

LAW REFORM COMMITTEE
Warrant Powers and Procedures Subcommittee
Inquiry into warrant powers and procedures
Perth — 2 September 2004

Members

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Witnesses

Ms M. Scott, public advocate; and
Ms G. Lawson, deputy public advocate, Office of the Public Advocate, Western Australia.

The CHAIR — Welcome, Michelle and Gillian, to this inquiry into warrant powers and procedures. We are a committee of the Victoria Parliament and our work is governed by the Victorian Parliamentary Committees Act. As a consequence we are covered by parliamentary privilege. I do not know whether we have any extraterritorial powers, but any evidence you give us is subject to parliamentary privilege. However, unlike members of Parliament, you will get the opportunity to review and amend the transcript of your evidence. If at any point, either now or subsequently, you would prefer your evidence to be in camera, you can request that or indicate that on the transcript when you return it; otherwise it will be available publicly on our web site, and of course we will be utilising the evidence in compiling our final report. So there is an opportunity for you to review it and also to indicate whether you want it or any part of it to be in camera or in public. Thank you for coming along. Given your particular area of expertise, perhaps you could start off by telling us something about the public advocate's role and your experience with warrant powers.

Ms SCOTT — One of my staff probably indicated to Jon that we have had pretty limited experience with the warrant powers, but before we talk about that perhaps I will tell you a bit about the public advocate's position here in WA. It is not dissimilar to the position of the public advocate in Victoria, although there are some differences. Essentially the position of the public advocate, which is an independent statutory office-holder, was established under the Guardianship and Administration Act 1990. That act came into effect in 1992 so we have had about 12 years of that act being in operation. In addition to the position of public advocate, the Guardianship and Administration Act also established the Guardianship and Administration Board. That board is an independent tribunal which basically has a decision-making responsibility in relation to whether a guardian or administrator should be appointed and the review of those orders, and certain decisions in relation to an enduring power of attorney.

The public advocate's functions are quite separate and independent of the board, and essentially are set out in section 97 of the Guardianship and Administration Act. There are probably three major functions that I could summarise from that section. The first is that I have the power to investigate whether a guardian or an administrator should be appointed by the Guardianship and Administration Board and that is quite similar to the function that the public advocate performs in Victoria. Under section 97 there are two ways that an investigation may come to me. One is that it may be referred formally by the Guardianship and Administration Board or a court or a judge, but it is typically by the Guardianship and Administration Board. The board receives an application and requests that I undertake an investigation and report back to it. This last financial year I think I have conducted over 700 investigations for the board. The other way in which an investigation may come to me is through a member of the community or a service provider. A family member or a neighbour may come to me with a concern about a person with a decision-making disability.

I should have said at the beginning that my statutory responsibility is basically to protect and promote the rights of people with decision-making disabilities, and people who are captured under that sort of definition are people who have dementia, a mental illness, an intellectual disability or an acquired brain injury; that is my client group, if you like. So I have a responsibility for conducting investigations for the board. Also members of the community can come to me with a complaint or a concern. This last financial year I had about 61 such complaints, so you can see that the predominance of the investigations come to me via the Guardianship and Administration Board with over 700 in the last financial year. That is my investigation function. If a member of the community comes to me and says they are concerned about someone I will conduct an investigation and decide whether I will lodge an application with the Guardianship and Administration Board. Where the investigation has already been lodged with the board and the matter is referred to me for investigation I conduct an investigation and provide a report to the board with typically with a recommendation as to whether a guardian or an administrator should be appointed. That covers the investigation function.

The other major two functions under section 44 of the Guardianship and Administration Act are that I may be appointed a person's guardian by the Guardianship and Administration Board if it

determines that a guardian is necessary and if there is no-one else who is suitable or willing to be appointed as guardian. In WA I am currently guardian for just over 200 individuals. The third major function as set out in section 97 of the act in relation to my responsibilities is community education, and that is broadly educating people in the community about the guardianship administration system in Western Australia including information about the Guardianship and Administration Board and about the role of the public advocate in the community. Does that give you a summary of the role?

The CHAIR — Yes. It is very good.

Ms SCOTT — My jurisdiction is really adults over the age of 18 years who have a decision-making disability. I do not have any jurisdiction for children, which is pretty similar throughout Australia: Would you like me to make some comments generally about warrants?

The CHAIR — Yes, move on to that.

Ms SCOTT — Basically section 49 of the Guardianship and Administration Act allows a guardian to obtain a warrant, so that means that either a private guardian or myself as a public advocate as guardian could apply to the Guardianship and Administration Board for a warrant to enter premises. I comment that there is no similar provision to sections 26 and 27 of your Guardianship and Administration Act. We do not have a provision equivalent to your section 26, which compels someone to comply with a guardianship order. We do not have anything equivalent to section 26 of the Victorian Guardianship and Administration Act. The only provision we have is our section 49. We also do not have anything similar to section 27, which allows the public advocate in Victoria, in conducting an investigation, to enter premises to determine whether someone might be in need of guardianship or administration. I make that point because section 49 of the West Australian act applies only if I am guardian. So if I am carrying out my investigative function, which I referred to earlier, I do not have any power to enter premises. One of the things my office is engaged in at the moment is a review of the legislation, and some of the issues you have raised in your inquiry are some of the issues I will be looking at with a view to deciding whether amendment should be proposed around, firstly, compelling people to comply with a guardianship order, and secondly, the difficulty I sometimes have in conducting my investigation in situations where I may need a warrant to enter premises. At the moment I do not have that power under the act.

Having said all of that in terms of some of the differences with Victoria, the point I would make about section 49 is that even though the act has been in operation for 12 years, my office has never applied to the Guardianship and Administration Board to issue a warrant. Gillian might like to talk about some of the experiences we have had in the office around why we have not needed to issue a warrant, but essentially it is because we have been able to work with individuals and service providers effectively without the necessity for a warrant. So we have never actually had to apply for one.

The CHAIR — Do you want to expand on that?

Ms LAWSON — Yes. We would see issuing a warrant as a last resort. We are always looking for what I would consider to be the least intrusive option when faced with our client group, which, as Michelle explained, consists of adults who are intellectually disabled or perhaps psychiatrically unwell. Going into a situation where we have been refused to enter the premises, we would think very long and hard as to whether a warrant would be an option at that time, and we would certainly seek to reduce the trauma that going in with the police would create for our client, who may already be in some kind of distress. I have been at the Office of the Public Advocate for the past 11 years, and to date we have seen no need to go back to our Guardianship and Administration Board for a warrant. We prefer to work with the community-based agencies and use appropriate options that are available in the community. To date that has been sufficient for us, but I should add that there are in fact very few instances that get to the point where a

warrant would be considered. By that I mean it is more usual for the public advocate to work with family members and carers to be able to see our client in the community rather than to adopt the notion of being obstructive such that we might want to gain entry via a warrant.

Mr MAUGHAN — Do you think the fact that you have that reserve power assists you in getting cooperation from people who might otherwise not be so cooperative?

Ms LAWSON — Yes, I think it is important that that power does exist. I am just pleased — and I wanted to inform the committee — that we have not felt the need to use it. Indeed if someone is psychiatrically unwell, we have provisions under our own Mental Health Act whereby someone may need to be involuntarily detained for their own welfare or for the safety of others, so in that instance we would not use our own authority under our act. There are other examples. We may be working with a self-neglecting senior in the community who has a guardianship order over them, and once again we would look to community-based support to effect their removal from their own home. Predominantly the use of family, neighbours and friends is the most suitable option. Having the police drawing up with flashing lights, entering an elderly person's residence and trying to remove them from their home in an unplanned response would be very traumatic.

I was saying to Michelle that a case we have currently might be of interest to the committee. The Guardianship and Administration Board has appointed us the guardian of a 22-year-old woman with an intellectual disability, and we are very concerned for her welfare. Currently her mother is mentally unwell — she probably has a psychiatric problem — and we are trying very hard to work with this mother to allow us access to our client for whom we have been given a guardianship order. Whilst the process may be seen as being frustrating for other family members who are concerned for the welfare of this young woman, we are establishing a relationship with the mentally ill woman. We have not felt the need to get a warrant to see how our client is doing at this stage. We have mental health practitioners trying to engage the mother, who will hopefully take her medication and stabilise. It is a matter of degree and of balancing someone's civil rights: making the process smooth and controlled for a parent in this situation versus the protection of our client. At this stage we have been able to gain access on two occasions, and we have seen our client in bed, so we know she is in there alive and breathing and we know she is being fed, but the circumstances are far from desirable in terms of the young woman's need for medical oversight at the current time. We would like a GP to at least establish her health, but we will go only so far in that process before looking at something like the warrant. We may get to that point, or the mother might need to be involuntarily detained so we can access our client. We have a couple of options there. I thought I would present that current example because whilst such cases are not frequent, they do arise from time to time.

The CHAIR — You may meet some resistance from the carers of someone with a disability in terms of the kind of approach you would like to take. How often would you have to say to them, 'We need to work through this because we do not want to have to use our powers to remove them or to make a guardianship order'? It may not be so much the exercise of the powers, it might actually be that they see you as an authority figure and that therefore you might have those powers. As part of that discussion have you sometimes had to indicate that you do in fact have the necessary powers?

Ms SCOTT — I was going to comment when Gillian was talking that what we are seeing now are quite complex cases. The complexity is increasing and so is the conflict. As I mentioned previously, the Guardianship and Administration Board can only appoint the public advocate as guardian where the board determines there is no-one else willing or suitable, and typically we get appointed over family in situations where there is a high degree of conflict. Many of our cases involve a level of conflict with family members, and the answer to the question you posed about there being times when family members may not agree with what we are doing is yes. I am sure Gillian can recount a number of those sorts of instances. We sometimes have to paint the scenario and say, 'Well, this is what could happen'. We might not say specifically, 'We are going

to use the warrant provisions', but we would say, 'These are the options', and we would try to engage with the family as best we could. I can think of a domestic situation we had just recently where it has been very, very difficult for the spouse who is our represented person — the person for whom I am guardian. That person has now made a decision that she does not wish to continue to live with her spouse any more. Those situations are very sensitive, very complex and very difficult. It is very difficult for the person and it is difficult for the family to accept that their loved one does not want to continue to live with them, even though they have cared for them. So that takes a lot of negotiating and a lot of working with.

I would like to reinforce what Gillian was saying — that one of the main principles of the act is to adopt a less restrictive alternative. That is one of our guiding principles in any decisions we take — what is the less restrictive option for the person? That is why the warrant would be a last resort for us. We would look at all the other opportunities and options to ensure the person was safe and protected before we applied for a warrant.

Mr DALLA-RIVA — Reflecting back on what Gillian said and also to a degree on your evidence, Michelle, you say the warrant is used as a last resort. Although you do not use it because you are trying to work through it very slowly, if I could use that word, to deal with a sensitive issue, there may be occasions when the sensitivities explode at a certain time on a certain day and it may be at a certain hour that requires intervention of an urgent nature such as the police entering with lights and the whole lot. Does that occur? Do you have evidence of that? Is the warrant provision you have not necessary because if there is going to be an outcome which requires immediate attention, often it will not be the warrants applicable under your act, but it may be necessary for the police or other agencies to be involved and to apply their warrant provisions because the crisis has gotten to the stage that it has reached boiling point, if you know what I am trying to get at?

Ms SCOTT — Yes.

Mr DALLA-RIVA — Do you have any evidence to say that even though you have not executed any warrants there have been 40 occasions when there has been police intervention, et cetera? If you do not have it, it would be interesting to know.

Ms LAWSON — My remark would be that within the aged care-disability field you are probably unlikely to have the police come in at a crisis point; you are more likely to have a mental health or aged care practitioner come in. It is better to consider who are the specialists in this area at a time like this. An example might be the self-neglecting senior again. I am more likely to ring the aged care assessment team to see if this person needs to be brought into care and placed in an elderly persons' lodge for care and assessment, rather than the police. I guess what we are looking to is specialist support at a time like that. Of course with mental health, as I mentioned, there are provisions under the Mental Health Act to assist someone who is at a crisis point to be involuntarily detained for assessment and care.

My other thought about warrants is that as part of the review of our legislation that we are undertaking at the current time we have been reviewing other guardianship legislation across Australia as to the notion of enforcing a guardian's power. As Michelle referred to, in our legislation we do not have any provisions that enable the Guardianship and Administration Board to give authority to the public advocate so that she may enforce her decisions. I think it is interesting, and perhaps as the committee looks at this area, to also consider not only the concept of a warrant to assist a guardian when someone is vulnerable but also notions of whether someone such as the public advocate or indeed a family guardian could have the power to enforce the decisions they are trying to undertake. For instance, we could be given the authority to make a decision as to where someone should live and with whom, whether that be temporarily or permanently in a certain accommodation facility, and yet if our client is resisting that move — we have the authority and can consent to where they should live but they will not go, or they go but then they remove themselves and place themselves in danger again by leaving for example a

hostel. It has been demonstrated many times that the public advocate may consent to someone's protection in a place of safety for them, but they will not go or they remove themselves and we do not have the ability to go back to our board and ask for our authority to be enforced. That is something we were looking at in our legislative review committee here in Western Australia.

Ms SCOTT — I think the other thing is we do not have urgent provisions to make an urgent order for guardianship under our current legislation. That is something we are looking at with our legislative review. An urgent order can be made for administrators if you suspect certain things. We are looking for a similar sort of provision in relation to guardianship. However, we can have urgent applications made to the board — for example, in a situation like you described that might have deteriorated considerably the board could consider the matter arguably today and make a decision and make an order for guardianship. It can happen quickly.

Mr DALLA-RIVA — Is that done over the phone?

Ms SCOTT — It is not usually done over the phone, but it can be done very quickly.

Ms LAWSON — It is section 65; they are called our emergency provisions. It is interesting that it has been put together in such a way as to look at whether the person needs immediate provision for the protection of their estate — it does not make reference to the person's welfare or health situation. The threshold there for establishing disability is somewhat lower than the usual proceedings that look at the need for an administration order, because of the concern about the estate. If someone was in fact selling their house for \$2 and you wanted to stop that sale immediately you may be looking at the need more so than trying to get all the criteria regarding the decision-making disability established at that point; you may make an order while getting further medical reports, for instance. I think Julian Gardner refers to, in the warrant situation, that one has to get a warrant having established that the person does have a disability. I think he talks to the notion of whether that should be a lesser test in terms of having a reasonable belief that someone is disabled. I think that is a valid point. Sometimes the very reason the situation is urgent is someone is not complying with assessments or medical help and we are trying to make a case that their situation or their estate or welfare is at risk. If we had to stop to say we need to comply with an assessment, we would not be able to get protection in place.

The CHAIR — Would it be fair to say that given the hardest cases you deal with, if I can use that term, are at the mental health end of the spectrum — people with a disability and mental health problems — that the powers in the Western Australian act in relation to transport orders and involuntary patients are of assistance to you? Perhaps you have not needed to use the powers in your act because there is complementary legislation which grants quite extensive powers in relation to transporting people to a mental health facility and also obviously making them involuntary patients. Would that be a fair comment?

Ms SCOTT — I think that is true; that is of assistance. However, our growing client group is people with dementia and they do not always come under the Mental Health Act; they sometimes do. That is our growing client group. When I was talking previously about cases becoming more complex, we are finding that some people are on the margins. They might have a borderline personality disorder, and the mental health service says they are not mental health and the Disability Services Commission says they are not Disability Services Commission. Those people are the most difficult and complex to support and assist in the community. I would argue that the mental health legislation would not necessarily be of assistance with those people. We are getting more of those individuals coming into the system. Although we have not used the warrant provisions in the past, there may come a time when we will in relation to those individuals.

Gillian and I have talked broadly about a package of provisions in the legislation, not just warrant provisions but also the urgent provisions and the provision that might be able to compel someone to comply with an order. We would see all of those as complementing each other.

The CHAIR — If you had something that replicated what was in the Victorian act, would you think that was adequate?

Ms SCOTT — That is one of the models we are looking at in our legislative review.

Mr MAUGHAN — On that, what do you see as the deficiencies within the Victorian legislation from your perspective?

Ms SCOTT — The deficiency which Julian Gardner highlighted in his submission to you about the test for a person with a disability — when you are conducting an investigation, if the standard were lower than the test ordinarily for whether a guardianship or administration order needed to be made whether you reasonably considered that the person had a decision-making disability in the context of my legislation. I will give you an example I have at the moment where something has come to our attention and it is not clear whether the person does have a decision-making disability. You have to make a judgment about how far you go intruding into this person's life when they could be as competent as you or I to make decisions about their life. It is a very sensitive area. However, on some occasions it may be useful to be able to go in and do that full assessment and satisfy yourself that the person is safe. I would support Julian's recommendation in relation to that.

One thing which we have not really commented on but which is a deficiency in our legislation is that although we have attempted to have good working protocols with ambulance officers and the head of the ambulance service on occasions that falls down and it is variable in terms of the assistance and support they can provide us. That is another reason we would like to have a specific provision in the legislation which would assist us to get assistance from people like police and ambulance officers.

Mr DALLA-RIVA — What do you mean by that?

Ms LAWSON — An example is that an ambulance driver may be reluctant to assist the person if they are resisting going into the ambulance — they may fear they will be charged with assault if they manhandle a person who does not wish to comply and go with them to hospital.

Mr DALLA-RIVA — Are you saying we should legislate?

Ms LAWSON — I think if a warrant is issued by a tribunal it should specify that it empowers the guardian and perhaps specify others, and that may include the ambulance officer, so they feel there is coverage within the warrant for them to act without any fear of reprisal.

Mr DALLA-RIVA — It would be interesting to see how the ambulance union and officers would respond to that. In Victoria if there is any involvement requiring force or the application of force it is usually left to the police.

Ms SCOTT — Is it section 27, which does provide for another person to assist the public advocate.

Mr DALLA-RIVA — Yes.

Ms SCOTT — I assumed from the comment the public advocate in Victoria made that that does include ambulance officers.

Mr DALLA-RIVA — I think you will find that the ambulance will not refer to the person, they will then refer it on to the police. They will always stand back and wait for the police to arrive before there is any application of force.

Ms LAWSON — And yet it may not be appropriate for an elderly woman, who cannot weight-bear to be manhandled by police who do not know the proper precautions to assist that person with a disability. I was just looking at our section 49(3), which states:

A guardian executing a warrant under subsection (2) may be assisted by such persons as he thinks necessary, including a police officer or police officers.

It does suggest that we are able to be assisted by such persons but does not specify ambulance officers, which leaves that door open as to ambulance officers and they are not clear whether this authorises them to act under the public advocate's say-so or not.

Ms SCOTT — Also, because we have never applied for a warrant under section 49 it has never been fully tested. It says 'a guardian executing a warrant ... may be assisted', but it does not actually compel anybody to assist.

Mr MAUGHAN — It does not say 'must'.

Ms SCOTT — That is right.

Ms HADDEN — Which means the ambulance would ring for police assistance and wait?

Ms SCOTT — Yes.

Ms HADDEN — I was just wondering how you interact and work with the Aboriginal communities in relation to this legislation.

Ms SCOTT — In terms of guardianship and administration?

Ms HADDEN — Yes.

Ms SCOTT — It has been a priority for our office to try and engage more with Aboriginal people and Aboriginal communities. As you can appreciate, we are actually quite a small office — about 25 full-time staff. We are based in the metropolitan area, and in Western Australia that poses some particular challenges. However, over the last couple of years we have been talking with a significant number of Aboriginal leaders and other government agencies about our service and what we do.

We have established a protocol with three key government agencies — the Department of Indigenous Affairs, the Disability Services Commission and the Department for Community Development — which may be able to provide us with local knowledge about Aboriginal people and Aboriginal communities when we are appointed guardian or conducting an investigation. We have produced some information in conjunction with Aboriginal people about our office and what we can offer. Also, we have been running training programs with people who work specifically with Aboriginal service providers so that they can be more informed about our office and what we have to offer. We have been doing that in regional areas as well. Over the last few years we have come to understand that there is very little knowledge among Aboriginal people about the guardianship administration system. My office commissioned a report on the needs of Aboriginal people in the guardianship administration system, and that was published in 2001. That has been instrumental in us devoting some more resources to that area.

The CHAIR — In terms of the groups of people you work with, have you had any reports made to you about the use of police warrant powers in relation to those communities and the experience people with, say, a disability would have had, not that they are exercising them on your behalf but in terms of the exercise of those powers in any circumstances? Do you have any comments?

Ms SCOTT — I could not comment specifically in relation to warrants. However, I would say by way of general comment that people with decision-making disabilities who are coming into contact with the justice system, including police, the courts and the prison system, are of concern to me and my office. It is a priority in terms of working with other government agencies to ensure that they adequately service and protect people with decision-making

disabilities. Just to give you one example, in Western Australia the Disability Services Commission and the Department of Justice have established a diversionary program which I fully support. It is about people with decision-making disabilities coming before the courts and because of their special needs getting support and assistance that might divert them away from prison, for example, or a sentence. I think an initiative like that is very important. We are actively engaged with the justice system in trying to promote those sorts of developments. I cannot really comment about the warrants.

The CHAIR — Going back to the Aboriginal community, in Victoria one of the things that people find difficult is the notion of a parent of an adult child with a decision-making disability where a decision has to be made about who the guardian is and the parent says, ‘I am the guardian, I have always been the guardian, I am the one who has always looked after them and taken care of their needs. Why am I now being asked to — —

Mr MAUGHAN — Surrender.

The CHAIR — Not even to surrender but to justify continuing as the guardian in those circumstances. That would obviously be something that would occur for you generally — the experience of people feeling like they have to justify their role as a parent. Would that be a major issue in the Aboriginal community in particular in terms of those kinds of orders?

Ms SCOTT — Gillian might comment too, but I think where the public advocate is appointed over a family member, whether they are Aboriginal or non-Aboriginal, it is quite difficult for those family members. Often they do not quite understand why that has happened. But of course that varies too, and it does vary with Aboriginal people. Even in my discussions with Aboriginal leaders about the guardianship administration system generally what I found was that people did not know about us, were very interested to know about us and wanted to know what support we could be to them. Even before a guardian might be appointed they are very concerned about abuse and neglect in their own community and they want to do something about it. They were very interested in how we might do that, because one of the things that we also offer as part of our community education and our ongoing service is a telephone advisory service so that people can ring us and contact us if they have a concern. It does not mean a guardian or an administrator needs to be appointed. They might find out about local services and what resources and what support could be brought into the particular situation to support the family or the individual. When I spoke to them a lot of Aboriginal people were interested in that. They liked that idea, and they liked the fact that the act was about the least restrictive alternative rather than moving in and taking the person away, so to speak, and having the public advocate appointed as the guardian, and that the legislation is about what is the least restrictive alternative. Having said that though, some Aboriginal people, as have some non-Aboriginal people, have also said to us, ‘We cannot do it any more. We need someone’s help. We need people’s support. We are not prepared to be the person who consents to medical treatment any more. We believe we have exhausted all our resources. Sometimes, particularly in Aboriginal communities where there is a lack of resources, that has been the response. I do not know if that quite answers your question.

Ms LAWSON — Our Guardianship and Administration Board would be looking on all occasions for the most culturally appropriate solution. For instance, if a guardian could be an elder or an alternate family member within an indigenous family situation they would look to that well and truly over and above the public advocate at the moment.

Ms SCOTT — And we would too. In any investigation we undertook we would be looking for that as well. One of the initiatives that we are about to implement is a community guardianship scheme in Western Australia. It is a little bit similar to a scheme that you have in Victoria, but it is a bit different. One of our aims with that is to involve people in the community who might be prepared to be guardians for someone rather than having the appointment of public servants, such as the public advocate. We are hoping that will be successful and will be seen to be useful in regional communities and in some Aboriginal communities, where people might come

forward and say they agree to be a person's guardian and it would be more culturally appropriate than perhaps a public servant in the metro area.

Mr MAUGHAN — I have two questions. Firstly, of the 700 investigations you have conducted on guardianship, how many of those would be Aboriginal and how does that relate to the percentage of the population? Secondly, where an Aboriginal elder has been appointed a guardian how is that working out? Are the interests of the client in your view being protected with the elder being the guardian?

Ms SCOTT — I cannot give you the precise figures about the 700 investigations other than to say that the research we have done previously, for example, the needs study that I talked about — that is, the needs of indigenous people and the guardianship administration system — found that about 12 per cent of the public advocate's clients were Aboriginal. Obviously that is much higher than 3 per cent of the population in Western Australia; however, you might make an argument that that is an underrepresentation in terms of need and in terms of abuse and neglect in the community. Certainly that is the anecdotal evidence we have from talking to Aboriginal leaders in communities — that is, they have not engaged with us and they know very little about what we can offer. I suspect it is an underrepresentation in terms of the need.

We have had a few cases — I am thinking of someone in particular, Gillian — where they were not the guardian but were the administrator for someone. That has worked out quite well, except that sometimes there has to be sensitivity in relation to, say, administration. You have to keep accounts and receipts and do all those sorts of things. In one particular instance the person is a very well-respected elder in the community and is active in a whole range of Aboriginal organisations. He is very busy, which makes it difficult for him to meet all those expectations. Another interesting challenge in relation to that is that the represented person moves around a little bit, so he is not always keeping track of every aspect of the person's life, but because that is culturally appropriate our view is that our system needs to be able to respond to that and be sensitive to that. That is one example I can think of. We have had another example where someone was in the justice system and returned to live primarily with her sister and her family in an Aboriginal community here. I think that lasted for three or six months, a short period of time, but the community did not have the support to maintain the person, who had quite significant needs, and they wanted to relinquish that responsibility, so we are looking at other options for that person.

The CHAIR — I want to return to the section 49 warrant powers. You have indicated that you have not used them. I wonder, however, whether or not you have in place any protocols with police, ambulance officers or other service providers in the event that you have to use those powers. We have just talked about the potential vacuum that might exist around having an ambulance officer there and whether or not the police have to be called. Do you have any particular protocols in place?

Ms LAWSON — It would be more accurate to suggest we have had letters of correspondence, and they have varied over time. At one point we had a very clear statement from our ambulance service to suggest they would not remove a patient under a guardianship order, for example, if that person was resisting transportation at that point in time. I think we had another example years later where that was overturned, so we do not have a clear protocol. Because we do not get to the point where we need transportation by force we have not put much more time into that. It is probably an area that does need exploring yet again. It would also be helped if our warrant powers were a little more explicit on that notion of who might be, as I mentioned, such persons who may be able to assist the public advocate. The ambulance officers are not clear that we have the authority to ask that they help us.

Ms SCOTT — What we tend to do in the absence of those express provisions is use all our best endeavours to convince people to cooperate. Sometimes that is calling on people's duty of care to the person and our duty of care to the person. You will find that not only in relation to the

warrant provisions but other provisions in the act where it might not be explicit, but we call on people's notion of duty of care to the person, that the person might be at risk and we are concerned about them.

Mr MAUGHAN — So your experience so far from a practical point of view is that the non-explicit relationship you have with the other services is delivering the best outcome for the client?

Ms SCOTT — Yes, in the majority of the cases, but there are always those instances where you think you have an agreement and someone else comes along and says, 'No, you do not'. I also want to preface that by saying, as I said before, the complexity of the cases is increasing. Things are becoming more complex and difficult with the limits on service provision from other agencies. People might say, 'I cannot help', and someone else might say they cannot help. The more complex things become the more there will be a need to have clarity in the legislation around some of these issues — that is, the urgent provisions, the warrant provisions, the compelling of people to comply with an order.

Ms HADDEN — I want to ask about training. I know that you touched on it earlier, but do you have a staff member or two to concentrate solely on training and educating other agencies as to your role?

Ms SCOTT — We do have a comprehensive training program, and a calendar of events each year. We particularly target service providers. We also work with the police. We work with a psychiatrist — the chief psychiatrist in Western Australia. We have done some joint training throughout the state. We have also been training in regions and using video conferencing to train, and that is a responsibility that is shared amongst all of the staff, so we do not just have one or two dedicated staff. We also have a service provider training manual that we distribute widely. We also train GPs as another group of people that come into contact with our client group.

The CHAIR — Were there any comments that you wanted to make, or do you feel like we have covered the material.

Ms HADDEN — I would like to ask one quick question. I assume that some of the difficulties you have with being culturally appropriate not only with Aboriginal communities but which would also follow with Muslim communities in WA. Is that correct? Do you still have your channels with the leaders in the communities that you work with?

Ms SCOTT — Yes. The people from culturally and linguistically diverse communities is another area of importance to us, and we do have ongoing contacts with those individuals. Also this year, it is only a small grant, but as part of the government's active ageing strategy we have received some moneys to work with Aboriginal communities and culturally and linguistically diverse communities around local solutions to elder abuse. That is quite an important initiative. Elder abuse has just really been on the agenda here in WA over the last few years, and we are quite actively involved in that debate and in educating people about elder abuse. That is an example of a special project that is designed to work with those communities particularly.

The CHAIR — Thank you very much for your time and for coming in to talk to us today.

Witnesses withdrew.