



Court Welfare Services (Inc)

**4 September 2008
Annual General Meeting**

The Hon Wayne Martin
Chief Justice of Western Australia

It is a great pleasure and an honour for me to address this 2008 Annual General Meeting of the Court Welfare Services (Inc). One of the most pleasurable aspects of the job that I took up a couple of years ago is the opportunity which it provides for me to get out and to meet members of the community and to find out the wonderful things that so many members of our community are doing as volunteers. By volunteers I mean people who are not paid but who, because of their social conscience, do an enormous amount of work for the benefit of our community. A lot of people in our community do not properly understand the amount of work that is done by volunteers. I think that is because many of the people who do provide this volunteer work and many of the organisations for which they serve tend to hide their lights under a bushel and are not terribly well known.

And so it is I think with the Court Welfare Services. Although your Service was started in 1974, some 34 years ago, three years before I was admitted to practice, and has therefore existed during the entire time I worked as a legal practitioner and during my period of service as a judge, I must confess that I had very little idea of the existence of your organisation or what it did. I think there is a need for greater recognition to be given to the work that is done by important organisations like yours. By publication of this address, I hope to expand the sources of information available to the public about what your Service is and what it does.

But before I talk a little bit about what your Service is and what it does I'd like to say a little bit about the needs that were seen as justifying the creation of this Service some 34 years ago. The people who intersect

with the justice system are often the most vulnerable members of our society and of our community. Sometimes they might be people who are normally resilient but who for one reason or another are at the most vulnerable time of their lives. That might be because of family breakdown, it might be because of a recent traumatic event like a death, or a traumatic accident like a fire or motor vehicle accident, or it might have been some other event of life threatening or dramatic proportions that caused them to be brought before a court.

There are a number of groups within our society that intersect with the justice system far too often. One of those groups is Aboriginal people. I have spoken at length about the problems which arise from the gross over representation of the Aboriginal people within our justice system. To give you a very brief snapshot of the size of the problem, tonight 41% of the prison population of Western Australia will be comprised of Aboriginal people, compared to about 3.5% of the general population who are Aboriginal people. What that means in practical terms is that tonight one out of 16 adult Aboriginal men in Western Australia will spend the night in prison. Those figures are quite shocking. In terms of imprisonment rates per head of Aboriginal population our rate is double that of the Northern Territory. The rate of Aboriginal imprisonment has trebled over the last 20 years to the point where it is about 3,900 per 100,000. That compares to about 120 per 100,000 of white population. So the Aboriginal imprisonment rate is about 27 or 28 times the rate of imprisonment of the non-Aboriginal population.

The situation gets worse when you look at the younger Aboriginal population. At the two juvenile detention facilities in Western Australia, Rangeview and Banksia Hill, tonight more than 70% of the populations at

both of those facilities will be Aboriginal children. If that is a portent for the future it is a depressing one. Aboriginal people are often not terribly well equipped to negotiate their way through the court system and one of my concerns is that the figures to which I have just referred are in part a product of the difficulties experienced by Aboriginal people negotiating their way through a fairly complex and intimidating court system.

Another group within our community which is grossly over represented within the criminal justice system is those who have abused various substances - be they drugs or alcohol. They are much too often before our courts - sometimes for offences relating to their drug abuse but more often for offences that are the product of their drug abuse - like crimes of violence and property crimes. Again, because of their substance abuse, they are often ill equipped to deal with a fairly complex system. They are amongst the groups that need assistance to negotiate their way through the process.

Another group that is tragically over represented within our criminal justice system is those who suffer from mental illness. The figures show that people who suffer from mental illness are many times more likely to be involved in the court process than people who do not suffer from mental illness. It is obvious that these are people who are particularly ill equipped to negotiate their way through a fairly complex and sometimes intimidating court process.

These are just some of the groups who are over represented within our justice system. They are all groups who need support and assistance of the kind that your Service so importantly provides. There are also people other than offenders who have interests in the proceedings before our

courts. They include witnesses, family members of witnesses, victims and family members of victims. For all these groups the court process can be seen as quite intimidating, quite threatening and a potentially traumatic experience. That is why I think it is so important that there are services like yours that assist and make the process a little friendlier for those who have to negotiate it.

Our court processes are too complex and too technical. Because of the numbers with which the courts have to deal we do not spend as much time on each case as we would like. That means the process is often rushed. We use language that people often find difficult to understand. The forms that we use are complex and technical. The people who come within the groups that I have described, and many ordinary members of the community find our processes bewildering. They need a friend; they need somebody to assist them, to fill out the forms, to explain to them what is likely to occur when they go into a court, or what has just happened when they come out of court. A depressingly large number of people leave our court rooms with little or no idea of what has just happened. It is important that there be people from your Service who act as a kind of translator of our processes into terms and language that people understand. And of course quite a number of people within our justice system do not have English as their first language or do not speak English at all, or are illiterate, and for them there are also obvious problems in negotiating that process.

I hope that the need for your Service will diminish over time because we can and should make our processes more user friendly, more comprehensible, less technical, and simpler. But these reforms are a bit like turning around the Queen Mary. They are not going to happen over

night. So until we achieve those objectives and even when we do, there will be a continuing need for important services like yours.

People are often required to participate in court processes by communicating with a judge or by giving evidence, or otherwise communicating with the court. Often that is a daunting prospect for many members of our community. It is very important that they be at their ease so that they can do it to the best of their ability. They will not be at their ease if the process is threatening and intimidating and they do not understand what is going to happen. That is why the service that your organisation provides is not only important for the well being of people who come before, or are otherwise associated with the work of our courts, but in an indirect way it is also very important for the efficiency of the justice system. If people are on edge, if they are rattled, if they are uneasy they are not going to be able to provide the information that the court needs in order to deal efficiently and justly with their cases. So it is not just a question of improving the humanity of the justice system by providing the service that you provide. It is also an important aspect of the efficiency, fairness and justice of that system that people be given the support that they need to perform at their best when they are in a court environment. That reinforces in a very important way the significance of the service that you provide.

You provide that service through 83 volunteers who work across the metropolitan area and also in regional locations, particularly Geraldton and Albany. I am advised that the Service is available at the courts in Geraldton, Joondalup, the Children's Court in Perth and also at the courts in Albany, Midland, Fremantle, Rockingham, Northam, Armadale and the Central Law Courts. I would like to see more locations covered but I

understand that there are limits upon the extent to which a Service like yours can provide services in those more far flung communities.

The Service has only been funded for the past five years or so and over that period until very recently has only received between \$3,000 and \$5,000 a year. Prior to that I understand that the only real assistance that was provided to the Service was through the provision of parking vouchers by the City of Perth with the result that phone calls and other disbursements were all met by members of the Service. That is an unreasonable impost upon people who are already volunteering so generously of their time. I am therefore pleased to acknowledge that in this current financial year, for the first time, an amount of \$25,000 is being provided by the Department of the Attorney General. I must say that still strikes me as a fairly modest contribution to the work of this important Service given the potential benefits to be derived, of the kind that I have already described.

The Service provides one of the many volunteer services associated with the Department of the Attorney General. In its last Annual Report the Department asserted that it had one of the largest volunteer workforces in the Western Australian Public Sector. During 2006/2007 there were some 3,454 people who provided voluntary services to the Department of the Attorney General. So although I am sure sometimes you feel like you are alone, on those figures you are not alone. The Court Welfare Services is one of the many organisations within our community which provide important work on a voluntary basis.

To give you some index of the extent to which our community depends upon these volunteer services I would like to quote some figures from a

report by the Australian Bureau of Statistics published in 2008 entitled 'Australian Social Trends Report'. It reported that between 1999 and 2000 (which was the last year apparently for which figures were available), the value of the work contributed by volunteers to non-profit organisations was \$8.9 billion. That was eight years ago, and my guess would be that that amount would have escalated many times since then. That provides some indication of the extent to which our community depends so critically upon volunteer services.

The proportion of the population who provide volunteer services is increasing. In 1995 it was 24% of the population and in 2006 it was 34% of the population. In Western Australia more than 36% of adults had undertaken volunteer work in the 12 months preceding the 2006 Census and that rate is higher than any of New South Wales, Victoria, the Northern Territory, Tasmania or South Australia. That is something in which we can take a little pride. In 2006 in Australia a total of 5.2 million people aged 18 and over participated in volunteer work over the preceding 12 months and of those, 3.1 million people worked at least once a fortnight as a volunteer.

And if you are looking for the worth of people who provide volunteer services there is another interesting statistic. In 2006 volunteers were more likely than non-volunteers to donate money, to attend a community event, or to provide unpaid assistance to somebody outside their household. More than 60% of people who provide voluntary services did things of that kind compared to about 40% of the general community.

It is not all a one-way street because it is suggested that there is a strong correlation between providing volunteer services and good health. That

might be because people who suffer from bad health are not in a position to volunteer, but I would like to think that there is a more positive benefit to be derived. That is by volunteering you are keeping yourself busy, you are keeping your mind active, you are getting involved in the community and I think that can only be good for you.

It is also interesting that volunteers are more trusting than other people in the sense that they trust other people more than members of our community. 60% of volunteers felt that people could be trusted compared to only 51% of people who were not volunteers.

To quote from the Australian Bureau of Statistics and I read from their report:

Volunteers make a valuable contribution to society in both economic and social terms. Volunteers provide services which would otherwise have to be paid for or left undone, allowing organisations to allocate their often limited resources elsewhere. The effect of volunteering on the functioning and connectedness of communities is increasingly being recognised. Through their contribution to a wide range of organisations volunteers help to build social networks, shared values and social cohesion.

I would like to say a little more about the work of the Court Welfare Services (Inc). It is a particularly fine example of the work that is done by volunteers within our community. Your Service provides advice, support and referrals to people who intersect with the court system in one way or in another. Direct support is also provided to a number of affiliated bodies such as the Legal Aid Commission of Western Australia. Some of the very valuable work that you do involves assisting people to complete the forms that are needed to ensure the provision of legal aid by that organisation.

All volunteers must train for six months which is a major impost upon people's time. It is remarkable that such a large number of people are prepared to undertake that kind of training to put themselves in a position where they can be of assistance. Your President, Kerry Davies has advised me that trained Court Welfare Officers can make the court process less threatening and easier to understand. I have also been advised by your President that your work includes organising transport to and from court, assisting in restraining order applications, providing referrals to support and welfare agencies, mental health agencies and services and to court based programs, and also in providing access to accommodation.

These services are increasingly important as our courts and the justice system take a more active role in addressing in a more holistic way the needs of the people who come before our courts. We have seen the development of what I like to call 'problem solving courts' over the last few years. The most obvious example is the Drug Court. That court recognises that the real reason why a person is being brought before the criminal justice system is not necessarily the offence that's brought them before the court, but might be an underlying drug addiction or substance abuse problem. Problem solving courts are designed to address the fundamental underlying cause, and not just the superficial symptom. Domestic violence courts are another example. They are now in operation in a number of courts in the metropolitan area. They recognise that as horrible as domestic violence is, it is often the product of some underlying social cause, or may be related to substance abuse, and that unless and until you address those underlying causes then simply addressing the symptom is not going to improve the situation. Our Aboriginal community courts, which at the moment are only operating at

Norseman and Kalgoorlie, recognise that for many Aboriginal people, offending is a symptom of much more fundamental and deep rooted underlying problems that need to be addressed if their offending is to be contained.

All of these courts work on the basis that an intersection with the justice system provides an opportunity for a beneficial intervention and provides an opportunity to identify and address the underlying causes that have brought a person before the court. I think that is the best way of protecting the community, because if you can identify and address those underlying causes then you have got much more chance of preventing, or reducing the likelihood of, that person coming back before the court.

It is sometimes said that these sorts of systems and these approaches are soft and weak and that they endanger the community. I do not agree with those criticisms. I think our fundamental obligation as judges and magistrates is to protect the community. The best way we can do that is to reduce the likelihood of people coming back to court. Problem solving courts work very well to that end. It is very important that these courts are supported by services like yours.

Transport to and from court is something that I have been particularly interested in recently following the tragic death of Ian Ward during his transport from Laverton to Kalgoorlie. Also significant is what we now call 'stranding'. That is, people who for one reason or another find themselves before a court and then stranded with no practical way of getting back to where they came. They might have been brought to the court by the Department of Corrective Services or by the police and then they are released by the court with no way of getting back to whence they

came. What we have found, predictably enough, is that if appropriate arrangements are not made to get those people back to whence they came they reoffend and they end up back in front of the court again.

There are some major initiatives to try and reduce these problems, but one of the things we have found in the course of implementing those initiatives is that one of the biggest problems is simply identifying the people who do not have a way to get home. That is why we need more people in the courtrooms themselves, and in the precincts of the courts, whose job it is to identify people who have a problem with transport, and do what they can to address that problem. It might sound like a little thing, organising transport for somebody, but as I am sure you have found, there are a lot of people who come into contact with our court system who do not have the skills to organise their own transport or the money to pay for it, so its very important that there are services like yours that can assist them in that regard.

Your President tells me that your main role is to listen to the concerns and coordinate the immediate welfare needs of defendants, defendants' family members and witnesses. For the reasons I have tried to address those are very important objectives. They are objectives which if achieved will make the courts more humane, more friendly, more efficient places and so in the pursuit of those objectives your Service is to be heartily commended.