

# CORRECTED VERSION

## LAW REFORM COMMITTEE

### **Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and Their Families and Carers**

Mildura - 16 November 2011

#### Members

Mr A. Carbines  
Ms J. Garrett  
Mr C. Newton-Brown

Mr R. Northe  
Mrs D. Petrovich

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#### Witness

Mr T. Masterson, Manager, Murray Mallee Community Legal Service.

**The CHAIR** — You're aware what the committee is about?

**Mr MASTERSON** — Yes.

**The CHAIR** — We're a cross-party committee set up by Parliament to look at this issue. Anything you say here is protected by parliamentary privilege but not outside the room. If you could start by saying your name, your professional address and who you represent for the purposes of the transcript.

**Mr MASTERSON** — My name is Tony Masterson. My role is Manager of the Murray Mallee Community Legal Service, which sits in the Community Services Directorate at Mallee Family Care, it's one of a variety of programs. Other programs that I manage there is a generalist financial counselling program, a drought support program and a hospital based financial counselling program. I won't go into the details but if you want any more detail I am happy to supply that.

**The CHAIR** — So you don't have any specific responsibility for people with intellectual disability, you just occasionally come across people?

**Mr MASTERSON** — I asked the question of my legal staff, and we had a look at our CLSIS data which is the database that we record all our clients on, and it became evident to me, especially after having some conversations with Vaughn, that there is not a hell of a lot of people that we see that present with intellectual disabilities so that presents to me as being a hole that needs to be looked at in terms of community legal education.

**The CHAIR** — So you think that there are people out there with disabilities who aren't coming to you, for whatever reason?

**Mr MASTERSON** — Precisely. I think part of that, and just speaking frankly, there probably needs to be some more education in the community generally as to what constitutes an intellectual disability. I think the lines are somewhat blurred there just from the preliminary research that I have looked at.

**The CHAIR** — What happens when someone does come to you with an intellectual disability, how do you deal with it?

**Mr MASTERSON** — That's a really relevant question. If you look at it in the context of our financial counselling program, I know it's not specifically legal, but there is a really strong collaboration between the work our financial counsellors do and the work our CLC lawyers do. We have a triage system for our financial counselling program that has a waiting list of upward of eight to 10 weeks sometimes. If anyone presents where there's children at risk, or where there's imminent foreclosures on a house or a vehicle, or people that present with any disability, be that a psychiatric disability or a physical disability, they're triaged so that's how we process seeing those clients for both the legal service and the financial counselling service.

**The CHAIR** — What about actually dealing with people with intellectual disability, do your staff have any particular training or particular problems that you've encountered?

**Mr MASTERSON** — Again, it really depends on the definition of an intellectual disability. If you put psychiatric problems into that category, we have a hospital based financial counselling program that sits out at the Mildura Base Hospital, it actually sits in Ward 5, which is the Mental Health Unit at the Mildura Base Hospital. 90 per cent of the people that present to that service are in extremely deep water with their mental health, either voluntary or involuntary patients. It's a fantastic program in so far as it not only keeps loan sharks at bay or lenders generally, it also impacts on people's health because you've got a layer of stress that's otherwise removed by virtue of having a financial counsellor at that nexus, and it also flows onto their family, they're not on the phone to creditors for hours on end having to worry about taking care of financial affairs.

The relevance to that is that the legal service, if there's any legal issues, say if people are in arrears with their rates, the council can instruct firm x from Melbourne to issue a complaint against them and the legal service will become involved then in terms of defending the legal action that's been taken against them.

**The CHAIR** — Any questions?

**Mrs PETROVICH** — When you get the referrals, how is the diagnostic done in that triage process to have an understanding of the spectrum, perhaps, of the capacity of those individuals?

**Mr MASTERSON** — The first question that is asked is: have there been any legal documents served on you? Who has referred you to this service? By asking that second question ordinarily we are able to get an indication as to whether or not the people have a case worker involved with their situation. The reception staff, which is like the absolute coal-face of the agency generally, are trained in a range of mental health first-aid courses, they are trained to be able to recognise and identify people that present with all sorts of problems, whether that's a mental disability, a physical disability, so on and so forth.

**Mrs PETROVICH** — Does your agency have any interaction as a liaison between police or prosecutors or legal services if these people are in strife?

**Mr MASTERSON** — That's a really pertinent question insofar that a program that is coming over to my directorate — the Koori Offenders Support Mentoring Program — so that is coming over to the Community Services Directorate and financial counselling program, which is now made up of three EFTs going over to the Family Relationships Centre, so those people will present with those sorts of problems and obviously a key stakeholder in that program is Corrections, so there's going to be a lot of opportunity and that will be explored further. The program is literally in transition to me from another directorate of Mallee Family Care, which is one of about 60 programs, and the agency employs, at last count, about 200 full-time staff across the Mallee across five or six LGAs.

The other service that the legal service has been providing, and hopefully life will be breathed back into that very shortly, is the Intervention Order Support Service. So what we have been doing is we had a lawyer, last financial year at least, present at Family Violence Days at Mildura Court and invariably there are conflicts so the

respondent gets representation, they look at who is at risk at first instance, and what was happening was that there was a situation whereby the duty lawyer was essentially trying to provide advice and representation to both parties, so that was not good. We are lobbying VLA to see whether or not there can be some additional funding made to continue on with that service.

Another interesting gap in service delivery, I suppose, and VLA are looking at this at the moment, historically there's been a grant of aid provided to private practitioners to represent people out at the Mental Health Review Board, which I think is soon to become the Mental Health Review Tribunal, if it hasn't already. Case workers are representing people who are on involuntary orders, so on and so forth. I'm getting off the track a little bit.

**Mrs PETROVICH** — I think you're actually on the track. Actually some of it has been drawn to our attention here this morning and it was something that had been drawn to my attention previously in another case that people were actually having that sort of circumstance where there was one legal representative for both parties or no legal representation available.

**Mr MASTERSON** — That's right.

**Mrs PETROVICH** — We heard this morning that there were people who were under a child protection order, both impaired, who actually did not understand what had gone on and had no representation in the court, it had been done and dusted before they had been made aware. That really concerns me that people are not having that offered to them. You think that the service that you are talking about will actually assist with that?

**Mr MASTERSON** — Most definitely. The other one is the department is providing representation to applicants who otherwise would not have had any representation and were also able to provide representation to any party that was conflicted out by virtue of the conflict that was manifested as a result of the duty lawyer, being a small town, that was represented at the time. It worked in that way as well.

**Mrs PETROVICH** — Is that something that's under consideration because there is an issue for legal practitioners in a small town, the issue of conflict is quite prevalent?

**Mr MASTERSON** — Yes, it is. You hear of this occurring a lot in regional areas, say one party to a particular family law dispute will go and make an appointment to see every family law practitioner, which there's not a huge amount of, for that purpose.

**Mrs PETROVICH** — So it leaves very few available.

**Mr MASTERSON** — Yes. So that's a perennial problem. Have you had the opportunity to speak to any private practitioners?

**The CHAIR** — No.

**Mr MASTERSON** — How long are you up here for?

**The CHAIR** — Just today.

**Mr MASTERSON** — If the opportunity arose — there are practitioners in town here that could talk to you that would be able to provide a completely different perspective on these issues than I simply because they're practising day-to-day and I am not, I am seeing things from one perspective. It is an issue here too, there's been a long — will it happen, won't it happen, VLA presence up here. We have that now, not sure where it's going to end up. It's a sensitive issue, private practitioners, their livelihood, especially in crime and family, to a large extent dependent on a grant of aid and seriously I don't believe it's VLA — I can't speak on behalf on VLA — it's not their intention to come up here and take away people's livelihoods but that's a broader issue in regional areas.

**Mrs PETROVICH** — You deal with the Indigenous community here. Is there any work being done in schools to help identify perhaps these issues that are going on in the community? I know there was a campus that was doing some work with that early on but is that still going on?

**Mr MASTERSON** — I can only speak from the point of view of Mallee Family Care. I understand that Council and other organisations in town involved in programs that relate to Indigenous people and kids in schools generally. Mallee Family Care over in Dareton in particular has a fairly large presence within the community and there is a range of programs from out of home care to financial counselling. Our legal service, Outreach, is out there and a couple of years ago we also received funding from New South Wales Legal Aid, not just Victoria Legal Aid, to provide a service out there. Again, further information could be provided to you in relation to the nature of those programs and the extent of those programs; I can quite easily give you the name and number of the manager out there. There's Intensive Supported Playgroup, whereby you have workers working with mothers in relation to child preservation, family preservation, there is a whole range of programs in relation to that whole world of social work that I, as a lawyer, after three years am slowly starting to understand a lot better than I did three years ago but there's a lot of work out there.

Our financial counsellors, one of the things that we're doing out there at the moment is in recognition of the fact that disadvantaged people generally, Indigenous or not, tend not to deal well with an appointment regime structure being imposed upon them. You cannot walk around handing out leaflets and sticking posters up on the door and expect people to walk in the door. What is happening now is our financial counsellors and legal services start doing similar things, attending home visits with family workers and social workers, so the service needs to be delivered — and all the research shows this — it needs to be delivered in a culturally sensitive environment.

**Mrs PETROVICH** — It's about identifying those in need in your own communities and sometimes as micro as in your own homes.

**Mr MASTERSON** — Yes. Simply by virtue of the disadvantage that they're suffering, which is multilayered, from domestic violence, drugs and alcohol, so on and so forth. People are not going to turn up to an appointment that was made two or three weeks ago, or even yesterday, without support.

The other thing that's happening is that some of the family workers — we still see people in the building over there in the office, but family workers will literally go and pick people up from out at the Mission or wherever and bring people in.

**Mrs PETROVICH** — Some of those people would be long-term drug and alcohol abusers as well, which is also going to result in some mental impairment. Are they caught up in the net as well?

**Mr MASTERSON** — Certainly.

**Mrs PETROVICH** — Are they actually in some cases on a cycle of being in the court system, obviously because of their abuse of substance, is there any recognition or record of those recidivous people in the community?

**Mr MASTERSON** — Yes, the New South Wales Young Offenders Act, if you look at the objectives of that Act, restorative justice, sentencing, there's been moves made recently in the Dareton community to breathe life into the objectives of that Act, very broadly speaking. It's one of those ironies of federalism, I think. On this side of the river you have restorative justice, the Koori court that has done some pretty good things, yet just on the other side of the river, 12, 15 minutes away, you have a community trying to breathe life into the most basic objectives of the Young Offenders Act NSW. It's a huge effort because it involves the police, it involves the Elders in particular to make the objectives of the Young Offenders Act work. There's a lot of opportunity there to prevent, as you say, the recidivism that is occurring.

**The CHAIR** — Thank you very much for coming in; it's been very helpful.

**Witness withdrew.**