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REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

INQUIRY INTO CRIME PREVENTION THROUGH SOCIAL SUPPORT

At Sydney on Tuesday 14 March 2000

The Committee met at 10.00 a.m.

PRESENT

The Hon. R. D. Dyer (Chairman)

The Hon.P. J. Breen
The Hon. J. Hatzistergos
The Hon. J. F. Ryan

IAN KENNETH ELLIS, Regional Commander, Georges River Region, New South Wales Police Service, Level 2, 5-9 Butler Parade, Hurstville, sworn and examined:

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Mr ELLIS: Yes.

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

Mr ELLIS: Yes.

CHAIR: Could you please briefly outline your qualifications and experience as they are relevant to the terms of reference for this inquiry?

Mr ELLIS: I have been a member of the Police Service since 1964. I am an operational commander. I have also been the Police Service spokesperson on youth issues since 1995. I am well aware of the Police Service position in a number of areas addressed by the terms of reference.

CHAIR: The Police Service has made a written submission to this inquiry which is of very high quality and the Committee is grateful for that. Do you wish your submission to be included as part of your sworn evidence?

Mr ELLIS: Yes.

CHAIR: If you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee would be willing to accede to your request. I now invite you to make a short opening statement to the Committee if that is your wish.

Mr ELLIS: I thought I would open my evidence by indicating a few points that I would like the Committee to consider. The reality for police is that a large part of law enforcement work involves responding to reports of crime rather than dealing with the causes of crime. The Police Service's primary focus is on sustained crime reduction and strategies that aim to discourage and disrupt offenders. Strategies such as targeting repeat offenders and crime hot spots, and better use of investigative and intelligence teams have resulted in the stabilisation and in some crime categories a reduction to crime levels of 1996. That is the aim and goal of the Commissioner of Police, Mr Ryan; to stabilise all crime areas down to that level.

However, the continuing effectiveness of these strategies require a high level of sustained resourcing and can have little effect on the longer term and deeper causes of crime. The Police Service submission presented to the inquiry briefly acknowledges that social and economic changes contribute to an environment where there is a greater potential for criminal and anti-social behaviour. In discussing the link between social support and crime prevention the submission examines the current research, with particular focus on the work by Weatherburn and Lind in 1998 and a national crime prevention initiative "Pathways to Prevention" in 1999. Both studies agree on the link between child neglect, abuse and juvenile participation in crime and the importance of early intervention programs by non-traditional law enforcement agencies for true crime prevention.

About two years ago I attended a conference in New Zealand and was very impressed with some of the early intervention strategies in that country. For instance, when a family has been identified at risk the support agencies actually take over the management of the whole family from an early time and that is a realistic way of addressing those sorts of problems. In outlining the role of police in crime prevention and specifying the range of programs in which the service participates, the submission recognises the need to look beyond traditional policing responses towards greater collaborative work with other agencies. That is an area in which I have some experience as the spokesperson for youth issues. Whereas some three or four years ago there was little collaboration between

the Police Service and peak youth groups, we are now working closely with them in identifying problems in the youth sector particularly.

An area where the police have an important role to play is as gatekeepers to the criminal justice system, particularly to vulnerable groups in the community. Police support for the development of alternative and diversionary processes within the criminal justice system which seek to be rehabilitative are family and community support and/or education and training initiatives to stop or reduce the likelihood of an offender committing further crimes.

This key aspect of crime prevention does not always attract the attention or the resources that it deserves but has the potential to reduce the number of reoffenders coming to police attention and subsequently proceeding through the court system by attempting to directly address the causes of that offending. The Young Offenders Act 1997 is a key strategy for the Police Service and allows police to deal with young people in ways that are appropriate to their age and offences. Given that police often only deal with one aspect of the problem they cannot be the total answer and can only play their part in the broader crime prevention approach. Such an approach should be based on a collaborative and whole-of-government framework that incorporates the community. That concludes my opening address. I am at your disposal.

CHAIR: The Police Service submission mentions that the service has developed the New South Wales Police Service community safety action plan and that one of the main strategies of that plan is the appointment of a community safety officer to work on community safety in each of the Police Service's 80 local area commands [LACs]. Could you give the Committee a brief appraisal based on your own experience on the success of the initiative of having a community safety officer in each LAC?

Mr ELLIS: They are an integral part and often carry the banner at local area commands for crime prevention strategies. The role of community safety officers is to interact with local government and other community groups in developing community safety plans. With local government authorities, often in the planning of developments the local safety officer is consulted and where the plan might be to have a secluded walkway between buildings, with proper consultation that might not be appropriate and another approach would render that place a lot safer.

Another very important role of the community safety officer, although it is post the event, is where they attempt to harden targets. For example, if a service station is the victim of a hold-up, often the community safety officer will attend those premises and give advice and guidance as to how prevention methods could be put in place to prevent a recurrence. Also, in Hurstville the community safety officer was attending a premises on monotonous regularity and he observed the fact that when people were committing offences in those premises, they were putting the staff at risk. He went to WorkCover and engaged them in the process. WorkCover came out and after significant encouragement from WorkCover some of the work practices were changed to address the safety of the workers in the work force. That is an example of collaboration between two agencies that can be brought about by a very proactive community safety officer.

Community safety officers carry out what I call a very significant crime prevention function. At Kogarah, the community safety officer is of the head of the youth team, which involves the youth liaison officer [YLO], the domestic violence liaison officer and himself to address those sorts of issues in the community. Community safety officers certainly should enjoy a place of prominence in any command. Assistant Commissioner Christine Nixon, of course, is the sponsor for people within that area. She is looking to enhance their position within the command structure.

CHAIR: Recently the Committee had a briefing from the Department of Urban Affairs and Planning which referred to the way opportunities to commit crime were "designed out", so to speak, when housing developments were planned. Are you saying that police have input into that at times?

Mr ELLIS: From my 35 years of experience in the job I truly support the involvement in that process. For a long time the Police Service may have resisted that involvement, but we are more enlightened now and realise that we do not have the answer to all problems. The answer lies in other areas including enlisting the aid of people with expertise. At present I am the chair of the graffiti solutions task force which is looking at solutions to

combat the use of graffiti in the community. At present there is no provision for investigating the use of graffiti-resistant material when developing properties. The task force is hoping to engage the Local Government Association in that.

We are also looking at strata agencies to ensure that graffiti is removed within 24 hours of being found on developments. Community safety officers and the police, in collaboration with other agencies, should work towards that aim.

CHAIR: The Police Service submission referred to the Police and Community Youth Clubs [PCYCs] and mentioned that the police attached to those clubs were actively involved in developing and delivering a range of programs to assist us in various ways. Previously I served on a committee which advised the then Police Minister, the Hon. Ted Pickering, on the general operation of PCYCs. At that time, although things may have changed, there was concern that PCYCs overemphasised gymnastics and sporting activities and perhaps neglected other activities that young people might be more interested in, including music, dancing and other activities that were not sports based. What is your view of the role of PCYCs and the role of police officers attached to those clubs?

Mr ELLIS: I am the Commissioner's representative on the board of directors for the PCYCs. In the past 12 months it has been the aim and goal of the board to impact on areas which addressed kids at risk as opposed to the best basketball player in the district. Sports have a place in the PCYCs but we should identify kids at risk. Innumerable programs are being developed including the crime prevention workshops of the PCYCs. I have an interest in the Young Offenders Act and was charged with the responsibility for implementing that Act through the Police Service.

CHAIR: I will come to that Act in a moment.

Mr ELLIS: There is a great opportunity in encouraging people from the conferencing directorate, as part of an outcome plan, to have involvement with the PCYCs. Programs to address problems of young people can be developed and put into place. PCYCs are at the forefront in a number of areas, particularly the graffiti area with programs such as the excellent Stop the Scribble program at Port Macquarie. In that program the high school students, under the sponsorship of the PCYCs, take responsibility for a section of the central business district. When students find graffiti in their section they remove it. The program is supported by the business sector and the community. The students take ownership for their section. The program has two effects: firstly, it involves the kids in the community and, secondly, because of peer pressure, they do not want scribble in their section. That is excellent way of preventing antisocial behaviour.

The Hon. P. J. BREEN: Last week the Committee visited Kempsey, which has a similar program. That program diverts kids into creating their own graffiti; they are called "bombers" as opposed to "taggers". Their program is similar to the graffiti hall of fame in Redfern. To my mind that was a novel approach.

Mr ELLIS: Yes. The PCYC at Rockdale has a van which is full of computer equipment. It is a mobile PCYC and gives kids from disadvantaged areas an opportunity to put graffiti on the side of the van. In the Wallsend area there was a significant community program for a number of years which allowed them to create a graffiti wall. Those sorts of programs should continue. The PCYC submission to the graffiti solutions task force stated that out of 70 funded projects, 29 were successful. A significant proportion of funding goes towards addressing graffiti.

For a long time the PCYCs have been the face of policing as far as youth are concerned. It is the aim and ambition of the current board, a dynamic group of people including those from the youth sector, to resource not only rehabilitation but also preventative strategies for offending behaviour.

CHAIR: The PCYCs have the capacity to play a very substantial role in working with young people. Many clubs are spread throughout the community and usually they are large, expensive, impressive buildings offering many facilities. Do you agree that they can play a central role?

Mr ELLIS: Yes. Of course the major ingredient is keeping the police involved. The Callaghan report proposed to civilianise the PCYC management structure; that is, where police officers manage clubs. In reality, if we can look at that and encourage civilianisation of those positions, the programs can be further enhanced by police directing their full attention to those activities. The PCYC police are very well represented. Each July we conduct a three-day Youth Liaison Officer [YLO] forum at the academy. Their attendance is a testament to their dedication, because the weather is not very friendly at that time of the year.

The PCYC police are actively involved in that program. At the end of the day the YLOs from the commands interact significantly with the PCYC police. The YLO comes into front-line contact with kids in the street and tries to divert them towards PCYC programs. Together they form a significant youth team. They are in a strong position to impact on youth and as a strong crime prevention strategy can utilise the PCYCs. In my day they were called Police Boys Clubs. If it had not been for Freddy Brown from the Police Boys Club I would not have joined the Police Service. I am grateful to him.

CHAIR: I turn now to the Young Offenders Act. The Police Service submission to this inquiry mentioned Youth Liaison Officer positions established in each local area command [LAC] and that that officer is specifically tasked with implementing the provisions of the Young Offenders Act 1997 within the LACs. Page six refers to the Police Service playing a pivotal role in determining which young people are to be referred to youth justice conferencing. Are any statistics kept on the use of both cautioning and conferencing? I realise it is early days, but if statistics are kept do they show any particular trend?

Mr ELLIS: Certainly there are old statistics in the computer operated police system. It is too early to identify trends as far as reoffending is concerned. We have anecdotal evidence that some local records show a significant reduction in reoffending when young people are either referred to conferencing or given an official police caution. Police have been cautioning young people informally ever since I was a young constable in Kurri Kurri. I handed out many Ellis cautions that were not supported by legislation. The Act allows for police to impact significantly through cautions and warnings.

In broad terms I have information which suggests that for the year 1998-99 there were about 24,000 young people dealt with by police. Over 8,000, or 33 per cent, were dealt with by caution and 806, or 3.3 per cent, were referred for conferencing. A further 15,000 were dealt with in court. Of course, the goal of the Police Service is to actually divert many, many more young people from the criminal justice system. As I said, I think we have a very strong role to play as far as cautions and referalls to conferencing are concerned. One of the inhibitors to young people being dealt with in either way is the need for a young person to actually admit the offence. Very often the statistics are skewed somewhat towards court because young people, in their initial contact with the police, do not admit the offence; but when they go to court and admit the offence, they can be dealt with by the magistrate under the Young Offenders Act. We would like to stop the process before it gets to the magistrate, although we do not want to put them out of business. We would like to think we can divert young people away from the court system.

I can say at the outset that our diversionary rates as far as Aboriginal and Torres Strait Islander children are concerned are not as high as they are in the broader community. I think there are some significant reasons for this. Later in this month I will be addressing the annual conference of the Aboriginal Legal Service and will be enlisting its aid in this regard. Traditionally, when young Aboriginal people come into contact with the police, they have a significantly higher reluctance to admit the offence than do people from other sections of the community. Some of the advice that they receive is a causal factor in that regard.

My personal goal would be to see that rate reach at least 40 per cent by the end of this year and go even higher into next year. I think that by the time the Act has been in place for the four-to-five year period, we will be able to do a proper evaluation of the cause and effect of the diversion from the criminal justice system. I think that even with the amendment to the Act dealing with the minor drug offences which comes into force on 3 April, a lot of those offences will be diverted from the courts as well.

CHAIR: I am very interested in what you have just had to say, particularly with reference to the possible underrepresentation of indigenous young people in the conferencing system. The Council for Civil Liberties gave evidence to this inquiry earlier this year. Since then we have received a letter from the council in which the

claim is made—admittedly on the basis of anecdotal evidence—that in the council's view, indigenous youth are underrepresented in the diversionary scheme. In the letter to this committee, the council cites Redfern as an area where, in the view of the council, police are referring proportionately fewer offenders than is the case in other areas. Can I ask you whether the police record whether the young person dealt with is of an indigenous or other background?

Mr ELLIS: Yes. The screens that are available to police when dealing with young people have an indication as to the Aboriginality or otherwise of the young person. I will go back to what I stated earlier. An integral part of dealing with young people under the Young Offenders Act is the fact that they actually admit the offence. They cannot be processed under the Young Offenders Act unless that occurs at the time that they come in contact with the police. There are a couple of things that we have done in collaboration with the Young Lawyers hotline that is available as an 1800 number where young people can get legal advice on the spot. As I said, we are constantly corresponding with the Aboriginal Legal Service [ALS] to encourage those advisers to re-evaluate what the young person is in custody for and perhaps give those young people the type of advice which will allow us to deal with them under the Young Offenders Act.

Can I give the committee a very quick example that occurred at Hurstville. There was a young girl, 14 years of age, who came into custody for shoplifting, not as a first offender. She was belligerent in her attitude. The Youth Liaison Officer [YLO] at Hurstville, however, determined that this girl could be formally cautioned and she contacted a representative of the ALS. That representative instructed the young person not to admit the offence and that is an example where, after a long deliberation with the YLO who actually went through the provisions of the Act with the solicitor from the ALS and gave the solicitor the benefit of her experience, the solicitor still would not contemplate a change in position. The young person went to court but there was no need for that to occur. We were quite happy as an organisation to divert that young person away from the criminal justice system.

I am not putting all the causal factor significance on the ALS. What I am saying is that if you look at the principles behind the Young Offenders Act, it is a very significant shift for police to deal with young people in that manner under that Act because for 200 years we have just locked people up. Now it is a big shift to shift 13,000 or nearly 14,000 people and shift their philosophy of locking people up to diverting offenders from the criminal justice system as a policing function. We are not right down the road yet. I think we have a way to go.

CHAIR: I was going to ask you whether there has been any resistance by the police on the one hand or the general community on the other to either or both cautioning or conferencing on the possible basis that either of them may be perceived as being a soft option. Do you think it there is that type of resistance?

Mr ELLIS: There is no doubt about that, particularly in the initial stages. We identified very early in the piece that we would need to market it fairly significantly across the organisation. To achieve that, under the Act, there are provisions to have a Specialist Youth Officer which is a role distinct from the Youth Liaison Officer. We developed, in collaboration with the Department of Juvenile Justice, a training program aimed at Specialist Youth Officers. It is a two-day program and the police we are looking at are police officers who are custody managers, duty officers and those who are in the front line when dealing with offences of this nature.

What we have found is that, after going through a lot of them who, shall we say, are more experienced and set in their ways and who we encouraged to take part in the train at the trainer course recently conducted at Macquarie Fields, a complete turnaround occurred. The police said that they thought it was a soft option and not what they should be involved in, but after going through the training program and looking at the philosophy behind the Act, a lot of the officers change their attitude. They are very important persons as far as that Act is concerned.

Our ultimate aim is that when the young person comes into custody, the first response should be whether the matter can be dealt with under the Young Offenders Act. If we can achieve that, we will increase the diversion of young people from the criminal justice system significantly. We have a way to go, but that we have the mechanisms in place.

The other area that is significant to us as far as young people are concerned is that in the YLAs—

as I said, there are actually 80 of them across the State—we have formed the Youth Liaison Officers executive consisting of one representative from each of the 11. They actually come together and address all the training issues that come to their notice so that we can tailor our training response to appropriately deal with that, and identify places where the diversionary rate is not what it should be, which is then taken to the commanders in the area. The other significant thing is that we have encouraged the Commissioner and the executive team to actually ask questions of the particular command response to the Young Offenders Act at our OCRs.

CHAIR: I am sorry, what is that?

Mr ELLIS: The Operational Command Review is where the Commissioner and the executive team can actually ask the commanders about what is happening in their command. It is very difficult to fudge because all the statistics are shown at the end of the room and the commanders are grilled on their response. I have managed to convince the Commissioner and the deputies to actually include questions on the Young Offenders Act and the OCRs which I think focuses the commanders in that regard.

CHAIR: This committee was in Kempsey last Friday. Speaking for myself and, I believe, the other members of the committee, the police certainly appear to be committed to making conferencing work. The conferencing administrator at Kempsey spoke highly of both the police Youth Liaison Officer and police co-operation generally. There was, however, one possible shortcoming identified which was the suggestion to the committee that perhaps not all police officers had sufficient training in the Young Offenders Act. Can I ask you what your perception is in that regard and whether ultimately, even if it has not happened at the moment, virtually all officers will be trained in operation of the Young Offenders Act?

Mr ELLIS: I will go back in history of little bit. When we were developing the Police Service response to the Young Offenders Act and when we appointed the Youth Liaison Officers, they were the only positions of which I am aware from my experience in the Police Service that required officers to undergo training prior to actually taking up the job, which is a significant shift in education as far as the police are concerned. It was identified then that we would have some difficulty rolling out the education program. However, it is part of the mandatory training package and was presented in all commands by the education development officers attached to those commands. The whole of the responsibilities that associated with the Young Offenders Act were publicised regularly in the *Police Service Weekly*.

We developed specialist youth officers training and I think that that training most probably turned a lot of them around because we were dealing with people who are responsible for the command of their area during times when the Local Area Commander is away and when they are likely to have contact with young people. I have actually encouraged the inclusion of, and have been successful in having incorporated in, a module for the Young Offenders Act in the forthcoming training package for duty officers. They will be appointed to Local Area Commands and it will be their responsibility to manage all those functions within the command on a 24-hour-a-day basis. The training that they receive relative to the Young Offenders Act will not be simply a reading of the Act and answering a couple of questions. They will be required to look at the project in regard to young people and how they can be dealt with under the Young Offenders Act. As I said, we can never overtrain a police officer because of the dynamics of the job. They will not go stale from training, let me put it that way. This is one Act of Parliament that will continually have the training programs reinforced. Of course, other things impact on our business is well. We have an athletic carnival happening in September that has our focus at the moment, so training might be put aside for that period.

CHAIR: Apart from the Young Offenders Act, you would be well aware that in recent years there have been a number of legislative initiatives dealing not exclusively but largely with young people: the Children (Parental Responsibility) Act, knife laws and move-along powers are some instances. What provisions have the police found most useful in operational terms? Are there one or more of those that have been found to be useful?

Mr ELLIS: No doubt there has been a significant involvement of police with younger people in regard to the knife legislation and more particularly the move-on component of the legislation. Properly responded to, that legislation can achieve what it sets out to do. The problem we are faced with as far as legislation like that is concerned is that most of the areas where young people congregate are those areas like shopping centres. There is an overt strategy for shopping centres to attract young people. When they are attracted to the place they congregate and

after they have spent their $10 they then want to move them on. We have to be mindful of using our discretionary powers as far as that is concerned. The point I am making is that move-on does not mean move-on all the time; move-on only applies when there is a real and imperative need for that.

CHAIR: The difficulty with shopping centres, specifically talking about shopping malls, is that in many respects they have the characteristics of a public place in that people resort to them to have a cup of coffee and young kids might just hang around. Notwithstanding that they have many of the characteristics of a public place, they are privately owned. Obviously, that poses difficulties?

Mr ELLIS: Yes, particularly when young people congregate outside the premises for which the owner is most probably paying significant rent and does not want young people out the front. That is where security for those places plays a significant role. I have been an operational police officer for many years and I pride myself on being able to tell the difference between a group of kids hanging around and a group of kids up to no good. We would like to think a lot of our police officers have that same sort of experience and perception when they go into these places. That causes us some concern when we are pushed from one side to move the young people on and the young people quite rightly say, "Well, we are not doing anything wrong." It is an ambivalent position in which police find themselves when they have a push from the owners to move people on and the young people quite rightly say they are not doing anything wrong. Of course, police can be subject to complaint for non-action.

You mentioned the Children (Parental Responsibility) Act. That Act of Parliament operates in four areas in the State. My observation, again as an operational commander, is that it is a significant piece of legislation if it achieves what it sets out to do. It is difficult for police as a whole to act under that Act of Parliament because of the restrictions it places on police. If they make the decision to remove the young person under the provisions of that Act, the only action they can take is to take that young person to a proclaimed place under the Act. If you look at some of the areas where this is in operation, that could mean they are taking them significant distances. If something happens of a more urgent nature that the police have to address, they have a young person on board. Do they just put them out? Does the young person cease to be a person in need of protection? It is a difficult Act of Parliament for police to effectively respond to. I never supported it from the outset and I was the Police Service representative on that committee.

As far as shopping centres are concerned, if I can hark back to it, one of the areas in which we have been successful is with YAPA. I have been a member of a committee with the executive of YAPA. We have been working very closely with shopping centre owners particularly addressing issues where the training of security officers has become a responsibility of shopping centre owners and perhaps training in managing young people as opposed to controlling them.

CHAIR: Is that the Youth Action Policy Association?

Mr ELLIS: That is right. I could not think of it for a moment, that is why I called it YAPA.

The Hon. P. BREEN: I was interested in your comments that if it were not for the police boys club you would not be in the police force. I had a similar experience with the informal cautioning system about which you spoke, which has been in place for many years. As a student at Patrician Brothers Liverpool there were many occasions when the local constabulary cautioned me and might have dealt with me more severely! From your evidence I was not certain whether you wanted to remove the requirement from the Young Offenders Act whereby the person needs to admit the offence. Is that what you are suggesting?

Mr ELLIS: No. I am not suggesting that at all. I see it as an inhibitor, not a complete barrier. Even if the young person does not admit the offence, it will go through the court and the magistrate has a discretion. If they suddenly say, "I would like to plead guilty to this" the magistrate then can refer the matter back for a caution or conference. But what that does is impact on the statistics from the Police Service. People were saying, "They are not diverting as many people as they should be" when one factor involved was that there had not been an admission. I would not suggest in anyway or form that that provision be taken out. It is a requirement of the Act and I believe it is a very good one.

What it does in a very early stage is encourage young persons to take responsibility for their action and be up-front; to say, "Yes, I did do that, now how are we going to deal with the matter." What I see as the inhibitor for the police is if there is no admission. We are doing a couple of things in that regard. Under the Act there is a provision to have a cooling-off period. With our education of police we are encouraging them to invoke the cooling-off period, say, about 10 days, and then the young person can be brought back and if they admit the offence they can then be dealt with by way of caution or referred to conference. That is an area we are targeting now, to encourage police to use that cooling-off period.

The Hon. P. BREEN: If the magistrate decides to refer a young person back to the cautioning and conferencing provisions, can the magistrate do that without the young person admitting the offence or do they have to admit the offence?

Mr ELLIS: Yes, they have to admit to the offence to be dealt with under the Act.

The Hon. P. BREEN: By not insisting under the Act that they admit to the offence might be one way of getting more people into a diversionary scheme.

Mr ELLIS: I think the principle behind the Act is that it really is about taking responsibility for your actions. About 87 per cent, or it might be 77 per cent, of kids that go before the Children's Court appear there once. They do not appear again. When they go to court it is a very sterile experience for them. By the time the kids in the Children's Court walk out, they cannot even tell you whether it was a male or female magistrate that has dealt with them because somebody jumps up and says, "Yes, little Johnny pleads guilty to this" and little Johnny says, "Well, I've come out so I must have been fined." If you look at it being dealt with under the Young Offenders Act where they have to take responsibility for their action, conferencing is a powerful tool. They are confronted by the person that is the victim of the crime and they take ownership and responsibility for the offence. That is why it is important to have that provision that they admit the offence. Of course, admit the offence where appropriate. If they are contesting it, the rule of law is that they are entitled to plead not guilty to the offence and have their day in court.

The Hon. P. BREEN: I was cautioned on two occasions as a primary school student, but there was never any requirement for me to admit the offence and I do not believe I would have admitted it.

Mr ELLIS: We are probably more sophisticated now than we were when you were cautioned!

The Hon. P. BREEN: Perhaps I would not be cautioned now, is that what you are saying?

Mr ELLIS: If you did not admit the offence you would not. The other thing is, I hope they are matters that are statute barred!

The Hon. P. BREEN: I hope! I will not be admitting them now! In relation to the move-along laws, are you aware of any instances of police misusing their powers?

Mr ELLIS: It was an interesting exercise. Of course, that legislation was closely monitored by the Ombudsman's Office. In regard to police actions under that Act, the number of complaints recorded by the Ombudsman's Office were significantly lower than other areas of policing. If you look at the number of actions—I could get the statistics for you—the number of knives seized, the number of people asked to move-on were significant, yet the level of complaint was not high at all in comparison to other policing functions. Whether or not it was a factor that young people traditionally do not complain as often as older members of the community, from our reading of the statistics and certainly from the findings of the Ombudsman in regard to it, it was considered the police did not overstep the mark at a significant level.

The Hon. P. BREEN: Have you any first-hand experience about it? Is there anecdotal evidence to say they do? If I were a policeman, I probably would find an opportunity in that legislation to exercise powers that I might not have been able to exercise before.

Mr ELLIS: I think that post the royal commission we have put into place some fairly dramatic management change, and people are accepting accountability and responsibility for their actions at a higher level.

They are under a lot more scrutiny now than they were previously. Anecdotally, the evidence is that they did not and have not overstepped of the mark so far as the use of their powers in that regard. There could be individual cases where people say this happened or that happened, but as far as an overall, across-the-State response from areas where you would expect a higher level of complaint, there has not been.

The Hon. P. J. BREEN: Can I ask a question about Assistant Commissioner Christine Nixon. You indicated she has responsibility for a particular area and I am afraid I missed what area that was?

Mr ELLIS: Where I have sponsorship for youths and the youth liaison officers—I am their mentor and representative to the executive—Christine Nixon is the same for the community safety officers. She is taking that program forward, improving their training. She just recently had a forum with them where they indicated the problems they have and the solutions to enhance them. So, Christine is the corporate spokesperson for people in that regard.

The Hon. P. J. BREEN: For community safety officers?

Mr ELLIS: And community safety programs as well.

The Hon. P. J. BREEN: I have one more question, just on that question of cautioning and conferencing. Are any systems in place to evaluate the impact of that cautioning and conferencing regime? How will they be managed and whose responsibility through the various agencies is it to undertake the evaluation?

Mr ELLIS: There will be a full of evaluation of the Young Offenders Act in 2001. I will not be held to that, I cannot remember the exact date, but the responsibility for that is through the Attorney General's Department. It will be a complete evaluation of the Act and the responses to the Act over that period of time. I said right from the outset this was not the type of legislation that could be evaluated in 12 months. It is longer term. We are measuring recidivism, looking at re-offending and whether or not conferencing had an impact on that, cautioning and, of course, warnings, which are being recorded now. It is the whole of that reaction to dealing with young people that will need a longer lead time than some other Acts. The knife legislation was fairly easy to evaluate because it was in an high impact area over a short period of time. These are longer-term strategies, attempting to modify behaviour, which will benefit in the longer term.

The Hon. J. F. RYAN: Mr Ellis, as I understand, under the Children and Young Offenders Act a series of different types of caution can be given. One is the traditional caution that a police officer gives when only taking a notebook record; then there is the more formal and then there is the reference to conferencing. One of the problems that has been a difficulty with evaluating this whole scheme for decades—because cautioning is not new to the Police Service—is that the police department does not have any database on which they record the informal warnings given by police. The Act largely encouraged more of these informal warnings. It wants police to think of the informal warnings first before doing anything else. Does the Police Service at the moment keep any sort of database of records of that sort of warning?

Mr ELLIS: As you will be aware, the Act was amended upon representation from the Police Service. When the Act was first introduced we could give a young person a warning, which was very informal.

The Hon. J. F. RYAN: The old caution on the run?

Mr ELLIS: Yes, that is right. We were not able to actually record the name of the young person who had been warned. Police, being orientated towards recording interaction with people for various reasons, were reluctant to be involved in that process. Since the amendment to the Act warnings are recorded on COPS. The name of the young person is recorded but it is not recorded in the criminal record section of COPS, it is actually recorded in the intelligence section.

The Hon. J. F. RYAN: So the only cautions on the run or warnings that are recorded in the system are the ones attached to the name of the young person?

Mr ELLIS: Yes.

The Hon. J. F. RYAN: What about the dozens of cautions where police do not bother to get the name?

Mr ELLIS: I am not aware of that. If I were the police officer I would get the name.

The Hon. J. F. RYAN: How would you do it if the young persons refused to give their names?

Mr ELLIS: For the type of offence we give warnings for, I would suggest almost 100 per cent of the young people would give their names. If they did not give their names we would look at why. It could be that they were involved in something else, and the usual investigative response would take place. The warning is for very minor things, such as riding a skateboard in a shopping centre. That is the type of offence for which warnings are given.

The Hon. J. F. RYAN: Why would you take young persons' names for giving them warnings for riding a skateboard in a shopping centre in every instance?

Mr ELLIS: Can I just tell you the reason police record interactions with people. Very often it can be of assistance to young people as well. I can recall in my experience where a young person was spoken to by the police, and that fact was recorded in the police notebook. That young person was confronted at a later time and accused of a break and enter offence. The fact that the particulars had been recorded in the notebook saved him from being prosecuted for the offence.

The Hon. J. F. RYAN: I suppose some communities have put to this Committee and to Parliament for decades that one of the difficulties with interaction between police and young people is that the police insist on things like names when they are not necessary and when a simple warning or telling them to go away would be sufficient. Making the process more formal and requiring more details to be recorded can sometimes take a situation which started off reasonably trivial and turn it into a refusal to give particulars. Individuals have put instances before committees of which I have been a member in which things started off fairly minor and turned into an assault police simply over the question of whether or not a person should give a name. Is there not something within the Police Service to suggest that sometimes it is necessary for police simply to intervene to stop a particular behaviour occurring and no more action needs to be taken, and that is in the best interests of everybody concerned?

Mr ELLIS: Of course, I would never suggest that police should not have a discretion to act in that regard if they wish. The reason the names have been recorded in regard to warnings is to put them in the database you have spoken about. It is a bit difficult for a police officer to say "I warned somebody"and put it in COPS.

The Hon. J. F. RYAN: Why?

The Hon. P. J. BREEN: It will not go in COPS.

The Hon. J. F. RYAN: I have to say, in an area like Redfern where you would really want to survey the impact of this scheme, why is it necessary to have the names of individuals, even if you were just surveying areas where there is a traditional problem like Redfern or Campbelltown? I do not understand why it is necessary to go in COPS, to be truthful.

Mr ELLIS: It is a policing response and that has been the experience of police. As I have said to you, the other thing is that police see it as a protection, the fact that they have spoken to somebody and they record that. I have given you an example where it has been an advantage to a member of the community as well.

The Hon. J. F. RYAN: That would be very rare, Mr Ellis, that it would be useful in that manner.

Mr ELLIS: I have had 35 years experience in this job and in my opinion I have never seen where it was unnecessary to make a recording of police actions.

The Hon. J. F. RYAN: I have had a 15 years of experience of listening to police come to Parliament and tell us that the Aboriginal Legal Service prevents people from pleading guilty. That apocryphal story that you told a while ago has been told to me for in the order of 15 years. I would have thought by now it would be possible for the police and the Aboriginal Legal Service to meet together and organise a protocol so that that would no longer be a problem. Why has this not happened?

Mr ELLIS: It is happening. It is like a lot of other things we would like to see happening, perhaps it does not happen as quickly as we would like.

The Hon. J. F. RYAN: Cautioning is not new. Cautioning has been around since the 1980s and you are telling me police still have difficulty cautioning young people rather than charging them. There would not be a police officer serving now who has not had the option of cautioning young people as part of their armoury in response to juvenile crime. I would say there must be something far more profound and fundamental than that if police officers are still not prepared to caution young people as preferred to getting them involved in the juvenile justice system.

Mr ELLIS: Of course, we have only had the legislative base for cautioning since since 1997, when the Young Offenders Act was introduced.

The Hon. J. F. RYAN: I think Mr Unsworth introduced legislation—the Unsworth Government—to allow police officers to caution young people formally. The concept of cautioning is one that has been around for a generation. Why has it taken police so long to use cautioning as a first response rather than as a response they reluctantly agree to?

Mr ELLIS: I think you are selling the police short here. Police have been cautioning people for a lot longer than what you are saying. With the Young Offenders Act they have the ability now to record it and have it formerly recorded in the system.

The Hon. J. F. RYAN: Twenty-four thousand young people interacted with the police. Is that in a year?

Mr ELLIS: That is in that period, yes.

The Hon. J. F. RYAN: What happened to the 16,000 of them that were not given a caution?

Mr ELLIS: They were proceeded against by way of the court.

CHAIR: Apart from those who went to a juvenile justice conference?

Mr ELLIS: Yes, that is right.

The Hon. J. F. RYAN: That hardly suggests to me—with about a third of young people receiving a caution and a tenth of that number winding up in youth conferencing—that the youth conferencing scheme or the Young Offenders Act is having a significant impact on the manner police interact with young people.

Mr ELLIS: It depends on what the breakdown of the offences were for the 16,000 that appeared before the court. It may be that the offences with which they were dealt could not be dealt with under the Act.

The Hon. J. F. RYAN: Given that response even in 12 months, it is not hard to see that another 12 months will not see those numbers move magnificently faster. Is it not time for the Police Service to have done some sort of internal inquiry of its own in preparation for a more thorough evaluation in 12 months time to see why only 8,000 people are cautioned? Cautioning is not new, it has been around for ages. I have to say, it seems to me almost certain that in a year or two years time the Young Offenders Act will be seen to have had a minuscule impact on the interaction of police and young people.

Mr ELLIS: I would like to think that that is incorrect.

The Hon. J. F. RYAN: But what formal reporting and evaluation has been done within the Police Service other than the collection of one line of statistics?

Mr ELLIS: I am a member of the Youth Justice Advisory Committee. The Police Service reports to that committee on its progress in police response to the Act on a monthly basis and formally on a three-monthly basis.

The Hon. J. F. RYAN: Do you report orally?

Mr ELLIS: No, we report in writing to that committee. That committee gives advice and guidance to the Police Service about its response under the Act. As I said, the education program that we are running, as far as specialist youth officers are concerned, will improve our diversionary rate under the Young Offenders Act. I would like to think that in the final evaluation there will be a significant shift in the number of young people who are dealt with under the Act. If you look at the response data I have given, 8,000 were diverted from the criminal justice system. Before the introduction of the Young Offenders Act, they most probably would not have been.

The Hon. J. F. RYAN: There is a modification of this procedure in New Zealand where three pleas are available: guilty, not guilty or not denied. Do you think it would be helpful, particularly given the difficulties with indigenous people, if there were a capacity in New South Wales for a "not denied" plea as a useful mechanism to ensure that more matters were dealt with by means of caution?

Mr ELLIS: It is an area that could be explored and evaluated as to whether or not it is an appropriate response. We would be very happy to look at any proposal of that nature to improve the diversionary rate.

The Hon. J. F. RYAN: I would have thought that by now the Police Service would have noticed that only a third of people interacting with police are being proceeded with by means of caution. The Police Service should have started to ask itself why cautions were not given in more cases. It should have more specific date as to what extent the plea or type of offence was a problem, whether cautions were a feature specific to particular areas or groups of people, or whether any other laws were interacting. Given an evaluation is due in about 18 months, the Police Service should start to ask itself those questions and undertake some research. It does not seem as though that has happened yet.

Mr ELLIS: Obviously I have not been able to articulate that to you, because that is exactly what is happening. We are undergoing a rolling evaluation of our response to the Act and we are identifying areas where there is a significantly lower diversionary rate than in other areas. We are targeting those commands to see what the problem is and how it can be addressed. That is an ongoing process.

The Hon. J. F. RYAN: Globally that has not been put together yet, has it?

Mr ELLIS: Yes, it has. That is the responsibility of our Operational Programs Branch. We are looking at it globally. As I have said, a very significant response to that is the operational command review process where commanders are questioned about the rate of diversion that is occurring in their local area command.

The Hon. J. F. RYAN: You are not present for that though, are you?

Mr ELLIS: The process is that when the Georges River regional commanders are called to the OCR I am present.

The Hon. J. F. RYAN: I am familiar with the process, that it happens with the Police Commissioner. However, you are not personally present to see that occur, are you?

Mr ELLIS: Not on every occasion.

The Hon. J. F. RYAN: Although you have a couple of questions in the list of things which could be asked, you personally have not been able to see whether that is having a significant impact?

Mr ELLIS: I think that it is.

The Hon. J. F. RYAN: No, have you seen that?

Mr ELLIS: No, I do not attend every OCR.

The Hon. J. F. RYAN: Have you seen the questions that were asked?

Mr ELLIS: Yes. The questions that are asked come directly from me and from the Operational Programs Branch to target those areas.

The Hon. J. F. RYAN: We are in a bit of trouble for time. I will put some of my other questions on notice. In the Committee's first report we were critical of attempts by some local councils to take on a policing role. We had examples of councils hiring security guards and sniffer dogs to patrol public places. Would the Police Service like to have some response to that trend?

Mr ELLIS: Certainly. I have some considerable information about the sniffer dogs. I was responsible for introducing the bomb detection dogs into New South Wales. A local council was going to purchase and train a dog. We had a talk to the council and explained the whole process. The council has now resiled from that position and has said that it is more a policing function. We now have drug detection dogs in addition to explosive detection dogs, which we use in response to intelligence.

The dogs were used in an operation a fortnight ago at Hurstville. The dogs were put through two hotels and two people have been arrested for possessing an illegal substance. As to councils employing security officers, if a proper protocol is developed within the local government area those security officers could be utilised as an intelligence-gathering tool for police. They can also address the types of offences under the Local Government Act, such as of littering and illegal parking, that are not considered to be the core business of police.

CHAIR: Thank you very much for your evidence. We appreciate your assistance to the Committee.

(The witness withdrew)

(Short adjournment)

CHRISTOPHER CUNNEEN, Associate Professor, Institute of Criminology, University of Sydney Law School, 173-175 Phillip Street, Sydney, affirmed and examined:

CHAIR: In what capacity are you appearing before the Committee?

Mr CUNNEEN: As an associate professor in the Law School.

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Mr CUNNEEN: Yes, I did.

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

Mr CUNNEEN: Yes, I am.

CHAIR: Would you please briefly outline your qualifications and experience, as they are relevant to the terms of reference of this inquiry?

Mr CUNNEEN: I have had close on 15 to 17 years experience working with indigenous communities in relation to juvenile justice and criminal justice issues.

CHAIR: You do not have a written submission specifically relevant to this inquiry. However, do you wish to make an initial oral presentation?

Mr CUNNEEN: That is correct.

CHAIR: If you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will be willing to accede to your request. I now invite you to make a 10 to 15-minute opening presentation.

Mr CUNNEEN: I will go through a number of issues which I think are of relevance to the inquiry. I should stress at the beginning that much of the work I have done over the past couple of years in relation to criminal justice issues and indigenous people has not been directly concerned with New South Wales but rather nationally. Some of the issues I raise are directly connected to New South Wales, although the experiences and examples can be found in other States and Territories.

The first point I want to make in relation to effective crime prevention is the importance of the recognition of the principle of self-determination. That principle has formed the foundation of and been outlined in a number of reports relating to indigenous issues. These include the Royal Commission into Aboriginal Deaths in Custody and, more recently, the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families.

It seems to me that crime prevention and self-determination are intimately linked. When I talk about self-determination, people's eyes tend to roll back into their heads because it is a principle rather than a practical policy, at least as it appears at first sight. However, I would argue—and it has been shown through experience—that there are very practical implications in relation to the issue of self-determination as it affects Aboriginal communities and their capacity to deal with crime prevention. A number of effective initiatives have been occurring outside of New South Wales in relation to crime prevention that rely on the principle of self-determination. These are occurring in remote communities which have suffered the extremes of social dislocation and disorganisation. Two of those examples are in Queensland at Kowanyama and Palm Island.

The lessons that can be learned from those examples are that there can be effective negotiation between government departments and communities, and that communities can develop solutions to their own

problems providing they receive some level of support. Kowanyama has a system of community elders for dealing with disorder and low-level crime. The two evaluations that have been conducted of the Kowanyama elders group have been very positive. They show an ability to achieve a sustained reduction in offending levels, specifically by young people.

A further point in relation to crime prevention and self-determination in Aboriginal communities—and one of the things that continues to strike me all over Australia in the work that I do—is the great desire among Aboriginal organisations and communities to deal with the issues of disorder as they affect their communities. It is not contradictory for Aboriginal communities to be highly dissatisfied with State departments and their level of intervention, while at the same time demand solutions to law and order problems. They desire those solutions and they desire greater levels of control.

The second point I want to make is in relation to the impact of the stolen generations, the forced removal of Aboriginal children. In terms of contemporary issues of crime and disorder, it is clear that there have been intergenerational effects of the forced removal of Aboriginal children. The effects have been ongoing and they continue to lead to high levels of intervention both by welfare and criminal justice agencies. National surveys show that there is a greater likelihood of the children of people who have been removed, being removed themselves. Similarly, there is a greater likelihood of contact with the juvenile justice and criminal justice system in cases of forced removal of families and descendants of those people. The stolen generation report contains a raft of recommendations in relation to child welfare and juvenile justice issues. It is not the time and place to go through it, but I am sure the Committee can make itself familiar with those recommendations.

Again, the central principle that underpins those recommendations is the need for greater control over decision making by Aboriginal communities and Aboriginal organisations in the decisions concerning juvenile justice, criminal justice and welfare issues. This leads to the third point I want to make. Current decision-making processes in this State and, indeed, other States in Australia isolate and marginalise effective community input or control. The key decisions that are made about intervention, whether we are talking about welfare intervention, juvenile justice intervention or sentencing in the criminal courts, are made outside of effective negotiated input from indigenous communities. That is an important point that needs to be taken on board.

Recently the New South Wales Aboriginal Justice Advisory Committee [AJAC] put out a discussion paper on sentencing circles as they have developed in North America, which allow for effective input from indigenous communities into the sentencing process. That reflects the basic issue that communities want greater control and greater say in decisions. I was aware of the discussion earlier in evidence by Commander Ellis in relation to conferencing and discretionary decisions by police. Again, decisions made at that level are essentially made by police without effective input from Aboriginal communities or organisations. There is a very valid argument to be put that organisations and communities have some input in deciding whether a child is cautioned, whether a child goes to a conference or whether a child is proceeded against in the juvenile court.

In relation to current trends, I want to acknowledge limitations in New South Wales on the adult imprisonment data. I do not know if this Committee or, indeed, the other Committee looking into prisons has been able to resolve this issue, but for the past couple of years the Australian Bureau of Statistics has been unable to get data from the New South Wales Department of Corrective Services in relation to Aboriginal imprisonment levels. As a result, we have no New South Wales or national information on current trends in relation to indigenous imprisonment levels because of the failure of New South Wales to provide that information. I am not aware whether that has changed in the past few months, but that was certainly the case and has been the case for the past couple of years.

In relation to juvenile justice institutionalisation data, we know that the number of kids institutionalised varies from day to day and week to week. It now appears that at least there has been some long-term trend in the reduction of numbers over the past four or five years, but the actual proportion of Aboriginal children in detention has not decreased and, indeed, it would appear that the proportion is increasing. Again, that seems to me to say something important. We may be able to achieve some reduction in the level of institutionalisation of young people for criminal offences, but we have not been able to achieve that for indigenous children, Aboriginal children. Although there are some achievements, although we may be doing something right, it is not flowing through and it is not impacting on Aboriginal communities.

Some of the problems were reflected in the recent report prepared by Nancy Hennessy for the Youth Advisory Committee. Commander Ellis mentioned his participation in that. I am not aware whether the Committee has a copy of the Hennessy report. I am not aware of the Hennessy report status. I do not know whether it has been publicly released. I have a copy of it. I would like to refer the Committee to the evidence in relation to discretionary decisions and Aboriginal children thatcan be found on page 20 of the report. This is a report by Nancy Hennessy to the Youth Advisory Committee. The report states, in relation to data relating to Aboriginal and Torres Strait Islander background [ATSI], that of the total number of processes—that is, cautions, conferencing and court appearances—10 thousand related to Aboriginal people, or 17.6 per cent; the proportion of ATSI offenders being diverted from courts was lower than that for offences not involving ATSI young people; 12 per cent of processes involving ATSI offenders resulted in a caution compared to 18.7 per cent for the total population, while 2 per cent referred to conferences compared to 2.9 per cent of the total population.

The percentage of processes involving ATSI offenders going to court was higher than for processes involving non-ATSI offenders; 86 per cent, compared to 78.4 per cent. The point that comes out of the Hennessy report is that certainly the lack of referrals and the lack of the use of cautioning affects all young people, but it is more pronounced when it comes to indigenous children. The proportions are not huge. It is not the case that police will never caution an Aboriginal young person, or never send an Aboriginal young people to a conference. They do it. But they do not do it as frequently as they do it with non-Aboriginal kids. All of us are aware, and some of us would suggest, that they are not doing it often enough with non-Aboriginal kids. But the situation is even more pronounced with Aboriginal children.

That reflects the point that was made in relation to the lack of use of the diversionary options over the past 15 years, and the fact that in some ways the Young Offenders Act has not significantly changed that. The Hennessy report and the data contained therein also reflect the information and the analysis that has been done over the past 15 years, and that is introducing diversionary schemes in general does not benefit Aboriginal children to the same extent that they benefit non-Aboriginal children. It is a common research finding. It is not particular to New South Wales, it is a national problem, and it is reflected in new legislation, such as this.

I would like to make a couple of quick comments in relation to early childhood intervention strategies. Developmental theories in early childhood intervention strategies are very fashionable at the moment. There is a great deal of work, particularly from the New South Wales Bureau of Crime Statistics as well as Ross Sutherland from the national crime prevention group. They call for early intervention into problem families, which are generally identified by a range of indicators such as single parents, evidence of neglect, poverty and so on. It is fundamentally important not to engage in some sort of historical amnesia when we talk about early intervention into problem families when it comes to Aboriginal children and Aboriginal families.

It is all too easy to forget that the removal of Aboriginal children in the first half of the twentieth century occurred in the context of what was defined as problem parenting, problem families. In broad terms, although I would support some of these developmental theories and the need for early intervention, we need to be extremely careful about how that it applies to Aboriginal families and Aboriginal children because in the past non-indigenous State departments have had an extremely poor record in operationalising these types of programs when it comes to groups that are culturally different to the mainstream of society. That is not to say that there are not problems in Aboriginal families.

On of the projects on which I was working, which was funded by the New South Wales Law Foundation, looked at the contemporary removal of Aboriginal children from their families in New South Wales during the period from 1996 to 1997. We analysed 80 case studies of Aboriginal children who were removed from their families, and it is clear that there are problems of domestic violence and drug and alcohol problems in those families, but the way we intervene and the type of intervention that is necessary needs to be thought through very clearly. It needs to be thought through in the context of community input, community negotiation and some level of self-determination so that Aboriginal communities and organisations have some direct say in what constitutes the problem and the solutions, rather than relying on the Department of Community Services and so on, which really have poor records in relation to intervention.

One of the other projects I am working on at the moment, which is funded by the New South Wales Ombudsman's Office and New South Wales Police Service is an evaluation of the New South Wales Police Service Aboriginal strategic plan. One of the issues that has emerged in the evaluation—we have not yet completed consulting with communities—is what is felt to be, at the community level, the unnecessary intervention, the unnecessary criminalisation through use of sections of the police and public safety legislation, particularly the move-on powers and the knife laws. I have also attended the operational crime reviews, and it seems to me that there is a very strong focus on crime reduction through the process of arrest and charge, which does not leave much room for crime prevention through other sort of mechanisms that might involve community input. That is an important point.

The New South Wales Police Service has an Aboriginal strategic plan, but it has other plans as well. They can be in conflict with each other, and the Aboriginal strategic plan may come out second best in terms of the overall strategies of the service at the moment. I know the Committee is already aware of issues that have been raised in relation to the Children (Protection and Parental Responsibility) Act which is referred to in the AJAC report. The final matter I want to address is sentencing and incarceration. I would ask the Committee to communicate with or question the New South Wales Law Reform Commission, which has a reference on sentencing and produced a report on sentencing in 1996. It was also in the process of specifically preparing a report on sentencing Aboriginal offenders.

I spent some time talking to the researchers, but the report has never seen the light of day to my knowledge. I do not know if anyone on the Committee is more aware of this than I am, but the New South Wales Law Reform Commission was engaged in producing a report on sentencing Aboriginal offenders, but to my knowledge it has never been made public. It seems to me that that would be the most comprehensive document on which this Committee might consider that issue. Certainly more resources have been put into that than what I could present to you, so I would urge the committee to at least find out what has happened to the report of the New South Wales Law Reform Commission.

I wish to mention two other things very quickly. Alternative to short-term sentences we know that Aboriginal people go into gaol more frequently on shorter sentences for relatively more minor offences. I am not suggesting in saying that that Aboriginal people do not commit serious offences because some Aboriginal people go into gaol for a very long time but generally the research shows overall that Aboriginal people tend to go into gaol more frequently for shorter sentences for more trivial or more minor offences. There is scope for alternatives.

One evaluation that I draw the Committee's attention to is New South Wales Corrective Services' evaluation in New South Wales home detention scheme, "An Introduced Alternative to Imprisonment". In the executive summary on page viii and page ix a snapshot analysis on 30 June 1998 indicated that of all of the women technically available for home detention, 23 per cent were placed on home detention, however, of all the Aboriginal women eligible for home detention, 4 per cent were placed on home detention. Of all of the men eligible for home detention, 11 per cent were placed on home detention. Of all the Aboriginal men eligible for home detention, 5 per cent were placed on home detention. Overall, very few of the eligible people who could benefit from home detention were actually placed on home detention. Again we see an even greater reduction in the potential group of Aboriginal people, men and women, used who could have been placed on home detention. Similar to conferencing and similar to cautioning, low use overall but even more excessively low use in relation to indigenous people. That is research publication No. 41 from Corrective Services.

The final points relate to post-release and access to programs during incarceration. Not a great deal of work has been done on this and I rely on work done by two of my research students. They reviewed the literature available and the conclusion they reached was that the extent to which Aboriginal prisoners fail to move through the classification system itself affects their participation and access to participation in work and education programs within the prison system. The Committee might wish to follow up on this. They also note that the Department of Corrective Services Inmates and Classification Branch is currently completing a project entitled "Examination of the access and participation of adult indigenous offenders to pre-release programs in New South Wales correctional centres". That report is about to be released. I am not sure if the Committee is aware of it but each time we inquire about it, we are told it will be released in a couple of weeks time.

The Hon. J. F. RYAN: There are researchers who have been appointed to do that, are there?

Mr CUNNEEN: Apparently it is almost done and is about to be released. Our information is that it has been written and is ready to go. Whether it is to be made public, I do not know but I think that would be of use. That is the only current research I am aware of that precisely looks at that issue. That is all I have to say.

CHAIR: The Committee during the course of its inquiry has travelled to a number of country locations, including Merimbula, Ballina, Moree and most recently Kempsey. One thing that came through very clearly is that Aboriginal communities suffer greatly from unemployment. At Kempsey we were told that there were only 11 Aboriginal people employed in the private sector, although there were others employed in Aboriginal organisations and in government employment, in a town of over 10,000 people. What barriers are faced by Aboriginal communities in improving their employment situation and in your view what is needed to address those very self-evident barriers?

Mr CUNNEEN: I do not claim any expertise in this area at all. All I can say in relation to that is that in my experience it has been a mixture of the lack of incentive of non-Aboriginal people in community centres to employ Aboriginal people, either through discrimination or whatever, the lack of employable skills that indigenous people have in those communities and the overall problems that are associated with employment in those areas. I would make the point that there is a very direct link between high levels of unemployment and the likelihood of arrest or imprisonment and that has been repeatedly shown in work conducted here by the New South Wales Bureau of Crime Statistics and Research as well as work that has been conducted with the AIC. I do not feel that I can add more to the question.

CHAIR: I asked the question because of your last comment. The Committee visited Aboriginal housing in Kempsey and Moree andit seemed to me that a lot of people were sitting around at a loose end; they were not gainfully employed or occupied. That could arguably be said to be an important reason why criminal activity may occur, could it not?

Mr CUNNEEN: It is certainly demonstrated in the research work that has been done in relation to the link between unemployment both in regard to juveniles and adults and the likelihood of being arrested. I should also add that there are certain successful examples of effective use of community development programs [CDP] that I am not so familiar with in New South Wales but I am familiar with in other jurisdictions in which community development programs have provided useful and indeed in some cases financially successful employment opportunities in Aboriginal communities.

CHAIR: You referred in your preliminary remarks to the undoubted overrepresentation of Aboriginal people in both the adult correctional system and in the juvenile detention system. I realise this is a broad question but I ask you to give a reasonably succinct answer. On the basis of research that is available, what in your view are the main reasons for that overrepresentation?

Mr CUNNEEN: It is a complex issue and we can all grab a couple of quick answers to that problem. However, an effective answer to that question relies on thinking about socioeconomic disadvantage, marginalisation, the history of dispossession and ongoing levels of discrimination and racism in terms of the way in which criminal justice systems operate. It is really a combination of those factors rather than any one. Institutionalised discrimination accounts for some level of overrepresentation; socioeconomic conditions, including high levels of unemployment in Aboriginal communities, accounts for some level of it and the historical marginalisation of indigenous people from mainstream institutions of non-indigenous society accounts for some of it as well. It is a combination of those factors.

CHAIR: Are you in a position to provide any examples, within New South Wales or elsewhere, where crime has been successfully reduced. If so, how was that achieved?

Mr CUNNEEN: The major recent evaluation I have seen of community crime prevention strategies is the one I referred to earlier, the schemes that have been set up in Kowanyama and Palm Island. I am not aware in New South Wales of any schemes that have had a demonstrable effect on crime reduction. Certainly I did some recent work for ATSIC through Keys Young in terms of evaluating some community strategies for young people and there are Aboriginal community organisations in Nowra and Katoomba which are quite effective. I mention those because they were communities that had high levels of juvenile offending. There was a view,

particularly in Kowanyama, that young people would offend to get out of the community. They would be flown from Kowanyama, which is a Gulf community, down to Brisbane to the detention centre.

The community was quite distressed about this because the kids would then come back even worse than they were before they left. There was a desire by the community to do something about it. They established a fairly complex elders scheme of 12 elders who represented three different clan groups and was made up of equal numbers of men and women. They had the support of the local magistrate and local police officer. Offending behaviour was referred to the elders group to deal with and a range of community-based sanctions were used. The most recent evaluation was conducted by Paul Shantrill from the University of New England, which shows a sustained reduction in offending levels by young people in that community.

There are lessons to be learned that whatever schemes might be introduced in communities here, they will not necessarily be the same. However, it is a way of confronting both the problems of disorder in the community and the inability of our institutions to actually deal with the problem. That was very much in evidence with Kowanyama where kids were actually looking forward to getting out of the community and going to Brisbane but were coming back worse than they were when they left.

CHAIR: Have you seen any effective police consultation processes with indigenous communities at a local level? When we were in Moree the Committee was told of some formal mechanisms there of police consultation. What is your view on that?

Mr CUNNEEN: This is one of the issues that we are looking at in relation to the evaluation of the Aboriginal strategic plan by the New South Wales Police Service because it requires greater negotiation and consultation with Aboriginal communities and it would be unfair to say that local commanders in some areas have not attempted consultation. It seems to me that one issue that comes out is that they do not know how to do it. Even if they actually have a desire to consult with communities, they are not really up to speed on that aspect of police community relations. The short answer to your question is no, I have not, but I would not want that to be read as saying no, there are not any, but certainly I am not aware of any at the moment.

CHAIR: When the Committee was in Kempsey last Friday one of the concerns raised by some individuals from the Aboriginal community who appeared to talk to the Committee was that Aboriginal elders in the local community and even parents themselves do not have any real authority over the young people. They made a comparison that many junior staff of government agencies have more power and control over young people than elders in rural areas. In your view is there any way that the police or other agencies can assist in strengthening the authority of elders or parents in an Aboriginal community?

Mr CUNNEEN: Yes, very directly they can, by allowing them some direct input into the decision-making processes which they are excluded from at the moment.. I suggest we go further than what has been attempted in Queensland with its conferencing and cautioning processes, which allows police officers to include Aboriginal elders in the cautioning process if the police officer thinks it is appropriate. Evidence shows that there are very few cases in which police officers think it is actually appropriate, so we need something more than that. We do not want to again leave it to the discretion of the police officers on whether they involve the community. We need to think about something that facilitates and provides direct opportunities for community elders to be involved in those processes and to my mind that would have the effect of strengthening authority in those communities. Those community elders are excluded from the process at present.

CHAIR: The Council for Civil Liberties has put to this Committee—and Commander Ellis this morning appeared to agree to a significant extent—that there is adverse bias against indigenous young people being dealt with by cautioning and also being referred to juvenile conferencing. I think you said in your initial remarks here this morning that would be your view as well.

Mr CUNNEEN: I do not think so. The recent Hennessy report for the Youth Advisory Committee provided evidence for that. The earlier work that Garth Luke and I did for the Juvenile Justice Advisory Council into cautioning, prior to the introduction of conferencing, found similar disparities to those found in the Hennessy report. Aboriginal and non-Aboriginal children who commit the same offence, and have the same offending record, are

treated differently by police officers. Aboriginal children receive adverse discretionary decisions more frequently than non-Aboriginal children.

CHAIR: This morning Commander Ellis said that under the Young Offenders Act there has to be an admission of wrongdoing prior to a young person being referred to a conference. He said that that is a significant disincentive to indigenous young people being admitted to conferencing. Do you agree or disagree with that?

Mr CUNNEEN: I am not aware of any hard evidence which demonstrates that point. That is not to say that it is not the case, but I am not aware of evidence that supports it. There is a history of the Aboriginal Legal Service [ALS] representations of Aboriginal people to plead not guilty and a reluctance to plead guilty on the off-chance that the person will be referred to a conference or given a caution. There is a great deal of distrust between the ALS and police and we should not be surprised at that given the history of the structural position that the ALS has as representatives of defendants.

CHAIR: The Committee does not have any hard evidence by way of statistics as to those rates. However, anecdotally there is strong evidence that indigenous young people are not getting the same access to cautioning or conferencing as non-indigenous young people.

Mr CUNNEEN: That is incontrovertible. The role of the plea, or the role of the admission of guilt, is a separate question and I do not know the answer to that. Certainly the police have said for the past 15 years, since cautioning was introduced in 1985, that Aboriginal kids do not admit to an offence and therefore they cannot be cautioned.

CHAIR: In an article you contributed to the *Australian and New Zealand Journal of Criminology* entitled "Community Conferencing and the Fiction of Indigenous Control" you wrote:

> The available theoretical, observational and empirical evidence strongly suggests that family group conferencing, far from being a panacea for offending by Indigenous young people, is likely to lead to harsher outcomes for these young people.

Can you explain what you mean by that? I am interested in your conclusion that there may be harsher outcomes.

Mr CUNNEEN: The argument developed by number of people is that we are seeing greater bifurcation in the way that juvenile justice operates. We have more options at the soft end of intervention, that is the less punitive end. At the more punitive end we have increases in penalties and greater reliance on institutionalisation for young people who are defined as serious repeat offenders. Whether by bifurcation of the system which has a level of discrimination occurring against Aboriginal young people, they are being channelled into the harder end of the system. They are not getting the benefit of cautioning or conferencing to the same extent as non-Aboriginal children. The empirical research evidence supports that

The observational evidence, and that refers to work of the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Dodson, and his team in South Australia, was that Aboriginal children faced difficulties in the conferencing process. Cultural and linguistic differences were cited. My article mentioned those in detail. The theoretical problem is that in Australia there has been an assumption that if we introduce conferencing indigenous people will benefit because conferencing originated in New Zealand. Conferencing was a Maori tradition and therefore if it were good for the Maori it would be good for the Aboriginal people in Australia. That is a simplistic and crude way of putting it, but there is an underlying assumption.

Blagg in Western Australia and I have talked about the gross simplification in the way in which indigenous dispute resolution processes have worked. The communities of Kowanyama and Yolgnu in Arnhemland have complex ways of dealing with offending which do not necessarily involve conferencing or bringing the victim and offender together; representatives may be used.. We cannot assume that conferencing will provide a panacea for indigenous young people. They may end up being shoved off to the hard end of the system which, in juvenile justice, increasingly treats young people like adults as far as prison sentences and processes are concerned.

CHAIR: I understand what you say regarding disparity of admission of indigenous young people to some alternatives including conferencing. I do not understand what you are saying in your document which I

quoted, which concludes "is likely to lead to harsher outcomes for these young people". Does that mean by not being admitted to such alternatives?

Mr CUNNEEN: Yes, but not only that. If we look across the board there is a trend in juvenile justice legislation generally to treat the more serious offences in a way more akin to the adult criminal justice system, particularly with a repeat offender. That is demonstrated in the Northern Territory and Western Australia. If they are pushed into that area they receive the hard end of the stick. Western Australia has the three-strikes legislation; if the person is cautioned or referred to a conference for an offence, that does not count as one strike. The discretionary decisions have a direct effect on the likelihood of future imprisonment.

If the person does not get the benefit of diversion, he will go to court, he will be given a strike and if that builds up to three strikes he will get 12 months imprisonment. It is not a nebulous link, it can be a direct link.

The Hon. J. F. RYAN: You are not saying that that is the actual outcome of conferences.

Mr CUNNEEN: No.

The Hon. J. F. RYAN: Aborigines are much harsher when dealing with their own offenders, in a conferencing situation.

Mr CUNNEEN: No. I was referring to the fact that we are not getting the benefit of those diversionary options at all.

CHAIR: Are you putting to the Committee that the way conferencing is structured is not desirable for Aboriginal communities?

Mr CUNNEEN: No, I am not saying that. The purpose of writing the article was to try to cut through some of the rhetoric around conferencing and the way it was presented as the be-all and end-all for juvenile justice within the Aboriginal community. We need to look at some sort of process that allows greater involvement of indigenous communities in dealing with young people. Conferencing may or may not provide a model for doing that, but at the moment, the way it is structured, it is still very much part of a way that the Department of Juvenile Justice works. It is an extension of the departmental processes. There are not enough opportunities for the process to be developed at the community level with community input.

The Kowanyama and Palm Island examples come to mind. Queensland has a conferencing system and similar legislation. Queensland wants to call the Kowanyama and Palm Island process "conferencing", and that is fine. But the actual process is quite different to what we understand as community conferencing.

CHAIR: I do not see conferencing as the be-all and end-all. From 1995 to 1997 I was responsible for juvenile justice. When I came to office as the Minister for Community Services there were about 530 young people in detention on a daily basis. Within 12 months I managed to push that down to about 430, substantially by introducing various diversionary schemes such as the Safe Haven program and the Aboriginal mentor scheme. Are you condemning conferencing or do you regret the lack of adequate consultation with the Aboriginal community?

Mr CUNNEEN: The way the legislation was developed there was a need to take on board negotiation and consultation issues with organisations to provide a level of community import that is not there. I do not want to be understood as condemning conferencing but as raising serious doubts about the way it is presently structured and the way we might consider its impact on the Aboriginal communities.

The Hon. J. F. RYAN: Notwithstanding my reasonably strong questioning of Commander Ellis I raised the problem of cautioning with indigenous and non-indigenous people. When an indigenous person interacts with police it is not uncommon that they may access publicly available resources such as the Aboriginal Legal Service. If my kids interacted with police they would not ring a lawyer, they would ring me. It would be presumed that a plea of guilty was no big deal; and I would deal with that. We all understand the legal system. It would be my job to deal with that.

Perhaps there is no similar mechanism within the Aboriginal community. They may be more displaced from their families and frequently find themselves in a police station almost on their own. If they do have interaction it may be with their biological parents or current guardian. Has the system adequately provided an equivalent to the way in which Western families deal with that situation? They have negotiation between the parents and the children which results in the cautioning system, a plea of guilty, and receiving a caution. That may not be replicated in the Aboriginal families because of the way in which cautioning is carried out, or the questions that are asked, or the requirements of the cautioning system. Is there some way of bringing that sort of negotiation into the Aboriginal community? The child almost knows in advance what the parents will say, and there seems to be a gap with the Aboriginal people. If there is some way of correcting that problem? Have I given a reasonable description of what is occurring?

Mr CUNNEEN: I think the description is important. The solution to that sort of issue is to think about how the police themselves might set up structures of negotiation with the community so that there are elders or groups involved. I am not suggesting that this will be something that is easy to do, but some level of potential intervention that is not the Aboriginal Legal Service [ALS] and not the Police Service is needed for structuring decisions that are being made and the thinking about how the child or young person will respond to police. That is why I think the involvement of elders groups, for want of a better term, or some form of community-based organisation that has some a reasonable level of representation across the community is important. That should be part of what the police are doing anyway in relation to community consultation. We can probably expect something more from the ALS in negotiating with police but we can never expect that organisation to have a cosy relationship with the police.

The Hon. J. F. RYAN: Can you imagine the circumstances in which any lawyer would advise a client to plead guilty to anything if there was some doubt about the guilt?

Mr CUNNEEN: No.

The Hon. J. F. RYAN: There is a sense in which the cautioning system presumes that whether or not they plead guilty is not relevant, is there not? That seems to be the case, or it is so obvious that it does not matter. There is a better understanding that cautioning means that people do not go to court, but for some reason or other Aboriginal people think that the court will treat them better than the police officer will. Would that be true?

Mr CUNNEEN: I think it is also a mistrust of the police and, from my experience, for understandable reasons it is very entrenched in Aboriginal communities. It is okay for a police officer to say, "Plead guilty and get a caution", but there is no guarantee that that is going to occur and it involves a level of trust between you as a parent and your son or daughter as a potential defendant and the police. If that trust is not there, that system is not going to work.

The Hon. J. F. RYAN: I suspect it is probably inherent trust. I would not be surprised if, during communication between the police officer and the parent, all of that is explained and understood. But that may not happen with Aboriginal young people because I think that by and large it would be fair to say that most young Aboriginal people deal with the legal system and police officers almost on their own, would they not?

Mr CUNNEEN: The evidence is there that formal intervention or recorded intervention occurs at a very early age. On an average, it occurs two years earlier for Aboriginal kids than it does for non-Aboriginal kids. Aboriginal kids actually have some sort of formal or recorded intervention on an average at an age two years younger than that of non-Aboriginal kids.

The Hon. J. F. RYAN: There might be some complexity, too, in that the Aboriginal child's parents might have had some involvement with the law and justice system which may have an impact on how they regard the police.

Mr CUNNEEN: I am sure that the committee is aware from its movements around New South Wales that there is a very strong feeling of "us and them" in many communities between Aboriginal people and the police. It has been documented by me and many others, and it is still there. I raised the Police and Public Safety Act because during some of the community consultations we did in for the Aboriginal strategic plan, it was clear in a

few of the communities that I went to—and I did not do all the consultations—that the feeling of "us and them" is still very much there, as much as it was 10 years ago when I worked at the bureau and we did community consultations in Bourke, Brewarrina, Dubbo and other places.

The Hon. J. F. RYAN: You gave this committee some evidence which will be very useful for the increase in the prison population inquiry which I have the difficulty of chairing. I want to ask you a couple of questions in relation to that. Are you familiar with the Department of Corrective Service's programs for Aboriginal people, in particular a program called the Indigenous Action Plan stages one and two—Special Care?

Mr CUNNEEN: I am not familiar with recent programs run by Corrective Services.

The Hon. J. F. RYAN: If I remember rightly, it is largely concerned with the building of facilities that meet the requirements or recommendations of the Royal Commission of Inquiry into Aboriginal Deaths in Custody.

Mr CUNNEEN: Right.

The Hon. J. F. RYAN: Are you familiar with any Aboriginal post-release program such as the one that operates in Lismore?

Mr CUNNEEN: No. Again, I am not familiar with that. It is not an area in which I have immediate expertise.

The Hon. P. J. BREEN: In your opening remarks, you mentioned the principles of self-determination in relation to Aboriginal people. Did you mean self-management? My second question, following on from that, is whether there is any serious talk these days about Aboriginal people having their own separate area or a separate system of government?

Mr CUNNEEN: No. Self-determination can be distinguished from self-management. Self-determination is a more encompassing term which, under certain circumstances, may involve exercising jurisdiction over matters such as criminal justice or welfare matters. Personally I do not see that as an issue in New South Wales. As a non-Aboriginal person talking about Aboriginal self-determination, which is problematic in itself, I would envisage that in New South Wales it involves more serious negotiation, or "negotiation in good faith" as they say in relation to native title matters, and we do not have negotiation in good faith between State Government departments and Aboriginal communities at the moment. I would see self-determination in New South Wales at least involving greater negotiation during processes and outcomes rather than self-management.

Communities may well decide that they do not want to manage. They do not want to manage a juvenile justice system or are welfare system because there is one already in operation. What they want is some sort of effective input into how those processes work and how the decisions are made. In answer to the second part of your question concerning separate jurisdictions, there is very serious talk about that outside New South Wales. I think that Australia as a nation, rather than New South Wales as a State, still has a long way to go in how it will deal with the issue of self-determination for indigenous people.

The Hon. P. J. BREEN: I will come back to that in a moment, if I may. On the question of the stolen generation, you said that the forced removal of children has had intergenerational effects. The impact of the stolen generation's report was significant in many aspects. One aspect that comes to mind is the question of there being 10 per cent of the current Aboriginal population who as children were stolen from their families. It seems to me that the intergenerational impact to which you refer is much more extensive than the figure of 10 per cent. The figure of 10 per cent, striking though it may be, is sometimes misleading and perhaps underestimates the impact of the stolen generation. Do you agree with that?

Mr CUNNEEN: I would most definitely agree with that. It is really very difficult to gauge in any empirical way the extensive effect of the intergenerational effects of what being removed might be. I do not think enough attention is paid to it. When looking at the Department of Community Services files on contemporary removals of Aboriginal children, one of the keys issues when was that it was accidental, in a sense, whether we

found out whether the parent—who was usually a woman from whom the child was being removed—had herself been removed. Some files recorded that the mother and, indeed, the grandmother had been removed. What was interesting was that that sort of information was not systematically understood by departmental officers nor what effect that that might have had on the current parenting problems and intervention by the department.

We are in the process of the writing up that report. Certainly one of the important points we will want to stress is that there needs to be a great deal more understanding of the intergenerational effects and that children who are being removed now because of neglect or abuse are often with parents who themselves were removed. That is certainly not directed at minimising this at all but, rather, to understand the issues of drug and alcohol abuse, domestic violence and the problems that exist within families that cause removal today.

The Hon. P. J. BREEN: Are there any early intervention programs that you can think of that would be useful to this committee and which make allowance for the stolen generation inquiry?

Mr CUNNEEN: There is nothing that I could recall directly on that. One of the other aspects is that we are also looking at what is being done in Canada and the US because of the very similar issues there and we are looking at the programs that have been developed there. But I am not really in a position to answer that question at the moment.

The Hon. P. J. BREEN: Have you had any direct experience of, or seen any reference to, police removing Aboriginal people from communities currently in New South Wales in order to minimise the statistics? In other words, if the police feel that there are too many Aboriginal people in custody and their area is going to look bad if they have too many, do they actually put them in a truck and take them to other communities? Do you have any experience of that?

Mr CUNNEEN: It is an interesting thought.

The Hon. P. J. BREEN: I must say that I have direct experience of that myself.

Mr CUNNEEN: I am not aware of that but I should say that it is an issue that came up frequently in our evaluation of the Aboriginal strategic plan because one of the things we wanted to look at was cell detentions and reasons for cell detentions of Aboriginal people. Really I would want to say publicly that the collection and publication of data on quite basic things that police do is appalling, despite the computer operated police system [COPS]. When ever I see reference to the COP system and what the COP system is going to do, I have a reaction either of yawning or of wanting to laugh because the collection and provision of useful information about basic things in relation to policing is really quite poor. I do not know whether it is incompetence and I do not know what it is. In a sense, I wonder why they would bother doing it because the information about actually who has been in the cells at any one time is so rarely provided in a meaningful way, so why would they bother?

The Hon. P. J. BREEN: If the police knew, though, that their area was under the microscope and they had too many indigenous people in custody over a certain period, it is not beyond the realms of possibility that they would take a truckload somewhere else and put those Aboriginal people in another community so that it became someone else's problem.

Mr CUNNEEN: In direct answer to your question, no, I am not aware of that.

The Hon. P. J. BREEN: You do not have any direct experience of that?

Mr CUNNEEN: No.

The Hon. P. J. BREEN: The stolen generation report and the subsequent case that went to the High Court—I think it was Kruger—suggested that Aboriginal people do not have rights that they might have thought they had under the Constitution which allowed the Commonwealth Government to make laws for the benefit of Aboriginal people. Do you think that if New South Wales had in place in its legal system a recognition of the rights of Aboriginal people peculiar to their status as Australia's indigenous people as an early intervention program and a way of directing the community's attention to the special status of Aboriginal people, it would

enhance the position of Aboroginal people and improve the opportunity for programs that specifically recognise their status and act as a pointer to the wider community that theirs are special interests?

Mr CUNNEEN: I think that, short of a national recognition, yes, some sort of special recognition of the status of Aboriginal people in New South Wales would be useful. As I mentioned before, this is an issue that is not going to go away at either a State or national level and it should be resolved nationally, but I do not see that happening in the near future. I do not see that it is an issue that will disappear in the short term, particularly when we understand what is happening in the northern Europe in relation to indigenous people there, and in Canada and the US. If non-Aboriginal people are unaware of what is happening in northern Europe or North America, Aboriginal people in Australia are certainly aware of what is going on overseas.

The Hon. P. J. BREEN: Given your answer to that question, would you consider making a submission to this committee's bill of rights inquiry about the importance of recognising the rights of Aboriginal people?

Mr CUNNEEN: I will take that on board.

The Hon. J. F. RYAN: You mentioned in your evidence that you were present during one of those Local Area Command reviews. In what capacity where you present?

Mr CUNNEEN: I was there with Carrie Chan who is the chief investigator for evaluation of the Aboriginal strategic plan, so I was there as the evaluator of the strategic plan.

The Hon. J. F. RYAN: Were you observing the evaluation of a specific area, or were you evaluating the Police Service generally?

Mr CUNNEEN: In terms of the presence of the OCR?

The Hon. J. F. RYAN: Yes.

Mr CUNNEEN: The reason that we gave to the commission for why we should be there was that we needed to understand how the OCR operates and how its use in relation to the Aboriginal strategic plan might be taken into account in the OCR evaluation.

The Hon. J. F. RYAN: It was a one-off opportunity to observe and you would have reported on that?

Mr CUNNEEN: Yes.

The Hon. J. F. RYAN: Which area where you looking at observing?

Mr CUNNEEN: I only stayed for half the day. Carrie was there for the whole day. I think there were five or six local areas.

The Hon. J. F. RYAN: A fair range of communities?

Mr CUNNEEN: Yes, urban and rural.

The Hon. J. F. RYAN: You may have heard earlier evidence from Mr Ellis, who said he had been successful in getting a number of questions added to that procedure that drew attention to things like cautioning. Do you believe that is a good means of driving recognition of this issue?

Mr CUNNEEN: I think it could be. I am basing this only on experience of the one OCR process that I went to, but colleagues of mine have been to more than one and it seems to me that the overall emphasis is on crime reduction through arrest. That is where local area commanders get their brownie points, if you like, and that is what they are congratulated on. You do not get the impression that they are going to be congratulated in the same

way on increasing the level of diversion or increasing the level of cautioning. The whole focus is on crime problems and arrest. The process is with telecommunications and the technology of flashing up particular areas of local command and saying, "There are X number of bag snatches in that corner. What are you doing about it?" That is the sort of focus on questioning that goes on.

The Hon. J. F. RYAN: Did you see an instance of people flashing up statistics in relation to cautions?

Mr CUNNEEN: No. That could have occurred after I left.

The Hon. J. F. RYAN: Is it more a question of crime statistics reports provided by the Bureau of Crime Statistics and Research?

Mr CUNNEEN: Local area command statistics are used and there is a very strong emphasis on the police and public safety Act: how often did you use the move-on powers, how often did you search and how often were those searches successful, and arrests. It is whatever the particular crime indices are in that local area, whether it is bag snatches, break and enters, motor vehicle theft or assaults—but not domestic assaults, usually public assaults.

The Hon. J. F. RYAN: On another issue, there has been written discussion about intervention to remove children from parents who have neglected them. This morning's discussion related to those who are drug affected. I am sure everybody would accept that you need to be careful with Aboriginal families—I would not even accuse the Government of suggesting that it was not. What sort of things do you believe we need to be careful about in having a program that seeks obviously to protect children? What sort of safeguards would we need with the Aboriginal community to make sure that through that process we simply do not rerun the stolen generation episode?

Mr CUNNEEN: We have an Aboriginal child placement principle in place in legislation. What needs to be done is that to make that principle work well in practice is to provide resources for community organisations to be able to operationalise it. The Aboriginal child placement principle still allows the removal of Aboriginal children for their placement with non-Aboriginal carers as the last option, but we want to make sure that we do not get to the last option. That at least implies the provision of resources so the earlier alternatives can be utilised in relation to placing Aboriginal children in communities.

(The witness withdrew)

(Luncheon adjournment)

GARY MICHAEL MOORE, Director, Council of Social Services of New South Wales, 66 Albion Street, Surry Hills,

MARY LOISE PERKINS, Deputy Director, Council of Social Services of New South Wales, 66 Albion Street, Surry Hills, and

ELERI SIAN MORGAN-THOMAS, Executive Director, New South Wales Federation of Housing Associations, Level 3, 17 Randle Street, Surry Hills, affirmed and examined:

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Mr MOORE: Yes, I did.

Ms PERKINS: Yes.

Ms MORGAN-THOMAS: Yes, I did.

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

Mr MOORE: Yes, I am.

Ms PERKINS: Yes.

Ms MORGAN-THOMAS: Yes, I am.

CHAIR: Could you please briefly outline your qualifications and experience as they are relevant to the terms of reference of this inquiry?

Mr MOORE: I manage the organisation which represents the social and community non-government sector in New South Wales and I am a member of the social policy area which relates to crime, employment, housing and a range of other areas of core responsibility in my organisation.

Ms PERKINS: I am responsible for managing the policy team at NCOSS. It has responsibility for the areas that cover the terms of reference of this inquiry. I also have a Master of Social Policy from the University of Sydney.

Ms MORGAN-THOMAS: I have over 10 years experience in the development and advocacy of housing policy. My job entails working with housing associations in New South Wales

CHAIR: NCOSS has a written submission. I take it you wish that submission to be included as part of your sworn evidence?

Mr MOORE: Yes.

Ms PERKINS: Yes.

Ms MORGAN-THOMAS: Yes, I am.

CHAIR: If any of you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will be willing to accede to your request.

Could I invite you, in the order you have chosen, to speak briefly to the Committee before we ask you any questions? Ms Perkins, I think you want to go first?

Ms PERKINS: Both Eleri and I will talk about different aspects of housing. We are focusing on the questions you circulated to us prior to this meeting. In our submission we drew attention to the research done by Don Weatherburn and by Bronwyn Lind, who basically demonstrated that economic stress and lack of social support increase the opportunities for juveniles to participate in crime. They went further than that in that they said the reason for this was that economic stress and lack of social support disrupt the parenting process and rendered juveniles more susceptible to delinquent and peer influence. They went on to say that:

> This had some implication in geographical terms in that low socio-economic neighbourhoods will generally have large populations of delinquents and will produce higher rates of interaction between juveniles susceptible to involvement in crime and juveniles already involved in crime.

When we talk about public housing estates in New South Wales, and we are talking here about public housing estates rather than the public housing property that has been spot purchased and sits in the rest of the community, we are talking about populations of people who are, in anyone's terms, suffering a disadvantage, and we are talking about increasing concentrations of disadvantage. Over the past 20 years the Department of Housing, in its allocations policies, as Sydney's housing crisis has got worse and worse, has targeted the neediest of the most needy of the most needy. So, the concentrations you are now getting in the public housing estates and the demographics you are now getting are very out of sync with the rest of the community and are real concentrations of severe disadvantaged and severe poverty. There are usually really high unemployment levels and really high numbers of

people on statutory incomes. I cannot remember exactly what the figure is, but because you can pull out the figure for Waterloo because it has a whole postcode area to itself and is almost entirely Department of Housing owned, the figures are just astronomical. They are nearly 8 per cent. I cannot quote that exactly, but they are very high. Most of the population there is on some form of statutory income.

Public housing estates are characterised by widespread health problems, lack of support for young families, a lack of services, and a lack of recreational opportunities. In addition, most of the housing estates'disadvantages are compounded by poor location and poor design. Very often they are geographically isolated from the mainstream centres of the community. They are often hard to get to. If they are serviced by public transport at all, it is very irregular public transport. Some of the designs have been relatively poor in facilitating community development or sense of community. Often the common areas are not maintained as well as they could be, which means you have dark areas and poor lighting, and people start to feel unsafe. Once people start to feel unsafe they believe they are going to be victims of crime.

Also in the public housing estates there is a clear demarcation problem between what the responsibilities and obligations of police and local government are and what the responsibilities of the Department of Housing are. Most tenant groups report quite loudly that it is not our job, it is not our responsibility, to look at this. The residents not only suffer significant disadvantage but also get stranded by the authorities who may have some responsibility for helping them.

We know that on the public housing estates there is a perception that people are not safe, that there is an increased rate of crime. Actually there is very little research that documents the incidence of crime on public housing estates, but we know from the Australian Bureau of Statistics [ABS] crime and safety survey in 1999 that socially disadvantaged groups of people are much more at risk of being victims of crime. So we can draw a conclusion from that that if you have concentrations of highly disadvantaged people in public housing estates and the ABS survey is showing that disadvantaged groups are much more at risk of being victims of crime, those perceptions probably do have some merit and are worth following through.

In prevention, we have noted the work that the Department of Housing has done in Claymore in community renewal. We have looked at that with optimism. We know of similar work happening on other estates that people are starting to feedback positively about. I will not talk any more about Claymore, because Eleri is going to talk about that. We do think that some of those things about trying to deal with the physical infrastructure of the estates to make them more amenable to people are actually very positive. We think also if you are talking about crime prevention you have to link up a bit more successfully the policies being developed by local government with the work that is being done by the Department of Housing. Over and beyond that there is a great need in all those estates for a lot of work to be done with the community, and the community to be giving voice to solutions they may find for themselves. There is a need to deal not just with the physical infrastructure but with the issues of social disadvantage as well. We would advocate significant investment in community development to build up a sense of belonging and a sense of ownership within the community that is very often lacking in those estates.

The next thing I was asked to talk about was at-risk families. We covered a fair bit of this in our submission. I will basically recap what we said. If you have at-risk families in insecure and unaffordable accommodation, you have really increased the stress on that family. The accommodation has to be both secure, in the length of time it can stay there, and affordable in that it can pay for it. Every welfare agency across the State can tell you story after story about individuals not being in secure or affordable housing. If people are not able to stay in any place for any length of time and have to move continually and have to move their kids from school to school continually, because they do not have secure, affordable housing, then you get a really disrupted family. You get kids who cannot build any relationships with the neighbourhood, with their schools, with friends they can have for any length of time. You have parents who cannot do that either, and you have the whole flow-on the effect from the instability created from the lack of security or unaffordability.

In addition, if you look at public housing, and not so much at security and affordability but the issue of choice, the Department of Housing's allocations of policies at the moment deny people choice or choice about where they can be. They have to take the first available vacancy, wherever it may be. That often means they are moved from locations where they may have support from friends or family to an area where they have none, and no adequate social services are provided to try to build up that social connectedness they may have had before. That

also has a significant impact on at-risk families and takes from them some of the support they may have otherwise had. I will now pass to Eleri to talk about the Federal funding changes, the Commonwealth-State Housing Agreement [CSHA] and community housing, and then I will talk about the other housing issues on the list.

Ms MORGAN-THOMAS: You have asked about the impact on public housing of changes to Federal funding. I will start with two points. There has been a steady decrease in the amount of funds coming to housing—not only in New South Wales but also in other States—through the Commonwealth-State Housing Agreement [CSHA]. There are two parts to that: a decrease in the amount of funds contributed by the Commonwealth; and a decrease in the State matching funds, which are calculated as a percentage.

There has been a significant decrease in funds. Between 1984-85 and 1994-95, a 10-year period, there was a 25 per cent decrease in the amount of funds in real terms. Since then, that has increased rapidly, with considerable cuts to the CSHA in the last few years and an accumulative effect of 1 per cent efficiency dividend, which continues until the end of this CSHA in 2003. So there is a considerable loss of funds to housing at a time in New South Wales when we are seeing considerable demands on those dollars.

When Mary spoke about the way in which public housing has become increasingly targeted to the more needy, that is as a result of two things: increasing demand and, at the same time, a decrease in the amount of dollars available. It is making it very difficult for the Department of Housing to meet demand in any way. Also, the department is dealing with a much more expensive clientele. People with higher needs are more expensive to house. When housing a great number of people with physical disabilities, adjustments need to be made to existing housing or purpose-built housing constructed. Whether it is a retrofit or a new construction, it tends to be expensive. That is not to say that such people should not be housed. However, it is an additional demand on the money.

The more needy the clientele—such as housing people with high levels of psychiatric illness, whether in community housing or public housing—management increases. It is more expensive to manage groups with a higher level of disadvantage. Ten or 20 years ago public housing provided for a much wider group of people and only a small group of people had high needs. That has changed significantly. I understand from Department of Housing briefings that the department expects to be operating in a deficit in only a few years' time.

Another point I did not mention was rental income. The more needy tenants generally tend to correlate with a reliance on statutory incomes. If you only house people with statutory incomes, you are housing people with a low level of income. Rent is calculated as a percentage of income. As income goes down, rent goes down. Therefore, the Department of Housing is facing another challenge. Similar problems are happening in community housing. The department is trying to do more with less, and with an increase in demand.

At the same time as the CSHA funding has decreased, we have seen huge increases in the amount of rent assistance. This is in no way controlled by the State Government, but it has a huge impact on the way in which housing is delivered. In 1999 the Commonwealth Government spent $1.5 billion on rent assistance. I think they were figures for the 1999-2000 year. My source is the Australian National Audit Office. Surprisingly, it did not specify a time period, which seems a bit alarming. Perhaps that was the prediction for 1999-2000. A figure of $1.5 billion is a lot of money.

In 1986-87 the Commonwealth spent less than one-third of that—$466 million—on rent assistance. Over that time eligibility for rent assistance has increased and the base level has increased. The Australian National Audit Office stated, "Rent assistance is now a more significant mechanism to providing housing assistance to low income earners than the Commonwealth-State Housing Agreement."

What we see is that housing assistance in New South Wales is largely coming from Commonwealth sources. You have no control over where people on low incomes are housed, the conditions in which they are housed or how the income is used. It is a considerable problem. When we look at the data about where people on low incomes are housed and the correlation with the high use of rent assistance, we can see pockets of disadvantage around New South Wales, particularly in Sydney. I suggest you may want to look at that further. Some academics have done a great deal of research, some of which is referred to in the NCOSS submission.

I will briefly talk about community housing and table a book entitled, "*Making Housing Management Work*". It is a review of the Claymore project, which Mary spoke about. As I am sure you will know, Claymore had been described as one of the worst housing estates in New South Wales. Nobody wanted to live there; it had high levels of crime. I think everything came to a crunch when some people died in a house fire. The Department of Housing decided it needed to try a different approach.

The Department of Housing handed over the management of the housing estate to a community housing organisation, Argyle Housing. It has significantly turned the situation around. You may have seen a lot of publicity about this estate over the last year or so. A large number of Samoan families who live there have done some great work with the local gardens. They have inspired a great deal of interest in the area, and people feel a lot safer. There is now a waiting list for Claymore.

The Hon. J. F. RYAN: We visited Claymore.

Ms MORGAN-THOMAS: I will not go on about it; you have probably seen the book. I want to bring to your attention, at page 50, the financial comparison between the Department of Housing and Argyle operations. You may think it odd that as a community housing advocate I raise this matter. It is more expensive to run an estate like that using community development principles. If you look at the column of total expenses, you will see the expenses in pale blue column in the middle are much higher than the Department of Housing expenses, which are in the dark blue column. The point I want to make is that with the increasing restraints on expenditure in the Department of Housing, this is an expensive solution. However, it does work.

The Hon. P. J. BREEN: Do those figures allow for the cost of replacing the houses that were burnt down?

Ms MORGAN-THOMAS: There is some dispute over the figures. We know that it is more expensive. For example, the staff to tenant ratio is much higher. It is very difficult to compare. The Department of Housing does not disaggregate many costs; community housing disaggregates differently.

The Hon. J. F. RYAN: I do not think there is any doubt that it costs more when run by Argyle. It provides a much greater level of service. A house is vacant and serves as an office.

Ms MORGAN-THOMAS: I did want to make the point that crime has decreased, and a lot of those costs which could be described as exponential have decreased. It is very difficult to quantify.

The Hon. P. J. BREEN: There is also the cost of having the Samoans look after the place.

Ms MORGAN-THOMAS: The other point about community development is that it is different everywhere. You cannot try a "one size fits all" community development principle and say, "That is the way they did it at Claymore. We will hold a sausage sizzle and do this, this and this." It cannot be planned like that. Community development is much more interactive. As Mary said, it is about asking the communities. However, that is labour intensive and expensive.

The Hon. P. J. BREEN: We went to Lake Macquarie a couple of weeks ago. A group, who had been to Claymore, tried to transpose what happened at Claymore to Lake Macquarie. They were unable to do it.

Ms MORGAN-THOMAS: Yes, because it is not the pattern that is important, it is the process.

CHAIR: Ms Perkins, do you want to continue?

Ms PERKINS: You also asked about accommodation for released prisoners and juvenile offenders. There is very little in the way of specific post-release support accommodation or any other social support for released prisoners or juvenile offenders. There is a huge unmet need and a huge gap. NCOSS is currently working with the Department of Corrective Services on a review of its community grants program, which is a terribly small program of only $1 million. That is what it has in terms of any sort of activity to meet the post-release accommodation needs and every other need of ex-prisoners. We are looking at reviewing that program and

developing up a program that better meets the objectives of the department to try to prevent recidivism and meet the post-release support needs of ex-prisoners.

Going back to Eleri’s comment, to come up with community development responses and ways to practically meet the needs of those people in order to achieve that objective costs dollars. Successive governments have reduced our social expenditure to such a point where basic needs can no longer be met and we are now dealing with the consequences. If we want to try to turn it around and avoid the consequences, we have to make significant investment back into the community.

On the issue of youth homelessness and changes to the youth allowance, I can only report to you simply on that. We have increasing anecdotal evidence from social service organisations that there are now families with young people who have no form of income. That puts a great deal of stress on low-income families and engenders and helps in the disintegration of the family. Also, at a very simple level, unemployed young people with no income is potential trouble. It is not a good look. We would argue that, on the surface, the way the Commonwealth is now dealing with youth allowance is placing stress on already vulnerable families. Unemployed young people with no income, and many or enough of them without regular abode, are creating a potential social nightmare.

As to Aboriginal communities, crime and housing needs, I am not sure if you are talking about urban or rural communities. Their needs must be met differently. Many of the comments I could make are not dissimilar to comments about housing and areas of social disadvantage. In our negotiations and discussions with Aboriginal people over the last few years, they have repeatedly come back to us with ideas about how to deal with problems in their communities. One idea—which comes across loud and clear—is that they need some support in order to be able to help their elders reinvigorate their communities. They are not talking about grand needs. They are talking about trying to get the elders into the juvenile detention centres to work with the young people. To do that they need travel assistance.

They are talking about basic, practical assistance to try to build up the link between their young people and their elders. For the last couple of years in the NCOSS pre-budget submission, we have submitted to government that we need to start working on a development program that works with Aboriginal communities and their elders in relationship with young people to try to support the more traditional and community affiliations.

Mr MOORE: I will firstly redraw your attention to a number of statistics on page 7 of last year’s submission. Without going through them, they relate particularly to social disadvantage and economic indicators. I also want to address the points that the Committee has raised. In terms of a link between unemployment and crime, Mary has spoken about Weatherburn and Lind’s work from 1997. Tony Vincent, in his research historically and more recently in “*Unequal in Life* “, has concluded over a 20- to 25-year period the emergence of intergenerational unemployment in some of those communities and a continuing disproportion of representation of people from some of those communities in crime. It is important to look at Vincent's most recent material in that light to see the strong connection that he draws. Our view, certainly from front-line agencies, is that we are looking at intergenerational issues so far as unemployment and representation of those groups in terms of various forms of both property and personal crime.

In relation to disadvantaged areas, there are some employment programs that we would refer to the Committee, and perhaps you have been to see some of them. For example, not so much at Claymore, but at Miller and some other housing estates we now have the emergence of some programs that involve both public housing tenants and other low-income groups in housing maintenance activities and, in fact, the development of some small business and community enterprises around that. There are a lot of examples of programs that are largely run by non-prophet organisations, for example the Body Shop and Esprit in Melbourne, which targets young, unemployed people who are particularly at risk of offending. Such organisations provide them with employment skills and some wage subsidy training that combines Commonwealth and State assistance. They have very impressive results in terms of ongoing employment, reduction of risk of offending and other social issues.

In Sydney an agency called Work Ventures, which is based in Surry Hills, operates a restaurant. The set-up funds were partially funded by Mayne Nickless and uses both Commonwealth and State funds. Its target group is young people who are predominantly long-term unemployed, who are at risk of offending or who have

other significant social problems. It provides a range of paid employment and vocational training. It has achieved quite impressive results. The third issue you raised deals with Aboriginal communities. One of the key things is that there is simply a lack of jobs in the private, public and community sectors. Many communities have significant Aboriginal populations, particularly in rural towns. I noted in a brief conversation earlier that the Committee recently visited Kempsey. You would be only too well aware of the very small rate of employment of indigenous people in the private sector. Where there has been some advancement it has tended to be in public sector schemes or leveraged schemes within specific areas.

I do not think that you visited this initiative at Kempsey, but there is one in Kempsey and the south of the State that involves a partnership between the Lend Lease Foundation and TAFE which is about trying to give jobs, training and experience to indigenous people generally, not just young people, in the construction of housing and also in the ongoing management of that stock. It is well worth having a look at some of the group training company activity and the Lend Lease Foundation in that area as an example of a successful program. In terms of employment programs for young people, in 1997 I chaired a committee called Youth Force, which the Premier established to look at employment and training opportunities for young people. It looked at both school and outside of school. I am not sure whether the Committee has seen that report, but a significant number of examples and case studies were contained in it, some of which relate particularly to young early school leavers who are at risk of offending.

There are some current examples in New South Wales under the help and circuit breaker programs, which were so-called labour market programs, now called youth assistance programs, which have been in existence right throughout the 1990s. There are also some examples of what we discovered in 1997 of some business skills programs within schools operating in years 9 and10, as well as years 11 and 12, which were targeted at some specific young people. Rather than going into any great detail about them I would point you to the Youth Force report. Ms Perkins has already mentioned that there is not a lot in the housing area for post-release prisoners. It is also true in the employment area.

Certainly under the former federally funded Skill Share program there were some specific projects that were targeted at former prisoners; and under the former State Government workplace program some specific programs were targeted at juvenile offenders. Neither of those programs exist now. But if you were to look at some of the results in terms of employment placement and support, you would see that they had some quite impressive results. We believe that there is a real lack in the mainstream employment areas of attention to those areas. I am sure that you have probably picked that up in your deliberations.

One of the things we have been interested in looking at is the operation of the youth conferencing scheme in juvenile justice where you can put a case management arrangement around that with young people peering through that process to try to build some support in the employment training area. I now come to your final point about the Job Network and Centrelink. I will take Centrelink first in terms of either direct or indirect impact on crime. One of the continuing problems in terms of the income security system, which will probably be highlighted when the green paper on welfare reforms is released in the next two weeks, is the growth of poverty traps and the difficulties of people generally moving from welfare to work.

If you look at some of the research, we are talking about people who are caught in this long-term dependency on benefits and the only access to employment they have is part time. They suffer significant income loss because of the poverty traps and they are caught in a cycle that does not allow them to move from one to the other. It creates an environment in which criminal activity can be significant. We would simply say that there is a relationship, although I do not think you would find that any significant research has been done on it at this point. With Centrelink there has been a reduction in direct social work and support services over the past two years as the agency has refined its efforts and its methods of delivering service. If you talk to social workers who work in Centrelink and who offer a casework service to people who have been through either juvenile justice or the prison system they will indicate that they are less able to act as brokers and case managers for those people.

I mentioned that the green paper on welfare reform is due in a couple of weeks. As I understand it, it will address a range of other issues in the income security area. In terms of the job network, at this stage the evidence we have is that there are now very few job network providers in New South Wales who offer a service to client groups who fall into the at risk of prison, former prisoners or juvenile justice categories. If you talk to Job

Network providers in the State you will find that although funds are available for intensive assistance we understand that not a lot of those funds are directed or taken up in those areas. If you look at providers that operate in some of the areas where there are juvenile justice facilities and gaols in New South Wales you will not find a program that relates to working inside with clients of those establishments. I have already mentioned that with the creation of the Job Network and the abolition of Skill Share and other programs, new work opportunities, et cetera and specific projects aimed at first target groups were lost from the system at that time. I might leave it there. They are some comments on the questions you put.

CHAIR: I indicate that any questions directed by me or any of my colleagues may be responded to by one or more of you, as you may see fit. Quite recently this Committee has visited a number of public housing areas, each of which has a problem with crime or crime rates—one was Booragul, south of Newcastle, Claymore was another and south Kempsey is the third example I could give. I could be forgiven for saying that certain types of public housing could be said to be, in that sense, incubators of crime. For example, at Booragul the townhouse developments were illustrated as a problem. It could also be said in regard to public housing that the old style of large public housing estates, rather than placing public housing as infill developments in ordinary suburbs, could be said to be problematic. In your view, what design mistakes might have been made regarding public housing and how can those mistakes be avoided?

Ms PERKINS: It is the huge concentrations of highly disadvantaged people in one location, often isolated from amenities and transport, and certainly almost always isolated from employment opportunities. So you have lots of people with no resources, lots of problems and no income. It is not exactly a recipe for something good happening. There is also not enough social support or community services on those estates to ameliorate or to lessen the hardship experienced. For a long time most researchers and everyone who has any realistic opinion about what would make those things better have been saying that we really need some form of social mix. But because of the way in which the dollars are allocated at the Commonwealth level and the declining dollars, the scope to be able to do something to fix up a mistake that was made a long time ago in planning terms is pretty limited. There are long waiting lists and it is very hard to try to break up those estates because every single unit of accommodation is needed to house somebody who really needs to be housed. The mix of the two factors—a planning system for public housing that has not worked particularly well and one that creates problems coupled with a lack of funding from the Commonwealth and changes to Commonwealth policy—are exacerbating abilities to do anything about it.

Ms MORGAN-THOMAS: I find the question about design an interesting one because in some ways it looks like the easiest one to fix. If you see a design that is not good you might think that and you will not to do it again. But if we look at designs dispassionately without knowing who is there, we find that a lot of the designs replicated in the private sector are very attractive to people who have control over their own space, who have their own income, who have their own house and who have funds invested in it. For instance, the Radburn design is something I have seen replicated in lots of cohousing ventures overseas. The Radburn design itself is not anything that particularly inspires crime or anything like that; it is a combination of design and people of high disadvantage living there. One of the really interesting things about Claymore is that instead of trying to turn the houses around, which is what lots of other Radburn changes have done, is that the people worked with houses as they were in a community response, which is quite a different thing. They basically said, "This is the house and we have to work with it. How can we work with it? " It is about the people, not about the design. I do not think there is any magical thing about the design. If you get the design right the community is happy. In my experience I do not think it is that easy.

CHAIR: Ms Perkins made reference earlier to Department of Housing allocations policies. I took that to be a critical comment. I note from the NCOSS submission that the public housing waiting list in New South Wales is now 98,000. Mr John Dewhurst, Manager of the Department of Housing at Newcastle, accompanied us during our visit to Newcastle and referred to allocations policies and the difficulties they experience. Do you think they really have a tough job in terms of an allocations policy that is satisfactory, given the pressure on them, the lengthy waiting list and lack of funding for capital acquisition?

Ms PERKINS: I do not think they have an easy job. I do not think solving an allocations problem is easy but they have great pressure not have any vacancies and so they need the turnover from tenants leaving and new tenants arriving to be very quick because they do not want to waste a valuable resource. They have a tremendous amount of political pressure on them not to have vacancies, which at one level makes perfect sense.

However, there is also a social issue for the prospective tenants in that if the choice is taken from people about where they will live and what sort of accommodation they live in, what is created is a sense of absolute disempowerment and disengagement from the community into which they are moving.

Significantly too, very often disadvantaged people are moved away from supports they have had which make life reasonable. I will give an example that goes back a few years. I was once working with a grandmother who had custody of her three grandchildren. She was living in private rental accommodation but the rent hit the roof and she could not afford to stay there any longer. She was served with an eviction notice. There was no electricity connected because she could not afford to pay the bill and she was feeding the children by going down to Paddy's Market at closing time and collecting what was left over from the greengrocers down there. The agency I was working with put in an application for her to be moved into public housing. She certainly met the criteria and, yes, she was certainly allocated a property but the property was 40 kilometres from where she had been living. She was an elderly woman with custody of three primary school age children. That family worked because neighbours in that street kept an eye out for the kids and kept an eye out for her. Moving her 40 kilometres away meant that that configuration no longer worked and those children ended up in care.

If the department had been able to be responsive and say, "In these circumstances this is what is needed here", it would have been a much better outcome for all concerned. Tenants can give many such examples. Very often moving people a long way from their social supports is what breaks their ability to cope, and that is quite significant. I also know that the demographics on some of that housing estates are now really wacky and I know this is very hard to deal with. However, when there are demographics of very elderly, frail people placed next-door to single parents with very young children, placed next-door to people with psychiatric disabilities—and that is all there is on the housing estate—then there are bigger problems. In the colloquial sense, the street needs someone who can cope and can play the leadership co-ordination role but if you have those very strange demographics, which are quite out of sync with the community at large—in as much as the community at large is anything—you have a melting pot for a whole estate of people not coping, not coping very well and no-one to call on and certainly not with the capacity to build a neighbourhood that can cope in some way.

Mr MOORE: The other side of this, which is something we have not talked about, in seeking to achieve much better, affordable housing and planning policies, is to try to have a mix of people, income, family and lifestyle types within various parts of this State, which we do not have because of a lack of some of those approaches. We are still committing the mistakes of 30 to 35 years ago on the fringes of western Sydney. Three weeks ago the Land and Environment Court dismissed South Sydney Council's local environment plan [LEP] in terms of Greens Square at Mascot. There is not one affordable housing unit on the Parramatta River between Parramatta and Balmain of anything constructed in the past seven years, which emphasises what Mary has alluded to. If mix of housing type and housing tenant or occupier is important in terms of community neighbourhood fabric and therefore a preventative measure against increasing crime and disadvantage, on the prevention side we are not doing too well at the moment other than the public housing market.

CHAIR: I sketch in briefly a case study that was cited to the Committee when we visited the housing estate at Booragul recently. A so-called good tenant suffered harassment from a neighbour. The good tenant was intimidated by threats of violence and forced to allow her house to be used as a drug delivery drop-off point. The response from the Department of Housing was to move the good tenant out and the "bad tenant" was allowed to stay because the department thought doing something about the problem tenant was too hard. Do you have any comment to make about that?

Ms PERKINS: Yes. There are adequate provisions in the Residential Tenancy Act that the Department of Housing could and should use in circumstances like that. Very often the department says it cannot do anything about a problem when it may well be able to. Any nuisance and annoyance is specified as a breach of the residential tenancies agreement and the department has the capacity and ability to deal with that problem in an appropriate way. If it is a serious issue dealing with threats of violence and drug dealing, why are the police not there as well? That should not be dealt with simply as a neighbourhood dispute.

CHAIR: It is a matter of appropriate and proper management of the situation on the part of the Department of Housing, is it not?

Ms PERKINS: Yes.

The Hon. P. J. BREEN: The rationale of the department probably is that it is safer for the good tenant to be moved out than to stay and perhaps be the subject of victimisation by the bad tenant. It is a frequent problem in those estates that people who are moved out, come back and create terrible problems. They trash the joint and terrorise those who are still there.

Ms PERKINS: There may be a point when the alleged good tenant says, "I do not want to be here anymore" and the department agrees to move them but that has been their choice. However, if there are serious allegations of violence and intimidation, that is why we have a police force and the police should be involved at that point. Not to properly deal with that sort of threat and violence simply encourages the people who are the perpetrators of it.

The Hon. J. HATZISTERGOS: We heard in that particular estate of circumstances whereby people would come from outside the estate to create problems. For want of a better description, they preyed on the weaknesses and problems that might exist in that particular neighbourhood.

Ms PERKINS: The same sort of allegations are made about people coming to Bondi Beach and hassling people who are using the beach in a normal recreational way. It is for the police to work out some appropriate community policing responses to managing and dealing with it.

The Hon. J. HATZISTERGOS: I am merely suggesting that people would come into the neighbourhood like that because the residents are perceived to be vulnerable people who can be exploited for their own purpose. They might come from outside the area; I am not suggesting it is a problem that arises from the estate. How do you deal with those circumstances? I am not sure that just saying it is a matter for the police is the answer. It is probably more than that.

Ms PERKINS: Yes, it probably is but at the same time in the stand-off between the different departments about who is responsible for what on public housing estates, there is the constant assumption that the Department of Housing is responsible for 100 per cent. Local council and police stand back. The Department of Housing may be the major landlord in that area but those people have the same rights as every other citizen.

The Hon. J. HATZISTERGOS: I suppose it gets back to whether estates are the right way to go.

The Hon. P. J. BREEN: One of the problems at Claymore is that people who do not live on the estate dump rubbish in huge quantities on it because it is seen as an open tract, a disadvantaged area and that if the rubbish is dumped there someone will get rid of it.

Ms PERKINS: A public authority owns the land so eventually it will come and pick it up.

Ms MORGAN-THOMAS: The economic realities are that even if one wanted to get rid of all the estates tomorrow and the estates were broken up, the resale value would be nowhere near the replacement cost and the capacity to provide social housing in New South Wales would be significantly reduced by taking that approach. The amount of money available to social housing in general does not really allow any expansion at all and is about to cause a contraction of the capital. The Department of Housing or any social housing provider faces the problem that if estates are broken up, this will actually dehouse quite a number of people so the waiting list will get longer and existing tenants will have to move somewhere else.

Ms PERKINS: Another tack to improve life on estates is employment. The more jobs that come into those areas and are available to people on estates, the more those sorts of problems and the closeness of people sitting at home in miserable circumstances day in day out will be broken up.

CHAIR: The NCOSS submission mentions that rent assistance programs are attractive to governments because they are cheaper than a capital purchase program, the dollars can be spread further and a greater number of people will be assisted in the short term. You also go on to say that it is possible that the rent assistance program may actually impact negatively on people's low incomes by pushing rents higher. Do you think

governments are inexorably determined to pursue rent assistance programs rather than traditional public housing programs? From my point of view the criticisms you are making are correct. What is your view? What are you saying in your lobbying?

Ms PERKINS: At the Commonwealth level, the Commonwealth Government is committed to the rent assistance approach but we are saying in our lobbying exactly what we have said in that submission, that it is not a good approach at this point in time. The effect of it could be ameliorated, as we recommended in the submission, if the New South Wales Government introduced legislation that put some controls on abilities of landlords to put rents up so that people had to justify it.

The Hon. P. J. BREEN: Some form of rent control?

Ms PERKINS: Some form of rent regulation rather than control, but some sort of control on the ability to put rents up willy-nilly will ameliorate and lessen the impact of rent assistance on the rent hike. At the moment New South Wales tenants can be given 60 days notice, no reason, and they are evicted, rightly or wrongly, and rents can go up with periods of notice but again with no reason or justification. If something was done about regulating more tightly those two things, the ill effects of the housing policy driven from the Commonwealth that focuses much more on rental subsidies to the private market could be ameliorated.

The Hon. J. HATZISTERGOS: Are you talking about control for these tenants or control of the market?

Ms PERKINS: It would have to be control of the whole of the private rental market, but the figures demonstrate fairly clearly that the majority of people in the private rental market are low-income people who very often are sitting on the public housing waiting list.

The Hon. J. HATZISTERGOS: What is your analysis of the impact that such a measure would have on supply? A lot of supply, particularly in the private rental market, comes about because of incentives such as negative gearing and the need to pay out investment debts. Have you done an analysis of the impact of regulating rents on supply?

Ms PERKINS: Research carried out by Robert Mowbray demonstrated that most people are more interested in the capital gain at the end of the day than the rent. The changes by the Commonwealth Government relating to capital gains tax on investment property would have much more of an effect than necessarily having some form of regulation on the rent. I am not talking about going back to the 1948 Act with full control on rent.

The Hon. J. HATZISTERGOS: Is that contained in your submission?

Ms PERKINS: No. Robert Mowbray wrote a thesis; a 10-year longitudinal study on the investment and disinvestment of private landlords in New South Wales. It is held in the Sydney university library thesis section.

The Hon. J. HATZISTERGOS: I take it from your answer that you are not necessarily denying that such a regulation will have an impact on supply? I accept that people may be more inclined to be deterred from putting properties on the market by changes to the capital gains tax laws as opposed to negative gearing laws. Do you agree that there will be an impact?

Ms PERKINS: There might be, there might not be.

Ms MORGAN-THOMAS: In Sydney people are told they can afford to pay no more than 25 per cent of their income on rent. A single parent with one child on a statutory income, that is a pension or benefit, can access only 1 per cent of the two-bedroom available stock. That is a crisis. Already, that stock is not available to them.

The Hon. J. HATZISTERGOS: I suspect there would be a greater crisis if we go down the track you are suggesting.

Mr MOORE: I wish to mention two other things. Firstly, earlier I alluded to amendments to the Environmental Planning and Assessment Act which truly allowed inclusionary zoning to occur with affordable housing in private developments anywhere in the State. Secondly, I propose the investigation of the possibility of a land tax full or partial exemption on investment properties if it can be shown that lower- to moderate-income people can afford it. Those two NCOSS proposals have been put to the State Government. As far as increasing supply of affordable housing is concerned those changes to the environment of public housing are worth looking at in areas of mixed incomes.

The Hon. J. F. RYAN: I put an argument to you about the affordable housing plan you have suggested by using the planning Act. I think there would be community uproar. That largely applies to places where you will have greenspace development and, by definition, that is pretty much the western suburbs of Sydney, which already have the majority of the public housing stock. To add another group of people in lower-income affordable housing will turn the development into a privately owned ghetto. I suspect that developers would be keen on quickly developing large tracts of land with small box type houses which they call "affordable housing". The amenity of the area will plummet. Some would argue that western Sydney is at last starting to get over the problem and is now a much more mixed community than previously. Your proposal would put pressure back in that area.

Mr MOORE: No, my proposal deals with east of Parramatta. It deals with significant development in any local government area and target areas which have no affordable housing in private sector developments. It would clarify it once and for all the current disaster in the Land and Environment Court which is throwing out attempts by councils to impose a form of low-cost housing components in newdevelopments.

The Hon. J. F. RYAN: Do you think it is possible to have a planning instrument that would apply east of Parramatta only?

Mr MOORE: Yes, if government decided that that was the objective. We are talking about the alternatives to a mix of neighbourhoods, a mix of income types. What are we going to do if we break up estates over a long time? What are we going to do if we do not continue to put low income and disadvantaged people in parts of greater Sydney or elsewhere? We have to look at ways of mixing housing opportunities in various geographic locations. Changes to the planning laws are part of doing that. It should be as explicit as that. If there is an objective that we want the instruments are available to do it.

CHAIR: Last Friday the Committee visited Kempsey and met with the community safety committee and other government agencies. The Committee visited South Kempsey, which is where most of the Aboriginal community lives. The Committee was told that in the whole of Kempsey, with a population of 10,000-plus people, apart from Aboriginal employment in public organisations and Aboriginal organisations, only 11 Aboriginal people are employed in the private sector. It is clear what should be done, but how are we to do it?

Mr MOORE: One of the strategies that worked elsewhere, and not only for indigenous people but also for people with disabilities and other marginalised groups, is that firstly you have to co-opt representatives of the business and community in a far greater way. In other words, we have to change their attitude towards Aboriginal employment. I do not know whether you spoke with representatives of the Kempsey Chamber of Commerce, the Kempsey Business Enterprise Centre, or the Mid North Coast Regional Organisation of Councils or other groups. The evidence we have of successful employment practices in the private sector is a mix of carrot and stick. The carrot is wage subsidy, recruitment and ongoing support from external agencies. The stick is essentially establishing a partnership between government, employers' representatives and the community.

CHAIR: In Moree Aboriginal employment appeared to be somewhat more promising. The cotton industry has focused on giving Aboriginal people a fair go. That did not appear to be the case in Kempsey. Perhaps the economic base is different and there is no large employer which could be compared to the cotton industry.

Mr MOORE: Kempsey certainly suffers from being a centre on the mid-North Coast as far as employment creation activity. If, in industry development turns, there is an attempt to relocate major employers to that part of the world or bring in capital, what would be the role of government? We have already had discussions about contracting and purchasing policies and the role of government in doing that with private sector contractors.

There should be implemented objectives in communities with high levels of unemployment. The State spends money on capital works activities through its general purchasing and contracting by using private sector contractors. In Kempsey, there are ways to fulfil inventories from local employers. With the private sector employers why should there not be employment from the indigenous people?

On the other side, until the community is interested things will not change. In Kempsey that includes the business interests with long-term future and viability such as Kempsey Shire Council, the land councils and other indigenous organisations.

The Hon. J. F. RYAN: With regard to the comments you made about Federal Government funding of public housing by rent assistance rather than capital stock, one advantage that might have, at least for people who are in receipt of rent assistance, is that they would be spread throughout the community rather than in one place. It said that the Department of Housing waiting list is for that particular style of housing, but not necessarily for people who do not already have a house. Some people are housed and use that system as an alternative. Is there any advantage in asking people to choose their own place, so that they live among other renters? There appears to be a stigma attached to people who rent publicly owned properties.

Ms PERKINS: On the surface that seems appealing but in reality, because affordable public housing is not available, it is an illusion to say that someone on income support and receiving rental assistance will have a choice. They will take the first available place and it will not be a choice of location or dwelling; it will be whatever they can get. Probably it will still be too expensive. At the end of the private rental market, it is a misnomer to think that there will be a choice.

The Hon. J. F. RYAN: To be truthful, people do not have choice when they apply for public housing.

Ms PERKINS: No, they do not. It does not work in practice.

The Hon. J. F. RYAN: But they have the opportunity to live in the community with people who are not necessarily on rent assistance. In fact, it probably would not be known.

Ms PERKINS: No, they would probably pick another highly disadvantaged location.

The Hon. J. F. RYAN: It would not be known whether the rest of the tenants in the building were on rent assistance, or otherwise. Is that not a way of breaking up estate-type dwellings?

Ms MORGAN-THOMAS: It is, and it is not. It stops the stigma. Rent assistant recipients live in many areas. Recently we prepared a submission for the Commonwealth Government to house refugees on their arrival in Australia. This is relevant because one of the requirements of the Commonwealth was that refugees be able to live on income support with rent assistance and not pay more than 30 per cent of the income on rent. The only places we were able to run the program with no additional subsidy was Penrith, Newcastle or Wollongong. That was the closest we could get to Sydney. We could not house them in Campbelltown or anywhere like that because even in those areas in the private rental market, based on median rents and figures from the Rental Bond Board, we could not afford to house people. Basically people are either living affordably in those areas and in the rest of New South Wales or they are living closer in and are paying a lot more than 30 per cent of their income in rent. People may be making the choice to live in other parts of the community, but they are putting additional pressures on the rest of their income.

The Hon. J. HATZISTERGOS: There have to be some limits, but is living in Penrith, Newcastle or Wollongong a bad thing?

Ms MORGAN-THOMAS: Not necessarily, but you are saying that people should actually live throughout the whole community whereas I am saying that they will live aware they can afford to live. Often you are concentrating people in certain areas. It may not be in a public housing estate.

The Hon. J. HATZISTERGOS: That is true of people who would not be described as being in a

crisis situation. Everyone lives in what they can afford to live in.

Ms MORGAN-THOMAS: Sure.

The Hon. J. HATZISTERGOS: The question that I come back to is whether that is a poor lifestyle, living in one of those localities. I do not think it is.

Ms PERKINS: Some of the blocks of flats that are investment properties in the private market within certain localities are as stigmatised as is a public housing estate. Most welfare agencies who do any work around housing and related property will be able to identify within our localities the landlord, the company that owns the building and the blocks of flats that are available. They are as concentrated in private market areas as they are in public housing estates but they are just not on such a grand scale. The problems are exactly the same for the tenants living in them.

The Hon. J. F. RYAN: The difficulty about which constituents complain to me is when the Department of Housing spot builds in a new estate. I must say I can feel some sympathy for residents who might find themselves in a project home which is quite often a fairly modest house priced at around $250,000 with a single garage, three bedrooms or perhaps an ensuite and a few built-ins but which is all pretty struggletown, and next to them the Department of Housing builds a couple of houses whose tenants turn out to be a real problem. It seems to me that a group of people who are reasonably stressed but coping, within what we normally take to be stressed but coping, suddenly have the responsibility of coping with this other group of people who are living in the Department of Housing property. They will never escape that because the Department Housing, having once bought a property, will never relinquished it. It is there forever and unlike someone else who might have an opportunity to go to the Department of Urban Affairs and Planning and complain about a development, there is no capacity to make a complaint about something that will have a pretty significant impact on their investment and their lifestyle. Have there been any creative ways of trying to get around that specific problem?

Ms PERKINS: But is that any different from the home owner that you do not get on with who has loud parties and who is a nuisance to live with? You cannot go to the bank and ask them to move on or ask why the bank financed those people to buy the house. That seems to me to be in the same category.

The Hon. J. F. RYAN: I am in exactly that position. I have a difficult neighbour next to me but I suppose that I have the prospect that one day—it may not be tomorrow or in ten years from now —they are going to move, even if God takes them, and they will no longer be there. I have a completely different attitude to the person who has a government-owned building next to him or her. Constituents complain to me about this and it seems to me to be a difficulty caused by spot purchases by the Department of Housing. A government-owned building seems to have a different aspect to it from something that is owned in the private sector.

Mr MOORE: But how much of that is genuinely about that issue as opposed to having a Department of Housing tenant living next to them and how that impacts on market value in that particular area?

The Hon. J. F. RYAN: Some of them may not necessarily be real but we, as politicians, have to deal with that. The other question I wanted to ask is whether you have an opinion on the way in which organisations such as the Department of Defence provide housing for their employees whereby the Government purchases properties by asking people to invest and then the department rents the property. In other words, instead of the Department of Housing building spot projects, it finds properties in the private sector that it can rent and encourages the private sector to build properties which it designates as its own and guarantees for a period that there will be someone to rent them. The organisation does not actually own real estate. Someone else buys an investment property and largely has the Department of Housing as their agent to rent it for as long as they wish to hold it. Is that a better way of financing a better type of public housing? Is that a form that you people have looked at and have some comment on?

Ms MORGAN-THOMAS: It is currently something that the Department of Housing is attempting to do. Like the Department of Defence, it is finding it very hard to get institutional investors interested. If the committee were to do an analysis of who the Defence Housing Authority has as its investors, it will show that they are largely their own service people who, because they are shifted around the place all the time, want some

security and see housing as a good investment. It is like much of the private rental market which is concentrated on mum and dad investors rather than the institutional market. That has its pros and cons.

A number of houses owned by the Defence Housing Authority have turned over a number of times already and the program has been running for six or seven years. They have had a very slow take-up rate and it takes a long time for investors to accept the product. I guess that they were floating a new product on the market. I also know that in Queensland the rental guarantees that they were offering had an impact on the rest of the market and there was a trend for a while in particular markets of the private sector trying to match what the Defence Housing Authority was doing. They ended up with some distortions in the market. It has had some limited success and certainly there is another argument that a 10-year lease is as restricting as something that is owned because when you are in a 10-year lease, you are locked into it for ten years. If you own something, you can always sell it after three years. It might not be the best use of your money, but you have that option, so, in some ways, renting can be viewed as less flexible.

The Hon. J. F. RYAN: Could you give us some idea of what a typical level of rent assistance is for someone, for example, who is on income support with a family?

Ms MORGAN-THOMAS: Off the top of my head, if a person is a single parent with three children I think that person can get up to $100 a week. It nowhere near covers their costs and that is the maximum that they can get. The way it works is that there is a minimum threshold where a person does not get any rent assistance and then they get 75 cents in the dollar and it cuts out at a maximum.

Mr MOORE: I can tell you from personal experience because my mother is an aged pensioner who is trying to get housing at the moment. A full aged pensioner who is a single person can get $38 a week and you have to be paying rent in a private rental market of $174 a fortnight or greater to get that, and that is the maximum that you can get.

The Hon. J. F. RYAN: There would not be many properties available at $174 a fortnight.

Ms MORGAN-THOMAS: It is quite easy to get over the top threshold in Sydney. We know that people who are receiving rent assistance find that it does not actually help with affordability very much. A lot of people are on statutory incomes. In 1994, which was the latest figures on affordable housing, 80 per cent of very low income households were owned by people on statutory incomes and 90 per cent of them were paying more than a quarter of their income in rent.

The Hon. J. HATZISTERGOS: Most of your studies have concentrated on Sydney, have they not? That is the market upon which you seem to be concentrating in just about all of what has been said today. Is that correct?

Ms MORGAN-THOMAS: That is where most of the affordability problems are, both in volume and degree. Housing is a lot more affordable outside Sydney, Newcastle and Wollongong.

The Hon. J. HATZISTERGOS: Have you looked at regional development as an option in addressing the housing affordability problem? I am not suggesting that it is suitable for everyone, but it may be suitable for some.

Ms MORGAN-THOMAS: Growth in housing funding or in any type of new development is concentrated in the areas of highest need and that is a requirement that the Commonwealth Government places on New South Wales under the Commonwealth-State Housing Agreement. When one considers highest need both in relative terms and in terms of quantity, that means that it is concentrated in Sydney so you will find that demand for public and community housing, particularly west of the Great Dividing Range, is quite low. The Department of Housing has a problem of excess supply there with vacant houses.

The Hon. J. HATZISTERGOS: We heard about that and that the waiting lists are actually low in some of the regions.

Ms MORGAN-THOMAS: They are much lower. A person could be housed in some regional areas tomorrow if he or she turned up and was appropriately eligible, but there is not a whole lot of other things there such as employment.

Ms PERKINS: The link with jobs is really important. The growth of jobs in New South Wales is in Sydney in New South Wales which means that there is a concentration of people who are trying to get to the jobs that are available or who are going to regional areas and becoming long-term permanently unemployed. It is a very big trade-off for people.

Mr MOORE: We have talked to the State Regional Development Board and a number of regional development boards to tell them that when they are producing economic development strategies they should look at a whole range of issues on the social side of the equation, including housing availability. There are issues that member agencies report are growing in some of the inland cities and there certainly are some housing affordability issues or simply housing choice and option issues on the north coast of New South Wales, so it is not totally a rosy picture outside Sydney. You mentioned regional development which again raises the question of stimulating economies in the region and stimulating jobs, and the package that goes with that is appropriately affordable housing and decent health services, et cetera. The whole thing has to be wrapped together. From where we sit at the moment, that integration is not happening very well.

The Hon. J. HATZISTERGOS: I am intrigued because a place such as Griffith, for example, which is a place I have been to a few times, has difficulty getting workers, particularly during the season. In fact they are trying to import labour to carry out some of the work because that they do not have enough locals or people who are prepared to go there.

Mr MOORE: I can cite an interesting example in relation to one of the questions you asked me. This is one of the things that the Commonwealth Employment Service [CES] used to be able to do because it was in every second town and it had a specialised network system for seasonal labour within those industries in the regional New South Wales. The job network has not been able so far to develop the same capacity. If you are talking about job network providers, that inability is one of the reasons for the situation you have described. That type of service in fact needs to be able to properly transfer vacancies and people seeking work across the network. It is one of the things that has been raised with us.

The Hon. P. J. BREEN: I was interested in the question of Claymore. There are lots of apparent reasons for the success in the Claymore but I think it is useful to compare that success with similar success at Airds where whole communities have been rejuvenated, people have taken an interest in housing and there are long waiting lists. Do you have any comparative analyses that have been done between, say, Claymore and Airds as to the reasons for success?

Ms MORGAN-THOMAS: No, I do not know. I am certain a comparative analysis has not been done.

The Hon. P. J. BREEN: When we were at Booragul, it was apparent that the kind of general problems there are not much different from the problems at Claymore and Airds, yet I was puzzled that they could not address the problems and transfer the solutions up Booragul. I thought that one reason why Claymore was successful would be the fact that the Samoan people have an interest in the common areas. They have planted gardens and act as some kind of law enforcement authority. People who get out of line have to answer to the Samoans, which is not always a good prospect. But at Airds, there is quite a different dynamic. There are no Samoans that I am aware of in the cultural way that they exist at Claymore but, again, at Airds there has been great success and people went to live there. It is acknowledged that the community at Airds looks better, feels better and is better than it used to be.

Ms PERKINS: I am guessing here, but my guess would be that in areas there is some body or group of people with a capacity to play a leadership role in building that community. I could give you another example about building a part of the estate at Erskineville. I knew it did not have the best and safest reputation with bag snatching and all manner of bits of petty crime. An elderly tenant I was working with was allocated there and

because he had two broken ankles and was not very mobile I wondered if it was going to work. But he is very much a capable person. He has the capacity to play a leadership role in the community that he lives in.

Within six months of him being there that petty crime problem does not exist on the estate anymore because he exercised that. There are people now working in the garden at the back and that work is shared between them. Somebody on that estate, in this instance it was him, had the capacity to play some leadership role. That is my argument about the strange demographics that takes capacity. You need somebody on the street or in the estate who is able and prepared to play some sort of leadership role in the community.

Mr MOORE: That is the whole area of moving into the social capital debate and the capacity of having at a community level neighbours and facilitators like Mary is saying. I am not sure whether you have spoken with Tony Vinson, but I know he is doing work for the State Government about looking at exactly this issue, what kind of enabling organisations there are at community level, what is the difference, what is the missing factor. That is well worth exploring.

CHAIR: We have heard evidence from Professor Vinson about his locational study.

The Hon. J. F. RYAN: The week after this Committee went to Claymore and a very positive story about how terrific Claymore was appeared in newspaper, the following week another resident from another part of Claymore wrote in and said, "Well that is great for those three streets, but frankly the rest of Claymore has not changed and is as miserable a place to live in as it ever was." Are you aware of that sort of complaint?

Ms MORGAN-THOMAS: I am aware that there is a fair bit of resentment from the people who are still Department Housing tenants and were not part of the transfer. Leading on from change agents and things, when Argyle Community Housing went in there all other tenants had moved out. There was nobody in most of those streets and Argyle undertook a sensitive allocation policy. Often that is not possible with the Department of Housing because of things like equity. You have to house who is next on the list because that is fair and that is the rules and you would expect government to be transparent about the way it makes decisions, which makes sensitive allocations very hard. One of the things Argyle was able to do was to say, "We want to make this community work. That is our first priority. We will take people who are eligible and close to the top of the list," which is how all the Samoans ended up there because they came to Argyle and were willing to start working on a community and wanted to work on rebuilding.

I can see why if you were in some other part of Claymore and were not part of that experience that you would feel like you had been left out; you wanted it too and you could not understand why there is more money, resources and goodwill in that area than there is in other parts of Claymore. I suppose you could resolve that by spreading it, but if I was Argyle Community Housing I would be a bit worried about taking over the whole suburb and trying to do the Claymore experience overnight because community development does not work like that.

Hon. P. BREEN: You said earlier that getting the design right is not the answer and that there must be other factors involved before you can build a community. Certainly in those three streets of Claymore the design did play a big role in at least making people feel safe—streetlighting, not having blind alleys for people to walk down, opening up pathways and things like that. That was one difference I noticed between Claymore and Booragul. There was not that attempt at Booragul to try to solve the problems of people getting into difficult situations because of the Radburn layout. There was another place, I cannot remember its name, which erected a number of picket fences to improve what was the back of buildings and they simply turned the buildings around. That seemed to work as well.

One of the problems they have in these estates is that the infrastructure is now beginning to fall apart because a lot of it has been in place for a long time. There are questions governments are looking at as to whether it is feasible to replace all the infrastructure and if that might not present an opportunity to perhaps break up the estates by turning some parts of them into private housing. Do you have any comments?

Ms MORGAN-THOMAS: I will start with the design. I was arguing against a determinist approach that said if you fix the design all problems will be fixed. I am not saying the design is not important, but it is not the only answer. In fact there is no single answer. I am sure you know that if you have been hearing these

things for a while. There is no single answer to all of these things. The trade-off we would have to make if we said we would break up the estates and sell them off is the net impact that has on stock. From all the analyses the Department of Housing has done, you can work get yourself, if you sell a lot of these properties and break up estates, the value is not going to be very much.

Your replacement costs are a lot higher. How do you deal with that problem? Would we be happy to accept a gross reduction in public housing to deliver some amenity outcomes? Those are the real trade-offs because there is no extra money coming in that allows you to offset against something else. Basically you are saying, "We will have less public housing, but it will be a lot nicer than what we have." But at the same time if you reduce that you have to target much more needy people so that you end up housing the incredibly needy people in really nice houses that are in broken-up estates. That is where that trap takes you. I do not know what the answer is. The answer is that you cannot deliver good housing outcomes in New South Wales with the amount of money we have at the moment.

The Hon. P. BREEN: Is it possible that there might be some new ideas out of left field? I know HomeFund was an attempt to try something different.

Ms MORGAN-THOMAS: That would be out of left field!

The Hon. P. BREEN: It was a total disaster, but there were aspects of HomeFund, like shared equity schemes, which had a huge amount of merit. Had the right people been in place and had that been applied as a solution to HomeFund it would have had a much better outcome than the one they finished up adopting. With those kinds of schemes, which operate and are in place elsewhere in the world, surely there must be some people in the Government or even works consultants who can actually look at these schemes and put them up as alternatives.

Ms MORGAN-THOMAS: All the advice that has come from industry or anything is that if you want public sector investment or you want things, there has to be some subsidy stream. That is a clear message that is going to the Commonwealth Government, which keeps saying, "We need more private sector investment in housing" which is where the only magic comes from now. There is no way of us being more efficient than we are at the moment. Industry has been saying, "We can do it. We are interested. We are willing", but it has to return things on the bottom line and the dollars just are not there without a subsidy. Those ideas are there, but it requires some commitment from the Commonwealth Government in particular if you are going to do it. Whether it is through tax subsidies or some other incentives, those are the only solutions. You cannot do anymore with the little that there is.

The Hon. P. BREEN: Would you advocate the $1.5 billion being withdrawn from rent subsidies and put into some other kind of arrangement?

Ms MORGAN-THOMAS: No, because that would put people in the private rental market into greater distress. If I were to advocate something to the Commonwealth Government, and I have done so in other arenas, I would say the thing the Commonwealth Government must do is, first, get a housing policy and commitment to actually providing affordable housing to people and, second, then set up some ways of achieving the outcomes that it wants to achieve. At the moment the Commonwealth Government is a rudderless ship in terms of housing policy. It has put huge amounts of money into rent assistance. That money is an entitlement and it is difficult for it to cap. The more people that become unemployed or on benefits are automatically entitled to rent assistance. It is difficult. They have no control over the outcomes that they give for rent assistance. They have put less and less money into the Commonwealth-State Housing Agreement where it does have some control over outcomes, but it is increasingly saying deliver to the most needy and creating a problem that no State in Australia is going to be able to deal with.

The Hon. J. HATZISTERGOS: What role do you believe local government might have with these problems? Do you consider that? We are all supposed to have residential housing strategies that are designed to increase the supply of housing by 2020 with an additional half million new homes in Sydney. Are we going far enough? Some criticise that process because it will lead to a lot of housing which may not be desirable and will increase urban consolidation et cetera, but what role do you see local government playing in this?

Mr MOORE: We do not have a problem with urban consolidation. I guess it is more a question of how it is done and who actually benefits from it. Where you have councils at the moment who have had and currently have housing officers and a more activist housing policy, and if you look at some of the local environmental plans and regional environmental plans that are about in terms of development, no doubt councils could play a more active role than they probably do in looking at future residential requirements. They could be more activist, is what I am saying, than what they have been. I have already mentioned a part of the problem in one sense where some councils in Sydney are doing that and find themselves before the Land and Environment Court frequently on the losing side with some of the things they are trying to do, particularly with retention or expansion of lower-cost housing. There are some issues there.

On the employment side, there are lots of examples in New South Wales, such as Liverpool, Fairfield in western Sydney, certainly in rural areas, Lismore, and the Northern Rivers councils, that generally have a role to play in sitting alongside and promoting and coaxing business and, in relation to the other two levels of government, in attracting investment and looking at ways to obtain job opportunities for those groups within their communities who are most at risk in an intergenerational sense. Local government of course once again is a major purchaser in many communities particularly in small areas. There are quite active things that councils can be doing individually and also regionally.

Ms PERKINS: I have here two discussion papers produced by National Shelter on housing employment and the link between implementing current support and its implications for housing policy. They are very much background papers for the Committee.

(The witnesses withdrew)

(Committee adjourned at 3.44 p.m.)