

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON LAW AND JUSTICE

INQUIRY INTO COMMUNITY BASED SENTENCING OPTIONS

**At the Civic Centre, Bega
on Tuesday 28 June 2005**

The Committee met at 10.45 a.m.

PRESENT

The Hon. C. M. Robertson (Chair)

The Hon. A. R. Fazio

The Hon. G. S. Pearce

Ms L. Rhiannon

Corrected transcript

CHAIR: There are some formalities before we begin. Welcome to the fifth public hearing of the Standing Committee on Law and Justice inquiry into community-based sentencing options. The Committee considers this inquiry to be very important in terms of investigating whether it is appropriate and in the public interest to tailor community-based sentencing options for rural and remote areas and for special need and disadvantaged groups in New South Wales. The Committee is very pleased to be here in Bega and is looking forward to hearing the advice of the local community on this issue. Before we commence, I would like to make some comments about aspects of the hearing.

The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of guidelines governing broadcast of the proceedings are available from the table by the door. In accordance with these guidelines, a member of the Committee and witnesses may be filmed or recorded. Members of the public should not be the primary focus of any filming or photographs. Media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee. Any messages are to be delivered through the Committee clerks.

I also advise that any documents presented to the Committee that have not yet been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by any person. The Committee prefers to conduct its hearings in public. However, the Committee may decide to hear certain evidence in private if there is a need to do so. If such a case arises I will ask the public and the media to leave the room for a short period. If witnesses do give evidence in private, however, they need to be aware that the Committee may at any time decide to publish some or all of the private evidence. Likewise, the House may, at a future date, decide to publish part or all of the evidence even if the Committee has not done so.

Committee hearings are not intended to provide a forum for people to make adverse reflections upon others. The protection afforded to Committee witnesses under parliamentary privilege should not be abused during these hearings, and I therefore request that witnesses avoid the mention of other individuals unless it is absolutely essential to address the terms of reference. Finally, could everyone please turn off their mobile phones for the duration of the hearing. I now welcome our first witness.

When we first assessed which communities we would come to, Bega was one that we determined we definitely needed to visit. There has been a lot of positive interest in the media and a lot of submissions received. Mr Taylor, do you wish to take the oath or the affirmation?

Mr TAYLOR: I am happy to take the oath if necessary, but my role is to welcome you to the valley.

CHAIR: Do you wish to participate in the hearing and give evidence?

Mr TAYLOR: No. Mr Jeff McKenzie, our Crime Prevention Officer, is here to represent council and to make a submission on behalf of council. I want to welcome you to the Bega Valley. We are particularly pleased and impressed that the Committee regards this as a remote area. Because we are on the coast and because the town and the valley are reasonably well known, we might not be recognised as a remote area. But in fact, as far as transport and communication are concerned, and certainly in relation to the administration of sentencing, we are a remote area. Later on, Jeff will outline that to you and tell you what some of the problems are.

The mayor, David Hede, is ill today, and that is why I am here. As the Deputy Mayor of the Bega Valley Shire Council, I am very proud to welcome you to our town today. I wish it were either sunny or raining; but it is dull, grey and cold. I might illustrate a personal experience, but I do not practise in criminal law. In fact, I have not done so for quite some time. There is an incident I could tell you about to illustrate the remoteness of Bega. It is not quite on sentencing, but it has to do with prisoners on remand. I was involved in a coronial inquiry about six or seven years ago—

Ms LEE RHIANNON: Madam Chair, could I interrupt? As the Deputy Mayor is giving the Committee interesting information, I wonder if it would be best to swear Mr Taylor.

CHAIR: That would enable the Committee to use this information in our inquiry and our report.

Ms LEE RHIANNON: You are telling us useful information.

Mr TAYLOR: It was an anecdote, but I am happy to be sworn.

WILLIAM GREGORY TAYLOR, Deputy Mayor, Bega Valley Shire Council, sworn and examined, and

JEFFREY MALCOLM McKENZIE, Crime Prevention Officer, Bega Valley Shire Council, affirmed and examined:

CHAIR: Mr Taylor, in what capacity are you appearing before the Committee? That is, are you appearing as an individual or as the representative of an organisation?

Mr TAYLOR: I am Deputy Mayor of Bega Valley Shire Council, and I represent the council.

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

Mr TAYLOR: I believe I am.

CHAIR: Mr McKenzie, in what capacity are you appearing before the Committee? That is, are you appearing as an individual or as the representative of an organisation?

McKENZIE: As an employee of the council.

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

McKENZIE: Yes, I am.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be seen or heard only by the Committee, please indicate that fact and the Committee will consider your request. If you are unable to answer any questions asked by the Committee today, you may take the questions on notice and send the answers in writing to the Committee later. If you take any questions on notice, I would appreciate it if the responses to those questions could be forwarded to the secretariat by Thursday 28 July. But, if questions are taken on notice, you will get a letter from the secretariat to say what they are. Would you like to start by making a short statement?

Mr TAYLOR: I was going to relate to the Committee an incident that occurred about seven years ago, when I was practising as a solicitor and representing the mother of the deceased at a coronial inquiry. The reason that I am telling you this is that in the Bega Valley we have the Bega Local Court and the Eden Local Court, where justice is administered. The Bega Valley did not have remand facilities, and I believe that that is still the situation today. The incident that I want to refer to involved two prisoners who were in Batemans Bay gaol who, it had been determined by the deputy coroner, had an interest in the proceedings. So they were to attend each day of the hearing, which went on for about a week.

The local police are involved in transporting prisoners from Bateman's Bay or Cooma to Bega or Eden when they are required at court. The situation was that we had the Deputy Chief Coroner sitting, with her entourage, with about four persons represented at the inquest. The determined commencement time was 10.00 a.m. on each day but we would sit around until about 11.30 a.m. because the police roster system did not provide for the police to leave Bega and go to Bateman's Bay and back to Bega to court, or from Bateman's Bay to Bega and back to Bateman's Bay at the end of the shift. The system just sat still doing nothing for those one-and-a-half hours because we did not have the facility to do that.

That is still the situation, as I understand it. You understand the remoteness of the area so that is all I need to say about that. Mr McKenzie will have more detail and the statistics to show why we are remote and about what happens down here, but I really do want to make you feel most welcome. If you need anything during the day, please let us know. Jeff will relay that back to council, which is right next door. I hope your stay here is most enjoyable and productive for all of us. I will hand over to Mr McKenzie, but I will stay to hear what he has to say.

CHAIR: Mr McKenzie, do you wish to make a brief statement?

Mr McKENZIE: I think it would be useful if I could just make a short preamble about my role and where the council was coming from in the submission that it made. As Crime Prevention Officer for the council, I guess my focus has not really been so much on the law and its outcomes, but rather on what we can do to prevent people coming before the courts. I do not consider myself an expert in the matters that this Committee is addressing—although, because I was probably closest to it in council, I was the one who prepared the submission.

Our focus in crime prevention has been looking at what the problems are in the area, and what they are perceived to be by the residents of the area. We have surveyed the community in that regard and are working with representatives of the community to devise a crime prevention plan to address these types of issues in the area; and we are doing that from the point of view of what are the social and situational aspects of crime that we can usefully address that will help to keep the area in its present or better state, really.

In lots of ways our crime rates here are relatively low. In some areas they are low and in other areas they are high; I think I illustrated that in one of the tables in my submission. In relation, perhaps, to the sorts of crimes that you experience in the cities, break and enter and those sorts of crimes, we are pretty well off them here. Crimes such as offensive behaviour and drug and alcohol problems are probably at the higher end of the scale—looking at the State averages, that is.

Our focus overall is on community violence and drug and alcohol issues, and that is what we are going to be addressing in our Crime Prevention Plan, which will form part of the council's Social Plan. That Social Plan, of course, is mandated by regulations attaching to the Local Government Act. That is where I am coming from. I will try my very best to address the questions that have been provided to me but, in respect of some of them, I am going to be a bit peripheral in my knowledge, I must admit.

CHAIR: Thank you very much indeed. The first question posed of you by the Committee is: Do you believe a community-based sentence can be effective in reducing reoffending? If so, why or why not?

Mr McKENZIE: I do not think there is much doubt—from my reading and from talking to people who are interested in the area—that the answer to that question is yes. If people remain in the community in order to serve some sort of a sentence then they have more chance of keeping their links with the community and of having family cohesion. Apart from those positive effects, they are not subject to the negative influences that they could be subject to if they were incarcerated. From all those points of view, and from the lack of disturbance to families and lack of stress on families associated with visiting people out of the area or whatever, I think it would be greatly beneficial to our area if we have more community-based sentencing options.

CHAIR: In preparing council's Crime Prevention Plan did you consult with the community about community-based sentences and crime prevention?

Mr McKENZIE: No. I do not think that that really fell within the ambit of the plan. However, in preparing the submission I worked with a community safety committee that is formed from our community and represents various sections of it. I ran the submission by them and talked to them about what the Committee is inquiring into, and certainly they were very supportive of the submission that I made.

CHAIR: You did not get any adverse reaction from members of that committee in relation to community-based sentencing?

Mr McKENZIE: No, there was not.

CHAIR: Do you think that is because they were better informed people?

Mr McKENZIE: I suppose better informed, although, as I say, it is a representative committee. It is not comprised of people all of whom are highly educated or associated with the law; we have representatives from the indigenous community, representatives from the public housing estates here in Bega and people who are on social security benefits. It is a truly representative committee.

CHAIR: Is council aware through its consultation of any problems faced by people from the Aboriginal and Torres Strait Islander community in accessing or undertaking a community-based sentence?

Mr McKENZIE: I share my office with our Aboriginal Community Development Officer and through her I have got to know quite a few members of the indigenous community around here. It is not an issue that has been brought up in our dealings with them, and, having spoken with a number of indigenous people at various conferences and things that I have attended, I believe there is a wider acceptance of the concept of circle sentencing, which exists I think in Nowra. I understand that if that option were available in terms that were applicable to the culture here it would probably get a favourable response. I believe you are going to be consulting with the community about that tomorrow.

CHAIR: Yes, the Committee will be. In your opinion, are there enough Elders who feel good enough about themselves to participate in community sentencing here?

Mr McKENZIE: Yes. Council has a very active relationship with the Elders here. Council has a Memorandum of Understanding with the local Aboriginal community and are very serious about it. At all community events where we have public gatherings an Elder performs a Welcome to Country and our mayor is particularly active in engaging with those sorts of people at those events. The Elders here are quite active in the community and I think that probably a number of them would be quite suitable for that sort of option.

The Hon. AMANDA FAZIO: What are the barriers to having more community-based sentencing options available in Bega surrounding areas so that disadvantaged groups could access that option?

Mr McKENZIE: I think council's submission demonstrates the spread of the geography of the area and across that area there is a fairly thin spread of population. Because there is a thin spread of population, there are only certain services in certain areas. If, for example, a person was to be sentenced in Eden to a work type community-based sentencing option, and the only work available for them was in Bermagui or somewhere, it would be very difficult logistically for that to work. There are those types of experiences. Also, the range of services that are available here a fairly basic. A lot of people have to go for retail experience into areas such as Canberra, Sydney or Melbourne. The range of manufacturing industries and retailing at all that sort of thing is quite limited.

The Hon. AMANDA FAZIO: Does the council provide work for offenders who receive a community service order [CSO]?

Mr McKENZIE: Yes, it does. It has in the past. The most recent experience was someone I think about two or three months ago working with one of our outdoor teams at Bermagui, and there have been several placements over the last few years.

The Hon. AMANDA FAZIO: Has council found them to be positive? Did they work out all right?

Mr McKENZIE: In general, yes. There have been some instances where there are there was some irregularity of attendance by the offenders, but there has not been any experience of improper or illegal conduct, people stealing or anything like that. Everything has been generally satisfactory and some of them have been very positive.

The Hon. AMANDA FAZIO: You said they did outdoor work. Was that cleaning up parks, for example?

Mr McKENZIE: Depending on what the outdoor team was working on at the time. There is less availability of that kind of that during the winter, because if the grass does not grow it does not need to be mowed. Particularly in the summer months that type of outdoor work is the main activity. Although I spoke with our human resources manager yesterday and he is considering the option of having a more formal policy in relation to this issue, so that we are able to better manage the problems that can arise from it. There are some concerns on the part of council that there might be occupational health and safety issues in relation to people coming under council's wing, and that council might have to assume ultimate responsibility for their wellbeing, even though Probation and Parole might technically be responsible for their cover. The other issue could be in terms of the special functions that are required associated with kitting out the people, providing the right boots, helmets and jackets and all those sorts of things where there are costs involved. Like many other councils, this council has cost issues that it has to constantly address.

The Hon. AMANDA FAZIO: Are you aware of community agencies or private companies in your area that provide placements for offenders of community service orders?

Mr McKENZIE: Yes. I did a bit of a ring around in the last few days to find out who is doing it. Apart from the council, I know that the local Showground has had people helping to maintain the fencing and various areas; some of the local charities—the Salvation Army and people like that—have people employed to sort donations; there is a local nursery and furniture manufacturing place, called "Manna Park" which has occasionally taken people; Bandara, which is a child care facility; National Parks have done so; and the Catholic Church and various cemetery committees have apparently provided work for people as well. That is the range of options that is available.

The Hon. AMANDA FAZIO: When you did your ring around, were those organisations generally happy with their experiences in taking on people to perform CSOs?

Mr McKENZIE: I would not know. I have only spoken to the agencies that actually appoint those people, so I am not sure, apart from the council, whether they are or are not.

The Hon. GREG PEARCE: Besides the remoteness of the area you have indicated that the mean taxable income was 22 per cent less than the New South Wales mean income.

Mr McKENZIE: Yes.

The Hon. GREG PEARCE: On the offences, possession and/or use of cannabis, other drug offences and offensive conduct seem to be almost double the State average.

Mr McKENZIE: That is right.

The Hon. GREG PEARCE: Do you have any clue why that is the case?

Mr McKENZIE: I think there is a history of a fair bit of growing of marijuana in this area, probably not as prevalent now as it used to be. There has been almost an annual roundup on that front, so that has always been there. In relation to offensive behaviour charges, a lot of those are alcohol-related matters and probably relatively proactive policing that is causing it. Maybe that is heading off problems in other areas such as assaults. Perhaps that question is better directed to Inspector Edmonds.

The Hon. GREG PEARCE: Apprehended violence orders are high and PCAs are very high.

Mr McKENZIE: Yes, again that is probably a question better directed to police. I understand most of those are local residents rather than visitors.

The Hon. GREG PEARCE: Again, periodic detention is not available?

Mr McKENZIE: No.

The Hon. GREG PEARCE: Home detention is not available?

Mr McKENZIE: That is right.

The Hon. GREG PEARCE: You do not have circle sentencing options for Aboriginal offenders at this stage?

Mr McKENZIE: That is right.

The Hon. GREG PEARCE: But you are trialling Staying Home, Leaving Violence?

Mr McKENZIE: Yes.

The Hon. GREG PEARCE: Would you tell the Committee a little about that?

Mr McKENZIE: Yes. The local manager of Staying Home, Leaving Violence, C. D. Herbert, could provide more detail. We have had a fairly strong involvement with the setting up of the program, which the police are involved in, of course. The local magistrate has been very supportive of it. The program is designed for the victims of domestic violence to be the people who stay in the family home. In 97 or 98 per cent of cases that is the woman and the children. The perpetrator of the crime is the one who leaves and has to seek alternative accommodation. Developing the program has been addressing all the logistical issues to do with what has to be done, how to maintain the security of the people who stay in the home if the perpetrator wants to revisit forcibly; how to guarantee their safety, and those sorts of things.

I understand that to date, and it really only kicked off earlier this year, that there have been 10 referrals from other agencies to Staying Home, Leaving Violence and four of them have been enacted. All have been successful from the point of view of the workers involved. The local agencies have all pulled together in terms of the support services that are necessary to make the plan work. I understand that the plan works fairly well in Victoria and other States, including South Australia.

The Hon. GREG PEARCE: How long is the trial to run?

Mr McKENZIE: Good question, I am not sure. I guess it is 12 months. It has been trialled in a couple of metropolitan areas.

Ms LEE RHIANNON: The Committee has heard previous evidence of people returning to their local community after a period in gaol and reverting to the behaviour that led them to offend previously, because the problems that they faced in the local community had not been addressed. What community development work does the council undertake to help address the social causes of crime?

Mr McKENZIE: At present the social causes of crime are addressed by things such as support for Staying Home, Leaving Violence. We have been involved in helping them in a number of ways and have contributed some funds to publicising the scheme so that the community is aware of it. We run the Fun in the Park Program in Eden and Bega; it is for children of the lower socioeconomic groups. Coaches go in and help them with after-school activities and in the school holidays, activities that are positive in building the community and giving them various skills. That is part of it. The Safer Community Compact Grant, under which I am employed, enacted the Fun in the Park Program. That has been successful in helping communities to have a better regard for their parks and common areas and in reducing antisocial behaviour.

Ms LEE RHIANNON: It is that working?

Mr McKENZIE: Overall, yes. It has not been without problems, because those communities have some problems themselves and they are reflected a little in the behaviour of the children. I have experienced the way it has worked and the children have worked really co-operatively. It has introduced a program of art work for fencing alongside the parks. There is certainly a lot less broken glass and vandalism occurring. Overall, it is making good progress.

The Hon. GREG PEARCE: Given those high numbers of PCAs and so on, do you have drug and alcohol counselling services in the shire?

Mr McKENZIE: Yes. The Greater Southern Area Health Service has a couple of drug and alcohol counsellors who are located at Pambula District Hospital as an adjunct to the hospital. In recent times a second one was appointed, previously there was just one.

Ms LEE RHIANNON: To what extent do DOCS, Corrective Services, different agencies and yourselves work together to give support to families of offenders?

Mr McKENZIE: We do not. It is not part of our role as it exists at the moment, but I can say anecdotally that the others try to work together.

Mr TAYLOR: Council has a very active social planning committee, which is made up from all walks of life including some of the agencies we have spoken about this morning. We are reviewing our social plan and I think I am correct in saying that it is regarded as a blueprint for other local government areas. That leads me to the second part of your question—

Ms LEE RHIANNON: About the co-ordination between agencies?

Mr TAYLOR: Yes. The other thing council is involved in, and I think it is sponsored by the Premiers Department, is a pilot program to investigate co-operation amongst State and local government agencies to overcome duplication and find out where the gaps are. Our social plan is very effective in finding out the problem. As Jeff said, we do not actively get involved in some areas, but at least we are producing and collating information. The social planning committee does excellent work in finding out where the gaps are. I think Jeff would support me there.

Mr McKENZIE: Yes, that is right.

CHAIR: Would you provide the Committee with a copy of your social plan?

Mr TAYLOR: Most certainly. I will make sure one is provided to you.

Ms LEE RHIANNON: With employers, is there anything more that could be done either by council or advertising about education for local employers to be more involved in community service orders?

Mr McKENZIE: I think there could well be. Recently I addressed the combined chambers of commerce in Bega. Part of the new crime prevention plan I propose to put together will address issues of community awareness in relation to violence. There is a very successful model that is currently running in the Central Coast call Steps to Respect. That entails having businesses behind community education about domestic violence and saying no to it and providing information and putting up posters about it. In community awareness, the chambers of commerce indicated to me that they would be more than happy to be a positive force in the community for that type of thing. This type of thing here would be an adjunct to that. You could talk to them about the positive contribution they could make by taking on appropriate community-based sentencing options for offenders.

Ms LEE RHIANNON: You would probably see them as not resistant to it, but it is really happening. Is that the position?

Mr McKENZIE: It is not happening now. I am trying to give you an indication that there certainly was positive feedback from the business community to my proposition.

CHAIR: Did that include Aboriginal persons?

Mr McKENZIE: Not specifically, but as I said before, council is fairly active in working with Aboriginal people and the Aboriginal people in the community are fairly well known. I cannot see that that would not be considered, at the very least. By the way, our social plan is in the last throes. The existing plan is about to be retired.

CHAIR: The work of this council appears to be very proactive in relation to this issue, which is something we have not seen in other towns. The social plan will be very valuable for that reason.

Mr TAYLOR: Jeff's position is fully funded by the Attorney General's Department. You would be aware that local government does not have money lying around. We took up the opportunity for this 12-month contract that was offered to us without hesitation. The council picked up on that and we look for those sorts of opportunities to provide services that we cannot finance ourselves. Jeff is an example of that.

(The witnesses withdrew)

JASON BRUCE EDMUNDS, Inspector, NSW Police, Bega Police station, Bega, sworn and examined:

CHAIR: I will not read the entire formalities, as you heard them earlier.

Mr JASON EDMUNDS: I did.

CHAIR: In what capacity do you appear before the Committee?

Mr JASON EDMUNDS: As a representative of NSW Police.

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

Mr JASON EDMUNDS: Yes.

CHAIR: Earlier, did you hear me outline the procedure for evidence given in private?

Mr JASON EDMUNDS: I did.

CHAIR: You may take questions on notice, the responses to which should be forwarded to the Secretariat by Thursday 28 July. Do you wish to make a short opening statement?

Mr JASON EDMUNDS: Yes. I have been an officer on the far South Coast for about 12 months. I have geographic responsibility for Bega, Merimbula and Eden. I spent the first seven or eight months getting to know the police and the circumstances and protocols we have here. I spent the past few months trying to prioritise other things, which basically involved increasing local police involvement with the community, community safety meetings, Community Drug and Alcohol Team [CDAT] meetings, and a whole range of different issues that need addressing. I welcome this inquiry, because it goes to the heart of exactly the sort of problems that we are experiencing here. I have worked in city and country locations. The sorts of things you are discussing are exactly the types of issues we need to fix. Hopefully, we can provide the Committee with some assistance.

CHAIR: What are the major types of crime in Bega? We have seen the report from the council. Do you consider the types of crime suitable for community-based sentencing?

Mr JASON EDMUNDS: The major types of crimes, as indicated by your last witnesses, would involve drink-driving offences, offensive conduct, drug matters—but mostly involving cannabis, as opposed to harder drugs—and domestic violence. Those would be the main issues. All of those, given the right type of community sentence, would be appropriate. From the questions I have heard and from the theme of the questions I see here, one of the main things I will be discussing is relevance of the program we are talking about. If you apply a program to any type of offences or offender, without looking at the relevance of that program to the person, then we will have problems. Certainly, 95 per cent to 98 per cent of the type of crime we see here would best be served by the ordering of options other than detention.

CHAIR: How much work would you think would need to go into working out with individual persons appropriate centres to make sure that the community service order, or the bond or training is relevant?

Mr JASON EDMUNDS: A great deal. I cannot emphasise enough that since I have been working with Jeff—and, once his position goes at the end of August I am on my own doing this—I am not on my own. In fact, there are a great number of people doing it, but we are all doing it in isolation. For example, this morning I spoke from a fellow from Eden who wants to work towards a PCYC for the Eden area. There is not one on the far South Coast. I want one. The type of work I have to do just to get one up and running will take me about six months, and that is if I were not doing other things as well.

As I said to this fellow this morning, I am referring him back to Jeff. There is no central mechanism in this command or in this area to give all of Juvenile Justice, Corrective Services, Police,

Housing, and Education a place to go. There is no integration. That is what I am trying to achieve through referring people back to the Community Safety Council. But, as I have said, that is going to fall in a heap very shortly. What I am alluding to is the fact that we are trying to look at diversionary programs prior to this coming on. Jeff and I sat down very briefly to try to do some research into diversionary programs, and there are reams of material.

The first thing that becomes abundantly clear is that the program has to be relevant to the program and to the person involved. There are a thousand programs out there. Picking one that will be relevant is difficult. One that I like is in Armidale and Tamworth, where they took a bunch of 16-year-old girls who were high-risk offenders away for a week and taught them self-esteem: showing them how to do their hair, how to enrol in a TAFE course, how to speak better, and whatever else. As a result, six months down the track, the majority of those girls have not reoffended. That is what I am interested in. Traditionally, it has not been a police role; my role is protection of the community. Since the last police reforms it has been held that we should be having more to do with preventing crime. So it has to be relevant to the person, depending on the defence, the background of the offender, what is happening in their lives, and all sorts of other things.

The Hon. GREG PEARCE: You do not have access to home detention or periodic detention.

Mr JASON EDMUNDS: No.

The Hon. GREG PEARCE: What is happening with people who are facing court here?

Mr JASON EDMUNDS: Anecdotally, they either are going to gaol or they will be released, to put it in its basic terms. They are given community sentence orders and that sort of thing, and they are being put on bonds, but they have been put on bond after bond after bond.

The Hon. GREG PEARCE: And suspended sentences?

Mr JASON EDMUNDS: Yes. Or they are then facing periods of detention. There is no middle ground. Another thing that the Community Safety Council would like to be able to tell the local magistrate is: We have worked on this and we have decided on a program especially for kids. Kids are our main issue down here. If I want to sum up our major crime problems, it would juvenile offenders and alcohol as the underlying issues. We have nothing to divert kids from crime, other than to keep warning them and talking to them. No doubt you have spoken to other police, but I know of five- and six-year-old kids in this community who will spend the majority of their lives in gaol. I know that, they know that, their families know it, everybody knows it, but there is nothing we can do about it, except follow the process. How we intervene is incumbent on all our roles, but I do not see that happening at the moment.

The Hon. GREG PEARCE: What sort of supervision is there for people who are on bonds and suspended sentences?

Mr JASON EDMUNDS: Corrective Services and Juvenile Justice down here, but again they are off doing their own thing. We work with releasees from gaol. When I say we work with them, we go and visit them when they are released from jail, let them know that we know they are in town and that we will be keeping an eye on them. We have a suspect target management process [STMP], which basically works on the theory that 95 per cent of crime is committed by a small number of offenders, so we target those people. That is having an impact. Week to week, we are meeting to say that so-and-so and so-and-so are committing our crimes, let us fix them, so to speak. When they are detected committing offences and are dealt with, off they go for a few months, while we are concentrating on somebody else, but then they come back out and away we go again. That is the process.

The Hon. GREG PEARCE: It is fairly demoralising.

Mr JASON EDMUNDS: It is and it is not. It is having an impact. Certainly, the STMP process has had a dramatic impact on our crime. Stolen motor vehicle theft in the past year has dropped by 50 per cent, based on some work in Moruya that involved young people that were stealing

cars up and down the coast, just for the purpose of joyriding in them. That culminated in a couple of riots involving police. As a result of that, those people were picked up and arrested. They are now coming back out again. But for a fair period of time now we have had drastically reduced theft rates. But, again, unless there is something going on in Juvenile Justice that I am unaware of regarding detention centres—and I am not seeing any great evidence of it—these kids are not coming out changed, or not coming out changed for the better, or are not coming out with better skills or better life skills that would enable them to stay of the juvenile justice system. I am seeing the same faces and the same names.

CHAIR: Is there a difference between those who have short sentences and those with long sentences?

Mr JASON EDMUNDS: I could not comment on that.

The Hon. GREG PEARCE: Where does your local area command extend to?

Mr JASON EDMUNDS: From north of Batemans Bay to the border, and to Brown Mountain, and then from a line up from there.

The Hon. GREG PEARCE: So it is a fairly large area.

Mr JASON EDMUNDS: It is a long, thin command. Our local area command office is at Batemans Bay. The resources of our Crime Management Unit there involve a youth liaison officer, a crime prevention officer and a domestic violence officer. Those positions are not currently filled by full-time people. There are some personnel issues up there. Regardless, they are an hour and a half to two hours away, and a person providing domestic violence support is providing it to different towns up and down the coast and for two shire councils. So we have some problems to deal with by having people down this end assisting, and we are trying to fill those roles as best we can. But, it is like any other command: they have their own specific problems geographically.

The Hon. GREG PEARCE: So at this end of the command you do not have any of those specialist youth workers?

Mr JASON EDMUNDS: Their role is to provide support in this area command as well.

The Hon. GREG PEARCE: But they are physically at Batemans Bay?

Mr JASON EDMUNDS: Physically, they are up there, and they are an hour and a half to two hours drive away. Our Aboriginal community liaison officers [ACLOs] are based out of Narooma and Moruya. There are some issues, which I am sure we are going to get to, in relation to the Aboriginal communities and communities in Aboriginal communities on the far South Coast, and there are some specific issues with our ACLOs in the communities that they work best within and in which they are respected down this way, and that provides some problems of its own.

The Hon. GREG PEARCE: So you have two ACLOs?

Mr JASON EDMUNDS: Yes.

The Hon. GREG PEARCE: Both those positions are filled?

Mr JASON EDMUNDS: Yes.

The Hon. GREG PEARCE: And they are at Narooma?

Mr JASON EDMUNDS: They work out of Narooma, yes.

Ms LEE RHIANNON: I wanted to ask you about crime in the Aboriginal communities in Bega and surround areas. What is the nature of that crime? How does it differ from that in non-Aboriginal communities?

Mr JASON EDMUNDS: I do not think it differs a great deal. Our targeted offenders are not determined by their race in any way at all, and they are a good mix of people—if good is the right word: domestic violence, traffic types of offences, drink-driving types of offences, some theft, stolen motor vehicles. Quite often there is a high representation of Aboriginal people in stolen motor vehicle offences because down here they are using cars to get around. There is very little public transport, which is another issue for remote communities. And, quite often, they want to visit somebody in another town, so they just steal a car. That seems to be more often than not Aboriginal youth.

Ms LEE RHIANNON: You say that overall the crime rate is the same, as is the type of crime, but in the stealing of cars there is a difference in numbers. Is that correct?

Mr JASON EDMUNDS: Yes, I think so. It is very hard to define. I would not say there is an Aboriginal area of crime and a non-indigenous area of crime. There are Aboriginal offenders and there are offenders from other races down and around here. I try not to differentiate it too much.

Ms LEE RHIANNON: You spoke earlier about joyriding. Is it all joyriding, or is some of it stealing cars to get to places? You said that was the case with people from Aboriginal communities. Do you think it is sometimes an issue of transport with young people from non-Aboriginal communities?

Mr JASON EDMUNDS: Not as much. That is solely based on the results of the 12 months that I have been here and from what we have seen. Some of it is joyriding. The offenders at Moruya who were playing up were just playing up to cause trouble. They were stealing cars, driving round the area until the police got out of bed and followed them back to where they all lived, and were then throwing bottles at the police cars. It was all designed to be confrontational. Down this way, it is more a case of getting from Eden to Bega, then back down to Eden and places like that, or to joyride around, which we are currently experiencing spates of. But it is very sporadic. They will go out and steal five or six cars in a night, drive them around a couple of blocks, get out of them and walk away again, then steal another one and drive around in a circle. Two general duties officers and I went and found a car the other night, and we missed the people involved by a couple of minutes. But there were four young heads in that car. That is the sort of thing they are doing. They are not stealing cars for the purpose of rebirthing them or anything like that.

Ms LEE RHIANNON: Have you had anything to do with circle sentencing?

Mr JASON EDMUNDS: No. I read up on the documents involving Nowra this morning. I have not been able to put the time I would like to put into this for you, but I looked at circle sentencing this morning and I thought it was a great idea. But I think we need to be very careful that we are relevant. I cannot give you hard and fast detail on this, although I am sure I could dig it up if you required it, and I am sure you have the power to determine it if you want to: we do not have a single, structured, cohesive, Aboriginal group here. We have two or three, and there are currently difficulties between them. About three or four weeks ago we have had a meeting at the school with two different groups of girls who were running the risk of being expelled. Their behaviour was just abhorrent. One group sat there and laughed at the police and laughed at the school principal while we were trying to talk to them about what was going on.

Ms LEE RHIANNON: Were they just young people?

Mr JASON EDMUNDS: Sixteen-year-old girls.

Ms LEE RHIANNON: So are you saying you are not sure it would be beneficial because of the differences within the community?

Mr JASON EDMUNDS: I would not want to be negative about it, I would like to do it, but it needs to be kept in mind that you cannot have a person from the wrong family be the arbitrator. Again we come back to relevance. The examples from Nowra looked good—albeit that the documentation I was reading was from 2002-03, and it looked at the first 13 or 14 people who had gone through the program. I think the role of the Aboriginal liaison officer is vital. If it works, I would be more than happy to support it.

Ms LEE RHIANNON: Does it work to have two ACLOs working out of Narooma, considering you have got this long, thin strip down the coast to cover? Eden is a long way away.

Mr JASON EDMUNDS: It is.

Ms LEE RHIANNON: So why do you choose to put them both in Narooma?

Mr JASON EDMUNDS: I don't.

Ms LEE RHIANNON: So, do you think that is not a wise decision?

Mr JASON EDMUNDS: Personally, I think it is an opportunity for us in the next 12 months to look at from a tactical point of view. There are a number of reasons why it was done—and it was done prior to my getting here. They have one motor vehicle between them, so it gave them a central point to work from. Moruya and Narooma, which are fairly close together, had the majority of our problems at that particular time. Am I happy? I do not know that it is the forum for it now.

Ms LEE RHIANNON: The Committee has observed that in some places if there are two of them together they can just about cover a 24-hour period. Considering that a lot of these problems do not arise between the hours of 9.00 a.m. and 5.00 p.m., is it better to have the two of them together, even though that might leave part of the area not covered?

Mr JASON EDMUNDS: I think there are advantages in both. They are working very well at Moruya and Narooma. There is currently a diversionary program starting up there, where they will have kids taken up to Sydney for sporting activities and that sort of thing. I have told them I am very interested in having it come to the other half of this local area command as soon as possible, thank you very much! That is because I am on my own a lot. That is the sort of thing if it is relevant that I need to bring down here.

I cannot emphasise enough that any type of diversionary program that instils in these children—Aboriginal or otherwise—some sense of role models and some sense that there is a better way than being criminals for the rest of their lives, is welcome. I would like to see that happen. I look at these kids and I do not see any future for them because of the role models they are surrounded by. They are not learning anything better and that is why generation after generation will face the same problems. Aboriginal Community Liaison Officers [ACLOs], police, everyone is a part of it, but I am trying to organise to get it co-ordinated if I can.

The Hon. AMANDA FAZIO: In this area do you find that, because it is so spread out, you have difficulties establishing good relations with all of the different community groups?

Mr JASON EDMUNDS: Yes.

The Hon. AMANDA FAZIO: Can you see a solution to that?

Mr JASON EDMUNDS: Hard work. Basically, what it comes down to are phone calls. I was sitting there looking at a bunch of things a couple of months ago and I was sick of doing it. I rang up Jeff McKenzie and said, "I am coming to see you." That is basically how it went. We sat out the back and said, "Let us get working on this, this and this." I did not even know that the Community Drug Action Team [CDAT] was working in town. I did not know they were working in town! Now, whether this is a police problem or a community problem, there are a great many things going on down here that I do not know about. That is what I have to fix.

I had other operational priorities in my role that I have taken care of and that I am now relatively comfortable with. Now it is time to generate those sorts of things in the community. We are working towards that but it is not an easy process. I would love to have a Police and Community Youth Club [PCYC], to have a focal point for all this type of thing. But a lot needs to happen prior to getting a PCYC in relation to money, community support and premises. I just looked at it and put it down again. That is the sort of thing I can see, through the council, working towards perhaps in the future but it is not easy. At the end of the day it involves walking down the street or picking up the phone and finding out. And that is my job.

Ms LEE RHIANNON: You spoke about Mr McKenzie's position and you said that if his position is abolished you are on your own.

Mr JASON EDMUNDS: Yes.

Ms LEE RHIANNON: The Committee did not ask Mr McKenzie this, but you may know: Do you expect that funding for his position will not be continued?

Mr JASON EDMUNDS: He is currently looking for another job. His contract expires at the end of August. I have provided him, for the Attorney General's Department, with crime statistics from our NTEL people at Bateman's Bay. I have told the girl there that I want whatever support is possible for him to assist him, not personally; I have only known the man for a couple of months, but I see his role as one that—I believe I have a civic and moral responsibility in this area. If he is not there to do it, and it was not occurring before, unless I step up to the plate, so to speak, I cannot see who else is going to. There may well be someone. The problem is I do not know them if they exist. We need someone else putting the good work that is being done—please do not get me wrong; a lot of great work is being done by a lot of different people, but I do not think we all know about what the other is doing. We are duplicating work and falling over ourselves. That is the sort of thing I can see either a PCYC or Jeff, or both, being able to direct all these things. I will not have that once he is gone.

CHAIR: Getting back to community-based sentencing, an integral component of community-based sentencing is for police officers to participate as well. Would your individual officers be comfortable with that role?

Mr JASON EDMUNDS: Yes. We have come a long way from the days when we believed that everyone should be arrested and thrown into gaol. They would support anything that it can be shown is going to work. I can say yes, I will be making sure that they do.

CHAIR: Thank you for the information you have provided to the Committee. It has been most helpful.

(The witness withdrew)

CHRISTOPHER GEORGE COSTAS, Area Manager, Community Offender Services, Department of Corrective Services, PO Box 823, Queanbeyan, New South Wales, affirmed and examined:

[The Chair repeated her opening statement and guidelines for the media.]

CHAIR: In what capacity are you appearing before the Committee? That is, are you appearing as an individual or representative of an organisation?

Mr COSTAS: As a representative of an organisation.

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

Mr COSTAS: I am

CHAIR: Should you consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee please indicate that fact and the Committee will consider your request. If you take questions on notice, please provide written responses to the Secretariat by Thursday 28 July. Would you like to make an opening statement?

Mr COSTAS: Yes. I am the area manager for a cluster of locations including Bowral, Goulburn, Queanbeyan, Cooma, Bega and Batemans Bay. Briefly, my role is to monitor and support the operations of those locations, including assessment of resources required to ensure effective service delivery. Given the geographical spread of this cluster there is considerable variation between them such as in the availability of specialist service providers, availability of community service order agencies, access to transport and proximity to those services that are available. Although those locations in the cluster are rural, there is still quite a degree of variation between them. The Bega office covers the coastal strip from the Victorian border to Bermagui and services two Local Courts, at Bega and Eden, as well as the Bega District Court.

There are courts further north in the Batemans Bay district, at Narooma, Moruya and Batemans Bay. As the Committee is aware, home detention is not available in this area. Periodic detention is a tenuous option for anyone living in the Bega Valley shire. That leaves bonds and community service orders as the main community-based sentencing options. In placing offenders on community service orders, we are dependent on the availability of agencies in the community and this can be difficult at times. However, in general we are able to place offenders in agencies, but we could use weekend agencies from time to time.

In managing offenders who are on bonds, we rely to a considerable extent on referral to services in the broader community, such as alcohol and other drug services and mental health services. We also participate in a partnership approach to service delivery, and I will mention two examples. First, which you heard about from Jeff McKenzie, is the Staying Home, Leaving Violence pilot program. We are working to try to provide a domestic violence perpetrator program to some offenders referred from the pilot, although they may not yet have been convicted. Second, is in relation to the indigenous community where we are part of a multiagency committee called CRI, which is the Cultural Reconnections Initiative. That committee has a role in sponsoring the Ancestral Trek, which is available to Aboriginal men, including those on community-based orders. I am happy to provide more detail on those partnerships if required.

CHAIR: The Committee has had discussions in country areas about a case management model. Does your organisation use a case management model?

Mr COSTAS: Yes, it does.

CHAIR: You have individual plans for individual persons?

Mr COSTAS: Yes.

CHAIR: You pull in other organisations to assist with the working-up of the plan or delivery of the plan?

Mr COSTAS: To assist in delivery. It depends really on the individual circumstances. If there are offenders for whom mental health is an issue we will refer or consult with local mental health providers in order to help design an appropriate case management plan. At that stage they would be involved.

CHAIR: For your own resources, what are the requirements for case management models, which include the delivery of the plan? Does it push your service hard?

Mr COSTAS: In this area, occasionally, but not usually. It really depends on the particular needs of the offenders that come to our doors from time to time. The problem is more to do with service delivery and finding appropriate programs for particular categories of offender. For example, with domestic violence offenders there is some difficulty in providing programs; although, as I mentioned in my opening statement, we are trying to address that. Generally we manage to provide a reasonable range of services.

CHAIR: Is Probation and Parole involved in the circle sentencing process?

Mr COSTAS: The Nowra office is involved in the program to the extent of providing advice on final sentencing options.

CHAIR: But not an active participant in the process?

Mr COSTAS: No, that is correct.

CHAIR: They are not participating in the making of proposals for management plans for a case?

Mr COSTAS: The short answer is no. But if a final outcome is going to be a community service order, there is a considerable degree of consultation with our office at Nowra and the magistrate and others in the circle.

CHAIR: What community-based sentences are currently available in Bega? The Committee has had some information about that, but it would be good to hear from you. What is your role in managing offenders in the community in this area?

Mr COSTAS: I will answer the last part of your question first. My role is an oversight role, I have no direct involvement with management of offenders. The local staff do that. The range of options is, as I indicated earlier, mainly bonds, supervision of good behaviour bonds or parole, and management of community service orders. The variation occurs within the management of both those orders. We are able to provide programs or refer offenders to particular services in the community.

The Hon. GREG PEARCE: You do not list suspended sentences as a community-based option?

Mr COSTAS: Yes, we do. A section 12 order is a bond.

The Hon. GREG PEARCE: You call that a bond?

Mr COSTAS: Yes.

The Hon. GREG PEARCE: Yesterday the Committee was told that in some circumstances a suspended sentence is better than a community service order, because offenders often treat community service orders as less serious and they think they can get out of them, and so on. Have you have experience of that? How do your people assess offenders and make a judgment as to which way to recommend they go?

Mr COSTAS: The ultimate decision of course is with the court. I have no direct experience of offenders manipulating community service orders because they feel it is an easier option than a section 12. If manipulation occurs, it occurs in both types of orders. It is about offender accountability,

if they do not take their order seriously, be it a community service order or a bond, then they are not going to comply with either.

The Hon. GREG PEARCE: You do not have a problem with the availability of counselling services and other services that you need when conditions are imposed in relation to counselling and anger management, and drug and alcohol?

Mr COSTAS: We do not have a problem in providing them ourselves, but we have a problem occasionally if we are referring externally to offenders who are living in more remote locations. If the services are not available in their areas, they have to travel; for example, from Eden to Bega to see a psychologist. We run into problems in that way.

The Hon. GREG PEARCE: How often does that occur?

Mr COSTAS: I do not know.

The Hon. GREG PEARCE: What organisations provide work opportunities for community service orders?

Mr COSTAS: We have a number of those, and I have a list.

The Hon. GREG PEARCE: You can table that list.

Document tabled.

Mr COSTAS: In Bega we have the nursery, and we have the showground, and the Salvation Army provides work. Stitches & Prints, I am not quite sure what that agency is. We have one agency in Bemboka, an area committee, a council agency in Bermagui, a preschool and a pony club in Cobargo, and in Eden we have a church, cemetery, whale museum and Joe's Jumbles, but I don't know what that is. In Kalaru there is the turf club, and in Merimbula-Pambula are the Salvation Army.

The Hon. GREG PEARCE: You did not mention the shire council.

Mr COSTAS: At Bermagui. These are currently active agencies.

The Hon. GREG PEARCE: So the Bega Valley Shire Council is not active?

Mr COSTAS: Not currently, no.

The Hon. GREG PEARCE: Which is the other council area you cover?

Mr COSTAS: The Bega office. Our district is contiguous with the Bega Valley Shire. We do not overlap any more into the Batemans area.

Ms LEE RHIANNON: When you say they are not active at the moment, does that mean that you have not got anybody placed with them, or that they have pulled themselves off the list?

Mr COSTAS: The former. There is no-one currently placed with them. Placement depends on where the offenders live. If they live in another area, they are placed elsewhere.

Ms LEE RHIANNON: Regarding the variety of community-based sentencing options, do you see a need for these options to be better resourced and extended? Is that warranted within the community?

Mr COSTAS: I think the answer is yes, we can always do with more resources.

Ms LEE RHIANNON: From the list that you read from, it sounded that by far the majority were local community organisations.

Mr COSTAS: That is correct.

Ms LEE RHIANNON: Do you know what the attitude of local businesses is? Have they been approached? Are many involved?

Mr COSTAS: Yesterday, as it happens, one of the staff from the local office went to Bermagui to canvass a range of organisations, and I think businesses, about acquiring more agencies in Bermagui. Follow-up needs to take place. Not a lot of the potential agencies were all that interested. I am not sure of the reasons.

Ms LEE RHIANNON: When you say potential agencies, do you mean local businesses?

Mr COSTAS: Yes, and organisations like churches.

Ms LEE RHIANNON: So, across the board, there was not much interest?

Mr COSTAS: There did not seem to be, no.

Ms LEE RHIANNON: Do you think that is due to a bit of prejudice, because they are seen as people who have broken the law?

Mr COSTAS: I do not know that. Typically, that is a reason. From my experiences in the broader area, some agencies are reluctant to take offenders because they are offenders. In smaller communities there is reluctance to take offenders on because they know them, and they are well known in the community. Other reasons for their reluctance are to do with structural reasons, to do with their inability to supervise effectively. A lot of agencies seem to have concerns about insurance implications, even though we try to allay their concerns in that area, so that there should not be any concern about that. There are a range of reasons, and not necessarily to do with prejudice.

Ms LEE RHIANNON: Do you see those reasons being able to be overcome through greater explanation about the support that is given, or education about the worthwhile nature of these programs?

Mr COSTAS: Yes.

Ms LEE RHIANNON: What form do you think that could take?

Mr COSTAS: A number of forms. Going out and canvassing is an obvious start; public meetings, perhaps in conjunction with the council and the crime prevention officer, and calling public meetings to discuss issues. In other areas we have tried media approaches, publicising the scheme, outlining the dollar value of the scheme to a community. There are a range of means of trying to persuade people and agencies to co-operate. We are utterly dependent on the community to provide the agencies. My personal view is that the community should take responsibility and be part of the justice system by providing the ability for offenders to perform work in their locations.

Ms LEE RHIANNON: Do you think the position of crime prevention officer should be an ongoing, permanent position?

Mr COSTAS: My experience is that these positions are very valuable in the broader community. My direct experience is in Queanbeyan, where there is a similar position. We sit on a joint committee and exchange ideas, and the support for initiatives is much more effective with that sort of co-ordinated position.

CHAIR: In do you know how they got that position?

Mr COSTAS: It was Attorney General's funding in the first instance, and for Queanbeyan ultimately it was fully funded by the council.

The Hon. GREG PEARCE: You said that insurance should not be a problem. Why is that the case?

Mr COSTAS: Because our department indemnifies agencies.

The Hon. GREG PEARCE: Do you have a deed, agreement or something that you enter into, or how do you do that?

Mr COSTAS: I am not sure if there is a deed as such. We provide information to all the agencies, outlining what we will do in the event of injury, compensation and so on.

The Hon. GREG PEARCE: Could you take that question on notice and let us have a copy of whatever it is that you give to the other agencies?

Mr COSTAS: Certainly.

The Hon. GREG PEARCE: That is an issue that has come up a few times, and I do not think anybody else has been as explicit to say that it is not a problem. So that would be very useful. You said you had done some work publicising schemes in communities, and that you had even put a dollar value on it. Could you dig out whatever bits of paper you use for that and let us have those?

Mr COSTAS: I have done that for Queanbeyan.

The Hon. GREG PEARCE: That is fine.

Mr COSTAS: Yes, I will do that.

The Hon. GREG PEARCE: If you would take that on notice.

Mr COSTAS: Yes.

The Hon. AMANDA FAZIO: We have heard evidence, particularly in Sydney, about the problems with offenders not having an appropriate address in that that prohibited them from being considered for some community-based sentencing options because they are either transient or just did not have a fixed abode at the time they committed the offences. Have you had any experience of that occurring? And do you think that those people could be assisted by either providing additional supports to make them eligible or by changing the eligibility criteria?

Mr COSTAS: There are three questions there. I have not had direct experience. I had a conversation with the manager at Batemans Bay recently in relation to one offender who had just been released and was homeless. She was talking about the difficulties in supporting him. The approach she has taken is to try to involve other agencies, including Mental Health Services and the Department of Housing. So it is a co-operative approach to try to address the problem. Homelessness in itself is not an impediment to a proper sentencing option. We do not take that into account in making recommendations. We certainly take it into account when working up a case management plan. Obviously, if someone is homeless, the immediate priority is to deal with that in order to provide a platform on which to address other offending behaviours.

The Hon. AMANDA FAZIO: Another thing we have heard about is people returning to the local community after serving some time and falling back into old patterns of behaviour that led them to offend in the first place, because problems that they faced in the local community have not been addressed. Are you aware of any community development work undertaken to help address the social causes of crime?

Mr COSTAS: None generally, except for the one I mentioned earlier in relation to the indigenous community, and that is the Ancestral Trek. That has been running for a while now. It is due to expand because there has been some funding injection. It is a program that looks at Aboriginal men from the community as well as convicted offenders participating in a four- or five- or six-day trek, which is structured and is managed by the indigenous community by respected elders in the community. They deal with a range of issues, such as anger management, family violence, drug and alcohol abuse and so on. That is the only current example I can give you of a community-based approach to deal with offending in a community.

The Hon. AMANDA FAZIO: Because the area that you look after is so big—you have areas like Goulburn, which is quite big, and Queanbeyan, which is almost a city—do you think there are better provisions of service for people in those areas than there are in places like Bega and Eden?

Mr COSTAS: Yes.

The Hon. AMANDA FAZIO: Is there any way in which that inequity in service provision could be overcome?

Mr COSTAS: It depends on the services. If they are community-based, private providers there is not much we can do as a government department to change that.

The Hon. AMANDA FAZIO: But in terms of the services that you as a government department provide, you mentioned anger management, and I am sure it is a lot easier to get somebody into an anger management course in Queanbeyan than it is to get them into one in Batemans Bay.

Mr COSTAS: Yes.

The Hon. AMANDA FAZIO: What suggestions do you have in that respect?

Mr COSTAS: Critical mass is a phrase that comes up from time to time. If you have sufficient numbers of offenders to constitute a group, you can run a group program. If they live reasonably close to where the community-based program can be delivered, that is easy. In places like Bega, I know one of the staff here was telling me that he tried to get two programs up and running—I think anger management and alcohol and other drugs programs—but both fell through because there were insufficient offenders. There were offenders identified initially, but by the time the program was due to run they were no longer there; they had got jobs, or they had moved on, or they had gone to gaol.

So getting sufficient offenders together at one time is an issue. How to get them together, given the distances that people have to travel, is another issue. Public transport is poor in this area. We do not have any means of providing transport. A possible solution might be to fund a bus, perhaps in partnership with other agencies, to transport people to overcome that particular difficulty. Another option that has been talked about, but which I do not think has legs yet, is remote learning, putting computer terminals in community locations and having people participate in particular programs on that sort of basis. There are a number of ways in which to do it.

The Hon. AMANDA FAZIO: Would you see it as satisfactory if somebody joined in a group session by web cast?

Mr COSTAS: I do not know. I have no direct experience of it. I think it is worth a try. If you do not try it, you do not know how good it is going to be. Literacy obviously is an issue, because people who are not literate are less able to participate in that sort of forum. Groups are ideal, but there are structural difficulties.

CHAIR: Have you had much experience with these IT centres that have been set up across Australia?

The Hon. AMANDA FAZIO: Community technology centres.

Mr COSTAS: I have only read about them. I have no experience with them.

CHAIR: They have them in local libraries as well.

Mr COSTAS: I believe so.

CHAIR: Earlier a policeman told the Committee—and I understand that this is a priority across the State—that they target specific people that they perceive cause problems. Has this influenced your people out on parole and people on bonds?

Mr COSTAS: It has. I have recent experience in Queanbeyan of an offender on parole being targeted by the police. It is a clear and well-known strategy of the police to target well-known people.

CHAIR: They are proud of it; it gets results.

Mr COSTAS: It does get results. This particular offender wrote a letter of complaint sometime ago and has only recently got a response. The next step is that we are facilitating the meeting with him and the local area commander to look at that matter. The bottom line is that if offenders draw attention to themselves, they will continue to be targeted. We can provide them with advice and strategies so that they are not targeted, so that they can change their behaviour.

CHAIR: The Committee has also received submissions in relation to the criterion for community sentencing that excludes people who have served jail sentences for violence or longer than two years. I might be a little off on the precise details. Is there anything you can suggest that the committee might consider for those persons who perhaps received a sentence for a major crime, say, 10 years ago and had not been in any further trouble until now, and who otherwise might be eligible for a community sentence?

Mr COSTAS: Are you asking about when we are assessing at pre-sentence stage?

CHAIR: Yes, your assessments.

Mr COSTAS: The fact that someone has been in gaol for a serious offence sometime ago is of interest to us, of course, but of more interest to us is how they have performed if they have been on previous community supervision—bond, parole or community service. That is a better indicator for us in making recommendations than a criminal record in itself. Does that answer your question?

CHAIR: I guess so. The issue has been raised with the Committee and we are going to have to obtain more information about it.

The Hon. GREG PEARCE: Do you keep statistics on breaches of CSOs and bonds?

Mr COSTAS: Yes, they are kept centrally. We have an electronic system where discharge of orders is recorded. The reason for the discharge of an order is recorded, whether it is a breach or something else. Those statistics are available or can be obtained.

The Hon. GREG PEARCE: We should get those statistics of breaches of community service orders and bonds. When you say they are kept centrally, what do you mean?

Mr COSTAS: They are kept in head office; we do not keep them locally.

The Hon. GREG PEARCE: They are available from the Commissioner?

Mr COSTAS: Yes.

CHAIR: Is there anything else that we have not asked questions about that you would like to refer to?

Mr COSTAS: No, a lot of questions were sent to me, but I think you have pretty well covered most areas.

CHAIR: Thank you. Your evidence has been most helpful to the Committee.

(The witness withdrew)

GERALD CLIVE MOORE, Chief Executive Officer, South Eastern Aboriginal Legal Service, PO Box 998, Nowra, and

GARY ROBERT PUDNEY, Principal Solicitor, South Eastern Aboriginal Legal Service, PO Box 998, Nowra, affirmed and examined:

[The Chair repeated her opening statement and guidelines for the media.]

CHAIR: Mr Moore, in what capacity are you appearing before the Committee? That is, are you appearing as an individual or as representative of an organisation?

Mr MOORE: As a representative of an organisation.

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

Mr MOORE: Yes.

CHAIR: Mr Pudney, in what capacity are you appearing before the Committee? That is, are you appearing as an individual or as representative of an organisation?

Mr PUDNEY: As a representative of the South Eastern Aboriginal Legal Service [SEALS].

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

Mr PUDNEY: I am.

CHAIR: Should you consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. If you are unable to answer any questions asked by the Committee today, you may take the questions on notice. Just send the answers in writing to the Committee later. If you take any questions on notice I would appreciate it if the response to those questions could be forwarded to the Committee Secretariat by Thursday 28 July next. Would either of you care to make a brief opening statement?

Mr MOORE: Thank you for taking the opportunity to come down to a nice part of our country, and for taking evidence and hearing the views of the people from our neck of the woods. When it is appropriate I will give you a quick rundown on our organisation.

CHAIR: It would be convenient if you could do that now.

Mr MOORE: The South Eastern Aboriginal Legal Service is a government-funded organisation. Our main base is at Nowra. We have three offices—one in Nowra, one in Moruya and one in Canberra. We cover two jurisdictions—the Australian Capital Territory and New South Wales—so a lot of the information that we will give you has relevance to the Australian Capital Territory and also Jervis Bay territory, which is different yet again. We have five solicitors and a number of field staff, and our organisation is made up of about 80 personnel. We cover the areas from the Shoalhaven down here to the border, up to Cooma, back through Canberra, Yass, Goulburn, Moss Vale, Bowral, Mittagong and all in between. So we do all of the courts within that particular geographical area.

CHAIR: That is excellent, thank you very much. I will begin with a totally diverse question. Can you tell me what effect the lack of availability of community sentencing has on the circle sentencing process?

Mr MOORE: There are different answers to that, and I will hand over to Gary in a moment, but in Nowra we have strong circle sentencing options, and we have two discrete communities—Wreck Bay, which is in the Australian Capital Territory, and **Djirringanj (?)**, which is another Aboriginal community, and then all of the people within the satellite towns within the Shoalhaven. We have had circle sentencing happening for a little while in Canberra, and we will elaborate on that

in a little while, but it has not been as successful as we would have liked it to be. Down in this bottom end of our region it would be fair to say that we have not utilised circle sentencing much at all because of a whole number of reasons.

Mr PUDNEY: The options in Nowra are far greater than in the rest of our region. Periodic detention is only an hour away to Unanderra, so that is available. That has been converted to a male and female facility, so women can go there as well. When circle sentencing started, home detention finished at the Shoalhaven River—which cut out half of Nowra, including the Aboriginal communities at South Nowra. As a result of pressure from the magistrate and other people, the boundary for home detention was moved about 15 kilometres south so that it would provide the option for circle sentencing. In a way Nowra is lucky in that it does have access to periodic detention, home detention and participation in circle sentencing; it also has access to community service because there are a lot of strong local organisations around. That is one of the reasons it has been successful because there are those strong alternatives to gaol and community members have been looking at those as an option. Unfortunately, that is not available south of Nowra, basically.

CHAIR: We will get you to talk a bit more about home detention, but I will pass to the Hon. Greg Pearce.

The Hon. GREG PEARCE: Thank you for coming along. In your submission, in relation to mentally ill people, you said that mentally ill people are not suitable for alternatives to gaol. I wonder if you would expand on that? It is self-evident in one sense, but I would like you to explain why you said that.

Mr PUDNEY: Yes. They have to be people who can respond to requests to attend appointments and community service, and to get themselves transport to and from weekend detention if required. The difficulty is that these people lack a driving licence, and they generally lack a support network of people who can take them from point A to point B, like a lot of our clients. We grew up in middle-class communities with a diary and timetable. We woke up in the morning and mum said, "You have to go to X or Y." These people do not have those support networks. Whether they be disadvantaged Aboriginal people, disadvantaged white people or the mentally ill, they do not have that network to ensure that they do something or train them to do it. They just cannot physically get there, and if they do get there they cannot participate in the programs.

The Hon. GREG PEARCE: You then went on to say that the highest recidivism rate is for mentally ill people of their release from gaol. Is that just an observation?

Mr PUDNEY: No. That is in one of the reports you have from, I think, the Intellectual Disabilities Organisation. It states that of people in gaol who are mentally ill 70 per cent came back within two years, whereas in the general population it is up to 38 per cent. So, it is a substantial increase. We have clients at the Long Bay hospital—they call it a hospital—the psyche ward there is C and D, they are just horrendous places, it is like a 2005 version of *One Flew Over the Cuckoo's Nest*. That is the only option, there is no other place for them. If they are in the general gaols, they will be heaved by other people, or the other people feel really upset to be around them. They are a growing percentage of our community.

The Hon. GREG PEARCE: We have heard of the drivers licence circle, can you elaborate on that?

Mr PUDNEY: It is really difficult, it goes back to when my kids, or any middle-class kids, turn 16 and nine months. They are literate and Mum and Dad give them the money so they can get their Ls. They generally get their Ls on the first go at the computer test. They then come home with their Ls, and there may be two or three cars in the household. The kids do a lot of driving to get up their 50 hours. They then graduate to their Ps and go on with their life. Unless they get a PCA matter or some serious traffic matter they never have any trouble with their licence. However, other people who grow up in household where there is no motor vehicle, no-one with money to pay for the L-plate test. Previously, kids paid \$30 and sat for their Ls as many times as needed to get it; now they have to pay \$30 every time. I know of people who have sat 20 or 30 times, and had to pay \$30 every time.

Literacy is a problem. Even if they get their Ls they now have to do 50 hours of driving with an adult supervisor. Someone living on a mission in a poor part of town where no-one has a car or resources to help them, is starting from well back. When they are picked up for their first unlicensed driver offence, it is generally not for their manner of driving—they can all drive—it is generally not associated with PCA or a car accident or dangerous driving. Generally they are picked up by a random breath test, where a police officer sees a car and pulls it over. If someone is driving a car around a Housing Commission area, or an Aboriginal community, between 10 o'clock in the morning and four o'clock in the afternoon, their chances of being pulled over are fairly high. I drive to work every day and I have never been pulled over for a random breath test.

Ms LEE RHIANNON: Can you explain that; you say that police are more likely to have those units operating in those estates?

Mr PUDNEY: Yes.

Ms LEE RHIANNON: That is a police operational decision?

Mr PUDNEY: Yes. In the old days at least the police had to say that they pulled over someone for having a bald tyre or a light out on the car. Now, they need no reason at all. They are pulled over, first unlicensed offence does not really matter. They may not get their licence because of literacy, financial or resource problems, then they accrue fines. If they get a fine for being on a train without a ticket, that could end up stopping them from getting a drivers licence. Fines build up through their late teens and early twenties, they will never, ever get a licence. They then get a second unlicensed offence and for that the automatic disqualification period is three years, which is just horrendous. The offence for drive while disqualified is only two years, but for some reason there is this anomaly of three years.

If they drive while disqualified they are on the way to gaol. The important thing is that because the gaol sentence for driving while disqualified is seen as so important by the magistrates and some people in the Government, there is a pressure to lock up people for driving while disqualified. There are no options for them. Yesterday I spoke with a woman who could not get a licence for all the reasons, financial and literacy problems. She ended up driving, got charged for driving while disqualified. The court said that she was not suitable for alternatives because she has a drug problem, also not suitable for community service because she has a major hip problem, so she was put on a suspended sentence. That is an easy way out, because she does not go to gaol. Unfortunately, if she drives two years later, she will get another suspended sentence. Yesterday she was convicted at Nowra and got a two-year suspended sentence.

Basically this comes back to the problem of a woman who was looking after her children and grandchildren, was driving to the doctor in a rural area with no public transport. The reason she was picked up was because she was driving an old, beat-up Ford at 10.10 a.m. through town. The police said, "That must be somebody who is—we'll pull them over." I never get pulled over for a random breath test when driving to work.

Mr MOORE: Gary Pudney is a little kinder than myself. It is: if you drive, and you are black, and you have a beanie on, and a South Sydney jumper, you will be pulled up. It is more often than not the case that those are the sorts of things that attract police to pull people over.

Mr PUDNEY: In the Local Courts over three years, there were 3,576 people gaoled for driving while disqualified. If you take gaol statistics of 30 or 40 per cent being Koori, that is 1,200 people locked up for driving while disqualified, for the reasons I have given. I still do not understand why drive while disqualified is such a serious crime. The penalties for drive while disqualified are much tougher than for high-range PCA, much tougher than mid-range PCA, much tougher than negligent driving, and the consequences can be severe. As I said in my submission, that woman was disqualified yesterday until 2018, because she had two years for drive while disqualified, five years for habitual offender. She had been disqualified until 2011, and now until 2018. There is no incentive in that for a person to change their lifestyle.

We need a carrot: if people stay free of a traffic offence for two or three years, give them a red or a green P-plate licence so at least they can participate in the community. The important thing is

that these people are generally in their twenties, they are paying the penalty for misadventure five or 10 years ago. If they settle down and have kids, they cannot take the kids to football or to school, because they are disqualified from driving until 2040. I have some Koori lads, a couple in gaol at the moment, who will never be entitled to get a licence because the life expectancy of a Koori male is now 48, and they are disqualified until past that date. Except for driving they have sorted out all their other problems: They are no longer committing violence offences or property offences. All they want to do is drive. It is not their manner of driving that is the problem, it is just that in this small town all the police say, "Oh, there's Fred, he is disqualified. Pull him over." This is a real hobbyhorse for me because a lot of people end up in that situation, and gaol is just horrendous at the moment. It is an horrendous place for anyone to go to.

The Hon. GREG PEARCE: You said in relation to back-end home detention that for practical reasons it is not generally available. Do you have a view on whether it is a good idea, and whether it should be an option?

Mr PUDNEY: The difficulty with home detention is that it is so specific to areas, it is not statewide. That is the first issue, and that is critical. The second issue is that it needs a certain stability of lifestyle and community involvement that most of our clients do not have. Home detention works really well for someone who has committed fraud or a one-off matter and will never be in trouble again. Generally they have a unit and a wife and they can live that lifestyle. Unless it was somehow broadened so that houses are provided in country areas for people to do home detention in, or some sort of relaxation on the hours or use of community facilities, if they are available, then maybe. At the moment it is just too difficult for our clients.

On the issue of periodic detention, people are not entitled to periodic detention if they have served a gaol sentence of six months or more. That really cuts out a lot of people. That was brought in in 2002, just turned up in legislation for some reason and it cuts out a lot of people who had trouble 10 or 12 years ago. Six months in gaol is not a long time for a Koori guy; a large percentage have done six months or more. It does not matter how well they have gone in the 20 years since they did that gaol sentence, they do not have the option.

The Hon. AMANDA FAZIO: You support the idea that the eligibility criteria should be changed?

Mr PUDNEY: Oh yes. It came in in 2002, and I do not know why. It has affected a large number of our clients.

The Hon. AMANDA FAZIO: Earlier you referred to a lady who has been disqualified until 2018 and has been declared an habitual offender. What is the real impact on someone being declared an habitual offender?

Mr PUDNEY: It means a magistrate can add another five years to whatever disqualification period exists at the moment.

The Hon. AMANDA FAZIO: Who declares someone to be an habitual offender?

Mr PUDNEY: The magistrate at the time of sentencing.

The Hon. AMANDA FAZIO: Do the magistrates just make that up? Do they decide?

Mr PUDNEY: No, the legislation provides that if someone has had three major offences in the previous five years, which can be two unlicensed and a PCA, or a previous drive while disqualified and a PCA, each time that person is sentenced on a serious traffic matter they have another five years added. If a person has three charges of driving while disqualified in the one go, or gets sentenced for three days one after the other, they can lose their licence for 21 years by that magistrate. It is cumulative, so it is two plus two plus two and then five plus five plus five. It is incredibly self-defeating.

The Hon. AMANDA FAZIO: Is the magistrate bound to do that, or is it an option?

Mr PUDNEY: They are supposed to give five years to anyone who has had a third offence within five years. You can argue with that. A number of magistrates believe that that is an horrendous penalty. You can argue that it be quashed in all the circumstances, or reduced to two years. There is a discretion by the magistrate to quash it or reduce it, but sometimes it is very difficult to get that done, because the Government says that person should have another five years.

Mr MOORE: But the impacts pan out socially, because all the other things that Gary mentioned earlier come into play: You cannot take your kids to sport, you cannot participate in community events, if you do not have a licence. The kids see that and get caught in the trap of learning to drive too early and getting into trouble, and starting themselves off on the same track, or seeing a need to get a licence. There are all sorts of problems.

Mr PUDNEY: In the country, without public transport there is more pressure to drive, compared to Sydney where there is public transport. It is probably harder. It is easier for a police officer to know someone in Moruya or Bega or Yass who is disqualified than it is for a police officer in Campbelltown to know anyone who is disqualified. There are so many more people in a bigger environment. Most of our charges are because police know the car or the person.

The Hon. AMANDA FAZIO: Do they pick on kids on pushbikes in the same way?

Mr MOORE: We have had our fair share of those in different communities.

Mr PUDNEY: One lad was picked up for not having a front light, not having back light, not wearing a helmet and riding on the footpath. Four individual penalties. As a consequence of those, they could have stopped him from getting a licence because they go to the State Debt Recovery Office with a \$50 fine for each one. What started out as a \$60 penalty becomes a \$110 penalty and multiplied by four it becomes \$440.

Ms LEE RHIANNON: How common is it that young people are charged for riding a bike without a helmet and similar things?

Mr PUDNEY: It goes through periods, and it goes through officers. Sometimes they see that as a clampdown option. That kid we got before the magistrate and the magistrate dismissed all the matters; found them proved and dismissed them under section 10, it was clearly an inappropriate use of power.

Ms LEE RHIANNON: I asked a police officer earlier about comparisons of crime in the wider community as against crime in the Aboriginal community, and he said that there were similar rates for similar crimes. Is that how you see it?

Mr PUDNEY: Aboriginal people do not do the big frauds, the big social security crimes, or the drug importations. They commit much more low-level crime, centred on traffic matters, such as drive without a licence, taking a car to get from A to B and leaving it there. There is not a lot of destroying of cars that are taken. They do not try to cover up their tracks.

Ms LEE RHIANNON: So it is a transport issue?

Mr PUDNEY: Yes.

Ms LEE RHIANNON: Rather than joyriding.

Mr PUDNEY: Yes. They get four or five in, they go from A to B, they leave the car there, and often they will take another car to go back. Violence and alcohol-related offences are fairly significant. Unfortunately, women are victims of a lot of those serious matters, and there is a real violence problem, and it relates a lot to cultural change and expectations, lack of employment and self-respect, but also an inherent alcohol problem. Those are the two main areas. There are some break and enters, and shoplifting—the petty end of the scale—and often buy drugs.

Ms LEE RHIANNON: Just going back to the issue of crimes involving driving et cetera, would you see that as involving a rate of victimisation, or do you see it as similar for people irrespective of the communities that they come from?

Mr PUDNEY: I think it is similar for all people in battling areas.

Ms LEE RHIANNON: So, if a young white fellow with a Rabbitohs jumper drives through, is he going to get picked up too?

Mr MOORE: Probably not as much, but he will still be a target.

CHAIR: If he has got red hair and he can be picked out easily.

Mr PUDNEY: No. They can just stop them. It is money for jam. There is no real police work involved. I mean, if you pull over 100 young people in old cars, you are probably going to get 10 or 15 with licence problems, 5 or 10 with warrants, and maybe the car will have bald tyres, and so on.

Ms LEE RHIANNON: So it is easy work.

Mr PUDNEY: Yes. If you pulled over 100 cars being driven to work by people wearing suits and ties, you would not get any of that.

Ms LEE RHIANNON: So the police are more likely to pull over a type of car?

Mr PUDNEY: Yes.

Ms LEE RHIANNON: So it could depend on what end of the socioeconomic scale they are at?

Mr PUDNEY: Yes. If it is a bad car, or an Aboriginal person in a new car, they are the ones they target. If you are trying to grab people, there is no protection any more. If they suspect something—they do not even have to suspect—they just pull them over.

Mr MOORE: Some of our clients have beautifully hand-painted motor vehicles, and they still get picked up.

The Hon. AMANDA FAZIO: I want to ask you about the issue of bonds and Aboriginal people being given good behaviour bonds. Do you think bonds could be tailored to make them more appropriate for Aboriginal offenders in these sorts of areas?

Mr PUDNEY: They should be linked with Aboriginal community resource structures, whether community centres or CDP programs, or somewhere where they can get some support, direction or guidance from Aboriginal people. The difficulty is that the Aboriginal people in these organisations are under stress because of cutbacks in funding, or just the number of people involved, or the number of people with problems, so it comes back in many ways to resources. The more resources that can be provided to support these people in these alternative programs, the better the chance of success. But if you add them to the present workload of community organisations, it is going to be very difficult to get any positive results.

The Hon. AMANDA FAZIO: Also in relation to bonds, do you advise your clients to appeal the length of their section 12 bonds?

Mr PUDNEY: I had one yesterday. Whether they do it is another thing.

The Hon. AMANDA FAZIO: Do you think they fully understand the consequences of breaching a bond?

Mr PUDNEY: No. They are not going to gaol today, so they are happy. This woman yesterday was happy she was not going to gaol, but she has two years of gaol hanging over her head.

Section 12 bonds are really difficult, because if you are on a bond for two years the street time does not count. So, if you are on a 12-month parole and you mess up in the last three months, you are looking at doing only three months in gaol for breach of your parole. With a section 9 bond, what you do in the previous 9 months counts, so it may mean that they do not breach it. With a section 12 bond, if you breach it on the last day of the 12 months, you then do the whole 12 months. There is no option. So, in a way, this woman yesterday has got two years prison hanging over her head, but if she messes up in 1 year and 9 months and 10 days time, her whole two years starts again; there is no credit given for the fact that that she has been out of trouble and had a change of life and had only one problem. They are really difficult things.

The Hon. AMANDA FAZIO: Do you think that courts do not give adequate advice to people about what they ought to do to make sure they stick by what they are supposed to do and the consequences if they do not?

Mr PUDNEY: I think some magistrates are fairly poor at getting the message across. Some do not even look at the client when they are sentencing. This woman yesterday got two years. If she got locked up full-time, it may have been a six month's jails sentence, so there is this real bracket creep. The magistrate feels, "Oh, she is not going to gaol."

The Hon. AMANDA FAZIO: He is doing her a favour by giving her a two-year bond?

Mr PUDNEY: Yes. "I'm doing a favour by not sending you to gaol," so he gives this really extended period of bond. That happens all the way through. The other one I have spoken to country magistrates about is that because they do not have home detention, or weekend detention, they go up to a suspended sentence—because there is no alternative. But a suspended sentence is a real concern, because the street time does not count. You can really be lumbered. It does not matter how well you go, you could end up lumbered. There is a very small discretion that trivial offences should not trigger a breach of a section 12 bond, but those are very small options.

CHAIR: Is there a definition for trivial?

Mr PUDNEY: No. It is determined by individual cases.

CHAIR: There is a police program applied across the State—not just here, but we heard of it here for the first time—relating to the targeting of a small numbers of people who are known to get into trouble.

The Hon. AMANDA FAZIO: The suspect targeting and management process.

CHAIR: Has that affected your client base?

Mr PUDNEY: Yes.

CHAIR: It has been going for about five years or something.

Mr PUDNEY: Yes. I think Nowra had a trial project. Whether the means justify the result, people are being targeted and therefore being harassed as they go from A to B. Their only way of avoiding that is generally to move—or keep out of trouble is the other one, but that is often easier said than done. The system does have its consequences, and they do target a lot of young Aboriginal kids in our area.

Mr MOORE: There are curfew kinds of things too.

Mr PUDNEY: Yes. Often if police bail somebody, they will impose a curfew as a condition of it. It is just setting people up to fail, because they cannot go to football training, et cetera. In a way, it is the big stick rather than a carrot to say, "This is what you can't do." It makes it very difficult for them to turn anything around.

CHAIR: So the police themselves can put on a curfew, not the magistrate?

Mr PUDNEY: Yes.

The Hon. AMANDA FAZIO: Do they put a curfew on non-indigenous kids?

Mr PUDNEY: I would assume so, but to a smaller degree. They see it as a way of social control. If somebody is arrested, the police set the bail before they go to court, so an offender could be on conditional bail, with a curfew for three, four or five weeks, until the court comes back to the local area.

The Hon. GREG PEARCE: I have one technical issue that you might tell us about regarding community service orders and section 86(4) of the Crimes Sentencing Procedure Act, which says that the magistrate cannot impose a community service order unless the probation officer's report says it is an option. Do you see that as a problem?

Mr PUDNEY: The magistrate can overrule the Probation and Parole officer on a home detention or period detention assessment, but cannot overrule a community service assessment. The difficulty in the smaller towns is that the people who make the assessments have a lot of knowledge, understanding or background that they have gained. So, sometimes, they come to the table with a biased view against somebody, because they have heard something, or they have done this, or they have done that.

The other issue is that if the kid is honest with them and says, "I do drink, and I binge drink" then they have an alcohol problem so they are not suitable. If they do not say that, they may be suitable. You can put the Probation and Parole officers in the witness box and cross-examine them before a magistrate to try to get the option of a community service, but the difficulty is that often the magistrate will stick up for the system, and, secondly, they will end up putting somebody else off side who down the track, as a lawyer, you may want to use to help your clients.

The Hon. GREG PEARCE: So you think the magistrates should not be fettered in that way?

Mr PUDNEY: No.

The Hon. GREG PEARCE: They should be able to order a community service order based on what they have heard?

Mr PUDNEY: Yes. A magistrate can override the decision.

CHAIR: Do you have anything else you wanted to tell us? We will accept more bits of paper, if you like.

Mr MOORE: While we are still on the community service order: I listened with interest to the names of a number of organisations that were read out earlier that assist. We do have a couple of organisations down here, which I checked on as late as coming down here this morning, where we have CEDPs that take on community service orders. I have got three cells of CEDPs, one at Wallaga Lake, one at Bega and one at Eden. If it is possible, someone can do a community service order within that organisation. Down at Eden we have also got the Twofold Aboriginal Corporation, which is another body that I believe has taken on community service orders in the past. It just seemed that the Aboriginal component was missing.

CHAIR: I think he was reading a list of organisations with whom offenders are currently placed. But we will make sure that information gets back to Probation and Parole.

Mr PUDNEY: In the submission I talk about back-end rehabilitation. That was in answer to your idea about back-end home detention. I think that is something that the Committee should really look at seriously because, for me as a lawyer, if you have been there a number of years you know what is going to happen when your client has done six months, nine months or 12 months, you know they go in destroyed by alcohol and drugs, they have 6, 9 or 12 months getting decent food and accommodation, with limited access to drugs and alcohol, but as soon as they get out they get back on the slippery slide.

People who are doing long gaol sentences have to step back into the community by doing work release and day release, so they sort of ease their way back into the community. People doing sentences of six months or nine months or 12 months are just let out. Okay, they have supervision, but sometimes the judge or the magistrate says, "This person has an alcohol or drug problem and needs rehabilitation, so I will make that a condition of their parole." So they do nine months and then they go to full-time rehabilitation. It never works. It is just replacing one lock-up by another lock-up. When the punter gets out, the first thing he wants to do is go and see his family. Often, because he has just come from abstinence to freedom, in the first few days or week the family, for whatever reason, gives up and he just falls over.

If the last three months of that sentence could be in a rehabilitation centre, which could ease them back into the community, with day release, or they could see family, or could look for employment and look for housing, and could look to get back into the community, they could slowly work their way back into the community. Rather, they are left at Goulburn gaol at 12 o'clock at night, with money to get back home. That is the tragic thing for us as lawyers. You know the client is going to come out with the same problems they went in with. They say to me, "Gaol is not the answer. I need rehabilitation."

Sometimes, they really need some gaol, but they also need some rehabilitation. So, if we could have a system where the last three months of a sentence was hanging over their heads, with full-time gaol or rehabilitation, it is going to be more successful. Often, with a bail condition of doing rehabilitation, that pressure results in a better result. But, if you have got somebody doing two years in gaol, the last thing you want to do is six months of rehabilitation at the start, then do the gaol time, or do the gaol time and then do six months rehabilitation. It only came up when you were talking about back-end home detention, but once again it is a resource issue. We have difficulty getting people into rehab beds.

CHAIR: It would have to be a joint project to be so complex, would it not, because it would have to be Corrective Services/drug rehabilitation in order to make it work?

Mr PUDNEY: Yes. You could put them back into full-time rehabilitation with supervision. Some of the rehabilitation centres are fairly strict.

CHAIR: There are not enough.

Mr PUDNEY: That is the resource issue. I believe we have to spend a lot more money on rehabilitation. We can spend three to four hours on a Monday morning just ringing around trying to find a bed for someone. They say, "We will assess them next week." They go in three weeks later. What you do during that four weeks? They spend the time in gaol, their interest and reason for going into rehabilitation has collapsed by the time a bed becomes available and you lose that person.

CHAIR: And in the country many people have to travel distances. I beg your pardon because we have run well over time, but I have another question. The Committee has heard a lot about drugs and Aboriginal communities. In some communities it is quite firmly stated that the problem is marijuana and in others there is some vagueness. Can you tell the Committee whether with your client base the drug problem consistently involves heroin?

Mr PUDNEY: The number one problem is alcohol and I would put the number two problem generally as cannabis and pockets of heroin with generally males more in the larger towns. Although there are some on the missions as well, some in the community areas.

Mr MOORE: And crystal meth. One of the problems that is emerging in the more discrete communities within our region is prescription type drugs that they are tending to mix with other things. They commonly called it "go-ey" and that is just sending them off their brains. So we do have an escalating problem there.

Mr PUDNEY: All our really violent, horrendous offences are generally amphetamine-based. They mix it with alcohol and just a different person appears. Whereas, on heroin the only problem

they really have is they need the money. They do not really commit offences lost on heroin, but they really commit some horrendous assaults and violence matters while they are on speed.

(The witnesses withdrew)

PAUL RAYMOND BRUNTON, Juvenile Justice Officer, Department of Juvenile Justice, PO Box 833, Bega, and

SARAH HANCOCK, Manager, Southern Highlands, Department of Juvenile Justice, PO Box 710, Queanbeyan, affirmed and examined:

[The Chair repeated her opening statement and guidelines for the media.]

CHAIR: Mr Brunton, in what capacity are you appearing before the Committee? That is, are you appearing as an individual or as a representative of an organisation?

Mr BRUNTON: I am appearing as the Juvenile Justice Officer for Bega.

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

Mr BRUNTON: Briefly.

CHAIR: Would you like a copy to be placed in front of you?

Mr BRUNTON: No. I do not think it will make much difference to me now. I will do the best I can to answer what you ask of me.

CHAIR: Ms Hancock, in what capacity are you appearing before the Committee. That is, are you appearing as an individual or as a representative of an organisation?

Ms HANCOCK: As the representative of the Department of Juvenile Justice.

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

Ms HANCOCK: I have seen them, yes.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee, please indicate that fact to the Committee and we will consider your request. If you are unable to answer any questions asked by the Committee today, you may take the questions on notice. Just send the answer in writing to the Committee later. If you take any questions on notice I would appreciate it if the response to those questions could be forwarded to the Committee Secretariat by Thursday 28 July next. I must also apologise because we are running behind schedule. Would either of you care to make a brief opening statement?

Mr BRUNTON: What did you have in mind?

CHAIR: We will begin with questions.

Mr BRUNTON: It was confirmed only yesterday that I would come here, so I have not done a lot of preparation. I am here in the spirit of doing the best I can and answering whatever you wish. I have not brought documents as such.

CHAIR: But you have heard some of the questions. The Committee is endeavouring to work through the issues in relation to equity and community-based sentencing. I realise that we are dealing with adult issues and you both deal with young people, but, interestingly, as we have gone from place to place the Juvenile Justice people have given the Committee some very strong direction. I will ask the first question: What are the major issues in relation to community-based sentences that young people in Bega and surrounding areas are facing?

Mr BRUNTON: Does the Committee have an appreciation of the area that I work in and the geography of the area that I cover?

CHAIR: Please tell us.

Mr BRUNTON: It is Bermagui to the Victorian border, and then the Snowy Mountains, including Cooma, Jindabyne, Delegate and Bombala. Some of those duties are share out of our Queanbeyan office now, but that is an administrative matter. When I started approximately 12 years ago I was given a car, a big box mobile phone and a few files and pointed in this general direction. Prior to that the service was conducted out of Bateman's Bay and Queanbeyan, so very clearly it seems to me that there were equity issues for this area at that time. Given that both the offices in Queanbeyan and Bateman's Bay were single person offices, clearly this area could not be receiving very much of a Juvenile Justice service by the very nature of the provision of the service.

I was encouraged when I applied for the job and was appointed to the position. It is a large geographical area. Each town has its own specific issues. Broadly speaking, though, we are an isolated area. In terms of your question about community-based sentences, I feel that the range of community-based options that are available throughout the State of New South Wales are available in our area here. It may be that we lack resources to make them as positive as we would like; it may be that we at times are unable to provide the resources that we would like due to the nature of where we live and work, but that does not mean that we do not try. It also does not mean that we do not put that option before the court.

Our underlying philosophy is very much along the lines that getting young people into custody only—not fosters criminal behaviour but it is a great predictor of further criminal behaviour. If a young person has not received a custodial sentence and then receives a custodial sentence the chances of them reoffending are much greater than if they are able to be managed in the community. Certainly I, for my part, feel that in working with under 18-year-old clients it is really important to have a focus on rehabilitation; a little less of a focus on the punitive I suppose. Of course the adult system has much more of an emphasis on the punitive and a lot less emphasis on the rehabilitative, it seems to me.

If we can make a difference with a young person and help turn them around or empower them to go down a path that does not include reoffending then it seems to me it is a win-win situation—the community benefits from a reduction in crime, the individual is happier because they are not butting their head against the justice system; police are not as busy and resources are not tied up so much in that side of the arrangement.

The Hon. GREG PEARCE: You were present during some of the earlier evidence. Do you see that driver's licence problem—

Mr BRUNTON: I only caught the end of Mr Pudney's evidence.

The Hon. GREG PEARCE: The whole cycle of getting fines early and not being able to pay.

Mr BRUNTON: It is certainly a concern. When I commenced in the department there were things called "fine default orders". That was an ability to convert a fine into a period of community service, effectively. That worked quite effectively with young people because they could say, "I've got hundreds of dollars worth of fines."—they have no income. It is a disappointing aspect of the change to the fines, that the fines are still imposed. Court costs are also incurred whenever a young person goes to court and it can be a factor that may influence decisions about whether the reoffend, by virtue of them not being to generate the money to pay off fines, for example.

Ms LEE RHIANNON: Are you saying that there has been a change and they can no longer convert outstanding fines.

Mr BRUNTON: To a fine default order—that is my understanding, yes.

Ms HANCOCK: It has been that way for about five years now.

The Hon. GREG PEARCE: Do you agree that the suite of community punishment is available in your region?

Ms HANCOCK: Yes, I do. I have made a career out of making sure that young people in this area have equitable access to services.

The Hon. GREG PEARCE: What are the options?

Ms HANCOCK: For community based sentencing we are looking at a gamut from a good behaviour bond to youth justice conferencing, which now comes under the Children's (Criminal Proceedings) Act as well as the Young Offenders Act; fines; a combination of fine and good behaviour bond; probation; community service order; suspended sentence; and parole.

Ms LEE RHIANNON: Where would community service orders be carried out?

Ms HANCOCK: Paul would contact a local agency, a charity organisation or a non-profit organisation, and make arrangements for a young person to be placed there.

Ms LEE RHIANNON: What sort of places?

Mr BRUNTON: By all means. I find the National Parks service to be an excellent placement, because the vast majority of young offenders who receive community service, in my experience in this area, are young males and they often benefit from some mentoring. A number of the staff with National Parks are excellent wood-be mentors. I do not go and see them and say, "You are going to mentor this young person", but in the carrying out of the community service, that is part of what would be part of the process. I have used the Bandara Child Care Centre. A couple of years ago a young pregnant woman used pre-natal classes as part of her community service. The bottom line is we try to be responsive to the young person's situation and find a placement that is likely to succeed.

Ms LEE RHIANNON: Any private businesses?

Mr BRUNTON: No.

Ms HANCOCK: No, we cannot use private businesses.

Ms LEE RHIANNON: You judge that it would be better for them to be with community organisations?

Ms HANCOCK: We are not allowed to use them. We can use a government department.

Mr BRUNTON: Our policy guidelines are that we use voluntary organisations. I have used St Vincent de Paul and the Bega showground. It is about a needs basis. Delegate, an extremely small town, has a small hospital and a young person did some painting of its walls. That was not a particularly thrilling community service order placement, but he appreciated that he was able to ride his bike from home and get to the placement. Transport is very much an issue for any program in our area. I am sure you are getting the flavour of that from everyone you talk with.

Ms LEE RHIANNON: With the community service orders are you finding the recidivism rate is dropping?

Mr BRUNTON: I have not had a community service order for the best part of 12 months. When I think back over the last couple of young people who have been involved in community service orders, one young person in Cooma has gone on to be an adult offender. Although a couple of people have not gone on to be adult offenders. We are always in the business of trying to change behaviour and assist and empower young people not to go on to further crime; suffice it to say that part of that deal is that we are disappointed at times when that behaviour does occur.

Ms LEE RHIANNON: Are you saying that you cannot see a trend?

Mr BRUNTON: I am saying that I do not have enough numbers in the past two years to give you a genuine trend. For example, I have had three community service orders in the past two years. I would not call that a very high incidence.

Ms LEE RHIANNON: Against how many who end up in juvenile detention centres?

Mr BRUNTON: Not a huge number from this area. Currently there are two young people in custody; do you want this level of specificity?

Ms LEE RHIANNON: No, just a comparison. Are you talking about four times more than the community service orders, or is it half and half?

Mr BRUNTON: The particular offending pattern of a couple of young people who have been in custody recently, they have a probation order, a community-based sentence, and we tried to put some programs in place. Yet, their rate of offending has continued. For example, we managed to get bail to keep them in the community. In two instances the young person has breached bail conditions and reoffended. At that point the magistrate said that he wanted that young person to go into custody.

The Hon. GREG PEARCE: How many clients would you have at any time, generally?

Mr BRUNTON: It fluctuates.

The Hon. GREG PEARCE: Of course. But how many, generally?

Mr BRUNTON: Currently the number is around 18 to 20.

The Hon. GREG PEARCE: Is that normal?

Mr BRUNTON: For a number of years I felt it was about the normal for this area, about 20 young offenders. We are a bit of an end game player. Of the 100 per cent of young people who commit offences in the community, we may work really with only 5 to 10 per cent of the most serious or repeat offenders.

Ms HANCOCK: On average we have 10 to 15 young people on supervised orders. Then we have between five to seven court report requests from a magistrate that we would be supervising, and possibly a couple of young people in custody at any one time. That is fairly much an average over my area, which covers from Nowra to the border and up to Bowral.

Ms LEE RHIANNON: What level of co-ordination is there with the Department of Community Services [DOCS]?

Ms HANCOCK: Currently we have a memorandum of understanding with DOCS that we are enforcing. The regional directors have met and it has now flowed down to the management level where we are meeting on a regular basis to ensure that we are working co-operatively with DOCS. On a local level, such as Bega, we probably have a much more friendly relationship in that we can knock on the door, have a coffee and a chat.

Mr BRUNTON: We work on a needs basis.

Ms HANCOCK: We work on a needs basis also, we do not meet every single day. But if we have a young person we attempt to work co-operatively with them.

Mr BRUNTON: Most definitely. If we have a 13-year-client who has come onto our caseload we would immediately liaise with DOCS and work with that department.

Ms LEE RHIANNON: You said you have not had many community service orders so maybe my next question is irrelevant. You mentioned that transport is a problem. Are those transport problems limited to the programs that you can access?

Mr BRUNTON: It always has to be a factor in whatever I am trying to do with a young person. For example, when I started I got an office in the first year and that was in Bega. Virtually I did not have a client in Bega, so most people considered the Juvenile Justice Officer to be a mobile service. They were used to seeing them bowl up in a car. If I needed to do a very formal interview I

might go to the local DOCS office, for example in Cooma I certainly had that arrangement. I might go to a council building, or wherever was most appropriate. But for those young people it was never a part of the arrangement for supervision that they have to come to Bega as a starting point. That would be a double penalty in my view. And often it impacts on their families. I am aware of the prices that people pay for petrol; just to come from Eden to Bega it may cost \$15 to \$20. If the family is on welfare, that may be money they do not have. Driving is a big part of what is required in the job.

The Hon. AMANDA FAZIO: One criterion of community-based sentencing is that the offender has a suitable home. Is the lack of a suitable home in the community a big issue for young people in this area?

Mr BRUNTON: Home or accommodation is a huge issue, a very important part of case planning with a young person. If we are to try to address offending behaviour and encourage a young person to not get into further trouble, stability in accommodation is a central plank, more than likely, in that person's case plan. For example, we acknowledged that and formed a partnership with the Department of Housing and built a duplex in Bega, called the Steppin' Out Program. That was semi-supervised accommodation for young people at risk, or clients of the department. That was a systemic attempt to create a resource that was needed and bring about some change.

Otherwise we are living in an area with quite a deal of influx of people. The development of new housing stock is not at a rate that is meeting that demand. Of course, our clients are very low down in the pecking order of desirable clients. By that I mean that if a real estate agent is looking at a 17-year-old with no rental history and not even sure where their income comes from, versus a family of three with 10 happy references and a clear ability to pay, the real estate agents make the obvious decision.

Ms HANCOCK: Another issue that arises is that we have one refuge, and the closest one to Bega is at Moruya, which is two hours away. There is one at Queanbeyan, which is 2½ hours away. If the young person does not have a home base here, they have to move 2½ hours away to get a refuge, if there is a placement available.

Mr BRUNTON: Yes. I was part of a group that was trying to form a continuum of housing in the valley. We were not looking at having a refuge, we did not think that the demand was high enough, but we were looking to have the ability to go to the nearby Central Hotel, for example, and purchase a room and a bed and some staff support as required. We also looked at having a central housing committee to consider the options of whether a young person needed crisis accommodation, semi-supported supervised accommodation or fully independent living. We then had to move them through those steps.

CHAIR: If any of that work coming to fruition?

Mr BRUNTON: The Steppin' Out Program, which we ran for two years, is now run by Auswide Youth Services. Again, if we had not initiated and formed the partnership and created that resource, there would have been nothing to hand over to Auswide. Auswide is one of the players providing youth services in the area, so it is another way that we have close links with that organisation. Yes, there are young people who I can look at and think, "That young person was very much at risk of further offending, but by creating and providing a stable home we have reduced the risk of that person reoffending."

The Hon. AMANDA FAZIO: The Committee has heard from other Juvenile Justice workers that often when they are trying to get a young offender out of bad habits they have had difficulty in accessing drug and alcohol programs to which they can refer the young person. Is that a particular problem that you face in this area?

Mr BRUNTON: Yes. I am the chairperson of the local Community Drug Action Team [CDAT]. We always try to encourage the drug and alcohol worker to be an active part of our committee. For years there was only one drug and alcohol counsellor covering all of the Bega Valley. Just saying those words it seems to me that must have been an inadequate service. One of the problems that we face is, if we have a young person at court, acknowledging that they have a problem

with drink or drugs and wanting to do something about it. When we tell them that we cannot get them in for an assessment or counselling for six weeks, often the impetus to get that work done dissipates.

A drug and alcohol counsellor provided by the department came to this area. That worked really well. We just do not have that position filled at the moment. I find that often the service that is going to be provided is by one person. If that person is out of the job or sick or on holiday or whatever, that service simply is not provided at that time.

CHAIR: Do you want to tell us anything that we have not asked you about?

Mr BRUNTON: I looked at the questions that were provided and one I particularly liked was, "What do you think, from your experience, is the best way to break the cycle of young offenders becoming adults in the criminal justice system?" That would take me a little beyond just the role of Juvenile Justice. It is about valuing people, and young people in particular, living in rural and isolated communities and resourcing them so they feel appreciated and valued in their community. In my view if all of that interplays they are less likely to commit antisocial acts. For example, Jeff McKenzie is now our Crime Prevention Officer for the Bega Valley Shire Council, but a few years ago we applied to the Attorney General's Department hoping to get a drug and alcohol worker and program.

In fact, we were successful in the anti-violence side of it and the person who came on board created all sorts of social opportunities in the Bega Valley; skating competitions, discos where no alcohol was involved, and others. By doing those sorts of things, providing active, positive recreation for young people, will help distract them or turn them away from, I suppose, traditional country behaviour.

(The witnesses withdrew)

(Luncheon adjournment)

DAVID MICHAEL HEILPERN, Magistrate, Batemans Bay, affirmed and examined:

[The Chair repeated her opening statement and media guidelines.]

CHAIR: In what capacity do you appear before the Committee, as an individual or as a representative of an organisation?

Magistrate HEILPERN: As a magistrate.

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

Magistrate HEILPERN: Yes.

CHAIR: Do you wish to make an opening statement?

Magistrate HEILPERN: Yes. Firstly, I thank the honourable members of this Committee for inviting me to speak today. I acknowledge that the Chief Magistrate has given me permission to do so. The only limit I would ask the Committee to respect is, if I am asked questions about individual cases, or political matters, I will politely decline as much as possible. I have been a magistrate for six years, the first three of those were in Dubbo, servicing the beautiful towns of Nyngan, Condobolin, Cobar, Warren, Narromine, Dubbo and Peak Hill with relieving at Walgett and Moree, Bourke and Brewarrina. For the past three years I have been based at Batemans Bay, but covering Batemans Bay, Moruya, Narooma, Bega and Eden.

I have spent all my life as a sitting magistrate in isolated rural communities. They are characterised by two factors that are immediately apparent to me, and remain apparent to me to this day: first, Aboriginal overrepresentation and the large percentage of young people who appear before the court vis-a-vis city areas; second, the dearth of sentencing options that are available to me in the country. If I sit in the city, and I have done from time to time, I have options such as the Drug Court, the Magistrates Early Referral Into Treatment Program [MERIT], home detention, periodic detention, sex offender programs, Children's Drug Court, mental health pilots, anger management programs—a whole range of sentencing options that I do not have here, and have never had at any of the courts in which I have sat.

I lobbied and worked very hard to get the pilot of MERIT at Wellington Local Court, which started just after I left. I can say that none of those sorts of options have been available to me. However, I note that in all places prison is available. I know that that sounds like the bleeding obvious, but it is interesting that at every court in New South Wales the most draconian measure is available and yet many of those that come below that in the sentencing calendar are not.

In many towns that I sat in in western New South Wales there were no supervised bonds available because Probation and Parole could not service them. What that meant, for example, for a town like Condobolin was that I was faced with the options of fines, unsupervised bonds, or imprisonment. There were no other sentencing options available to me there. Fines, particularly in welfare-dependent communities and Aboriginal communities, are next to useless. I am sure you will have received other evidence about the impact of fines on people. Really, what it means is that they lose their licences, they lose their registration, and then if they are tempted to drive the cycle continues and gets worse.

To varying degrees, I have faced the same problems at every court that I sit at in terms of the lack of sentencing options. For example, in some towns on this circuit, there are times when there is no community service available. There are times when there is only periodic detention available at Batemans Bay; and there, there is travel only one way. There is no home detention in any of my circuit here, and effectively no periodic detention for anyone south of Batemans Bay. Of course, there are very limited anger management programs run by Corrective Services or Probation and Parole, and that is a continual frustration as well, particularly in the area of domestic violence.

If I could add that there are no domestic violence support services, except at Bega and a volunteer one at Batemans Bay. I know that that is not specifically addressing sentencing issues, but it is very important because it means that women come to court, completely unsupported, in a majority of courts on my circuit and basically get 30 seconds with the police prosecutor. That ends up being important in terms of how I end up having to deal with those persons who breach apprehended violence orders and the like.

Why is lack of sentencing options a problem? There seem to me to be four main reasons. Firstly, it is unfair to the defendant. After all, I am continually striving in my daily work to be fair to people, and it is simply unfair that a crime committed in Bega has less sentencing options than a crime committed in Manly. It is just wrong. We should have same crime, same time everywhere. That that is not the case means that defendants miss out on the opportunity to have their sentences tailored in the best way for them. That, in my view, is simply unfair. There should not be a geographical basis for sentencing. The basis for sentencing should be rehabilitation, deterrence—all the factors that we have for sentencing, but not geographical location. We all know that prison is an awful place. I have written about that in my previous work. No-one, in my view, should be sentenced to imprisonment if there are sentencing options that are suitable for the person but that are not available because of where they live.

The second reason that sentencing options are problematic is because it is unfair to the community. The whole aim of the criminal justice system, from where I sit, is to try to stop people from committing crimes. The best way to do that is to tailor sentences to meet the individual's needs from time to time. When I say needs, I mean best suited to ensuring there is a reduction in crime. It is not fair on the community of Bega, for example, that they do not have periodic detention when that would suit offenders best and minimise the risk of them reoffending. The community misses out, on top of the defendant missing out.

The third problem is consistency. It is impossible to compare sentencing in rural and remote areas with sentencing in others areas, because we have different sentencing options available. It is like comparing apples and oranges. Yet there is often criticism of the court for not being consistent. Fair enough. But you have to have the same tools if your aim is to have consistency.

The fourth area in which there is a problem involves a personal problem, if you like, and that is from the sentencing perspective. I do not think there is a judicial officer in New South Wales who does not suffer angst over the gruelling process of sentencing people. It is a very hard thing to do. When I say sentencing people, I really mean sentencing people to imprisonment. If, in your everyday life, you are faced with a choice of over sentencing or under sentencing, because that middle range of sentencing options is not available—such as periodic detention, or home detention — then you are faced with the choice: Do I under sentence, or do I over sentence compared with how I would want to sentence?

It is hard enough to try to work out what an appropriate sentence is if you have all the tools in your hands. But, if you have not, it is much more gruelling from a personal perspective to be dealing with sentencing. I should add that this is not just an occasional thing. Today I did the list at Bega, and in the list were about 80 charge matters, about 25 AVOs and about 25 other matters. Of those, I made a specific record that there would have been 11 that I would have sentenced to periodic detention or home detention had it been available here. Of course, with each of those, I then had to make a decision: Do I sentence tougher, or do I sentence lighter than that which I think is really appropriate for the crime?

Finally, to end my opening statement, I want to touch on Aboriginal overrepresentation. I have not seen up-to-date statistics, but I think I can take it as read that there is an Aboriginal overrepresentation in rural communities, particularly in an isolated one such as this. Certainly, in my time out west, there were days when the whole list—say at a town like Narromine or Warren or Nyngan or Bourke or Brewarrina—were only Aboriginal people; there were no other people on the list. There are courts on this circuit and out west where I have never had a white juvenile appear before me, only Aboriginal juveniles.

So the Aboriginal overrepresentation, if you can call it overrepresentation, is extreme. If we as a community are serious about reducing Aboriginal overrepresentation, then there should be most

sentencing options where most Aboriginal people are being sentenced, as a percentage of their population. As an example, if say 70 per cent of matters at a court at say Moruya — and I am not saying that is what the figures are, but if they were — involve Aboriginal offenders, in my view that is where you ought to start increasing sentencing options. I would hope that there would be a research project developed to ask: Where are the greatest areas of Aboriginal overrepresentation? Those are the places where we need to start putting our pilots and our other courts.

I use the Drug Court in Sydney just by way of example. I am sure it is very useful, and I am sure it does a lot of good. I have read the report, and I am not critical of it whatsoever. But it is so frustrating to me that that court is not where most of my problems come from: drug and alcohol abuse in the Aboriginal community, and in domestic violence. I want it here, and I want it here now. I think the community would benefit from it. But I do not think that is going to happen in the short term. That is my opening statement.

CHAIR: Have you been working with circle sentencing at Nowra?

Magistrate HEILPERN: No. Circle sentencing is jurisdictionally based. In other words, it is for Nowra. It is not for here. For obvious reasons, it is difficult to adjourn matters just so that they can be dealt with in Nowra. It may not be their people, and there is no public transport. So that is difficult. The short answer is no. But, of course, I would welcome circle sentencing here.

CHAIR: From what you know of the community and from the work you have done here, do you think enough people could be pulled together to create an effective circle sentencing process? I know it is a sentencing process but, from reading the outcomes, it seems to be more beneficial if accompanied by interaction of community people in the sentencing process.

Magistrate HEILPERN: There is no doubt that the smaller the community the harder it is to have an effective circle sentencing process, in terms of people knowing each other, people knowing the victims et cetera, and also just the logistics of it. We have significantly distinct communities in each of the centres that I work in, and I do not think a Nowra type model or a Bourke type model would work in the smaller areas. That applies to the smaller courts and out west too. I have thought of a model that works differently from the Nowra model, which is based on a quite large homogenous Aboriginal community in terms of family. I would need to think, and we would need to think, of different models. But, yes, I think it would be a terrific thing here.

CHAIR: They are currently trialling something at Brewarrina. It sounded like the people were getting tired of it already.

Magistrate HEILPERN: I think the support given by the older members of the community here is extraordinary. They are always at court with their young people. I can imagine though that it would be tiring over time. The more responsibility we load on them, the harder that would be. I have certainly noticed, from an anecdotal point of view, that the more community support people have the less likely they are to reoffend. So any process that encourages that is to be encouraged.

CHAIR: I think the answer is that it needs rethinking in smaller communities, but the process is healthy.

Magistrate HEILPERN: Yes, that is it.

CHAIR: Another issue that has come up several times in our work relates to the assessments and recommendations done by Probation and Parole. First of all, there seems to be some influence that there is a fair amount of value-based assessment.

Magistrate HEILPERN: I have not found that. I have no criticism of the quality and standard of reports that I get. I am blessed that Probation and Parole officers by arrangement come to every list day on my circuit. They are there and I can get immediate reports; and I find them to be objective and not value based. In fact, I find them to be a really useful tool in sentencing.

CHAIR: Is there any advice for the Committee about the criterion utilised?

Magistrate HEILPERN: No. The lawyers who stand up and talk on their behalf are always painting the picture as well as they can, which is as you would expect them to do, but often the Probation and Parole report brings things down to reality little. I find it most useful.

The Hon. GREG PEARCE: A witness before the Committee raised a very specific point about community service orders [CSOs] and a lack of discretion in magistrates to make a CSO order if the probation report does not support it. Is that an issue?

Magistrate HEILPERN: Yes, it is an issue. When I say it is an issue, there are a lot of reports where community service is not appropriate. It is becoming, fortunately, rarer than it was because the work is not available. There are two kinds reports where it is problematic. The first is where there is work available but not light work. There are a lot of people who may be pensioners or have some minor—I was going to say "disability" but that is not really necessarily so—ailment that means they cannot perform heavy duty work. There seems to be a problem with enough light work being available and so sometimes people miss out on CSO is for that reason.

The second problem is just a lack of availability of any work and that happens from time to time. At the last I heard, for example, at Bermagui there was no community service work available because they did not have any sites to have people go to. That is a big sentencing option that is removed. I think community service is a lot more powerful penalty in a country town. People are seeing doing the work. It is not really about shaming, necessarily, but people know what they are doing. I think it is a very valuable tool in the armoury.

The Hon. GREG PEARCE: The specific point that was made was section 86 (4) of the Crimes (Sentencing Procedure) Act 1999 States:

A court may make a community service order only if an assessment report states that in the opinion of the person making the assessment is that the offender is a suitable person for community service work.

It is not the issue of the availability of work; is the suitability of the offender. The specific proposition was that that we should look at recommending the repeal of that section to leave the magistrate with extra discretion to do that.

Magistrate HEILPERN: I would be cautious about that. The usual reasons that persons are not suitable is because they have messed up orders before and not done them; they will not comply with supervision and attend; or the offence is not a suitable offence. I am sure we do not have need to think too much of sending someone to school to paint the chairs who has been caught selling drugs at the school. There is a range of reasons why people are not suitable and I would be cautious about an approach where it is left totally to the magistrate. Apart from anything else, we do not have to go out there and try to supervise these people. There have been times when I have had a reports saying, "This person is not suitable" and I have questioned it; I have spoken to the Probation and Parole officer in court and they have either justified it or agreed to have another look at it, and the person goes and does the community service work. So, for me personally it is not a problem.

CHAIR: I have another question in relation to that: Witnesses have told the Committee that people who were previously sentenced to more than two years imprisonment are excluded from community sentencing options were, even if I have been a good behaviour for 10 years or so.

Magistrate HEILPERN: That is news to me. With periodic detention, yes, certainly that is so. That does not really affect me on my circuit because I think I would probably have one or two periodic detentions in a year.

CHAIR: If by some miracle suddenly all these wonderful places appeared, would that cause trouble for Aboriginal persons?

Magistrate HEILPERN: It could. Yes, it could

CHAIR: A solicitor told the Committee in one town in the north-west that he perceived that people received a lesser punishment because there were fewer choices, not harder sentences, such as being sent to gaol.

Magistrate HEILPERN: It works that way sometimes. Sometimes I do err on the side of under-sentencing, as opposed to over-sentencing when a middle option is not available. If I could use this as an example: You have an alcoholic, violent man who continues to breach is apprehended violence orders [AVOs] and the reason is because he is drinking—apart from all the other reasons that cause domestic violence in those situations. Periodic detention [PD] is very effective for persons in those circumstances because they do not lose their job, they do not lose their house, their car or their marriage. They do not lose everything because they are sent to Goulburn—that in itself is an isolation problem because it is so far away and there is no public transport—but instead they spend their weekends away, that is, giving their Friday and Saturday night drinking buddies a bit of a miss, and giving the family unit at chance to have a quiet time on Friday and Saturday nights.

That is a tailor-made option, in my view, for someone in that situation. What to when there is no periodic detention available? I either place him on a further bond—for what? He has breached them before—or I go the whole hog and sentence him to a period of imprisonment. Then, for how long sure that be? Should it be nine months or 12 months so that it breaks any nexus he has between his family and himself? Should it be three months, two months or one month? The whole time in the back of my mind I am thinking: Gee, I wish I had PD. That is an everyday experience for me. Sometimes I do under-sentence or impose a sentence that is more lenient than I am most comfortable with; sometimes I over-sentence, and impose a sentence more severe than I would otherwise feel comfortable with. It goes both ways.

CHAIR: Another thing that Committee learned in Sydney was that Centrelink actually takes the two days dole payment.

Magistrate HEILPERN: I only found that out recently. I found that out because I had a person who was, lo and behold, suitable for periodic detention in Bateman's Bay yet the recommendation was against that. He was a single person who was on a pension or a benefit, and a substantial proportion of his income went on rent and food. Just because he was going to PD did not mean that he did not have to pay rent for those two days, and the recommendation was that he not go to PD because he would end up being homeless if he did. That seemed a shame to me. I looked up the legislation and, from memory, it is in fact Commonwealth legislation that enforces that provision.

CHAIR: We are not interested in having a political fight about it; we considered that perhaps we should make a recommendation in that regard.

Magistrate HEILPERN: yes, it would assist me in sentencing if that provision were not there.

CHAIR: Not want to talk about home detention but I think I will ask the Ms Lee Rhiannon to start it off. The Committee has had some very interesting advice from members of the community about it.

Ms LEE RHIANNON: I would like to hear your views on home detention.

Magistrate HEILPERN: I have never sat at a court where home detention has been available. It is simply not available in any of the rural areas that I have sat in. In principle, I think that the more sentencing options I have the better. Of course, there are obvious things about home detention but one has to be cautious about. The other thing is that the actual sentencing is quite cumbersome. You actually send them to a period of custody and then they are assessed for home detention. You adjourn it and they are assessed for home detention. That is a quite cumbersome process so far as adjournments are concerned. But so far as home detention is concerned I do not have a view because I am so utterly inexperienced with it.

CHAIR: Different groups of people say it is good and some people, when we were talking about the concept, were absolutely terrified of it. It was Aboriginal persons in small communities who had the most negative response, particularly out west where they were concerned about being locked in their houses in the heat.

Magistrate HEILPERN: Yes, I can see that as being a huge problem too, and I think we have to be imaginative. Fortunately, as an academic, I got to travel around a lot and I went to prisons

all over the world for the purposes, particularly, of writing my book on sexual assault in prisons. Some of the models in third-world countries—I hesitate to suggest that western New South Wales or some of the rural areas of the State are akin to third-world countries, but there are some similarities. For example, in the Solomon Islands the idea of home detention is that the home comes to prison. That means that the family go with the offender and they all live in a village. True, it is fenced in but the family is allowed to come and go.

Similarly, in southern American States, most southern American States have family detention, as they called it, where whole families are involved. I know it sounds horrible but it keeps the family unit together and it is effectively home detention for the offender because the kids go to school and the wife or husband, whoever is not the custodial person, goes off to work. That works in Papua New Guinea and in many other places. Detention as the concept does not just mean a person is locked in their own home. One could think of pretty imaginative ways of doing it, particularly in Aboriginal communities.

The Hon. GREG PEARCE: the Committee has heard from a number of witnesses complaining about section 12 bonds for suspended sentences and the issue of double whammy, in the sense that judges and magistrates, if they impose those bonds, are likely to increase the period of time and the problem of offenders not appealing and being in jeopardy for the whole term of the suspended sentence. Do you see that as an issue that needs some work?

Magistrate HEILPERN: This is the butter knife or sword argument?

The Hon. GREG PEARCE: Yes.

Magistrate HEILPERN: As to whether a suspended sentence ought to be only a butter knife or a sword—a butter knife meaning that the longer the time goes on, as long as you have been good for, say, and nine of the 12 months you are only in jeopardy doing three months, as opposed to the sword, whereas if you commit an offence after nine months, down comes the sword and you do the whole 12 months. You may know that the Chief Magistrate made a submission to the Sentencing Council. I also made a submission to the Sentencing Council. George Zenkowski and I have jointly written a paper on the issue of section 12 and I will be happy to provide the Committee with a copy of that. It is a problem. The recommendations of the Sentencing Council go a long way to curing the problem.

I know also that to the Criminal Law Review Division recently asked for submissions from interested parties on that same issue, to resolve the problem that you have referred to. I know that the Chief Magistrate, on behalf of magistrates, made a submission to the along exactly the lines that you are getting at. In other words, freeing up and making more flexible section 12 orders and what happens when there is a breach of them. I think that that is good. I always remind myself that section 12s only came in three years ago I think, perhaps four years ago. I know that they have been around before but they are relatively new and I think more flexibility in them is inevitable.

The Hon. GREG PEARCE: The driver's licence hurdy-gurdy, the only ideas that anyone has really put forward were a system of working off the fines by CSOs or something like that or—and perhaps "and"—a special category of licence. I am not sure what sort of category that would be and what you would have to do for it, but a good behaviour licence sort of thing. Given any views on that issue?

Magistrate HEILPERN: Two points, I think, yes. I have lots of comments on that issue. Last year at our Magistrates Conference and Aboriginal liaison person with the Roads and Traffic Authority [RTA] came and spoke to the magistrates. What she said was that if you were going to design a system to stop Aboriginal people, and other groups in the community, from getting a licence, this is how you would do it. Number one, you would type the fines; number two you would make sure their parents had to have a licence, a registered car and no fines; and you would have staggered money required—and big amounts. I have two children who I have got through to P-plates and it costs a fortune.

It is almost as though it is designed to be inaccessible. It has to be freed up and there has to be recognition in the country that without a licence a person cannot get a job. It is that simple. When I

disqualify people it means unemployment for them. Every time I write the word "disqualified" I think to myself "unemployed". The mandatory minimum periods make it very difficult. I know that magistrates have been criticised by the Supreme Court and in other areas for giving too many section 10s for drink-driving matters and for other traffic matters. I can only say: sit in the court and listen, and think about what you would do! It has to be freed up, it really is a cycle that effectively means that a whole set of people are missing out on their licences.

One area that I feel most strongly about is young people and fines. A few weeks ago my son's group of friends were talking about their fines. I listened in, I thought they were talking about not wearing a helmet while riding a bike, or not having a bell on the bike, or consuming alcohol in a public place, and those sorts of things. They got small fines, which they do not pay, that then become large fines. When those young boys turn 17 or 18 and try to get their drivers licence, those fines are huge because of the process, they are insurmountable. Then they are not able to have a drivers licence. Somehow that needs to be freed up.

The Hon. AMANDA FAZIO: It has been put to the Committee that penalties for driving without a licence or driving while disqualified are out of kilter with some other traffic penalties; for example, high range drink-driving. Do you have any comment on that?

Magistrate HEILPERN: Unlicensed driving is a very common offence in the country, because traditionally kids have ridden their motorbikes through State forests and other areas that these days are called road-related areas. A lot of people, young and older, tend to get tickets for riding and driving while unlicensed. For a second offence of unlicensed, there is a mandatory minimum disqualification period of three years. That means I have no discretion; if I am going to convict it is three years disqualification. The minimum mandatory penalty for a first offence of high-range PCA, which everyone would agree is a more serious offence, is 12-months disqualification. It has struck me that that is a trifle odd.

The Hon. GREG PEARCE: Do you have anything to say on breaches of community service orders, or bail orders, that the Committee should consider?

Magistrate HEILPERN: Two pretty different areas. Quite a few people do not comply with their community service order, they breach a community service order, and generally speaking they know what is on the cards. As I said, we are blessed with very good Probation and Parole officers. Often when they come to court the Probation and Parole officer will say, "Give him another try", and I say, "Next time you offend, you go to gaol", and sometimes they do. The system seems to work quite well. I have not had any problems with that. Breaching bail is a big area; there are lots of problems with breaching bail. People breach their bail. We have the Staying Home, Leaving Violence project which should assist, I think. It lays some fairly clear ground rules. It is a problem.

The Hon. GREG PEARCE: Sentencing options for the mentally ill is a much bigger problem.

Magistrate HEILPERN: It is enormously frustrating. I regularly form the view, either by way of the solicitors or my own observations, that people who appear before me are suffering from severe mental illnesses when they sit in the dock and bark like a dog, or say that they are Osama bin Laden, or that the walls are talking to them. Without any medical basis I form the conclusion that they may well be suffering from mental illness. I then send them to the closest mental hospital. Generally speaking, they beat the police truck back to town, because the police probably have regulations about meals and the like, they have to stop, whereas the person I have sent to the mental hospital is generally back in town before the police get back.

That is enormously frustrating. It is a sentencing options issue, because I can get a very good psychiatric report if someone is remanded in custody. The reports by the Prison Health Service are fantastic. They have consultant psychiatrists. When I send someone to a mental hospital—incidentally the closest one is Goulburn—I get back a one-line page saying, "This person is not suffering from mental illness." The person is already back in front of me, a foaming mess. It is a real problem. What tends to happen to those people is that I refuse them bail, because I believe they are a danger to the community and to themselves in their current state. They go to Long Bay prison hospital, and there they get treatment. My preferred option would have been that they be treated as mad, not bad. But that

option is very often not available to me. I am sure that that is an experience that other people have stated to you.

Ms LEE RHIANNON: How should the law change to break the cycle we are seeing with fines and ongoing charges and often imprisonment for driving offences?

Magistrate HEILPERN: I can understand the policy reason why fines are connected to licences and I am sure it leads to greater compliance in some areas where people pay. I know that if I incurred a fine I would pay it so that I did not lose my licence. I just do not know how you draw a distinction between that and communities where the ability to pay the fine is just not there. Some speedy charges carry a fine of \$1,500. For a lot of people in rural communities they will never see that amount of money. That means that for the rest of their life they will not have a licence. I think we need to move somehow from an economic method of enforcement to some other method of enforcement: I do not know what it is. I am sorry I can be more helpful.

Ms LEE RHIANNON: I gather that the periodic detention centre in Wollongong is not used?

Magistrate HEILPERN: The major reason that people are not eligible for periodic detention here is because they say that there is no transport available; and that is true. No transport is available. There is a bus that people can catch from Batemans Bay. Corrective Services provides a bus, after some considerable discussion about it, from Batemans Bay to Wollongong, one way, on Friday afternoons. That is it.

CHAIR: Do they walk home?

Magistrate HEILPERN: I do not know how they are meant to get home, because there is no public transport. The buses are private, and very expensive. And I am talking about the people I sentenced to periodic detention, again it is an economic base. If they have money or family support to drive them up there, every weekend, and go and pick them up at the end of the weekend, they can do periodic detention. In the absence of that, they cannot.

Ms LEE RHIANNON: If there was a bus that went down and back again would that give you more flexibility?

Magistrate HEILPERN: Very much so. I can imagine a little periodic detention [PD] bus that starts at Eden on Friday afternoon and picks up people all the way up the coast, and comes back down.

Ms LEE RHIANNON: How many people are you talking about?

Magistrate HEILPERN: How many people would I sentence to PD if the bus were available? Enough to fill a minibus.

The Hon. AMANDA FAZIO: Some of the information we have looked at has suggested that for people who have to travel those long distances to do periodic detention, their clock should start ticking when they get on the bus, not when they get into the door at the centre. Do you think that is a fair proposal?

Magistrate HEILPERN: Yes, I do. Ideally, though, stage one of PD is being locked up for the weekend, but people quickly move to stage two. I am not sure after what proportion of the sentence, but after a proportion. Stage two is effectively community service work. I know that there is an economic reason, but I wonder whether anyone has ever done the sums of having a PD centre here, for example, at Bega. Why not? There was some talk some 12 or 18 months ago that one could be built at Binji. I know that Probation and Parole were considering that, but it seems to me that if PD is going to be available, it could be in Wollongong. Yes, we could take that into account, and I do take into account the travel when I sentence someone to periodic detention, but the sentence is necessarily lower because of the amount of travel if they lived in Wollongong. Having said that, having a PD centre here would be ideal.

The Hon. AMANDA FAZIO: According to section 96 of the Crimes (Sentencing Procedure) Act 1999, the court must ensure that all reasonable steps are taken to explain to the offender the offender's obligations and the consequences if the offender fails to comply. Do officers from the court read the requirements of the bond to the person if they have literacy problems? How do you ensure that people who cannot read can understand their obligations when on bail or undertaking a community sentence?

Magistrate HEILPERN: Most people on my circuit are legally represented, but not all. I tend to rely upon the lawyers who appear. It is submachine gun law on list day. People stand up, they get their sentence, and my normal manner is to say, "I am sentencing you to a 12-month bond to be of good behaviour under section 9. If you breach that bond you will be brought back before the court and resented on this matter. It is a condition of that bond that you accept the supervision of Probation and Parole." I probably say it far quicker than I just did, and without any eye contact. Whether they pick it up or not I do not know. They then go to the court office and the registrar or the court officer then reads out the bond and explains it to them and then they sign it.

Probably in court that section is not complied with to an appropriate degree because of the numbers that we have to deal with. Having said that, there is a so-called back up, in that the court does that when they sign it in the court office. I am sure that some people are so furious with how they have been dealt with by the court that they are screaming and ranting and raving and it is very hard to get the message across. But it certainly covers those who are illiterate, because it is read out to them at the court office.

CHAIR: The Committee got the impression that people do not actually understand that a breach of the bond can lead to them going to gaol, particularly in relation to the suspended sentence, the section 12.

Magistrate HEILPERN: I can only say that my practice is that I always make it perfectly clear—I am sure that there are times when I do not—but the general rule is I tell them that if they breach the bond they go to gaol. I specify a non-parole period and tell them if they breach it how long they will go for.

CHAIR: We have heard of suspended sentences for three years in strange circumstances in another world and of the difficulty of appeal. People just think, "Thank goodness I am not in gaol" and take off and they do not realise the imposition until later. Is there a resolution to that?

Magistrate HEILPERN: I can imagine that that is a problem. Our bench book gives a very clear explanation. I am on the education committee, a committee of the Chief Magistrate, and part of that involves organising education for magistrates. Part of that involves pretty detailed analysis of the bench book. We carry it with us and it makes it clear that it has to be explained to people when there is a suspended sentence. I am not saying that that always happens, but it should.

The Hon. AMANDA FAZIO: Now that you have mentioned that you are member of the education committee, one of the questions we planned to ask you was: In your experience does sitting in a court in a remote area make it difficult to attend to judicial training? What other support would be useful for local magistrates in relation to consistency of sentencing?

Magistrate HEILPERN: I have no difficulty whatsoever in getting to training nor to the education committee meetings. We have a conference that is held in the southern region every year, and a northern region conference every year, and we have metropolitan conferences. I have taught at and attended all of those, and it is insisted that we go. Indeed, it is insisted that we go. So there is no difficulty whatsoever from the perspective of an isolated magistrate getting to those places. Would you remind me what the second part of question was?

The Hon. AMANDA FAZIO: What other supports do you think would be useful for local magistrates in relation to consistency of sentencing?

Magistrate HEILPERN: All magistrates, and to the best of my knowledge all officers, have access to the Judicial Information Referral Service [JERS], which has on its all the sentencing statistics. I do not whether you have seen that working. It is a really terrific system. You put in a

section—for example, section 61, which is a standard assault—and then you put in some profile details of the offenders, their age, their number of prior convictions, whether they pleaded guilty or not, or whether it was after hearing, and you push the button and it analyses the sentences. It tells you all the sentences.

For example, an assault would come up with several thousand sentences, and it gives a graph of what penalties were applied for each of the offences, with some sort of curve that applies. But you can at least see the standards that are applied by other Local Courts. We have that for every single offence. We can also look at the District Court one, so that we can make comparisons, because obviously those would be more serious types of assaults. So we do have a really good education resource, and we all have notebook computers that allow us to have access to that. That should, and does, encourage consistency in the sense that we know what everyone else is doing all the time on an ongoing basis.

The Hon. AMANDA FAZIO: I like teleconferencing and video conferencing and web cam for all areas. Does the Bega Local Court use teleconferencing facilities? If you do not, what services in your view could be provided effectively using teleconferencing types of facilities at the courthouse?

Magistrate HEILPERN: None of the courts that I have ever sat in have had teleconferencing, so I have never used it and I do not know what it is like. There are a lot of reasons why, for example, severely mentally ill prisoners should not be transported down to court for every mention date. It is no doubt a great strain on them, and it is certainly a strain on Corrective Services and on me and my staff to have to travel down. Sometimes it is the only chance people have to see their newborn baby, or their sister, even if it is for five seconds in the back of the court. So there are certainly times when it would be advantageous. We do have facilities for remote access for witnesses, so that, for example, child victims of sexual assault can sit in a safe room and give evidence via video link. We have that in Bega—but not for prisoners somewhere else, or for other sorts of conferences.

The Hon. AMANDA FAZIO: If you were sentencing someone to a community service order or a suspended sentence, part of which was a requirement that they had to go to some sort of behavioural management courses or whatever, and they were from a particularly isolated town or village, would you be satisfied if they attended those by video conference or web cam conference?

Magistrate HEILPERN: I cannot force Corrective Services or Probation and Parole to provide anger management programs or behaviour modification programs or drug and alcohol programs as part of somebody's bond. My usual wording is: You are to accept supervision of Probation and Parole and attend all counselling, anger management, et cetera as directed by them. At the moment, I would be surprised if more than 5 or 10 per cent ever got that. Anything that would increase that number would make me happy.

The Hon. GREG PEARCE: That indicates that you do not really take the potential for that sort of counselling into account very often when you are sentencing, because you cannot.

Magistrate HEILPERN: If I knew that they were going to be getting it, then it would certainly make it more effective. The problem with the Probation and Parole one, as I understand it, is that it is a 13- or 14-week program, and you must start in week 1; you cannot join the program in the middle of it. So you end up with such a small pool that it is hardly economical or practical for them to run them. The short answer is that I do not take into account that they will certainly be getting some form of counselling or assistance.

The Hon. GREG PEARCE: In an ideal world, is that something that you would like to have the power to order?

Magistrate HEILPERN: Yes.

The Hon. GREG PEARCE: Even if it meant them relocating away from their own local community?

Magistrate HEILPERN: When it comes to drug and alcohol counselling and anger management, yes, I would like to have that power. If I could divert to drug rehabilitation for one

moment. We do not have any drug rehabilitation centres here. The closest are at Canberra. There was one at Nowra, but it is closed at the moment. In an ideal world, it should be easier for me to get somebody into drug rehabilitation or residential drug rehabilitation than to send them to prison, but in fact it is not. So often I get, "Can we have another adjournment, because we are still trying to get him in somewhere?" Et cetera. Eventually, we all lose patience or whatever. Odyssey House is a good example. If we had something like that down here, that would be fantastic. But, geographically, it does not seem to happen.

The Hon. GREG PEARCE: We have heard quite a bit about the stolen car syndrome. We have been told that a lot of this stealing is not for joyrides or car rebirthing, but rather as a form of transport. Is that consistent with what you see?

Magistrate HEILPERN: Sometimes it happens. We had someone at Batemans Bay last week get caught in a stolen car. They got bailed, and for some reason they still had a key and they went out of the police station and took the car back, and drove off to Canberra. So, yes, I have noticed that a significant proportion are stealing cars for the purpose of getting from point A to point B, as opposed to joyriding or rebirthing or some financial reason. It happens.

The Hon. GREG PEARCE: What sort of recommendations would you like to see us come up with—not that we will promise to make them?

Magistrate HEILPERN: I am sure you will! That sentencing options be equalised.

Ms LEE RHIANNON: Across the State.

Magistrate HEILPERN: Across the State. We get a lot of pilots. The Drug Court is a really good example. I know MERIT is being wound out statewide. The Drug Court is a really good example. The valuations that I have read make you cheer. It is universally praised as a concept. Well, if it works, let's get it here. That is what I would like to see—an equalisation of sentence. If you are going to be allocating resources, and if Aboriginal overrepresentation is a priority, then allocate the resources to where Aboriginal overrepresentation actually is occurring. I am sure you got that message when you were at Bourke and Brewarrina as well.

CHAIR: And Inverell.

Magistrate HEILPERN: Right.

Ms LEE RHIANNON: How do you see police operations here? Are the operations consistent between Aboriginal and non-Aboriginal communities?

Magistrate HEILPERN: I have not noticed any inconsistency that I could comment on. I think police in rural areas, as opposed to those in cities, tend to be reactive. We do not seem to have the operations that I see on television on the streets of Sydney, where they just go out and do mass policing. Here, the police tend to be reactive, but I certainly have not noticed any inconsistency here.

The Hon. AMANDA FAZIO: It was put to us earlier today by some other witnesses that if you were driving a beat-up old car and wearing a beanie and a South Sydney rugby jumper, you were more likely to be pulled over for next to nothing than if you were driving around town in a suit and tie.

Magistrate HEILPERN: Is that not universal?

The Hon. GREG PEARCE: Absolutely—for Souths supporters!

Magistrate HEILPERN: But is that not the same whether you are driving in Bondi, or Penrith or Bega?

Ms LEE RHIANNON: So we are talking about your economic position in life, rather than your race?

Magistrate HEILPERN: I do not know.

CHAIR: Or one's attire.

Magistrate HEILPERN: I see the end result. But, on a serious note, with young people, for example, from my experience out west, there are really only two options. Either the young white children do not commit any crimes at all, or there is an inherent problem. I do not know what the problem is, if there is a problem, because I only see the surface of it. Young people get diverted so much from the legal system now that we only see the pointy end. So I do not know. I have not picked it up.

CHAIR: I thank you very much for coming to talk to us.

Magistrate HEILPERN: Pleasure.

CHAIR: If we have any further questions, do you mind if we contact you? We are to report on this reference in October, but we have already extended the date. As the complexity increases, we could extend it further.

Magistrate HEILPERN: Any time.

(The witness withdrew)

(The Committee adjourned at 5.30 p.m.)