

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

**INQUIRY INTO THE FAMILY RESPONSE TO
THE MURDERS IN BOWRAVILLE**

At Macksville on 1 May 2014

CORRECTED

The Committee met at 1.53 p.m.

PRESENT

The Hon. D. Clarke (Chair)

The Hon. Catherine Cusack

The Hon. S. MacDonald

The Hon. S. Mitchell

The Hon. S. Moselmane

The Hon. P. T. Primrose

Mr D. M. Shoebridge

GARY JUBELIN, NSW Police Force, sworn and examined:

CHAIR: Welcome to this inquiry into the family response to the murders at Bowraville. The Committee is conducting this inquiry at the direction of the Parliament of New South Wales. Thank you for being here today. We welcome you to this first hearing of the Committee's inquiry into the family response to the murders in Bowraville. The inquiry is examining the response to the murders of Colleen Walker-Craig, Evelyn Greenup and Clinton Speedy-Duroux and the impact that they have had on family members and their community. On behalf of the Committee, I acknowledge that we are meeting today on the traditional country of the Gumbaynggirr people. We pay our respects to the elders past and present and thank them for their custodianship of this land.

About 24 years ago in this area some wicked deeds occurred when these three children were murdered in brutal circumstances. It is the hope of everybody here, and certainly of members of this Committee, that at some stage justice will be done and that the perpetrator of those evil, wicked deeds will be brought to justice. The Committee has specific terms of reference and it will be adhering to them. I remind everybody that the Committee is not able to reinvestigate the murders of the three children or to review the decisions of the court. It is also unable to examine the merits of any case for prosecution or the application of the double jeopardy legislation. I ask everyone to keep their comments within the terms of reference, which are designed to give people an opportunity to talk about the impact that these murders have had on the families and the community.

Today's hearing is the first of three that the Committee plans to hold for this inquiry. It will hear today from witnesses who have worked with the Bowraville community over the years, such as Detective Inspector Gary Jubelin, Dr Diana Eades and local support services. Tomorrow the Committee will be holding a private roundtable hearing at which it will hear only from the family members of the three children. Those sessions will be closed to the public and the media. Pending the agreement of the witnesses, the evidence may be subsequently published. On 12 May the Committee will hold its final public hearing and take evidence from witnesses at the Jumbunna Indigenous House of Learning, the University of Technology, Sydney and Allens Arthur Robinson, the solicitors who have assisted the Bowraville communities.

Before we commence I will make some brief comments about the procedure for today's hearing. In accordance with the broadcasting guidelines, while members of the media may film or report Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat staff. Witnesses who give evidence at committee hearings are protected by parliamentary privilege. This means that submissions and oral evidence given before a committee can be made freely and honestly without fear or threat of legal action for defamation. At the same time, committee hearings and submissions are not an opportunity to make adverse comments or accusation about individuals. Comments made outside a hearing do not receive the protection of parliamentary privilege.

I urge witnesses to be cautious about their comments to the media and others after they complete their evidence. Such comments would not be protected by parliamentary privilege if, for example, another person decided to take action for defamation. I remind everyone that committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that the witnesses focus on the issues raised by the inquiry terms of reference and to avoid naming individuals unnecessarily. In particular, the Committee requests witnesses to avoid naming the alleged perpetrator of these crimes.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Witnesses are advised that any messages should be delivered to Committee members through the Committee staff. Finally, I ask everyone to turn off their mobile phones for the duration of the hearing. I welcome our first witness, Detective Inspector Gary Jubelin. Thank you for being with us today and also for the work that you have done over the past two decades and more on this case. Would you like to make an opening statement?

Mr JUBELIN: Thank you very much for giving me the opportunity to speak to the Committee today. I hope I will be able to provide information that will give members an understanding of the issues that have so tragically impacted on the families in their effort to get justice for the murders of their three children—Colleen,

Evelyn and Clinton. I represent the NSW Police Force. I have more than 20 years' experience as a homicide detective. I am supported here today by my commander, Detective Superintendent Michael Willing, who shares my frustrations about the fact that we believe we know who is responsible for the serial killing of three children but that person has not been brought to justice. The resolve and tenacity that the families have shown over the past 22 to 23 years in an effort to get justice for their children can only be described as amazing. It is a great tribute to the children's memory and the life they were living with their families when they were so tragically taken away.

Having worked on this matter since 1996 I feel that I am well placed to say that the families have been let down by the justice system. Given the situation that the families found themselves in it would be reasonable for them to assume that the authorities would provide a suitable response to a serial killer preying on the community—as any community would. Unfortunately that was not provided. Issues have impacted on this investigation. It is very nice for society to say that all victims are treated equally. Unfortunately in this situation I do not think that is entirely correct. I am a homicide detective; I am not a do-gooder or a bleeding heart. However, race and to a lesser degree socioeconomic factors have impacted on the manner in which these matters have been investigated.

The NSW Police Force acknowledges that the original investigation could have been better. We accept the fact that investigative opportunities were missed. We have tried to rectify that situation over the years with the reinvestigation. When we look at the investigation we need to consider why a detective sergeant with no homicide experience was put in charge of an investigation into a serial killer. Given the disparity between the experience and resources provided to investigate the North Shore granny killings, which involved a serial murderer, or the Ivan Milat murder case, it is easy to understand the family's point of view. All of my comments relate to the feelings of the family because I am mindful of the terms of reference. It is easy to understand why the families felt the authorities did not think the murder of their children counted. It is not a matter of blaming individuals for the failure of the investigation. A series of things have impacted on the attempts to get justice for the families.

I have been investigating crimes for 20 years and I am still shocked by the lack of interest that has been shown in this matter. I do not say that lightly; I have been investigating homicides for 20 years. We have a serial killer and three children were murdered. It has been heartbreaking to see the families' suffering. The only time they seem to get things happening is when they attract the media's attention or when they publicly protest. That is very unfortunate. The families know the reason. The families told me the reason when I first met them in 1997. They said, "It's because we're Aboriginal." At the time when I met the families I did not believe them. Unfortunately, the truth of the matter is, having worked with the families now for the past 18 years, I think they identified the problem. That is very unfortunate.

In regard to the actual investigation and how it impacts on the family—and this comes to the very heart of the matter—could these matters have been solved? Yes, they could have. Should they have been solved? Yes, they should have. I think they still can be solved. Based on my experience as a homicide detective, I feel that we already have the evidence available to convict this person at court. But that would be on the basis that all three matters were heard at court simultaneously so all the evidence was heard together. That has not happened, and I know that has been a frustration of the families for a very long time.

I would also like to say that there needs to be an attitudinal change to the way in which the submissions that we have made following the double jeopardy legislation have been provided. I am mindful again that this is not in the terms of reference of the inquiry, but if you could indulge me because it does impact directly on the families. This is a very complex matter. This has gone on for 23 years, there have been two investigations, two murder trials, three coronial inquests, numerous inquiries and numerous submissions.

I am choosing my words very carefully here but I think the lack of consultation that has been had with the police in regard to the assessment of the material is somewhat disgraceful. I will always defer to an informed legal person. Unfortunately, to be an informed legal person you have to be informed. There have been mistakes made in the assessment of the material that we have presented because there has been lack of consultation. There have been exceptions, I acknowledge that, but in a general sense for the majority of the applications the consultation with police has been, if not non-existent, minimal.

You have a submission before the Committee from Jumbunna Indigenous House of Learning prepared by Professor Larissa Behrendt and solicitor Craig Longman. They have identified some of the failings in the assessments of the material that we have provided. I have also had the opportunity to read all the public

submissions made to the Committee and I share in the families' sentiments of the pain that they have suffered. It is not just from the tragedy of the murdered children; it is the pain that they continue to suffer when they feel that the authorities are letting them down in their endeavours for justice. It is not a case of the authorities coming to them and saying, "Come on, let's do this for you." It is a case of the families campaigning tirelessly, tirelessly pushing for something to be done about the justice of their children. That is very sad.

Of the submissions that have been provided, I respectfully invite you to look at the submissions by Dr Diana Eades, who I know is giving evidence shortly, the Jumbunna Indigenous House of Learning, the submission by Allens law firm and the submission by Indigenous Psychological Services. I think they clearly identify the issues that I have seen and they articulate it better than I can articulate it that there has been a barrier to the families getting justice and to easing their pain.

There is one submission that I have read that has disappointed me and it, unfortunately, reiterates the types of issues that the family have been confronted with. That is a submission, unfortunately, from the New South Wales Government. It is a 4½ page submission and, unfortunately, there are mistakes in the submission. It is factually wrong in some of the content of the submission and I think it highlights what the families have been saying to me that people do not care. Being a homicide investigator, I know the importance of attention to detail. When we get a submission on such an important issue as the murder of three children from the New South Wales Government and there are failings in that submission or misinformation it reflects badly on the situation.

In finishing—and this is what it is about—how do the families find closure with this situation? The reality is you can never find closure when three children have been murdered, but it would assist them greatly if they got justice for the murder of their three children. The families will be addressing you and you can hear from the families, but I do not believe the families, in my dealings with them, will feel that everything has been done until all three matters are heard at court at the same time. By way of comparison, with the Ivan Milat case—and there is nothing different with the Ivan Milat backpacker case; we are talking a serial killer here—his trials had all the offences linked together. The Bowraville people have not had that luxury; their trials were separated.

I can say on good authority that if Ivan Milat's trials were separated there is a strong likelihood that he would be acquitted of all the offences and perhaps be walking the streets. That is what the Bowraville people are facing. It is very unfortunate. I hope this Committee or inquiry can bring some form of closure, but I know from the families' point of view, having worked with them for such a long time, that closure will come in the form of justice for the murder of their three children. Thank you for your time.

CHAIR: As the opening question at this inquiry, keeping in mind that the impact on the families is very central to us in this, you are going to continue in pursuing this issue, are you not?

Mr JUBELIN: I will continue in pursuing this issue. It is not just me; it is the New South Wales Police that will continue to pursue this. The support that I have had from my commander Mick Willing, the commander of homicide who is here today, is indicative of the fact that we want to see justice done for the families. The reality is that we believe we have the evidence. In terms of how we pursue that, that is another issue. There is no barrier, as I understand, to making further applications on the same basis that we have made applications. It would be unfortunate if those applications were not treated with the respect they deserve and reviewed in the manner in which I think is important.

I can assure the families we will not forget about these crimes. They are unsolved and, as far as we are concerned, we will continue to do everything humanly possible to bring justice to the families. But I should clarify, I do not want to give them false hope and expect miracle evidence is going to turn up. I am saying to the families: We have got the evidence, we just need to fight the fight for it.

CHAIR: I am sure the families are much comforted by the fact that you are continuing to pursue this matter in any way you can, indeed as you have done over the past two decades. There has been much discussion of the shortcomings of the original police investigation into the deaths of the three children and the impact on the families. Are the systems that are currently in place for training staff in cultural awareness adequate? How could they be improved? You can take these questions on notice because some of them may require extensive answers and you may wish to refer to other materials. If you wish to take questions on notice please indicate that.

Mr JUBELIN: I appreciate the offer. I can answer briefly in terms of cultural awareness within the New South Wales Police. The training is on a two-tiered basis. The first tier is for all initial recruits into the

police. They undergo four hours training on cultural awareness. That is delivered by indigenous trainers and it is a general, broad sense training about Indigenous issues. The second tier relates to I think 40 local area commands throughout the State that have a high population of Indigenous members within the community. They receive a day's training again from Indigenous trainers that highlights not just local issues with the Indigenous community but also the historical issues stemming from that area. That is the training that is in place.

I could provide further information. The corporate spokesperson for Indigenous issues is Assistant Commissioner Geoff McKechnie. If the Committee requires it, I could formalise the information I have provided on the general training that I have just described. In regard to the cultural awareness issues stemming from what we have learnt in this investigation, on the back of the submission to the Committee here I have had communications with my senior management and they are very keen at this stage. I have done a proposal in the submission to utilise the information that we have learnt in dealing with the situation we have been confronted with in Bowraville. It is a training package that might be in the form of a case study. At what level that would be delivered, whether it is initial training or possibly more appropriate as a detective's training course, is something that is now under review and consideration.

CHAIR: We would appreciate any additional information that you can provide us. We will take you up on the offer that you have just made.

Mr JUBELIN: Okay. I will make sure I will.

CHAIR: Could you please discuss some of the methods you use to establish trust between yourselves and members of the community and how those methods might be replicated by other officers more broadly?

Mr JUBELIN: Yes, I am happy to discuss this. When I became involved it was the start of the reinvestigation, so the murder of the three children had happened five or six years beforehand. Rightly so, the families were not satisfied with the police response at that time and no-one had been called to account. With the reinvestigation our first position was to make sure that we understood the history of the situation. The original investigation probably did not fully appreciate—this is with the benefit of hindsight so it is not a criticism of individuals, but there had to be an acceptance of the history, not just in the Bowraville community but the history of the Indigenous community and police officers. We acknowledged that there were problems and we tried to heal that by creating trust.

From a personal point of view, and when I say from a personal point of view I mean from the strike force, what we did differently was made sure that we spent time with the community so that there was a trust that developed between the community members and the police. The trust that had developed made the community more comfortable when dealing with the police during the reinvestigation. We also had to put aside any issues such as animosity or antagonism towards the police when we were meeting with the community. It was important for us to understand that that was not directed at us personally but it was directed at the history of the matter. Having accepted that and seeing that the community understood that we were not taking things personally and that we were genuinely there to help it, that trust developed.

We had to change—and this is a learning process for me; I am talking you through what I was learning from the time I came up here in early 1997—the methods in which we interviewed the Indigenous witnesses. If we went through the normal process that we would in a big city, let's say, it was different. We had to approach things and create an environment where there was trust between the Indigenous community and the police and take our time to get the information and not rush it. Unfortunately when we came up here we were homicide detectives from the city and we were used to working to a time frame and the community gave us a subtle clip over the ear and reminded us that they would do it on their time. When we fell into line with community, we found that we got a lot more information from them.

I am aware that Dr Diana Eades is giving evidence after me. She will be able to explain a lot of things that I am now going to touch on. I picked up that there were also communication difficulties. It is a learning that police could carry on. It is certainly something that I would promote if I deliver training in the form of a case study. There could be subtle differences with the communication, but if police misread those communications, we can head off in the wrong direction. That might have possibly been what happened with the original investigation; time was not spent. There are a lot of subtle differences to the way that we approached it and it is a learning process. In summing up, what we did differently was that we had no police that worked in the local

area, so the community were comfortable in the fact that we were there to solve the murder of their children and we were not involved in the day-to-day policing. That was a step forward.

It was very important to them that the Commissioner of Police attended. A frustration of the families for a long time has been that people in positions of authority do not come up and see the issues here. That mended the relationship between police and the Indigenous community a great deal, so that helped us. We were also given training outside of normal police training on cultural awareness so we understood some of the issues. There was a personality situation too. The community are very aware, for whatever reason, there might be an underlining prejudice or whatever from people. It was very important that we had the community on side. I found that it enabled us to gather a lot more evidence than the original investigation because of the approaches that we took. Some of the changes were subtle, but those subtle changes made a big difference. I talked about the cultural differences. Some of the failings of the original investigation could only be described as poor policing and it was not based on cultural or communication issues.

CHAIR: Thank you.

The Hon. PETER PRIMROSE: Thank you Inspector Jubelin. I begin by saying how impressive you are as a witness.

Mr JUBELIN: Thank you very much.

The Hon. PETER PRIMROSE: What is the most important thing that you would like this Committee to recommend to the Parliament?

Mr JUBELIN: I think what really needs to be done for the families is to get justice, and that is my main focus, but I also understand it is an issue that causes the families a lot of concern. I have stated that I think there is enough evidence there for the matters to be successfully tried at court if all three matters were put before the courts. I should clarify that is not just my opinion. That opinion is supported by some very experienced legal people, however, to do that we have to get through the barrier of this application, following the changes to double jeopardy. I cannot stress strongly enough that if anyone is assessing this material, because of the complexities of it and the subtle problems with communication styles and whatnot, a proper assessment cannot be done unless the person or group of people, whoever that might be, sit down with the police and go through the evidence that we have gathered piece by piece. Unfortunately, I do not think that has happened. As you will see in the submission by Jumbunna, that has caused a number of facts to have been missed.

In summing up, what I think needs to be done or what I would like to see done is for an independent person to review the material. That has been a frustration of the families during their course of endeavours for justice. Every time we have put a submission in, the families have asked for an independent person to review it, a fresh set of eyes, not someone who has reviewed them. They just want a fresh set of eyes. I think that is important. The most important thing to understand the complexities is consultation with the police. I do not say that lightly. Legal people have their role but police can bring something to the table as well and that is an understanding of all the issues. I dare say that if I sat in the room with someone, not for an hour's consultation here or there but it might take three or four weeks to get through the sheer volume of evidence, wherever the problems are found, I could point out the solutions to those problems.

Very quickly, one other part to that is the submission by Allen's law firm that address the issue on the legislation. Again, I know it is outside the parameters of the inquiry, I am very much aware of that but, to me, in layman's terms it seems that they are talking about a very simple solution. The case law they are suggesting to be followed is case law from the United Kingdom. It sounds like an appropriate solution to the legislation and the meaning of the legislation.

Mr DAVID SHOEBRIDGE: I thank the community for the welcome today and acknowledge we are meeting on Aboriginal land and pay my respects to those past and present, many of whom are in this hearing room again today. Thank you again for the welcome. Inspector Jubelin, thank you for the work you have done. Many people give you credit for re-establishing the trust between the police and the community in Bowraville and that is well deserved. When I have spoken to many members of the community, one of the repeated refrains that comes from them is if this had been three white kids on the North Shore and not three Aboriginal kids on the mid North Coast we would not be waiting a quarter of a century for justice. What do you say to that response from the community?

Mr JUBELIN: I think the community are 100 per cent right. I cannot shy away from it. I tried to touch on that in my opening address. It is an uncomfortable truth, but it is a reality. To say that the attention that the families have been given is somewhat disappointing is understating it. I have been a homicide detective for many years. I know which matters get attention and which matters do not get attention. I am talking about the media and public interest. It is very, very sad how these matters seem to be forgotten. We are talking about the murder of three children living in the same street over a five-month period. It should have been solved and it could have been solved if the appropriate attention was given.

I bring it back to the detective sergeant. Again, it is not personal criticism. It is easy to sit here and judge work that was done 20 years ago, but a detective sergeant with no homicide experience was leading a serial killer investigation. I have been doing homicide for 20 years and I learn every day I come to work. You cannot expect someone with that limited experience to run an investigation into a serial killer. The families told me that right from the start in 1997 that people did not care because they are Aboriginal. I naively thought they were wrong, but I 100 per cent support what they say.

Mr DAVID SHOEBRIDGE: The history of this is extremely important to understanding why the community feel like they have been abandoned and the lessons that need to be learned by the police as much as by the Parliament. There was some disturbing evidence given about Evelyn's mother saying that Evelyn had been missing for 12 hours and the response that was given by police at the time was that she had probably gone walkabout.

Mr JUBELIN: Yes.

Mr DAVID SHOEBRIDGE: Is that the kind of cultural insensitivity and cultural failings that you are talking about?

Mr JUBELIN: It is. It is a misunderstanding of cultural issues, it is ignorance. Some of the things that I have encountered whilst working on this investigation have been bigotry, overt racism, and some of it very subtle interpretations. The child has gone walkabout—I cringe when I hear that and the families have told me that time and again. The sighting of a four-year-old child walking around the township of Bowraville—and you have had the opportunity to see the township—with one shoe, unsupervised, and the police, when taking statements, believed that was possible, that potentially she went walkabout. I can say for a fact that if I am heading up a murder investigation now and the families told me that a four-year-old child is a clingy child and would not wander off on their own—as the families did on this occasion—I would accept that as fact. I do not like talking race all the time, but, unfortunately, there are some misinterpretations because of that.

I saw it also during Evelyn's trial in 2006. There was confusion about how Evelyn was being looked after at the time she disappeared. If you were a little bit more informed, you would have understood there were a lot of aunties looking after the child, there were a lot of parents. There is a lot of love in that community. For whatever reason, that was not understood. It is important that when I talk about this, I cannot just blame the police. It is society's view, as well. We are talking about a country town 20 years ago. There were some issues going on and I think that played a part in the failings of the investigation.

Mr DAVID SHOEBRIDGE: When you first came to Bowraville in 1997, you came with your city homicide values, which you fast had to unlearn in order to do this investigation. How do we capture what you have learned and ensure that it gets disseminated to the rest of police in New South Wales? One day's training is not enough.

Mr JUBELIN: No. We talk about culture. We have to change the culture of policing. I have found that police officers are good followers. We like serving an apprenticeship under the person who leads us. So from a leadership point of view or from an experience point of view, it is important that we get the message across that it is just not right. I share with what you say and I understand what you say about one day's training. It does not really mean a great deal. I am not talking about the training of the police, I am talking about training generally. You can sit there and watch a PowerPoint presentation, but it does not capture it. My command has acknowledged that this lends itself to something that can hit home in that we are talking about a homicide investigation into a serial killer. That should attract people's attention from a policing point of view, and then we get the message across. That is the way to change it. I am happy to stand up and point this out to police in very strong terms that it is just not acceptable. Making decisions based on race, culture—whether it is Indigenous or another culture—is something that we need to follow up on.

Mr DAVID SHOEBRIDGE: I appreciate that your submission was adopted and forwarded by the Commissioner. I appreciate that you have senior members of the homicide squad here today. You are not saying this alone; it is disseminating more broadly throughout police. If you could turn your mind to recommendations that we could consider capturing and how we can assist with some recommendations for the police to learn your lessons and apply them across the State, I would appreciate it.

Mr JUBELIN: Okay.

Mr SCOT MacDONALD: It is a little outside the terms of reference, but I just want to go to "fresh and compelling". Putting aside "compelling" for now, would you have any recommendations to the Committee about how we could relook at that? It seems to be the barrier, the complexity, the hesitation about putting forward evidence that might have been adduced originally, and there is some contention around it. The word "fresh" seems to be a real problem. Can you give us any thoughts? I appreciate that you are the Police, you are not the Director of Public Prosecutions, but you have obviously been wrestling with this. So if it is not outside your authority, could you give us an opinion about how we could relook at that or make some recommendations around it?

Mr JUBELIN: I can offer my opinion on the basis of a homicide detective and one that has worked or been heavily involved in the double jeopardy legislation. This is not the only investigation I have worked on since the double jeopardy changes. "Fresh" is a big sticking point, and one of the biggest sticking points in this particular matter is the Norco Corner evidence, and the word "adduced". If I could just tell a brief story, I sat around with some very informed legal people when they were assessing the last application. We sat in a room for about an hour and talked about what the meaning of the word "adduced" is. I did not have much to offer because I was out of my depth with the legal expertise in the room. But I just made the point at the end that it seems quite strange that we are talking about convicting a serial killer or putting a serial killer away and we are here arguing about the word "adduced". The submission by Allens law firm I think focuses very much on the legislation and on what the meaning of the word "adduced" is, or how it could be interpreted. My understanding is that they are relying upon case law from the United Kingdom because it is fresh evidence. It is not a matter of changing the legislation, as I understand it; it is a matter of just interpreting the meaning of the word "adduced".

How does that impact from a policing point of view? I am frustrated that the Norco Corner evidence has not got in, but I would like to highlight the fact of the Norco Corner evidence, the new legislation and how complex it is. When Mr Cowdery headed up the DPP, we put in a submission in I think 2006, straight after the legislation came in, in regards to the Norco Corner evidence, and he accepted that it was fresh but said that it was not compelling. So it was "fresh" but "not compelling" from Mr Cowdery. In the rejection from the Attorney General Greg Smith—the most recent one—there is a complete backflip: it is compelling but not fresh. They are two very informed legal people and they have conflicting ideas on the interpretation of the evidence. They looked at the same set of evidence and they came up with completely conflicting viewpoints—in writing—on it. That is causing the families confusion because they look at it and say, "Well, hold on, he is saying it is fresh and compelling, and he is saying it is compelling but not fresh". So it is a complex issue.

CHAIR: If we required clarification of the definition in the legislation by the Parliament—

Mr JUBELIN: Yes.

CHAIR: You would be suggesting that, would you?

Mr JUBELIN: I certainly would, and I would suggest I would be following the lead or the recommendations of Allens. The legal expertise that I met with when dealing with Allens just confounded me, the expertise that they brought to the table, and I think that is a possible solution. I also bring this back to when the double jeopardy legislation was brought in. My understanding is that it was mentioned in your Parliament on the basis that we need to bring this legislation in for the people of Bowraville to correct a situation that was clearly wrong. That was the intent of the legislation and I think if the legislation was brought in for that intent and it is not working, what does that say about the legislation? Having said all of that, however, I still maintain humbly in my role as a detective, if we can get all this evidence before the court and all three matters there would be a strong likelihood that a jury would convict the person that we believe is the serial killer.

Mr SCOT MacDONALD: You mentioned in your introduction that you thought there were some flaws in the New South Wales Government's submission.

Mr JUBELIN: Yes.

Mr SCOT MacDONALD: I will not ask you to go into it now, but will you take it on notice that we would like a bit of detail on that?

Mr JUBELIN: I will quite happily provide it in writing, if you like, where the flaws are or inconsistencies.

Mr SCOT MacDONALD: In the Government's response?

Mr JUBELIN: Yes.

Mr SCOT MacDONALD: I have a personal view that the person that we are talking about should have the opportunity to put in a submission or appear, and that is not uniformly supported by everybody, but in my view we have to hear from everybody. Do you have any response to that?

Mr DAVID SHOEBRIDGE: Before that question is put, I think we should clarify that this Committee has always been open to accept invitations from anybody, and anyone in New South Wales can make a submission. I want to be clear that this Committee has always been open.

Mr SCOT MacDONALD: But invited to appear.

Mr JUBELIN: I probably could answer that with the fact that last week I had a lengthy conversation with the solicitor of the person that we are talking about and I talked about the fact that he has only given a version of events on one of the matters and has not given his side of the story, so it was an informal discussion. He was fully aware that this inquiry was going on, but was very confident that this person is not going to face any further court action. I assured this particular solicitor that we are not going away, as in the police are not going away, so he is very much aware of it. I am aware that when we had the coronial inquest in 2004 the State Coroner, Mr Abernethy, made a number of attempts to get the person we are talking about to the inquest and for him to have the opportunity to answer all the information that is there. Unfortunately, he stuck by his rights and declined to give evidence, and I think you will find even with a formal direct invitation I would be very surprised if he was prepared or if anyone representing him would be prepared to give evidence in the circumstances.

The Hon. SHAOQUETT MOSELMANE: It was inspiring to listen to you on the last occasion and I can understand why the community has a strong feeling of support for what you do. I support what you do as well.

Mr JUBELIN: Thank you for that. Could I just put it on record that I am the figurehead of the investigation but I have a lot of other people that have worked with me during the course of it.

The Hon. SHAOQUETT MOSELMANE: It seems to me that the central aspect of the investigation is Norco Corner, as you have repeatedly said, and it is a compelling piece of evidence.

Mr JUBELIN: Yes.

The Hon. SHAOQUETT MOSELMANE: Can you elaborate a little on how compelling it is for these murder cases?

Mr JUBELIN: I can, and I am mindful that it is a public hearing but I am also mindful that this information has been out in the public, and they have covered it in detail on *Four Corners*, so the information is out there. When Clinton Speedy disappeared it was in the early hours of the morning. Clinton Speedy was at a location occupied by a person of interest, and that was where Clinton Speedy was last seen alive. A very short distance from where Clinton Speedy was last seen alive—and I am talking in riddles, so I will be clearer on it—Clinton Speedy was in a caravan with his girlfriend and another person. During the course of the night, Clinton Speedy disappeared. At the same time, the person that occupied the caravan left in a vehicle, the whereabouts we are not quite sure. He has given a version of events, but from a police point of view there was suspicion attached to why a person would get in a car and leave and then come back in the early hours of the morning.

At about four or five o'clock in the morning two truck drivers came around the corner that is known as Norco Corner—it is a sweeping left-hand bend leading into the town—and as they came around the corner, there was an unconscious Aboriginal boy lying on the road. I will not go into all the details, but there was a large male standing over the unconscious Aboriginal male and there was a car parked there with its lights turned off. The truck drivers nearly ran over the head of the unconscious Aboriginal boy lying on the ground. They asked the person standing over the child, "Do you need assistance", and the person said, "No, it's all right, I have phoned the police", or words to that effect.

Where I think that is particularly strange from a police point of view is that, where the car was parked, there was obviously no attempt to protect the person in the position that he was lying. The fact that he said he had made a phone call—I know from good authority that mobile phones were not around or working at that time in Bowraville and there was no public phone nearby. So it sounds very unusual. And from suspicion attached to the actions of a person, I think if I was standing over an unconscious male in a situation like that and someone offered me assistance after he had just been run over, I would not wave them on. So that is sort of the information in a nutshell. I would describe it as strong circumstantial identification evidence in that the description of the car matched the description of the car that the person of interest was seen leaving in, the description of the male standing over the body matched the description of the person of interest, and the description of the unconscious Aboriginal male matched the description of Clinton Speedy, and it was in very close proximity to where he was last seen alive.

Flowing on from that, Clinton Speedy's body was found in bushland and had items of bedding tucked down the front of his pants that were from the premises in which he was last seen alive. This evidence is compelling. Why it was missed—it was brought to the attention of police back then. There are a number of possibilities why it was not followed up. I have racked my brain to identify exactly why. I have a number of opinions. A misinterpretation of the relevance of the information is probably the most likely, and there was one statement that perhaps steered the investigator in a different direction. I have been arguing until I am blue in the face with people that have been assessing this information that it is fresh in that the police did operate with due diligence but that has got lost in the assessment of it. I think it is something that really needs to be nussed out because in my opinion, based on what I understand was presented to the court in the Clinton Speedy trial in which this person was acquitted, if you added the Norco Corner evidence to the equation it would almost make it overwhelming to prosecute the matter. That is just my opinion, but it is an opinion based on a lot of experience in homicide trials.

The Hon. SHAOQUETT MOSELMANE: You have said that you were determined to keep the investigation or inquiry going and to support the community. I am wondering how high up the police hierarchy is that sentiment?

Mr JUBELIN: We have a degree of autonomy in the way that we approach investigations. I have my own style in the way I approach an investigation. I can certainly say I have the full support of Detective Superintendent Mick Willing, the Commander of Homicide, and I think significantly, since Mick took command of homicide, he has taken the opportunity to come up here and actually meet with the families, as the Committee did. Once I get people up here and have a look at what we are actually talking about—and when I say "we", I feel like I need to be the spokesperson for the families to a degree, which is a pretty unusual role for an investigator and not one that I normally take, but their frustration has been that no-one is coming up and actually having a look.

If you have a look, it is not rocket science; it is pretty clear what has happened. In answer to your question, I have the support from my command and I know that just the fact of this parliamentary inquiry has again brought it into focus. We have a lot of work to prioritise, but it has brought the focus in with our command, and I think it was very significant that the commissioner signed off on my submission because that had not been done before. I think that is a huge step forward. This is part of what I have been talking about and what the families have been talking about, making people aware of what has gone on here, and to our eternal frustration—and when I say "our" I mean the families, myself and the police involved in this matter—we just cannot get people interested in it. That has been a frustration for everyone.

The Hon. SARAH MITCHELL: The interaction you have had with the Committee has been really valuable, particularly on the day that we were here a few weeks ago. The time that we spent with you was certainly worthwhile, and I think I speak for all of us when I say that we really appreciated that. One of the things you talked about in your opening remarks was not wanting to raise hopes and expectations. That is something that I know I personally and some of the other Committee members are having difficulty with,

because we hear from the families and we hear the stories, and the things that you have said today are spot on, particularly in terms of community awareness.

Our terms of reference are quite limited, which is frustrating at times, but we have dealt with what we have been given by the Parliament to look at. One of the points is that we are here to report on the family response and the impact of the murders on the community and that goes beyond the days or weeks of the actual murder: it is weeks, months and years later and generations of the families that are still affected. That gives the Committee a wide range of things to look at. You talked about how you thought the families were let down by the justice system and I think that is very much a recurring theme in the submissions that we have received.

I think we can rightly tie that into the terms of reference in terms of the impact and that if the three cases were to be heard today there is a "strong likelihood", was the term you used, of conviction. I do not want to make promises that this Committee cannot keep but if there are ways that the three cases were to be heard together and if the person accused was acquitted—I do not know, I am not a lawyer you have more experience in that area than me—what would be the effect? Is it just that the opportunity has not presented for the three cases to be heard? Is that where the sticking point is with the justice system or is it the outcome if the three cases are potentially eventually heard together?

Mr JUBELIN: I will answer that in parts. The families had the luxury of sitting through a coronial inquest in 2004 at Bellingden court house and that was an interesting experience. The inquest was run over a three week period. Evidence was called in relation to all three matters. The families were there. It was an open court, as coronial matters tend to be, and the families became fully aware of the strength of the evidence against this particular person. I am mindful of the fact that a Coroner's court, compared to a criminal court with an adversarial system, a coronial inquiry has different rules of evidence. For anyone who was there it was fairly clear what happened.

If we jump forward to 2006 where the families attended the trial in relation to the murder of young Evelyn the families were very confused as to why evidence was excluded. Before they went in the witness box they were told, "Do not mention the fact that another child was murdered". The families are sitting there wondering what is going on. I found it difficult and I understand the court system. It was very traumatic for the families. All this other evidence about what has gone on, let us look at the bigger picture, but they have to accept this is the way the trials are run. They did it with dignity but it was very frustrating for them. I do not think, and I base this on lengthy discussions I have had with the families, they will be satisfied that all the evidence is before an appropriate forum until all three matters are heard together.

The process from where we are now with the double jeopardy legislation, the first barrier is that we need a recommendation from the Department of Public Prosecutions or the Attorney General to refer the matter to the Court of Criminal Appeal. At the Court of Criminal Appeal you will have three judges adjudicating on, first of all, whether there is fresh and compelling evidence. That is the first barrier. Then they will take in totality all the other evidence that is available. You would find that then the families know it has been taken as far as it can. I do not offer the families false hope, and I make a real point there that I do not offer the families false hope, in that I would not pursue this matter if I did not think it was solvable and I would tell the families. I think there is nothing crueller than offering them false hope.

In 2006 when this person was acquitted at the Evelyn trial I met with the families in the community hall afterwards and there was a lot of emotion there. I thought maybe we have taken this as far as we can. There was nothing in the legislation that allowed us to pursue it any further. It was from the families' drive I said about the double jeopardy and they said let us start campaigning for the double jeopardy legislation to be overturned. Full credit to them, I did not think it was possible but they did and they kept pushing and the legislation was overturned. Then we have submissions. Taking it as far as the families need to take it, they would be satisfied if the person is convicted, but from a point of view that I would say to the families if we get it to the court with all three matters and we lose it there we have to then accept it. I think that would give closure.

I do add that in the Government submission they talk about a risk in referring it to the Court of Criminal Appeal, which frustrates me because that is an issue that has already been discussed with the people making an assessment of it and the families are prepared to take that risk. They are mindful if they let it drag on much longer there might not be any witnesses left. This has been a long time and the families want this before the court. It is almost disrespectful to the families to say we are not going to proceed with it now because if we take it to the Court of Criminal Appeal and we lose there you cannot go any further. That information is incorrect because no-one has been charged with the murder of Colleen Walker so there is no barrier there.

If, miracle of miracles, the person of interest walked in and confessed—and this is what has been suggested to the families which is ludicrous—they are saying if we have taken it to the Court of Criminal Appeal we would not be able to prosecute him because of the way the legislation is written. That is wrong. We can still prosecute on the Colleen Walker matter if that miracle of miracles happened.

The Hon. SARAH MITCHELL: That is exactly the information I was after, thank you.

The Hon. CATHERINE CUSACK: Can I bring you back to that issue of communication?

Mr JUBELIN: Yes.

The Hon. CATHERINE CUSACK: How many homicides would you have investigated over the years?

Mr JUBELIN: Over 20 years let us say four or five homicides a year. Sometimes I will do an on-call response where you are on call every six weeks and responding to a murder a week every six weeks. I have run probably 20 or so investigations for substantial periods of time over those years.

The Hon. CATHERINE CUSACK: Most of those would have been prosecuted?

Mr JUBELIN: Yes.

The Hon. CATHERINE CUSACK: I want to ask a question in terms of what you would normally expect of the prosecutor in relation to their assessment of the brief of evidence.

Mr JUBELIN: Yes.

The Hon. CATHERINE CUSACK: Can you go through what you would normally expect and where this matter has been different to all those other cases you have experienced?

Mr JUBELIN: I will choose my words carefully. I think as there are different quality police investigators there are different quality prosecutors. What I like, from a very experienced position that I come to this table, is when I take a brief of evidence to a prosecutor I have an expectation that that prosecutor will take it to another level. For example, requisitions, looking at it and saying, "That is good, I see where you have done that but I want this tightened up and I want that tightened up." There are some well-known—I will not name the prosecutors—prosecutors in the State that police love having trials with because of the attention to detail.

The Hon. CATHERINE CUSACK: Excuse me interrupting, essentially you are saying that they spot something that they think is weak in the brief?

Mr JUBELIN: Yes.

The Hon. CATHERINE CUSACK: They will have a conversation with you?

Mr JUBELIN: Yes.

The Hon. CATHERINE CUSACK: So that you have the opportunity to go and address that?

Mr JUBELIN: Exactly. And that is the type of communication that I have an expectation of when dealing with a Crown Prosecutor. I do not care if it is a senior Crown Prosecutor or not, I expect that type of communication. When I do get that type of communication it makes a big difference to the prosecution of the case. I will bring you now to the trial in 2006. I was very frustrated with the lack of any requisitions. It was not a case of "Strengthen the brief here", "It is weak here or there".

I want to preface this conversation by saying it was a casual conversation so we should not draw too much on it. It might have been an off-the-cuff remark but the prosecutor in charge of the matter said before the trial even started, "We are not going to win this case". From a detective's point of view that is about the most deflating opinion you could have from a prosecutor. What we have done with the police is acknowledge the problems from the original investigation. We have gone the extra yard so to speak. I am not saying that to

prosecute this matter would be easy. It might require the prosecutor to go the extra yard. What I feel we went through in the trial in 2006, this is my opinion, is that we went through the motions and we were never going to win a trial going through the motions.

The Hon. CATHERINE CUSACK: Did he say why he did not think you could win the case in 2006?

Mr JUBELIN: We did not have that specific a conversation.

The Hon. CATHERINE CUSACK: He never said, "We are not going to win because of these reasons", "If you can address this it will really help us in our case"?

Mr JUBELIN: In fairness, he probably identified weaknesses but there was no, "We could tighten it up with this or that". That was a frustration. When we are running the trial we are there 24/7 prepared to follow up any information needed but it almost became a situation where we will just go through the motions and we will lose this evidence.

The Hon. CATHERINE CUSACK: That is not your experience with other homicides that you have worked on?

Mr JUBELIN: I have worked with some good Crown Prosecutors and bad Crown Prosecutors, it is probably down the end of—it is hard for me to criticise. I want to say this, we might have had the State's best prosecutor available and we still might not have won that trial but we will never know. With the trial run in 2006 we had someone that I felt was going through the motions and in fairness maybe that is all they are supposed to do. If you want justice in a situation like this you have to go above and beyond. I am not talking about crossing any lines, it is all lawful, it is about putting the effort in. I did not feel that effort was put in.

The Hon. CATHERINE CUSACK: Just on the issue of communication. When the Attorney General, twice in 2010 and once in 2012, declined petitions to go back—

Mr JUBELIN: Yes.

The Hon. CATHERINE CUSACK: —what communication, feedback and guidance did you receive as to how to address these issues in order to go forward? What information was given to you and the police?

Mr JUBELIN: Concerning the submission in 2010 to the Attorney General John Hatzistergos, there was absolutely no communication whatsoever. We provided 12 lever arch folders—I do not need to go over the complexities of the case—but there was absolutely no communication. The families requested that they consult with the police, the police requested that they consult with us and there was no communication whatsoever. I think you will find in the submission by Jumbunna Indigenous House of Learning all the factual errors that were made with regard to the rejection of that application. It is very frustrating.

I will jump forward to an application I put in to the Department of Public Prosecutions. Again, there was no consultation even though I offered and actually physically drove to the location and said, "I am here if you want to speak to me". There was no discussion about the 14 lever arch volumes of evidence that were provided and not one question was asked of me.

The Hon. CATHERINE CUSACK: In relation to the New South Wales Government submission to this inquiry, were you consulted about that submission?

Mr JUBELIN: Answering your questions in part: Following the submission put in June 2011 to Attorney General Greg Smith there was consultation and we pushed up on it. In my opening address I said there were exceptions and there was some consultation had with Crown Solicitor's in regard to that but what I would like to highlight to the Committee is it is easy to say you have consulted with me but I have spent more time talking to the Committee than when I spoke to the people who consulted from Crown Solicitor's. I think to consult on this you need to embed yourself with the police and we need to go through it page by page so you can understand it. There has been frustration at the lack of communication and the families are aware of it. They contact me and say, "Has anyone spoken to you about the applications?" And I say, "No, I have not heard a thing."

The Hon. CATHERINE CUSACK: Why do you think that is, what is this problem?

Mr JUBELIN: There is perhaps an intellectual arrogance that is, understandably, sometimes attached to senior legal people that what does a police officer, not a qualified legal practitioner, have to bring to the table?

The Hon. CATHERINE CUSACK: Do you think lawyers dislike double jeopardy?

Mr JUBELIN: This is anecdotal evidence, but some of the lawyers when I am walking around the courts are aware of my association with the Bowraville investigation. It might just be a flippant comment but they are very much, I fully understand the principle of why, against the principle of double jeopardy. Since the legislation has come in, and I have worked extensively in unsolved homicide where we are dealing with these matters, there has been no prosecution based on fresh and compelling evidence or even a tainted acquittal. There have been a couple of applications made.

Mr DAVID SHOEBRIDGE: Mr Jubelin, there is no doubt when you look back at the parliamentary debates from 2006 that the Bowraville murders were the prime motivation for the double jeopardy laws passing in the New South Wales Parliament. Do you think, having a look at how they have failed to get justice for the Bowraville community, in fact it has raised expectations and hopes and dashed them repeatedly, do you think the Parliament has an obligation to go back and have a look at what was thought to be a beneficial set of legislation for this community and consider if it needs to be amended to ensure that it does provide that benefit to this community?

Mr JUBELIN: I would like to think that the intent of the legislation is to right wrongs like, clearly, that which has occurred with the Bowraville people in the murder of their children. So if that legislation needs to be reviewed then I think we have to look at what was the intent of bringing in the legislation in the first place.

Mr DAVID SHOEBRIDGE: This has gone beyond not righting a wrong; it has actually created further problems in this community because it has raised expectations and then seen them repeatedly dashed. That is the tenor of this.

Mr JUBELIN: Given the raising of false hopes and all of the setbacks, as I said in my opening address I admire the tenacity and the resolve of the families involved. Each time we put in a submission everyone comes together and rallies behind us putting in the submission. They think, "Okay, we are going to get across the line this time." There has not been one time when I have put a submission in or a submission has been put in on behalf of the families from Allens law firm that we have not had high expectations. I think what hurts the families the most, and I think some of them will address this—perhaps Leonie will touch on this—is the time period that the assessments took to determine this. I think it is quite disgraceful. On the issue, and I might be going a little bit past it, on the submission made in June 2011 a decision did not come back until February 2013.

Mr DAVID SHOEBRIDGE: And they were repeatedly told throughout that time that they could expect something imminently.

Mr JUBELIN: That is opening up another issue. I have been informed by the families that they were informed by the Attorney General in 2011 that a decision would be made before Christmas, so we are talking about Christmas 2011. Leading into Christmas they were informed in writing that actually it was taking longer than they anticipated but the Attorney General was personally taking the submission home because of the priority given to it. In February 2012 I received a request, and it is touched on in the Government's submission which I think is somewhat ironic, through the Minister for Police and Emergency Services through the Commissioner of Police to myself to go out and re-interview witnesses. This was eight months after the submission had been lodged with that office. In fact those witnesses had been interviewed on three occasions: there was a comprehensive electronic interview, there was a video walk-through and there was a comprehensive record of interview. There were 11 other witnesses that we had already been interviewed in relation to this issue—that was the Norco Corner issue.

Someone had had that submission for eight months. You can join draw your own inference. The inference I am drawing is that they had not looked at the evidence available, because they were asking me to interview those witnesses again. I did not tell the families that because it was so frustrating for me and it was quite obvious what was going on when I was asked to interview witnesses again. They clearly had not looked at the evidence that was already available, and that is what I am talking about when I talk about the lack of

consultation. Then I saw in the Government report that a decision was made in December 2012 not to refer the matter to the Court of Criminal Appeal.

Unfortunately, if that date is in fact accurate, the families who have been waiting desperately for a decision were not notified until late in the afternoon of Friday 8 February. I might add that the media contacted the families before the Attorney General's office contacted the families to tell them that the application had been rejected. I am speaking in strong terms. I am speaking here on behalf of the families, because the families brought this information to me and it has been very hurtful to them. There has been a lot of pain and false hopes. There have been continual setbacks. The families have received, for want of a better word, a kick in the guts time and time again from the people they have entrusted with helping them to find justice following the murder of these three kids.

CHAIR: There have been media reports stating that the person of interest in this matter is now working with children. Are you able to confirm whether that is the case?

Mr JUBELIN: I am aware of those reports and rumours. I can inform the Committee that that is not in fact the case. Inquiries have been made and I can inform the Committee and the community that they can rest assured that that is not the case.

CHAIR: The time allotted for this section of evidence has now concluded. I thank you very much for being with us today, Detective Inspector Jubelin. The people of New South Wales can be very proud of you as an officer of our Police Force.

Mr DAVID SHOEBRIDGE: And your team.

CHAIR: And for your dedication, for your humanity, for your decency and for your continuing support for the community and the families involved. Thank you very much for being with us today. Your evidence is very important to us and will greatly assist us in our deliberations.

Mr JUBELIN: Thank you for your kind words. I would just like to say that I would trade all of that to get the justice for the families which they so richly deserve. Thank you.

(The witnesses withdrew)

DIANA MARY EADES, Adjunct Professor, Fellow of the Australian Academy of the Humanities School of Behavioural, Cognitive and Social Sciences, University of New England, sworn and examined:

CHAIR: I would like to now welcome Dr Diana Eades. I thank you for being with us and welcome you here.

Dr EADES: I am an adjunct professor in linguistics at the University of New England and a consultant socio-linguist.

CHAIR: Would you like to make a brief opening statement?

Dr EADES: Yes, I have a few things to mention very briefly. First of all I would like to thank the Committee for inviting me to appear before you today. I also thank the community for their welcome. I acknowledge, as the Committee did, that we are meeting on Gumbaynggirr land and pay my respects to elders past and present. My submission focuses on language and communication. That is my area of expertise. In my submission I talked about issues relevant to how the legal process has communicated with the Aboriginal people of Bowraville over more than two decades. My report outlines some of the subtle differences between Aboriginal and non-Aboriginal ways of using English and points out that these differences often are not recognised but that they can have important consequences in the legal process.

Many of these differences relate to how information is sought and given. Any legal investigation is centred on finding out information and testing it, and finding out more information. So the fact that there are significant differences and subtle differences in how this is done is very relevant to this issue. I believe that what happened to the Bowraville families illustrates some of the most problematic consequences of the lack of awareness of these differences in ways of using English. I believe these differences are not limited to this community, but their experience can provide valuable lessons about what works and does not work when Aboriginal people in New South Wales participate in the criminal justice system. I would be happy to answer any questions.

The Hon. PETER PRIMROSE: Thank you for coming today. I have a general question to start with, which will get us down to the tin tacks of the inquiry. What is the most important thing that you would like this Committee to recommend to the Parliament?

Dr EADES: Thank you. That is a good question. I think the most important thing is the need to recognise that Aboriginal culture in New South Wales is strong and that it matters. An important part of Aboriginal culture is the way that people communicate and their use of English. If we want equal justice for all in New South Wales then it means necessarily recognising that the way in which the legal system finds out information from people and provides opportunities for people to tell their story may not always be working.

The Hon. SHAOQUETT MOSELMANE: Thank you very much for appearing. It is lovely to see you here after that little exercise we did with you, which gave us a greater understanding of communicating with the community and understanding the case here. Central to your submission are the recommendations which you make on page 10. Effectively the first two or three recommend that there be improvements made to the communication between investigative police officers and Aboriginal people, including specific training and compulsory training for lawyers and judicial officers about communicating with Aboriginal people. You also talk about having regulations and guidelines to enable people of Aboriginal background to freely and fully tell what they know in criminal matters. Can you elaborate a bit on those issues of communication?

Dr EADES: In relation to training, I think a huge problem in New South Wales is that a lot of people, even with the best of intent, do not recognise Aboriginality or they think that because people live in lifestyles that look superficially fairly similar that Aboriginal culture is dead and gone. What we know from studies of culture and communication is that that is not true and that it impacts daily on any issues where Aboriginal people need to tell their story to non-Aboriginal people, particularly in an institutional setting. To me it seems fundamentally important that anyone who is involved in that area—and we are talking about the legal system, police officers, lawyers, judicial officers—have the opportunity to learn about Aboriginal culture but also about how that impacts ways of communicating.

I am aware that there are various training programs. I am familiar with things like the National Judicial College of Australia, for example, has programs which I think are self-selected so that judicial officers who

want to go to them go to them. The New South Wales judiciary, for example, has a very good program called Ngara Yura, where the Judicial Commission works with Aboriginal communities to take judicial officers to communities just to talk and listen to people—nothing to do with cases—but in terms of trying to get a better understanding of what Aboriginal communities look like today and what kinds of things are happening in Aboriginal communities. They are small things but they are some of the things that can be done.

I am also aware though from talking to judicial officers and lawyers that these things only partly work. Only a few years ago a judicial officer told a jury that we know that Aboriginal people often have problems with communication. To me that reveals a misunderstanding of those problems of communication in situations that happen between people and they particularly happen where people do not recognise cultural difference. So that those things, I think, need to be further explored.

Detective Inspector Jubelin talked about what is happening in terms of training with police officers. I fully endorse, of course, the developments that he talked about, especially if he is the person involved and running them because of, obviously, his profound and successful experience. As far as looking at guidelines, regulations and legislation, there are issues there in relation to Aboriginal witnesses in court. I think there are a couple of things there. Is this answer too long?

CHAIR: No.

Dr EADES: I do sometimes talk too much.

Mr DAVID SHOEBRIDGE: You have to stop before 1.45 p.m.

CHAIR: If you feel you do not have sufficient time you can take questions on notice.

Dr EADES: I think we have to acknowledge that there is a fundamental cultural clash between Aboriginal ways of finding things out and the legal system's way and that many Aboriginal people give and seek information over time where relationships are established. I think that what Detective Inspector Jubelin has shown is that in investigative matters there is scope for doing that. I am not sure how that translates to courtroom hearings—I think that is a completely different matter—but that is of course where evidence and allegations are tested.

The Hon. SHAOQUETT MOSELMANE: Is there value in having other police with an Indigenous or Aboriginal background being engaged, as they understand the community, particularly in relation to murder cases where racial biases, viewpoints or frame of mind come into play and are misinterpreted? In other words, is it of value to have someone with an Indigenous Aboriginal background assist police on matters of significant inquiry?

Dr EADES: I think that is absolutely true. The issues that would need to be dealt with would be those conflict-of-interest issues—the more a person knows a specific community the more difficult it would be for them to act in that capacity. But Aboriginal people around Australia use these indirect ways of finding out things and know when people have not finished telling their story and when there is more to say and know that they just need to sit around and yarn some more and we are going to learn some more. Yes, definitely.

The Hon. PETER PRIMROSE: In your submission you talk about section 41 of the evidence Act. Would you elaborate on your concerns?

Dr EADES: This to me relates particularly to the issue of gratuitous concurrence. As I mentioned before, and it is in my submission, it is very easy for people interviewing many Aboriginal people to get them to say "Yes" to conflicting propositions. This makes it very difficult then for Aboriginal people as witnesses. Of course, a major aim of cross-examination is to get people to agree to conflicting propositions, so there is a problem there. The legislation, the Uniform Evidence Act, recognises problems with leading questions and so on and that is what section 41C says: the court must disallow a question put to a witness in cross-examination or inform the witness that it does not need to be answered if the court is of the opinion that the question is a disallowable question. So the onus is on the court. One of the categories of a disallowable question is whether it is misleading or confusing. I am aware that in Western Australia and in the Northern Territory at least that this provision is used and judges stop leading questions in situations where they feel that witnesses are being led into gratuitous concurrence.

I am not a lawyer, but I understand there are legal difficulties. I have been at a very interesting National Judicial College of Australia training session; I was privileged to be involved in part of the training. I was also honoured and privileged to be involved in the whole two-day session. It was very interesting to hear judicial officers from Western Australia, particularly the Chief Justice of the Supreme Court, Wayne Martin, talk about how that operates and what some of the issues are. It is not easy but it is relevant and I think it can be done, but it will not happen in New South Wales if we do not recognise Aboriginal culture, and that goes back to your first question.

Mr SCOT MacDONALD: Thanks for coming down from the good country. A couple of people have referred to training that has been touched on by a couple of people. Would it be fair to say that most police graduates are really representative of the white demographic, if you like? Is four hours for a recruit and one day if you are in a local area command with a high Indigenous population sufficient? Do you have any feedback?

Dr EADES: I think given the huge over-representation of Aboriginal people in the criminal justice system that no, it is not enough.

Mr SCOT MacDONALD: Will you give the Committee an idea of what you think would be appropriate? Is it training or some other means?

Dr EADES: I think it is probably a lot of things. Detective Inspector Jubelin talked about the important role of mentoring in the way that police officers learn things, so mentoring is important. It is training. It is probably also community engagement because when white people sit around with Aboriginal elders, for example, in a situation that is run by Aboriginal elders you learn what it means to wait for the answer; you learn what it means that the most important information might not come out first, so you learn that firsthand. I think there are a lot of things that are relevant. Yes, I was surprised how little time was involved, particularly given how much policing work was involved.

Mr SCOT MacDONALD: The Committee will consider that. There has been commentary around cultural sensitivity of police, prosecutors and defending counsel, if you like. Do you have any thoughts about our judiciary, in terms of this case, if I understood it correctly, going to the Court of Criminal Appeal where there would not be jurors? Is that correct?

Dr EADES: Do not ask me a legal question about that.

Mr SCOT MacDONALD: I have got a nod in the background so I will continue with that. Is the judiciary cognisant of your concerns?

Dr EADES: Yes, I think some of the judiciary are very cognisant of it and that is one of the very rewarding things I find when I am invited to run workshops with the judiciary, et cetera, that many judicial officers are aware of the fact that things are not working in the way that information is sought from Aboriginal people. A lot of them really like to have a framework that explains it and gives them an understanding. Some of them are very resistant to it because they do not really believe that Aboriginality is strong in New South Wales or that it matters. I think that you go across the board there.

Mr DAVID SHOEBRIDGE: Dr Eades, this has been a very academic discussion which I think has been fruitful but could you consider the case we have in front of us?

Dr EADES: Right.

Mr DAVID SHOEBRIDGE: There are two trials which I think you have studied.

Dr EADES: The second one?

Mr DAVID SHOEBRIDGE: The 2006 trial which I think you have studied.

Dr EADES: Yes.

Mr DAVID SHOEBRIDGE: Would you provide perhaps one or two concrete examples of how Aboriginal English was, if you like, misinterpreted or ran the risk of being misinterpreted through the legal system?

Dr EADES: I have to say that I did not study the whole trial in detail. I was present for a day of the hearing and heard witnesses. Before that I had spent a few days in the Bowraville and written a report that I have mentioned to you. I think that there was evidence of gratuitous concurrence of witnesses saying "yes" to conflicting propositions regardless of whether they meant to agree. I do not know that because I was not in the mind of the witness, and that is the tricky thing with gratuitous concurrence for any one question. It is very rare that you can say "Yes, I know they did not mean to say 'yes'" but sometimes you can because of other things. I think there was evidence of people in that constrained framework of cross-examination which obviously we are stuck with at the moment. But in that constrained framework, and it has its reasons, there were reasons why Aboriginal people might be saying "yes" to repeated questions, especially after lengthy cross-examination where they might not have meant to agree.

To my mind, what that means is that the jury needs to be informed—going to that specific case where there was a jury—that it can be dangerous to make a literal interpretation of agreement with every "yes" answer that comes from an Aboriginal witness. That is not taking away the jury's responsibility; that is not telling the jury how to evaluate a witness; that is just giving the jury some relevant information about communication, so that was one thing.

Another thing related to giving specific information. I observed one witness who was being asked repeated questions about metres: "Would that have been five or six metres?" "Would that have been 10 or 12 metres?" The answers were all "yes" and after many questions she said, "I don't know my metres." Now she would not be the only person—I am not very good on metres either. This is not like a huge thing and it is subtle because a lot of people are not good at metres, if you know what I mean. But the important issue here is that when Aboriginal people are allowed to tell their stories in their own way they can be very specific but they often will not be using numbers.

Mr DAVID SHOEBRIDGE: It is difficult to see how you can have a narrative approach to cross-examination though.

Dr EADES: Yes, right.

Mr DAVID SHOEBRIDGE: Have you grappled with that?

Dr EADES: Yes. In our adversarial system at the moment you cannot have a narrative approach to cross-examination but the decision-maker needs to know how to interpret the answers. My worry is how do decision-makers know how to interpret answers? How do decision-makers know? For example, there were lengthy silences in the day I observed a couple of witnesses. It is very good the lawyers did not interrupt those lengthy silences. The lawyers were respecting Aboriginal ways of giving answers. However, if you were on the jury and you did not know that lengthy silence in answer to a question is a common and comfortable Aboriginal way of filtering things through, then what standard Western assumptions would you make about what those silences mean? So you are right; you cannot change the process of cross-examination but you can tell the decision-makers about some of the issues, about the way we interpret and evaluate witnesses on the basis of how their answers come out.

Mr DAVID SHOEBRIDGE: Attached to your submission is a proposed jury direction. Have you presented it to the Judicial Commission or some other judicial body to get their views on it?

Dr EADES: Not in New South Wales, but the jury direction comes from a document I was asked to draft with Judge Mildren from the Northern Territory. It has been considered by the Northern Territory, where it is used and a version of it is being used in Western Australia, but I have not talked about it with the Judicial Commission.

Mr DAVID SHOEBRIDGE: Please take on notice producing examples of where there is such a jury direction in other jurisdictions and consider whether you think we should recommend to the Attorney General or the Judicial Commission in New South Wales the adoption of a similar jury direction.

Dr EADES: Yes, sure.

The Hon. CATHERINE CUSACK: In New South Wales there was a period in which Aboriginal people were not considered competent to give evidence. Are you familiar with the history of that?

Dr EADES: No, I am not familiar with the details. I just know there was a period—I think in all Australian jurisdictions.

The Hon. CATHERINE CUSACK: Yes, but there was specific legislation in New South Wales. An awful murder in Coutts Crossing could not be prosecuted because none of the witnesses was considered competent to give evidence. I thank you for concepts you have introduced, particularly gratuitous concurrence. If a witness agreed to something, perhaps because questions were asked rapidly and repeatedly, and later it was shown the witness had contradicted themselves, how would the witness feel?

Dr EADES: I do not know. Aboriginal people commonly talk about white fellas asking too many questions without giving time for answers. Non-Aboriginal people commonly say about Aboriginal people that they are shy or reluctant to answer questions. That speaks to a cultural dissonance.

The Hon. CATHERINE CUSACK: If a lawyer ran me in circles to make me contradict myself, I would feel quite stupid.

Dr EADES: People who give evidence say all the time that lawyers run them in circles. Anyone who has given evidence knows that experience.

The Hon. CATHERINE CUSACK: You would lose confidence that the system is just trying to get the right information.

Dr EADES: A lot of Aboriginal people have lost confidence in that. All witnesses feel their story has to be filtered and there are good legal reasons for that, but in this terrible case just one of many layers of filtering was in the court—along the line, people felt they had not been given the chance to tell their story. Detective Inspector Jubelin said that in the initial investigation they could have told their story better and eventually they were able to tell their story to New South Wales Homicide. If evidence-in-chief is given in narrative form, people can tell their story to some extent.

The Hon. CATHERINE CUSACK: First there is reporting something to the police, then there is assisting the police with the investigation and then there is language in courts. You have also made some suggestions for this Committee's report. Please speak more about those, because we would like to avoid falling into the same traps as others have.

Dr EADES: The way you report or what you report?

The Hon. CATHERINE CUSACK: Our inquiry and communications with the community, because everyone else has let them down and every member of this Committee is eager not to do that.

Dr EADES: I had a detailed discussion with the Committee about ways of enabling people to talk to the commission. The Committee made a good initial decision to talk informally to people in the community and I have had good feedback on that visit. The issue for tomorrow's hearing is that it is a cultural value in Western society to say something upfront, with the most important thing first, and if I want to find out something I ask you an upfront question. In a lot of cultures, people talk around things and then come to the point. You may find some witnesses tomorrow will do that. I suggest you allow time for people to say the things they want to say. People have been waiting a long time to talk to the Parliament, so they may be ready to say them upfront, but they might need more time to say important things they want to say.

The Hon. PETER PRIMROSE: In your submission you talk about needing to develop opportunities for people to develop bicultural ability and we have talked about aspects of training. Please point to any models where that is working well, in New South Wales or other States and not only in the legal area.

Dr EADES: Training works best where it is specific to what is happening—for example, some training in schools by teachers. I have heard very good things about the Ngarra Yura Program run by the New South Wales Judicial Commission. Circle sentencing is very interesting, although it is a bit removed from this inquiry. For circle sentencing, you have judicial and police officers working with respected people in communities on justice issues. It goes beyond a particular case, so meetings and discussions are held to share information and learn about what happened. The National Judicial College has some very innovative ideas and may be willing to lend support.

The Hon. SHAOQUETT MOSELMANE: Detective Inspector Jubelin said there would be a homicide case study following this case. Can you tell us about any similar cultural case study that you have experienced?

Dr EADES: I did an interesting research project in a country town in the late 1990s. I examined local and district court hearings and the way judicial officers and lawyers took up what Aboriginal witnesses said. I found that witnesses' lawyers often interrupted them when they talked about cultural issues. I do not think that was conscious, but when questions were asked in court and people explained family connections to enable the person to give a proper answer, these explanations were interrupted by the judge or the lawyer.

Mr DAVID SHOEBRIDGE: This discussion has been about Aboriginal English and the legal system. We are looking beyond the legal system to how the Bowraville community and these families have dealt with these murders. How much of this learning translates to the health system, social services and housing support?

Dr EADES: Communication is the basis of all that. To the extent that any institution needs to prioritise finding out information from people, we run into problems about people being given a chance to tell their story. I do not have statistics, but there may be a greater percentage of Aboriginal people working in those services now than in the legal system, so issues may not be as strained.

Mr DAVID SHOEBRIDGE: In part it is a resourcing issue, because it takes more time, care and consideration if a police officer doing an investigation cannot ask the five key questions upfront and have the investigation done in 45 minutes.

Dr EADES: It takes more time, but it might work.

Mr DAVID SHOEBRIDGE: I will not argue about that, but do we need to recognise that if we want to address these issues, part of that is resourcing?

Dr EADES: Yes, more time might be needed. There also needs to be a recognition that Aboriginal culture is strong and it matters. We might need to flag things we need to talk about but delay talking about them till later. That may not take more time, but just be a different allocation of time.

Mr DAVID SHOEBRIDGE: It means rethinking the issue. In a case where the judge said Aboriginal people have a communication problem, actually the legal system has a communication problem.

Dr EADES: Communication problems often happen because the people are approaching issues from different perspectives. To say the problem is from Aboriginal people communicating is wrong and demeaning. We have seen how bad the results can be.

The Hon. CATHERINE CUSACK: To some extent does different language reflect different values and world views? I live in Lennox Head, my sister and husband's family in Sydney and our parents in Batemans Bay. I know where my son is, but in this community the whole family cares for the children. I suggest different language is used for different lifestyles.

Dr EADES: It is true that language and culture go together. From an academic point of view: Does language reflect culture or does culture reflect language? I think the two go together. For example, the fact that important things need to take time is related to the way time has a different value in Aboriginal communities where family commitments are stronger and wider.

The Hon. CATHERINE CUSACK: There is more of a collective responsibility in Aboriginal communities. If I were ignorant I might find conversations with an Aboriginal person not gelling with my life experience.

Dr EADES: That is what happens in intercultural communication. We have to recognise it is intercultural communication.

The Hon. CATHERINE CUSACK: Please describe the level of ignorance that exists.

Dr EADES: It is profound. It is easy in places like Western Australia and the Northern Territory because outsiders see dark skin, but that does not mean Aboriginal culture in New South Wales is not strong and does not matter. It has consequences and the families are still experiencing those consequences.

CHAIR: Thank you for your input. Please get your answers to questions on notice to us within 21 days.

(The witness withdrew)

(Short adjournment)

BARRY TOOHEY, Mental Health Clinical Nurse Consultant, Darrimba Maarra Aboriginal Health Clinic, and

DANIEL RYAN, Medical Practitioner, Darrimba Maarra Aboriginal Health Clinic and Bowraville Aboriginal Health Clinic, sworn and examined:

CHAIR: We now welcome our next witnesses, Mr Barry Toohey and Dr Daniel Ryan, and we thank them for being with us. Would you like to make a short opening statement?

Mr TOOHEY: Yes, I would. Firstly, I would just like to acknowledge the traditional owners, the Gumbaynggirr people, on this land on which we now meet and pay my respects to elders past and present. I have been employed specifically to work with the Aboriginal population of the Nambucca Valley, in particular the three families of the murdered children, to try to assist them with dealing with their grief and loss. I must say it has been an absolute privilege and an honour to do so. I had to jump through a number of hoops that normally in the course of gaining employment would never happen in that my interview panel were representatives of the three families. I also had to undergo a cultural competency test and other psychological tests to ascertain my suitability to work with the Aboriginal people. I would just like to say that for the last eight years it has been an absolute honour and a privilege.

CHAIR: Dr Ryan, is there anything that you would like to add, or was that covered?

Dr RYAN: That covers our introduction, thank you.

CHAIR: Is there anything that you would like to add?

Dr RYAN: Yes. I would like to thank your Committee for taking such a sincere interest in this community, these families and these cases. It does mean an enormous amount to this community. I am on the outside a little bit: obviously I am white, I am a medical practitioner professional, but I have gotten to know a number of members of the Aboriginal community here over the years and members of the three families involved. I know that the effects of these murders have been real. To this day, their effects are still ongoing and have had real effects on people's health and spiritual and moral wellbeing. I think it is really good that you guys are taking such a sincere interest in this.

CHAIR: Thank you. Could you please speak to some of the psychological responses to the murders of these three children that you have witnessed, both within the families and within the broader Bowraville community?

Mr TOOHEY: It goes without saying that the immediate psychological response that generally most people have in terms of trauma is post-traumatic stress disorder. I guess that goes right across the board for members of all three families but it extends onto the wider community as well. Major depression, clinical depression, anxiety disorders, such as agoraphobia, panic disorder, alcohol and drug overuse or misuse, social phobia and a general angst or feeling of unease in particular. That again permeates through the wider Aboriginal community.

CHAIR: Would you say there has not been closure on this because the perpetrator of these crimes is still out there? Would you say that is the reason why these psychological issues are continuing—because of that uncertainty—the rollercoaster ride that the community has been on over the past 23 years?

Mr TOOHEY: Without a doubt, without a doubt. Because the perpetrator is still out there so therefore there has been no opportunity for justice, the community is still open. People will never get over this. I think that is a general assumption that people often say, "Just get over it." That will not happen. But in order to bring some sort of closure or some sort of healing, I firmly believe that the perpetrator needs to be brought to justice.

CHAIR: You believe a realisation of justice will go a long way to bringing peace and tranquillity to the families and to the community, which at present is not there?

Mr TOOHEY: If I can just go off to the sidelines a little bit. Last week I heard on the news in Victoria a homicide detective who had been investigating a cold case murder. Finally, after 30 years, they were able to bring a perpetrator to court or to trial. His statement was, "The family will now have an opportunity for closure." That has not happened here.

Mr DAVID SHOEBRIDGE: Dr Ryan, can you tell me the circumstances that surrounded the closure of the medical clinic in August 2012?

Dr RYAN: Yes.

Mr DAVID SHOEBRIDGE: And perhaps address the funding issues?

Dr RYAN: Yes. I am not privy to exactly why decisions were made. I will just back up a bit, if that is okay. That clinic out at Bowraville has been really important. It is important that if we are going to serve the community we have a presence in the community. It is difficult for people to travel. It is difficult when you do not have the resources and when you cannot plan your day. It is difficult to organise to get yourself to doctors' appointments or other health professionals' appointments or any appointments in a remote town. Also, when that clinic was closed, it feels like you are just another organisation that comes to town, hangs around for a while and then disappears, like so many organisations that have funding for a 10-week program or a six-month program. They rush in with great enthusiasm and best intentions and then sort of disappear.

Mr DAVID SHOEBRIDGE: Dr Ryan, could you maybe wind back a little to say when the clinic started and what services it provided?

Dr RYAN: Yes. It started in approximately 1996-97. Initially, there were almost no resources. We had \$60,000 a year that we had to pay a wage with and have phones and all the basic resources. There was a little bit of equipment there, but it was very basic. It was not air-conditioned. It was really, really basic. After some years and for the first little period, actually, I was not paid much at all and then I got sort of half the Medicare money. But eventually, slowly with time and with perseverance, the clinic was built up and it became secure. I am well paid now and all the other doctors are well paid, and that is no problem. From 1997 we have really had a presence in the community and it was a good place to work.

Unfortunately, in 2012—it seemed to be on the basis of a dispute between the Durri Aboriginal Medical Centre and the local Bowraville Land Council—they were unable to organise a lease on the building. Essentially the clinic was closed and it still has not reopened out there in Bowraville, which personally I have found very frustrating. I know that is a little bit off the topic in a sense that it does echo the way a community like a Bowraville and the families are so vulnerable to decisions that are made by outsiders whereby resources are just taken away without any notice and without any consultation with the community, which was another thing that I found really difficult to stomach. There was no consultation with the community itself. Again, if resources are going to be put into the Bowraville community, it needs to be done with a view that it is long term and also with consultation with the community. So I would emphasise those two things.

Mr TOOHEY: I think the Aboriginal community of Bowraville feels that Durri has let them down, that they, as per usual, end up getting the short end of the stick. We are now based at the Aboriginal Medical Service in Nambucca Heads but off the top of my head we do not see that many clients from Bowraville even though we provide transport. It is difficult for them to go there; it is difficult for them to relate to that sort of clinic because the Aboriginal clinic at Bowraville was actually on the Mission and so it was there, it was part of the community and I guess there is that sense of loss there. People either go somewhere else or they neglect their health.

Mr DAVID SHOEBRIDGE: Up to August 2012 how many days a week was the clinic operating in Bowraville?

Mr TOOHEY: Five days a week.

Dr RYAN: At different times there was a doctor there five days a week. At the time the clinic closed it was two days a week but there was a health presence in the community five days a week at that clinic.

Mr DAVID SHOEBRIDGE: Dr Ryan, you talk at some point in your submission about there being chaotic elements in the community?

Dr RYAN: Yes.

Mr DAVID SHOEBRIDGE: Does that mean that it is far more important to have a health clinic present in the community so that people can go in when they have an opportunity as opposed to having to have a planned visit to Nambucca or Macksville?

Dr RYAN: Yes, absolutely. For any service that you want to resource the Bowraville community with, it has to be in Bowraville; it has to have a presence in Bowraville itself and as much as possible it needs to have a fairly open door. It is easy for me to plan my diary, my commitments and have a timetable but if I have all sorts of family pressures and other family commitments that are totally unpredictable and basically no money and no transport it is really hard; it is a struggle to get your kids to the doctor or do any of those things that we might take for granted.

Mr DAVID SHOEBRIDGE: Would one concrete recommendation the Committee could consider be to re-establish those services in the community?

Mr TOOHEY: Yes.

Mr DAVID SHOEBRIDGE: What services would those be?

Mr TOOHEY: Durri has already purchased a building in the main street of Bowraville but we do not know when that will be open. I believe from what I have heard that at the moment there are problems with funding to get that open. We were hoping to have it open halfway through the end of the year, around September-October but I cannot envisage that happening because there have been absolutely no moves on it since then. Most certainly we need a presence in Bowraville.

Mr DAVID SHOEBRIDGE: Where has the funding traditionally come from to run the service in Bowraville?

Mr TOOHEY: It has come from the Office for Aboriginal and Torres Strait Islander Health [OATSIH].

Mr DAVID SHOEBRIDGE: That has been Federal funding, has it?

Dr RYAN: I think it is predominantly Federal funding; there might be some State funding involved but I think it is predominantly Federal funding. There is a head office in each State and it funds all the designated Aboriginal medical services across the land.

Mr DAVID SHOEBRIDGE: It would be fair to say the community does not care if the bucket of funding is provided by the State Government or the Federal Government; the bucket of money needs to be there to get this service up and running in Bowraville, is that right?

Dr RYAN: Correct.

Mr TOOHEY: Precisely.

The Hon. SHAOQUETT MOSELMANE: Mr Toohy, you say in your submission that your role now is to provide the three families of the murdered children with grief counselling and social and emotional support. That goes to the heart of our inquiry because we are looking at the impact of the murders on the families and the community. Can you elaborate, given the 23 or 24 years since the occurrence of these murders, how you are able to support these families and who is able to support you, emotionally and psychologically as well?

Mr TOOHEY: That is a difficult question—how do I do that? Because I have a certain amount of cultural competence, the families know me and trust me; they respect that I will keep their confidentiality and, as such, word gets around through the Koori grapevine that I am an okay person to talk to and I can be trusted. Also, I have a certain amount of clinical expertise. It is a well-known fact that in mainstream health if an Aboriginal person goes to a mental health service they are going to get medicated more than likely. I am really reluctant to do that unless that is warranted and the reasons for that are as Dr Eades said previously—Aboriginal people are misunderstood not only within the judicial system but within health as well; it is severely lacking there. Because of my ability to work closely with the families to gain their trust I have been able to do that.

Mr DAVID SHOEBRIDGE: The second part of Mr Moselmane's question was: What support do you have?

Mr TOOHEY: At the moment I have my work colleagues and my partner who are all very supportive of me. In the past there have been opportunities for me to have clinical supervision but at the moment I am not getting any of that at all. Actually, today I was supposed to be attending a workshop in Sydney about clinical supervision for Aboriginal health workers, so there are things in place.

Dr RYAN: I am concerned about Barry's health and welfare as well. He has been doing this job for quite some time now and I know it has taken a toll on him personally. He is not a young man; he smokes too much. I worry how much longer he is going to be able to keep doing this job, which needs to be an ongoing job and ideally a two-person job, male and female. It would be great if Barry had the opportunity to nurture two people in those positions on a long-term basis.

The Hon. SARAH MITCHELL: My question follows on from what has already been asked and it is not with the intent of putting any more burden on you. One of the things raised in the submissions and even when we met briefly with the families a few weeks ago is that a lot of the extended family members do not live in Bowraville anymore; indeed some of the immediate family members do not live in the area and obviously that is the centre of what we are talking about. Submissions from some people in Tenterfield show that people in that community significantly feel the loss of Clinton. If we are to make recommendations to improve services—clearly looking to reopen something in Bowraville is very compelling—making sure that those services are extended to family members who may live elsewhere and having a coordinated approach to that, do you have any views on how that could possibly be achieved?

Mr TOOHEY: In an ideal world social and emotional wellbeing workers need to have a presence in all Aboriginal communities. In particular for the communities of Tenterfield and Warwick, I believe that a position such as mine should be set up along similar lines. I believe there is another community on the North Coast that is being set up along similar lines at the moment where the community was consulted and they had a choice in choosing the health workers that they work with and from all reports that works very well.

The Hon. SARAH MITCHELL: And if others in those communities had a similar role, there would be an opportunity then for you to have that network and provide some support?

Mr TOOHEY: Yes.

The Hon. SARAH MITCHELL: If not physically in the same building to at least talk to other colleagues who might have other things to add?

Mr TOOHEY: Yes, definitely.

The Hon. CATHERINE CUSACK: Thank you for your evidence about the wider community. Could you talk about the attitude and behaviour of the non-Aboriginal community in Bowraville throughout this period and whether that has had any impact?

Mr TOOHEY: I have had it said to me, "Why can't they just get over it?" Bowraville is a very racist town. You may not see that on the surface; it is very subtle at times.

CHAIR: They also would not have got over it because of the rollercoaster ride they have been on—

Mr TOOHEY: Exactly.

CHAIR: —because of the way this matter has unfolded over the past 23 to 24 years, would you agree with that?

Mr TOOHEY: Yes, I would. The racism is subtle. An Aboriginal friend of mine was talking about it the other week and it still happens. He said, "I could not believe it. One of my white mates came into the shop with me and he said, 'You watch this'. He said, "I will put out my hand for change and the change will be put on the desk. You put out your hand and your change will be put in your hand." That sort of thing still happens to this day. The white people in Bowraville will protest wildly that they are not racist but it is very subtle and it is

there. People get their handbags checked. White people get served before black people and they might smile and say the right things but it is there; it is subtle. If you look long and hard enough you will see it.

The Hon. CATHERINE CUSACK: You have documented in your submission what happened when an effort was made to erect a memorial to Clinton Speedy?

Mr TOOHEY: Yes.

The Hon. CATHERINE CUSACK: We should be careful and say that that clearly would not have been the attitude of the entire community, nor would they have approved of that. Nevertheless, given that it is such a small community, do you have any suggestions about what can be done to improve race relations in Bowraville?

Mr TOOHEY: Building bridges.

The Hon. CATHERINE CUSACK: I have been told, I have no verification, that in the 1967 referendum there were three polling booths in Australia that voted against equal citizenship and Bowraville was one of them.

Mr TOOHEY: Yes, that would not surprise me.

The Hon. CATHERINE CUSACK: I do not know if that is true or not but that was told to me as an indication that this is the environment in which this is playing out. Do you have any advice as to what can be done because the information I have is that it has always been thus.

Mr DAVID SHOEBRIDGE: That is obviously for you, Dr Ryan?

Dr RYAN: I suppose I have two comments: the first one is that Bowraville is a poor town. The white community is poor and unemployment is high. It is a poorly educated white community. We see America movies about the deep South. There are days when it has that feel about it. Moving on from that, I think at the end of the day education is the key and the local schools really do try. They do a really good job and do the best they can. It is going to take time, it will take years; it will take a couple of generations. There is no easy fix.

CHAIR: Coming from the non-Aboriginal community I ask you this question: Do you believe that there is an understanding and sympathy for what the Aboriginal community has gone through as result of these horrific events?

Mr TOOHEY: I think some people do.

CHAIR: But it is not universal?

Mr TOOHEY: Most definitely it is not universal.

CHAIR: That is very sad.

The Hon. CATHERINE CUSACK: I am really pleased to think that some people do, so can we just stick with that and talk about the people who do care?

Mr TOOHEY: You will probably see a few white faces in this room today; they are the people who care. There are people who will not tolerate racism.

CHAIR: It is a wonderful thing that you would say that the greater part of the community understands and sympathises.

Mr TOOHEY: I would not say the greater part of the community. I think there is a fairly marked dichotomy there.

CHAIR: Indeed, it is a very sad situation for those who do not.

Mr TOOHEY: Yes.

Dr RYAN: Broadly, a lot of the white community I think have some understanding and really do try and do the right thing but there is a lot of subtle unconscious racism. We all, myself included, have the ability to be racist without realising it because it is innate to have that sort of anxiety and suspicion of people who are not like ourselves. Also, very few people in the white community have had the opportunity I guess to really understand these murders, to understand the rollercoaster that you have talked to, the grief, frustration, anxiety and depth of despair at times. Very few people have really seen that because for the most part the Aboriginal community and the families have been very private about their grief, they have internalised a lot of that—that is the nature of it—and that is why there are the high rates of depression and the abuse of alcohol. So the wider community does not really see that, if that makes sense.

Mr DAVID SHOEBRIDGE: As a kind of yardstick to get a sense of the involvement of the non-Aboriginal community in this issue, there was a large public meeting in December 2010. If we were to look at the attendance at that large public meeting in December 2010, what proportion would have been Aboriginal and what proportion would have been non-Aboriginal? I think you were there.

Mr TOOHEY: I would say probably 10 per cent would have been non-Aboriginal.

Mr DAVID SHOEBRIDGE: What sort of numbers are we talking about?

Mr TOOHEY: At that meeting I think there were about 200. That was the one where Gary Jubelin addressed—

Mr DAVID SHOEBRIDGE: That was the one.

Mr TOOHEY: I think there were about 200 people there and probably 10 per cent or maybe 15 per cent would have been non-Aboriginal.

The Hon. PETER PRIMROSE: Have you identified any particularly beneficial approaches in supporting the community that you think could be adapted elsewhere?

Mr TOOHEY: In the course of my work I have had the privilege to meet two Aboriginal health workers: Tom Powell and Randal Ross. They deliver a healing package along cultural lines: Red Dust Healing. It is a three-day workshop and then four to six weeks later you go back and do another three days. I believe that something along those lines offered every six months to the community would be of huge benefit. Tom and Randal have also trained up female workers so that it can be delivered to the Aboriginal female population as well and I think the age limit goes from 16 years onwards. My experience of it is that it is a really positive workshop and it really helps people move on through their grief or depression or whatever problems they have.

The Hon. PETER PRIMROSE: Dr Ryan, do you have any comments on that?

Dr RYAN: No particular comments, I think whatever is put in place it has to be for the long term and it has to be done in consultation with people. Fly-by-night things are really no help.

The Hon. PETER PRIMROSE: What is the most important thing that you would like this Committee to recommend to the Parliament? In the end it is the Committee's recommendations that count.

Dr RYAN: Justice is still what is primarily being asked for—you have to keep coming back to that. If justice is in any way possible, please make it possible.

The Hon. SHAOQUETT MOSELMANE: That is from providing a health service?

Dr RYAN: I guess it is coming back to these particular families, and what they want is justice. Sure, from my point of view as a health worker obviously I would think health priorities and, yes, a health clinic in Bowraville. I think the big gaps in service are drug and alcohol. The other thing that we really neglect in communities like Bowraville is looking after children from birth up to about the first two years of primary school. As a health professional, as a doctor I spend a lot of money ordering tests and ultrasounds and all this while babies are in the womb but once babies are born we seem to push people out the hospital door with very few resources. I think future generations are going to look back and scratch their heads and wonder why we neglected those crucial first few years of life.

Mr SCOT MacDONALD: Have you had a chance to read any of the other submissions about the timeline of the events, including the Norco Corner thing?

Mr TOOHEY: Yes.

Mr SCOT MacDONALD: It is a difficult question for you to answer, and we have talked about the culture and almost the segregation of the community in some ways with racism, but what would you think of a large white man standing over a prone Aboriginal man in the wee hours of the morning? What would be your sort of gut instinct about that?

Mr TOOHEY: I think it is pretty suss.

Mr SCOT MacDONALD: It would not be a usual thing, would it?

Mr TOOHEY: No, not at all. There are not many white fellas that mix with the Aboriginal community.

Mr SCOT MacDONALD: Would the police be aligned with the thinking you have just described? If the police had a report of a white man standing over an Aboriginal man—

Mr TOOHEY: I would have thought that would have rung alarm bells.

The Hon. SHAOQUETT MOSELMANE: In your submission you talk about some people cashing in. Is that still happening? Can you elaborate a little bit about that?

Mr TOOHEY: I think from time to time it still does. I think initially when this inquiry was announced there were people scrambling to the media and talking on behalf of families despite the families not wishing those people to comment because they had no dealings with the families. People come in and do things without consulting. Other organisations are coming into the community and offering help but not consulting and using the murders as a means of getting funding. That sort of stuff still happens. I am reluctant—we are having an open inquiry here—to go further with that.

CHAIR: Thank you both for appearing before the Committee this afternoon. There may well be some questions on notice, if you could respond to them within 21 days it would be greatly appreciated.

Mr TOOHEY: Of course.

CHAIR: Your assistance today is greatly appreciated and will assist the Committee in its deliberations.

(The witnesses withdrew)

PAUL SULLIVAN, Catholic Priest, Aboriginal Catholic Ministry, sworn and examined:

Mr SULLIVAN: I work in the Aboriginal Catholic Ministry so I do not have a local parish church. I work with the Aboriginal communities in Kempsey, Nambucca Valley, Coffs Harbour and from time to time in Ballina where there are gatherings of Aboriginal and Catholic communities.

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

Mr SULLIVAN: Thank you, I would. I would like to address three issues: grief, truth and justice. One of the ways that I connect with the Aboriginal community as a priest is that I do the funerals. I would just like to give the Committee a little picture of what happens and the underlying point I am getting at—namely, there is wave after wave of grief and there is layer upon layer of grief. I am aware that there are some people in the room here today who are connected to the funerals that I am about to mention so I respectfully acknowledge their presence and the significance of their grief.

At the beginning of the year there was a little boy who was stillborn, which is a very sad and tragic event. During the year there have been a number of deaths of people in their early twenties and early forties. Those deaths are health-, alcohol- and drug-related. Some of those incidents have been extremely tragic. One involved a young mother who was in her early twenties with two children and who was 20 weeks pregnant travelling in a car driven by her brother. Both were intoxicated and neither was wearing a seatbelt. The young girl was killed. That has caused overwhelming grief for that family. There have been some other deaths of people in their sixties and of a wonderful elderly gentleman in his nineties who can remember some of the horrific events between the white community and the Aboriginal community. They were some of the most horrific events in history.

There are other related problems. People use alcohol and drugs and they can be the cause of death or a way of coping with death and grief. There are associated problems of conflicts, tensions, difficulties and arguments in the family. At various times people will go to prison and the family is separated and it causes tensions, anxiety and stress. While we have the significant underpinning issue of grief, we then have wave after wave and layer upon layer of grief.

The second issue is truth. This is perhaps the main point I would like to make. I have just taken an oath to tell the truth, the whole truth and nothing but the truth. In my submission I have suggested that the courts perhaps need to apply the same principle. As Detective Inspector Jubelin said, at some point the issue of all three murders needs to be put on the table at the one time. The whole truth and nothing but the truth needs to be put on the table. Until that happens, I do not think we will get justice. I also dare to suggest that at times the court system can be skewed in favour of the defence in helping the jury to arrive at a point where they cannot reach a conviction beyond reasonable doubt. I say that because of all the things that Detective Inspector Jubelin and Dr Eades have talked about.

Some of the members of the panel asked for an example of how communication can be mixed up in court. I am happy to provide one. I refer to a trial not involving these murders. A young fellow from Nambucca that people here know was stabbed to death after a fight. There was a group of young fellows walking past a house, a fellow drove his car out, they met at the front and one of the young Aboriginal fellows hit the car. The fellow driving the car got out and said, "What are you up to?" A fight ensued and the young Aboriginal fellow was stabbed and subsequently died.

In the court the defence asked one of the young Aboriginal fellows who was present a very simple question: "How close were you to the fight?" In fact, he was right there. The young fellow simply said, "I was there; I was close by." The defence pursued the young fellow to say whether he was one metre, three metres or 10 metres away. There was growing discomfort in the courtroom. The judge then intervened to help the defence lawyer to get a precise distance. The courtroom was about the same size as this room and the judge asked, "Were you halfway down the room or the full distance?" The young fellow was becoming more and more distressed and was unable to answer. At that point the judge asked the jury to leave the room and there was a 15 minute recess. It was a very simple question about distance. What I am getting at here is that you might have an Aboriginal witness who was intoxicated at the time of the murder and who may have been drinking since then and his memory is impaired. When that witness is subjected to a forensic and aggressive form of questioning, the jury starts to doubt him and it cannot convict beyond reasonable doubt. That is the key. The truth gets lost in the system.

The families know the truth; individuals know the truth; the community knows the truth; the media knows the truth; and the police know the truth. However, when it gets to the court it falls over. Because of that we never get justice. We will never get justice until the truth is on the table. That is my point: the truth is constantly tripped up. Detective Inspector Jubelin and Dr Eades have nominated two of the key areas where it gets tripped up. That is my opening statement.

CHAIR: You spoke about grief, truth and justice in a general sense.

Mr SULLIVAN: Yes.

CHAIR: Let us personalise it to the grief and to the Bowraville murders. Please give the Committee some details about the psychological responses to the murders of the three children that you have witnessed in families and the broader Bowraville community.

Mr SULLIVAN: During the afternoon tea break Leonie told me she was feeling exhausted. That feeling is an effect of grief. From time to time Billy Greenup will drop into our ministry house and say, "I feel no good." It is not simply that he is having a bad day; it means that he is up against a brick wall of unresolved grief and he is not getting anywhere. I have regular contact with the Catholic primary school in Bowraville. The children's behaviour is often a barometer of what is happening in the community. There is tension, conflict and arguments. With grief, people become vulnerable to their own mood and little fights can become bigger fights and little arguments can become bigger arguments. Little comments can also be taken more personally and be seen as more offensive. If a person is feeling at home and at peace with themselves they can deal with it, but because of their vulnerability they overreact.

CHAIR: Would you say that that grief has been exacerbated by the fact that this has been a rollercoaster for 23 or 24 years for the family and relatives in the Aboriginal community?

Mr SULLIVAN: Some people say they will not go to a funeral simply because they have had enough of funerals.

CHAIR: Because there has been no closure?

Mr SULLIVAN: Yes, and because the families are all related. Recently I conducted a funeral in Ballina where 1,000 people were present. Half of the relations in Ballina were from this part of the country. It is not just grief here. Because the families are interconnected and interrelated the funerals can be anywhere from Kempsey to Ballina.

CHAIR: Is that grief exacerbated by the fact that there is a feeling in the community that more could have been done to get justice?

Mr SULLIVAN: Yes. That is especially true when there is a tragic death like some of the examples I mentioned. There were people in their twenties and forties and they see the futility of those deaths. It is another reminder that families have been hurt by death. Just like the families of the three children who were murdered, when a child or young person dies it really hits at the core of that family and their whole sense of wellbeing.

The Hon. CATHERINE CUSACK: Thank you very much for the support that you are giving to the community. I would like to ask some questions about the Catholic Church in Bowraville if I may.

Mr SULLIVAN: Yes.

The Hon. CATHERINE CUSACK: Which parish is Bowraville in the Lismore dioceses?

Mr SULLIVAN: It now belongs to what is called the Nambucca Valley parish. A number of years ago, the four mass centres—Nambucca, Macksville, Bowraville and Taylors Arm—came under the one priest.

The Hon. CATHERINE CUSACK: Bowraville is special because it had an Aboriginal mission run by the Catholic Church.

Mr SULLIVAN: Yes.

The Hon. CATHERINE CUSACK: I know that the school has done some wonderful things. It is fair to say that in many country towns in New South Wales there is an Aboriginal school and a white school, that is, there are divided communities.

Mr SULLIVAN: Yes.

The Hon. CATHERINE CUSACK: In Bowraville the Catholic school might generally be regarded as the Aboriginal school because of its historic relationship with the mission.

Mr SULLIVAN: Yes, although the numbers have changed. I was talking to the school principal today and he said that about 60 per cent of the school population is Aboriginal.

The Hon. CATHERINE CUSACK: That is much more balanced and that is good to hear. Is the Catholic Church providing support and resources to people on the ground as a parish and as a diocese? Bowraville seems to be dropping off the map for many organisations. I suppose the Catholic Church has a particular responsibility in relation to this community.

Mr SULLIVAN: Many resources are provided at the Catholic school. That would be the main presence. The other presence would be that over the past 20 years I have been with a team of people called the Aboriginal Catholic Ministry. We are supportive of the families, especially around times of grief and funerals.

The Hon. CATHERINE CUSACK: What is your presence and activity in Bowraville?

Mr SULLIVAN: I am in a different place each Sunday. I am in Macksville for a couple of Sundays, on the third Sunday I go to Kempsey and on the fourth Sunday I go to Ballina.

The Hon. CATHERINE CUSACK: Do you offer mass?

Mr SULLIVAN: I do not do the Sunday masses. On the fourth Tuesday of every month I celebrate the parish mass at Bowraville at which the school and the parish come together for the liturgy. Some of the senior parishioners act as what we call guardian angels of the little people. The children sit with the older ladies from the parish and get to know them. A couple of the parishioners help out with special needs learning in the parish school. After a special function at the school, that little parish group will join the school for a morning tea or a lunch.

The Hon. CATHERINE CUSACK: It is lovely to know that there is a special initiative being implemented by the church. Do you think it is working?

Mr SULLIVAN: One of the key things is education. The current principal has a background in special needs education. The biggest predictor of imprisonment is poor literacy and numeracy. Dr Danny Ryan spoke about this. I would suggest that it starts when the mother leaves hospital. We should strengthen the special needs education for primary school children so that they learn to read and write. If a child does not know how to read or write they play up or muck up. They opt out and get into the troubled group and then enter the juvenile system, and that becomes the alternative education system. That is no good for anyone.

The Hon. CATHERINE CUSACK: Would you take it on notice to provide information about those additional resources being provided to that school?

Mr SULLIVAN: Yes.

Mr DAVID SHOEBRIDGE: When did you start working in this parish and diocese?

Mr SULLIVAN: I started in 2004. There was a priest before me, Father Bernie Ryan, who had previous contact with the community. Prior to that I was in the Northern Territory for 12 years and I was a director of an Aboriginal alcohol awareness and family recovery program.

Mr DAVID SHOEBRIDGE: You have worked here for 10 years, but how long have you been working within Aboriginal communities?

Mr SULLIVAN: Twenty-two years.

Mr DAVID SHOEBRIDGE: In the time that you have been here from 2004 onwards how would you describe the relationship with the local area command police? There is a good relationship, obviously, with some of the homicide investigators but I am talking about the local area command police.

Mr SULLIVAN: I have attended some of the meetings that happen. The area command meets with the elders, and that is fairly open. Some of the elders here attend those meetings. It is a fairly robust, interactive meeting and there is goodwill on both sides. At that level I do not see that to be an issue.

Mr DAVID SHOEBRIDGE: What about on the street level?

Mr SULLIVAN: On the street level people are more cautious there. If there has been a break and enter or some kind of behaviour that the police are called to, if it involves one of my family members being picked up or spoken to by the police there is discomfort on that level.

Mr DAVID SHOEBRIDGE: From 2004 onwards has that been an improving relationship, a fairly static relationship or one that is deteriorating? How would you describe it?

Mr SULLIVAN: A mixed response. I think the magistrate from Kempsey has been very active in setting up the circle sentencing. Some of the elders have been involved in circle sentencing. I think that there have been improvements on various levels but, again, some people would have an historic discomfort.

Mr DAVID SHOEBRIDGE: The discomfort you are talking about is coming from the Aboriginal community?

Mr SULLIVAN: Yes, from the Aboriginal community.

Mr DAVID SHOEBRIDGE: What about if you were to give your answer in terms of the response from the policing community?

Mr SULLIVAN: I have not really had any discussions with the police except at the level of area command. I think the crucial issue here is not so much the relationship with the police but the high rate of imprisonment. There is an extraordinary rate of imprisonment in the juvenile system and in the prison system that needs some attention rather than that other relationship.

Mr DAVID SHOEBRIDGE: Have you seen issues in relation to bail and the ability to provide a surety for juveniles playing a role in that high rate of imprisonment?

Mr SULLIVAN: I am not too sure what you are getting at there.

Mr DAVID SHOEBRIDGE: When a juvenile is charged with a serious offence are they getting bail and being in the community or are they taken out of the community?

Mr SULLIVAN: I probably cannot give you a really good answer on that one. I am aware recently of one fellow who was given bail and I am aware of one fellow recently going up to Grafton for the juvenile system.

The Hon. CATHERINE CUSACK: Was that to Acmena Detention Centre?

Mr SULLIVAN: Yes.

Mr DAVID SHOEBRIDGE: What about when people come out of the criminal justice system? Say if someone has gone to jail for domestic violence, what sort of services are there in the community to make sure that they and their family have domestic violence support services when the person comes out of jail?

Mr SULLIVAN: I think that is the issue. I think jail is the inappropriate sentencing option for a lot of cases, especially for the juveniles. They would probably benefit from some recreational, cultural or social outreach. The Northern Territory has recently introduced a program called Sentencing to Work. You live in jail

but you go out to work. While they are in jail people have established an employment and established some relationships within their community. I think we need to rethink the whole juvenile jail system.

The Hon. CATHERINE CUSACK: To put that in context, it sounds like the relationship is coloured by the investigation of crime but this is an issue where Aboriginal families are victims of a crime.

Mr SULLIVAN: Yes.

The Hon. CATHERINE CUSACK: The interactions are not positive generally, are they?

Mr SULLIVAN: I do not think so but I would agree that there is a need for community resources to support families. Anything that can happen to support families—

The Hon. CATHERINE CUSACK: Absolutely. Overwhelmingly the victims of these crimes are Aboriginal people, are they not?

Mr SULLIVAN: Yes, they are.

The Hon. CATHERINE CUSACK: I think that is the point that keeps getting missed here.

Mr SULLIVAN: Yes, and that is part of the grief again because the family is being broken up.

The Hon. PETER PRIMROSE: What is the most important thing that you would like us to recommend to the Parliament?

Mr SULLIVAN: Thanks for that question. I think I said it already, and that would be that the three trials, the three murder cases, be heard in the one forum. Whatever can be done to facilitate that would be number one for me. Number two would be supporting what Dr Eades and Detective Inspector Jubelin have said about cultural awareness in the court system so that rather than the court system being fairly easy to find a conviction not beyond reasonable doubt we need to strengthen that system so that a fair and open trial is heard.

The Hon. SHAOQUETT MOSELMANE: I appreciate the compassion you have shown in your understanding of these issues. The key to your submission is that the three cases heard in one forum would, in your words, unlock the truth.

Mr SULLIVAN: Unlock the truth.

The Hon. SHAOQUETT MOSELMANE: By doing that the community would see justice being done.

Mr SULLIVAN: I think so. The coroner in Bellingen in 2004 identified 11 strikingly similar characteristics between the three murders. That is pretty compelling.

Mr DAVID SHOEBRIDGE: Do you minister only to the Aboriginal community in Bowraville?

Mr SULLIVAN: No. I connect with the Aboriginal community in Kempsey, Nambucca, Macksville, Coffs Harbour and I go up to Ballina once a month.

Mr DAVID SHOEBRIDGE: When you are in Bowraville do you also provide ministry to the non-Aboriginal community?

Mr SULLIVAN: Not primarily. When I go there I would visit the school. Then occasionally I would drive up to the mission. I might have messages or sometimes people ring up from the mental health place in Coffs Harbour or from the drug and alcohol program Bennelong's Haven. So I might have a message or I might have a reason such as someone wants their child baptised.

The Hon. CATHERINE CUSACK: Would you mind explaining to Mr Shoebridge how the parish system works and the responsibility of the parish here?

Mr SULLIVAN: There are four paddocks.

Mr DAVID SHOEBRIDGE: I understand that.

The Hon. CATHERINE CUSACK: The parish priest is responsible for the school.

Mr DAVID SHOEBRIDGE: I understand. I was going to ask you about your observations of the way the school operates and the way the Aboriginal and the non-Aboriginal students mix in that school. Is that relationship improving or fairly static? How would you describe it?

Mr SULLIVAN: I would say it has improved enormously over the years.

Mr DAVID SHOEBRIDGE: What has led to that?

Mr SULLIVAN: I think you have had a school principal who takes on a role of leadership. It really identifies and makes it very clear that when leadership acts something can happen. There would be seven or eight Aboriginal people on the staff. The assistant principal is Aboriginal. There are three or four teacher assistants in the school. The secretary is Aboriginal. A couple of the groundsmen are Aboriginal. The canteen is run by an Aboriginal lady. You have got a fairly high concentration of Aboriginal staff being involved in the school. Language is also valued in the school.

Mr DAVID SHOEBRIDGE: There has been some discussion about the community actively not only preserving but relearning, teaching and speaking their language. Is the school involved in that?

Mr SULLIVAN: Yes. One of my colleagues, a Christian brother, has actually been involved with the Aboriginal community in preparing a dictionary for the Gumbaynggirr people. That happens at Nambucca where there is an Aboriginal language centre. Some of the Aboriginal staff are involved in teaching language at the school.

Mr DAVID SHOEBRIDGE: Looking for good things that could be expanded, would it be worthwhile providing further resources for the teaching, learning and speaking of the Gumbaynggirr language?

Mr SULLIVAN: That would be excellent. At this language centre called Muurrbay Language Centre, where the dictionary was compiled, they are in the process of teaching Aboriginal people in the public school system to teach language in the schools. They are also preparing a cultural awareness program for non-Aboriginal staff.

Mr DAVID SHOEBRIDGE: Could you provide on notice further detail about where that service is being provided at the moment?

Mr SULLIVAN: Yes.

Mr DAVID SHOEBRIDGE: Could you perhaps give some short evidence now about where language is now being used in the community other than in the schools?

Mr SULLIVAN: We use snippets of it in our church ceremonies and liturgies. In most ceremonies and occasions like today there will be a Welcome to Country or a smoking and a blessing ceremony. The grasp of the language is fairly narrow and fairly limited. Some of the elders of the community have joined this language program but, like most people, once you get a few grey hairs learning language is not easy. That is why at the present moment the focus and the aim is teaching the teachers in the school to teach the children. That is where the focus is at the moment.

The Hon. CATHERINE CUSACK: Again, a really important issue is that most of those resources for Aboriginal education are going to government schools but in Bowraville it is the Catholic school that has most of the Aboriginal students. Is that correct?

Mr SULLIVAN: No, I would not think so. I would not be really sure of that.

The Hon. CATHERINE CUSACK: I have not revisited the school for some years but the issue previously was that the resources are being put into the government school sector and in the case of Bowraville it falls back on the church to provide that extra funding, whether it is available or not. The question can be taken

on notice, but, as I understand it, that is a particular problem that Bowraville has experienced which is quite rare in New South Wales.

Mr SULLIVAN: I would not be aware of those internal issues.

The Hon. CATHERINE CUSACK: It would be nice to have some focus on that.

The Hon. SHAOQUETT MOSELMANE: You may have heard some earlier witnesses say that there is significant blatant and latent racism around the place. What has the church done to minimise racism and educate those who are prone to it to cease with their racist attitudes?

Mr SULLIVAN: In the activities that I am involved with anyway we always like to engage the elders. We have an Aboriginal Catholic elders council as a governing body. Like a parish would have a parish council, there is an Aboriginal elders council. We meet four times a year. There are local elders here and there are local elders in each of the communities. I would always work in partnership with those elders. I guess the other way is in the preparation of funerals. I would always go to the family home and we would work very carefully over two or three hours working on how they want to do it and who does what so that there is maximum participation in the liturgy and in the ceremony. The school at Bowraville is doing wonderful work in terms of affirming culture and language.

CHAIR: Thank you for being with us today and giving us those important insights into the work that is being done at the grassroots and for your insights into the reaction of the community to these horrible murders. Thank you also for the good work that you are continuing to do with communities at the ground level and getting them to work together. I know the community is greatly appreciative of your work.

Mr SULLIVAN: Thank you to the Committee for opening the window and the door on this very significant issue. When we open the window and open the door we let the light and the truth shine in. Amen.

(The witness withdrew)

The Committee adjourned at 5.16 p.m.
