

**COMMUNITY DEVELOPMENT AND JUSTICE  
STANDING COMMITTEE**

**INQUIRY INTO CUSTODIAL ARRANGEMENTS IN POLICE LOCK-UPS**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 12 JUNE 2013**

**Members**

**Ms M.M. Quirk (Chair)  
Mr I.M. Britza (Deputy Chair)  
Mr C.D. Hatton  
Mr M.P. Murray  
Dr A.D. Buti**

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**Hearing commenced at 10.03 am****NEWHOUSE, MR MARC****Chair, Deaths In Custody Watch Committee (WA) Inc, examined:****MOORE, MISS NATASHA, examined:**

**The CHAIR:** On behalf of the Community Development and Justice Standing Committee, I thank you for appearing today and for shuffling the schedule. The purpose of this hearing is to assist us in understanding the current implementation status of the Royal Commission into Aboriginal Deaths in Custody recommendations and broadly explore some directions for the future. At this stage, I will introduce myself, Margaret Quirk. Ian Britza, on my left, is the Deputy Chair; to his left is Chris Hatton, the member for Balcatta; and shortly joining us we will have Mick Murray, the member for Collie, and Dr Tony Buti, the member for Armadale

We are a committee of the Legislative Assembly of the Parliament and this hearing is a formal procedure of the Parliament and therefore commands the same respect given to the proceedings in the house itself. Even though the committee is not asking you to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as contempt of Parliament. This is a public hearing and Hansard will be making a transcript of the proceedings for the public record. If you refer to any document during the evidence, it would assist Hansard if you could provide the full title for the record. Before we proceed to the questions we have before you today, I need to ask a series of questions. Have you both completed the Details of Witness form?

**The Witnesses:** Yes, we did.

**The CHAIR:** Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

**The Witnesses:** Yes.

**The CHAIR:** Did you receive and read an Information for Witnesses briefing sheet?

**The Witnesses:** Yes, we did.

**The CHAIR:** Do you have any questions in relation to being a witness at today's hearings?

**The Witnesses:** No.

**The CHAIR:** Perhaps you can give us some background as to why the committee started and what your brief is.

**Mr Newhouse:** The watch committee was set up by a coalition of concerned parties in 1993, so it has been going for quite some time, and that was following the Royal Commission into Aboriginal Deaths in Custody. The original groups involved included church organisations, unions, lawyers, Aboriginal organisations, NGOs, and also family members of people who had died in custody, as well as people like Judge Hal Jackson, the late Jack Davis and the late Sir Ronald Wilson. When it was set up the primary overall aim was to act as an independent to monitor and see all the recommendations implemented. For many years, it was reasonably well funded by a range of organisations including ATSIC, which was the primary funding source. ATSIC was dismantled in 1994 and for a short time we were funded by the federal Attorney General's office. That then came to an end and we became a non-funded organisation, so clearly our capacity in terms of research and a lot of things that we would like to do we are now unable to do to the extent we would like.

My understanding is that similar watch committees were established in each state and territory following the royal commission, and the watch committee of WA is the last one remaining in that form. When we lost funding we decided that it was necessary to continue, and we are glad we did, but obviously the focus of the organisation had to change because of the lack of resources. From that point of view, we have really become more of an organisation that identifies key issues and runs campaigns around those. There has, however, been a recent development that we have been essentially involved in and that is the formation of a national network of community organisations, primarily Aboriginal organisations, to focus on the fact that over the past decade the Aboriginal rate of incarceration is 11 times faster than the non-Aboriginal rate at that time, and we are locking up more people per capita than ever before, which is in our view very serious. In recognition of that there will be a national day of action on the 30<sup>th</sup> anniversary of the death of the late John Pat —

**The CHAIR:** Is that in September sometime?

**Mr Newhouse:** Yes, September. I might talk a little more about that later. That is a bit of a summary on the role of the watch committee as it is today.

**The CHAIR:** In general, and we will go through it in more detail later, of the 339 recommendations of royal commission some have been complied with, some have not been complied with in part, and some have not been complied with at all. What are the most outstanding omissions or failures in that regard?

**Mr Newhouse:** That is a very difficult question.

**The CHAIR:** Maybe I will put it another way: are you hearing of cases or incidents which you conclude should not be happening given the history and the recommendations of the royal commission?

**Mr Newhouse:** Sure. Clearly, one of the key things is that currently WA has the highest number of Aboriginal people incarcerated in the country according to the latest figures out by the Australian Institute of Criminology. That statistic really highlights that there has been ineffective implementation and monitoring of the recommendations, not only in WA but also nationally. Our perspective is that on the one hand we have the royal commission and some of the recommendations were a commonwealth responsibility, but a large percentage of them were aimed at action by state and territory governments. So we have two things happening. The difficulty in answering the first question is that we think that the processes that were in place to monitor the implementation nationally, including WA, were basically flawed. What it boiled down to—I am not sure what year it was—was a meeting of the Attorneys General nationally where they agreed that each state and territory government should do regular reports. As far as we can work out, the last report coordinated by the Department of Aboriginal Affairs was in 2000. When it was time to report, what typically would happen was that emails would be sent out and a public sector employee then had to respond on behalf of the department. They would rush around trying to get evidence and over many years a superficial kind of assessment of the recommendations resulted. For example, there was one year when the WA government said that most of the recommendations had been implemented, but the evidence of that was lacking; and on the other hand we had the Aboriginal Legal Service making a submission at the same time that calculated that only eight per cent of the recommendations had been fully implemented. Even if we take a middle position on that the whole monitoring process is still of great concern. It is really difficult to clearly answer that question but some of the issues we are concerned about relate to when someone is detained in a police lockup, for example, and their access to health services and medical assessments and all those sorts of things, and also police practice and policy and the culture. We think a lot of work needs to be done around that.

[10:15 am]

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**The CHAIR:** There was some recent publicity about a hearing at the CCC in relation to the Broome lockup. Is that something that you believe is isolated? Were you surprised to read that, or is that consistent with the kinds of things you have some anecdotal evidence on?

**Mr Newhouse:** On the ground we get phone calls on a weekly basis from across the state but also in other states because people google “watch committee” and they ring us up from Cairns or somewhere, but they include a range of allegations of mistreatment, of denial of bail for—there is a range of anecdotal stuff there and we need some time to collate that and put that together for you, which we could do.

**Mr I.M. BRITZA:** We want to know about the genuineness of implementations of these recommendations. The other part of it is that boxes can be ticked but we want to know whether the spirit of it—I think that is the right terminology—has been affected or at least been accepted.

**Mr Newhouse:** Our view is that there has not been a coherent plan around implementing the recommendations; for example, it has kind of happened on an ad hoc basis and is different from state to state. There is little point in monitoring if that monitoring is not a genuine process. For example, we would like to see government agencies be responsible for the implementation of recommendations that remain unimplemented. First of all, we need to review the current activities but in close consultation with Aboriginals, communities and organisations. Once we have done that, we can then develop policies and programs, set goals and targets, allocate responsibilities for implementation, and also evaluate those measures. We need a more formal and measurable way to meet the spirit of the recommendations. The overall message though was that what we really need to do as a nation and as a state is to address the root causes of offending behaviour and to significantly decrease the number of Aboriginal people in contact with the criminal justice system and the prison system. We believe that that has clearly not been done and the spirit of the commission in that regard has not happened to the extent that it needs to, which is evidenced by the situation we currently find ourselves in.

**Mr I.M. BRITZA:** I guess that leads to a question about the two departments that deal a lot with this issue; that is, the Department of Aboriginal Affairs and the Department of Child Protection and Family Support. Can you tell us whether you would agree that they responded to the committee to the effect that all the recommendations that were their responsibilities have been implemented?

**Mr Newhouse:** I highly doubt it. We would have to see evidence of that.

**Mr I.M. BRITZA:** I would like you to comment more about those two but I understand —

**Mr Newhouse:** Sure, sure.

**Mr I.M. BRITZA:** I think it is important for us, especially the indigenous affairs agency, to imply that we have done—of course, we look to that agency and of course they cop a lot of flak, and we understand that, and DPC also they are—and I am not too sure even to go on record with this comment, that sometimes they appear to be a law unto themselves. Therefore, we are not always understanding of why they go into a situation, so that is why I was keen to know from your perspective whether their comment was worthy, especially from an Indigenous perspective, because those two organisations, you would think, would be looking after the welfare of Indigenous people.

**Miss Moore:** I think that both agencies do not actually act on the interests and needs of Indigenous people, especially in WA. I feel that they are not able to do that given that they are still government departments that come under the laws and acts of WA government policy. So in order for them to look after the welfare and the needs of Indigenous people, their resources are limited in what they can actually do. In terms of the recommendations of the Royal Commission into Aboriginal Deaths in Custody report being implemented—I have been reading it a bit and doing some research around it—acts have been implemented of the Royal Commission into Aboriginal Deaths in Custody report, but as far as we are aware today Indigenous rates are still increasing, prison rates are still

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increasing, deaths in custody of Indigenous people are still increasing, and no department has monitored the needs and the welfare of Indigenous people.

**Mr I.M. BRITZA:** Is it right to say, Natasha—I realise you are being careful with how you say it and I want to know if I am hearing it right—that the intention of these departments is right but it is a financial issue that they cannot go to it, or is it the fact that no, they are not actually standing up for or pursuing the protection of Indigenous people?

**The CHAIR:** It seems to me that the Department of Aboriginal Affairs has the title and all these other agencies have got part of the responsibilities, so there is a bit of a turf war going on. Would that be your assessment?

**Miss Moore:** Yes.

**Mr Newhouse:** They were involved in the coordination of the reports into the implementation that I spoke about earlier, and I think the last one was in 2000. So they coordinated the across-government response to that and we have had a look at it and it is very scant in terms of evidence.

**Mr I.M. BRITZA:** The DIA cops a lot of criticism from both sides and I think a lot of it is justified, especially from—this is anecdotal—the Indigenous because they do not feel they have the support from that department, and I am really trying to find out why. If they say they have done everything when in fact on the ground it is not happening, why is that?

**The CHAIR:** That is probably a bit out of their brief.

**Mr Newhouse:** In my experience, when you talk to people on the ground and Aboriginal people in particular about the department there does not seem to be a lot of relevance for them.

**Mr C.D. HATTON:** You have these different agencies such as the Department of Indigenous Affairs, the Department for Child Protection, and yourself; how do you feel you fit into this plate—we were just touching on that—and do you feel respected?

**Mr Newhouse:** Put it this way, when we get the phone calls from family members about someone who is in prison or a lockup and we ring through, up until about seven or eight months ago we would be able to carry out that role effectively; ring up, get information, get a welfare check done and so on. However, recently we have been directed, particularly with the prisons, that they cannot have any discussion or communication with any third party, so we are locked out in that sense.

**Mr C.D. HATTON:** So again you are feeling not quite respected as an organisation.

**Mr Newhouse:** Yes, I think so. Something has happened, I am not sure what, but there has been a directive or something in that regard.

**Mr C.D. HATTON:** When you get that phone call, what is your role? You just explained that briefly, is there anything else?

**Mr Newhouse:** Very quickly, people have an expectation that we can fix things up, which we cannot always do, but we can certainly ring up and advocate that a welfare and a health check is done. There is a constant issue with health problems, people complaining about what sounds like fairly serious respiratory and other conditions and having to wait long periods to see a medical practitioner, only to be given Panadol, and there is a raft of problems with that.

**Mr C.D. HATTON:** To your knowledge, is there such a thing as a policy trial on how incarcerated Indigenous people are treated in the police stations? Is that information available to police or do they have to comply with certain policies that flowed on from the recommendations?

**Mr Newhouse:** Probably the Aboriginal Legal Service would be in a better position to respond to that. We know that they have the nature of the calls we receive as well as the incidents that we hear about; for example, the one that is being heard about by CCC that indicates that something is not right with police in WA in terms of the culture and the policies and practices. There was a death in custody in Broome last year in the lockup I think —

**The CHAIR:** There was one in Kalgoorlie that was quite contentious.

**Mr Newhouse:** Yes, there was the Kalgoorlie one but also a more recent one in Broome where the person had a history of alcohol abuse and so on and was well known, and actually quite liked by people and the police as understand it—sorry, she was well known to the police. She was drunk at the time she was locked up and then she later died. My first question was, “Well, I know there is a sobering-up shelter just down the road, why was she not taken there?” The answer was, “No, they did not want her.” So I rang up the sobering-up shelter and they went “What?” Its view was, “Oh no, we know her well. We like her. She is no problem. It is her partner who is the problem, but we would have taken her.” So something is not working.

[10.30 am]

**The CHAIR:** You mentioned earlier that seven or eight months ago you rang up to inquire about a detainee’s welfare. Was that within a police setting or a corrective services setting?

**Mr Newhouse:** That was within a corrective services setting, not a police setting. I thought it might have been just the individual officer but it must have been a directive because I spoke to one of the officers and said that must make his job really difficult because if he cannot even talk to family members, who potentially could be an ally in trying to resolve a situation, it makes his job more difficult, and he agreed.

**The CHAIR:** One of the things the committee is looking at is the corrective services system, which is overseen by the Inspector of Custodial Services. Do you regard his role as useful?

**Mr Newhouse:** As a watch committee, we believe that the role of the Inspector of Custodial Services is pivotal and an extremely important one. We draw on the inspector’s reports a lot. However, we understand that the jurisdiction does not extend to police custody.

**The CHAIR:** Would you support that? Obviously, with the additional resources that would be needed.

**Mr Newhouse:** We believe that extending the jurisdiction of the inspectorate to police lockups is of critical importance because who else is doing that? Who is monitoring the practices and so on, apart from the police department itself? Having an independent statutory body doing that with extended powers would be very important, in our view, and would save lives.

**The CHAIR:** You mentioned John Pat earlier. His death was a real watershed in these issues. This is probably a pretty inflammatory thing to say, but are you confident that a similar situation would not arise in 2013 in Western Australia?

**Mr Newhouse:** No.

**The CHAIR:** Why do you say that?

**Mr Newhouse:** Again, it is based on the reports that we get on a regular basis. The most recent one was a family member who has a brother living on the street. The family member rang us because he was concerned that night that there was a particular police officer who seemed to be targeting the brother. He was concerned that his brother might get arrested and was concerned also about his wellbeing if he were arrested. He wanted us to check up on that. That is just an example, but there is a strong fear out there of being arrested and going to a lockup. Was that the question?

**The CHAIR:** You also talked about a day of action. What will be called for on that day of action?

**Mr Newhouse:** This will be around the country, but given that John Pat died in Roebourne —

**The CHAIR:** Are you guys both familiar with that case?

**Mr I.M. BRITZA:** Yes.

**Mr C.D. HATTON:** Yes.

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**Mr Newhouse:** Essentially, what we are calling for is a full and comprehensive audit of the recommendations nationally, obviously by each state and territory government, as a starting point, because there has been a nine-year gap for us in terms of some sort of monitoring going on. That is one of the key things that we would be calling for. Importantly, we have spoken to and had several meetings in person with the Pat family, including Mavis Pat, his mother. One of the things that she would really like to see is an official apology from the WA government. That would probably go a long way towards healing the wounds, which are still very open, for not only the family, but also the community and many others, including the Ward family after the death of Mr Ward and the situation in Queensland with Doomadgee. What is being called for nationally is an official apology to the family and that all governments take action against what we refer to as the systemic racism in both the police and criminal justice system, and also to commit to a program of action to significantly reduce the imprisonment rate of Aboriginal people. The other thing that we are calling for is an independent authority with legislative powers to investigate complaints about police, corrective services and other issues, including deaths in custody. That is a really big issue. When there is a police complaint or a death in custody, there is a perception and a belief that it is the police investigating the police. We know that there are other international jurisdictions that have independent authorities that carry out that function.

**The CHAIR:** Is there a jurisdiction that you think does it well?

**Mr Newhouse:** I think it is New South Wales that has —

**The CHAIR:** A civil complaints mechanism.

**Mr Newhouse:** Yes. I think that system is in place in the UK.

We would like to see some sort of legislation around this because a lot of the recommendations are just recommendations. Many of them probably could also be legislated for to make it law so that there are consequences. One of the other things we would like to see is that either corporations or government departments that have been shown to be responsible for a death in custody can be charged and held liable. The other one, clearly, is repealing all mandatory sentencing laws. The key issue for us is addressing the central aim of the royal commission, which is to reduce the number of Aboriginal people in the prison system and who come into contact with the criminal justice system. We believe that the justice reinvestment model is well overdue and needs to be seriously considered in Western Australia, and we support that.

**The CHAIR:** You talked a bit about systemic racism. That is something that is quite difficult to legislate against. Do you have some examples you can give us? I certainly know of some.

**Mr Newhouse:** I think the key thing with that question is that criminologists and others have traced an unbroken line from colonisation in terms of racialised punishment. The figures that we have on the rate of incarceration of Aboriginal people is, to us, an extension of racialised punishment. That certainly needs to be acknowledged as a first step in trying to address the systemic forms of racism in those agencies.

**The CHAIR:** For example, there might be regulations that will disproportionately impact on Indigenous prisoners or detainees.

**Mr Newhouse:** Yes. There are many examples. Obviously, imprisoning people at the rate we are costs a huge amount of taxpayers' money. An example we became aware of is that the Department of Corrective Services changed its policy on prisoners wanting to attend funerals. The policy change was just a couple of words. It basically said that if the prisoner met all the eligibility requirements, they could go, as long as the distance of the return trip was less than 200 kilometres. That is just stupid. It is wrong because of the number of Aboriginal people in prison and the health statistics and so on. The cultural obligations around when people die are very important. I just cannot understand why they did that.

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**The CHAIR:** On the face of it, you see, that applies equally to non-Indigenous and Indigenous prisoners, but the difference is that many Indigenous prisoners are held in custody out of country and therefore it will disproportionately impact on them. The 200-kilometre rule, even if you leave aside the special significance of funerals for Indigenous prisoners, impacts disproportionately on them, but on the face of it, it is a rule that applies equally to everyone.

**Mr Newhouse:** It applies to everyone but in practice the impact results in an unequal outcome. Arising from that are a whole lot of other issues that further work to disintegrate, divide or affect communities. If Natasha, for example, was in that situation, or I was or you were, and you were not able to go as an Aboriginal person, there may well be sanctions against you for not attending, even though it was not your fault.

**The CHAIR:** You mentioned bail earlier. Is there a difficulty or a reluctance to grant bail? What is the issue?

**Mr Newhouse:** I have not seen the latest figures but we are aware that there is a disproportionate refusal of bail in relation to Aboriginal people compared with non-Aboriginal people. One of the cases that recently brought that home was the death of Mr Ward. The whole bail process was completely botched. That was the first point of a litany of errors. The JP did not know what they were doing. We actually believe it should not be a JP but a magistrate who should make those decisions. The police had already called the GSL to pick up the person.

**The CHAIR:** In other words, it was predetermined that he would not get bail even before the application was made.

**Mr Newhouse:** Yes, and often there is a close relationship between the JP and the police. We made specific recommendations to a previous parliamentary inquiry into the death of Mr Ward on the Bail Act, and I am happy to provide you with those.

**The CHAIR:** That was an upper house committee, I think.

**Mr Newhouse:** Yes. I am happy to provide those to you if you like. The central part was that the presumption should be to grant bail, particularly for minor offences, unless there are some exceptional circumstances.

[10:45 am]

**The CHAIR:** You are familiar with the optional protocol against torture?

**Mr Newhouse:** Reasonably, yes.

**The CHAIR:** What is the current status terms of its application in this state; are you aware?

**Mr Newhouse:** I am not aware. I seem to remember we were waiting for it to be signed off but I am not sure whether that will happen or not. There was a review of the Bail Act too that the previous Attorney General commissioned and we made comment on that, but that was arguing for a two-tiered system.

**Mr I.M. BRITZA:** Are you aware that the Minister for Corrective Services has intimated that he wants to go in the direction of diversion or justice reinvestment?

**Mr Newhouse:** Yes.

**Mr I.M. BRITZA:** That being the case, what is your response to that and what effect would that have do you think?

**Mr Newhouse:** I was in Rome when that was announced and I was very happy! On the face of it, I think it is a positive move and we would like to see further detail, really. We think that is heading in a much better direction and around the country it is gathering momentum in terms of support for a justice reinvestment approach. It makes good economic sense and is good public policy.

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**The CHAIR:** I think the royal commission had some discussion about the greater involvement of elders in the justice system in terms of Aboriginal offenders. It seems to me there has not been a lot of progress made in that regard.

**Mr Newhouse:** No, and we have one of those respected elders on the watch committee, Ben Taylor-Cuiermara, who is now a holder of the Order of Australia. He is constantly talking about the importance of the role that elders have and he does it himself, but he does it in his own capacity. We think it is very important; but no, it does not happen enough.

**The CHAIR:** There is a new watch house at Perth, in Northbridge. Was your committee consulted or given a tour or anything?

**Mr Newhouse:** No, we were not actually. Thank you for bringing that one up; in fact we are rarely consulted, to be quite honest, which is disturbing. We would like to see some more formal kinds of agreements drawn up so that we do get involved and are invited to do that.

**The CHAIR:** If I can play devil's advocate here. No doubt when we call the police union in they will say, "Oh well, these aren't private schoolgirls", or something, and "A lot of people in detention are violent, and spitting and abusing our members. They're drunk and difficult to deal with et cetera. And sometimes our members, being human, respond accordingly." What would you say about that? Is that an issue about training or lack of cultural understanding or lack of alternatives as to where to put people or what?

**Mr Newhouse:** I think it is a very important thing. On the one hand, to be fair, with roles like policing, for example, you are going to come into contact on a daily basis with members of the Aboriginal community who suffer from a whole range of health problems, trauma et cetera. Also given the history of colonisation here, the relationship has always been a difficult one.

**Miss Moore:** In regards to juveniles being in detention, it branches from children being in dysfunctional homes and it is because of the impact of colonisation as well and the impact of the stolen generations, with families being affected, being separated and being put in reserves and on missions. That is the impact of what families have been through and that has now trickled down to our younger generation. The role of elders will be really crucial in trying to get the young ones back on track and getting them to do something that is cultural, to start doing some cultural practices, focusing more on their identity, to become confident as a person and as a young adult as well. There is not much out there for young people and there is this huge mistrust between Indigenous people and the police, and it comes back down to then, I suppose, the powers between police and the DCP. Back in the day it was a department of native welfare or whatever, and because of that mistrust and because of the department taking away children from their families, there has been ongoing mistrust proportionate of power relations between Indigenous people, the police and the Department for Child Protection and Family Support. This is an ongoing systemic type of institutionalised racism that exists today.

**Mr Newhouse:** It does not help that if you see one part of the population in the state and that is your experience, unless you have got really good systems and good training in close consultation with Aboriginal people in terms of how that gets played out in those interactions like the situation in Broome, and there have been a couple in Port Hedland, a culture really gets settled in that "Aboriginals are people like this and this is how you have to deal with them." There are clearly elements of that still going on.

**The CHAIR:** Do you think that might be improved by a greater cultural diversity within WA Police itself? Since they got rid of the APLOs there does not seem to be a very high Indigenous presentation in police. Do you think that might assist?

**Mr Newhouse:** Yes, it would certainly assist.

**Miss Moore:** I suppose it would break down barriers between police and Indigenous people if there were more Indigenous APLOs in the department or that type of thing.

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**Mr Newhouse:** Part of the problem is—I mean there is some good training, but really the starting point is to unpack racism in all its forms and then move on from that. I think that is probably the step that is missing. People are generally afraid of talking about racism in its range of forms and unless we contextualise that—if I was a police officer you would have the history and so on. So, there is a part missing.

**Mr C.D. HATTON:** Mark and Natasha, with all due respect to what you said a while ago about colonisation and dysfunction—I do agree with you—could we possibly focus on the cultural change of the Indigenous and how they fit into our modern way of life? A lot has happened since the year 2000 when there was a review of the recommendations. We live in quite a different society now and that trickle on from colonisation is there, there is no doubt about it, but have we not moved forward as a society? Have we not moved forward as colonials on how we view Indigenous? Have the Indigenous moved forward in how they want to fit into this modern society? Are they doing enough on their side or do they need support to do that? It is like reversing the outlook on it a bit.

**Miss Moore:** A lot has happened since 2000, yes, you are right. There are a lot more employment opportunities, job opportunities and education opportunities for Indigenous people. I still think though that there are underlying problems of social and economic disadvantage. It still comes up that Indigenous children have low literacy and numeracy rates; there are still health problems in remote areas of Indigenous communities. There is still a lot of stuff that needs to be addressed even though there are a lot of opportunities now for Indigenous people to empower themselves, advance and to integrate into the dominant culture. But a lot of work still needs to be done in trying to address health.

**Mr I.M. BRITZA:** It is an important area with the youth. I have worked a fair bit with Indigenous young people and the two things I have noticed from them is number one, in some cases—this is a really strange statement for me to make—I actually feel I have an understanding of their relationship to the land more than they do. Number two, they do not respect their elders and the relationship of them to their elders. If we are going to bring elders in, it is not an issue that I think we can dictate on. Within their own culture, something has happened that they do not respond to their elders like they used to. When I speak to the elders, they are in despair and the young people—when I say young people now I am talking 14 years old to 18 years old—are very skilled in pulling the race card and they do it deftly. For those of us—I say “us”; I do not know what that completely means, Natasha—we are trying to tip-toe through this minefield of how we help them when they are not responding with what we thought would be the response. I think this youth issue is a really strong one. I do not know what the statistics are on youth incarceration, but that is one issue I am sure must give you a headache. Is that a fair comment?

**Miss Moore:** It is. I suppose because there has been a breakdown in the families, the family structure and the dynamics of families, especially Indigenous families, there is really some lack of respect for elders, for their parents and I suppose the justice system, that type of thing. It is the attitude that “Police are just after us”, being Indigenous kids or Indigenous juveniles. It comes back to bringing the youth back to their cultural roots in terms of getting them back in the country practising their culture, really focusing —

**The CHAIR:** Being proud of their culture too.

**Miss Moore:** Being proud of their culture.

**The CHAIR:** Not just seeing it as an impediment.

**Miss Moore:** Yes, and their identity as well, because they do not know who they are. They are trying to fit into a dominant culture that does not embrace Indigenous culture in terms of schooling or that type of thing. It is hard for a young person to try to fit in, do well at school, try to complete high school and then go on to have a good career or employment pathway.

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**Mr C.D. HATTON:** That is important, because ultimately that is what is going to happen. They have to live, work and play in a modern society that is colonial trickle.

**Miss Moore:** Yes.

**Mr Newhouse:** There are those aspects, but there is a history of adaptation by Aboriginal peoples to dominant culture. But really that needs to be a two-way process. One of the critical things from our point of view also is that what we have really are public institutions that, in our view, have really failed Aboriginal people, and as a part of that have really undermined effective participation and self-determination. Those two things are really key to it.

[11.00 am]

When government consults with Aboriginal people, are the outcomes already predetermined or not; how genuine is that process? Really, the experience has been, no; it is not a genuine process. For example, the state could take justice reinvestment and implement it. We know how to do it. We have a plan and we will do it. But the key thing around the justice reinvestment component is that it must involve Aboriginal self-determination and those communities where there is a high number of offenders originating need to be involved in the solutions, and they have got the solutions. It just needs a concerted effort by state and territory governments to move the situation and turn it around. It can be done.

**The CHAIR:** Can you give us an example of anywhere there have been some good positive relations between, say, police and Indigenous communities?

**Mr Newhouse:** I am sure there must be some; we do not get to hear of them.

**Miss Moore:** The Halo program?

**Mr Newhouse:** The local one, obviously, is the Halo leadership program. Every time I get emails and stuff they are always battling for funding to keep it going. They have had an extraordinary success rate in diverting young Aboriginal people away from the justice system, but they are constantly having to chase their tail to get funding.

**Mr C.D. HATTON:** Do you see that teenage Aboriginals or Indigenous are employed gainfully in many areas within the normal population? Employment obviously is an issue and related to incarceration. When you are lost on the streets you get into trouble. Can you inform me of the rough percentage of employment uptake of Indigenous? Is it good, is it basic?

**Mr Newhouse:** Much to be desired. We can probably get that information and provide it to the committee. From what we are aware of, young Aboriginal people are under-represented in the employment market.

**Mr C.D. HATTON:** Are you or is anyone able to get the types of employment uptake?

**The CHAIR:** Yes, we should be able to get that information.

**Mr C.D. HATTON:** For instance, do young men go into building trades at all? Is that set up through WA—things like that?

**The CHAIR:** It is probably a bit outside their brief.

**Mr C.D. HATTON:** Well, it is connected to incarceration, but it is probably outside their brief.

**The CHAIR:** It might be. What I am saying is that their capacity to find that information is probably not as good as ours.

**Mr C.D. HATTON:** I actually do not want you to find that out necessarily. I wondered whether you knew anything now.

**The CHAIR:** The Speaking Foundation does some stuff.

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**Mr Newhouse:** It is important in that the royal commission argued for a holistic approach nationally and for addressing things like housing. The housing situation in Western Australia, as we know, is appalling.

**Miss Moore:** Eight years' wait.

**Mr Newhouse:** I think last year it was eight years on the waitlist. I think I read in the paper there was a report that an Aboriginal woman with one leg—major health problems—had been evicted under the three strikes policy. So you have housing, the employment market and racial discrimination that occurs there, the health system and so on. It really requires—it is obvious—a cross-government response and bipartisan approach to address this.

**The CHAIR:** It is more than anecdotal; it is factual. Are people being let out of prison or a police lock-up a long way from the communities where they have to find their own way home?

**Mr Newhouse:** Yes, as far as we know that practice is still happening.

**The CHAIR:** Is there anything else you would like to tell us?

**Mr Newhouse:** Clearly, the Aboriginal Legal Service would be able to probably answer some of those questions with much more accuracy and evidence because that is what they do. We support what the Aboriginal Legal Service contributes to the inquiry.

**The CHAIR:** You mentioned corrective services deflecting your welfare phone calls. How do you find it with police lock-ups?

**Mr Newhouse:** With police lock-ups it is a little bit different. They do not seem to have that similar directive. But what they will discuss with you is very limited, so we cannot get much information at that point.

**Dr A.D. BUTI:** Sorry, I was late. I used to work for the Aboriginal Legal Service many years ago. Do you have a close relationship with them and does that relationship help each other?

**Mr Newhouse:** Yes; we have a reasonably close working relationship with the Aboriginal Legal Service. Up until fairly recently, we collaborated a lot around cases. Particularly when there is a death in custody, we will speak with them because they generally handle the legal side and we handle the other side, which is making sure that there is proper accountability and transparency when investigated and so on. Coming up we have that national day of action around the death of John Pat—30 years—where we are calling for the implementation of the audit nationally. We also did that quite recently in April 2011, which marked the 20 years since the royal commission. We had a large gathering at Parliament House. We did that in collaboration with the Aboriginal Legal Service and did joint press releases and so on. But again there was a call there for implementation to be completed. Yes, we work reasonably closely. We would like to work closer but, basically, they deal with private and confidential matters with clients and so on.

**The CHAIR:** In terms of coronial inquests, do families feel distanced from that process? Is there any need, for example, for special provision in terms of legal assistance or something along those lines?

**Mr Newhouse:** That was the other thing I wanted to comment on. There are a couple things; one is that, as you know, the coroner has the power to inquire into not only the cause of death but circumstances leading up to that. The first issue is that there is almost a two-year turnaround. I do not know how many times I have dealt with a family that has had someone die in custody. I have to explain to them straightaway that this could take two years before it gets to an inquest. It is just inhumane. There are logistical reasons it might take some time but two years just causes a lot of anguish and trauma for those families. One instance I think was with the death of Mr Phillips in the Kalgoorlie lock-up. It was dragging on and on and we eventually tracked down that they were waiting on a report from a forensic specialist in health, who was the only person in the state who could do this analysis.

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**The CHAIR:** That was the same issue with Mr Ward.

**Mr Newhouse:** They were on long service leave. Surely you could have put something in place, because you have this family sitting there just wanting answers and some sort of —

That is one issue. It takes too long and from what I can understand that is because the coroner's office does not have capacity to do it quicker. The other issue is trying to find who in the police is doing the investigation because they treat it as a potential homicide and that just keeps changing, so it can take ages. I find it difficult to do that. Someone who has lost a family in a remote area has Buckley's of trying to get access to that. Communication seems a problem as well with families, not only from the coroner but from the police. Often they want to speak to someone in the family so they will go to the next of kin and, in the case of Mr Phillips, the next of kin was in prison so he was not available really. We had to spend time trying to arrange for his sister to be the family spokesperson; she could get access to the information, so there is that. There is also the issue of counselling and counselling that is delivered within an Aboriginal cultural framework and context. I think it is contracted out to a provider, but it is not adequate and even offering it does not seem —

**The CHAIR:** It is not routinely done.

**Mr Newhouse:** No; it is not routinely done. The central issue we made a submission to the previous inquiry on Mr Ward was that the coroner makes recommendations and, currently, as far as I know, those recommendations go to relevant departments but there is no mandatory requirement to report back on the progress or how they view those recommendations. So there is no mandatory reporting back process and we have argued that the Coroner's Act should be amended to make reporting back mandatory within a certain time frame. I know the Law Reform Commissioner did a report on that. I do not know what the status of that is. I know it is with government but I have no idea what the response is. And that is a really important aspect because, again, it is similar to the royal commission recommendations. We have hundreds of recommendations from the coroner around deaths in custody but who has the role of actually monitoring what has happened to those recommendations? A lot of those recommendations are quite similar to recommendations that the royal commission made, so again it kind of reveals that there is a long way to go. Thank you for asking about that.

**The CHAIR:** I have some concluding remarks I have to make. Thanks very much for that.

The transcript of hearing will be forwarded to you for correction of minor errors. Any such correction must be made and the transcript returned within 10 days of the date of the letter attached to the transcript. If the transcript is not returned within this period it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence.

At this stage I can say that we are investigating the issue with a view to having an inquiry and if we decide to have an inquiry, the terms of reference will be released and you, of course, will be free to make further submissions. But I am sure we all found it very useful today, so thank you.

**Mr Newhouse:** Thank you for the opportunity. We urge you to seriously consider the inquiry.

**Hearing concluded at 11.15 am**

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