COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

INQUIRY INTO COLLABORATIVE APPROACHES IN GOVERNMENT

SESSION ONE

TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 11 JUNE 2008

Members

Mr A.P. O'Gorman (Chairman)
Ms K. Hodson-Thomas (Deputy Chairman)
Mr S.R. Hill
Mrs J. Hughes
Dr G.G. Jacobs

Hearing commenced at 9.58 am

BAGDONAVICIUS, MS PAULINE
Public Advocate,
Office of the Public Advocate,
examined:

LAWSON, MS GILLIAN
Manager, Guardianship,
Office of the Public Advocate,
examined:

The CHAIRMAN: The committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament. Have you completed the "Details of Witness" form?

Ms Bagdonavicius: Yes.

Ms Lawson: Yes.

The CHAIRMAN: Did you understand the notes at the bottom of the form?

Ms Bagdonavicius: Yes.

Ms Lawson: Yes.

The CHAIRMAN: Did you receive and have you read an information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

Ms Bagdonavicius: Yes.

Ms Lawson: Yes.

The CHAIRMAN: Do you have any questions relating to your appearance before the committee this morning?

Ms Bagdonavicius: No.

Ms Lawson: No.

The CHAIRMAN: Pauline, we have received your submission. Do you wish to propose any amendments to your submission?

Ms Bagdonavicius: The submission was forwarded just prior to my appointment as Public Advocate, and Gillian was the Acting Public Advocate at the time it was submitted. We wanted to take the opportunity to talk a little bit more around the project for people with exceptionally complex needs, and also to provide to you a copy of the report that has been done on that particular project, because as we went over your website I saw that that report has not come to light yet, and I thought it would be a valuable report to add to your deliberations.

The CHAIRMAN: Please take that opportunity.

Ms Bagdonavicius: Thank you. The People With Exceptionally Complex Needs project came about through the work of the Public Advocate in raising a particular difficulty in respect of the needs of an Aboriginal man who was being incarcerated at the time. I understand that a direction had been given by the Mentally Impaired Accused Review Board in 2005 that the departments needed to work together to resolve issues so that this man could be released back into the

community. That provided an opportunity for the Public Advocate to raise this issue in a whole-of-government way, and that led to some further work being done through the Human Services Director Generals Group. Gillian was actually the guardian for this particular man at the time, so I thought it might be useful for you to hear from her first hand about the nature of that case. I will then talk briefly about the work of the project, and I will give you the report that you can read as well.

Ms Lawson: This was an Aboriginal young man. At the time of our involvement, he was in his early twenties. He had had a rather unfortunate early childhood, having been removed as a young child for failure to thrive, so he was under the care of what was then the Department for Community Development and is now the Department for Child Protection. He had had a number of placements in the eastern goldfields area and the central lands, and due to a transient lifestyle and a number of foster placements that had broken down, he at a young age commenced solvent abuse. He was around the age of 10 or 11 at the time—indeed, he was a very young child. This resulted in very early offending, some of them minor in nature—things like charges for burglary and minor assaults—and of course as well charges for substance abuse. So this young man continued on a projectory where he ended up in a number of juvenile detention centres such as Longmore and Rangeview, until finally he came into adult custody in 1999. The offences were once again fairly minor—stealing—but he was deemed at this point unfit to stand trial. This was really probably the undoing of this young man at this time, because the solvent abuse meant that he was unable to make reasonable judgements for himself, and he could not plead to the charges. In fact, the charges were dismissed at the time—you may be aware of this—under what is called the Criminal Law (Mentally Impaired Accused) Act. They were able to dismiss the charges, and he was then put on an indeterminate sentence. In fact, the decision to release him was at the Governor's pleasure.

There then began a long planning process. It was in about 1999 that he was incarcerated. He went from Eastern Goldfields Prison to Casuarina Prison. During the period of his incarceration he did not settle well as a prisoner, obviously being Aboriginal and being young. Also, his solvent abuse had given him an acquired brain injury, so he found the placement there extremely hard to adapt to. He was a Wongi man, and he had very few supports in the system. Many services came together to try to devise a release plan for him. Many of these plans never came to fruition, due to lack of natural family support, and funding issues. Applications were made to the Disability Services Commission which initially were unsuccessful. A very brief release was accorded to this man in 2001 when it was thought that he could return to the care of his sister in the central lands. Unfortunately, that did break down after five months when he resumed solvent abuse, which was in fact petrol sniffing.

In 2005, as a result of many failed attempts to find a way for an across-government initiative to come together to support this man, a senior officers group came together. It had representatives at a director level from the Office of the Public Advocate—indeed, that was myself at that point—the Disability Services Commission, mental health services and the Department of Corrective Services. This was a senior officers group that was trying to plan his return to his lands. What was unique about this planning group is that it brought together for the first time an opportunity for across-government funding that previously did not exist for people with this complexity of issues. In fact, we were then supported by the Mentally Impaired Accused Review Board to release him in 2006, which did occur, after six years, I must say, of incarceration. That was an extremely sad case, that someone for fairly minor offending had had to be incarcerated for that length of time.

The CHAIRMAN: Was 2005 when the Public Advocate became involved, or were you involved way back and just took a leading role in 2005?

Ms Lawson: A leading role in 2005, after many efforts to find other ways to get funding and support for release, but that did not occur. It took until 2005 for the senior officers group to come together.

Mr S.R. HILL: How many cases do you have currently?

Ms Lawson: I am the manager of the guardianship program, so currently I have only one case, which is a highly complex one. My team of guardians have approximately 35 cases each, and we cover the whole of Western Australia.

So the release plan was a success. I guess one of the key ingredients of that plan was that in this joint funding we had the Department of Corrective Services funding as a top-up to the Disability Services Commission funding, and also some funds from mental health services. In the history of my experience with people with these particular complexities, this was a first. I am pleased to be able to say that this particular Aboriginal man was returned to Wingalina, his community, where he did have some extended family, and a placement was successful for 15 months. However, it did break down in August of last year, when he did need to come to Graylands Hospital. He has particularly acute problems in relation to behavioural issues, so at this time, rather than risk any reoffending, he was brought to Graylands for assessment and treatment, and we are now endeavouring to embark upon a further release plan for him. I thought this was a particularly strong example of across-government cooperation which needed to be addressed to find a way to get this gentleman out of prison.

The CHAIRMAN: You mentioned the funding from Corrective Services, Disability Services and mental health services.

Ms Lawson: Yes.

The CHAIRMAN: Who was in control of those funds? It involved three separate departments, which would each have their own reporting and controls on their funding, so when all this funding came together, who controlled it?

Ms Lawson: The Disability Services Commission took the lead role, and then the money went through NYP. I will have to check my spelling on that, but it was the women's council up in the central lands, which acted as a disability agency—a brokerage—for the funding coming from DSC through to the Wingalina option.

[10.10 am]

Ms Bagdonavicius: That is a good example of how we are actually getting that collaboration happening on the ground, and obviously that came from a good commitment at a senior level. At the same time, the Public Advocate had put together a proposal that went to the Human Services Director Generals Group around developing up a model for how this could happen into the future. The Human Services Director Generals Group agreed in August 2005 for that project to go ahead.

It was done under the auspices of the Department of the Premier and Cabinet, but the Public Advocate provided a staffing resource to enable it to do the work on pulling together this document that I will leave with you. Together they put in place a working party that involved a range of agencies, which of course included the Disability Services Commission; the Department of Corrective Services; the Department of Justice at the time and then DOTAG; the Department of Health, which included the offices of mental health, drug and alcohol, and Aboriginal health; the Department of Housing and Works; the Department for Community Development; the Department of Indigenous Affairs; and the police. There was a good across-government representation in the development of a potential model for how this might come together. Part of the brief for that group was also to try to identify how many people might need this particular response in WA. The estimate given in the report is 80 to 100 people, and that was based on work that had happened in Victoria. At the end of the day, we are talking about a group of people who met a set range of criteria—people who were being failed to be assisted in the conventional ways. To give you the flavour of that criteria, it was for people aged 18 and above and they had to meet two or more criteria. They had to have a mental disorder under the Mental Health Act, an acquired brain injury, an intellectual disability or a significant abuse problem. They had to meet two of those criteria.

They also had to pose a significant risk of harm to themselves and to others. It also needed to be demonstrated that they required intensive support and would benefit from a coordinated approach. Finally, it also needed to be demonstrated what else had been tried; that is, that the existing system was not working. That group came together and in 2007 it provided a report that provides a way forward. Since 2007 consideration has been given to how this might be funded into the future. We have not yet obtained longer term funding, but there is a smaller group now under the leadership of the Premier and Cabinet, Disability Services and Mental Health, which is continuing to move this concept ahead. The will is there to make it happen. Both Disability Services and Mental Health are each making available $60 000 over the next financial year, and Premier and Cabinet will make available $30 000 to continue a research focus. An amount of $120 000 will employ a high-level clinical coordinator who can work with the agencies and identify particular people who might benefit from this and then work with them on putting in place clear plans and identifying how the funding will be achieved for each of those clients on an individual basis. That is good to see, particularly from our point of view. Certainly, we could identify a number of people who do not have a lot of community supports but who would benefit from this sort of approach continuing into the future.

The CHAIRMAN: Can I ask a question about the guardianship of this gentleman? How did he happen to come under the guardianship of the Office of the Public Advocate? Is there a process whereby that will happen for the other predicted 80 to 100 people? Do they have to be under the guardianship of the Public Advocate? How will that happen in the future?

Ms Bagdonavicius: I will answer the question about the 80 to 100 people. They may or may not be involved with us. It is about some flexibility. The key agencies that are now meeting are Disability Services, Mental Health, Corrective Services, Housing and Works, the Drug and Alcohol Office and us. We might identify people, but Disability Services, Mental Health or the Drug and Alcohol Office may also identify a particular family or person we should be working with, because this is a person-centred approach rather than a family approach. We may be involved, but not necessarily. In terms of our involvement as guardian —

Ms Lawson: The involvement was as a result of an application to what would have been the Guardianship and Administration Board, now the State Administrative Tribunal. A community corrections officer was concerned about this young man languishing in Casuarina. The hope was that a guardian would bring some additional advocacy. Indeed, our role was to act as a legal decision maker on his behalf and to attempt to get the release plan going.

Ms Bagdonavicius: Our submission highlights that we have powers under the Guardianship and Administration Act, but we are a guardian of last resort. The State Administrative Tribunal now makes the decision on whether or not someone needs to have us as a guardian, but it will consider other options. We are a final resort when people have no other family or community options.

Mr S.R. HILL: Pauline, obviously this structure is in place now. However, if you and Gillian are the champions of it, what would happen if there were a change in staff, and five months down the track some agency said, “Sorry; it is a great concept, but we’re pulling out of it”? What is the strength of this commitment that you have so far? How long will it stay in place? You said that there is funding of $60 000 from key agencies for the next financial year, but what will happen after that?

Ms Bagdonavicius: It is a process of ongoing development at this stage. I do not think we can predict how long this model will last. However, it is really positive that we have put it together and have applied it in a particular case. A group of people have worked on the principles that need to be put in place with chief agreement around that. There is a will to make it happen. The will to make it happen is at a very senior level. To make projects such as this work, we need engagement by all players at all levels, and so we need the case officers to be engaged with and prepared to work

alongside other agencies and to work differently. It really is about trying to work outside the square; it is not necessarily about the traditional approach of retaining a particular responsibility.

Mr S.R. HILL: Would you see in the future a need for legislation changes?

Ms Bagdonavicius: We might, but at this stage it is still early days in working through the issues as they apply in Western Australia. I know that other states have similar projects, but my appointment to this position is too new for me to be clear on whether they require any legislative amendments. The important ingredient is having commitment and drive, and the fact that the chief executive officers of both Mental Health and Disability Services have it is a significant factor.

The CHAIRMAN: You mentioned that $150 000—that is, $60 000, $60 000 and $30 000—will pay for a coordinator. Who will that coordinator report to—the Department of the Premier and Cabinet, the Public Advocate or the Disability Services Commission?

Ms Bagdonavicius: Disability Services is hosting the appointment of that position, so it will provide the other infrastructure supports around that position. As I have said, that position will also require the consideration of funding plans for individual clients and how to coordinate that on a case-by-case basis.

The CHAIRMAN: Has any work been done on funding for particular clients by Corrective Services or Disability Services?

Ms Bagdonavicius: No.

The CHAIRMAN: Is there a point at which corrective services might say that it is no longer its problem because he is not part of the —

Ms Bagdonavicius: At this stage it is early days. The model has been developed. The report identifies that we are talking about people who are quite expensive to the state. At this point I think it is about us testing it. I am sorry; I cannot answer your question more definitively than that.

The CHAIRMAN: That is all right. I figured that would be the answer.

Mrs J. HUGHES: You talked about CEO involvement. Is there government ministerial involvement at all or does it stop at the bureaucracy?

Ms Bagdonavicius: I understand from discussions I have had with Premier and Cabinet that the Attorney General, who is also the Minister for Health, has been very supportive of this model and has seen the value of it. Beyond that, I am not sure because the discussions that initially took place when the proposal was put forward through the Human Services Director Generals Group happened before my time. At that time the reporting structure was such that they reported to the Cabinet Standing Committee on Social Policy. I am aware that that structure is no longer in place, so I cannot answer any more definitively than that.

Dr G.G. JACOBS: As a country member, I know that disabled people have difficulty accessing services such as physio, occupational therapy and speech therapy. Because the services are not available, it often falls on the hospital to provide services through the Western Australian Country Health Service. I was very encouraged by the comment you made about coordination, because often these people try to access services that are in great demand. These services are under pressure now. People with complex needs are trying to access services, but the issue is who will pay. A member of the public who has been referred by a GP can access these services, but in a lot of cases these people require more complex and intensive services because of their needs. I find that a lot of people, whether they live in Esperance, Bunbury or wherever, just drop down between the net. I was encouraged by that coordination role of trying to get these agencies to supply the services.

I am sorry it is not a question, but I would hope that the coordination you have been talking about will address some of that issue. Would that be the case?

[10.20 am]

Ms Bagdonavicius: It would certainly be the hope. It is something we have to keep testing and working on together.

The CHAIRMAN: Is this specifically about a particular gentleman who had high needs and who was incarcerated at a young age at the Governor's pleasure, and this would be a mechanism for returning him to the community?

Dr G.G. JACOBS: Yes.

Mrs J. HUGHES: Once a project like this is embedded—and we hope that something like this would be embedded very strongly with funding coming through—would there be a hope that there would be a funding mechanism that was not necessarily decided through different agencies according to their budget but coming directly through Treasury as a formalised line of funding rather than having to basically tee it up every year with different agencies? Has any thought gone into involving Treasury in something like that?

Ms Bagdonavicius: Again, because I am relatively new to the project as a public advocate—I do not think Gillian has had that level of involvement with it—I think at this stage this proposal did not look at what the budget requirements might be. Certainly, the impression I have is that it was with a sense that we would have a pool of funding over time. I think in the longer term that would be something where we would go back and still test the waters with Treasury about. I am not sure to what extent there has yet been discussion with Treasury around the project beyond different agency discussions around it. It is something that certainly will be on the agenda in the longer term. As I say, the proposal certainly had highlighted some funding needs and that would need a pool of funds, as you say.

Mr S.R. HILL: You went through the key agencies, but there are a couple that I think are probably missing. One of those is obviously DIA, because we are talking about a very high percentage of these people having an Indigenous background, and the other level of government is local government, particularly in some of those remote communities where they are picking up directly and paying for medical services and stuff like that in Merredin. Has any thought been given to them being coopted in further discussion, particularly the DIA, because, as we are talking, I have two of those cases currently at the Greenough prison?

Ms Lawson: I can talk to the matter that I have been discussing. I guess the key agencies at the time were reflecting this man's particular high-level needs, which were to do with the fact that he had a decision-making impairment. What we really needed was a buy in there from the mental health services and the Disability Services Commission. They were the key agencies really that would be able to support the person. What we were looking for with Corrective Services was a sign of their accepting and being in agreement about the safety of the community and this person's welfare as well in particular. At the time we did not look to DIA or local government although when we were looking at our release plans, back to Wingellina, of course we were working with the community there. We were working with the elders, and it was very resourceful; in fact, we engaged a level 7 salaried officer who worked full time on this particular case plan to build it up to a point where it had some vigour around when he would be released and what would be in place. We had not only some extended family that were going to offer support—in particular an aunt—but we also had some community members that would come in as emergency support when his needs were at a higher point depending on his mood state and so on. It was not so much local government at that point but more working with the Aboriginal community itself. I think the key players were very much with that focus on. We had to work with Corrective Services obviously, but with his disabilities the specific agencies were the key. It may be that DIA would have an interest in our people with the exceptional needs project. My understanding is that I do not think it has gone to DIA.

Ms Bagdonavicius: They were involved in the project group and they were involved in the working party that developed the proposal. It has been more in terms of now getting some momentum about

ensuring that we do not lose it and ensuring that we keep it going, that we have taken a service provider focus around who are actually going to make the difference around the table in terms of making services available.

The CHAIRMAN: In your submission you have made a statement that some agencies refuse a service if they feel that the client is the responsibility of another department, and it is because of limited resources available and a concern about the possibility of cost shifting. Have you an idea of a mechanism of how you get over that, where departments do not push it? One of the greatest concerns is that people get pushed from department to department and in the end nobody helps them. Is there a way around that?

Ms Lawson: We certainly see situations. I think the most prevalent would be where people have a dual diagnosis. It may be that the person perhaps had a mental illness and as a result of the mental illness got an acquired brain injury, maybe from a motorbike accident or something. For a moment there you have the acquired brain injury being a prime diagnosis but with a mental illness overlay. People will often look at this person who has very highly complex needs and say, "Where does he really sit within a service delivery model?" One would like to think that those sorts of boundary keeping would not be in place, but clearly they are because everybody is trying to look for what is the primary diagnosis; it starts to blur when people have got complex problems. The way the Office of the Public Advocate looks at these issues is really by way of advocacy. We will be quite vigorous in trying to get those doors open to having, I would like to think, a cooperative arrangement whereby both agencies ideally would stay involved and where they would agree on the concept of a case management system, so looking for a case worker to take on the role. You have probably seen examples where indeed, for instance, the Disability Services Commission can provide funding and then possibly a non-government agency can take on that funding and become the case manager. I guess where we see service delivery gaps—your example about perhaps no one agency wanting to pick the person up—we look very much to coordinate numerous supports for the person and at the case management model in the centre there to look after the person.

Mrs J. HUGHES: If this cooperative approach was not put in place—this type of project—is there any support for these people or would they simply just stay where they are in that position?

Ms Bagdonavicius: I think in terms of the particular case that Gillian has given, I think that man would have stayed where he was or we would have had very ad hoc approaches as it had historically, where he came out and might have stayed in the community but probably for a much shorter period of time.

Mrs J. HUGHES: In order for him to be highlighted as noticed to be placed into this type of program, a project like yours, if it was actually put and cemented into place, to pick up these people within the system that are getting lost in it, so to speak; would it make your job much easier in actually finding these people that are stuck in the system? Is my question clear?

Ms Bagdonavicius: Yes.

Ms Lawson: Certainly, I think a project of this nature is trying to say that there is a very small but highly vulnerable group of adults with decision-making disabilities, be it mental illness, be they born with an intellectual disability or brain damaged from substance abuse, and indeed because their problems are so chronic in nature we see a spiralling out of control often of their lifestyle. Employment becomes a problem; they lose employment. That then causes problems of low income and homelessness often and family members who become exhausted by their care, so the family becomes broken down and estranged through lack of support. I guess a project of this nature is trying to say that some of the people with decision-making disabilities have such a chaotic lifestyle and a lack of support that we need to particularly home in and focus on this particular group. There may be many people in the community who have a mental illness but who do not have this range of problems that follow, but there is this small group of people—I think the project has probably talked about 80 or so—who are in a life of crisis almost, whether it is at risk of imprisonment, risk

of homelessness or risk of assault, even abuse and exploitation, because they are so vulnerable. These people often exhaust a lot of what we would see as social welfare-type agencies. They are at the housing department, the Disability Services Commission and emergency departments, and they are in police care.

Everyone is trying to do their little bit, but we all need to bring them together and come up with a support plan that really works rather than be reactive.

[10.30 am]

Mrs J. HUGHES: Does there need also to be a reporting mechanism that goes to a centralised place?

Ms Lawson: Certainly, we need a way of information sharing, yes.

The CHAIRMAN: You estimated 80 to 100 people out there, can you give us an idea of how you could have come to that conclusion?

Ms Bagdonavicius: Simply, I have drawn it from this report. There are more people under guardianship than 80 to 100 people. Those figures would be based on figures and probably the population and the work done in Victoria around identifying the cohort in that particular state.

Mr S.R. HILL: Well done.

The CHAIRMAN: In terms of collaboration across different agencies, do you have a view on whether performance indicators should be based on collaboration, with funding attached or removed depending on the level of collaboration between the departments?

Ms Bagdonavicius: A key performance indicator for collaboration as such is probably a difficult way to go. It comes back to different strategies and projects around which we can define what our outcomes will be and ensure that people are meeting them. From my experience as a senior executive member, I am aware that we report through things such as annual reports, budget papers and CEOs having performance agreements through which we can identify particular projects and have people report on that. However, I do not see how we can easily have one KPI for something in each budget area around collaboration. It will become a little bit meaningless. That could raise the question, “So what does that mean?”

Dr G.G. JACOBS: How do you measure collaboration?

Ms Bagdonavicius: Yes. What collaboration achieves is what we should be trying to measure.

Ms Lawson: I guess we are looking for an output, so it is the measure of that across government. Would it be cases or something else?

Mrs J. HUGHES: Which does not really give a proper understanding because some cases might take nine months and others might take one week, yet the outcome might be quite substantial.

Ms Lawson: Across-government initiatives may not be just client centred. They may have other outcomes that are preventive in nature. How do we measure a certain project that prevented some people from becoming homeless? It might be very hard to measure but that might be the aim of the initiative. A lot would need to be done to consider what a key performance indicator would measure when looking at notions of whole-of-government activity, I guess.

Ms Bagdonavicius: Collaboration is the focus of that. Reporting frameworks around the Gordon inquiry and the State Homelessness Strategy, for example, has probably been more meaningful than going down the path of KPIs.

The CHAIRMAN: When we spoke with other groups that collaborate, particularly those involved in the Geraldton project, they have a memorandum of understanding. You recommended that in your submission. Can you tell us how important they are?

Ms Bagdonavicius: The Office of the Public Advocate has a range of memorandums of understanding in place. We have done it with a variety. They are really important from an operational perspective in ensuring that our officers who are across organisations can understand what their various roles are. If we do not have that shared understanding we do not go anywhere. People will say that is not their role. It does help put in place some agreed boundaries. At most it achieves clarity. It is also a useful mechanism for working with non-government services by government agencies in particular program areas for providing that same sort of assistance to staff.

The CHAIRMAN: Thank you very much for coming in this morning.

A transcript of the hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt. If the transcript is not returned within this period, we will deem it to be correct. Again, thanks very much for coming in. Good luck with the project.

The Witnesses: Thank you.

Hearing concluded at 10.34 am