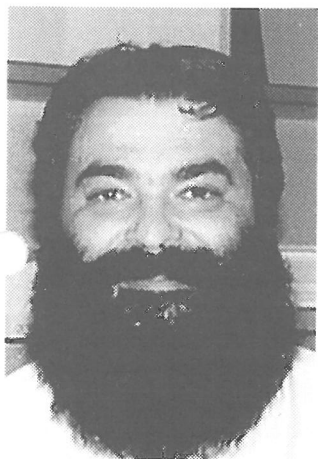


ALSWA

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ALSWA URGES INQUIRY INTO POLICE BEHAVIOUR IN MURDERED BOY CASE

The Aboriginal Legal Service has called for a judicial investigation into police behaviour in the case of murdered Langford boy Cleon Jackman. CEO Dennis Eggington (pictured) said discussions between ALSWA and the boy's family had revealed a number of serious discrepancies between police and the family's versions of what occurred after the boy was reported missing on Wednesday May 12.

The family has publicly criticised the police for 'going slow' on investigations because the boy was Aboriginal and had a criminal record. Police have admitted their first reaction was that the boy was simply 'hiding out' and would eventually come home. Cleon's father Richard Bolton has complained that police ignored his advice 'that the boy was extremely close to his family and would not deliberately separate himself from them for any length of time.

Mr Eggington said Cleon went missing on May 11 and this was reported to police on May 12, yet detectives had not become involved till May 15. In the intervening days there were reports that the boy had been seen being dragged into a vehicle and later taken into the house where it is alleged he was murdered.

It was also reported to police that the occupants of the house were loading belongings into removal vans on Sunday May 16, in an apparent move to vacate the premises, yet police appeared to have failed to follow up this information. It was extraordinary that with such re-

ports, police were publicly appealing as late as Thursday May 20 for information on the missing boy.

Mr Eggington said police had provided varying information to the family and the media during the period. They had also made admissions at a meeting with family and community at Boogurlarri Community Centre, Langford, on May 19, that a 'cooling period' was applied in the case of missing teenagers, that the Missing Persons Unit did not work on weekends; and that Cleon's 'chequered past' was a factor in their response to the report of his disappearance.

Police had also at that meeting admitted that two detectives who visited the Bolton family on May 15 confirmed reports that witnesses had observed the boy being dragged into a vehicle, and that they were interested in talking to persons in Bunbury about the incident. Police had also told the ALS that the boy was 'unpopular' in the district and that they could not rule out anyone being involved in the disappearance.

Mr Eggington said it was evident that police had been too slow in investigating the boy's disappearance and were now trying to cover up their mistakes. However, in doing so various officers had made contradictory comments. The end results of all this was that an independent investigation was urgently needed to clarify events from the time that the boy first went missing until his body was discovered in a bush grave at Pickering Brook. Mr Eggington said: "We do not accept that because a child is Aboriginal or because that child may or may not have a reputation, he/she deserves anything less than the full protection of the law".

INSIDE:

Page 5: CEO address to
Parliamentary
Committee on
Crime Prevention

Page 8: CEO address
to Justice Support
Forum 'It is time for
us to do it our way'

Page 10: Regional
Co-ordinators report
on visit to neglected
communities

Aboriginal people viewed as apart from (not a part of) Australian society

ALSWA Legal Education Officer Ashley Truscott has told Journalism students at Murdoch University that the very fact they were lectured about 'Aboriginal people and the media' suggested that a unique relationship existed between the two that differed somehow from all other relationships.

Mr Truscott said Aboriginal people were a recognised, highly vocal, and disenchanted minority who were seen to be at loggerheads with mainstream Australia. He said the media viewed the Aboriginal community, as being not 'of' society but 'apart' from society - society generally being considered the domain of middle class, conservative and conformist so-called 'white' Australians.

"The Media talks about Aboriginal people, not to them, or for them. We are considered the object, never the subject. We are mentally erased from imagined readerships, or listening or viewing audiences" he said.

He said journalism students needed to be honest with themselves about their personal feelings about Aboriginal people, as this would reflect in their reporting of the issues.

In a separate address at the University of Western Australia, Mr Truscott spoke to a class of first year Law students about Dr W.E. Roth, architect of the apartheid regime in South Africa, and A.O. Neville, Chief Protector of Aborigines in WA., who were responsible for the 1905 Aborigines Act which permitted governments to remove 'half-caste' children from their families and communities.

He said Darwinian thinking of the time conveniently accounted for the demise of the 'blacks', but this was not to be the fate of children who were 'half-white'. The powers that were could not accept that anyone 'half-white' could not be trained to accentuate that part of their physiology.

"Neville readily admitted that a difficulty with his scheme was that 'coloured races all over the world are known to detest institutionalisation', and that 'coloured people are known to have a tremendous affection for their children. Yet despite this he condoned a practice that saw many thousands of Aboriginal children brutally torn away from their families and communities.

Women told to 'stake their claim'

ALSWA Deputy CEO Colleen Hayward, in an address to the National Women's Electoral Lobby, has declared racism a feminist issue. She said any matter that impacted on black women was of equal importance to non-Indigenous women. By working together they could achieve change.

"Anything that impacts on women of different cultural backgrounds, working class women, poor women, disabled women, lesbians, elderly women, economically privileged women and heterosexual women is an issue for us all.

"The issues for Aboriginal women are evident in statistics relating to health, education, employment, imprisonment rates and low home ownership.

"Clearly the need for vast improvements in these areas is of major concern to us. To change things we need a common agenda with other women and a shared aspiration to support each other and work together. The key option is to view reconciliation as an opportunity to 'make things compatible'".

Full address available from ALSWA Perth.

SURVEY TO DETERMINE ABORIGINAL WOMEN'S LEGAL NEEDS

ALSWA Women's Contact Officer Katrina Carlisle, assisted by two Community Advocacy TAFE students, is in the process of conducting a survey to identify the legal and other needs of Aboriginal women.

The survey will be printed in the form of a booklet and distributed widely to women's refuges and other relevant agencies, for completion.

Ms Carlisle said that in order to distinguish between the many problems affecting Aboriginal women today, it was necessary to conduct a survey of those most obviously affected.

She predicted the survey would reinforce the fact that domestic violence remained one of the biggest problems facing not only Aboriginal women, but all women.

Copies of the survey form are available from ALSWA.

GOVERNOR SUPPORTS ALSWA CALL FOR IMPROVED CONDITIONS AT CAPRICORN AND PARNPAJINYA

The State Governor, Major-General Michael Jeffery, has joined forces with ALSWA in an attempt to achieve better living conditions for Aboriginal people at the Capricorn and Parnpajinya camps near Newman in the northwest of the State.

ALSWA recently publicised the plight of a large number of people living in the two communities on the edge of the Western Desert near Newman, who were seriously ill and in danger of perishing because of the appalling conditions in which they lived.

ALSWA and the Western Australian Council of Community Health Organisations (WACCHO) appealed to the Governor to direct the State Government to provide emergency relief.

ALSWA CEO Dennis Eggington, in a letter to the Governor, said conditions at the camps were appalling, with no housing, toilets, water or electricity. Because of those conditions many members of the communities, mostly elderly persons and children, were chronically ill, and in danger of dying if emergency assistance was not made available. The situation at the camps had deteriorated over a ten-year period during which time the State Government had failed to take any remedial action.

The appeal to the Governor was a last-ditch effort to get something done. It was hoped he could persuade the Government to override 'policy' and act with all haste to provide the people with tents and basic facilities. If emergency action was not taken urgently, despite the intervention of the Governor, the ALS in conjunction with

WACCHO, would seriously consider litigation against the State Government for failing in its duty of care.

In response to the joint call of ALSWA and WACCHO for the State Government to take some action, Aboriginal Affairs Department Director Haydn Louwe and ALSWA's Regional Coordinator Jenny Bedford, visited the Capricorn community (15km south of Newman) to take a first hand look at the situation.

Ms Bedford later said the living conditions of the Capricorn community were shameful and degrading and that no human being should be forced to live in such an appalling state.

"The Capricorn community has no infrastructure, shelter, running water, electricity, ablutions or any other basic facilities. At the moment, the people live in makeshift humpies while old car bodies serve as a storage area for clothes and food. There are a number of serious health concerns such as respiratory problems which are a result of the poor living conditions. The Government should hang its head in shame as it has allowed the situation at Capricorn to deteriorate to that of a third world country. It has failed abysmally in its sad attempts to cater for the needs of the Aboriginal community".

The Western Desert Puntukurnuparna Aboriginal Corporation, Aboriginal Affairs Department and the East Pilbara Shire Council are planning to meet again in Newman to discuss strategies for resolving the problems of the communities. (Ms Bedford's full report is on Page 10)

EXECUTIVE COMMITTEE MEETS IN CARNARVON

ALSWA's Executive Committee will meet in Carnarvon from Monday June 14 to Friday June 18. The Committee meets quarterly to provide advice on policy direction for the organisation. Issues on the agenda include Customary Law, Native Title, NAILSS, the ALSWA CDEP proposal and the ATSIC effectiveness review. While in Carnarvon members will meet with the local community and address any local issues that arise.

The decision to meet in Carnarvon was taken to show solidarity with local Aboriginal people who have been under attack by Liberal MLA Rob Sweetman. Sweetman

recently distributed a petition calling for a number of draconian measures to be taken with the ultimate aim of keeping Aboriginal people away from the town centre.

ALSWA CEO Dennis Eggington is on record as challenging the MLA to public discussion of the issues but there has been no response. The Executive Committee will invite Mr Sweetman to the Carnarvon meeting to explain his views.

Mr Eggington has been critical of the State Government for failing to distance itself from Mr Sweetman's expressed attitudes.

alswa 4

HomesWest warned to change attitudes to Aboriginal tenants

ALSWA CEO Dennis Eggington has urged Homeswest to be especially careful in its dealings with Aboriginal people after the organisation was criticised for breaching both the Public Sector Management Act and the WA Public Sector Code of Ethics, in the Joan Martin case.

He said Homeswest's error was the result of the win-at-all-cost attitude it had taken in the matter accompanied by what seemed to be personal animosity towards the complainant.

Homeswest had a shaky record in its dealings with Aboriginal people, with evidence of considerable prejudice that had sometimes resulted in blatant discrimination.

Mr Eggington said the recent Saunders report revealed just how far the organisation was prepared to go in its campaign against the rights of Aboriginal tenants. Now that it had been found out, so publicly, it would need to be doubly careful in the future.

"Let them see this as a timely lesson that such negative attitudes cannot and will not be tolerated, not just by Aboriginal people, but by the very bureaucracy of which Homeswest is itself a part".

Country office reports

ALSWA Country offices will provide more comprehensive monthly reports to the Perth Central office under a program developed by the Regional Co-ordinator Ms Jenny Bedford.

Ms Bedford said the detailed reports were necessary for the compilation of statistics and for the efficient running of ALSWA as a statewide organisation.

In her new role Ms Bedford is responsible for ALSWA electoral regions, providing a service to country offices and to Executive members.

The reports will contain details of the number and types of cases being handled region by region, and identify trends which will assist ALSWA to allocate financial and human resources with maximum effectiveness. Excerpts from country reports will feature regularly in the ALSWA newsletter.

VIDEO EVIDENCE RULED INADMISSIBLE IN ASSAULT TRIAL

ALSWA legal staff have secured the discharge of four Aboriginal men, charged with sexually assaulting a girl at a party, at a preliminary hearing in Port Hedland. The four men maintained that what took place was consensual.

The men were interviewed by police on video. Despite the fact that one man told the police he did not want to speak to them, the request was ignored and police persisted with the record of interview.

The inadmissibility of the record of interview was challenged at the preliminary hearing. In ruling it inadmissible, the Magistrate was critical of the behaviour of the interviewing police.

He said a police officer of 25 years standing had ignored the requests of a young Aboriginal man and in the process had treated him unfairly throughout the interview.

In a separate case, Solicitor Peter Collins represented an East Kimberley man who was charged with four counts of sexual assault, in the District Court of Kununurra.

It was alleged that the man was the second of two who assaulted a woman in a toilet block. The first man pleaded guilty and gave evidence for the prosecution. The accused man maintained his innocence from the moment of arrest, and named his brother as the second man.

The jury deliberated for 23 minutes before finding the man not guilty. He had spent 11 months in custody on remand at Roebourne Regional Prison awaiting trial. He found the isolation and separation from his family and traditional country during that time very difficult.

Mr Collins said the case highlighted injustices caused by delays in bringing cases to trial in remote areas, especially when an accused person was eventually acquitted. He had dealt with many cases where an accused person had spent a considerable amount of time in custody before being acquitted.

In memory of Rex Garlett

ALSWA's Executive Committee, Senior Management and Staff extend their sympathies and condolences to the family and friends of the late Rex Garlett. Rex was a tireless worker for the advancement of Aboriginal people and had earned the respect of all who knew him.

ALSWA CLAIMS ABORIGINAL YOUTH BEATEN AND ABUSED WHILE IN CUSTODY

Address by Dennis Eggington to the Parliamentary Select Committee on Crime Prevention

ALSWA CEO Dennis Eggington has told a Parliamentary Select Committee on Crime Prevention that Aboriginal youth are often verbally abused, pushed around, and even bashed, while in Police custody.

Mr Eggington told the committee that crime consistently ranked among the highest-priority issues on the State Government's political agenda, as it sought to find a formula that protected its electoral popularity while meeting the dictates of powerful lobby groups and pacifying public perceptions of an out-of-control crime wave.

He said the Government had to be seen to be prepared to listen to the concerns of even those they considered the least electorally significant, such as Aboriginal people, but it had been unprepared to heed their voice in developing policy.

Mr Eggington told the committee that in the last census there were around 50,000 Aboriginal people in WA representing 2.6 percent of the State's total population. Over half were less than 25 years of age, with nearly half of that number residing in the metropolitan area and the rest in the northwest.

"Half of the group between the ages of 10 and 17 years (Children's Court jurisdiction) do not live with one or both of their parents. Half leave school at 15 years or younger. Half are unemployed. Half have an income of less than \$8000 per year.

"Though Aboriginal youth makes up four percent of the total youth population in WA they account for 20 percent of all juvenile court appearances, 45 percent of those with five or more recorded offences, 70 percent of those with 21 or more recorded offences, and a staggering

70 percent of those in detention centres.

"Each year 10 percent of appearances before the Juvenile Justice teams and 35 percent of appearances before the Children's Court are Aboriginal youth - thus one in six appear in the courts compared with one in 30 of all young people.

"Aboriginal youth account for 55 percent of those detained in police custody. Only a third of those in custody are told of their rights, while 85 percent are verbally abused, 65 percent 'pushed around' and 52 percent actually hit or beaten.

"little ones duck out of sight when 'the monarch' appears"

"Even before they enter this so-called 'justice' system, they have twice the chance of being stopped and arrested than non-Aboriginal kids. Little ones, while being driven in the streets of Perth, duck out of sight when the 'monarch' appears, because of fear and mistrust.

"This is a picture of a group in crisis, for which the system does not work, and for whom it is not intended to work. Decades of policy 'on the run' by successive governments have failed to address their problems or the resultant wider social upheaval that such problems bring.

"The current approach, involving more and bigger prisons and institu-

tions and harsher sentencing laws, typifies this failure. Why has it come to this?

"There would be no-one here unfamiliar with the sad history of physical and cultural genocide that has accompanied European colonisation of this country. From the outset, white Australia failed dismally in its relations with the Indigenous people, 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 as a consequence, 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 people to accept John Howard's 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 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 overrepresentation 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 Aboriginal parents".

Falconer recognised for service to Noongar community

ALSWA CEO Dennis Eggington has congratulated Police Commissioner Bob Falconer, at a Noongar farewell ceremony on Herris Island, for his service to the Aboriginal community while in office.

Mr Eggington, who was Master of Ceremony at the farewell, said he was appreciative of Mr Falconer's efforts to make WA a safer place for both the Aboriginal and non-Aboriginal communities. Mr Falconer had left a strong legacy for his predecessor.

ALSWA Central Region Executive Committee member Cedric Jacobs presented Mr Falconer with a message stick at the ceremony.

More Aboriginal representation needed on juries

Aboriginal people should be present on juries when Aboriginal people are on trial, according to ALSWA Bunbury Solicitor Derek Hunter. The call comes after a successful appeal in the Court of Criminal Appeal, in which two men were freed after spending six months in Bunbury Regional Prison for assaulting police officers, amid allegations of police brutality. The assaults took place in 1997 when police confronted the men during a birthday party. Police had observed an intoxicated woman lying on the side of the road and did not take her into custody. They confronted the occupants of the house who were standing in the front yard.

The men told police to leave the property but they remained and proceeded to move people into the house by use of force. The Court found that this was an unlawful act. The Police can only remain on private property if they have a warrant or evidence of an arrestable offence. In retaliation, police sent 15 officers to storm the house. One of the men claimed he was hit with a baton and kicked, while police claimed an officer was threatened with a baseball bat. Mr Hunter said that if there were Aboriginal people on the jury in the District Court trial, the men would not have spent time behind bars. He said with an Aboriginal presence, juries were likely to deliver verdicts based on evidence, not race, which all too often happened in sentencing Aboriginal people.

ALSWA to educate prisoners on legal rights

ALSWA Community Legal Education and Liaison Unit is planning to extend its legal education service into the State prison system. Meetings have been held with the Ministry of Justice to discuss the proposal and an initial visit to prisons has taken place. The education process will involve the conduct of a series of workshops each dealing with a specific aspect of law.

The ALSWA personnel involved will include Legal Education Officer Ashley Truscott and Women's Contact Officer Katrina Carlisle, and where practical, Court Officers and Solicitors.

The workshops will cover topics identified by ALSWA Solicitors, Court Officers and clients as being of vital concern to Aboriginal people. These will include: Rights and Responsibilities under Law; Understanding Criminal Law; The Court system in WA; Words used in the legal system; Young people and the Law; Alcohol and Criminality and Police and the Aboriginal community.

The workshops will be focused to the varying needs of specific audiences such as adult and juvenile males and females. It is anticipated the workshops will commence in the second half of the year.

ALSWA has also had discussions with the WA Police Service on involvement in the training of Police cadets at the Maylands Police Academy.

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DCEO: Budget 99' an insult to Aboriginal people

ALSWA Deputy CEO Colleen Hayward has denounced the Federal Government's Aboriginal Affairs budget for 1999/2000 as an insult to Aboriginal Australians.

A net increase in Aboriginal spending of about \$200m, over the next four years, would do little to fix the social and economic problems that were destroying Aboriginal families and lives.

Compared with some other budget expenditures the amount allocated to Aboriginal needs was insignificant.

The irony could be found in the allocation of an additional \$100m a year for health and medical research, compared with a pitiful \$11m in 1999-2000 for Aboriginal health - described by the Government itself as being of third world standards.

While an additional \$100m a year had been allocated to Catholic schools, \$16m had been allocated in 1999-2000 for indigenous educational programs, despite the fact that Aboriginal achievement and retention rates were appallingly low.

Whereas \$195m had been allocated next year for country roads, the allocation for Aboriginal community housing had been increased by a mere \$386,000 - enough to provide two or three houses.

Though an additional \$164m had been added to law and order spending, a paltry \$5m had been added to Aboriginal spending in this area - despite the fact that Aboriginal people make up a third of the prison muster each day across Australia.

These comparisons clearly demonstrated the Government's lack of interest and resolve in seriously alleviating the many social and economic problems besetting the Aboriginal community.

"The budget is not so much a disappointment, as an insult which was anticipated from a Government that regards Aboriginal Australia with barely-concealed contempt.

As always, Aboriginal agencies addressing our community's problems will have to do so on a shoe-string budget. It is a situation that we have had to live with since this Government came to power".

Police to apologise over 'false claim' on high-speed pursuit

Despite comments on television by a police spokesperson, the Aboriginal Legal Service was not involved in any way in a recent high-speed pursuit incident.

An internal investigation has confirmed that no mobile telephone call was made to the ALS from the occupants of the vehicle being pursued, and that subsequently there was no call from any 'ALS officer' to police operations, asking for the pursuit to be aborted.

ALS Chief Executive Dennis Eggington said a senior police officer had confirmed the morning after the incident that the telephone number and address given by the alleged ALS officer had turned out to be false.

Despite this, media comment on the Saturday evening by a police spokesperson had failed to acknowledge the fact. The spokesperson's reference to ALSWA's involvement was therefore inexplicable and misleading, as were some subsequent weekend newspaper reports.

Mr Eggington said it was important, especially in dealing with emotive issues such as high-speed pursuits, for police to give accurate information to the media and to the general public.



From left to right: ALSWA's Dennis Eggington, Kuracca Consultancy representative Kerry Reid-Gilbert, ALSWA's David Imlah and Keys Young Consultant representative Alison Wallace met recently at the ALSWA Perth office to discuss a pilot program on means testing in relation to juvenile offender cases.

"TIME FOR US TO DO IT OUR WAY" RECLAIMING ABORIGINAL FAMILY VALUES

Address by ALSWA CEO Dennis Eggington to the First 99 Justice Support Forum

ALSWA CEO Dennis Eggington has told a Justice Support Forum that there is a need to assist the resurgence of the concepts of the family and the community in contemporary Aboriginal society, as a means of regaining control of the destinies of future generations.

Mr Eggington said the failure of attempts to lower the disproportionate rate of Aboriginal incarceration in Australia's custodial institutions, made crime prevention the most urgent of all Aboriginal justice issues.

He said numerous commissions and inquiries had been held investigating the causes and recommending social and economic change, but these recommendations, in the main, had been ignored.

"The situation today is the result of decades of neglect, ignorance and disinterest. The system, which was forced upon us, has failed. It is time for us to do it our way.

"Aboriginal society traditionally has been resourceful and resilient, but most of all cohesive. In historic and more recent times the Aboriginal community has worked together to survive oppression and dispossession.

"But the pressures of the 20th century have had their effect. The concepts of community and family that have for generations been central to our way of living have been gradually eroded. Community and family have been to a worrying degree sacrificed to the cult of individualism that has become the way of society at large.

"Aboriginal offending is a problem for that society, but it is more of a problem for us. It is our brothers and sisters who are caught in the cycle of offending and incarceration; it is our families that are being torn apart in a hostile environment where indifference and inaction are the responses of those institutions supposed to support them.

"The Aboriginal community urgently needs to re-identify with the values of kinship that historically have made our culture one of the world's greatest and most enduring.

"We need a revival of family values - family respect, family involvement, family responsibility, family caring and family control. We need from others their understanding, acceptance and support.

"Whereas in recent times our concentration has been on

the individual, the future depends on us successfully reclaiming the past. This is an approach that will place the individual back within the context of his or her family.

"Aboriginal society has always regarded the family as a place of nurturing with the dual role of providing and teaching. When one of these factors is not functioning adequately, family breakdown occurs.

"And this is what is happening in our society today. Social deprivation has inhibited our ability to provide and prejudice and discrimination have demoralised our will to teach.

"The Aboriginal community needs to accept the responsibility of providing our kids with the types of examples that will assist them to fight their oppression with pride, dignity and optimism, rather than with criminal and anti-social behaviour.

"Too often the examples they are emulating are just the opposite. The factors identified as representing the greatest risk to our kids are, because of social and economic circumstances, almost endemic in much of the Aboriginal community.

"These include self-risk factors such as low self-esteem; alienation; poor social skills (through poor modeling); insecurity; chronic illness; and aggressive behaviour.

"The family risk factors are under-aged and single parenting; depression; substance abuse; criminal and anti-social modelling; family violence and disharmony; marital problems; social isolation; large family size; long-term parental unemployment; poor supervision; inconsistent discipline; rejection; sexual and physical abuse; lack of affection; lack of sharing activities; and other forms of neglect. It is inevitable in this scenario, many are not going to make it.

"Justice Malcolm, in his 1998 Fremantle Family lecture, acknowledged that both the National Aboriginal and Islander Legal Services Secretariat and the Aboriginal Working Group on Juvenile Crime in WA had found that greater success could be achieved in assisting Aboriginal youth by targeting assistance at redeveloping the family unit and parental authority. We can, he said, very significantly reduce juvenile crime by early intervention to fix the families".

Mr Eggington's full address is available from ALSWA.

"prejudice
has
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Implications of Regional Forest Agreement

By Land & Heritage Unit Solicitor Jacqueline Brienne

The Regional Forest Agreement (RFA) has now been signed. It covers a large swathe of the southwest of the State. It will operate for 20 years and establish the framework for the management of forests in the southwest. There are some features of the agreement which should be noted. One aspect is the reduction of the role of the Department of Conservation and Land Management (CALM) and the setting up of other government bodies.

CALM will continue its responsibilities for conservation, tourism, recreation, forest management and fire control. All conservation lands, including State forests, will be vested in the State Conservation Authority. The Forest Production Commission will be responsible for commercial timber and native forest production. The Forest Industry Advisory Board will be formed to advise the Government on issues concerning timber production.

The Federal Regional Forest Agreement Bill is before the Senate. An ALSWA Land and Heritage Unit representative attended the Senate Committee to voice objections to a part of the Bill that removes the protection of key Commonwealth heritage and environmental laws in areas under the RFA. They were the Australian Heritage Commission Act 1975, Environmental Protection (Impact of Proposals) Act 1974 and the World Heritage Properties Conservation Act 1983.

Environment and heritage protection available in areas under the RFA, will largely depend upon the terms of the agreement. The Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act and State Aboriginal Heritage Act, will still apply in the RFA areas. This may be illusory. The proposed new Commonwealth Act passes most of the responsibility for Indigenous heritage protection to the States. The State is proposing new Indigenous heritage protection laws.

The RFA includes some commitments by the State Government involving Indigenous heritage issues. They include; development of a formal consultation process with Aboriginal people about policy and procedures for protection of Indigenous heritage values on land managed by CALM.

- Consultation on mechanisms to enable more effective involvement of Indigenous people on culturally significant sites and the provision of training and employment opportunities.
- Protection of sites in accordance with the Aboriginal Heritage Act. Note, that this Act is currently being redrafted.

Cedric Jacobs wins racism claim in human rights case



ALSWA Executive Committee member Cedric Jacobs (pictured) has been successful in winning a racial discrimination claim in the Human Rights and Equal Opportunity Commission (HREOC).

Mr Jacobs was awarded compensation from the HREOC when it ruled that a comment by a public officer of the Swan Council, had breached the Racial Discrimination Act.

The incident happened when the public officer was asked at a workshop leading up to the Swan Council election (which Mr Jacobs was attending) "What would you do for the Aborigines?" The public officer said something to the effect of "I would shoot them".

Mr Jacobs said he was 'cut up in his spirit' by the comment and decided to pursue the discrimination case in the HREOC. Mr Jacobs told the Commission that the comments triggered childhood memories of white schoolchildren chanting about shooting Aborigines and a farmer pointing a gun at him.

The HREOC suggested the public officer make a personal apology and a public one at a Swan Council meeting. Mr Jacobs is Chairperson of the ATSIC Perth Regional Council, and by virtue of that position he is a member of the ALSWA Executive Committee.

- CALM will develop procedures and protocols in consultation with AAD and Indigenous people and include relevant Indigenous heritage expertise in CALM to assist in early identification of Aboriginal sites and afford them the protection under the Aboriginal Heritage Act.
- Introduce amendments to the Wildlife Conservation Act 1950 and the CALM Act to permit Aboriginal people to carry out traditional and cultural activities including hunting, gathering and ceremonies on State forests and public lands.
- Facilitate access to and use of CALM managed forests by Noongars for culturally important activities.
- Ensure Aboriginal heritage values are recognised and managed in culturally appropriate ways.
- Facilitate cross cultural awareness to inform and educate the wider community about Noongar values and links to the RFA region.
- Monitor CALM field activities in relation to the protection of Aboriginal sites.



Regional Co-ordinator investigates conditions at Newman communities

Following an expression of concern by ALSWA and the Western Australian Council of Community Health Organisations (WACCHO) about the living conditions of Aboriginal communities near Newman, ALSWA Regional Co-ordinator Jenny Bedford visited the area to see conditions for herself. The following is an extract of her report:

"The Martu people are the traditional owners of the country surrounding the Capricorn and Parnpajinya communities. Some have indicated that there are major cultural reasons why the people living at the two communities have relocated from their traditional country.

"The Capricorn Community is situated approximately 15kms south of Newman, on the tropic of Capricorn. The camp is in walking distance from the Capricorn roadhouse. There are seven or eight people living there permanently. They are elderly people and children under ten years.

"The State Government has said that the community is a temporary campsite, but the residents tell a different story. Resident Lorna Minter says she has lived there for over a year and Marcia Judson has lived there since Christmas 1998.

"The camp appears to have been established as a result of drunkenness and lawlessness at Parnpajinya. There have been many reports of elderly people being ordered to hand over their money or be flogged. Fresh water and food supplies are obtained daily from the Capricorn Roadhouse. The people have to rely on Newman residents to take food to them or take them into Newman to do shopping.

"Capricorn has no infrastructure, shelter, running water, ablutions or any other basic facilities. People are living in makeshift humpies and a few old car bodies serve as a storage area for dry food and clothes. There are a number of serious health concerns which come as a result of the living conditions.

"The Parnpajinya community is 2kms north of Newman. It has a relatively small population. Infrastructure and other essential services have been established at this community, however there are a range of issues affecting the residents. There has been a bit of controversy over whether Parnpajinya comes under the East Pilbara Shire Council (EPSC) as a Town Reserve or under the Aboriginal

Lands Trust. According to a report by State Aboriginal Affairs Minister Kim Hames, Parnpajinya is under the EPSC.

"Although some work has been done to improve the community through infrastructure, housing and running water, there has been no follow-up made to ensure the community maintains order. Alcohol abuse is an endemic problem.

"Newman Court Officer Sam Dinah says there is no local Aboriginal agency to run culturally appropriate programs or provide supervision for Community Based Corrections within the community.

"He says there is no Community Development Employment Program (although the Western Desert Puntkurnparna Aboriginal Corporation is thinking of starting a program), and there are no employment possibilities in Newman. There are also major literacy and numeracy problems (resulting in high levels of truancy) and the community co-ordinator had recently resigned. There are a myriad of problems in both communities. Sadly, on all social indicators, members of both communities lag behind the other residents of Newman.

"Before these matters can be resolved, there needs to be a firm commitment from individuals themselves, from community leaders from Jigalong and Nullagine, and from Government and relevant service providers. A community meeting has been planned to provide an opportunity for the people of Capricorn and Parnpajinya to become involved in deciding their future lives".

POLICE SEEK TALKS ON CUSTOMARY LAW

The West Australian Police Force has approached ALSWA for talks on a possible amalgamation of Western and Aboriginal Customary law. Their approach follows comment by ALSWA President Glen Colbung that Customary Law is a priority issue for ALSWA.

Police admit to confusion at the current situation, with some police officers and magistrates making allowances for customary law in law enforcement and sentencing. A police spokesperson said officers were leaving themselves open to criticism or worse by making decisions that were not backed by legislation.

State ordered to pay costs in Native Title case

The State Government has been ordered to pay ALSWA legal costs over the Miriuwung-Gajerrong Native Title determination.

Justice Lee, of the Federal Court, ruled in early May that the State Government pay 75% and the Northern Territory Government pay 25% of ALSWA's costs for the case.

The total amount recoverable has been discounted by 10% in recognition of the assistance the State and the Northern Territory gave in establishing the tenure history of the land.

Both Governments have appealed the decision which is to go before the Full Bench of the Federal Court. The appeal will be heard in August, after their appeal against Justice Lee's decision last November (which awarded Native Title rights to the Miriuwung and Gajerrong people over more than 7000sq km in the East Kimberley) comes to an end.

ALSWA applied for a costs order against the State, the NT Government and the thirteenth respondent, Innes Holdings. Innes Holdings had been awarded costs in a related action.

In his decision, Justice Lee noted in support of the distribution of costs, that the State presented a case that opposed the first applicant's claims in all respects, the NT Government did not assert that Native Title had not been held in that area of land and their involvement in litigation was limited than the role undertaken by the State.

Any amount recovered will cover the cost of staff who contributed to the hearing of the case; Solicitors, Historians, Geographers, Geographic Information System department, Secretaries and Clerical assistants; Counsel fees, Anthropologists, Linguist, Archaeologist, Ethnobotanists, accommodation expenses, equipment purchases and vehicle hire over the three years of proceedings. The cost of drawing the bills of cost is also claimable.

Liquor Act could contravene Racial Discrimination Law

The Aboriginal Legal Service is investigating reports that Aboriginal people in Kalgoorlie Boulder are being refused service at local liquor outlets unless they are in a private vehicle or taxi.

ALSWA CEO Dennis Eggington said not only was the practice discriminatory, based on race, but it also encouraged drink driving, and doubly penalised those without private vehicles by adding the cost of taxi fares to their purchases.

Publicans in the areas believe that they have powers to restrict sales to Aboriginal people under new provisions of the Liquor Act. If that was the case the Act needed remedial amendment.

Under a local 'Accord' between police, shire and liquor outlets the sale of alcohol to Aboriginal people was restricted before 11am. While this particular restriction was known to have the tacit support of the Aboriginal community, the practice of refusing service to Aboriginal people simply because they were on foot, did not.

Mr Eggington said the practice could contravene the principles and intent of Federal Racial Discrimination Legislation and it was possible that legal action could be taken against the Liquor Licensing Board and participating liquor outlets on that basis.



Right: Traditional owners Ben Ward and Jeff Janama after the historic Federal Court decision.



PROFILE - JUDI BUTTERS ALSWA EXECUTIVE MEMBER EAST KIMBERLEY

Judi Butters is a Gidja woman who was elected to the Executive Committee of the Aboriginal Legal Service of Western Australia in the 1998 election. She is one of two members from the East Kimberley region.

Both her parents were members of the 'Stolen Generation' and were taken to Moola Bulla in the 1930's. Her father was taken from Gidja country near Warmun and her mother from Fitzroy Crossing. Her family lives in Halls Creek. She has one son.

Judi has qualifications in pre-school teaching, and is Administrator of Ngoonjuwah Council Aboriginal Corporation, a resource centre for communities in the Halls Creek region. She is vice-chairperson of the Kimberley

Stolen Children committee and a member of the Police Crime Prevention Committee in Halls Creek.

Judi is also a member of the Kimberley Group Training Committee, a member of the Aboriginal Justice Council for the East Kimberley, and a Justice of the Peace in Halls Creek. She completed her High School and College Training in Perth and worked in Perth for a number of years. She was one of two Planning Officers who did the foundation work for Clontarf Aboriginal College.

Judi was one of the first ATSIC Regional Chairpersons for the East Kimberley region and Administrator at Warmun for a number of years. She developed a Cultural Awareness Package which is still being used at the Argyle Diamond Mine and various Government Departments in the East Kimberley.

ALSWA LEGAL CONFERENCE AT JARRAHDAL



ALSWA staff gather together for a photograph at the recent Solicitors and Court Officer's Conference in Jarrahdale. The event is held annually to discuss trends and changes in the Criminal Justice System as they relate to the Aboriginal community.