

A publication of  
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## ALS CALLS SUMMIT ON SOCIAL PROBLEMS

### CEO rejects NYPD-style anti-crime strategy

ALS Chief Executive Officer Dennis Eggington is critical of the WA Police Service for introducing an aggressive new 'anti-crime' strategy without consultation with the ALS or other interested Aboriginal organisations. He fears that the crackdown will further strain already fragile relations between police and the Aboriginal community.

He said police in Perth already had a lot of power and control over people. "We've been doing our best to patch up links with the police, but if they go in harder on crimes like bad language and street drinking then it's going to cause a breakdown in that relationship" he said. He predicted that Aborigines, already over-represented in Western Australians prisons, would be easy targets for police.

The back-to-basics approach is based on a 'zero tolerance' strategy developed by the New York Police Department. It was introduced without publicity by the WA Police Service in May of this year. Acting Police Commissioner Brennan was reported in *The Australian* as saying that the strategy would focus police attention on basic breaches of the peace such as street-drinking, graffiti writing, obscene language and urinating in public. Under WA law, offences of obscene language and street drinking constitute disorderly conduct which carries a maximum penalty of six months jail.

The Premier Richard Court recently visited the US, with senior WA police officers, to examine ways of operating that have reportedly made New York the safest large city in the US, reducing the crime rate by 38% over three years. Police claim the local campaign has resulted in a reduction in the incidence of low-level drug dealing in inner-city areas.

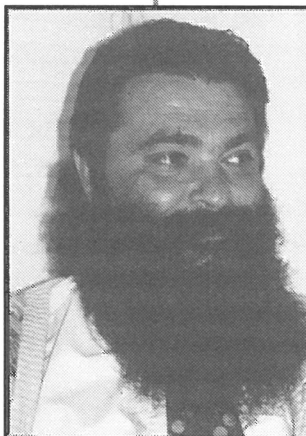
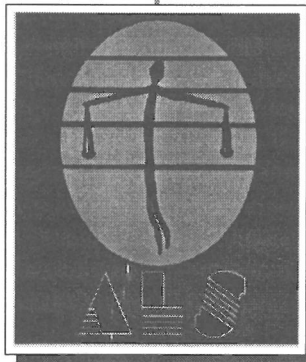
Aboriginal leaders from throughout the Perth metropolitan area are to be called together for an emergency summit to examine serious social problems affecting the Aboriginal community, and to make urgent recommendations to Government. ALS CEO Dennis Eggington said many problem areas had reached crisis point and the community needed to consider them and come up with culturally-appropriate solutions.

The summit would represent the most significant gathering of influential Aboriginal identities ever brought together at one time. Aboriginal representatives of metropolitan Government and semi-Government agencies, recognised community leaders, and selected others, would be invited to participate. Differences would be put aside so that, for the first time, Aboriginal principals and elders could address, as a united group, the many serious problems affecting the well-being of the Aboriginal community.

Agenda items would include over-representation in the criminal justice system; homelessness and inadequate housing; unemployment and employer resistance; inappropriate educational processes; alcohol and drug abuse; health issues, societal stereotyping; and racism.

Mr Eggington said participants would be invited to form sub-committees, based on areas of shared expertise, to examine specific problems and to recommend remedial actions to State and Federal Governments. A high-profile sub-committee would be formed to assume a watching brief over Government responses.

A major focus of the summit would be Aboriginal young people. Lifelong experience of racism and rejection had caused significant numbers of Aboriginal young people to develop a sense of deep isolation from mainstream society, accompanied by feelings of (continued page 4)



Dennis Eggington

## Civil Unit bows out of medical negligence claims and commercial litigation

The Executive Committee of the Aboriginal Legal Service of Western Australia (Inc) has resolved that the Civil Unit should no longer be involved in medical negligence claims because they could require a specialised degree of legal expertise and because they are extremely expensive to fund.

Civil Unit head Paul Kennard said it was common ground between the ALS and ATSIC that the service should not undertake cases where it did not have the financial means or human resources to do the job to the required professional standard. This applied in criminal negligence cases and also to complicated areas of commercial litigation.

Mr Kennard said the thrust of ATSIC thinking was that ALS's around Australia should be accountable for the funds that they were granted, and that limited financial and human resources should be deployed in the areas where most need was demonstrated. This would tend to exclude matters of a commercial nature where parties had the means to seek legal advice and representation from mainstream legal service providers.

In the ALS draft policy for the provision of legal services, which had been submitted to ATSIC, one of the platforms that the ALS had adopted was to provide services to people for whom English was a second or third language and to those living in rural and remote areas where legal services were virtually non-existent. It was the policy of the ALS to extend legal services to all indigenous peoples and not just those resident in cities or towns.

As an example, Mr Kennard cited the case of an infant plaintiff in a claim for damages for personal injuries sustained in a motor vehicle accident in which the plaintiff suffered severe brain damage and was now dependent on full time care for his basic needs. At the time of writing he was being cared for at a remote Aboriginal community and the quality of care he was receiving was commended by various visiting professionals. At a pre-trial conference in February 1997, the defendant (SGIC) offered \$900,000. The claimant is now 13 years and the offer was intended to cover his future needs for the rest of his life.

The offer was considered too low and there were issues which needed further investigation and instructions from the community. An ALS solicitor and the plaintiff's barrister visited and took details, the result of which was an increase in the offer, at the next pre-trial conference, of \$500,000. The case continues. It is possible that the final figure will be higher.

## ALS TEAM CONSULTS ON WOMEN'S LEGAL NEEDS

The Aboriginal Legal Service of Western Australia (Inc) is consulting with indigenous women across the State about how legal services for indigenous women should be developed. It is to prepare a strategic plan for delivery of such services on behalf of the Women's Legal Service WA (Inc).

The six-month project started in May and will run until the end of October 1997. It is being coordinated by ALS solicitor Robyn Ayres and a steering committee comprising five indigenous representatives and two from the WLS. The timetable for the project covers five stages of establishment, identification, contact, consultation and reporting. The project is currently in the consultation phase.

Five Aboriginal project officers have been employed on a short-term basis in Perth, Geraldton, Broome, Kalgoorlie and Port Hedland to assist with the consultations. Aboriginal women and their organisations, communities and groups are participating in meetings and workshops to discuss what their major legal issues are, the legal services currently available to cope with these issues, the problems and gaps in delivery of services, and how best to develop legal services for indigenous women that will take account of such problems.

The WLS received about \$217,000 from the Commonwealth Government for the provision of legal services to indigenous women. The WLS Indigenous Women's Project is seeking submissions for pilot projects that will provide or improve access to legal services.

The deadline for submissions is September 30, 1997. Further information can be obtained by contacting Robyn on 9336 2849.



ALS Solicitor Robyn Ayres coordinates the WLS project

## SPIRITUAL BELIEFS GIVEN PRECEDENCE IN COURT RULING ON AUTOPSY

ALS Civil Unit solicitor Gabriel Patrick has successfully convinced a judge in the Supreme Court that Aboriginal spiritual beliefs can and should be taken into account when deciding whether or not an autopsy should be carried out on a deceased indigenous person.

It is the first time a Supreme Court Judge has banned doctors from conducting an autopsy because of the family's spiritual belief system. The case involved the death of a 12-day-old baby from what were believed to be natural causes at his parents' home in Kalumburu in the Kimberley region of Western Australia.

Mr Patrick, in the first successful challenge to a Coroner's ruling under the new Coroner's Act, arranged for the parents of the child to present affidavits to the Supreme Court within the mandatory two-day time limit. He told the judge that the police had ruled out foul play, and that the family, belonging to the Kwini tribe of Kalumburu, wanted the body left intact.

The child's father told the Court: "If the body of the child is cut up, then that will mean that his spirit will not rest according to our belief. It is the Aboriginal belief also that the spirit will be roaming around and will not enter the Dreamtime".

An elder of the tribe confirmed that it was the Aboriginal cultural, spiritual and religious belief that post-mortems should not be performed at all for the reason that the spirit of the deceased could not enter the Dreamtime if the body was cut up.

He told the Court: "I am aware that autopsies and post-mortems are carried out throughout the country without consulting the families concerned. This is done because the Government and the law-makers do not fully appreciate the feelings and beliefs of the Aboriginal people in general.

"I can definitely say that the immediate family of the deceased, the extended family, and the Kalumburu community will go through a traumatic and horrifying time because of their beliefs, if a post mortem is performed on the body of the deceased".

The judge, in ordering that no post-mortem be performed, stressed that no general precedent was being set.

## ALS not a profit making body

ALS Court Officer Ben Woodley is concerned by what seems to be a general consensus in the local Aboriginal community that the ALS is a profit-making organisation. This has caused some of them to question why the ALS is being housed in the new Lotteries Commission House in South Hedland, to the exclusion of non-profit making organisations. Ben is keen to let everyone know that the ALS is definitely NOT a profit making concern. It is funded under strict guidelines that require it to be fully accountable for funds that it receives solely for the provision of legal services to Aboriginal communities throughout Western Australia.



## COMMUNITY LIAISON OFFICER ASSISTS ALS CLIENTS

Community Liaison Officer Gayle Singer-Edwards (pictured) provides a service to ALS clients dealing with tenancy issues (particularly Homeswest), financial counselling and offering a referral service to appropriate agencies. She works on the principle that people often experience hardship due to inadequate information or support by departments or services that impact on our daily lives. It is better that problems are sorted out before they require legal intervention.

In addition, Gayle offers an information service to educational institutions, either sending materials on student request or addressing classes and groups about aspects of Aboriginal history and issues. It is important that students or schools requiring this type of assistance put their requests in writing at least two months before the service is required. There is no fee involved.

## Bush meeting planned for West Pilbara claimants

The ALS is planning a 'bush meeting' of all Native Title claimants in the West Pilbara region to let them know that the ALS is providing interim Representative Body services within the West Pilbara, and to seek direction from them as to how they would like to progress the work being done on their claims.

As reported in the August edition of ALSWA, the ALS was approached by ATSIC to provide interim Representative Body services for a six-months period. At the end of the period ATSIC will consider forwarding Native Title claims on to a new Representative Body for the region.

Land and Heritage Executive Officer Glenn Shaw says the additional work being undertaken by the ALS would mean a huge increase in the workload of the Land and Heritage Unit as well as the ALS Representative Body. However, it would ensure that traditional owners on the ground in the West Pilbara will be able to feel comfortable that their claims will continue to be worked on and their rights and interests protected.

Mr Shaw said there are many matters that would need to be attended to during the six-month period, but the first would be to organise a bush meeting of all claimants. The ALS Representative Body and the Land and Heritage Unit would also have to work closely with at least one private legal firm based in Perth which currently has management of a claim, to ensure that a quality service is provided to the claimants involved.

He said it was hoped that the ALS could advance the claims in the West Pilbara to the extent that, when they were handed to the new Representative Body, they would need little further work. This would require the ALS to commit substantial human resources to the project. A field officer had already been employed in the region and he was organising the bush meeting which would take place in early September.

The service being provided through an agreement with the former Representative Body (West Pilbara Land Council) and ATSIC, was a first for the ALS. It would enable the ALS to demonstrate that it had the ability to assist in times of crisis, and to provide a service that ensured traditional owners were not left stranded.

Mr Shaw said the ALS would keep people informed of developments on matters related to Native Title at State and Federal level through the ALSWA newsletter. This would involve regular updates on the passage of the Prime Minister's 10 point plan and amendments through the Parliament.

## ALS PLANS SUMMIT MEETING

(From Page 1)

frustration, resentment and rage. This was manifesting itself in serious anti-social, criminal and self-destructive behaviour. Many Aboriginal youngsters saw mainstream society as uncaring, unfriendly and over-critical. Their feelings of 'being on the outside' had been compounded by the Hanson factor which had unleashed a tide of racial abuse. What had been covert was now overt.

Individuals and groups were doing what they could to assist and reassure Aboriginal young people, but a combination of societal indifference and bureaucratic ineptitude was proving too strong an opponent. It was time for the Aboriginal community to take charge. Details of the summit will be available after organisational arrangements are finalised.



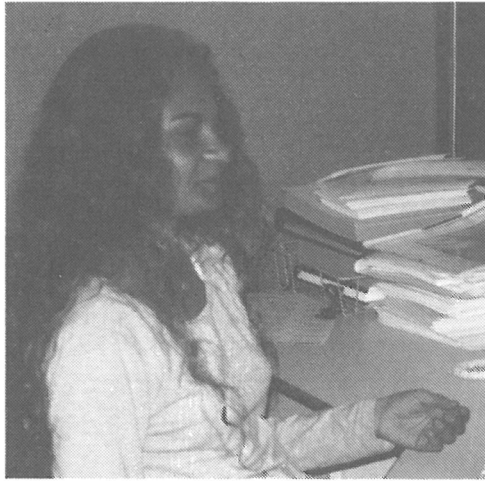
Ombudsman ALO Joe Wallam with Dennis Eggington

## OMBUDSMAN TRAINING FOR ALS COURT OFFICERS AND SOLICITORS

Joe Wallam, recently appointed Aboriginal Liaison Officer with the office of the State Ombudsman, is planning a joint project with the ALS that will see all Solicitors and Court Officers fully informed in relation to the service that the Ombudsman's office can provide to the Aboriginal community in Western Australia.

Mr Wallam met with ALS Chief Executive Officer Dennis Eggington last week to plan a series of ALS staff workshops that will explain the operations and processes of the Ombudsman's office in Perth, and how Aboriginal people can access the service if they are having difficulties with State Government departments and other bodies.

The Ombudsman investigates complaints about things that go wrong with Government departments; local authorities such as city, shire or town councils; (cont page 12)



# STAFF PICS



ALS staff from top left:  
Court Officer  
Beverley Burns,  
DEET Trainee  
Priscilla Garlett;  
Clerical Assistant  
Damien Yarran,  
Secretary  
Diane Jones,  
Secretary  
Dee Rutherford  
(with Peter Matera's  
signature),  
Solicitors  
Marcus Holmes  
& Scotty Hammond,  
and solicitor  
Paul Dixon.



# JUVENILE JUSTICE - OUR CONCERNS IGNORED

*Address by ALS CEO Dennis Eglington to Amnesty International during Social Justice Week*

Crime, and in particular juvenile crime, has been the dominant social policy issue in Western Australia over the past decade. It consistently ranks among the high priority issues on the State Government's political agenda, as the Government seeks to bolster its popularity while meeting the dictates of electorally-powerful lobby groups, and pacifying public perceptions of an increasing juvenile crime wave. It has been quite prepared in this process to ignore the concerns of those perceived to be culturally and socially inferior. Among this latter group are Aboriginal peoples.

Aboriginal youth under 17 years make up four percent of the State's youth population and 60 percent of the State's Aboriginal population. They are over-represented at every point in the juvenile justice system from apprehension through to adjudication and disposition. Statistics gathered for the Royal Commission into Aboriginal Deaths in Custody reveal that Aboriginal youth account for 20% of all juvenile court appearances, 45 percent of those with five or more offences, 70 percent of those with 21 or more offences and 70 percent of all youth in juvenile detention centres. Aboriginal young people also account for 55 percent of those detained in police custody and 87 percent of those detained for drunkenness. Nearly 70 percent of detentions are for drunkenness and other 'good order' offences.

Interestingly, in light of these damning statistics, research indicates that, in a particular period in the mid 1990's, less than half of those in custody were told of their rights, 85 percent had been verbally abused, 65 percent had been 'pushed around', while over 50 percent had been hit.

This paints a picture of a group in crisis for which the system does not work, and as it currently stands, cannot work. After a decade of policy-on-the-run by successive Governments, which has spectacularly failed to solve such problems, the present Government's 'back to basics' campaign (see story page one) can only make the situation worse. Why has it come to this, and what can be done about it?

There would be few that are not familiar with the sad history of physical and cultural genocide that has accompanied European invasion and settlement of this country. From the outset, white Australia failed dismally in its relations with Aboriginal

peoples, and continues to do so. 210 years of dispossession has left Aboriginal people with a bitter legacy of distrust, frustration and anger, and white Australia with feelings of guilt, inadequacy, failure and resentment.

The Aboriginal presence in Australia, though small in number, dominates the consciousness of the non-Aboriginal majority - not because of benevolent concern, but because it is perceived as a 'problem' to be solved. The refusal of Aboriginal people to espouse the 'values' of the dominant society is seen as a fault, not as a virtue. The refusal of Aboriginal peoples to accept John Howard's belated personal apology as sufficient compensation for two centuries of genocide, is seen as ingratitude. The refusal of Aboriginal people to embrace reconciliation without having the vital questions of land and social, cultural and economic emancipation satisfactorily answered is seen as petulance. We are still regarded as the 'baddies' in the equation.

In this way, Aboriginal over-representation in the criminal justice system is seen as our fault, and the seeming nexus between Aboriginal youth and the criminal justice system is seen as the fault of the Aboriginal community.

Governments over the years have experimented with one policy after another but have failed to redress the imbalances in the system that have resulted in the economic and social disintegration of the Aboriginal community in WA, and it is this that underlies the problem of juvenile Aboriginal crime.

Only recently, in a tacit admission of failure, has the Government started to look towards the community for ideas on how to solve the problems. Long overdue, and based more on ameliorating their own embarrassment than on any altruistic motives, the approach has still been half-hearted. "You have a right to be involved", they say, "but we are not prepared to provide you with the levels of funding or authority that it would take to effect your remedies. The cost in financial and electoral terms would be simply too great'. Aboriginal people, and in particular Aboriginal youngsters, are being blamed for their poverty and denied the opportunities to rise above it. The public, kept ignorant of the true background to today's crisis within the community of Aboriginal young people, is pacified, instead, with knee-jerk, quick-fix solutions. (continued page 12)

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**...Aboriginal people, and in particular Aboriginal youngsters, are being blamed for their poverty and, at the same time, denied the opportunities to rise above it.**

**...we are still regarded as the 'baddies' in the equation.**

## Removal of Children

# Government response to National Inquiry disappointing

Coordinator of the ALS Removal of Children project, Tony Buti, regards the Commonwealth and State Governments' initial responses to the National Inquiry into Separation of Aboriginal and Torres Strait Islander Children from their Families as very disappointing.

Mr Buti said the National Inquiry had picked up many of the recommendations made by the ALS in a series of reports, but its recommendations had not been as wide ranging. The Commonwealth Government's initial response to the Inquiry's report (pictured below) had been lukewarm, and the State Government, though making a parliamentary apology, had not responded in any formal or substantial way.

The ALS has been recording stories, from Aboriginal people removed from their families, since 1994. It interviewed over 600 people before it launched a first report in June 1995 entitled *Telling Our Story*. By the time the ALS completed its second report in May 1996 it had collected over 700 stories. The report was the most substantial and comprehensive submitted to the National Inquiry from a non-government department.

## Bringing them home



A guide to the findings and recommendations of the National Inquiry into the separation of Aboriginal and Torres Strait Islander children from their families

ALSWA



Tony Buti

Mr Buti said *Telling Our Story* did not attempt to be a comprehensive scholarly work or legal treatise. As the title implied, it was an attempt to document some of the individual and family histories as told to ALS solicitors and court officers. Confidentiality was absolutely guaranteed.

This was done in the form of individual and family case studies and selective quotes. The case studies and quotes provided a picture of pain and suffering, enduring effects, confusion and 'official' actions to deny the children their family contacts and cultural identity.

The report took a detailed approach to the National Inquiry terms of reference. It explored a number of remedies including:

- . government and church apologies;
- . assisted family reunions;
- . secure housing;
- . relevant and appropriate health service and aged care;
- . improved education services for Aboriginal people;
- . education of non-Aborigines in Aboriginal culture and history, including the effects of removal policies and practices;
- . up-graded and integrated local government delivery of services to Aboriginal communities;
- . drastic changes to the criminal justice system in general and juvenile justice in particular;
- . greater Aboriginal autonomy in Aboriginal child welfare;
- . self-government; and
- . monetary compensation.

Mr Buti said the ALS in Western Australia was committed to doing all that it possibly could to ensure that justice was provided for the enduring damage emanating from the removal policies and practices. All avenues of redress were being examined. He said the issues surrounding the removal of Aboriginal children from their families would not go away; nor would the demands for reparation.

## Safer driving a spin-off from road injury claims

The main objective for the ALS Civil Unit in its involvement in motor vehicle accident injury claims is to recover reasonable and fair compensation for clients. However, Civil Unit solicitors also make it their business to impart road safety information to the community in a bid to reduce the number of vehicle accidents.

They are confident that clients with whom they come into contact leave the Unit with increased awareness of the need to drive safely. Some of the tips they give are (a) that the driver be in a fit condition to drive (and has not consumed alcohol); (b) that the driver has a current driver's licence; (c) that the driver is of age; and, (d) that the motor vehicle is not stolen, and that the driver has permission to use it.

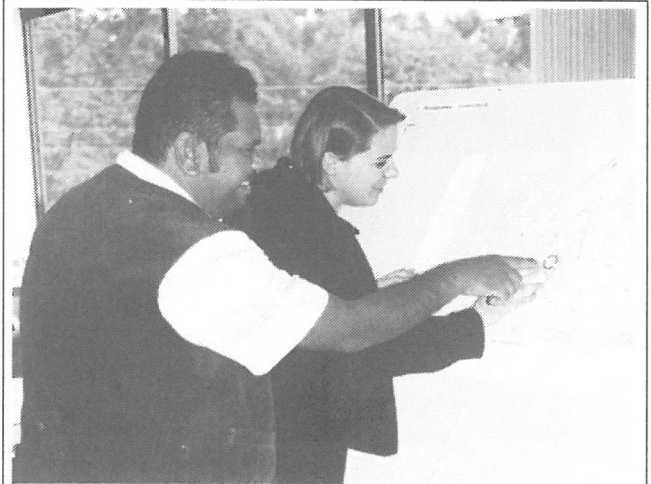
Unit solicitors admit that there are a number of factors that limit the efficient management of some claims. These are (a) that difficulty can be encountered in contacting clients (many change addresses without advising the ALS); (b) that some clients lack interest in proceedings and are not motivated to cooperate; (c) that clients sometimes do not understand the procedures involved in the claim process; (d) that clients sometimes fail to give instructions; (e) that a relationship exists between driver and injured person and this causes one or both to fear legal repercussions; and (f) that there can be problems in communication involving language and culture. In the latter instance, Court Officers, social workers and community nurses often help overcome the problem.

The Unit often is forced to commence proceedings a few days before the expiration of the limitation period in order to protect clients' interests. Experience has shown that a letter advising clients of the possibility of recovering some costs can generate a positive response, though this does not always work.

Nevertheless, the Unit has an excellent record in terms of recovering compensation of high magnitude, plus costs, that is comparable with private firms.

The main basis of its success involves (a) obtaining information from police; (b) contacting community organisations in the country and using the services of nurses, administrators and prison officers; (c) contacting witnesses; (d) conducting thorough medical investigations using professionals; and (e) obtaining client and family education and employment records.

**Further copies of the newsletter are available from all ALS offices in Western Australia.**



**Mapping Clerk Nelson Boundry and Articled Clerk Robin Ninyette prepare a map for the GIS process**

## ALS USES HI-TECH HELP IN NATIVE TITLE PROCESS

The ALS has developed a highly sophisticated Geographic Information System (GIS) which identifies communities or groups which may have Native Title interests, when the Government gives notice that it intends to conduct some future land use somewhere in Western Australia.

The GIS is a set of tools that has the ability to store, retrieve, analyse and display geographical references or spatial information. It is like a database management system except that the objects stored in the database have an added dimension.

The Miriuwung-Gajerrong claim has been especially helpful in providing the GIS section with some in-depth work. Most of the places identified from the experts readings and proofing sections have been captured onto the GIS. These places are linked to the database that contains information about each of them. Through this link the section can make maps of a certain category - such as camping places and walking trails, and overlay these on the claim boundary.

Recently the section acquired satellite imagery of the claim area, which is now used as a backdrop to maps of the area. The satellite image gives the map real life.

Viewers can identify mountain ranges, rivers and floodplains, and clients can easily point out places of significance. The Miriuwung-Gajerrong area has been mapped at a scale of 1:100000. The section plans to integrate an historical database with the GIS in the near future.



# Indigenous Legal Rights under attack

The legal rights of indigenous people in Australia, recognised by the High Court in the Mabo and Wik decisions, and protected by legislation in the Native Title Act, have been under serious and widespread attack.

The Federal Government's proposed amendments to the Native Title Act, a position adopted due to political pressure being applied by State and Territory Governments, and a national media campaign by the National Farmer's Federation, all seek to promote the interests of big business and industry at the expense of the rights and interests of Native Title holders.

Nowhere is the problem more apparent, and the rights of Aboriginal people more at risk, than in this State. WA has the most widespread Aboriginal population, the largest number of Aboriginal communities, the largest areas of vacant crown land, and the largest mining and pastoral industries.

WA has never passed any form of land rights legislation, has no effective means of site protection, and has nothing like a statutory land council system which operates in other States or Territories.

The WA Government is the only State Government that actually attempted to pass its own legislation to extinguish Native Title prior to enactment of the Native Title Act in 1993. The Court Liberal Government has consistently shown nothing but contempt for the High Court decisions in Mabo and Wik, the provisions of the Native Title Act and any concept that Aboriginal people should have recognised rights and interests in their traditional country, or be treated with any sense of justice and equity.

The Government has actively led the campaign against Native Title and has attempted to prove the 'unworkability' of the Native Title Act by its refusal to meaningfully participate in any of the Act's processes. It has worked hard to ensure that the public perception is one that views Native Title as unfair, unworkable and costly.

No other Representative Body within Australia has taken such consistent and widespread action, as has the ALS under the Native Title Act, to maximise the rights and interests of the Native Title holders.

**Staff are invited to submit items for the newsletter to the ALS Perth Office**

ALSWA

## Geraldton ALS Solicitor educates Justices of the Peace

Geraldton ALS solicitor Steve Sharratt has been asked by the Ministry of Justice to run a series of seminars on the law for Justices of the Peace. The seminars are of 2.5 hours duration and are held on consecutive Saturdays. 24 JPs are undertaking the classes which supplement the Edith Cowan University Justice Studies course. Steve sees it as a good chance to motivate JPs to think for themselves and not to accept without reservation opinions of prosecuting police.

## ALS REPRESENTATIVE BODY WORKLOAD ON THE INCREASE

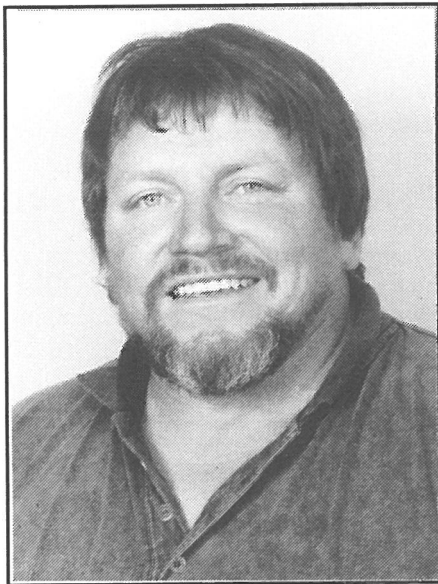
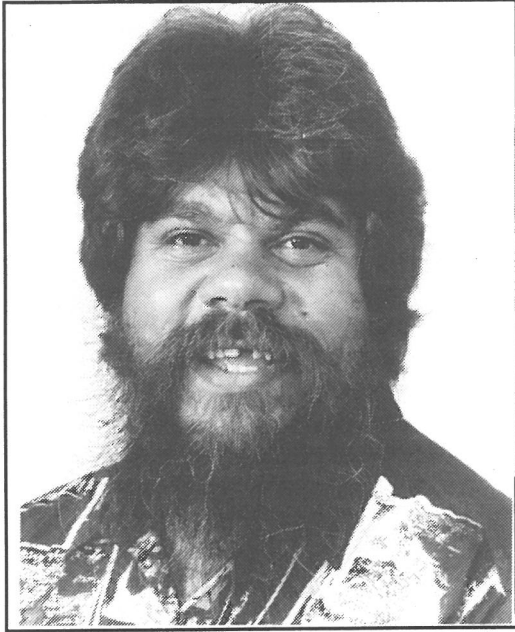
The ALS is currently engaged in the preparation and conduct of over 40 Native Title claims on behalf of more than 30 groups throughout the South-West, Wheatbelt, Pilbara, Murchison Gascoyne, and Kimberley regions of the State. In the first six months of this year, as a Representative Body, it sent out 12,270 Notices to communities all over Western Australia in respect of 2,100 future use proposals. Just last week it sent out 10,000 Section 26 notices.

The ALS has worked with indigenous people in WA in relation to land and heritage matters for the past two decades. For most of those years there was only one mining lawyer employed by the Service.

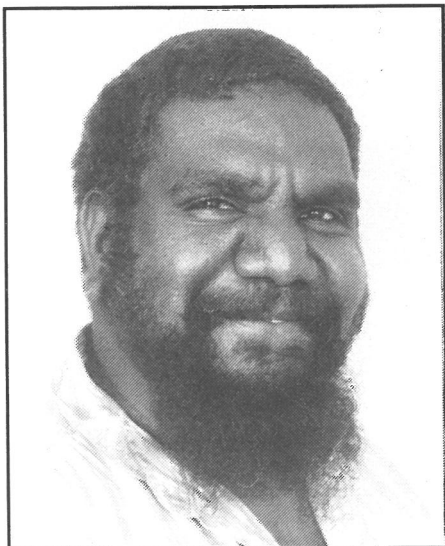
In 1994, following the enactment of the Native Title Act, the ALS was approached by the Federal Minister for Aboriginal Affairs and invited to seek appointment as a Representative Body for the whole of the State.

Since that time, the Service has provided a unique and important service to Aboriginal people throughout WA and has built up a level of legal expertise and other resources that enable it to claim a significant and substantial experience in the conduct of Native Title claims, negotiations under the Native Title Act and in Heritage Protection issues.

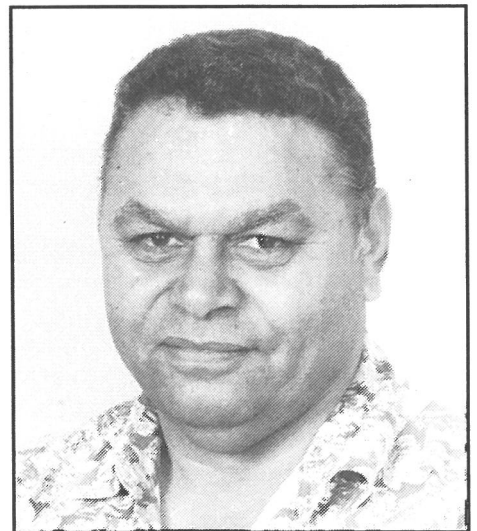
As a Representative Body the ALS also attempts to provide assistance to other regional Representative Bodies in the facilitation of research and making of claims, dispute resolution within Native Title holding groups, notification of future-use notices and other notices under the Act, and assessment of legal merit. Where there is legal merit, the Body refers to ALS Land and Heritage Unit for lawyers to act on behalf of particular client groups in negotiations with the National Native Title Tribunal and in claims to country which will be before the NNTT and then the Federal Court.



# Executive Members



**ALS Executive  
Committee Members  
from top left: Ted Wilkes  
(Central - Chairperson);  
Veronica Williams-  
Bennell (Wongi Regional  
Council); Glen Colbung  
(Southern - Deputy  
Chairperson);  
Brian Sampson  
(Pilbara);  
Sandy Davies (Yamatji  
Regional Council)**



## NEW CRIMINAL UNIT MANAGER



**Solicitor John O'Connor has recently been appointed manager of the Criminal Unit**

## Silence can be a shrewd tactic

Civil Unit solicitors know that sometimes remaining silent can be a shrewd negotiation tactic, though they warn it does not necessarily work in every case. Solicitor Juliet Mugambwa reports on a case where the tactic worked well. It involved a claim for loss of support based on the death of a mother who was looking after her daughter, using her pension and child allowance only. When a suggestion emerged that the mother may be working and looking after her daughter from her income independently of social security benefits, it was decided that nothing would be said at the conference and the defendant was simply referred to the client's claim as set out in the court papers. The result was an award of over \$98,000 - what had been asked for.

In another case concerning the death of a mother, in an accident involving a train, the ALS claimed loss of support for the surviving 12 year-old daughter. The original offer in 1993 was \$5000. The ALS employed the services of an engineer (at reasonable cost) to investigate the safety standards in relation to opening and closing train doors. Based on his report, the defendant was forced to make an offer of \$40,000 - an increase of \$35,000.

On behalf of a client who sustained very serious injuries and is now wheelchair bound, the ALS used the services of an Occupational Therapist in Port Hedland to draw up plans for modification of the client's house. There was no problem in receiving an offer of \$250,000 damages.

ALSWA

## ALS TO PUBLISH LEGAL EDUCATION PAMPHLETS

A series of legal education pamphlets is soon to be published by the Aboriginal Legal Service of Western Australia (Inc). The pamphlets have been designed to appeal especially to young Aboriginal people, and will provide information on a range of legal issues of particular importance to that group.

The series of 15 publications will deal with such matters as criminal records and what they mean in terms of employment; what to do if arrested; the process and implications of going surety for someone released on bail; how to apply for bail and to understand the conditions that accompany it; how to apply for restraining orders and what they mean for those involved; how to apply for criminal injury or vehicle accident compensation; and so on.

A number of the pamphlets were first published in 1995. These will be updated and reprinted, with others added to the series as they are completed and checked for accuracy by lawyers within the various units of the ALS. The pamphlets will be free of charge and will be made available to the Aboriginal community through ALS city, regional and country offices.

## New ALS Information Booklet available soon

A booklet explaining the structure and role of the Aboriginal Legal Service in Western Australia is currently being reprinted and will be available soon. The booklet details the history, philosophy, goals, funding, committee membership and structure of the ALS and is an important resource for clients, students, and others interested in the Service.

It will be available at the ALS office in Nash Street, East Perth and in all country and regional offices. The ALS currently has offices in Albany, Broome, Bunbury, Carnarvon, Derby, Fitzroy Crossing, Geraldton, Halls Creek, Kalgoorlie, Kununurra, Laverton, Northam, Port Hedland and Roebourne. It is expected that offices will soon be opened in Meekatharra and Newman.

## ALS Annual Report due in September

The 1996-1997 Annual Report of the Aboriginal Legal Service of Western Australia (Inc) is in production and should be published in late September. The Annual Report will be formally presented to the Annual General Meeting of the ALS, which is to be held later this year.

# Juvenile Justice

(from page 6)

They seem unaware that this approach can only serve to entrench and worsen patterns of 'anti-social' behaviour. Children in institutions learn to be criminals. Children alienated within the education system learn to access one of their own - on the streets. Children exposed to powerlessness learn to accept it as a bona-fide state.. A feeling - victimhood is entrenched - despair or rebellion is the only choice left. Too often the first of these choices sees our young people dying from drug abuse or suicide. The second sees them firmly locked into the cycle of offending.

The really sad thing is that panaceas for these societal ills have been available for nearly a decade, but they have been virtually ignored by governments which have chosen instead to follow the path of electoral popularity.

The Royal Commission into Aboriginal Deaths in Custody comprehensively analysed the situation and came forward with a number of recommendations specifically targeted at the juvenile justice system. All recommendations are realistic and achievable, but they require a giant shift in the minds of the legislators. They would circumvent many of the problems that result from hastening children into the cycle of offending.

Lack of Government commitment in the juvenile justice area, however, is sadly reflective of its attitude towards all Aboriginal social issues.

## OMBUDSMAN TRAINING

(from page 4)

Homeswest; Alinta Gas; Western Power, Universities; TAFE colleges; Transperth; the Water Corporation; Westrail; and the WA Police Service.

Mr Wallam said people with complaints against any of these agencies should contact the organisation first to see if the problem could be resolved. If a satisfactory solution was not found the next step was to make a written complaint to the Ombudsman's office.

He said the Ombudsman would then decide whether to investigate the situation and, if that happened, provide a recommendation as to how the matter could be most fairly dealt with. Brochures explaining the service are now available at ALS offices.

# 'West' editorial ignores the reality of racism

An editorial in *The West Australian* concerning the decision by the Human Rights and Equal Opportunity Tribunal to reject an appeal by an Aboriginal person against eviction from a Homeswest house was ignorant, according to ALS Chief Executive Officer Dennis Eggington. The editorial, which accused the evicted tenant of 'playing the race card', ignored the reality that Aboriginal people in Western Australia faced throughout their lives - that racism was widespread in the community and endemic in many Government agencies.

Mr. Eggington, in a reply to the editor (which went unpublished) said: "To suggest that racism is confined to a misguided minority, and that evidence of institutional racism is unconvincing, ignores the significant body of evidence collected by organisations such as Aboriginal legal services and the day-to-day experience of those most affected by it. "The appellant is one such person. In battling to provide for the family within an antagonistic environment this person stands accused of 'playing the race card' - tactics that you suggest have become all too common among Aborigines and their advocates.

"Aboriginal people will not deny their Aboriginality. From birth we are constantly reminded that as Aboriginal people we are 'different', and that the difference is epitomised by our supposed social, economic and intellectual 'inferiority'. "In this way, Aboriginality has been used by white Australia as an instrument to oppress us, so why should we not use it as a means of resisting that oppression?

"The case was in the news, not because of the alleged unruly behaviour of the family, but because the family are Aboriginal. Because they are Aboriginal they have been subjected to harassment and discrimination. They have been denied the right, then, to use their Aboriginality as a means of redress.

Your editorial claims 'the best answer to racism is to rise above it'. We agree, and we await with great anticipation the day that white Australia can achieve just that".

## CONTRIBUTIONS INVITED

**Aboriginal Legal Service staff are cordially invited to contribute items (either stories or photographs) for future editions of ALSWA.**

**The newsletter is published monthly and is distributed to Aboriginal organisations and government and semi-government agencies throughout the State.**

**It provides an excellent vehicle for informing the Aboriginal constituency of ALS activities and services.**

**Please send contributions to Peter O'Brien at the ALS Perth office.**

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