

**REPORT OF PROCEEDINGS BEFORE**

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

**INQUIRY INTO COMMUNITY BASED SENTENCING OPTIONS**

---

**Public forum at Bourke Bowling Club  
on Wednesday 15 June 2005 at 2.30 p.m.**

---

**PRESENT**

The Hon. C. M. Robertson (Chair)

The Hon. G. S. Pearce

Ms L. Rhiannon

**ALSO PRESENT:**

Dot Martin; Jake Woods; Kerrieanne Howarth; Judy Johnson; Barry Edwards; Mary Ronayne; Sally Bryant; Richard Davies; Dawn Smith; Greg Moore; Keith Carney; Darrell Brookson; Peter Greenaway; Yvonne Howarth; Margo Grimes; Alison Thorne; Kate Morris; Jan Downey; Joanne Edwards; Lyn Ord; Narelle Orcher; Phillip Sullivan; Rayleen Summers; Brenda Yager and Grahame Yager.

Corrected Transcript

**DOT MARTIN:** Welcome, everybody. I am Dot Martin. I wish you a very warm welcome to Bourke. I hope we get lots out of this today. Everybody come up with your ideas. Welcome.

**CHAIR:** Thank you. It is very good to have you people welcoming us. The Committee comes here for information and to share, and sometimes we feel like an imposition. So, thank you very much for your welcome. I am Christine Robertson.

**Ms LEE RHIANNON:** I am Lee Rhiannon.

**The Hon. GREG PEARCE:** I am Greg Pearce.

**CHAIR:** We are from the Standing Committee on Law and Justice, as you know from the terms of reference. The three of us are from different political parties, and the Committee attempts very hard to work together to get recommendations that make a lot of sense for the Government to implement or for us to negotiate in the future. A report is prepared and delivered to Parliament. It will be passed by Parliament and then sent to the Minister who gave us these terms of reference, Minister Debus, and then we will know whether our recommendations are to be accepted or whether we have to do more work.

I welcome all of you to the public meeting of the Standing Committee on Law and Justice inquiry into community-based sentencing options. The Committee is very pleased to be here in Bourke and is looking forward to hearing the advice of the local community on this issue. As well as being very grateful for your welcome, the Committee recognises the traditional owners of Bourke and the current custodians of the land.

In accordance with guidelines, members of the Committee and witnesses may be filmed or recorded. Members of the public should not be the primary focus of any filming or photographs. The media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee. Committee meetings are not intended to provide a forum for people to make adverse reflections about others. I therefore request that speakers avoid the mention of other individuals unless it is absolutely essential. Can anyone who does speak please say their name first? The parliamentary inquiry system is recorded by Hansard, who do the documentation of parliamentary procedures. If anyone still has a mobile phone on will they please turn it off?

We heard some very interesting information in Inverell yesterday, and this morning we heard from the police, the council, Probation and Parole, the lady who does some volunteer work in the present system with the police when an Aboriginal person is arrested and Aboriginal legal aid. That is very important information, but now I understand most of you people are attached to community-type organisations and should have different information for us. Do people think that community type sentences rather than going to gaol are softer kinds of prison sentences?

**YVONNE HOWARTH:** It depends on the person or whatever the crime is. It depends on the crime that has been committed.

**CHAIR:** What should happen? Do you think it is easier for people to do community-based sentences than to gaol?

**YVONNE HOWARTH:** It is still the same. If it is only just a small offence, something that is not really bad, I do not think they should be sent to gaol. But if it is very serious and someone is hurt or whatever, I think they should go to gaol.

**CHAIR:** Has anyone ever heard of someone making the choice to go to gaol instead of doing community-based sentencing?

**PHILLIP SULLIVAN:** I work for the Department of Environment and Conservation. I am an Aboriginal sites officer with them. I am also the chair of the Aboriginal community working party at Brewarrina. As far as what you are talking about, I think it is a copout. I think it fails more than anything because you are not dealing with the underlying issue that has happened with our people across the country. This thing is good but I think you need to address the real issue that has happened. The problem with law and justice and the way things are happening is that, first of all, you do not understand and you do not recognise what is in front of you when you are dealing with the Aboriginal people. Aboriginal people fill the gaol cells, they fill the courtrooms wherever you go right across the country. It is always an Aboriginal person facing the judge. What you do not understand is that you do not recognise what is in front of you. I was here earlier this morning looking at the way you had your formal procedure about how do you plead and you read the little thing out, you have a little card that you read out. There is a little card that everyone who spoke this morning read out.

**CHAIR:** The oath or affirmation?

**PHILLIP SULLIVAN:** Yes. Can you read it out to me please? (Oath read) The last bit is the most important part, "So help me God." If you try to understand and recognise what we are trying to do today, you are not really dealing with the last part of that there. It is a farce and a lie. If you really deal with what you are talking about in that last bit, you would understand and recognise that the first people of this country have not been recognised in how they deal with the issues, little issues like you are talking about today, and that is about circle sentencing. Little issues like that can be dealt with by people in this community but it is not, it is being dealt with by the courts, who still have the final say on how the law is dealt with.

What I am saying is the law that has been given by the creator himself to the people of this country has been chucked out the window and replaced with something else that says you prove it to me that this person did this and this. The law of this country that is given to us by the creator saying if you do the wrong thing then you are going to go, this is what is going to happen to you. You do not recognise that because you do not recognise us as Aboriginal people and as traditional owners of this country. If you do, we would not be sitting here talking about it. You would recognise that there is a law that is unwritten and has not been recognised. You do not understand it and you do not recognise it.

This little thing is good but it is not good because the first and most important thing that you forgot, you forgot the last piece on the piece of paper, the recognition and understanding of what you are trying to do. So, we need to revisit that before we

push on with anything else because if you understand about Aboriginal people, when I walk down the street and three little blokes were running down the street making fires, I would have dealt with that myself but I cannot do that under your law. I would have dealt with that with a toe in the behind and tell them to get home to their parents, but your law says—which replaces our law—no you cannot do that, that is an assault. There have been times in the past 20-odd years when they went overboard with the whip but you still do not recognise the law given to us by the creator himself.

That is where this whole law and justice thing has to start: Recognition about who we are, and understanding of who we are and then we can get on. Yes, it will take another 200 years before we get it right but you have to be patient with us and understand us. Until that happens we will be sitting here in another 40 years time and talking about how we are going to work this together. The most important thing is you have to go back to an understanding and recognising who you are dealing with. The justice system is not doing that at the present time.

This is good, but there has to be a place where you need to chuck out the window the way you do business with the microphones and sit down and really talk to us about how you deal with us when it comes to law and justice. It has affected us since 1788 in the way we do business. The law is given to us 40,000 years ago. It lasted 40,000 years but it is flat out lasting 200 years since you landed. I have got nothing against that. I am a Christian myself and I believe in the creator himself, the Almighty. He gave us 10 rules to follow. Are we following them? They are written on paper. The rules he gave us 40,000 years ago are written on our hearts, and you do not understand that because you cannot see that. It has to be something you can grab onto, tangible. You do not see that like we see it.

**CHAIR:** Thank you very much. I make no value of what you say, but in Inverell yesterday we did hear much of this information, and I thank you again for reinforcing that. In our job we have very set terms of reference to look at within the current law structure, as you know. This Committee is trying to influence the current law structure as positively as it can within the current structure. But I understand your big picture issue, so thank you very much. I was trying to get a perception from people about whether they thought community-based sentencing was a softer option than going to gaol, and I understand your issue. Sometimes the community thinks people are getting off light, so tell me?

**SALLY BRYANT:** I am a community facilitator with the Rivertowns project in Bourke. I am speaking from my perspective and what I have seen rather than from my projects perspective at the moment. I think there is a great wariness in the community that if we wholeheartedly embraced community-based sentencing and if those sentences are not given the support from the Attorney General that they need, as you heard from the police and the shire this morning, to run effectively, it could be a softer option because someone who was meant to be learning their lesson in the community, being seen by the community to be redressing some of the things they did—whether it was a domestic violence or some other issue or some other non-violent crime that can be dealt with in the community—if it is not properly monitored and adequate support given to the monitoring of it, then it will dwindle away and drift off and people will go very much their own road. We are talking this morning about the sort of job you might do if you were doing a community-based service order. If you have someone there watching what you are doing, ensuring that you are doing it properly and getting you to

engage with it, then there is a very good chance that you will take something away from that and it will be very beneficial. If that does not happen, I think there is a danger that it could be totally useless, to be honest.

**KATE MORRIS:** I am talking as a community member. I do not think that community-based sentencing is a softer version of going to gaol or going to detention centres or anything like that because some of our people who go into the system come out with more knowledge of what they can get and do in the system and those issues that they have brought into the system are not addressed. Another thing is what Phil was talking about, the white law and the black law. The white law is L-A-W and our law or L-O-R-E. If we turned around and went back and addressed some of those issues from a cultural perspective in the community, maybe some of those things could be changed and maybe we are taking the bandaids off things. Instead of someone doing something wrong you send them off to gaol or into the remand centre or whatever else, you are just putting another bandaid over the problem because when they come out they have more issues. So you have to send them off again and put another bandaid over that. We need to take those bandaids off and we need to address those sorts of things.

Whether it is going back to the stolen generation or the dispossession of our land and all those sorts of things, with colonisation and those sorts of things, all those things affect Aboriginal people. Even though we have moved on and we are getting educated and we are doing whatever, we still have all those underlying issues and our children are affected by it. That is how our men vote and it is how our women vote. We need to deal with those sort of things that are in our hearts and everything else so that we can make a better community. With community-based sentencing, I think it is a good thing, for some of the lesser penalties. If you are doing something that is wrong, instead of going to a remand centre or a gaol, maybe we can sort it out in the community, address those things and sort that out on the individual needs because there might be all these other things that are wrong with that person that they might need help with, instead of turning around and saying, "You have done this wrong, we will send you off". It could be a child sexual assault. It could be that they have come from a dysfunctional family. It could be anything but we do not know unless we deal with those things. I reckon we should deal with it in the community. If it is a big crime or something bad they might have to go into gaol but I do not think it is a softer penalty.

**KERRIEANNE HOWARTH:** I work for the Department of Education and Training. I am the Aboriginal student liaison officer. My previous positions were DOCS child protection caseworker and before that I was the Aboriginal specialist court officer at the Bourke courthouse. Over my years of experience I believe that remand is no good and I agree with what Kate and Phil said. Community-based sentencing sounds like an easy way out but that is where we need to make it stronger, make it more accountable, make it more so that the offender is more accountable for what his actions were to the victim. I have been to youth justice conferencing with various people and I just got up and walked out. It needs to be stronger. It needs to make the offender accountable for his or her actions towards the victim, and our community needs to take control of that.

**CHAIR:** What happens at youth justice conferencing?

**KERRIEANNE HOWARTH:** Youth justice conferencing through the Department of Juvenile Justice is where the victim sits, convener and support person,

police youth officer and the offender sits. They discuss the crime. They discuss what has happened to the victim in front of the offender. The offender then needs to take ownership of his actions and what he has done to the victim. Therefore a penalty is raised or sentencing option is raised amongst the group as to what should be done, what the offender should do in the community then for the victim to see that he is paying back for the crime he has done.

**CHAIR:** So everybody in the room is a public service type person?

**KERRIEANNE HOWARTH:** no. You have the victim, a support person for the victim, the offender, a support person for the offender, the police youth liaison officer and a convener. The convener is employed by the Department of Juvenile Justice to organise the conference.

**CHAIR:** I understand.

**KERRIEANNE HOWARTH:** But if they are to happen they need to be stronger. The sentencing needs to be stronger. When it goes to court, that is fine but then the next stage is court. You put a head on a curfew, that is very unrealistic. The child, they still jump out of the window, they do not stick to the curfew, the police are driving around all night knocking on doors, is so and so home, they have breached their bail. We need to set some realistic sentencing options if it is to be community-based.

**CHAIR:** So is that an example of a community-based option that does not work? Is that what you are saying?

**KERRIEANNE HOWARTH:** Yes.

**PHILLIP SULLIVAN:** It is me again. I think what you are doing in this process is good because it actually begins the two things that I talked about, but you are only scratching the surface on a few points. You only get the offenders if the police can grab them. The other 90 per cent get away. What I am saying is that if you understand and recognise who we are in our community, we know what has happened in our community. We know the people who have bashed their kids. We know the people who are drunk and dealing in our community. We know that. What has to happen under the process at the moment is that the process is that you have to prove it in our court of law that these things happened but in the community of Bourke and elsewhere that I know of the Aboriginal people know that these things are happening. You are really only just scratching the surface by getting the one offender. I think you have to push that issue about trying to understand where we are coming from. It will take a while to recognise that there is a law out there that is accountable but it is not given an opportunity.

**CHAIR:** I am not disagreeing with you. I will still ask you the next question. In relation to circle sentencing, which you perceive as scratching the surface, I understand that it actually means that the community can be more involved not only in the sentencing but in the actual implementation of the sentence because the community gets involved in what is going on. How many of you think that that process could be extended to mean more to the community?

**PHILLIP SULLIVAN:** Are you talking to me?

**CHAIR:** Yes.

**PHILLIP SULLIVAN:** I think the process you are heading is in a good way because you are heading down of that first thing I talked about and that is trying to understand us. Prior to that it was mostly sit at the table and make the decisions on a person who has committed a crime. That is a good start but I think the next step you need to take is to back off a little bit and let us bring the people also who we know who commit the crimes too.

**CHAIR:** In Bourke and Brewarrina people are talking about the implementation of circle sentencing. Would this community be strong enough to put forward elders who would be representative of the community to participate in that process?

**YVONNE HOWARTH:** I think so. I think elders should be involved in things like that because, like sitting down face to face with the perpetrator who gets very embarrassed but he knows he has done wrong and there are different people. I think the elders in the community, black or white, because we are all getting the same thing—the same thing is happening to us in the community—be involved with the sentencing or whatever. The Aboriginal people have never been asked at any time to get involved in sentencing. It has always gone through the court. It was set up once before to get together around a table but that did not work. Then it started up again because I sat in on it. Like I said, the perpetrator just stared at the people. That he became a good kid after that, I do not know because I have not seen him since. But we know the Aboriginal kids in town and we also know some of the white kids. So what I am saying is for our people to have Aboriginal elders involved with the sentencing.

**KATE MORRIS:** It is a good thing to have the Aboriginal elders involved but I think it needs to be from each faction of the community. It should be from whatever family groups we have in our community. There should be representation from each family group.

**CHAIR:** What is your suggestion to change those sorts of power structures so that you can get full representation?

**KATE MORRIS:** You go out and survey and you get the people from the community and you go out and see who the families are.

**PHILLIP SULLIVAN:** I think there is one very important issue. We have to listen to what the two ladies are talking about. ATSIIC has just wound up after 1 July, and one of the reasons is that it stopped working for Aboriginal people. That is said because it only runs in circles and in a certain time frame. I think that what the two sisters are talking about is that somewhere in that we will make mistakes. We will probably make some big mistakes if this is the way we want to go but I think there has to be somewhere where we have to try it our way and I do not think we have given up that opportunity yet. We will make mistakes, I promise you. That is why ATSIIC folded, because they thought they made a lot of mistakes. It needs generational change to make it work. It only worked for 15 years. It is very important that we understand that there will be mistakes. We have to work with them.

**Ms LEE RHIANNON:** We have heard a few comments about how community sentencing is accepted and viewed but there seems to be a general interest in

it. What are your feelings about what the Government could do in terms of informing people with more detail about how it works, what the positives are and how the community could be involved?

**JUDY JOHNSON:** I am from the Bourke AMS. Initially when we did the community justice sentencing the lack of knowledge, the lack of advertising, the lack of letting everybody know what it was about, but very sadly the lack of public service, and I am saying the police in this case, referring anyone on to us.

Sometimes the cases were excellent and the results were just wonderful. We have got some good kids out there as a result of being involved through the community justice centre. They have gone on to do great things. They could have gone the other way, but I got two or three cases out of about 40. It was not supported. They never gave us the respect or the authority—not the authority because we were not an authority, it was the respect to say, "Hey, there is another system here and this system could work." We were never supported. It was too much for them. There was too much paperwork. We were doing most of the paperwork but they just could not be bothered.

**Ms LEE RHIANNON:** I thought you said that initially there was a lack of awareness amongst the public services?

**JUDY JOHNSON:** There was a lack of awareness as well.

**Ms LEE RHIANNON:** There were two factors,

**JUDY JOHNSON:** There were two factors—lack of awareness and the other factor was an unwillingness to support the system and comments like, "It won't work." You have got to give respect to any situation. There has to be respect and this system will only work, like Phil said, if that there is respect for the law. There is no respect for law; that has gone. There has to be respect for the law and it is up to the system to build that respect into this model.

**CHAIR:** What did your community justice centre do?

**JUDY JOHNSON:** We took on law issues and handled that at the first offence level. We took on stealing and common things that did not warrant going to court or taking it any further.

**CHAIR:** They referred people through to you to see if the matter could be resolved at that stage instead of going further?

**JUDY JOHNSON:** Yes, and we dealt with it with the offender, similar to the juvenile justice system.

**CHAIR:** Did you deal with any adults?

**JUDY JOHNSON:** Yes, I had adults. I even had two people whose marriages were splitting up and that sort of thing as well—all sorts.

**CHAIR:** Has that gone?



**JUDY JOHNSON:** Yes, it has gone. There was no support for it. It was just another gross waste of money if it is not going to be supported. And there was a lot of money poured into that but we were not given the respect that we deserved.

**RAYLEEN SUMMERS:** I am a community person and I have had experience in supervising community-based orders and working at the Minda Juvenile Justice Centre. Taking kids—or anybody—away from home is a punishment in itself, not only on the kids, but on the family itself. Juvenile justice can work when people in the community are committed and you have committed agencies as well. Agencies like mental health is a major case in point and drug and alcohol services for juvenile justice kids because when they are placed on orders, there are not enough services in country towns to cover the kids.

They actually do not yet enough commitment. Sometimes if a parent has got six or seven kids in their family, that takes priority over one kid getting to one of the orders they have to follow. It is not easy to get somebody else to take them or sometimes it might just be a problem with transport. They have those problems and there are not enough agencies and personnel employed in those agencies to take on those jobs. They are either flat out, because they are not just dealing with one kid but with 20 or 30 kids in some cases, and they cover a region most of the time, not just their towns.

You cannot expect a system to work if you are not putting the investment into it. I have seen kids who were in Minda who would not even see a counsellor or a psychologist for months on end, so how are they going to get the support? To send them away, you are making them worst criminals than when you put them through the court.

**CHAIR:** There is the problem in country areas about not enough professionals, but even those places that have the positions cannot attract professionals to fill those positions. Does anyone have any ideas for a solution to this problem?

**RAYLEEN SUMMERS:** One of the suggestions would be to train up people in the area because there are more Aboriginal people in country towns because that is the place they want to be in and there is no professional training there.

**KATE MORRIS:** Another thing is that Aboriginal people who are trained are sick of being trained and trained and trained. They are put in a job for six months, but then the funding is gone, so another job comes up in six months time. If a black fellow does get better and tries to educate himself—that is another problem we have here because even before our children get into trouble, there are problems with our schools and education. Some of our kids cannot even read by the time they finish sixth class. Those things need to be looked at because that is why our kids are failing; that is why our kids are leaving school.

With this service that has opened up today, the intensive family based service, there could be positive things to come out of that, so maybe with that and if circle sentencing is utilised, maybe that is a positive for Bourke, but we need to work together as a community as well.

**Ms LEE RHIANNON:** Would you regard the lack of jobs as the number one problem or is it just one of many? Is the lack of employment within the Aboriginal community a key problem?

**KATE MORRIS:** The education system is failing our black kids, full stop. From primary school up to high school how many kids start off in kindergarten and how many kids complete year 7 in Bourke? I would like to look at those statistics. How many kids are actually completing year 12, especially Aboriginal kids in Bourke? We have got a lot of brainy kids, a lot of intelligent kids, but we are not given support through the education system.

Another thing is that we have a lot of kids who want to try but because they cannot read properly or they cannot write properly they muck up in class, so they get kicked out. That is the easy solution—you are suspended; you are expelled.

**The Hon. GREG PEARCE:** Are you doing anything special in the schools to address the problems of suspension?

**KERRIEANNE HOWARTH:** Yes, they are. They have got a centre called the tutorial centre. I can base this on a personal level. My son got up and walked out of class. He is in year 8. They thought he was being a clown. He is now in the tutorial centre and has been there for one term. He cannot go back up to the main stream until next term.

**The Hon. GREG PEARCE:** But he has the tutorial centre to go to?

**KERRIEANNE HOWARTH:** He has got a tutorial centre to go to. My son is a very brainy kid, come night time, he is like the rest of the kids—I am not favouring him in any way, but he has got a brain. He belongs in the mainstream. I have been fighting with the deputy principal to get my kid back into the mainstream but I have been told that he cannot until after the holidays. I was not called to attend any meeting.

This is where the education system is breaking down with our kids. The deputy principal and the principal do not call meetings with Aboriginal parents when their kids are suspended. A year 9 Aboriginal girl up there the other day, I was told yesterday, came first in the maths exam out of all of year 9, including Aboriginal and non-Aboriginal, but where is the recognition there? I had to ring the deputy principal and say that I want to be notified when the child is being given an award. I want a ceremony to take place and I want to invite her family to see her receive a certificate for her achievement and guess where she is? In the tutorial centre!

**The Hon. GREG PEARCE:** The school issue is a really big problem, everywhere, not just here.

**KATE MORRIS:** Another thing is that we get media attention about all the negative things that we do but there is no recognition for the positives that we do as well.

**CHAIR:** So the tutorial centre is a kind of punishment?

**KERRIEANNE HOWARTH:** Yes. If a parent is called, they are on suspension, but they still remain in the tutorial centre, some kids for 20 days. Who is going to supervise a kid on the street for 20 days if their parents work? Even if their parents are at home, those kids are not going to stay home because there is nothing at home for them. Something needs to be implemented into the schools to keep the kids in the classroom and to be treated equal, instead of going to a tutorial centre or a suspension room.

I was also told that they still get the same level of education as kids in the main, but they only go for half a day, so whatever is missed out in the next half of the day, that is gone. They do not get it the next day.

**CHAIR:** In one place we visited a community where the community centre is set up with computers. They have set up an intensive tutorial program for suspended kids. Would that be a possibility here? It is a voluntary program that is added to one of the neighbourhood centre programs?

**RAYLEEN SUMMERS:** We have got something similar that we are doing at the moment. It will go into proper mode next term. We are working in collaboration with the primary school and their suspension kids are already in the tutorial centre. They will go for half a day and then they will come to the youth centre and then do further activities there with us in the afternoon until 3.30 and then they are back with their parents.

**PHIL SULLIVAN:** On employment, the biggest problem is that most of the positions and decisions on positions and the descriptions they give are made that side of the Blue Mountains. The decision making to make a position in Bourke is not made by the people in Bourke where the need is; it is made on that side of the Blue Mountains, not in Bourke. When it comes to Bourke, it does not fit in with what we want in Bourke. That is our biggest issue with the employment strategy.

The biggest problem we have in Bourke at the moment is our children on the street—we have only got two youth workers—and alcohol abuse within the town. We only have one drug and alcohol counsellor, but those decisions are made by somebody else down there, not made in Bourke. What needs to happen is that needs to be made here. If there is money available for that sort of stuff, the decisions need to be made by the people in Bourke. We can see the needs. Nobody else can see them from down there. The Department of Aboriginal Affairs is putting eight positions in this place come the new financial year, but we probably do not need that.

**CHAIR:** Eight positions?

**PHIL SULLIVAN:** Something like that. I know there are about 12 joining the community but we have not had the opportunity to make a decision.

**CHAIR:** What are they going to do?

**KERRIEANNE HOWARTH:** It will be a project officer, an administration officer, a regional manager.

**CHAIR:** Who is working with building up the positions?

**KATE MORRIS:** Over the Blue Mountains.

**KERRIEANNE HOWARTH:** As far as I know head office is.

**SALLY BRYANT:** It is a decentralisation to the bush. Aboriginal Affairs made a decision to decentralise in order for there to be more senior positions, so I think the decision was probably made with the very best of intentions to make it more possible for senior positions to be moved out to centres like Bourke and then possibly the work would be more applicable, so I think those sorts of decisions were probably made with the very best of intentions.

**PHIL SULLIVAN:** The position descriptions and before the positions were made, they were still made on that side of the Blue Mountains and not here in Bourke, Brewarrina and most of the Aboriginal communities; the decisions need to be made to the employment area within that town, wherever they are.

**CHAIR:** Or at least have major input into the functions?

**PHIL SULLIVAN:** Yes.

**CHAIR:** We will hear now from the professionals.

**ALLISON THORNE:** I am team leader for the mental health and counselling within the town. I have currently got five positions vacant that I have been trying to recruit for two years and I cannot offer anything above the award to get people here. I cannot offer accommodation. I just do not have enough, for a start. We do not have padding in our budget to pay for the accommodation that we require. We rely mainly on agency staff to fill the three-monthly contracts and we just cannot make a dent in the work, basically. We cover Brewarrina. We used to cover it twice a week but we now cover that town once a week because we do not have the staff.

In two weeks time I go on maternity leave, so that is one more person who finishes up. I hope to fill my position before I go. We have two trainee Aboriginal mental health workers. Kate is one of them. That is a program that Far Western Area Health put in place hopefully to get more local people and train them up, but it is a long-term proposition. It is three years for a degree. Kate finishes at the end of the year so we will start to reap the benefits, but the reality is Kate may move on and we will start again. It is never-ending.

**KERRIEANNE HOWARTH:** It is retention and incentives. That is what we need.

**The Hon. GREG PEARCE:** Could you give us more details of those positions?

**ALISON THORNE:** Yes. I have two adult mental health worker positions; one sexual assault councillor; one PANOC worker, which is prevention of abuse and neglect of children, and an alcohol and a drugs job.

**Ms LEE RHIANNON:** In what area?

**ALISON THORNE:** Basically in Bourke. Bourke is the local mental health hub, and we also service Brewarrina and Engonia.

**The Hon. GREG PEARCE:** How many positions do you have that are filled?

**ALISON THORNE:** In two weeks time there will be three out of nine.

**KATE MORRIS:** There only has to be one qualified staff member.

**ALISON THORNE:** One qualified staff member because we have two trainees. That is unfortunately the reality. This is a particularly bad stage. We have limped along for a couple of years. We are generally three positions down, maybe four, but it just so happens we will be five positions down.

**The Hon. GREG PEARCE:** When you say you deal with agency people, what does that mean?

**ALISON THORNE:** Locum workers who come in from Sydney or Brisbane. Maybe they want a short-term contract for three months. But those locum workers are eligible for free accommodation, everything that we cannot offer to a permanent employee.

**The Hon. GREG PEARCE:** It sounds like a bit of Sir Humphrey in management.

**ALISON THORNE:** Health is in a poor position. We do not have the same benefits as the police. We do not have the same benefits as the teachers. We do not get anything extra. You come west of the Blue Mountains because you want the experience.

**Ms LEE RHIANNON:** When you say benefits for the teachers and the police, you are referring to additional pay and accommodation?

**ALISON THORNE:** Yes.

**The Hon. GREG PEARCE:** And an extra weeks holiday?

**ALISON THORNE:** Yes. We are also in the same area health service as Broken Hill, and they get an extra weeks holiday and an extra public holiday.

**CHAIR:** Where does the line go?

**ALISON THORNE:** The other side of Wilcannia. There are not a lot of benefits. If you want to work in health you do it for the experience not because of the money.

**KERRIEANNE HOWARTH:** Because of what Phil said, we need to fill these positions to address the drug and alcohol, to address the sexual assaults, all that. Even the Aboriginal Health Service is down a drug and alcohol worker as well.

**JUDY JOHNSON:** Can I just follow up on that? These positions are important but we have identified again and again for the past 10 years that you do not need one person, you need dual, a male and female. You cannot work in the Aboriginal community without having dual roles. If you advertise one position you must advertise a dual role, male-female full time. A lot of our guys leave our service because they do not have that female support. A male cannot go out and work with the females. It would be inappropriate. It is not respectful. It will continue to fall down and down until people listen to us and give us those dual roles.

**CHAIR:** Who will not listen to you?

**JUDY JOHNSON:** You put in your application. You tell the Government, you tell the funding bodies, you tell Health and that this is something that will go towards fixing the problem, and it is always ignored.

**CHAIR:** That is not quite true, is it, because you know it is not ignored in other places? That is why I am asking you who will not listen to you.

**JUDY JOHNSON:** I guess our funding body. We put it down year after year as an issue that needs to be corrected. I have brought it to many forums.

**ALISON THORNE:** The other issue is that we are funded according to occasions of service. We have a community that does not always recognise it has a problem. So, you need to work in the community in an innovative way, whereas Sydney says to us you get funded per occasion of service, that is per counselling session, not per session of education or community work. We do not get money for that. That is the way these communities work. We might be able to access somebody that way who is not going to come and sit in a counselling room and talk to us for to hours.

**CHAIR:** Have any of you participated in the current mental health review?

**ALISON THORNE:** Yes.

**CHAIR:** Did you get any listening?

**ALISON THORNE:** A little bit.

**CHAIR:** Was there any outcome?

**ALISON THORNE:** The State director for drug and alcohol will be here tomorrow.

**DAWN SMITH:** I am a field officer for the Western Aboriginal Legal Service. I lived at Bourke all my life and every meeting I went to is the same thing over and over: kids on the street and what can we do for them. People would be coming into town and having meetings and promising to get back to us but nothing has happened. The last meeting we had was here in this room with the police and a few other government people, and nothing has been happening. With the circle sentencing thing I reckon we can try anything to get our kids off the street. That is how I feel. But also mentioned to the community at the meetings to get our kids together before they get into trouble to

see what we can do for them. Like some have said, we have a lot of talented kids out there.

**KATE MORRIS:** I agree with Dawn. It is the same faces at the same meetings. The same things are always addressed. I am 35 now and I started going to meetings when I was 18 and they are still addressing the same issues. I have gone away and come back and there has been little change here. You might go 20 steps forward and then 10 steps back. But we need to be positive and we need feedback from you fellas. And we need to be shown that things can happen.

**DAWN SMITH:** I reckon we should be educating ourselves as adults to show leadership to our future generations. We are only the role model for our kids and what we do wrong they will do wrong. That comes from the families, the parents. There are a lot of talented kids out there that we can get together and give them a future for themselves, try to get their self-esteem back.

**CHAIR:** I realise the exasperation of having people wander in and out. This time we have been given some very hard questions to answer, but we are not dealing with the whole gamut that you people have to everyday, I admit that.

**DAWN SMITH:** A couple of the police offered to help me to get the kids together but I have not heard back from any of them as yet. It is getting the kids to see what they want to do with their futures before they start getting into trouble, give them something to look up to.

**KEITH CARNEY:** Has any government body gone out and asked the kids what they want and how to go about it? Is there any government body, right now, as we speak, addressing this problem? There are lots of other youth agencies but it always seems to be lack of talk, what do the youth want, how are we going to deal with the situation? What can the Government put in place to help achieve that? Is anyone out there now doing that? We need to put the ball back in their court, not with just a promise but with a policy that says this is how we are going to address the problem. You have to have a balance, and it does not seem to be a balance. All these things are going wrong on one side—kids were roaming the street, a lot of talk about kids—but where is the balance to say that the services on the other hand are helping to support the kids to make their own decision to make the change. It does not weigh up. There has to be change to even it up.

**BARRY EDWARDS:** I work for the Catchment Management Authority [CMA] in Bourke. I am also a councillor on Bourke Shire Council. I want to talk about employment in this town. About 20 years ago in this town there would have been 50 or 60 Aboriginal shearers working in the pastoral industry. Because of the effect of the drought on the land in the past few years not many Aboriginal people are interested in the pastoral industry anymore. It is sort of dying. The cotton industry, the fruit industry, a lot of supermarkets in town, I do not know how many rows I have had with supermarket people in town trying to get employment for Aboriginal people. It just goes in one ear and out the other.

**CHAIR:** What about the picking? Do you get pickers?

**BARRY EDWARDS:** That is what I was going to come to. Take the grape picking and the fruit picking—we have so many people in town, Russians, Koreans, Turks, every nationality in Bourke at the moment, and look at where the Aboriginal people are, still try to get a job and have not been given a go. It is the same situation in a lot of these country towns. I do not know if these fellas are being brought in as cheap labour because they work on weekends and are not getting the right wage. We do not get a say, that is the way they go down.

I am talking from experience in this game. I have got three kids and two of my boys are in custody at the moment. One of those blokes will have a go. He has been there for six months now and the other fellow is in there doing a couple of years. I have a girl in custody. These people have not been given a go. I am concerned about what is going to happen in the next 20 years if we do not get the circle sentencing and recruit Aboriginal people to have a say. Do we have to employ someone to do a survey in this town to get Aboriginal people to have more say? We have been sitting on the outside now since 1967 and we are only starting to get recognised. Give us a bit of a go. Give us a bit of support. I think you will get a lot of help from the Aboriginal community. Bourke has always been a good town but because of the bad publicity we get when minor things happen like this, everybody jumps up and down. Bourke is a good place. It breeds a lot of good people and it is a good town.

**KERRIEANNE HOWARTH:** We have to have something that is realistic for our kids, to help them.

**KATE MORRIS:** As Dawn said, we as parents are ultimately responsible for our kids and we need to be role models for our kids. We need to show them that they are worthwhile, because a lot of our kids do not feel that the moment.

**DAWN SMITH:** It is not only the parents. In the Aboriginal culture, even with your relations, your aunty will check your children and supervise them and if they see them doing wrong will give them a bit of a tapping—not bruise them or anything—but smack them up.

**KATE MORRIS:** As it used to be.

**DAWN SMITH:** That used to be our law. We used to smack them up, and they would listen to us too.

**BARRY EDWARDS:** That is where the law broke down in the first place. If we used to run the streets our aunties and uncles would get hold of us and give us a smack, plus when we got home we got another hiding. We have got no right to do that anymore.

**KATE MORRIS:** The kids know, if you hit them, they turn around tell you, "I will take you to court."

**DARRELL BROOKSON:** You cannot look at your kids sideways anymore. They go right off, "I am going to sue you." Better still, "I am going to divorce you." It is ridiculous. I used to cop the same as these fellas. If the coppers took me home I would be more scared of my mother than the police. I firmly believe that a lot of rights are being taken away from parents.



**DAWN SMITH:** That is the law.

**KATE MORRIS:** But that has only been since the late 1970s or the early 1980s that that has changed. If I was walking home late, anyone could see me.

**CHAIR:** Most of us grew up like that.

**JUDY JOHNSON:** I just want to go back to where Barry left off. A few years ago the Government came out with apprenticeships or traineeships 100 per cent funded. Okay, you were paid to put somebody on. We can accept that because the Aboriginal Medical Service put on a few trainees with 100 per cent funding. We did not have the money to put these people on before. We have the people out there in the community doing wonderful jobs, working in all sorts of wonderful places, because they were given a go. We could not have given those positions to those kids without that funding. It was the best little program going.

**KERRIEANNE HOWARTH:** We as Aboriginal people from this community need to take responsibility of our kids or these community-based sentencing options around circle sentencing or with your adults. You cannot just have circle sentencing. There have to be outcomes there, say, for domestic violence. If probation and parole is involved the magistrate should be—I should not say accountable but he should make the perpetrator and the victim of domestic violence go and do a DV course to teach them about domestic violence. Then they go back to their home and say, "We know that is domestic violence. I won't do it." Make them more responsible.

**CHAIR:** Do we have some DV courses?

**DAWN SMITH:** Doesn't circle sentencing make that decision?

**CHAIR:** Yes they do. The magistrate makes the final decision but circle sentencing makes the recommendation. Because you have everyone supporting you, then they tend to become involved in the outcomes.

**KERRIEANNE HOWARTH:** It should be made compulsory.

**DAWN SMITH:** They did that over in Brewarrina.

**KERRIEANNE HOWARTH:** And also compulsory to attend drug and alcohol counselling or a course. We have been trained. All of us have been trained in whatever you want us to be trained in—drug and alcohol, sexual assault, domestic violence, mental health, whatever. We need to help our parents to fully understand when things like this happen, when a man goes to gaol, when a dad goes to gaol, fair enough there was DV in the home and a common assault happened or an assault occasioning actual bodily harm happened. But that leaves mum and the kids struggling. We need to keep dad out of gaol to still support but get him to understand the effects that it has on mum and the kids with DV. Even drugs and alcohol. We need it to be compulsory. There is not, we need it to be recommended through circle sentencing back to the magistrate that this is the option they should take.

**CHAIR:** Do we know whether that is happening in the Dubbo court? Does anyone know?

**KERRIEANNE HOWARTH:** There is MERIT for the drugs but we have not got that here. We have not got MERIT here.

**PHILLIP SULLIVAN:** I do not know whether you picked up on it but we went from talking about culture to employment to domestic violence. We went all over the place and we really came here to talk about circle sentencing.

**CHAIR:** I am getting instructions about facilitation here.

**PHILLIP SULLIVAN:** I just think that what you are hearing is probably the truth because I think what we should be talking about is only a little minor thing that is happening right across the board for our people. You cannot box that up unless you hear everything else that has happened and it has spilt out onto the floor a little bit today. The way forward is exactly what sister Dawn was talking about. Somewhere we might have to start with the little box on the floor and move with that but still understanding that this is the big picture here. The big picture is that first of all you need—and these are my personal thoughts—to understand and recognise that these are the people who have come from Bourke and they need to deal with the way they need to deal with it in their good time and in the way they want to deal with it. The agencies are just supportive agencies. They come along and help us and support us in the way we want to do business in Brewarrina.

**MARY RONAYNE:** I am from the women's refuge. I agree that we should have circle sentencing and that it should be placed back—I know it is made up of a committee of organised people. We know the child or the adult who has gone and done the crime, as everybody has said. We know the people. We know what they should be given. I think we would work hand in hand with anybody, including the police. I would like to—I am going all over the place. I support circle sentencing in Bourke.

**The Hon. GREG PEARCE:** Is that very much just something in Bourke with your community, your families, or is it something that would apply in other towns as well?

**KERRIEANNE HOWARTH:** Walgett has one. Brewarrina has one. We have advertised the position for ours. Dubbo has it, Nowra.

**The Hon. GREG PEARCE:** So you think it could work in Bourke?

**KATE MORRIS:** I think it should be working Australia-wide. We need to keep our people out of the gaol system. It is bad enough. We have fought this hard to get here to survive, to stay here as we are. We do not need to go into an institution. We do not need to be there. We need to be with our families and our loved ones. We should be able to deal with our problems in our community.

**KERRIEANNE HOWARTH:** The solutions are already here. The people already know what they need to do. Whether it is drug or alcohol or whatever it is, like I said, the people know who those people are so if they are given back to the people who are in the sentencing then they cannot come and lie and say, "I don't do this." They

know when they have gone back and they know so that the next time they come before them it will not be as light as the courts when they get up and say, "I've just got a job and I am a good parent" and get someone to write a reference. It is all about knowing exactly what that person is like and the people that make up that sentencing.

**YVONNE HOWARTH:** Can I give you a rundown on something that has happened to my family since 1992. I have got break enter, malicious damage, stealing, break and enter, break and enter, break and enter, stealing, break and enter, malicious damage.

**CHAIR:** Thank you.

**YVONNE HOWARTH:** Break and enter, stealing, malicious damage, break and enter, break and enter, and stealing. There was only one person out of all this. They were young people and I am related to most of the Aboriginal people in this community and I worked very hard over the years to make things a lot better for our people. I worked for the housing company for a long time, and I have been involved with health for over 20 years—not working but involved in getting the help.

**CHAIR:** Activism.

**YVONNE HOWARTH:** Yes. These are things which have been done to me.

**CHAIR:** Those are things that have happened to you personally.

**YVONNE HOWARTH:** This has happened to me personally but a lot of this too is going on in other places. Some of the kids are just doing it for the fun of it but some of them are doing it for drugs, to steal. I have had my car stolen; it was a write-off. The fellow got two years. He is over in Yetta now. I think he did one year in gaol and now he is over at Yetta at Brewarrina. The ones that broke in on Sunday night, we are still waiting on that. We have to wait a week for the fingerprints. As for all the rest, did not get them, the people who did it. I have lived in the same house for 28 years and I have not done anything to anybody in the community. I have helped the people more than I have helped myself, and I am just so upset. We are sitting around here talking about sentencing. I do not want to see anyone go to gaol because I had my brothers go to gaols and homes where they were treated very badly.

With this sentencing thing, if the right people are there and know how to do the right thing and get on with the job, everything will get better, hopefully. The whole of the community—I have spoken to a lot of people in the community, white and black, and they are just sick and tired of what is going on. You go away for a weekend and you come home and my car has been broken into. So I am walking now; I am on foot. It is not good for me. We can sit back and talk all day about our culture and everything like that. Our culture has gone. It has been gone for ages.

**DAWN SMITH:** It has never gone.

**YVONNE HOWARTH:** It does not leave your system but it has gone. As for right parental responsibility, that has gone. There is no more of it. A lot of people look after their children and they are very strict with their children. And there are some who are not. I am sick and tired of it. I am not a well person but I love to go to meetings and

listen to what people are talking about and have my say. I had to give up work. I cannot work any more; I am just doing voluntary work. I do not get paid for it but I love doing what I am doing. I live sitting on the working party. I am a director of the AMS, all the committees that I sit on. I sit on quite a few. I do a lot of things. But we must get to the bottom of what we will do with our children. I have a little boy that I am rearing up. He is nearly two years old. That is only because of family problems that I have got him.

I reared two girls up. They are both 15—my granddaughter and my niece. I have done my best with those two girls and as far as I am concerned they are still good girls. The little boy will be too when he is ready to come back to me. We have to get in as a family. The Aboriginal people have to get together and talk about their children because it is getting out of hand. I have had enough of it. A lot of the Aboriginal people have had enough of it, and so have non-Aboriginal people. We could sit here and talk all day about different things but I do not like to see anyone go to gaol because I have had brothers go to gaol and to homes where they were treated very badly. I do not want to mention the things that they did to the Bourke kids who went away to homes because it was so bad. I used to visit the kids from Bourke when I lived in Sydney and I know what it is like, and it is not the place for them. I do not know whether the police think it is a good place for them or anybody else but it is not. A juvenile detention centre is not a good place for anybody. I do not know what the juvenile detention centre at Dubbo is like—I have never been there—but I have been to four or five juvenile detention centres around Sydney.

**CHAIR:** Do you think that the community in Bourke could get together enough to be supportive if there was more community-based sentencing offered for Aboriginal people?

**KERRIEANNE HOWARTH:** This is my thought because of what is going on in our community. We need to keep our kids in the community instead of sending them to the centre at Dubbo or wherever. I do not know what everyone else's thoughts are. A lot of people have gone. Yetta Dhinnakkal at Brewarrina is for male adults. Why can't we have a centre out here half and half, female and boys? Why can't we have a juvenile centre so then you have Walgett, Brewarrina, Enngonia, Bourke, Cobar, Nyngan, wherever? Instead of sending the kids far away from their families? We have a community-based centre for these, if they are on six weeks bail waiting for their juvenile justice report they go to the centre.

**CHAIR:** They tried a bail centre at Tingha. It fell over.

**YVONNE HOWARTH:** It was too far away.

**KATE MORRIS:** Yes but something out west.

**KERRIEANNE HOWARTH:** We have so many service providers here in this community and we have a lot of people coming in offering us money for positions and so on, but, like Alison said, we cannot fill them.

**Ms LEE RHIANNON:** What are your ideas on how that could work? Are you suggesting this is where young people would go and live while they are waiting for those six weeks to pass? How will it function and why would this be successful?

**KERRIEANNE HOWARTH:** Realistically, you put a kid on bail for six weeks waiting for a juvenile justice report and their bail conditions state they have to be home between 8.00 p.m. and 6.00 a.m. Those kids are not going to be at home by eight at night and, therefore, they breach their bail again. They are back at the police station and they are locked up; the police do not give them bail. They go to the bail court the next day, if it is a Saturday. The kids cannot go home. Some of them can, but some cannot. They have to go to other family, but often the other family cannot take them because their house is overcrowded. While they are on bail, even if it is their first offence of break and enter or car stealing—minor, basic offences—send them out there, so the families and all the services can go and visit.

**Ms LEE RHIANNON:** Are you saying this would be a place where they would be 24 hours a day?

**KERRIEANNE HOWARTH:** Yes.

**DAWN SMITH:** Jack over at Brewarrina offered a station out there that he works on. He was supposed to send some paperwork across but he did not do it. It would be for the likes of young offenders from 12 to 17. They could go out there, or whatever they do, to wait until they come back to court.

**RAYLEEN SUMMERS:** They have something similar where kids who are 17 and over can work on a property and that seems to run very well.

**JUDY JOHNSON:** I have the plans in my office for the centre. I had the plans many, many years ago. I sat at a community meeting with Yvonne with the then Minister for Justice—and DOCS were involved also at the time—and pulled the money from under our feet. We were up about to turn the first sod to build our centre. It was our centre; it was our community's idea; it was our community fighting. Everybody was behind it; the whole community was behind it.

**YVONNE HOWARTH:** Phil was involved.

**DAWN SMITH:** We have a station out here that is supposed to be for Aboriginal people—Cluma Station—which is between here and Enngonia. That would be a good place for our young offenders to go because we can get the money for the cook, the workers and things like that.

**RAYLEEN SUMMERS:** You have got the workers because most of them come off the station. We have got people already trained in those areas.

**KERRIEANNE HOWARTH:** That is right. We would service that. Distance education would service that to provide these kids with their education. If we can fill the mental health and counselling positions, we can get a counsellor to go out there.

**CHAIR:** We have received a lot of really good suggestions today. Even though we have not written it down, we have these wonderful people avidly writing every word you say so that we can go back over everything you have said. You have been great and I thank you very much for participating so well.

**DAWN SMITH:** Can I ask one question: Can we get some feedback on what has gone on today?

**CHAIR:** I will ask someone to organise a list. I understand we have a full list of the names and addresses of those who are present. We will send you the transcript and the report. Please feel free to join us for afternoon tea. Thank you for your participation.

**(The Committee adjourned at 3.49 p.m.)**