

REPORT OF PROCEEDINGS BEFORE

**SUB COMMITTEE OF
THE STANDING COMMITTEE ON LAW AND JUSTICE**

INQUIRY INTO COMMUNITY BASED SENTENCING OPTIONS

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At Bourke on Wednesday 15 June 2005

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The Committee met at 10.30 a.m.

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PRESENT

The Hon. C. M. Robertson (Chair)

The Hon. G. S. Pearce

Ms L. Rhiannon

Corrected transcript

CHAIR: Good morning. I thought I would first talk about how the Committee selected where it should visit during this inquiry. The issues are interesting and we felt we needed to get a good cross-section of country communities. We have not singled out anybody. The secretariat collected the data for us and we chose to move north west, down south and then up the coast. I welcome everybody to the second public hearing of the Standing Committee on Law and Justice inquiry into community-based sentencing options. The Committee considers this inquiry to be very important in terms of investigating whether it is appropriate and in the public interest to tailor community-based sentencing options for rural and remote areas and for special need and disadvantaged groups in New South Wales. The Committee is very pleased to be here in Bourke and is looking forward to hearing the advice of the local community on this issue.

Before we commence I would like to make some comments about aspects of the hearing. The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of guidelines governing broadcast of the proceedings are available from the table by the door. In accordance with these guidelines, a member of the Committee and witnesses may be filmed or recorded. Members of the public should not be the primary focus of any filming or photographs. The media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee. Any messages should be delivered through the Committee clerks. I also advise that any documents presented to the Committee that have not yet been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by any person.

The Committee prefers to conduct its hearing in public. However, the Committee may decide to hear certain evidence in private if there is a need to do so. If such a case arises I will ask the public and the media to leave the room for a short period. If a witness does give evidence in private, however, they need to be aware that the Committee may, at any time, decide to publish some or all of the private evidence. Likewise, the House may at a future date decide to publish part or all of the evidence even if the Committee has not done so.

Committee hearings are not intended to provide a forum for people to make adverse reflections about others. The protection afforded to Committee witnesses under parliamentary privilege should not be abused during these hearings and I therefore request that witnesses avoid the mention of other individuals unless it is absolutely essential to address the terms of reference.

KENNETH HENRY CROSKELL, General Manager, Bourke Shire Council, affirmed and examined:

CHAIR: Are you conversant with the terms of reference of this inquiry?

Mr CROSKELL: Yes, I am.

CHAIR: Should you consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you are unable to answer any questions asked by the Committee today, you may take the questions on

notice and send the answers in writing to the Committee later. If you take any questions on notice, I would appreciate it if the response to these questions could be forwarded to the secretariat by Friday 15 July 2005. Would you like to make a short opening statement?

Mr CROSKELL: Yes, I would. Just as a general comment, I would like to say that the sentencing options that we are looking at should be set up to operate as an effective deterrent for offenders, that is, so that they do not reoffend. With the history of reoffending that we have in Bourke, in our community, particularly with young offenders, it is apparent that the current sentencing options are not working and we certainly look forward to better means or better alternatives to achieve the aim of everybody to get offenders to offend less. That is the main aim of community and council. There are many ways you can go about it and perhaps this is one of the better ways. We are very interested in the options that may be provided here.

CHAIR: What does council think about issues such as community-based sentencing? Does council perceive it as a softer sentence?

Mr CROSKELL: I suspect that the community does generally feel that it would be a softer option. The council, particularly the mayor and I, have taken a particular interest in this when sentencing has occurred. We believe that it has to be trialled and we believe that some of the options that have been mooted, like circle sentencing and the intensive support court, which is based on the youth Drug Court, are probably viable options, particularly for young offenders and domestic violence, which are probably our major problems.

The Hon. GREG PEARCE: Does council have a crime prevention plan?

Mr CROSKELL: It does, yes.

The Hon. GREG PEARCE: Is that done in co-operation with other agencies, the police and so on?

Mr CROSKELL: Yes. It was formally set up in late 2003. It involved a detailed process of involving community groups and agencies and addressed many of the options of alternative sentencing, including the two I mentioned before.

The Hon. GREG PEARCE: So you have had community consultations as well as consultation with agencies?

Mr CROSKELL: Yes.

The Hon. GREG PEARCE: Can you give an outline of the sorts of conclusions you reached from those consultations in relation to various sentencing options?

Mr CROSKELL: If I can just refer to this document. The plan itself identified four key factors to follow through. These were drug and alcohol use, with an emphasis on alcohol use; support for young children and their families; domestic violence prevention; and combating racism. Within the support for young children and their families key factor, they established some strategies that were to look at the

implementation of circle sentencing and to look at supporting a trial of intensive case support for Bourke. They were specifically identified and it was a very detailed process we went through to get to that.

The Hon. GREG PEARCE: What have the outcomes been? Has there been a trial?

Mr CROSKELL: We understand that a trial is about to start. Circle sentencing is similar and is something that we look forward to.

CHAIR: Bourke is one of the new trial places?

Mr CROSKELL: Yes, and we look forward to that, of course.

The Hon. GREG PEARCE: Does council provide work for people on community service?

Mr CROSKELL: It has in the past. It has not over the last few years. I have been here for two years and certainly in my time it has not been operating. We have been very concerned about our own operation and it is something that we would look at in the future. I would be committed to look at it if community service orders [CSOs] were to be pursued.

The Hon. GREG PEARCE: You must have community service orders here at the moment though, do you not?

Mr CROSKELL: I assume there are but we do not operate them.

The Hon. GREG PEARCE: You do not provide them?

Mr CROSKELL: No, and I am not aware of others that do.

The Hon. GREG PEARCE: Why did council stop providing that?

Mr CROSKELL: I guess it was to concentrate more on our core function. We had some supervisory problems, I understand, with them. A lot of these things—and I can address them later—with some of the options that are offered here we have to be very careful that you do not overstress other agencies and must make sure that they are properly resourced. It can always be a danger if you draw on the operating budget of a council or agency that they will tend to pull away from it a bit.

The Hon. GREG PEARCE: Do you see the budget of agencies as quite a barrier to being able to participate?

Mr CROSKELL: An operating budget yes. I think if you are introducing something new, you want to make sure that it is properly funded, otherwise people like the police have difficulties with their budgets. The Department of Community Services would have those types of problems also. If this is introduced and if there is involvement from those other agencies, they need to be properly funded for the resources that they put into it.

CHAIR: What happens to people who may have a community service order but there are no community service jobs available? What do the magistrates do?

Mr CROSKELL: I am not sure what they want do.

CHAIR: I am just interested in your perception. I will ask the question again later.

Mr CROSKELL: I guess they would look at alternative sentencing options, I suppose, if there is nothing available. Obviously, the CSOs apply to the older offenders, the plus 18s. I am not really aware of this. I cannot comment.

The Hon. GREG PEARCE: What is council's perception of the rate of crime in Bourke? What are the trends?

Mr CROSKELL: Our concern is with youth crime, with domestic violence and the causes for those crimes. Whatever we are looking at, council is concerned that we look at a holistic approach, number one. If we bring in community-based sentencing, we will still look at the causes of those crimes and look at better ways of improving that for our community. A lot of that in Bourke rests with youth. A lot of that has to do with respect, but there are deep root causes to this, of course, and you can basically take it back to the lack of employment for many groups within the community. That has been borne out by the drought, of course, which has probably worsened a lot of the crime.

We have regular meetings with the police. We do not have any problems with what the police do within their resources, but it is a fairly demanding job for them and for the community to regularly see young offenders come back and reoffend all the time. That is the main thrust of what we are looking at here, to stop the reoffending. But this is only one string to that bow, of course, what you I looking at here. There are all the underlying causes that need to be fully addressed too.

The Hon. GREG PEARCE: Does the council engage any consultants or run any community programs to address these issues?

Mr CROSKELL: No. I guess we have a close liaison with all the agencies. In Bourke we have what is called an interagency group, which works very effectively. It is basically facilitated by a person called the community facilitator, which is set up under a Premier's Department River Towns project, which council supports strongly and participates in. It involves a facet of other groups, community working parties, which council also supports, and all the agencies. But you need to have that co-ordinated approach. I think we are on the right road with the interagency group and we are looking at how we can best co-ordinate that approach, but there is an awful lot more to it than just doing that. We have to identify the problems and work out the best way to do it. A lot of it will be engaging the Aboriginal community and the general community itself, looking for options from within the community.

The Hon. GREG PEARCE: But the council does not run any community groups itself?

Mr CROSKELL: No, it does not.

The Hon. GREG PEARCE: You described youth crime and then you said one of your major concerns was reoffending. What sort of crime are you talking about as youth crime? Is it petty crime?

Mr CROSKELL: Some of it is not petty, of course. It can be theft, it can be violence, it can be stealing cars. I am sure the police will let you know all those records. Reoffending is the problem. It does spike at various times when certain reoffenders come back. If there are better ways of dealing with that, I think that will help to alleviate some of the problems.

The Hon. GREG PEARCE: Does the shire include some outlying towns?

Mr CROSKELL: Yes, it does.

The Hon. GREG PEARCE: Which ones?

Mr CROSKELL: Byrock. Louth, Wanaaring, Engonia, Fords Bridge, Barrington—only very small villages.

The Hon. GREG PEARCE: Are there any community services in those towns?

Mr CROSKELL: Not per se. Engonia has a large indigenous population and it has a community working party of its own. The others are very small villages.

Ms LEE RHIANNON: If I understood correctly, while the council is not running community orders at the present time, you are open to the idea and it is a problem of money?

Mr CROSKELL: Properly resourcing.

Ms LEE RHIANNON: That is why I ask the question. For council to start getting involved, what would it require?

Mr CROSKELL: To go back a bit, when they come they are probably going to need some sort of supervision, which obviously we provide if it is on our jobs. If that was done separately to the council, if somebody was resourced to do the supervision, that is something we might look at, or if we provide a supervisor, if we get paid for that supervision. Obviously, we would try to look for jobs that need minimum supervision, but part of the problem I would see with that is the type of work you can give them. They try to seek meaningful work but that is not necessarily what happens. Sometimes it can be parks and gardens style work, something like that, where it is easy to slot them into a work force.

Ms LEE RHIANNON: So there is the issue of work availability?

Mr CROSKELL: Yes.

Ms LEE RHIANNON: Supervision?

Mr CROSKELL: Yes.

Ms LEE RHIANNON: Would you see there is a role for council in encouraging businesses within the local government area for community groups to become involved in providing community service sentences?

Mr CROSKELL: Yes, I think that is something council could do. There could be groups who probably could provide that as well as council.

Ms LEE RHIANNON: Has council been proactive in that way in the past, do you know?

Mr CROSKELL: Not to a great extent.

Ms LEE RHIANNON: So you see it in the context of the council being concerned about crime and reducing racism that it may be appropriate?

Mr CROSKELL: Yes, I would.

CHAIR: One of the issues that was reinforced yesterday very strongly is the problem of recruitment and retention of staff in country areas. Have you people had any innovative ways of resolving this?

Mr CROSKELL: I would start by saying yes, that is a major problem for us and most outback western towns. I have listed the strategies that we do and they are reasonably extensive. When we look particularly at professional jobs and high-level specialist type jobs we provide a salary package which is generally above industry standards, which means you pay them all, which is a given. We have to provide good quality housing. That is also a given. You have to provide a motor vehicle for private use and you have to make sure there are suitable training and professional development opportunities for those people and you have to understand the needs of their profession and the need for them to have professional involvement with their peers, which is something that happens more regularly in bigger centres but does not here, and that costs us money as well. Finally, we make sure we provide a welcoming, healthy and involving work environment, which is pretty important again. That is what everybody should do but some do not, of course.

In addition to that, something I should add is that the Premier's Department established a project called government employees recruitment retention and support project [GEERS], which is auspiced under the Barwon-Darling alliance, which council basically hosts as well. That is looking at options for Bourke, Brewarrina and Walgett to look at those types of things. It has identified a few areas. It is due to conclude in 2005. It has looked at some long-term strategies such as investigation of appropriate cultural awareness training and other locally relevant training for staff, so we are looking at the local side rather than overall. If you go into the bureaucracy you will get training from the New South Wales upper level so we are saying look a bit lower, look at what the community provides—ongoing breakfast meetings, facilitating professional support across agencies, consultation with the community itself and professional groups in the community to ascertain what assistance might be required and establishing a cross-agency social club to encourage integration of new workers into the community. The idea of that is that generally the police will stay with the police socially and DOCS will

stay with DOCS, so the idea of that is to mingle them in and mingle in with council as well, which we are happy to do. Hopefully it will have some good outcomes as well.

CHAIR: What level of employment is that targeting?

Mr CROSKELL: Basically all levels. That is the GEERS project you are speaking of?

CHAIR: Yes.

The Hon. GREG PEARCE: I am interested in what council does with community groups. I am surprised you do not have Aboriginal liaison officers and those sorts of people.

Mr CROSKELL: No, we do not. We have youth workers. We operate a youth centre with youth workers.

The Hon. GREG PEARCE: So you do have a youth centre?

Mr CROSKELL: Yes.

The Hon. GREG PEARCE: Can you tell us a little about that?

Mr CROSKELL: It is fully government funded. It operates to provide alternative activities for youth on the street, alternative activities to make sure kids stay off the streets. It is funded basically by DOCS, and the Federal Government as well put money into it. It has one major youth worker and a youth support worker. We are currently looking at, and have negotiated with the police to establish, a PCYC. That will be operating from our youth centre. We are signing the ink on that at the moment. The option we are looking at there is they will take over the youth centre role as well so council will probably pull back from that as well and provide just support via a committee it will set up.

The Hon. GREG PEARCE: When is the youth centre open, do you know?

Mr CROSKELL: I am not sure. I think it is three nights, three days a week. It was open much more but we found, the youth committee found, there were a lot of complaints from people around, and they have reduced the hours.

CHAIR: Noise complaints or people complaints?

Mr CROSKELL: Noise. It was a focus area. It did cause some problems. It is something we are looking at to see how it goes. Also in conjunction with the youth centre—well, not in conjunction with the youth centre but as an offset to the youth centre—we set out what is called a community assistance patrol, which was set up within the community and which was identified in our crime prevention plan. That is funded out of crime prevention money that council gets. It has a bus with volunteers who drive around at night picking up young children as well. That operates in conjunction with the youth centre and the police and works reasonably well. We are pretty happy with that. We are happy to put our money into that.

The Hon. GREG PEARCE: The crime prevention money you mentioned, where does that come from?

Mr CROSKELL: When our crime prevention plan was adopted you get a grant from Attorney General's—\$50,000 a year.

The Hon. GREG PEARCE: That is ongoing?

Mr CROSKELL: That is ongoing, yes.

The Hon. GREG PEARCE: What else do you spend that on?

Mr CROSKELL: That is it.

The Hon. GREG PEARCE: The bus?

Mr CROSKELL: The bus cost \$200,000. I think that is the last figure I looked at. That is something I pulled out of the air. It is jointly funded by us and the CDP operator, and other agencies put money in as well. The Federal ICC put money in.

CHAIR: Does the bus work just for children?

Mr CROSKELL: It is basically meant for children, yes.

CHAIR: So it is not utilised for inebriates or anything?

Mr CROSKELL: No. Well, it should not be.

CHAIR: Why?

Mr CROSKELL: It is meant for children.

Ms LEE RHIANNON: You spoke about domestic violence and youth crime. Considering the causes of crime are often associated with social disadvantage, do you think youth crime can be reduced if the education that is provided does not sufficiently engage young people and there are no job opportunities? Do you think we are fighting a losing battle if we cannot get on top of those two issues?

Mr CROSKELL: Certainly the employment opportunities is a major one in my mind. It causes problems with alcohol and drugs which result in the other problems with the kids on the streets. So yes, I think the root cause in my mind is the lack of employment opportunities, perhaps education and involvement with other community groups.

Ms LEE RHIANNON: Therefore, coming back to community sentencing, do you think community sentencing will make much of a difference if we are not addressing those other problems?

Mr CROSKELL: I put down some paperwork after discussion with our mayor what we think the benefits of that are. If I could go through that, and some of the disadvantages. We see a couple: as an alternative for young offenders through what we

mentioned before, the intensive case support and domestic violence offenders through CSO or circle sentencing, by providing a more encouraging environment for reforming their behaviour than that available through the incarceration process. So, we think that is pretty important. We do not believe the incarceration process encourages reform. We think utilisation of community options and groups in the process may be seen by offenders as a tougher approach than that currently being adopted by magistrates, that is being judged by and answering to their peers. Initial reports on circle sentencing outcomes indicate that this may well be the case, but that is all pretty early, of course.

Magistrates are often reticent to lock up young offenders and the provision of alternative community-based sentencing offers them a viable option rather than releasing them back to the community. We believe that is probably one of the key areas. Another important point to consider is that there is a need to convince offenders that it is not the law per se that is sentencing them but it is the community which is against their offensive behaviour. Community-based sentencing may well help to get this message across. That is pretty important too.

As far as the disadvantages are concerned, these are not necessarily disadvantages; they are probably more challenges. If it involves utilisation of community groups, then these groups should be universally accepted within the community. This may be difficult to achieve in some communities. It would necessarily involve the input of strong leaders in the indigenous community, and from our experience the majority of these leaders are very heavily committed and may not have the time or may face burn out from any additional commitments. So that is something you would have to consider with it.

The Attorney General's expectations are probably quite different to our community's expectations and a more conservative approach can be expected in this area than might be expected in the city. Allied to this, the Attorney General would need to persuade the wider community that it is not a soft option, which is something that would need to be done. Any change needs to be part of a holistic approach to the community's overall law and order issues which have for the most part as their root cause the lack of employment opportunities for many disadvantaged groups. So that is what we basically see as the advantage or the challenges, if you like, for them.

Ms LEE RHIANNON: As you were going through those remarks I think you made a comment about not releasing young people back into the community when they have offended. Was that also related to how you think community sentencing should work?

Mr CROSKELL: Yes.

Ms LEE RHIANNON: So therefore you mean that they should be in a hostel situation.

Mr CROSKELL: Not necessarily a hostel but in some sort of community group. Not released without some sort of—if they are released now they basically go out on a bail curfew. If they were released under these community services, provided they are within a group within a town—the thing that concerns us is that they go out of the town. They come back. They are not in that environment. If they come back they basically reoffend. If it is a community group that can look after them, and we made the

comment that it needs to be a universally accepted group, then that is something that we think would be acceptable.

Ms LEE RHIANNON: So are you saying that for you that is conditional on supporting community sentencing that young people are taken out of their community?

Mr CROSKELL: No. It is the opposite.

Ms LEE RHIANNON: So it is just one aspect of it?

Mr CROSKELL: One aspect, yes. I am not saying that.

Ms LEE RHIANNON: And for those young people who you feel need to be taken out of the community, what crimes have they been sentenced for?

Mr CROSKELL: I guess it would be robbery, not domestic violence but some sort of other violence. It is basically robbery, it happens, and assault, vandalism, car stealing is a major one.

The Hon. GREG PEARCE: Does council run any hostels?

Mr CROSKELL: No.

Ms LEE RHIANNON: Refuges?

Mr CROSKELL: No.

The Hon. GREG PEARCE: Employment services?

Mr CROSKELL: No. We are only a very small council.

The Hon. GREG PEARCE: What is your budget for?

Mr CROSKELL: We have very limited resources.

The Hon. GREG PEARCE: You would be the biggest economic entity in the shire, would you not?

Mr CROSKELL: Basically. Roughly equate with Clyde, depending on the drought and the seasons. We have about 100 employees.

The Hon. GREG PEARCE: What is your budget?

Mr CROSKELL: The budget is about \$17 million. Roads, rates and rubbish—the three Rs.

The Hon. GREG PEARCE: It is an admirable dedication to your core activities but I am surprised that you do not have an enormous amount of pressure on you to provide a lot of these things.

Mr CROSKELL: I guess we are providing it by acting as—

The Hon. GREG PEARCE: Doing the co-ordination.

Mr CROSKELL: Yes, doing the co-ordination of everything, and we do do that. Fifty per cent of my time is spent on law and order issues—probably more sometimes.

Ms LEE RHIANNON: Fifty per cent?

Mr CROSKELL: Yes.

CHAIR: Are any of those community expectations about what should be happening to induce a total law situation?

Mr CROSKELL: Yes but there are different—

CHAIR: No one else understood that question except you.

Mr CROSKELL: I would probably phrase it in this way. There are some who expect more punitive measures to be taken as well. There is a difference in community expectations here to Sydney. Council, in looking at all this, must weigh up what we think are the best options. We do support community-based sentencing with those reservations or challenges, as we see them. I came here two years ago and I had made a few promises to myself to get a few things done and I have not been able to achieve that. It is not from lack of wanting to do at; it is for a lack of a viable holistic answer to all of this. It is not easy. I am sure other people will paint that picture to you.

This community has a will to do something about it but I think we need a fair amount of help as well to get there. That is why I say we do not get overly involved in all of this other stuff because our commitments are basically to provide those. There is a lot of money that comes into the town with these other things, and I think our best approach is to continue to facilitate the interagency and to assist the community working party when it wants it and to become involved in the river towns project, which we are heavily involved with. They are heavy commitments.

Ms LEE RHIANNON: When you say that 50 per cent of your time is taken on law and order issues, what does that mean? What sort of things are you doing to address that?

Mr CROSKELL: Either addressing complaints that come or addressing dealing with youth matters with the youth centre for dealing with law and order, looking at social plans. Probably in any other counsel you would be looking at 10 per cent I guess.

CHAIR: One thing we looked at when we were working out where to visit were crime statistics for specific areas. I cannot remember the Bourke statistics being out of the ordinary, high or low, for country statistics.

Mr CROSKELL: I am sure the police will back me up but I think we have the highest statistics per capita for the top five. That is my understanding. Certainly, domestic violence is very high, assaults are very high. I think car theft is very high. This is per capita. I am pretty sure they are.

The Hon. GREG PEARCE: How often does the interagency group meet?

Mr CROSKELL: Once a month. Plus if it needs to talk about matters it will do that.

CHAIR: Do you get the perception that the departments are working well together in this place?

Mr CROSKELL: Yes, I believe so, and they understand each other's perspective much better by being involved in this and where they are going and they are able to co-ordinate certain aspects of their approach to law and order issues than if they sat back in their own little towns. I believe it works well.

CHAIR: Would you mind tabling the document you prepared?

Mr CROSKELL: Not at all.

(The witness withdrew)

WILLIAM JOHN SULLIVAN, Aboriginal Liaison Officer, PO Box 162, Bourke,

MICHAEL JOHN HEAP, Inspector of Police, Bourke Police Station 46 Oxley Street, Bourke,

DESMOND JOHN ORGAN, Superintendent of Police, Bourke Police Station, 46 Oxley Street, Bourke,

JOHN EDWARD WADSWORTH, Inspector of Police, Bourke Police Station, 46 Oxley Street, Bourke,

GREGORY PAUL MOORE, Inspector of Police, Bourke Police Station, 46 Oxley Street, Bourke, and

MICHAEL DWAYNE JACKSON, Aboriginal Liaison Officer, Bourke Police Station, 46 Oxley Street, Bourke, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee? Are you appearing as an individual or as a representative of an organisation?

Mr SULLIVAN: A representative.

Mr HEAP: A representative of an organisation.

Mr ORGAN: A representative of New South Wales Police.

Mr WADSWORTH: A representative.

Mr MOORE: As a representative.

Mr JACKSON: A representative.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you are unable to answer any questions asked by the Committee today, you can take questions on notice and send them back to us. If you take questions on notice we want the answers by 15 July 2005. Are you conversant with the terms of reference for this inquiry?

Mr SULLIVAN: Yes.

Mr HEAP: Yes, I am.

Mr ORGAN: I am.

Mr WADSWORTH: Yes, I am.

Mr MOORE: Yes.

Mr JACKSON: Yes.

CHAIR: Would anyone like to make a short opening statement?

Mr ORGAN: If I can introduce my colleagues. Our two valued ACLOs are attached to Bourke police station and service the Bourke area command and neighbouring areas. We have two further ACLOs who are attached to Brewarrina. No doubt, you will talk to those people tomorrow. Inspector Mick Heap is crime manager and Inspector John Wadsworth and Greg Moore are duty officers attached to the command. Another duty officer is attached to Nyngan, which is 200 kilometres from here.

Our command takes in the areas of Enngonia, Wanaaring, Bourke, Cobar, Nyngan, Warren and Brewarrina, to give you a general idea of the local area command. I am also reminded of Weilmoringle, a small Aboriginal community, which we have just adopted from our neighbouring command, with the aim of providing better policing services to that small community. Weilmoringle is north of Brewarrina, which is normally serviced by Goodooga, but I think we provide a better service, so we worked out local arrangements to do so.

I have one further comment in relation to your terms of reference. I ask that it be noted that, as police officers, we are mindful of our role and core duties. We are mindful of the issue in relation to sentencing, which relates back to what our duties are within the community and the State. I ask that you note my vigilance in relation to our answers. There are some issues that are appropriate for police to comment on and others that may be outside our role.

CHAIR: I will not speak for the rest of the Committee but I think you will find we understand the different roles that have to be played. However, we still want to know where you are coming from. I will pick up on something that came up from the last questioning. I acknowledge that it is not your job to do this—it is that of probation and parole—but is it your opinion that the lack of community service order [CSO] opportunities means that more people that appear before court go to gaol?

Mr ORGAN: Clearly, the lack of opportunity and from my police service, there were days when community service orders were performed at police stations, cleaning yards or doing work at ambulance stations. As the previous witness said, there is the issue of supervision and the ability to provide supervision. In some instances it is the simple ability to provide tools or materials to perform whatever work there is. There are issues. Obviously, in a community such as this, because of the size, there are a limited opportunities. I do not have personal experience as to what levels of CSOs are made by the magistrates. I am not sure if any of my colleagues do.

Mr HEAP: It is a tool that is not used very often now in this area because of the lack of resources available to monitor them.

CHAIR: Do you see more good behaviour bonds, or does the same problem apply with those?

Mr HEAP: Yes, there is a large scope. There is nothing in the middle at this stage.

The Hon. GREG PEARCE: What usually happens to offenders?

Mr HEAP: A lot of people are formally sent to prison and then a lot of people are given section 10 bonds and other types of bonds. If they breached the bonds they go before the courts. Again, there does not appear to be, in my view, something in the middle and it is a difficult thing to resource, monitor and enforce.

The Hon. GREG PEARCE: Do you have periodic detention?

Mr ORGAN: Again, the location is difficult, particularly if we are talking about Aboriginal offenders, the impact on family, et cetera, and it is difficult for them to get to locations of periodic detention from this location. Again, I cannot tell you levels but there are clearly difficulties associated with such a course of action.

CHAIR: What are the major types of crime in this area? You are the people who have to deal with them all the time.

Mr ORGAN: Domestic violence is high per capita and is of concern; also, break, enter and steal and car theft per capita.

Mr HEAP: Very much so.

Mr ORGAN: Bear in mind that this is a small community, but per capita those numbers are high. Let me say this: Not from our perspective but crime is down significantly over the last few years, so it is not all doom and gloom. Sure, there are challenges here, but it is not all doom and gloom.

CHAIR: I think I said that earlier. Can you tell the Committee what proportion of the crime you are dealing with would be suitable for community-based sentencing options?

Mr ORGAN: Again, I will just refer back to our role as police. I am mindful of how I respond to this. Clearly, it is our role to work in close partnership with the community and, particularly in this area, the Aboriginal community. Crime prevention is our role, crime detection is our role and forging those partnerships with the community to prevent crime, but I hesitate in relation to stepping straight up to the question and commenting as police officers as to punishment.

I counsel my young officers in relation to that. We come away from court—and I did the same thing as a young constable—disappointed, sometimes confused as to an outcome or determination by a magistrate. But as we grow, gain experience and get older we counsel our young police that we have done our role. If we have been professional in doing our job to that point in placing the matter before the court, we have done our job and our job stops there. So, again, I would just reaffirm that I am hesitant—

CHAIR: I will ask you another question altogether. If community-based sentencing became a wider option in the community, would it be possible for the police services to become part of the support structures in order to try to prevent reoffending?

Mr ORGAN: Without hesitation. If there is anything we can proactively contribute to, whether individually as an organisation or in partnership with other agencies and the community, we are committed to it, without doubt.

The Hon. GREG PEARCE: Is reoffending a major part of the problem that you face?

Mr ORGAN: Yes.

The Hon. GREG PEARCE: Can you give us an idea of the impact of that and the areas where it mostly occurs?

Mr ORGAN: In relation to crime categories?

The Hon. GREG PEARCE: However you want to take it. I am trying to get a feel for what every day policing involves?

Mr HEAP: It is a very frustrating situation in that our police work very hard. It is hard enough to get the evidence before the court and commence proceeding, especially in a town like this. We are only as good as our witnesses; I am sure you have heard that sort of saying. When you see offenders time and time again going before the court for motor vehicle theft—we might get 10 motor vehicles stolen and only get a prosecution for one or two. Our success rate across the State is relatively high but when you look at 10 stolen and you only get two, you are looking at a 20 per cent success rate. It is very frustrating for the community, our police, and us as managers. We need to keep them going, trying to succeed and to get evidence.

In relation to recidivist offenders, we do have them. A small percentage of members of our community commit the majority of crime here, and it is very frustrating and, for want of a better word, demoralising for some police in that they put the same person before the court time and time again and they see them out again, walking the street. It comes down to the fact that I do not think there is something in the middle. The courts might not want to send them to gaol, but if they put them on a bond the community, as a whole, regards it as a slap on the wrist and the police cop the brunt. You do your job but the person is still walking the streets. If it was in Sydney, for instance, the victim of the crime would not see the offender next week, but in this town—and other small towns like this—the victim still sees the offender again a week later, and that is the frustrating thing for everybody.

The Hon. GREG PEARCE: I think what I am hearing from you is that there might be some scope for different sentencing options that would be more of a deterrent than what you have at present where you have basically gaol or bonds?

Mr ORGAN: I think that would be a fair comment, sir.

Mr HEAP: Perhaps as an associated example, with juvenile offenders who have been detected, charged, have appeared before the court and are placed on bail curfew conditions pending the outcome of the court matter, I have made a conscious decision, which is very labour intensive, that police will proactively pursue bail curfew checks of a night time, with the sincere hope that, by creating the perception that detection will be high if the kids do not remain at home and are out on the streets of a night time, placing

themselves at potential risk of creating further offences, we can at least ensure while curfews are in force the kids are staying at home.

We have received support from the community from various agencies. The community working party at Bourke has supported it and the community working party at Brewarrina have some concerns about it, such as police knocking at doors at 10 o'clock at night to sight the child. It has been suggested that we are going back many years. But in our role as police that is one strategy we can use and we may be keeping one or two kids at home at night.

Unfortunately in recent days an 11-year-old was arrested after seven or eight breaches of his curfew bail. Unfortunately, he went into custody and was transported to Dubbo, but again he was detected at night in breach of his curfew, armed with a knife. Through our role as police, this is what we are trying to achieve. It is controversial in the eyes of some and in the eyes of others we have great support. So there is difficulty in relation to the activities of police and our contribution to young offenders.

The Hon. GREG PEARCE: One of the things coming through fairly strongly is that if community sentencing options are to be used, they have to be strictly enforced. They cannot be perceived to be just a slap on the wrist. That sort of enforcement or checking with respect to home detention or periodic detention is very important. Is that policy succeeding, from your point of view?

Mr ORGAN: It is probably early. I perceive it is. The result might be and has been the arrest of some kids out at night, but that is not the aim. The aim is to put pressure on them to remain at home and reduce the risk of us detecting them out at night. I perceive that it is working. As I said, it is very labour intensive. It will probably take a couple of more months before we can review our activities and our results.

The Hon. GREG PEARCE: What other agencies do you generally work in with to help out with problem cases where you are not arresting people and prosecuting them? What are the main agencies around and how do you work with them and what sort of support do they give you?

Mr MOORE: As Mr Croskell mentioned, we participate in monthly interagency meetings and we have various other committees set up. We work pretty closely with the Department of Community Services and Probation on Parole. We just commenced a new strategy in town, which is the introduction of the intensive family-based supervision, which is an offshoot of DOCS. All the various agencies you would expect to find in the community that we work pretty closely with, including the community working party. As Mr Croskell mentioned, we have a good rapport and are conscious of the problems we face and are very proactive in trying to participate in minimising the problems in town.

The Hon. GREG PEARCE: Just to explore that a little bit, assume that at 11 o'clock at night you pick up a youth who is just about to break into a car or has the door open or something, and you are not going to charge him. What do you do with that person?

Mr MOORE: That would be a good example. Last year there were probably 550 youth referrals done with the Department of Community Services. There were

about 70 last month alone. That is just one aspect. Just to drill down a bit more, that person may be an extreme risk. It may involve a simple wander down to the DOCS office and have a one-on-one conversation and emphasise the extreme risk of a young person out in that situation, not only to the community but to themselves. Obviously other mechanisms come into force. We have a pretty strong commitment to the youth of the community. We have a full-time youth liaison officer. She would more than likely become involved in looking at that example and also if it was something that might be linked to domestic violence at home, which is quite common, unfortunately, we would involve the services of our domestic violence liaison officer, who is also linked in with other committees in town. As I said, it is a holistic and multipronged approach. These are the sorts of things we are doing.

The Hon. GREG PEARCE: Superintendent, you have four ACLO positions and they are all filled at the moment?

Mr ORGAN: Yes, two here and two at Brewarrina. I am currently undertaking a process where I may be able to temporarily fill some ACLO assistants, unsworn support staff in police stations, through local CDPs. There is funding for those positions with our Aboriginal co-ordination unit in Sydney. I am pursuing that issue with a view of, perhaps, filling some positions here at Bourke and at Brewarrina police station.

The Hon. GREG PEARCE: Mr Sullivan, can you tell us a little bit about your role and how you work with the community?

Mr SULLIVAN: I have been an ACLO for about five years. The first year I have been abused, accused, like every job, but over the past 12 months I have fit into place. We go to domestics. Sometimes we will be sworn at but mostly we take the wife off, the prisoner makes a statement and then charge him. We get the kids off the street late at night. That is mainly my role.

The Hon. GREG PEARCE: Are you familiar with circle sentencing?

Mr SULLIVAN: Not really. It started in Brewarrina, I think, last week.

Mr WADSWORTH: Can I interrupt? I think in February it started. In circle sentencing I think they have had seven. We found it has not taken off as it could have in the sense that people do not know what the roles are. This is the impression I am getting. Once it gets going, as the model that we spoke about earlier in Nowra and Dubbo, it will be a real goer. It is very popular in the Aboriginal community but so far in Brewarrina it is just in its infancy and we are monitoring, but it is going all right.

Mr SULLIVAN: I thought they had one last week.

Mr WADSWORTH: Yes, they had one last week but it started in February.

The Hon. GREG PEARCE: Mr Jackson, can you tell us about your role?

Mr JACKSON: Yes, just like Mr Sullivan, try to keep the kids off the street at night and also to attend domestics. We try to split them up, keep one away from the other.

The Hon. GREG PEARCE: You guys work two shifts, do you?

Mr SULLIVAN: Yes.

The Hon. GREG PEARCE: What sort of hours do you cover?

Mr JACKSON: One shift goes from eight in the morning to 3.30. Another starts at three and goes until 10.30 and one is from six until 1.30 in the morning.

The Hon. GREG PEARCE: So you are around when the action is on?

Mr JACKSON: Yes.

The Hon. GREG PEARCE: Can I just ask you both, one of the community-based sentencing options is home detention or basically being put back into the custody of your own family, whether that is extended or not, and being confined to, normally, a house. It could be broader than that, it could be more of a settlement or something like that. Do you see that sort of thing working, particularly with the Aboriginal community?

Mr SULLIVAN: I would like to see it being done but it will take a long while to be done here in Bourke.

The Hon. GREG PEARCE: Why do you say that?

Mr SULLIVAN: I do not think anyone will take notice. The bloke who is on home detention, he could be in town and the phone is still ringing at home, or down fishing.

CHAIR: You are worried it would not be policed properly?

Mr SULLIVAN: Yes.

The Hon. GREG PEARCE: Mr Jackson, on the same issue, do you think the same?

Mr JACKSON: Yes, sometimes they will go to court and will get ordered to stay at home?

The Hon. GREG PEARCE: Yes, they put a bracelet on and it goes off as an alarm if they break out.

Mr JACKSON: Is that right?

CHAIR: Some people find it hard. Do you people understand—and this may be a question you do not want to answer—why you have such superb resources in relation to Aboriginal programs—two people, two people, four people—that do not necessarily match the population base? Moree has a much higher population base and much less resources. Do you understand why that has happened here?

Mr ORGAN: I have worked at Moree too and I do not necessarily agree there are less resources there. There are similar issues up there.

CHAIR: There are four ACLOs for that population, are there? You would be pushing it to have one.

Mr ORGAN: I think there are three. I take your point in relation to that.

CHAIR: I am just interested. This area has done so well at getting resources. We went to Inverell, where there are almost no resources at all.

Mr ORGAN: I am a police officer who has served at various locations in the north-west— Wee Waa, Narrabri, Moree, Walgett, Bathurst, here, Nowra—where there are significant Aboriginal populations. Clearly, the tyranny of distance creates problems here in relation to services. The Aboriginal population itself numerically certainly requires specific needs. There are the flow-on effects, alcohol-related incidents of crime. This community needs the resources it has now. In many instances it may be argued there are insufficient resources here. It is a good community but the fact of the matter is it is a community that has issues. The significant social issues affecting a portion of the community will take a great deal of time, effort and obviously resources to improve.

As a police officer looking at Bourke, looking at Brewarrina and looking at Walgett, I have seen a significant improvement, in my personal view, over the past 15 years. It is my personal view that these places are not the places they were 15 years ago, and that is obviously through the hard work of many agencies and government. The community needs the resources it has. It will need them off into the future. We are talking about the next generation—significant issues of education, opportunities.

CHAIR: I am not denying the resources are required. I am just interested they have come to some places and not to others.

Mr ORGAN: I suppose in all our roles we try to achieve all we can in our positions. I have been here for five months. My substantive position is duty officer at Bathurst. I would argue for this community that it needs the resources; in fact, there are additional resources it needs. I am aware that DOCS has difficulties filling its positions here. I think it is either three or four persons down. As a manager, I look to the role it is playing, and it has a critical role in this community, and it is not resourced appropriately, for whatever reasons. I heard you talk earlier on recruitment, and clearly that is a significant issue that some agencies may have to look at.

Ms LEE RHIANNON: Superintendent Organ, you spoke earlier about when you were younger and feeling disappointed, and how you counselled some of your officers. Did you mean that you were disappointed that the sentence was not as strong or as long or as tough as you thought was warranted for the crime? Is that what you meant when you said you were disappointed?

Mr ORGAN: As a young police officer?

Ms LEE RHIANNON: Yes.

Mr ORGAN: Yes, certainly. Sometimes it would be the determination by the magistrate of not guilty. As a young constable I have arrested someone with evidence and placed it before the court. In years past I have had magistrate's pat me on the shoulder after court has finished and say, "I know that person did commit that offence," but there was the judicial process in relation to proof and the finding of guilt. So, as a young constable it is a natural emotion. I have done a good job, I thought I had everything before the court and you come away as a young constable disappointed. Sometimes you ask the question, are we fighting a losing battle, but again that is a natural emotion. I offer that not as a criticism of police but we are individuals and we are human.

Ms LEE RHIANNON: I appreciate the answer. So, years and age can make one wiser and more philosophical, so perhaps the word is not disappointment, sometimes you think the sentence is inadequate?

Mr ORGAN: Yes. But again, when I say I counsel my officers, I do. I reaffirm our role. Fine, it is sure to have disappointments. We are in the lucky country, this process reaffirms the society we live in. It is fine to have those emotions but again professionalism. As police officers we do our job, but our job does stop at a certain point.

Ms LEE RHIANNON: Inspector Heap, I thought it was a similar thing talking about reoffending and concerns that sometimes the punishment is not what you felt was needed. I was therefore wondering with community sentencing, even if it is police properly and these various options, would you still have doubts that that is the way to go, or do you think that this is a soft option and it is not what is required?

Mr HEAP: Again, I am representing an organisation here but my personal view is that I do not think it would be perceived that way. I think some people, again in the scope of things, if someone's letterbox gets blown up every time and then that victim sees a young bloke with community sentencing building letterboxes at the CDEP for the next six months and he has to go and put them in there, people perceive that and say, "There's Johnny. Not only is he getting sentenced for his crime but he is furthering his own plans in learning how to build letterboxes." I think a lot of it comes down to perception. We work for the community. Our victims, we work for them in a sense, and if they do not see that the punishment fits the crime it is a difficult thing to answer.

Ms LEE RHIANNON: Moving on to a crime committed within the Aboriginal community, from what I understand the proportion is much higher, that if you look at it on a per capita basis there are more Aboriginal people committing crime relative to the non-Aboriginal community. Why do you think that is the case?

Mr ORGAN: I will give one view and I might cross to my colleague here. Certainly stealing is—again, the offence of stealing related to juveniles can in many instances relate back to food, the need to steal additional food. That issue flows back into the social structure of the home. Again, there are offences committed just because of the criminal intent of the offender, no other reason, just to obtain an item for their own use. There are many and varied reasons why Aboriginal offenders commit crime but there is that social connection with some incidence of crime.

Ms LEE RHIANNON: I was just interested in why it is a higher rate.

Mr WADSWORTH: Are you speaking about crime across the board or the more petty things?

Ms LEE RHIANNON: Just in general when you look at the statistics they show that there is a higher proportion of crime within the Aboriginal community. Why do you think that is the case?

Mr WADSWORTH: In the time I have been here I think boredom—I will just speak about the children's side of things if I can—plays a part in it. When you speak to the kids they will tell you that they get up to mischief because there is nothing to do. You look at other agencies, what are they offering, and then you look at why they do not want to go home, what is happening at home, what are the reasons why they might not want to go home, why are they violent. From my view I would say boredom is a major part here.

Mr ORGAN: Alcohol clearly plays a part in that. The commission of offences follows closely with the abuse of alcohol and drugs.

Ms LEE RHIANNON: Mr Sullivan and Mr Jackson, what are your feelings about the different rates of crime?

Mr JACKSON: I think unemployment has a lot to do with it. That is a big factor. If the parents do not have the money to give the kids, they will go out and do crimes and what not.

Ms LEE RHIANNON: What about the rates of arrests and then what happens at the courts? We were at a meeting yesterday at Inverell and it was said that mainly young Aboriginal men were more likely to be arrested and then sentenced than young white men. Do you think that is the case?

Mr ORGAN: I believe statistically I think that is right.

Ms LEE RHIANNON: You think it is wrong?

Mr ORGAN: No, I think it is right. I think statistically it supports that assertion. You are looking for why.

Ms LEE RHIANNON: You are the people who arrest people initially and then the magistrate sentences them. So why is it happening at a higher rate?

Mr ORGAN: We do arrest people and we are good at it, and the community expects us to be good at it. As we said earlier, the commission of crime for the various reasons in Aboriginal communities and the wider community reinforces or pushes the levels of arrests up. Those social issues we have individually mentioned here. So the commission of crime. As I say, I unashamedly say that New South Wales police are good at what we do or that area of locking people up, detecting and investigating and identifying offenders. So clearly that would be part of the reason why the numbers are high. Technology, science today assists us in that regard. In relation to sentencing, personally I do not think it is appropriate for me to comment for obvious reasons but

they are probably a couple of reasons personally that I put to you. I do not know if my colleagues or the ACLOs from their perspective.

Ms LEE RHIANNON: Mr Sullivan and Mr Jackson, why do you think there is a higher arrest rate of Aboriginal people than there is of non-Aboriginal people?

Mr SULLIVAN: Do we have to answer that?

CHAIR: No.

Ms LEE RHIANNON: No, you do not have to answer that.

Mr HEAP: I might be able to assist you. I agree with Mick in unemployment. With employment comes responsibilities, and the responsibility is not just to go to work but then the responsibility is taken home and then morals are increased at home and it has a flow-on effect. If they are unemployed, what really can you do in 24 hours? So they sit at home and consume alcohol at times. I know if I go away on a weekend with friends that is what the social effect is. But when you are doing that seven days a week it undermines every furthering desire to work, if that assists you in that regard.

Mr MOORE: I could probably add something to that. I think you will find from a local's perspective a lot of the recidivist offenders are coming from dysfunctional family backgrounds or broken homes or whatever. Like any community, unfortunately, we see quite a bit of that locally and a product of that environment is unfortunately the risks go up and people tend to be more likely to commit crimes. That is probably one factor in that overrepresentation.

The Hon. GREG PEARCE: Dysfunctional families—that tends to indicate that the sorts of things that we are looking at are probably not likely to work, such as home detention and periodic detention—

Mr MOORE: That is true.

The Hon. GREG PEARCE: —because there is a cycle. The home will not be able to fulfil any sort of role.

Mr WADSWORTH: Especially if it is a domestic violence issue, you are putting a person back into the house where the problem started and that just will not work.

Mr ORGAN: That is a classic example in relation to bail curfews for young offenders. Again, in what I outlined to you earlier, we are also mindful of the fact that young people may be placed back into those environments by the court. I have referred to activities as a zero tolerance in relation to bail curfews but it is not really. It is that we will try to achieve 100 per cent knock on doors each night but then if there is a breach we look at it, we try to look at it as a whole and sometimes it is a caution if it is appropriate and maybe a referral or contact with another agency in relation to what we have detected but again at the same time trying to reaffirm that perception of high risk of detection.

Mr SULLIVAN: A lot of boredom it was for the kids. A couple of years ago we had them sniffing petrol in town. It was terrible. Now it is just drugs and alcohol. If you look at the parents, they are drunk. You put the kids home, the kids will take the grog and whatever they are smoking or eat it. It is the same difference. You break that wheel. Stop spinning that wheel.

Ms LEE RHIANNON: It has been put to us that some young Aboriginal men do not want community service orders, that they would prefer to go to gaol. Obviously it is beyond my experience, but within gaol they have three meals a day, they have their peer groups, they have a support network, they have something to do. Do you come up against that? It was even suggested that these young people will know what crimes to commit so that they end up inside.

Mr ORGAN: I spoke to a young prisoner at Warren police station about a fortnight ago and he reaffirmed that exact situation.

Ms LEE RHIANNON: How old was he?

Mr ORGAN: I think he was about 21. Basically, the police had him in a room allowing him to speak to his girlfriend. I just went in and said, "Giddy, how you going? What are you doing here?" We just had a bit of a chit-chat and this is the last time you are going to be in—new start when you finish here. During the conversation he indicated that that is where he wished to be. He had been caught and convicted at court but he would rather be in there than doing community service or some other course of sentencing but that was seen to be an adverse impact on him. It was easier for him, with more support, to be in gaol.

Ms LEE RHIANNON: Mr Sullivan and Mr Jackson?

Mr JACKSON: I spoke to a young fellow the other day who wanted to go to gaol to get back at a bloke who murdered one of his family members. The young fellow is in his teens still.

The Hon. GREG PEARCE: So he was on a mission.

Mr JACKSON: Yes.

Mr SULLIVAN: A lot of them like to go back to gaol. If they get 260 hours of community work, they would rather go and do three months in gaol. It is easy. Meals, watch television and all.

CHAIR: We have a question about the possibility of increasing circle sentencing to people from 15 to 18. Do you have an opinion about whether this would be beneficial, and why or why not?

Mr WADSWORTH: As I said earlier, it is going—

CHAIR: Because it is not currently for that age group, is it?

Mr WADSWORTH: No, but it (adult Circle Sentencing) is in Brewarrina and has kicked off. It is in its infancy but circle sentencing is very popular with the

community. It gives elders a bit of responsibility and ownership. The people I have spoken to—as Mr Organ said before, we have to speak as an organisation, but I am sure that our boss would have no problems with changing that to lower it. It puts a bit of—

CHAIR: We need to have these replies for recommendations.

Mr WADSWORTH: It puts pride back into people. The younger people seem to look up to elders, rather than simply the court system, where it is just an ebb and flow, it just never ends. Johnny and Mick would probably be able to describe more but it just seems to put that responsibility back into their own community.

CHAIR: Are you people happy about the extra commitment that circle sentencing will involve? You will have to give up the full day as well, will you not?

Mr ORGAN: Yes.

CHAIR: Because the arresting officer would have to participate with the victims, is that not so?

Mr ORGAN: Yes.

CHAIR: And you feel good about that?

Mr ORGAN: Yes.

CHAIR: It is not a resource impost that you cannot cope with?

Mr ORGAN: It may well be, but it is an investment in the future, particularly anything to do with young offenders in Brewarrina and Bourke. Young offenders are a significant issue to us. We are talking about a lifetime, so if there are a few hard yards here and now, this will impact on lives in the future.

The Hon. GREG PEARCE: Is there anything else we should be considering that might be another helpful option?

Mr MOORE: On the resourcing issue, not as a police officer but as someone who is involved in law and order issues, for circle sentencing to work—or any similar program—you are going to rely quite heavily on Aboriginal elders. If we are to be fair dinkum about it in town, it will be high volume and a major impost on those people. We have issues with respect to crossing tribal boundaries, which will limit who is appropriate for various young persons. It is a major impost and there should be some financial remuneration because generally it is done on a volunteer basis. Therefore, some type of remuneration or way of helping out those people should be looked at.

(The witnesses withdrew)

(Short adjournment)

CHAIR: Welcome and thank you for coming. It is important to have the service providers come to see us when we are visiting. This is the second public hearing of Standing Committee on Law and Justice inquiry into community-based sentencing options. The Committee considers this inquiry to be very important in investigating whether it is appropriate and in the public interest to tailor community-based sentencing options for rural and remote areas and for special need and disadvantaged groups in New South Wales. The Committee is very pleased to be here in Bourke and is looking forward to hearing the advice of the local community on this issue.

Before I commence I would like to make some comments about aspects of the hearing. There are media restrictions and if the media turn up, I will deal with that aspect. Any messages you may like to exchange must be delivered through the Committee clerks. The Committee prefers to conduct its hearings in public. However, the Committee may decide to hear certain evidence in private if there is a need to do so. If such a case arises, I will ask the public and the media to leave the room for a short period. If a witness does give evidence in private, however, they need to be aware that the Committee may at any time decide to publish some or all of the private evidence. Likewise, the House may at any future date decide to publish part or all of the evidence even if the Committee has not done so.

Committee hearings are not intended to provide a forum for people to make adverse reflections about others. The protection afforded to Committee witnesses under parliamentary privilege should not be abused during these hearings and I therefore request that witnesses avoid the mention of other individuals unless it is absolutely essential to address the terms of reference.

NARELLE LYNDA JEFFREY, Area Co-ordinator, Division of Community Offender Services, Department of Corrective Services, P.O. Box 1831, Dubbo, and

ROBYN MARGARET McLACHLAN, Acting District Manager, Bourke Probation and Parole District Office, Community Offenders Programs, Department of Corrective Services, P.O. Box 91, Bourke, sworn and examined:

CHAIR: Are you conversant with the terms of reference for the inquiry?

Ms McLAUGHLAN: I am.

Ms JEFFREY: Yes, I am.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you are unable to answer any questions asked by the Committee today, you may take the questions on notice and send the answers in writing. If you take any questions on notice I would appreciate it if the answers could be forwarded to the secretariat by Friday 15 July. Would either of you like to make a short opening statement?

Ms JEFFREY: I will start by making a short statement. As you heard, my name is Narelle Jeffrey and I am the area co-ordinator with Community Offender Services. I am based at Dubbo district office I have an area co-ordination and support role for the

officers of Bourke, Broken Hill and Coonamble. With me is Robyn McLachlan, who is the acting district manager at the Bourke Probation and Parole office. Ms McLachlan has only been in the position of acting district manager for a short period. The substantive holder of the position was on annual leave, which necessitated in Robyn's appointment to that position to. However, that person has resigned since and Ms McLachlan will stay on until that position is filled.

I understand that Ms Valda Ruis from the department made an address in relation to the operation of Community Offender Services on 6 June so we would like to make our submission far more local and applicable to the local area. From the Bourke district office we service the communities of Bourke, Brewarrina, Weilmoringle, Engonia, Louth and Wanaaring. Currently the Bourke office is responsible for supervising some 249 offenders, which include 154 supervision cases, which are people who are subject to both good behaviour bonds and parole orders. Additionally, we have 36 offenders currently subject to community service order requirements. Bourke office also undertakes custodial-based duties, which include preparation of reports on inmates coming out of custody; in particular, our area here covers the Yetta Dhinnakkal facility, which is located at Brewarrina. We also have court advice responsibilities to local circuit courts within this catchment area.

While there is a range of alternatives to custodial sentences available from the Bourke district office, there are often at times placement issues or issues regarding specific supervision conditions, given some limitations in the provision of services in this catchment area. For example, the community service orders scheme has relied in this area, and in certainly very remote rural areas, on the generosity and goodwill of many workplace agencies. Unfortunately at times there are some impediments to people being able to fulfil requirements of community service orders because the offender may be well known in the community or there has been some adverse behaviour or performance on previous orders and therefore some agencies are reluctant to continue to offer placements to some people.

Locally, what we have endeavoured to do and what we have commenced doing certainly under Robyn's time here and shortly before Robyn's arrival in Bourke, was to try to develop a range of innovative approaches to offender management, including the potential for community service offenders to work alongside of mobile prison camp detainees from the Yetta Dhinnakkal facility, which would mean they would then be under the auspices of a departmental supervisor. The overseer who is already working the mobile prison camp trainees would then also have an element of community-based community service offenders working alongside of them. It is a twofold approach because not only are the community service order offenders then repaying their debts to the community but we are also encouraging them and trying to give them some work orientation skills so that once they have completed that number of hours, hopefully they have gained some skills to go out and try to obtain other employment.

Engonia is a community where the department has worked collaboratively with the community division and the custodial division and has had many consultations with the community at Engonia in relation to the upgrade of the sports field complex that the Aboriginal community specifically indicated would be of great benefit to run some football competitions within the community. That is one project we are trying to embark upon. Also, the department has now changed the criteria for the Yetta Dhinnakkal facility and that will enable offenders subject to a section 11 bail

undertaking to go to Yetta Dhinnakkal and fulfil some of the requirements of that remand period there. So they would look at both the work orientation side as well as the educative role by participating in numeracy and literacy programs and programs that may target anger management, drug or alcohol or other violence prevention workshops while there.

The Bourke district office has also formed some partnerships with local agencies, including domestic violence and drug and alcohol workers. In the very near future we are looking at commencing and facilitating some programs targeting offenders who require that type of intervention. Through my position, issues being undertaken at the Bourke office are certainly discussed a regional level through the Premier's regional co-ordination management group, and more complex case management cases are looked at through the Rivertowns project, with a whole-of-government emphasis. Those meetings usually convene at Dubbo on a monthly basis. We are pleased to give the committee any examples and answer any questions it may like in relation to local activities or local initiatives.

CHAIR: Thank you very much, that is very comprehensive. What community-based sentences are currently available in the Bourke area and what exactly is your role in managing offenders in the community? That is a large list you have there.

Ms JEFFREY: Yes. Certainly, community-based sentences that are available are community service order sentences or good behaviour bonds, and I guess our role in managing them is as it is in any other location. We administer the community service order scheme. We actively try to recruit new voluntary workplace agencies to come on board and we try to match offenders with targeted agencies to try to fulfil requirements. Similarly, under a bond or parole supervision they are certainly supervised by Robyn and her staff at the Bourke location.

CHAIR: If home detention was to become a possibility, perhaps with the influence of circle sentencing and more community people being involved in the process, do you think your organisation could carry the extra load?

Ms JEFFREY: I think in the more rural and remote areas—I am only speaking in my position as area co-ordinator—there are difficulties in attracting and retaining staff. We currently have a vacancy with the district manager. We were fortunate that Robyn was more than prepared to come out and work for a short time in a rural community. Again, we will have front-line positions that will have to go through recruitment to be able to fill here at Bourke. That is an impediment, I think, to addressing some of these community-based needs.

CHAIR: Recognising that you are doing a lot of work with interagency and other organisations so that the agencies are working together, when you need drug and alcohol counselling, are you able to work with the health sector? Is that how it works? Do you contact the health people?

Ms McLAUGHLAN: Yes, referrals are made through those organisations but they also lack a few resources as well. So, there are limitations on what we can gain from referrals. The mental health and counselling service and Aboriginal community health are the two main agencies that we draw upon. I think they are carrying a vacancy for a drug and alcohol worker as well.

CHAIR: Do you have in your client base many people with mental health problems?

Ms McLAUGHLAN: I believe on the caseload there are two mental health orders current. Predominantly, the mental health issues are usually dual diagnosis and go hand in hand with drug issues.

CHAIR: Do very many of these people come to your care or do you think most of them go to gaol? It is an opinion I am looking for now.

Ms JEFFREY: I think certainly at times we have people under our supervision who are not incarcerated although perhaps at times they require a specialised level of intervention. So, they may really benefit from the expert guidance of a mental health worker. At times it is found in more rural communities, the provision of those expert mental health services are not as readily available as they are in other locations.

The Hon. GREG PEARCE: Are the agencies available at the moment to take people on community service orders in both your areas?

Ms McLAUGHLAN: At the moment we have got—

The Hon. GREG PEARCE: You are in Bourke?

Ms McLAUGHLAN: In total the office is utilising 35 agencies. Twelve are at Bourke. We have Western Aboriginal Legal Services, 2WEB radio station, the youth centre, Nulla Nulla Aboriginal Corporation, the children's preschool at Bourke, River Gum Lodge, the Missionary Sisters of Charity, Dunbi Proclaimed Place, the shire council, Edith Edwards Women's Refuge, Muda Aboriginal Corporation and Bourke CDEP. We have another agency at Weilmoringle, which is a public school. At Brewarrina we have Orana-Haven Aboriginal Corporation, Northern Star Aboriginal Corporation, Gainmarra Birralelee Pre-School Association, Brewarrina Aboriginal Health Service, which is temporarily closed, Brewarrina Aboriginal Cultural Museum, which is temporarily closed, and Brewarrina Village Aged Care, which has been temporarily closed.

At Cobar we have 14 agencies. We have the caravan park, the rugby club incorporated, Cobar Heritage Centre, Lilliane Brady Village, the local Aboriginal land council, junior rugby league, the cemetery committee, State Emergency Service, the Mines race club, rugby league, the Catholic Church, the pony club, the rodeo association and the preschool association. At Enngonia we have Murrawarri Aboriginal Corporation and Enngonia Public School. We have another one coming on board in the next couple of weeks, which is Louth Public School.

The Hon. GREG PEARCE: So there is a mixture of private and government. How many of them are likely—

Ms LEE RHIANNON: Most of them are government. I did not hear many private.

The Hon. GREG PEARCE: There was the radio station and a few others.

Ms McLAUGHLAN: It is a community agency. What we looked at so that we do not impinge on any work issues, we stick with the community-based and non-profit organisations. They may fall into one or the other, or either community based and/or non-profit.

The Hon. GREG PEARCE: How many of those would have taken someone in say the last three years? This morning the council officer said that the shire council is not taking any CSO offenders.

Ms McLAUGHLAN: These are the agencies that we have on our listings. We do not always use every one of them at any given time.

The Hon. GREG PEARCE: I understand that. I am trying to get a feel for how many of them have actually taken an offender in the past three years.

Ms McLAUGHLAN: I would say a good half of them and that is only a guess.

Ms JEFFREY: I guess if we look from a Dubbo point of view, and I certainly do not have the number of agencies that we utilise in Dubbo----

The Hon. GREG PEARCE: Could you send us a copy of the listing when you get a chance?

Ms JEFFREY: Certainly, yes, I can do that. Dubbo has the added luxury in that it is a slightly larger community so we can often locate other agencies that will take multiple offenders to the one placement. We are currently negotiating a partnership with Dubbo City Council that, while they would not take our workers alongside their paid workers, they will certainly nominate to us particular activities that they would like our workers to do, which include a lot of anti-graffiti work around the Tracker Riley cycleway at Dubbo and general rubbish clean up along the highways.

Like I said, we have just forged a great partnership with Western Plains Zoo. Because they take on volunteers in their zoo friends voluntary capacity, we are able to place offenders out there. A lot of that work has been clearing bush for bush regeneration and clearing some areas that could possibly be earmarked for future animal enclosures that need debris removed to enable local growth to come back through.

The Hon. GREG PEARCE: Earlier you touched on the problem of staff retention which is fairly starkly exemplified by not being able to bring along the director. What sort of strategies does the department have in place to get people into rural areas?

Ms JEFFREY: What the department has recently looked at doing in terms of recruiting for rural areas is that we are advertising not only in the public service notices but we certainly run advertisements through the local times, the local Bourke newspaper, and also the Dubbo paper because that has the western jobs guide attached to it. The department also has a departmental house located at Bourke and I understand that that is at a reduced market rental value in an attempt to attract staff to come out and work within the rural area. Certainly, staff that are located within the western area attract an additional week's annual leave. They get five weeks annual leave rather than four.

The Hon. GREG PEARCE: Can you both comment on this? A number of people have said to us that a big problem with community-based sentencing options is that they can appear to be a slap on the wrist and not rigidly enforced. What do you do to make sure that they are not a slap on the wrist?

Ms McLAUGHLAN: When we first take on the offenders they are assessed through the LSIR, which is the level of service industry revised. It gives us a level on what intervention we are to put in place. Those who come in on a high level must be seen more intensively. The ones on a lower level, it is usually on a monthly basis. People who require intensive supervision are usually put into programs. As Norelle previously mentioned, the programs will be up and running very shortly. With community service work and periodic detention, even though we do not have periodic detention out here, it has been said that they would rather do gaol time than have to work. So I do not think all people see the community sentencing options as a slap on the wrist.

Ms JEFFREY: Expanding that further, we make very close connection with our community service agencies. Agencies have a set of guidelines that they go through in terms of a sign-on sheet and a sign-off sheet and all offenders sign a declaration that indicates that having been sentenced to perform community service work they are obliged to sign on and sign off and that they must attend to the work as delegated by the workplace agency. We try to make a very close connection with the agencies so that we can alleviate any teething problems that they may have when an offender is placed there. Sometimes it might just mean that we need to go out and visit the person and say, "It is important when you are painting the picket fence that the paint is not spread all around the ground." Sometimes it is just that additional encouragement and showing people a different approach to doing those jobs that can smooth out some of those initial hiccups.

We have a weekly monitoring of offenders who are sentenced to community service work and certainly agencies are contacted and agencies send in the time sheet. That is then collated electronically and the same with further supervision of parolees and people subject to good behaviour bonds. We certainly try to marry the level of intervention with the risk of that particular person, and the risk is always back to the community. I guess what is of paramount importance is community safety. So if someone warrants a more intensive level of intervention then that is what we try to do.

Ms LEE RHIANNON: Thank you for reading out the list. Have you made a decision not to go to the private sector? Is there any reason for your position?

Ms McLAUGHLAN: The guidelines state that we do not impinge on union issues and create problems for ourselves.

Ms JEFFREY: Also, we do not want to take paid employment. Often, private sector has capacity to look at utilising a paid employee to undertake the job at hand. We certainly do not want to then reduce employment opportunities particularly out in these locations.

Ms LEE RHIANNON: So is that a guideline that is issued to you?

Ms McLAUGHLAN: There are set guidelines for the community service scheme and it is quite explicit on who we are allowed to use and who we are not to use.

Ms LEE RHIANNON: So it actually states not to go to the private sector, or it states not to take employment away? How is it phrased?

Ms McLAUGHLAN: I think that goes hand in hand.

Ms JEFFREY: It is actually phrased that we certainly should not look at taking paid employment. I guess that is due to the limited opportunities that are often out in the marketplace anyhow.

Ms LEE RHIANNON: Some people have raised the issue of transport sometimes being a problem in people being able to participate in community sentencing. Have you seen that this is a problem?

Ms JEFFREY: If someone was placed on a community service order at Enngonia and they were a resident of Enngonia then we would place them within that community where possible. We would also then conduct a reporting centre from Enngonia. Our service would go to the community rather than have the expectation for the community to come in to us.

Ms LEE RHIANNON: Earlier one of you mentioned that you look to supervise people once a week. I was interested in that because when the mayor spoke to us earlier he was also concerned about supervision. Are all of your cases once a week or the bulk of them?

Ms JEFFREY: No. It comes down to a level of intervention that is required for that particular person. It may not mean that they are supervised on a weekly basis but they are given some form of intervention on a weekly basis. Part of our management plan may well be to refer somebody to also work with the drug and alcohol counsellor. So we might see them once week and then the drug and alcohol counsellor the alternate. But they are still then getting a weekly level of intervention to address some of the offending patterns that have lead to the issue.

Ms LEE RHIANNON: So the minimal interaction is once a week with somebody from an agency. Is that how you would describe it?

Ms JEFFREY: That is right, yes.

Ms LEE RHIANNON: The Committee has heard previous evidence which suggests that an offender who does not have an appropriate address to be released to while serving a community sentence may not be considered for some community-based sentence. Is this something that has come up for you and how do you address it?

Ms JEFFREY: I guess we would work closely with that person to nominate an address because if the issue is homelessness than that might be one of the issues that we need to look at rectifying for that person. The department now has some funding to be able to look at short-term accommodation placements, where possible, then we could then maybe look at providing accommodation provided the assessment criteria is met to be able to secure that. If not, we would look at trying to address the accommodation

issues through other local agencies. That may well be supported accommodation placements.

Ms LEE RHIANNON: Have you had experience of doing that?

Ms JEFFREY: Yes.

Ms LEE RHIANNON: And it has been successful?

Ms JEFFREY: Yes. Certainly at Dubbo we readily utilise Sturt House, which is a supported accommodation program. We would also then advocate at times with the Department of Housing to look at short-term crisis accommodation, whether that is in a caravan park or somewhere where there is certainly a roof over that person's head so that they can at least have some stability initially.

CHAIR: Can you talk to us a bit about the preparation of assessment reports for the Local Court when people are awaiting their sentencing and the sorts of issues that you need to consider when you are assessing their suitability for community-based sentencing? I would also like you to talk about how much emphasis is placed on previous custodial sentences.

Ms JEFFREY: When someone is going before the court and a pre-sentence report has been requested, the officers not only look at interviewing the offenders but making relevant contact with other people to validate or substantiate some of the information they have been given. That may include significant family members or partners, or they may have already developed and be undergoing intervention with another agency, such as drug and alcohol or some sort of counselling agency. With their consent, we would usually talk to those agencies to collate all the information for the court.

Our reports would then detail relevant social or background issues that we feel the court may need to be aware of in terms of sentencing the person. It would also look at the education and employment history, as well as the attitude of the offenders to the offence, and any other additional issues that may impact on sentencing. That may well be drug and alcohol use or issues of violence that have perhaps led that person to offending and there may be an avenue to address some of those offending patterns.

When addressing community-based sentencing we would certainly speak to the person in relation to what could be expected if they were placed under a period of supervision and what some of our service expectations may well be in terms of working with them to address the reasons that led to their offending. At the end of the day we want to work collaboratively with the offender and also within their community to try to address some of those issues.

Certainly for community service work to be assessed for that option, there is eligibility criteria, which is set by legislation, which indicates—sorry, that is for periodic detention—for community service work, provided there is no impediment through a back problem or other serious health issues that would raise further issues under occupational health and safety or they do not have a dependency upon alcohol or illicit drugs that would place a volunteer agency at risk or a community person at risk should they go to that agency. In terms of whether somebody's previous custodial record is

taken into account, no, there would not be many community staff that would look at somebody's performance on a custodial-based sentence in terms of assessing for a current community-based option.

CHAIR: That is interesting. Because you are based in Dubbo, have you been involved in the circle sentencing process at Dubbo?

Ms JEFFREY: Certainly, and I have sat on a circle.

CHAIR: Great. Can you tell us—and I understand the time impost—how much extra resources the process takes from the Probation and Parole Service.

Ms JEFFREY: Yes. Probation and parole officers who appear before the circle do that in a court duty capacity, so our role at the circle is to provide sentencing alternatives that the circle may need to take into consideration before making their deliberations. However, the circle co-ordinator and certainly the local elders in Dubbo have been very receptive to us being involved in the circle process and, rather than just tendering out pre-sentence report as we would at the Local Court, we actually speak to that report. We read the report out so that all circle members can ask us questions if they would like to.

Different circles can go for varying lengths of time. You could be at the circle for three hours, which was my experience when I sat on the circle. But usually when we are at court, you just tender your report and provided you are not called to give evidence, you would then be back at the local office. So, there is a time commitment in terms of being involved in the circle forum.

CHAIR: Do you find that the increased interaction in the process with community people means that broader sentencing options are made available?

Ms JEFFREY: Certainly in Dubbo the elders have been very supportive and very receptive to some of the programs that we have been offering around that area and also with community service work. If someone is placed on a good behaviour bond we may tell them what we endeavour to achieve. They may also be assessed as suitable for a community service order. Some elders have asked whether they can make suggestions as to where they would like the offenders to be placed for the period of community service work and provided it fits the criteria, we have been able to work in partnership with them to say that they are resident within a local estate and as the estate is a current agency, we would look at placing them there. Those questions are usually addressed at the circle forum. The circle court has also been very supportive of the Dubbo Yindiyama la program, which is a family violence program within the indigenous community at Dubbo. They have certainly made referrals and then recommendations for sentencing that people participate in that 16-week program.

The Hon. GREG PEARCE: When you provide that list of agencies, would you give an indication of which ones have taken people over the last three years?

Ms JEFFREY: Certainly. In Dubbo I would say probably a fair amount.

The Hon. GREG PEARCE: We just want to get a feel for it?

Ms JEFFREY: Yes, we can certainly do that.

CHAIR: Who plays and who puts their name down?

Ms JEFFREY: Some agencies are utilised because often some of our offenders will say that they are aware of a sporting group that could possibly utilise some of their skills. They may be a qualified painter and the sporting group would like some work done. That is how we often attract agencies and we may then be able to keep them on the scheme. They might be very specific groups and might not be utilised again until that skill base is available.

CHAIR: Thank you for providing the Committee with that important information and for your patience during this morning.

(The witnesses withdraw)

LOUISE ELLEN BROWN, Aboriginal Hospital Liaison Officer, Bourke Hospital, Tarcoon Street, Bourke, sworn and examined:

CHAIR: You have heard me read out the big speech so I will not do it again. I welcome you and thank you for being willing to talk to us. Are you conversant with the terms of reference for this inquiry?

Ms BROWN: Yes.

CHAIR: Would you like to start by making a short statement? You can now tell us what you wanted to tell us before?

Ms BROWN: I wanted to say that I am currently a volunteer support person for Bourke police station. I come in and work with people who are actually in gaol, support them, sit down and talk with them and relieve their stress level from being in the prison cell. I sit down and talk to them and give them some positive outcomes to make them feel a lot better. I am also on the local area command Aboriginal committee for the police department.

CHAIR: When you are working on the committee is it your impression that the broad cross-section of the community is able to express their feelings and beliefs?

Ms BROWN: Yes, well it is right across-the-board for Aboriginal people to be on that committee, which is called LACAB. It is an open forum so that Aboriginal people can come in and speak about any issues that they like.

CHAIR: How often does that happen?

Ms BROWN: It is usually once every two months. We actually have one tomorrow.

CHAIR: Do you think that the work of the committee has made a difference for Aboriginal people in Bourke?

Ms BROWN: In my opinion it is for Aboriginal people to voice their opinion and how to deal with the police department.

CHAIR: So it is an empowering thing, is it?

Ms BROWN: Yes. They can both actually work together, Aboriginal people and the police department, and bring out their issues.

CHAIR: How did this volunteer support position come about? I have never heard of it before. It was asked for in Inverell, actually.

Ms BROWN: It came about with the youth police liaison officer going around to see Aboriginal people in the community to become a volunteer, to come and speak with the youth who are actually in gaol. I was actually called in on the weekend. There was a youth in gaol and I sat down and talked to him to try to make him feel a bit more

comfortable. After the session I had with him, he was more relaxed and ready to take on the next challenge that he was going to take on.

I find it very rewarding to actually go in and speak to a young person who is in prison, and I think it works in all areas, for the victim—or the person in gaol—for the person who comes in to help and for the police.

CHAIR: That is good.

The Hon. GREG PEARCE: What sort of additional things could we do to help with sentencing? We have talked about the circle sentencing process. Is there anything else that the courts could be doing with people rather than just locking them up?

Ms BROWN: I used to work at the high school before. I ran an Aboriginal mentoring program for 25 students and 25 non-Aboriginal students, so I had 50 students that I mentored each week and I found that to be very successful. I worked with year 8 and year 9 students. That was only trialled for a period of six months and it was funded by the Department of Employment, Education and Training in New South Wales but that trial is finished now. I actually topped the State of New South Wales with that because there were only six placed in the State.

I think that coming into this kind of area should be a mentoring program involving positive people dealing with other people while they are going through the process, to help them become aware of what is going to happen. I think it is important that somebody outside the family, who is not actually involved, deal with these people and give them positive input. Is that okay?

The Hon. GREG PEARCE: Yes, that is good.

Ms LEE RHIANNON: Can you say why the trial did not continue? You said that the trial finished and the program stopped.

Ms BROWN: It did not actually stop. They have still got to it but they have not got the numbers that I actually had.

Ms LEE RHIANNON: It has been scaled back, has it?

Ms BROWN: Yes.

Ms LEE RHIANNON: Was that because there was not enough money or there were not enough students? Why was that?

Ms BROWN: At the time that I actually did it, they were supposed to do year 12 but at that time we only had one Aboriginal student who was in year 12, so we had to take it back to year 8 and year 9 to actually do that program because we actually had 25 students so that is why I did it. But I found out today that the numbers in year 11 and year 12 for Aboriginal people are now higher.

CHAIR: Excellent.

Ms LEE RHIANNON: They are high?

Ms BROWN: Yes.

Ms LEE RHIANNON: Do you think more support is needed for those students?

Ms BROWN: Yes. I think because they actually went through a mentoring process and they have the support of Aboriginal people outside their family and they still recognise those people, so that made that connection and that bond. I think they have still actually got those people who support them outside the family boundary, and that is what they actually need.

Ms LEE RHIANNON: So that is in place?

Ms BROWN: Yes. This gives encouragement for Aboriginal kids to go on further in their education.

CHAIR: Is there anything else you wanted to tell us?

Ms BROWN: I find being a volunteer support person for the police station is helpful and being on the LACAD committee. I have a busy time during my work at the hospital as a liaison officer, but it is rewarding when you can help other people.

CHAIR: Thank you very much. We have not heard about that project before so your information is very important. Thank you for coming.

Ms BROWN: Thank you.

(The witness withdrew)

RICHARD GEOFFREY LLEWELYN DAVIES, Principal Solicitor of the Western Aboriginal Legal Service, sworn and examined:

CHAIR: Are you conversant with the terms of reference for this inquiry?

Mr DAVIES: Yes, I am.

CHAIR: You understand you can ask if you want to give private evidence?

Mr DAVIES: Yes. I do not ask that.

CHAIR: Any questions on notice you may take, we would appreciate if you give your answers by Friday 15 July. What are the major issues in relation to community-based sentences that the Aboriginal community at Bourke and surrounding areas is facing?

Mr DAVIES: One of the major issues is the unequal distribution of community-based sentencing options in remote and rural areas of the State. There are sentencing options available to courts in Sydney, Newcastle and Wollongong, which are simply not available out here, some of which I believe would be most beneficial utilitarian sentencing options—some perhaps not so. An example is the Drug Court and the Youth Drug Court. There are clear drug issues in rural and remote communities, not just in the Aboriginal community but generally. That is an option I believe has been available in Sydney for about five years but has not travelled across the sandstone curtain. I believe the options of the Drug Court and the Youth Drug Court would be valuable sentencing options in the community.

Others have practical difficulties which I am sure you have heard about—for example, periodic detention. The tyranny of distance makes that impossible at this time as a realistic sentencing option for communities like Bourke and other outlying communities. Home detention, in my belief, has some practical difficulties too, particularly in Aboriginal communities. It requires the offender to be basically housebound for a period of time and I believe there are cultural and practical difficulties in expecting somebody, for example, in Bourke in summer to sit in an un-airconditioned house while out there he sees his cousins and aunties and uncles out in the street.

The other difficulties I see for community-based options are simply resourcing. We have talked a lot today about various aspects of supervision. From my experience, my observations, the resources just are not out here on the ground for effective supervision. Certainly the Probation and Parole Service and Juvenile Justice undertake supervision to the best of their abilities, and in my remarks I do not seek to criticise them in any way, but there is a limit to what they can achieve without the intervention of other agencies, without the ability to pinpoint the problem for an issue for an offender and being able to say that that problem needs to be addressed, that problem may have contributed to the offending, but the agencies are not there to refer them to.

There is an unequal distribution of agencies throughout the western area. You heard about the program run by Probation and Parole in Dubbo, the family violence program. That is simply not available out here. There is limited scope here for dealing with drug and alcohol issues. There is a difficulty in obtaining and keeping drug and alcohol workers in remote communities and there is difficulty being under resourced

and being unable to deliver effective longer-term programs. The residential rehabilitation programs as they operate in country areas are by Aboriginal organisations. I believe they are federally funded but they have limited places in my experience.

Even in Dubbo we can have clients accepted to residential rehabilitation programs but more often than not there is a waiting list, often a significant waiting list, to get into those programs. Regularly we are provided with notices by those organisations saying that we cannot take any more people for X weeks, sometimes months. Some of them have limitations on the class of offender they will take. One out here, Orana-Haven, is reluctant to take people charged with domestic violence offences, which is a shame, because, from my experience, alcohol is one of the major contributing factors to domestic violence in the Aboriginal community and generally.

CHAIR: So it is a community-based group with its own criteria?

Mr DAVIES: Yes. I believe it is federally funded. I think it is run by a committee. It has been there for many years, Orana-Haven. If you are going to Yetta Dhinnakkal tomorrow you will pass it on the way if you are travelling by car. They are some of the problems as I see them.

The Hon. GREG PEARCE: I just want to go into a little more detail on your experience of those various sentencing options. We are looking at good behaviour bonds, I suppose, community service orders, periodic detention, home detention and maybe suspended sentences. Can you tell us anything more that may be useful from your experience, particularly to the Aboriginal community, in whether they should be expanded or not? When you first went through it you outlined the current position but I would like to hear a bit more about what you think can happen.

Mr DAVIES: Yes, certainly. I am probably biased, but over the past 10 years I have seen the overall prison population increase by 40 per cent and the Aboriginal component of the prison population increase from 14 per cent to somewhere around 19 per cent. While I believe it is the agenda for government to want to be tough on crime and there are many people in gaol for whom there are no other options and, do not get me wrong, there are many offences and offenders for whom there is no alternative other than a custodial sentence, the problem is that that deals with one aspect of the equation.

The other aspect, in my submission, is there is a need to be tough on the cause of crime, to quote a British Government slogan from a few elections back. That is a real need, otherwise the prison population will continue to increase and while prison serves its purpose as a punishment and as community's retribution against people for their offending, it generally does not turn out people at the other end who are going to be well-adjusted citizens. Many become institutionalised, many are lost to society, and I see a lot of people come out of gaol and almost subconsciously they commit an offence relatively soon afterwards as if to say take me back, I cannot cope. There is a need at the other end to deal with the causes of crime early, swiftly and effectively. In my submission, that cannot be done without putting the resources in.

In my understanding, in implementing its policies, the British Government increased dramatically the funding and resources into hitting the causes of crime on the head at an early stage. In communities such as this it needs to be done with juveniles

because today's juvenile offenders will be tomorrow's adult offenders. Again, after eight years in the Aboriginal Legal Service I have seen kids go from petty street crime as a juvenile to ending up at Bathurst gaol for more serious things. A lot of social issues need to be addressed to deter people from crime. Prison sentences ultimately do not deter people from crime. I know that is one of the elements of setting an appropriate sentence but, as Mr Justice Greg James said in a case I was in not long ago, he did not think that a man who was in a drunken, jealous rage and was beating his wife to a pulp would turn his mind to the unreported judgments of the Court of Criminal Appeal and say: I should not be doing this.

I am diverging from the question, but there needs to be, in the words that are used today, a holistic approach to dealing with the causes of crime in communities such as Dubbo or Bourke. That involves all the relevant government agencies being on the ground, resourced to deal with issues such as why are kids not going to school, to the high level of illiteracy in Aboriginal communities, to why are kids on the street? There are often good reasons why kids are on the street, because life at home is unbearable. The primary agencies such as Juvenile Justice and Probation and Parole need to have other agencies to tap into and from my observations they are just not on the ground in these communities.

The Hon. GREG PEARCE: In relation to sentencing options, though, we are looking at whether there are any others in addition to the list I gave you before and anything we can recommend on that list. That is what I am seeking assistance from you on.

Mr DAVIES: Community service orders do not seem to be as readily used as they used to be. As you heard, there is a problem with organisations making themselves available to provide work under a community service order. I was disappointed to hear that the local council does not involve itself in that. The local council here does not seem to see itself as having a role or social agenda in dealing with these issues. Over the years the council here has been highly vocal on law and order issues but as the government, as it were, of this area it needs to address those issues. It has the means and capacity and resources to deal with some of those issues, including employment. I have been asked how many Aboriginal employees the council has, **not** that there will not be Aboriginal employees, but I do not know how many or how representative the Aboriginal employment [by the Council] is of the community at large.

The name of the Western Aboriginal Legal Service was mentioned earlier as a work agency. That is not the case. I think we were approached at one stage and I obviously took the view that it would be highly inappropriate for us as legal representatives of the offender to be imposing his or her punishment. So we are certainly not involved in that. There is a problem with finding work placements and as a result that option is not available for a lot of people. There has been an increase in the number of suspended sentences. The suspended sentence is a popular penalty imposed by the circle sentencing group in Dubbo.

The Hon. GREG PEARCE: Are there any problems with suspended sentences?

Mr DAVIES: Not really. It is an option gone to sometimes I think too readily without looking at other options first. While people may think some of these sentencing

options are soft options, they are not. Certainly, suspended sentences are often a sudden death as it were to the offender because it has very limited options for avoiding the sentence becoming a full-time prison sentence.

The Hon. GREG PEARCE: Have you had much experience with home detention?

Mr DAVIES: No, I have not. It just has not been available out here. It came into being since I have been living out here. I had a client at one stage that Judge Nicholson thought might be suitable for home detention because he could live in Sydney. He had a mother living in Sydney and he was assessed but assessed as unsuitable. As I said before, I do have some concerns about its suitability in the Aboriginal community because the cultural aspects of Aboriginal people are not people to sit inside. They are outside people and the social pressures in a small Aboriginal settlement, such as the reserve out here at Bourke. As Mr Pearce suggested earlier, if it could be expanded to encompass an area rather than a simple dwelling it may have some scope. The other thing is from my observations Aboriginal people are mobile. They do not necessarily have one place as home especially the younger people, who often spend days or weeks living with aunts and uncles, cousins.

The Hon. GREG PEARCE: What is your experience with periodic detention?

Mr DAVIES: again, very limited because it has not been available here. I was working in Broken Hill at the time it was introduced there but it was not regularly used. It is simply not an option because of the tyranny of distance for people. In Dubbo some people gave the magistrate guarantees that they have the means of getting to Bathurst but it is something that probation and parole would not ordinarily recommend because of the practical difficulties. Again, it is an option that could be considered if, for example, Yetta Dhinnakkal were to acquire a periodic detention facility and Corrective Services was able to provide transport to and from there, then that might be an option in a community like Brewarrina or Bourke.

The Hon. GREG PEARCE: Would it assist in any way to have that as an option?

Mr DAVIES: I believe so, as a last port of call for some people. A place like Yetta Dhinnakkal, rather than a place like Bathurst gaol, has the means and the opportunity to provide some constructive input in those weekends of periodic detention—cultural awareness training, some counselling—and it might be a valuable option if it were locally based.

CHAIR: At the moment periodic detention seems to be structured on just locking people up for two days and not necessarily allowing them to interact in any programs. Would you perceive it would be wise for us to recommend that periodic detainees also have to be involved in something?

Mr DAVIES: If there was a need. If when probation and parole are preparing a presentence report and identify issues that need to be addressed, the weekends could be well utilised in undergoing counselling programs, family violence programs, mental health counselling. I have not mentioned mental health but that is a significant issue which goes unaddressed in rural and remote communities. Again that is something

which probation and parole often pinpoint when they are preparing a report or have knowledge of the person from years past and are aware of the problem but the opportunity to deal with it is not always there. There is not a lot of co-operation from the area health service mental health teams with people who are in the court system. Their preference is for people who come in off the street. We do not get a lot of co-operation from the area health service in providing reports to courts. This is an issue that Professor Greenburg from Justice Health has taken up a number of times with the area health service in our area.

CHAIR: You do not know what the staffing is like in this western area for mental health.

Mr DAVIES: I do not, I am afraid, no.

CHAIR: Because there has been some major recruitment.

Mr DAVIES: I do not know how often they are visited by a psychiatrist. They would have, at most, mental health nurses administering the mental health programs but no doubt there may be a visiting psychiatrist but I do not know.

Ms LEE RHIANNON: In response to an earlier question you commented about the fact that the council is not making places available for community sentencing. Do you think there is also, as well as their being fewer opportunities, do you think it is an issue of attitude, that people may not want to be participating in it and if so that may be something that we need to address. Do you think it is attitude as well as placements just not being there?

Mr DAVIES: By the offender?

Ms LEE RHIANNON: No, not by the offender—by council and community organisations. Do you think there is an unwillingness to participate in community-based sentencing?

Mr DAVIES: That seems to be here. A community service order is an option that has been around for many years. As I recall it, the council had previously been involved in those programs. Councils across the State are involved as a primary agency in providing the work, as I understand it.

Ms LEE RHIANNON: So that seems to be a factor here. Do you think that a useful recommendation from this Committee could be for there to be publicity information provided to local communities about the advantages of supporting this scheme?

Mr DAVIES: Most definitely. As I said, community service orders appear to be used less frequently these days than in the past. I believe they are a valuable option for people who may have lives that are dysfunctional, who have not had a lot of guidance in their lives. It is an opportunity not only to do the work as the punishment but also to perhaps in many cases work for the first time in their lives.

Ms LEE RHIANNON: Do you think that such programs are more successful in reducing recidivism than going to gaol?

Mr DAVIES: They are more constructive. From my observation, Corrective Services does not have the resources to seriously address lot of issues like mental health, drug and alcohol, anger management or domestic violence. From my understanding, it does not run those kinds of programs. They have some drug and alcohol programs but I believe that community-based programs are the best option for trying to—we will never succeed in every case—address the causes of crime before gaol becomes the only option for the offender. Once you get to that stage then to a large extent we have lost that person as a member of society.

Ms LEE RHIANNON: With the causes of crime in Bourke, what do you see are the key social issues that are causing people to commit crimes?

Mr DAVIES: I would agree with some of the opinions expressed earlier—lack of employment, to some extent lack of direction but unemployment in many families is a generational issue and unemployment leads to a lack of self-respect, which leads to alcohol abuse, drug abuse, violence.

Ms LEE RHIANNON: If those factors are not being addressed is the success of community sentencing limited?

Mr DAVIES: No. If it is resourced, if the agencies are here, undertake to be in Bourke all the time to undertake the work. The agencies need to perhaps work—not perhaps, definitely to work with the community if penalties are going to be seen as an Anglo-Saxon solution to what to a large extent are Aboriginal community problems then they may not be as successful as they might otherwise be if there were consultations with the community. Community involvement in the programs, community employment programs, and probation and parole might be more successful if there were Aboriginal liaison officers.

Ms LEE RHIANNON: So a high level of involvement of the community.

Mr DAVIES: If it is seen as not only the State Government's response to the crime but the community's response to the crime as well, then it may be more effective. I think the Aboriginal Justice agreement that the Attorney Generals launched recently as a statement of principle acknowledges the need for Aboriginal communities and families and people to take some control of the situation and participate in dealing with it, and that is the beauty of circle sentencing. I hope that circle sentencing is rolled out further because certainly it seems to me—and I do not have the statistics—from operating in Dubbo for two years it has been effective in reducing the rate of recidivism. It has had some spectacular failures too. The first person to do it failed fairly quickly but a lot of people have gone through it now and it has had some successes.

Ms LEE RHIANNON: We have heard evidence that some young Aboriginal men who have committed crimes, their aim is to get into gaol at some point. Some witnesses went so far as to suggest that they have an understanding of the level of crime and what the response will be and whether it will be community service orders or going to gaol. Is that something that you come up against?

Mr DAVIES: I have known one fellow to say that he wanted to go to gaol because he wanted to be with his father who was serving a sentence in gaol, which is very sad.

Ms LEE RHIANNON: Is it as widespread?

Mr DAVIES: That is the only case I have heard of from dealing with offenders on a daily basis.

Ms LEE RHIANNON: So community sentencing for the people you are dealing with would be a real option?

Mr DAVIES: Yes, certainly.

The Hon. GREG PEARCE: What else can you think of that might assist to get over some of those problems with community sentencing for Aboriginal communities that we have already talked about? I floated the idea of redefining the home. What else can you think of that might address some of the cultural issues?

Mr DAVIES: Really, by community involvement and the community taking some part in the sentencing process and administering the programs. To a large extent the remedy is still seen as a white man imposed remedy—"This is what we say is good for you". If the community accept that as a viable remedy and are invited to play a part in it, then I think the offenders might be more receptive to it.

The Hon. GREG PEARCE: You almost need to run it through a circle sentencing process and then, if a community penalty is imposed, you would want to keep the community involved through that stage?

Mr DAVIES: Yes.

The Hon. GREG PEARCE: And the other idea was the use of a mentor?

Mr DAVIES: Well, certainly for juveniles. I think mentor programs have been tried in the past with some limited success. I do not know specifically about them, but that is certainly an option for kids who do not have perhaps a positive role model—to have somebody there for them, to keep an eye on them. The intensive court supervision program, which started here in Bourke and Brewarrina this year, aims, to some extent, to provide that guidance.

Again, it is dependent on the involvement of other agencies and I do not know to what extent other agencies are involved. If a kid is being truant, the local school needs to be involved and to look at ways of enticing that kid back to school. Community-based sentencing really involves spotting the problems early and dealing with them—not ignoring them—before we get to the stage where there are no other options but gaol.

The Hon. GREG PEARCE: Do you work directly with police ACLOs?

Mr DAVIES: Not directly. We have our own field officers and one of them, Dawn Smith, is our field officer from Bourke. To some extent they assist us in talking to

clients—often difficult clients. They sometimes assist in locating clients. That is the primary role of our field officers, but certainly we have a relationship with ACLOs. There are two in Dubbo, two here and two in Brewarrina.

The Hon. GREG PEARCE: Finally, is there anything else you would like to see come out of this inquiry?

Mr DAVIES: I would probably come back to my earlier remarks, that it seems to me that part of the equation "Tough on crime; tough on the causes of crime"—the part "being touch on the causes of crime" does not seem to work out here. I cannot speak about what happens in metropolitan areas, but that part of the equation is not here and more and more Aboriginal people are ending up in gaol.

The statistics of Aboriginal women in gaol are quite frightening. There has been a 250 per cent increase in recent years. In most cases it is probably warranted; it is probably the only option, but that situation just cannot continue. There needs to be some attempt to curtail the rate of increase and hopefully that will result in a reduction in the number of Aboriginal people in custody.

There will always be crimes and there will always be offenders for whom there is no other option, but I believe we need to be serious about stopping it getting to that stage, and community-based sentencing options are the ideal vehicle for that. They have a limited life. Obviously, bonds last for one or two years and community service orders for the duration of the order, but if the problems are identified and treatment of those problems is commenced during that time, then hopefully that can continue after the end of the bond or the community service order.

CHAIR: Do you think that some of the issues in relation to the larger number of Aboriginal people in gaol are the result of them being more visible so they get caught more easily?

Mr DAVIES: It has always been an issue and there have been studies undertaken by Chris Cunneen from Sydney University that in the smaller towns, such as those along the river like Wilcannia, Wentworth and Dareton down on the Victorian border, here and Brewarrina, Walgett and some of the other towns further east, the ratio of police to citizen is incredibly much higher than in the suburbs of Sydney and there is a greater exposure—there is greater exposure for Aboriginal people who, culturally, would rather be out and about than inside. I suppose it has been a documented fact that in towns like this the risk of arrest is greater.

Ms LEE RHIANNON: Because there are so many extra police officers, do they feel they need to be doing their job, and their job is arresting people? The superintendent earlier said that that was their job?

Mr DAVIES: Well, certainly.

Ms LEE RHIANNON: There are more of them so more people will be arrested?

Mr DAVIES: In the past it has led to what we used to call a trifecta. For example, if we have an alcohol-free zone and there is a black fellow, sitting in the gutter,

drinking. A policeman comes along and tips his grog into the gutter. He says something to the policeman—I will not give an example, but he swears at the policeman and he is arrested. That then leads to him resisting arrest and possibly assaulting police. They then get back to the station, where he is feeling sorry for himself, so he starts abusing the police officer and it then becomes an intimidation charge.

You do not see as much of that these days as one did in the past, but this is an example of having greater exposure to police. Part of it is a cultural thing because Aboriginal people are outside. It is their culture not to sit indoors around the fire, but to have a fire bucket out in the yard. People go to each other's houses, they talk on the street and they socialise in the street. I understand that Mary Ryan, who is our resident solicitor in Bourke, is at Cobar court today, but she did email a paper to the Committee on Sunday that addresses the situation here in Bourke and I would like to table that.

Document tabled.

CHAIR: It will now become a public document and I thank you very much for your excellent evidence.

(The witness withdrew)

(Luncheon adjournment)