations in which to initially concentrate our efforts: Oombulgurri, which is in the far north of Western Australia; Roebourne; and Armadale. It is as part of our commitment to work collaboratively on the ground and respond directly to community needs that the AACC member agencies have jointly funded a chief operating officer, Mr Brian Wilkinson, who commenced in the position in July this year. He is responsible to the committee as a collective. Through his on-the-ground decision-making capabilities he is able to assist in ensuring that state and COAG objectives are being met and that any blockages are quickly identified and mitigated. In this way we are seeking to maximise the resources we have access to in new ways because, whilst it is critical that we have access to sufficient funds in order to make a difference to the lives of Aboriginal people, such funds also need to be able to be utilised in a flexible and adaptive manner. Furthermore, there needs to be some assurance that moneys are available not just for three or four years but for the long term.

Of course, money is not the whole solution. It is also critical that we have a meaningful engagement with Aboriginal people. To this end we have recently established another statutory body, the Western Australian Aboriginal Advisory Council. The council comprises 12 Aboriginal people from a diversity of backgrounds from across the state. Members were nominated directly by the community and were recommended for endorsement by a selection panel consisting wholly of other Aboriginal people. The role of the advisory council is to provide leadership, advice and direction to the state government on Aboriginal people's aspirations, the necessary performance and outcome targets required to realise these aspirations, the needs of the Western Australian Aboriginal community and the conduit for providing feedback to stakeholder groups.

The re-establishment of this formal Aboriginal advisory body presents a significant opportunity for the government to demonstrate both its sincerity and its commitment to an improved relationship with Aboriginal and Torres Strait Islander Western Australians. Importantly, the chair of the advisory council is also a member of the Aboriginal Affairs Coordinating Committee—that is, the group of directors general—thus ensuring close cooperation between the two bodies. There is also the Indigenous Implementation Board, an independent advisory board that relies on the strong engagement and involvement of all stakeholders to assist in identifying and cutting through blockages and collectively developing the proposal for a regionally based reform agenda.

Those three bodies working together mean that at a state level there is an unprecedented level of coordinated effort being directed into addressing attention to and responding to the needs of Aboriginal and Torres Strait Islander Western Australians. This is an important positive development in WA and is doubly important in the context of the COAG Indigenous reform

agenda. By endeavouring to get our own house in order, so to speak, Western Australia has been well placed to work with the Commonwealth in a cooperative way towards closing the gap in Indigenous disadvantage.

I would also like to comment that we have very good working relationships with Commonwealth agencies, including FaHCSIA, DoHA, DEEWR, the Indigenous Land Corporation and Indigenous Business Australia. Through the AACC and its operational senior officers group, we are coordinating the delivery of the various Indigenous specific national partnerships. In the three COAG remote service delivery priority locations—Halls Creek, Fitzroy Crossing and the Dampier Peninsula—we were able to meaningfully engage with the Commonwealth on developing a single government interface to coordinate our work in the region. This is an on-the-ground manifestation of joined up dollars and service delivery tailored to meet the specific needs of each community. It is a new way of working that represents a concentrated and accelerated effort to tackle the deep-seated disadvantage endured by many people living in regional and remote Aboriginal communities.

There is no quick fix to the challenges facing regional and remote Aboriginal communities. Nevertheless, I really believe that the measures we have outlined today and the strong leadership, collaborative effort and a commitment to engage with Aboriginal people represent an exciting opportunity to do things differently in Indigenous affairs and thus improve the effectiveness of government policies and programs. I hope the overview I have given has been useful to the committee.

ACTING CHAIR—Thank you very much for that.

Senator ADAMS—The Indigenous Implementation Board was raised on the committee's trip to the Kimberley several weeks ago. We really do not know all that much about it, so could you give us a list of the people on it and an indication of what its role is and what impact it is going to have on the Indigenous communities?

Mr Walker—Certainly. The Indigenous Implementation Board was first established in February 2009. Its membership comprises Lieutenant General John Sanderson, who is the chair; Dr Mark Bin Bakar; Mr Kim Bridge; Ms Ricky Burges; Dr Sue Gordon; Dr Helen Milroy; Professor Fiona Stanley; Ms Dawn Wallam; and Mr Brendan Hammond. The board will provide three reports, the first of which was tabled in parliament in September of this year. The purpose of the board is to engage and build stakeholder involvement to collectively consider the structural underpinnings of Indigenous disadvantage and to recommend ways in which service delivery can be enhanced. Its first report emphasised the need to develop an effective partnership with Aboriginal people as a matter of urgency and identified the lack of such a partnership as the primary source of government failure in the past. There were 13 recommendations from the first report. Do you want me to go through them?

Senator ADAMS—If you would.

Mr Walker—The board's recommendations were:

1. The Board recommends that Indigenous people must be involved in target setting and additionally, that it is critical that greater investment in economic development and the local Indigenous workforce occurs to achieve the targets. It is

recommended that Ministers support Directors General to work in the new ways required to provide a more sustainable quality of life and enhance the capacity of Indigenous people to contribute to the common wealth of Western Australia.

2. The Board supports the use of liquor restrictions as part of an integrated whole of government strategy designed to build and maintain sustainable communities.

3. The Board recommends State and Commonwealth Governments commit adequate funding in the next budget, including that which is required to train and accredit Indigenous translators and interpreters, implement the State Language Policy and provide all Aboriginal Australians with health and legal services in a language they can understand.

4. The Board recommends that before the end of the 2009 calendar year, that all tiers of government, business and non-government organisations provide an indicative assessment of the investment occurring in Indigenous affairs, including specific information on expenditure to achieve Indigenous outcomes and its effectiveness.

5. The Board recommends that reform of the Department of Indigenous Affairs be accelerated and that the reform include adequate resources to more effectively support the work of the Board, as a coordinating Secretariat.

6. The Board recommends that all future COAG agreements affecting the lives of Indigenous Western Australians must appropriately involve local governments and broad Indigenous representation at the beginning of and throughout the agreement making process.

Senator ADAMS—Can I just stop you there. How much consultation and work did you do with the Commonwealth as to the siting of the new COAG communities and what was going to happen there?

Mr Walker—Initially, there was very little. In fact, the state made representations to the Commonwealth that in an ideal world there should be consultation before the sites were chosen. However, what has happened is that there are comprehensive implementation plans, now that the communities are determined, which will ensure that there is genuine engagement on the ground. For example, the Remote Services Delivery National Partnership provides for the salaried employment of an Aboriginal male member and female member in each of those communities to ensure genuine engagement and understanding with the community. Once that happens, there will also be cultural awareness training provided. Then there will be genuine community engagement and involvement in the establishment of local development plans.

The idea is that the community itself establishes its needs, aspirations and priorities, and then the government as far as possible comes in and supports the community in terms of fulfilling their priorities. Instead of the government telling communities what is good for them and moving in, the idea is that we actually engage in a meaningful way. I think the comments of the board were that in an ideal world that sense of engagement would actually influence the COAG process. There was one classic example that the board referred to: in 2006 the Commonwealth and states initially agreed that there should be greater involvement by local governments in the provision of traditional municipal or local government type services in remote Aboriginal communities.

Senator ADAMS—I will be raising that issue in a minute.

Mr Walker—That bilateral agreement was actually developed in complete isolation from both Aboriginal people and local government, certainly in this state.

Senator ADAMS—I am sorry to interrupt. I just thought that while you were on that specific issue, I would ask what consultation you had with the Commonwealth on those sites.

Mr Walker—Shall I carry on with the recommendations?

Senator ADAMS—Yes.

Mr Walker—The remaining recommendations of the board were:

7. The Board recommends that the State Government undertake immediate consultation to identify appropriate regional mechanisms comprising Indigenous and non-Indigenous representation, industry and three tiers of government to:

- a. Administer investment from Bilateral agreements and report on progress against agreed outcomes;
- b. Ensure engagement with Indigenous communities, organisations and people to influence the design, delivery and evaluation of services and intended Indigenous outcomes.
- c. Establish a set of Indigenous service delivery priorities for each of the WA regions based on identified requirements of the region and determined in consultation with Indigenous people.
- d. Undertake broader regional planning that includes development of a service delivery baseline and identification of performance improvements needed for service delivery to communities in each of the WA regions.

8. The Board recommends that *Royalties for Regions* allocate a recurrent stream of funding for Indigenous leaders to engage their communities in regional planning.

9. The Board recommends the WA AAC is established and resourced as a matter of urgency, with clear terms of reference to engage with and champion the Indigenous voice and to participate equitably in partnerships with Governments and Industry in decision making that affect the regions.

10. The Board recommends that the *Remote Aboriginal Communities Policy* be developed with the Commonwealth and Local Government so that it provides consistent advice and guidance to those involved in the development of any Regional Plans.

11. The Board recommends that, to maximise the benefit of any future investment, consideration is given to prioritise investment towards communities where the following outcomes are likely:

- a. Environments that foster strong families through an increased focus on children and preventative approaches;
- b. Food security;
- c. Investment in Indigenous workforce development;
- d. Capacity to support infrastructure development;

e. A clear and broadly united community voice; and

f. Support to the development of Indigenous leadership and governance.

12. The Board recommends that the Auditor General consider measuring the effectiveness of:

a. The current investment in Indigenous affairs against the intended outcomes; and

b. State agencies' involvement of Indigenous people in the design, delivery, evaluation and outcomes of service delivery, including that being driven through the COAG agreements related to Indigenous Affairs in WA.

13. The Board recommends the AACC and WA AAC commission a WA Indigenous report card to be delivered every two years to compare progress at the regional and local level, allowing them to provide well informed advice to the State to make well-evidenced investment decisions and guide investment towards strategies that work.

Senator ADAMS—Sorry to make you go through that, but I think it really does give us a very good idea of what is happening. Has the minister signed off on any of those recommendations?

Mr Walker—Yes, in fact the minister tabled the report. I think it was on 17 September. Some of those recommendations have already been pursued. For example, COAG has requested that the state and Commonwealth officials develop a food security proposal, a national partnership, by the end of this year, so that work is being undertaken at the moment. In relation to the last recommendation about measurement, the overcoming Indigenous disadvantage reports, the OIDs, which are done principally with and through the Productivity Commission, are happening. They tend to be on a national basis, however, with some breakdown on a state and territory basis but the board is keen to get it on a regional basis to the extent possible. That will be a challenge because there is an issue about disaggregating health spending, for example, and other spending between Indigenous and non-Indigenous Western Australians. Some of the regional allocations will also initially be estimates. The Western Australian Aboriginal Advisory Council, for example, has been established, so a number of these recommendations have been completed and a number of them are well on the way.

Senator ADAMS—It is very pleasing that Indigenous affairs are finally getting some sort of priority and it is very good for the minister that that has been taken up already. Where are we going with Indigenous housing at the moment?

Mr Walker—We are endeavouring to provide as much housing as possible. Obviously that is an issue. Housing has coverage but I have some information I can share and no doubt you will ask further questions or we may need to refer something to housing generally. Under the Indigenous housing national partnership there is about \$1 billion over 10 years for Western Australian Aboriginal housing with approximately \$500 million in the next five years. There are a whole range of targets that have been established between the state and the Commonwealth in relation to that national partnership. The expectation is that as a state we will do everything we can to deliver on the estimates that provide both for new housing, refurbishment and, in some cases, rebuilding.

One of the great challenges we have in Western Australia is the fairly complex land tenure issues not only in native title but also in various leasehold arrangements and the

Commonwealth's current policy position is that there needs to be security of tenure on the land, the proposition being that if it uses either state or Commonwealth taxpayers' money and it is a public investment then there should be some ability to at least maintain that investment through some security of tenure. The Aboriginal Lands Trust lands create some challenges in that regard, although in recent discussions in the last week or so I think we have resolved probably 80 per cent of those. The Commonwealth is now indicating that if it is Aboriginal Lands Trust land—and that comprises about 15 per cent of the state's area, some 29 million hectares or thereabouts—that will be okay. The Commonwealth is also contemplating an amendment to the Native Title Act which if adopted will assist by providing for public housing not to extinguish native title, so that will also assist in the requirements for, in some cases, native title considerations and also Indigenous land-use agreements.

Mr Ord—On top of the social housing agenda there are a number of instances of transitional housing strategies being developed. In recent times the East Kimberley Development Package has included a component for building transitional houses for Indigenous people moving out of social housing into managed housing and for when they are transitioning into employment or training for employment. It deals with the issues around overcrowding and also the issues around people who are working being mixed in with people who are not working; aspirations around home ownership; and, support while on training wages, where the rental housing market does not allow for people to enter into that. That is in Kununurra. Similarly, the Yaru native title settlement in Broome is allowing the traditional owners of Broome to become quite active in land development and housing development in their own right in partnership with LandCorp, our state land developer. We have also recently given support to the Ngaluma Aboriginal social housing strategy in Roebourne, which, again, is empowering traditional owners, who have been given access to freehold title land to develop a range of social housing and transitional housing and, in fact, housing for government workers, to bring a new face to that town and take the pressure off the social housing stock.

Senator ADAMS—When are we going to see these houses physically on the ground?

Mr Walker—From memory, I think the plan is to try to complete something in the order of 70 houses before the end of this financial year, and a number of refurbishments as well. They are ambitious targets but we will be doing everything that we can at a state level, as I said, acknowledging those issues around heritage and also issues around native title. But there is certainly a commitment to add some encouragement and incentive given what might have happened across the border.

ACTING CHAIR—With those 70, we must then be on the verge of commencing them.

Mr Walker—I think some work has already commenced. That is right; I am conscious we are in October now and I know that the Director-General of Housing is as well. I think with the targets themselves, talking generally through that initial five-year period, there is a serious effort to meet the keys targets that were established. Having said that, the risky run here is that the actual principles, the very principles embodied in the COAG arrangements that talk about genuine engagement and involvement of Aboriginal people in the design and delivery of services to them, in a way run counter to the quick production of numerous houses. This is, if you like, a policy service delivery tension that governments have. I guess our general view would be that if we were to err on the side of general engagement—getting the design right, getting the

ownership and providing transitional opportunities where people can move from welfare to economic participation—then certainly we would be encouraging, I guess, a hasten slowly approach rather than our traditional practice, which has been to provide houses and then to visit the location not many years later and reflect on what remains.

Senator ADAMS—As far as employment goes, do the contracts involve a certain percentage of Indigenous employment?

Mr Walker—There are principles embodied that Mr Ord talked about. Certainly there are well established aspirations within the Ord-East Kimberley national partnership and there are general targets within the national partnerships. At the same time, there is what is called the Indigenous Economic Participation National Partnership, which requires states, territories and the Commonwealth to ensure that, in our case, our state procurement processes and policies and also our workforce participation arrangements encourage and maximise the potential for Aboriginal people to get involved in these capital works. Once again it is a countertension in a sense to producing a whole group of houses overnight. You can do that but chances are if you do it quickly, you are not going to seriously involve and engage Aboriginal people in the right way.

ACTING CHAIR—Do we know where the 70 are? It makes a big difference if they are east of Newman.

Mr Walker—I do not know where they are, but we could probably get some indication of that for the committee from the Department of Housing.

Senator ADAMS—As we have moved around we have seen, especially up in the Kimberley, the municipal service delivery problem associated with rubbish tips. We have had some very graphic photographs given to us of different communities but these are not the gazetted towns they are the non-gazetted towns. As far as roads and rubbish tips go, whose responsibility is it? Also with fire and preparedness for fires, one community had a hydrant, they did not have a hose, they did not have a trailer and they had very little water. They were very lucky that the wind changed and they were not wiped out. I am trying to get to the bottom of this as to where it is all going to finish up as to who is responsible.

Mr Walker—To be honest, it is a confused place at the moment.

Senator ADAMS—Great. Thank you, I am very pleased to hear that because we are quite confused too.

Mr Walker—They are the facts of the matter. You have a combination of Commonwealth involvement through FaHCSIA and other agencies. It stems back from ATSIC's days and the approaches there. You had a combination of CDEP and some people engaged in municipal type services there. You also have the RAES program, which is a program developed and worked through from the Department of Housing, so there is a lot being done. Certainly, at a personal level having worked in local government for much of my former career, I am absolutely of the view that unless we can get local government more actively involved in remote Aboriginal communities we are always going to struggle. It is extremely difficult to run these committees and operations from Canberra or from Perth.

There is some work being done at the moment. The state has committed approximately half a million dollars and we are currently negotiating with FaHCSIA for up to \$1 million to enable the 24 local governments in Western Australia—the vast majority if not all of the remote Aboriginal communities fall within local government boundaries—to establish business cases for how much it would cost if the local government were to take responsibility, working closely with their communities, to provide the level of municipal type services that you would find for comparable communities elsewhere. I think that work is absolutely paramount prior to any serious discussion between the various levels of government about what should happen from there. It seems that in the past the state and Commonwealth have had agreements around the transitioning of municipal services but the problem has been that the agreements have pretty much said, ‘We will move some.’ In 2006 it talked about a transition by June 2008 but the language was ‘subject to funding being agreed’.

We currently are working through that issue again but I think until we actually establish indeed what are the costs of the funding, how it could be done and have that mature discussion about the dollars and from whence they should come then I do not think we are going to get a lot progress around it. We have seen changes at the Commonwealth government level, in particular with CDEP and other things, and I think that it is at the moment a variation between the community’s capacity to champion their cause and advocate. I think the theme that Senator Johnston was picking up in the last discussion was that it might depend on a visit by a minister or a director-general to a particular community or it might be some crisis that appears on page 3 of the *West Australian*.

Ideally, we should have some more strategic approach. That is part of the reason for the states also to develop a remote Aboriginal communities policy, so that we can look at remote Aboriginal communities and determine a more strategic and systematic approach to provision of services based on a hub-and-spoke-type approach and also have some consistent, coherent approach so we can help support the governance of the local community. I think that is something that can be greatly aided by local governments becoming more involved, and by doing that we can do things. That is not to say that a lot of work is not currently being done. I just think it is a very complicated area, and if you are in a community it is not always clear who the responsible authority is and where there are opportunities to seek the support for the services you need.

Senator PRATT—I think my question picks up on those same points; excuse me if you covered some of these points to some extent while I was out of the room. Your submission raises some issues in relation to municipal services, in particular how the \$22 million MUNS funding in large part went to fuel generation which would not traditionally be a municipal service. I think that cuts to the point of who is paying for what and why, and the lack of clarity around it. What you said demonstrates that there is an awareness of this, but I do not yet see where the solutions are going to be brokered in terms of who will pay for what and someone ultimately taking responsibility, or whether there will be what you spoke of before single pots of money and local communities being able to drive their own solutions. What is the process for resolving some of these issues?

Mr Walker—I am not sure if you were out of the room or maybe I did not make myself clear—perhaps it is a combination of both. We are seeking about \$1.5 million—half a million from the state and a million from the Commonwealth—to enable the 24 local governments that

pretty much cover the field of remote Aboriginal communities in Western Australia to engage people to talk with the larger communities to ascertain what the costs would be. We are not talking about a family or property, but significant sized communities within their local government boundaries. The proposition is that once we have that information—and we hope that we could have that within six months or so—we could then, both at state and Commonwealth level, have a mature discussion—some might call it a debate—about where those funds should come from and how they should best be provided. But until we have, for example, secure sewage ponds where dogs do not play and children do not then play with these dogs, we are going to have health problems. And until we do something about rubbish tips, as the senators have no doubt seen—I have seen the photographs and look forward to visiting more of them in the coming months—we are going to have issues.

At my end there has been a lot of discussion over quite a few years and I believe there is a genuine wish and will, both at state and Commonwealth level. Some work is being progressed; some work is being done in the housing area, including a comprehensive analysis across the nation of municipal services. I prefer the notion of giving local governments responsibility and some financial assistance to do this work. Until we get the detailed work, if we do a high level desktop audit there will be greater wiggle room and discussion room when the three levels of government come together. To the extent possible, let us truly understand what it is going to cost to 'normalise', if you use that term, at least the local government type services in these communities. Let us understand what these are; there will be a very large number of them. And then let us work out where to from there. At the moment we are seeing both levels of government change their policies from year to year. Most people do not see power generation as a local government type service.

ACTING CHAIR—But it has been.

Mr Walker—It has been.

ACTING CHAIR—Most large regional centres have, in the last 15 years, changed from diesel powered generators that they owned and operated onto the grid. Traditionally Halls Creek and Fitzroy Crossing were not on the grid, although one might be. Their power generation is their regional concern and the ratepayers fund it, but they will not fund Balgo.

Mr Walker—If there were ratepayers in Balgo—

ACTING CHAIR—Well, they are in a municipality.

Mr Walker—Yes, that is right. The tension there of course is—and this is the traditional disconnect between local governments—is, first, the issue that they are often on reserves and therefore they are not on town sites and there is that issue of responsibility. The second issue is the capacity of the local governments to actually look after those areas within their somewhat limited revenue base.

ACTING CHAIR—And they have got no capacity.

Mr Walker—That is right. In fact, as you know, in this state amalgamations are being encouraged as a result of the so-called—

ACTING CHAIR—It's pretty hard to see who Halls Creek are going to amalgamate with.

Senator ADAMS—Yes, we did mention that up there but it was not—

ACTING CHAIR—Maybe Warburton.

Mr Walker—I spoke with Warren Olsen, who is the CEO at Halls Creek, and he assures me that no-one is rushing to propose to Halls Creek at the moment.

Senator PRATT—In that context, I want to ask about the application of the health act in terms of who would be responsible for environmental health and the resolution of those issues within Aboriginal communities.

Mr Walker—I think there are two issues there. One is that the new health act, as I understand it, will bind the Crown. So that will be a significant departure in some senses in terms of remote Aboriginal communities.

ACTING CHAIR—The Crown and right of the state.

Mr Walker—The Crown and right of the state, that is correct. In terms of environmental health officers, I imagine that at least initially they will be much as they are now, which is a combination. You do have environmental health officers within traditional local governments and then you certainly have, as I understand it, environmental health officers in Aboriginal communities as well. But I think the underlying thing is that there will be far more issues identified should the new health act be proclaimed with the current intent.

Senator PRATT—What is the time line for proclamation?

Mr Walker—I am not sure of that. That is up to parliamentary process.

Senator PRATT—So it has not come before parliament?

Ms Taylor—I think a bill has been tabled.

Senator PRATT—Okay. It is probably not a question for DIA. In some of the policy directions that are coming forward you have highlighted a motivation to address some of the lack of flexibility of current funding models in that they are too centralised. A number of the departments that we have talked to about these successful programs are certainly also going in that direction. What can you tell me about bedding down the institutional arrangements for that? I know that there is the agreement with the Commonwealth that is supposed to drive some of those local solutions and join up dollars and service delivery. Can you tell us about how we create a sense that this is a permanent change in direction as opposed to business as usual?

Mr Walker—That is a critical point. I am sure when the committee and the Senate has travelled you may have detected some cynicism if you say, 'We are from the government and we are here to help.' We certainly detect that and, to be fair, if we were in those people's places we would issue the same thing. And, dare I say it, just so that you know and it is on the record, I used to be one of those people who wrote letters when I was a local government CEO in country

communities. I used to write letters to people like me saying you have got no idea what is going on in the community. And I do not recant from those at all. My line is that a community wants a camel; we send a horse. And the horse costs more than the camel. So you have to listen and empower communities.

Just this morning, at the group I chair with the directors-general, we agreed in principle to the notion of approaching the Commonwealth with a view that up to 10 per cent of the specific Indigenous national partnerships should be flexible for collaborative and innovative approaches. Because what you find is that if you want to get kids in the school then they have to have a good night's sleep. Therefore you do not need overcrowding in houses. They need to be well fed, which is a health issue. So invariably, whenever you go to communities the solution does not rest in one of the traditional silos that we create in government. And there are advantages of that but if you take, for example, the Clontarf Foundation, which is doing good things in Western Australia, when their funding is up for renewal it is possible they might go to the education department. And the education department will say: 'It is fantastic but, of course, it is not all about education. It is a bit about sport as well, so go and see the department of sport and recreation.' And they go and see the department of sport and recreation.

The idea is that there are significant outcomes and targets set within the respective national partnerships. I think that is a healthy thing. The level of accountability is far greater in this COAG process than ever before but, until we get that flexibility where we can adapt, if we are going to go to communities, engage them and say, 'We want work with you and we want to help you,' then we cannot say to them, 'You come to us with a plan,' and then say, 'Well, you can have anything you like as long as it fits within these programs.' We have to have that flexibility. That is always a challenge at the state level because most of our commitment tends to be in staff rather than service delivery. The Commonwealth probably has greater flexibility in terms of funding for programs. So that is something that we will be talking to the Commonwealth about. I honestly believe that there are two keys to making a difference. One is generally empowering the community and listening to them. The second is to have the flexibility to be able to respond. Invariably, good solutions require more than one agency to deliver them.

Senator PRATT—Can I ask about the national 'closing the gap' agenda and the extent to which the state government is involved in tracking outcomes, specifically in terms of health, education and all the other outcomes that are part of that agenda?

Mr Walker—As a general principle, there are targets which are set. For example, in housing—and Senator Johnston mentioned that earlier—we have got beyond the traditional, which was: 'These are the funds and you need to work diligently providing houses for Aboriginal people.' It now is: 'These are the funds. You design and we will accept or otherwise.' Quantifiable targets are embedded in pretty much all of the national partnerships.

What we have said at a state level is that we wish to establish—and we are still developing these—targets for one, two, three or four years. The problem is that a cynical person in a community might say: 'The COAG targets are terrific and fine but they are generational. If you happen to be in charge of department X at the moment and there is a 25-year goal, you are probably okay, but if you happen to be the D-G in years 23, 24 and 25 you might have a lot of work to do.' The secret is to start doing the heavy lifting in years 1, 2, 3 and right through. That

is the key. The key is to try and establish targets and measures which will even—dare I say it—sometimes be stretch targets, and to encourage us on the way to see how we are going.

That is critical because if we spending a fair bit of effort and time and are not achieving anything then we need to change direction and do it differently. The thing which counters that is that, unfortunately, in government a lot of it is planning not to fail rather than planning to succeed. It is the adversarial nature of our parliamentary process. If you go to someone, as I do, and say, 'Let's have an aspirational stretch target,' then the danger with that, if you are a minister or agency head, is that even if you have a really aspirational target and you almost hit it, instead of getting applauded you get marks off for having failed to hit the target.

ACTING CHAIR—It is courageous.

Mr Walker—It is courageous; that is correct. The challenge is not to play it safe all the time. If we play it safe, we are not going to get too far. We do need a bipartisanship in this country and in this state around Indigenous affairs. I would have to say, by and large, I think that is there.

Senator PRATT—I have a question with respect to employment, specifically in remote communities—clearly it is also an issue in some regional communities—in terms of all those departments that are trying to attract talent to service those communities. We have had some good examples from the Department for Child Protection, which seems to be investing in quality remuneration that is going to keep those services viable. Then there is the Department of Corrective Services, which has got people doing outreach work who spend long periods of time away from home and do not receive any extra remuneration for doing that work. Has there been an analysis of really what is required to retain the appropriate services in targeted communities?

Mr Walker—That is a work in progress. I think there certainly has been some work done around that. I raised the issue with the Director-General of Education. I know that they have done some reviews and analysis which certainly indicate to them that it is not all about money. There are some additional increments, certainly not as much in WA as in New South Wales. But there are some incentives. Western Australia is currently reviewing its Public Sector Management Act—long overdue, some might say—but we need to be far more flexible and adaptive. I guess it has been brought home to me as recently as the last few months because, with our remote services delivery location, we are genuinely going to create one office which will be an office of combined Commonwealth and state officials. But they will not be running in parallel. We have appointed a manager of our regional operations centre to oversee that—a Commonwealth public servant—who will report to me and to my colleague the state manager of FaHCSIA, and there will be a mix of Commonwealth and state people.

What that process showed was that, if we were to recruit someone in, say, Halls Creek to oversee that, they would effectively earn probably about \$30,000 to \$40,000 a year less, they would not have reunion visits, they would not have clothing and all that. There is a huge gap in this state between what would be seen to be a reasonable salary to attract someone to a remote location if they are working for the Australian government as distinct from the state government. I think that is where we have to get much cleverer. It is not just dollars. Sometimes it is about an ability to send our best people out into the field. That is the answer. Governments are very good—government agencies in the cities surround themselves with the best people. They should

be out there, but they should be supported. So some of it is about assurances that when you go out there you will not be forgotten and that we will bring you back and we will look after you.

Senator PRATT—Has the AACC considered those issues collectively yet?

Mr Walker—Yes. Well, not specifically, but the Director-General of the Department of the Premier and Cabinet has had some meetings with the D-Gs generally—with the Public Sector Commissioner—and the Public Sector Management Act is being rewritten. One of the objectives of that is to address the issue of provision of public servants in regional areas.

ACTING CHAIR—When you say regional, do you mean regional and remote?

Mr Walker—Yes, regional and remote. I do.

ACTING CHAIR—There is a big difference between living in Laverton and living in Kalgoorlie.

Mr Walker—Yes, although some people would suggest then that there is a big difference between living in Kalgoorlie and living in Perth.

ACTING CHAIR—Too right.

Mr Walker—Particularly the isolation. When I say that, I mean the dangers of career isolation.

Senator PRATT—Maybe we just need to move our headquarters to a regional area.

Mr Walker—We? Is that the Australian government?

Senator PRATT—Perhaps the Australian parliament should be in Alice Springs. It might be a fairer location for it. Following on the employment issues, I want to ask you about the CDEP handover, how that has gone and how that fits with employing people in real jobs in their own communities which are complementing the service delivery of departments—that is everything from teacher education support workers to Aboriginal health workers. How is the consideration of those issues progressing?

Mr Walker—There are about 338 jobs that effectively are being transitioned or changed as a result of the Commonwealth's changed policy on CDEP. Just over 170 of those are state jobs, so the state has committed approximately \$19 million over the four-year period to create real jobs in terms of those 172 positions. They generally fall within probably four main areas: health, education, housing, and the Department of Indigenous Affairs, through community organisations, will also be establishing a number of patrols in communities. We would like to have more rapidly, in a practical sense, shifted people from one to the other, but there are some practical issues with that. If we just take our own process, we need to ensure that contracts are signed and paperwork is done between a whole range of community organisations. That is sometimes difficult in terms of the time delays.

It is also fair to say there is some resistance in some communities to the policy change. At least one organisation advises us that they will not sign the new arrangements, mistakenly believing that if they do not do that CDEP will remain as it always has. We have endeavoured to indicate that is not the case. The Commonwealth has come in and supported some social administration and local governance work where communities were able to utilise the CDEP arrangements, and there are some alternative funding arrangements for that. Certainly FaHCSIA in this state is doing some good work around ensuring communities are not penalised there. We had planned to have all those positions transitioned before now and there is a great sense of urgency to do that. In fact there is a meeting planned next week, and I am sure when I and my state and territory colleagues meet Minister Macklin in a few weeks time that will be one of the questions on her lips.

Senator PRATT—I am sure it is not an easy task and I know it is on her list. In terms of the 170 jobs that are flowing, you mentioned health, education, housing and patrols. Can you highlight for us what those jobs actually are?

Mr Walker—Some of them are school based assistants—that is, Aboriginal people working in schools with Aboriginal children principally but not necessarily exclusively. The Commonwealth is converting jobs into municipal type services positions, so there will be people working in those. On health, it is around clinics and supporting clinics, as well as environmental health arrangements. Our patrols are largely around taking people who may be affected by alcohol et cetera to a safe place for security, and they operate in a whole number of communities across Australia.

Senator PRATT—I am interested in how that transition will build into the future in terms of the proper development and recruitment of workforces in remote communities and how your people in those communities are being trained and educated to fill those roles. What work is being undertaken to facilitate that development?

Mr Walker—None of these jobs are being created unless they are seen to be real jobs. The good thing is that the agencies themselves identify that a certain job is legitimate. Some of these people will be doing a role for a period of time, and there is additional money in the order of \$2,000 for individual training to help them in those roles. Through the Indigenous economic participation NP Minister Collier has announced a very serious program around workforce development for Aboriginal people in Western Australia. So there is a genuine understanding that we need to do a lot more as quick as we can in terms of getting Aboriginal people into our workforce. It is fundamental that they move from that welfarism approach to economic participation. It is critical for their own communities and it is critical for the country. Access Economics did a report not that long ago which indicated, even if you discount the sense of social justice, equity, fairness and importance for Aboriginal people and purely did an economic analysis, it is critical to this country that we enable Aboriginal people to reach their potential and to participate in the economy like anyone else.

Senator PRATT—I want to ask next about your involvement in and thinking about more regional communities, as opposed to remote ones. Yesterday we spent the day in Narrogin. Clearly one of the issues that confront those communities—in a general sense, not just the Aboriginal population—is a lack of services because of the dispersed nature of those communities. But they do not seem to attract the attention in relation to the Aboriginality and the

need for culturally appropriate and specific services in those communities. What is the department doing to tackle that issue?

Mr Walker—We are concerned about the Narrogin community.

Senator PRATT—It is not just Narrogin specifically; it is from Moora down to much further south.

Mr Walker—One of the things we are doing is that in, I guess, the last six months I have written personally to all local government CEOs and the councils, encouraging them to develop a reconciliation action plan. I believe it is important for local governments to genuinely embrace and engage with their Aboriginal community members. You may have heard yesterday that we have some involvement in assisting the governance and capacity building of the Aboriginal people in the community in Narrogin. We have received some Commonwealth funding and engaged some people to assist with that. The issue of regional services generally has always been with us, of course, and that is a challenge, but we are certainly trying to ensure, working within government agencies, that that support is out there. This morning we heard from Health—the chief executive of the Country Health Service—about the way they have structured their health services generally. That is on a regional basis, and they are establishing forums so that people can have a meaningful say in how the service is delivered. That is with a particular focus on Aboriginal people to be involved in the actual design and delivery of health services. I am not sure if I am answering the question. It is something that those of us who grew up in the country and spent time there understand, and it is something that the government is striving to get better at.

Senator PRATT—One of the themes that I think have emerged out of this inquiry is the need for culturally appropriate services in general. It does appear that there probably has not been enough attention to the regional areas, and in some sense a lot of those issues are also in common with metropolitan areas. Is there an appetite to tackle that issue holistically and say, ‘We do it for migrants, but actually we need a coordinated response across all government services as they relate to Aboriginal people’?

Mr Walker—I think the disconnect between Aboriginal people and government services generally is well understood. There is obviously no simple solution.

Senator PRATT—It did not appear to be well understood in terms of people’s perceptions of their includedness—I suppose that is the word.

Mr Walker—The nation is undecided; I am not saying it necessarily happens. The very reason that the director general’s group, the Aboriginal Affairs Coordinating Committee, chose Armadale, for example, was that we know that just over a third of all Aboriginal people in Western Australia live in the Perth metropolitan area, and they do not necessarily get connected to a lot of services either. So the reason we have adopted those three communities is in fact to, if you like, trial locations to ensure engagement, cultural understanding and provision of services. I would have thought that throughout the regions one of the great strengths might have been through the Aboriginal medical services that exist. The Aboriginal medical services cover a large part of Western Australia—not all of it. I think they are probably least active and available in the

south-west part of this state. Clearly that is an area where you would hope that there would be that action.

Senator PRATT—What you are saying really reinforces the point, because where there is an Aboriginal medical service the culturally appropriate access is much more assured. But then, of course, you have people who do not want to access that same service because they have family that works there—

Mr Walker—That is right.

Senator PRATT—or they are in conflict; they might have a former spouse that is using the same service. So, frankly, what it really drove home is (1) that not everyone has access to those services and (2) those culturally specific services do make a difference in terms of getting people to engage. The point is that, in terms of Aboriginal health workers—that was a question we got to discuss with them quite comprehensively—and as a universal principle of cultural inclusion across government services and an appetite to tackle that, there certainly seemed to be a deficit in the south-west to be highlighted.

Mr Walker—I think there is a deficit. I think the challenge is for government to get much better at it. But, picking up on what you said, sometimes it gets even more difficult in smaller communities because the family considerations are even more paramount. It is not easy, but it is something that certainly our agency represents and is sort of advocating.

Senator PRATT—There is a deficit of services for everybody in any case.

Mr Walker—Yes, generally.

ACTING CHAIR—Thank you very much. We have run out of time, unfortunately. We could take a lot more time of course on this big subject. Thank you for the time you have given us and for your submission. We do appreciate it.

[4.46 pm]

GAUNT, Acting Commissioner Darryl, Regional Commander, Regional Western Australia, Western Australia Police

GEORGE, Detective Inspector Steven Alan, Western Australia Police

SEIVWRIGHT, Detective Inspector Darren Francis Charles, Assistant Divisional Officer, Sex Crime Division, Western Australia Police

SKESTERIS, Mr Robert, Executive Manager, Indigenous and Community Diversity Unit, Western Australia Police

ACTING CHAIR—Thank you very much for your attendance today. We had some evidence from the officer in charge at Narrogin yesterday with his inspector. I was very pleased that those serving officers attended and gave evidence. In many other states we confront a great deal of reluctance for serving police officers to come along and tell us what is actually happening. Please convey that to the commissioner.

Mr Gaunt—I will do that.

ACTING CHAIR—Is it up to you, Commander, to make an opening statement?

Mr Gaunt—Yes, it is. I have provided you with a written submission. I will not seek to address all of this. I will touch on the bits that are important and the key focus areas. Also many of these areas were touched on previously today. Certainly in the Kimberley hearings our counterparts addressed much of the alcohol issues and the Kimberley-centric issues. However, from a state perspective, I will flag some of the major issues.

First and foremost, I will give you an explanation. Regional WA comes under the command of an assistant commissioner, who has responsibility operationally and administratively for all of the regional area, which is broken up into seven districts which comprise the recognised districts of Goldfields-Esperance, Kimberley, Pilbara, Mid West, Gascoyne et cetera. Each of those is operated by a district superintendent and a management team and they have carriage and responsibility for all the work units, police stations, detectives, officers, prosecutors et cetera that fall within those areas. My function in that is largely a coordination role, particularly for major incidents and bigger items that require a strategic approach, particularly from the Perth base where all our key stakeholders and partners exist as well.

The main driver for reform for our agency has been through the Gordon inquiry recommendations from 2003. The most significant reform agenda item was to provide improved conditions for children and better services to victims of violence, particularly women and particularly in the regional and remote areas. The WA police executive supports this agenda focus of ours. The main areas we seek to address today will be the remotes project, for remote police facilities, and I know you have been to Balgo and had look at that one.

ACTING CHAIR—A very good one it is, too.

Senator ADAMS—But not big enough.

Mr Gaunt—I will go as far as to say that Balgo is probably our least impressive. It was a hybrid using the old police post, but all the subsequent models are purpose built. That one was an opportunity to engage with the community, because it was a building they funded originally so we did not want to knock down and destroy that building, but it is quite functional for what it is designed for.

The Remote Service Delivery Project identified, and was funded for, nine sites throughout the Kimberley and Goldfields-Esperance regions and also Jigalong in the Pilbara. We have completely built and staffed them and they are all in place. We cohabit most of them with a Department of Child Protection worker. Most of the sites have two officers. One, at Warburton, has four and we have three officers at Dampier Peninsula. While we were reviewing whether to progress to a second stage and to seek funding sources, Oombulgurri became a significant issue, but I will address that separately because we imposed a separate strategy to address that issue. We later on participated in a national review that eventuated in the Commonwealth providing a substantial funding opportunity to build another three sites, Blackstone, Burringurrah and Leeman. Blackstone was officially opened on Wednesday and it is a fully functional site in the eastern Goldfields region.

One of the key issues for us was attracting staff, because it was said that we would not be able to do it. We currently have 24 staff in place. We have never not been able to attract an applicant, and that is largely based upon the incentives we have provided. Our officer in charge is appointed at a brevet senior-sergeant rank and the patrol and inquiry officers, the constables, are appointed at a brevet sergeant rank, so they get the pay of that rank. In addition to that they get a 40 per cent salary loading in lieu of on-call and overtime. The main reason for that, apart from the financial incentive, is that it better reflects the nature of policing in those areas. Aboriginal communities do not work on an eight-to-four or a four-to-12 program, which our shifts normally follow, so it is representative of that. Some weeks they may work 20 hours, other weeks they will work 100. The money is there, it stays the same, even when they are on leave—it is balanced out throughout the year.

There are some other incentives. Generally we give them a brand new four-by-two home. In Jigalong they are two storeys because we build them on a flood plain. The brand new facility is state of the art. If you walk around those facilities you will see that each of the IT access points have three points: one for Justice, one for DCP and one for Police. If needs be, any one of those agencies can take over the entire facility and operate it with access to all of their services. There is also established AVL, audiovisual links, for all of them, albeit that not all of them have that capacity at this stage.

ACTING CHAIR—What is the connection—satellite, bandwidth, optic fibre?

Mr Gaunt—It is a variety of whatever is available to us at the moment. At the Ngaanjatjarra lands we participated in the broadband roll-out out there and helped fund that, so we have access to that capacity, but in other places we have a combination of the two. It might be satellite out and landline in.

ACTING CHAIR—What is the most difficult one you have got?

Mr Gaunt—Kalumburu certainly was; that was highly problematic. We had extensive problems there.

ACTING CHAIR—What did you settle on?

Mr Gaunt—What we had, which was satellite and landline. We have improved that out of sight, but it is still not great. It is a bit like sucking a golf ball through a garden hose at times with that capacity. But some of those were problematic. At Kalumburu everything was scoped out to build it and in the six months leading up to the opening of the station the shop decided to sell split airconditioners, which of course sucked the guts out of the power station, so by the time we wanted to start we had to extend the power station. It is problematic with remote communities. The cost escalation blew out and it was all very difficult, but we have been supported by the executive and by the state and now by the Commonwealth and we have come up with some pretty remarkable products that we are pretty proud of.

ACTING CHAIR—Good.

Mr Gaunt—In addition, the houses are provided free of charge. They do not pay electricity or water bills. All they pay for is their phone. We give them an additional four weeks holidays per year, which they take after they depart for recuperation.

ACTING CHAIR—How do you break up the difference between what is a police matter phone call and a private call?

Mr Gaunt—We do not.

ACTING CHAIR—So you pay for the phone?

Mr Gaunt—Yes, carte blanche. It is more simplistic—

ACTING CHAIR—I thought that you said that you did not pay for the phone.

Mr Gaunt—Sorry. We will pay a component of the phone bill for them being on call, which is usually the line rental and about \$25 per bill for phone calls. The reality is that all of the housing is situated adjacent to the facility, so if it becomes a work issue they just attend the MFPP and continue with that business if needs be.

ACTING CHAIR—Good.

Mr Gaunt—We also give them two free passes to the coast. We pay fully for them and their families to—

ACTING CHAIR—What does that mean? Is it, say, if you are in Halls Creek, you get to go to Oombulgurri?

Mr Gaunt—No. Effectively, it is where they choose to go. For the officer in charge of Warburton, because of the cost, it is actually cheaper for him to drive to Alice Springs and fly to Sydney every year. But it pays for the officer and their family to go back. It is generally to Perth but can be any other location, depending on the cost. They get two of those. For most places in WA we only provide one. We give them preferential transfer upon leaving. We give them a minimum tenure of one year for the officers and two for the OIC and a maximum of four. I think we have only had two instances in the first four years of anyone leaving after the minimum tenure. They have all been keen to stay around, which has been terrific for us because, obviously, of the costs associated with moving people. So we have been very lucky with that, albeit the pool of people who we will be able to attract will have a ceiling. We are quite confident of that, but at the moment we have not reached that ceiling and are still continually attracting really good people. In Kintore we are co-located in the Territory. We have WA police officers at the NT facility, and at Warakurna we have an NT officer at our facility. Blackstone is just WA police but we have extended the invitation to South Australia—

ACTING CHAIR—That is a Federal Police officer in WA—

Mr Gaunt—No, Northern Territory.

ACTING CHAIR—They are Federal Police, aren't they?

Mr Gaunt—No.

ACTING CHAIR—Aren't they?

Mr Gaunt—No, it is a Northern Territory sworn officer. It is not associated with the intervention program.

ACTING CHAIR—No, but the two territories have officers that were all originally federal police.

Mr Skesteris—They do have some as a part of the Themis program but the officers in Kintore and Warakurna are all Northern Territory police officers.

Mr Gaunt—We have a reciprocal arrangement, where they are all special constables. Kintore is an opportunity. Our officer there effectively looks after Kiwirrkurra, which is in WA, albeit that he cannot convey prisoners across the border—although the cross-border justice legislation will allow us to do that. At the moment it is just a reciprocal arrangement to help each other out, which we do.

Going into the main issues for us, the four key areas under the Gordon inquiry were to strengthen responses to incidents of child abuse and family violence, strengthen support for vulnerable children and adults at risk, meet community safety needs and meet longer term needs of future generations of Aboriginal children through building sustainable communities. Our main role in that is creating a stable base and providing a level of safety and security not only for the communities but also so that other agencies can have fewer excuses not to come and follow us in. We have achieved that in every community and we achieved that initial stabilisation exercise very quickly. As a snapshot, most of the communities were screaming out for us to get there.

The whole-of-government approach, as I said, involves police, predominantly as the key partner. We manage the facility. The child protection workers are co-located with us there and the court services are conducted on a visiting basis. All of that business is carried out at the one facility, which is a multipurpose facility. You would not have seen it at Balgo, but we have a multipurpose court which can be used for a variety of other community purposes. It is used for blue light discos and they are the centre of the towns in most of these places now. The service delivery is tailored through a service delivery model. The initial model was developed for Warburton. It involved all the non-government agencies in the community developing models which detailed what each agency's commitment to services in that area would entail. So it is a contract, in many ways, so that we can hold each other to account to ensure that they each provide that service. It is also a contract that we have had to wave with a big stick a few times as well to ensure that that occurs.

In each district in regional WA and also the metro we have put in place a sergeant who is the family protection officer who deals with all the other agencies in family protection matters and provides assistance. They are also heavily involved in the ANCOR role of managing known sex offenders and coordinating police and DCP, particularly services in relation to domestic violence. In the central lands area it is more of a relationship with the NPY Women's Council which has a presence there and is very proactive with the police. We have information sharing agreements to track offenders and people being released from interstate prisons et cetera who may cause problems when they come back home.

In 2006 the project produced a report from Mr John Valentin, who was a former deputy commissioner of the Northern Territory Police, who conducted a Commonwealth government audit of policing in Indigenous communities for Queensland, the Northern Territory, South Australia and WA. The finding of that report was that the MFPP program was the most progressive of all policing programs in Australia. As a result of that we received \$20 million to build a further three MFPP and also expand the relief officer quarters program. One of the major problems in these areas is a lack of suitable accommodation for people. We have taken it upon ourselves to build accommodation to house not only our people but also people from other government agencies coming into these communities appropriately so that they can come in, operate out of those buildings and use the facility as a day office to service them.

ACTING CHAIR—What is the costing structure of that? Does the department bill the other state agencies for that?

Mr Gaunt—No, we absorb it. We do not charge them.

ACTING CHAIR—So accrual accounting is not causing any grief there?

Mr Gaunt—No, some of the arrangements maybe but not the actual accounting process. It has also been designed specifically so that if we have different agencies, different genders, they can all live independently without having any of those normal types of issues.

ACTING CHAIR—It sounds very pragmatic which is very impressive.

Mr Gaunt—That is the first one. We have rolled that program out to Balgo. They have one of those facilities there now too. They were operating out of a donga but we have that there now

which also gives us the flexibility to deploy specialist staff to those areas should we need to and provide additional staff should something occur in those areas such as the funeral type issues that come up from time to time.

The Oombulgurri police post was an initiative we put in place. It was essentially WA's version of the intervention because it was a community in crisis. It was a community we had always looked upon for stage two of the program; however, there was no guarantee that the community was going to survive. There were threats of withdrawals of funding and all sorts of things. We went up there, we knew there were considerable issues with sexual abuse of children, domestic violence, there had been a cluster of suicides, particularly involving juveniles and there was one dominant family who were controlling the decision making of that community and stopping people coming in. They were chartering flights full of alcohol and there was no surprise that all of the problems revolved around the alcohol abuse.

We put a program in place. We had to bypass the native title barriers, so we went to the Aboriginal Lands Trust and sourced a lease on some previously occupied land. We put accommodation dongas or facilities on there, redeveloped the old people's home into a police post and invited in a DCP worker. We provided a rotating service. That had some issues because different police had different standards that they applied to the community, so we identified an officer in Neville Ripp from Halls Creek who we targeted and put up there. We put him and the second officer who rotates through on the same package that the other staff get at the remotes to provide some equality. Almost immediately from his arrival we had a standard of policing, safety and security in that community that reduced operational tasking to almost nothing. If we were doing it in a dollar version now we would have no need to be there because the issues do not exist because of the work he did. Without stealing any thunder from any other agencies, Neville Ripp was entirely responsible for establishing the men's group, the women's group and the football at Oombulgurri. We have since targeted him and selected him. He is now running and operating the Dampier Peninsula MFPP because of the community engagement issues we have there.

We are trying to rotate these people and use them where the problem is to try to fix it. Oombulgurri is an interim arrangement. It has a definitive lifespan of maybe four or five years and we will review that depending on the status of the community and the needs of the police in the future. But we have learned from that that we have the capacity to very quickly move into a community and provide a permanent presence in a very short time frame. This whole project cost us \$1½ million which in terms of the outcomes has been an outstanding success. It has also provided some terrific support to that community. There is still fear of those people who were subject to those child abuse allegations and who have since been apprehended and charged with those offences.

Detective Seivwright can provide some further background on the Indigenous safety task force. It was established after a disclosure was made in Kalumburu to the DCP officer and the police as a result of the relationships that were built. Since that disclosure was made there have been a further 26 operations in the Kimberley district. Over the period after that disclosure in the Kimberley 132 people were charged with a total of 601 offences. It created something like 7 years' worth of district court work in the Kimberley that had to be dealt with in one year. It was dealt with under another program we participated in, the indigenous justice task force, which involved all the key players from ALS, Legal Aid, the Chief Justice and the police fast-tracking

all of these issues and they were highly successful in achieving that. There are some statistics on the breakdown of those arrests which are, not surprisingly, male perpetrators with the victims being females and children. Operations were conducted in Kalumburu, Halls Creek, Balgo, Fitzroy Crossing, Derby, Oombulgurri, Bidadanga, Kununurra and Broome, so pretty much all the major towns within the Kimberley and most of the significant remote areas as well.

ACTING CHAIR—What can you tell us about the current rate of offending in simplistic terms?

Mr Sievwright—In simplistic terms the graph is headed down and it is because we have a police presence at the MFPFs. We have very good structure in the way that the policing is done and it is coordinated through Darryl's area in town, in Perth, so there is a real level of consistency now in policing service delivery which combined with better educational outputs, I would suggest, results in children less likely to be placed in vulnerable situations to be offended against. So in the areas where there is an MFPF the graph is heading down. Some of the other work we have done is further to those that have expanded into other regional areas, doing reviews of crime statistics and collating them and matching them up with STI reports and other hospital admission reports, particularly around the Mullewa-Mount Magnet-Meekatharra zone in the Gascoyne area. The review of the statistics showed that the rate of general assaults, sexual assaults, domestic and property offences are heavily linked with other issues that were broader than just the crime issues that we knew about and were statistically recorded. That approach in the mid-West has resulted in nine arrests for a variety of sexual assault offences. We have now also moved into the Pilbara around the Roebourne and Wickham area where there are indicators of similar activity. So far there has been one arrest but that operation has several inquiries still ongoing that are likely to result in more arrests.

We are extensively involved in the Cross Border Justice Scheme and Mr Skesteris has been involved in that from its inception. We are nearing commencement on 1 November. We have four facilities in the central lands that will address that issue. There is probably a lack of recognition that one of the reasons we are doing it is that the Aboriginal communities in those areas operate without borders. It is not a legislative requirement for them to abide by those rules. There is no line on the road that says they are crossing the border, so we have to introduce a policing and justice system that reflects the lifestyle they lead. Quite often they are not escaping over a border; they are just going home. But the reality is that they avoid apprehension, so this will preclude them from doing that. We very much intend that this legislation will not be abused for run-of-the-mill offences. Even though it is retrospective, we are not interested in chasing people up for minor offences. The intent of the legislation is to combat child abuse and family violence and that is the way that we will impose our service delivery on that.

The service delivery level agreements between all the agencies are being lined up to commence on 1 November, as Mr Marshall from DotAG said earlier, but the key areas that that cross border will cover is fines, enforcement, courts, community corrections, prisons, police and juvenile justice. Some of the benefits will be that people from Kiwirrkurra, for example, instead of being incarcerated in Perth or Boulder will actually be able to serve their time at Alice Springs where their family support networks exist. So whilst it is not ideal that they are going to prison, the reality is that the support networks once they are there will be there.

In liquor licensing enforcement, there has been a great deal of work done particularly in the north of the state and now moving into other regional areas. The reality is that the majority of Aboriginal people are nondrinkers but that those who do drink alcohol drink at high levels and high risk, as we have heard also from Mr Freemantle.

Senator PRATT—Too many people.

Mr Gaunt—The impact of that alcohol misuse is magnified in rural and remote Aboriginal communities that are characterised by limited government service provision, poor access to services and their endemic social disadvantage, which we recognise. The worrying indications are, however, that the use of illicit drugs such as cannabis and amphetamines has increased in those same communities. Alcohol related health conditions are disproportionately evident in regional WA, particularly in the Kimberley health region. For example, during the period of 2002-06 and prior to the introduction of the liquor restrictions, Kimberley health region constituted 21 per cent of total country hospital alcohol related admissions in WA despite its low population representation. During this period, Kimberley health region had the highest number of alcohol related admissions for assault in comparison to any health region state wide, including the metro area. More than 40 per cent of all rural hospitalisations in WA during that period occurred in the Kimberley.

Some of the successful initiatives have been with the licensing enforcement division which Detective Inspector Steve George represented, and we worked heavily with the director of racing, gaming and liquor in these areas. In collaboration with the director of racing, gaming and liquor we consulted the Wangkatjunga community east of Fitzroy Crossing, who sought police assistance in imposing liquor restrictions. As a result of assisting them, we sought liquor restrictions banning alcohol consumption in that community and that was approved. Those liquor restrictions have led to a significant decrease in antisocial behaviour and crime in that community.

The significant aspect of that is that these communities are approaching us; it is not us imposing it on them. It is them seeking our help, quite often because the by-laws are either inefficient or, as was the case in Oombulgurri, that the by-laws were very efficient except that they no longer covered the township in which everyone lived. They only covered about three houses. They certainly did not cover the airstrip which was where all the alcohol came in. Unless you were living in about three of the houses you did not have to abide by it, so it was abused. So we sought collaboration and consultation with that community. But the stronger families kept rejecting that because they knew we were trying to impose conditions and they still wanted to be able to bring it in when they could. The accord that was in existence was abused regularly and there was no penalty for doing that. You could not act upon that. So in the end we sought 175 restrictions under the Liquor Act and that has been imposed. The reality is now that the presentations at the clinic and the social advantage that has been achieved from those has been overwhelming.

We have also provided advice to the director on the Fitzroy Crossing following the application by the women's group in Fitzroy. The conditions that have been imposed and have now been put in place permanently and the large reduction in offences and hospital presentations that has occurred as a result of that are well documented. Those results have been replicated in Halls Creek in the early days of their implementation as well.

Senator ADAMS—Just while you are on those, I want to ask you about Leinster and Kookynie and Agnew down in that area. Are you starting to have any sort of result there?

Mr George—I can probably answer that. We have formed a bit of a joint group with the Department of Indigenous Affairs and the health department. So we went around the whole state having a look at some of these places in the state which potentially could have liquor restrictions. I think the ones you spoke about have just been put in in the last couple of weeks. So it is probably a little bit early at this stage. There are a few more areas in the state where we are planning to ask the regulator to impose conditions in relation to alcohol but it will probably not be as strict, obviously, as in Halls Creek and Fitzroy Crossing. Each community is a little bit different in relation to their issues and problems.

Senator ADAMS—When we were up in Broome, one of your inspectors came to speak to us on the effect of the hardened drinkers moving out to Derby or Broome. Then we had other evidence more recently that some of those hardened drinkers who had gone away for about three months got a bit homesick and they were all wandering back but they had changed their whole nature because they have not really had the grog to keep them going.

Mr Gaunt—The reality is that Aboriginal culture is very family oriented, so they are not going to spend a large amount of time away from their family or their home base. They always return to country as a rule, and that has certainly happened. I am not 100 per cent sure of the figures but I think Kununurra's figures since the implementation of the Halls Creek restrictions have seen only about 10 per cent of Halls Creek people being apprehended and put before the court there. Whilst we do not keep statistics from prior to that, we are pretty comfortable that that is probably about the same figure that existed before, because of the transient nature of the Aboriginal people in the Kimberley especially. So it is not an alarming figure. There is nearly always a drift by the Aboriginals to the larger communities from time to time.

The fact that they do to those larger centres supports the need for a regional plan to be put in place on alcohol management. The individual locations will only shift the problem, albeit temporarily—hence, the restrictions around Leonora and Laverton. If we placed the restrictions only on Laverton, where the significant issues are, we would have just moved the problem to Leonora and vice versa further down the road. So we have taken a regional approach to putting those restrictions in place to manage it regionally so the incentive is not there for them to go Leonora in the first place because there is no difference in the conditions and they will not be able to abuse there any more than they can where they are now.

ACTING CHAIR—Senators, we have a very comprehensive understanding of what is happening out there. Can we have concise questions?

Senator PRATT—I have one area of questioning which has not been covered, and that relates to traffic offences. I think you have done a very comprehensive job of taking us through the key issues that you have outlined. We have evidence before this committee—and we know it is a problem—that many people get into trouble with the law because they do not have drivers licences. To what extent are you policing the problem that arises because of inadequate access to other services?

Mr Gaunt—I will talk about the MFPFs initially. With the remotes, one thing I hammer into the troops out there is that the focus out there is not to lock people up for driving under suspension or to book work orders on cars. That is not our focus.

ACTING CHAIR—You would be pretty busy putting work orders on some of the cars I have seen out there.

Mr Gaunt—And that is part of the problem. The reality is that in some of those communities you would be lucky to find anyone with a drivers licence, and all you would do is perpetuate a problem that already exists. It is not our focus. Family violence and child abuse is our focus. Having said that, we will provide drivers licence education, particularly at Warburton. We run classes for them in the court house. We do all that type of activity to help them get their licence. The major problem that occurs is not so much in Warburton; it is when they decide to drive to Laverton. The reality is that, once they go to a major town, they have to abide by the rules, because that is where Aboriginal people kill themselves. They kill themselves driving to those locations. Seat belt restraint is one of the big issues. They quite often do not wear seat belts. There is a large education push. What we did not want to do was lose the hearts and minds in the early days of this rollout to the point of nabbing people for what are seen as minor traffic offences when we are trying to develop their ability to normalise.

As I tell all of the communities when I go and speak to them, there will be a point where we expect them to live their standard—because that is why we are there. The state and the Commonwealth have made a significant investment in having us out there and the return on that investment needs to be that they have to raise the standard and their ability to get drivers licences and drive roadworthy cars and abide by normal road rules. What we do not do, though, is park at the stop sign at Warburton and grab them for driving through the stop sign, because it is counterproductive. I will counter that by saying that I will not say that it has not happened, but it is not our focus.

Senator ADAMS—It did; we had evidence on that.

Mr Gaunt—In the regional locations—the Hall Creeks, the Lavertons et cetera—they have to abide by the rules. It is a law-enforcement issue; it is where they kill themselves, and just as they are overrepresented in other areas they are also well overrepresented in fatal road crashes in those areas.

Senator PRATT—Absolutely—in terms of the history of people driving without seat belts and having children in the back of utes and so on.

Senator ADAMS—I am involved in another committee that has done two inquiries on petrol sniffing. I was out at Laverton not long ago and obviously petrol sniffing has started to rear its head around there and some service stations are not supplying Opal fuel. Would anyone be able to comment on where we are going with that?

Det. Insp. George—All I know about Opal fuel is that it is obviously one of the big strategies in relation to the problem. But I am not really up to date on it.

Mr Gaunt—My understanding is that it is a cost element that the Laverton BP is resisting rolling it out. I am not sure what the barrier is to that.

ACTING CHAIR—You have got to run a separate tanker up there.

Senator ADAMS—We found, though, the other one was Balgo, with Rabbit Flat doing exactly the same thing. There are a few recalcitrant ones through the territory. They were working on them but it has certainly improved. When we have gone back to those communities we have seen a difference in them from the time that Opal has been available, but marijuana and some other things are sneaking in.

Senator PRATT—Your comment about marijuana reminded me of another question concerning illicit drug use and the extent to which you are aware that injecting drug use is a part of that. Also, to what extent are the health services responding to that in terms of providing safe injecting equipment?

Mr Gaunt—I am not aware of what Health are doing. The reality is that we find very little evidence of injecting of drugs. If they do use chemical drugs it is by swallowing, tasting or inhaling; they are generally not injectors. Cannabis is the drug of choice for Aboriginal people. In the central lands the majority of that comes from South Australia, whereas the petrol comes from WA into the lands. The cross-border legislation will enable us to get involved and target that, albeit we have had some great results out there as recently as last week. But in regard to health stats on that I do not know and I am not aware that it is an issue.

ACTING CHAIR—What is your understanding of the current status with respect to petrol sniffing? Is it back on the rise?

Mr Gaunt—In the central lands it is back on the rise.

ACTING CHAIR—That is not good news. Thank you all from coming today. Yours was a very powerful submission that provided a lot of good information for the committee. We will be dropping a note to the Commissioner thanking him for yesterday and today.

[5.23 pm]

HOLBROOK, Ms Jodie, Policy Manager Community, WA Local Government Association

MITCHELL, Mr William McLennan, President, WA Local Government Association

ACTING CHAIR—Welcome. My apologies to you for the lateness of the hour. We have had a very full book today, some of it concerning your membership. Would you like to make opening statements?

Mr Mitchell—I will make a brief opening statement. Also, I have an interim submission that we can leave with you. We will be making a full submission. We were actually waiting on the local government services delivery to Indigenous communities document that came out about 18 months ago and was finally released a month or so ago. We will add to our submission with that.

The facts for local government are, very briefly, that 26 councils are affected by remote and Indigenous communities, and those communities total 287 in Western Australia. So, around 50 per cent of the communities in Australia are in Western Australia. That makes up a population of about 17,000 people, which is, again, about one-third of the Indigenous population in Western Australia, so it is a fairly large number.

We are looking to partner with Indigenous communities and deliver the better services. We have been waiting for some time, though, to get a starting point. In our minds that starting point is an audit, not only of the infrastructure but also of the populations in these communities, because some of them are very much seasonal camps and there is a lot of infrastructure provided which is not totally utilised all of the time. We do not think any local government or organisation in its right mind would take on service delivery to a community of any sort without knowing the level of infrastructure and the standard of that infrastructure.

ACTING CHAIR—Scared of the liability?

Mr Mitchell—Correct. Just to exemplify that, one audit which would be very useful, which we have done ourselves and, again, which indicates the need for this, is access. There are about 9½ thousand kilometres of access roads to those 287 communities. Local government services about 6,600 of those kilometres, so there are 2,900 kilometres that are not serviced by local government. Basically, they are ungazetted private roads, yet they are still access roads to these communities, so that needs to be tightened up. Liability: why would you take on a maintenance contract on an ungazetted road that is poorly formed? Of course, if an accident happens the people maintaining that bit of infrastructure are very much liable. There are those sorts of legalities that need to be tidied up. We have done a paper for Infrastructure Australia, combining the Northern Territory and Queensland Indigenous communities, but just for the Western Australian side of things, the money required to upgrade those access roads to what we think is a standard that is acceptable is about \$101 million over 10 years. That is a submission that was put some time ago—about a year ago now, I think—to Infrastructure Australia.

Some of the services that we are interested in delivering in partnership with communities—and again, there have been lots of consultations, but not too much negotiation on this; we have been waiting for the Commonwealth-state bilateral to come forward—are roads governance, in particular, environmental health, dog control, household waste control and parks and gardens; these sorts of things. We see an opportunity for mentoring and training for residents in these communities to take on that responsibility themselves once they are adequately trained. They would remain employees of that particular local government, so it is real employment and not a CDEP-type scenario. They would be trained up to deliver a service into the future.

ACTING CHAIR—Are your councils prepared to take them on?

Mr Mitchell—They are, once we understand the breadth of what we are taking on; again, referring back to that audit.

ACTING CHAIR—Yes; with some security of funding?

Mr Mitchell—Yes, indeed. It would be a fee-for-service.

Just on a question that Senator Pratt asked about the drivers licences: a number of councils are running programs of job readiness for Indigenous communities anyway in partnership with Rio Tinto, BHP and Argyle et cetera. Part of that job ready program is to make sure they do have a drivers licence, that they do have appropriate work skills and that they are aware that when you take on a job it is five days a week or whatever it may be—that sort of thing. That has been quite productive for the mining industry. It is basically a community service by local government, because we know they will be snatched up by the miners once we deliver those.

We are happy to leave our interim submission and we will make a full submission. That is probably all I need to say, other than we have a great sense of frustration in dealing with this issue. We have been waiting now for years. My history in local government service delivery to Indigenous communities started way back, five and six years ago, with ministerial councils of the Liberal government and it has now slowed down with the Labor government. It is not something that is going to be solved overnight.

ACTING CHAIR—The bad news is that today we have had some submissions relevant to precisely the issues you raise as to the capacity of local government to provide services to remote communities. The answer is not a very encouraging one. There is a COAG meeting coming over the horizon in the next couple of months, but no-one discloses any great urgency as to the fundamental provision of services to the remote communities. It is important to note that no-one is saying that councils are doing anything wrong. I think everyone acknowledges the fundamental lack of resources from groups that pay no rates, and councils simply cannot just go broke and borrow money to provide the roads and the rubbish collection and the whatever. So, sadly, if you look back over the evidence we have received, particularly from the department of Indigenous affairs here in Western Australia, you will see that processes are grinding on ever so slowly. I will hand over to the senators to ask you some questions. Senator Pratt.

Mr Mitchell—Excuse me, Senator Pratt, can I just make a point on that. In the local government inquiry into Indigenous service delivery, the committee actually broke down communities into three groups. And then they said that, if a group of this population size exists,

these are the sorts of services that should be provided to it and these services for a lesser population et cetera. That is the real issue. We have 287-odd communities, but according to the department of housing only 92 communities are recognised for housing because they have to be of a certain population size.

ACTING CHAIR—We heard today that the audit is ongoing as to the costs to each of those communities, and they are not prepared to do anything until they have told the Commonwealth the costs that are involved to try and get the money from them.

Mr Mitchell—That is understandable. Broome, for instance, has 65 communities; Derby West Kimberley, 67. So it is not as if you have one or two communities per council. A lot of money and a lot of expertise are needed.

Senator PRATT—Following on from that line of questioning, I want to ask about the extent to which local government has been at the table in discussing these questions. It has been put to us that, previously, when state and federal governments have sat down and tried to nut this problem out, local government has not really been at the table.

Mr Mitchell—You are quite right, and that is still the case. We are still not at the director-general type table in Western Australia. Jodie sits on the boards of some of the communities that sit below that, but we are not at that decision making point. Again, as we are a level of government, we find that quite bizarre.

ACTING CHAIR—What is the reason for that? Do they just refuse to let you in?

Ms Holbrook—The reason that we have been provided with is that we are not a recognised level of government. We are a sphere of government but we are not constitutionally recognised, so the bilateral agreements to date have been between the state and the Commonwealth.

ACTING CHAIR—Who is saying that? Tell us who is saying that.

Ms Holbrook—The bilateral agreement that was signed in 2006.

ACTING CHAIR—The Commonwealth and the state are excluding local government—

Mr Mitchell—Because it is a bilateral agreement, not a trilateral agreement.

ACTING CHAIR—That is handy.

Ms Holbrook—Yes. We have been seeking that.

Senator PRATT—The other day I had the good fortune of meeting a newly-elected councillor in the city of Geraldton. I forget his surname but his first name is Zane. I understand that he is the first Aboriginal president elected to local government in Geraldton. To what extent is there Aboriginal representation in local government across the state? And what is WALGA doing about mentoring, facilitating and supporting Aboriginal participation?

Mr Mitchell—There is representation across the state. Obviously, there is greater representation where you have greater populations. For instance, Halls Creek is 100 per cent Indigenous. Broome is certainly at least a third Indigenous. Probably about half of Derby West Kimberly's is Indigenous. I know that there is at least one Indigenous council in Esperance. Where there are populations there is reasonable representation. Of course, there are Wiluna and Ngaanyatjaraku. They are another couple of councils that are almost 100 per cent Indigenous; Ngaanyatjaraku has one non-Indigenous councillor.

Yes, we do run specific courses for Indigenous people. We run an introductory course for new councillors on getting started. We are very proud to say that after this 17 October election we will be able to run that electronically. In the past it has been us going to a centre or councillors coming to Perth, and it has been a disadvantage for the more remote ones, but now that we will be able to run it electronically I think it will be quite useful.

Senator PRATT—To what extent does having Aboriginal councillors make those councils more culturally inclusive in the kinds of activities they run and the kinds of services they deliver? I am particularly interested in the councils where there is not majority Aboriginal representation.

Mr Mitchell—I will start and then let Jodie finish it. It is difficult to get Indigenous people onto councils, because they tend to speak only for family groups rather than for the whole community, and that is limiting in their traditional practices anyway. My council, for instance, does not have any Indigenous people on council, but every outside work person is Indigenous. But they do not want to be on council; they are quite happy to work for council but do not want to be on council.

Ms Holbrook—The Department of Local Government and Regional Development run a two-day course each year for all Indigenous councillors. They bring them in and provide capacity-building training. The other opportunity is through the Local Government Managers Association. For the last two years they have been running conferences on the bilateral agreements and on what the role of local government is and bringing everybody together. A lot of local governments are also developing reconciliation action plans. A great example of that is in the town of Narrogin. They do not necessarily have a discrete Indigenous community, but they have a community of Indigenous people. That is probably a key way that we are seeing more engagement with council—not being on council but being able to inform council decisions. It is very similar to the model that is used in Victoria, where they have the local Indigenous committees and they feed into council. We have found from research that we have been doing on how that model works that it seems to work better for Indigenous communities. We also provide, through a memorandum of understanding with the Local Government Association of the Northern Territory, training to their Indigenous councillors, and we have done that since 2003. With the structural changes to the Northern Territory's local government that has changed, but we have been providing that culturally appropriate training for new councillors.

Senator PRATT—I also want to ask about the work that WALGA does and that councils do in coordinating culturally appropriate and inclusive services within the council. I think the City of Swan has been doing some work recently. I just want to know the extent to which councils meet and have momentum, debate and conferences about these issues so that they can come up with further innovative ideas.

Mr Mitchell—I suppose Jodie has partly answered that with our joint conference with local government managers. I spoke at that conference, as did Fred Chaney, John Sanderson and so on. That was the sort of level of speakers at that. That has happened a couple of times. Certainly most programs within council are culturally and heritage orientated. There may be the triple bottom line in sustainability, but certainly in any plans you have to tick the boxes. Again, I think Jodie made a very good point on people representing Indigenous interests on council. It is not so much wanting to sit around the table; it is needing to know how you access council's processes and services that in my experience is more of interest to Indigenous people.

Senator PRATT—Thank you.

Ms Holbrook—One of the other ones that local governments are really getting on board with is welcomes to country before council meetings. WALGA has been working very closely with the land councils—the South-West Aboriginal Land and Sea Council, the Goldfields Land Council and the Yamatji Land and Sea Council in particular—to develop the policy templates for how you welcome to country and, when you are welcoming to country, making sure that whoever is delivering the welcome to country is a person who is actually representative of that area; that has been a key issue in the last couple of years. We have found when we have been part of all of the discussions so far that the land and sea councils do not seem to be as involved as they could be considering that they represent the family groups as well, and they are the landowners. Often when we are debating within certain areas, particularly around cemeteries and where there are unmarked graves—which is a lot of the work that they are doing—there is not a lot of engagement, but it is fundamental work.

Senator ADAMS—I would like to ask you a question about the relationship with FESA and local government in the non-gazetted towns and communities up north and where it is all going. We did have some evidence when we were up there about fires and there being no facilities whatsoever. I have asked FESA the same question and everybody is ducking for cover with it.

Mr Mitchell—When the Emergency Management Act was passed a couple of years ago we made representation to the then government on the need to fund local government planning processes. As a statutory requirement under that act every community has to have an emergency management plan, and a quick 'on the back of an envelope' sum for having these plans made up was about \$7.2 million, I think, from memory. The government promised the money but it was never delivered, hence not every council has completed their management plan and, as I say, for Broome, they have got to do 65 of them. The plans are basically a template but they have to be relevant. You have to have the evacuation area where the airstrip is so you just cannot change the headline, if you like, and reproduce them over and over. They have to be researched onground and delivered—

Senator PRATT—You want the communities to have some ownership over them so that if a disaster happens they will implement them.

Mr Mitchell—Yes. Certainly we have not got the same coverage that is required under the act but we are working towards that.

Senator ADAMS—Getting into these smaller communities, not just the ones that are under the shire—

Mr Mitchell—They are all under the shire. But again, what is a community?

Senator ADAMS—That is right.

Mr Mitchell—Is a group of six people a community? According to the stats, they are a part of that 287. Next door you have got a pastoral operation that has 20 people but they are not recognised as a community. It is a strange game we are in.

Senator ADAMS—Where do you think it will end up? How do you think the resolve will work out so that these people are protected somehow?

Ms Holbrook—WALGA has an emergency management service. We established that because, as the president rightly pointed out, there was no funding provided for emergency management plans. In the last two years we have been working quite closely with a number of local governments, but more so with the Indigenous communities, looking at the emergency management arrangements.

The flooding in Kiwirrkurra back in 2006, I think it was, really highlighted that we needed to have plans. We had a whole group of people who were displaced, who came into Kalgoorlie, and we were not sure how to manage them. At the moment we are doing work and developing plans out in Ninga Mia and Tjuntjuntjara. Tjuntjuntjara comes under Menzies but Kalgoorlie or Boulder will do it for you and will cover that off. We are working closely with FESA on that.

FESA has a network of community emergency management offices across the state. They are not very big. There are about nine of them and they are growing. Between us, we are looking at what the community needs are and then working through it. It is very difficult because often we will get out to Tjuntjuntjara, which takes quite some time, and there is no-one there because of sorry business or whatever else the people have been called away to.

There is a national framework for emergency management and the state is about to release their *Keeping Our Mob Safe*, which is their response. However, it is a funding issue. The funding that has been provided for local governments for emergency management was cut in the previous Commonwealth budget. It was the Local Grants Scheme. It was where most local governments had their funding for emergency management. There is a new Disaster Resilience package coming out but there is no clear indication whether there is an Indigenous component for that. A lot of local governments will be developing their own emergency management plans but then they are also thinking about where they will get their funding to develop them for Indigenous communities, because it is much more involved and a lot more funding is required to do the consultation.

Mr Mitchell—And when you asked where it is heading, it is probably heading down the path of the Department of Housing and Works where a line is drawn purely on a population basis and instead of 287 communities there are 92 and no more outcamps.

Senator ADAMS—My last question is on the amalgamation. We did ask the question everywhere we went up north: are any of the shires going to work together?

Mr Mitchell—Certainly they will be working together—they will be resource sharing and so on—but I cannot see a great change in the mining and pastoral areas. It is 90 per cent of the state and in that 90 per cent there are 26 councils including the large Port Hedlands, Broomes, Kalgoorlies et cetera. There may be one or two councils that are smaller in the area that have been struggling in the past and may disappear, but on the whole I cannot see much adjustment at all. There is no logical reason for it. As I have already said many times, if you are already the size of Tasmania and you amalgamate with another Tasmania, you get the size of Victoria and you have still got a very sparsely populated area and no extra resources—so why would you do it?

Ms Holbrook—The four Kimberley councils, in waiting for the Local Government Advisory Board report, did a research report on how they would come together as a regional organisation of councils to deliver services. It was the *Quantum* report and it costed out what services the four councils were willing to provide. They went out and consulted with Indigenous communities within the area and came up with a figure.

They have worked out how the whole process would work but have decided not to proceed with that for two reasons. The first reason is that they do not know what is happening at the Commonwealth and state levels in terms of bilateral agreements and the rollout of the process, because we have the new National Partnerships sites.

The second reason was the funding. There was no commitment forward from 2012 regarding the funding that would be provided for regional service delivery to Indigenous communities. It is just not clear with CDEP and the MUNS funding and the funding that is tied to the National Partnerships at the moment. If you would like to see the *Quantum* report, we have got a copy and can provide it—

ACTING CHAIR—We would love to see it.

Mr Mitchell—That is based on the primary service delivery—

Senator PRATT—I think it is significant because a lot of the talk that we have had on this committee is about there being some momentum towards resolving those problems and the fact that we need to have some permanent decisions and understand who is doing what. People have tried to say that it is progressing and yet we have come to the pointy end of parliamentary discussions on the committee and it seems like some of these issues—

ACTING CHAIR—Service delivery is not at the table.

Mr Mitchell—I do not think that it is a funding issue. There is plenty of funding there—it is how it is directed and how it is applied.

ACTING CHAIR—Thank you very much, President, and Ms Holbrook, for coming along at this late hour. It is so rare that the Senate has committees sitting in Western Australia that we thought we would take full opportunity to have a very full program today, so here we are at quarter to six. Thank you for coming along. We look forward to receiving your submission in the future and the outcome of all the machinations that are going on now as to MUNS funding and what have you.

Committee adjourned at 5.47 pm