

**SELECT COMMITTEE ON THE
RESERVES (RESERVE 43131) BILL 2003**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
ON MONDAY, 18 AUGUST 2003**

Session 3

Members

**Hon Peter Foss (Chairman)
Hon Robin Chapple
Hon Jon Ford
Hon Louise Pratt
Hon Derrick Tomlinson**

[12 noon]

BRAZIER, MS JANE
Director General, Department for Community Development,
189 Royal Street,
East Perth, examined:

McCULLOCH, MR LEX
Executive Director, Community Development and Statewide Services,
Department for Community Development,
189 Royal Street,
East Perth, examined:

The CHAIRMAN: Welcome to the committee. You have signed an "Information for Witnesses" document. Have you read and understood the document?

The WITNESSES: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document to which you refer during the course of this hearing for the record. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of the public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

We are seeking to ask you some of the questions that we would like to have you particularly answer. We will have Mr Curry here and later Mr Daube. There may be a matter of swapping among witnesses, but not at the moment.

When was the idea of legislation to deal with the Swan Valley Nyoongah Community first raised and by whom?

Ms Brazier: My recollection would be that the idea of legislation was raised in April at a meeting that involved a number of directors general and some staff from the Premier's office.

The CHAIRMAN: Can you describe what the meeting was called? Has it got a name?

Ms Brazier: Could I just clarify that my written submission, which does contain -

The CHAIRMAN: Please refer to it.

Ms Brazier: I was not sure whether I could assume that everybody had read my written submission.

The CHAIRMAN: We have read it and, in accordance with your request, we have made your covering letter, the note on page 1 and the appendix received private and the remainder public.

Ms Brazier: Could I also just indicate that if any questions would be assisted by way of response that makes reference to specific cases, could those responses could be taken in private, please?

The CHAIRMAN: I think we might note them and go back to them, because it would mean throwing everybody out of the room.

Ms Brazier: I understand that.

The CHAIRMAN: Yes, I think it is a very good idea.

Ms Brazier: I just wanted to be reassured that if, when answering you, it would assist you if I made references to cases, I could stop and indicate as much.

The CHAIRMAN: That is a good idea.

Ms Brazier: To return to the question, the matter of legislation was one of a range of options that were discussed at a number of meetings in late April - certainly those meetings took place on 2, 5 and 8 May.

The CHAIRMAN: Are the 2, 5 and 8 May meetings different from the April meeting?

Ms Brazier: Yes.

The CHAIRMAN: Can we first see whether we can establish the date of the April meeting?

Ms Brazier: There were a number of meetings around the end of April and early May. I think in making reference initially to the April meeting, at which the legislation question came up, I have been mistaken and in point of fact the legislation question came up at one or more of those meetings on 2, 5 and 8 May.

The CHAIRMAN: Can you recall the particular circumstances under which it was first suggested and who first suggested it?

Ms Brazier: Those meetings took place following a Strategic Management Council meeting that was chaired by the Premier, in which I think the question was asked - because there was always a standing item that related to the board and implementation. On this occasion the Premier asked for some update as to the Swan Valley community and how we were working with the Swan Valley Nyoongah Community. I can recall that initially Richard Curry expressed some concerns about the ongoing working relationship with the community, and I also indicated that we had some concerns about the safety of women and children in the camp. That meeting, as I recall, was an April meeting - I think it was an April meeting - no, it was 1 May; my apologies. The meetings that followed that on 2, 5 and 8 May were called, as I recall, by op' staff of the Premier's office to discuss the Premier's concerns at the information that he had heard at the Strategic Management Council meeting. The question of legislation was one of a number of strategies that were discussed by way of taking some decisive action that would enhance the access of government officers to the community and to the people who lived in it but, critically importantly, to enable the people in the community to have free access to government agencies.

The CHAIRMAN: Did you go along to the first of those meetings with your own idea as to the action that needed to be taken?

Ms Brazier: No, Chair, I did not. My focus was to provide advice about concerns that were being brought to my attention about the safety and security of women and children in the camp. They were not new concerns. They were concerns that I had been hearing for some time, but there were some heightened anxieties around some of the women and children in the camp because of information that was coming to me. I certainly did not go to any of those meetings with a preconceived idea about what strategy needed to be adopted, but my focus was on the safety of women and children and the advice that I was giving in that regard.

The CHAIRMAN: Did anybody go to that meeting with apparently some idea as to what sort of strategies could be taken?

Ms Brazier: I cannot speak for -

The CHAIRMAN: Did they appear to? Did somebody appear to come along and say, "These are the things that we can do"?

Ms Brazier: I think there were a number of suggestions made from various perspectives. There were suggestions made from the perspective of aboriginal affairs, from the perspective of planning and infrastructure and probably from the perspective of the Premier's office.

The CHAIRMAN: Did any of those contain a reference to legislating?

Ms Brazier: I believe that there was a suggestion made about legislating that came from a representative of the Department for Planning and Infrastructure. That would be my recollection.

The CHAIRMAN: Were those meetings minuted?

Ms Brazier: There were not copies of minutes that I received. Notes may have been taken by individuals. I do not recall ever receiving full minutes of the meetings. I certainly took notes in the notepad that I always carry with me. The question of legislation was discussed alongside discussions around the future of camps in the metropolitan area as an appropriate way of locating indigenous people. Legislation was obviously an option. There was a range of things discussed.

The CHAIRMAN: Did you ever think of using your statutory powers? You have fairly wide statutory powers, do you not?

Ms Brazier: We certainly do have statutory powers, but we also have power under the management order to enter the camp. The view that we had was, in practice, that our entry to the camp was always conditional upon reporting to the office, and any access to women, children or families in that camp was conditional upon the agreement of the office to that access and was always monitored by somebody from the office.

The CHAIRMAN: Would you tell me the source of that piece of information?

Ms Brazier: Which piece of information?

The CHAIRMAN: You just said that those three things related to access. What was your source for that information?

Ms Brazier: It was twofold. One was the corporation's response to the management order - its management plan. As I have indicated in my statement, it placed some conditions on the access of individuals to the camp.

The CHAIRMAN: Could you direct me to the page of your submission?

Ms Brazier: It is paragraph 64. The management plan stated that new, unannounced visitors are advised to come to the office. They are then directed to whom they need to see. There is then a reference to common courtesy - most visitors ring ahead. I guess on the basis of the corporation's response to the order in the form of the management plan, I asked for some advice from my director of legal services. Her advice is contained in paragraph 66 and some further explanation in paragraphs 67 and 68 of my statement.

[12.15 pm]

The CHAIRMAN: Where does it say in those two quotes that "approval is required"?

Ms Brazier: Paragraph Nos 64 and 65, and those statements are contained in the management plan.

The CHAIRMAN: No. I cannot see anything in 64 or 65 that says you are required to obtain approval.

Ms Brazier: I now understand where you are coming from, Chair. I wanted to make that explanation in terms of any documents, but I also wanted to go to the practice of what happened when we visited.

The CHAIRMAN: That is why I would like to know the source of your information. We have fairly well stated what some of the claims are, but I would like to know the source of your information upon which you relied.

Ms Brazier: The information I would have relied upon would have come from the manager and staff of the Midland office.

The CHAIRMAN: "Would have come from" - did you speak to them or receive a minute from them?

Ms Brazier: I certainly spoke to them and certainly I received briefing notes from them.

The CHAIRMAN: Can we have the names of the people to whom you spoke?

Ms Brazier: I would have spoken to Roley Bayman, who was acting manager at one point; and Irene Thomas, who was manager during this time. They gave me direct information as to their ability to access the camp without permission or without reporting to the office. I am sorry, Chair.

The CHAIRMAN: Can we have copies of the minute or reports that you received?

Ms Brazier: I do not have them with me.

The CHAIRMAN: I realise that. We have been given a number of names by Mr Bropho of other officers in the Department for Community Development. Could you check with those officers; namely, Terry Powell, DCD, Cannington.

Ms Brazier: Yes.

The CHAIRMAN: Maureen Parsons, DCD, Cannington. I think you already mentioned Irene -

Ms Brazier: Irene Thomas.

The CHAIRMAN: Roley Bayman, you have already mentioned.

Ms Brazier: Yes.

The CHAIRMAN: Have you spoken to any of the other people about access to the camp?

Ms Brazier: I have not spoken to them directly, no.

The CHAIRMAN: If you were concerned about the welfare of these children, and it was significant enough for legislation, why did you not consider using your statutory powers - those you already have - to take children away from their parents?

Ms Brazier: I think, Chair, the critical issue for us was that we were not free and unfettered in our access to the individuals - neither the women nor the children - who lived in the camp. For whatever reason, the corporation was not comfortable with us walking in without reporting to the office and being able to talk to whoever we needed to talk to. The other dimension for us was that we did not believe that people in the camp were free to come to us as and when they needed to do so if they had concerns or even if they needed services. We had power under the management order; we also had powers under the Child Welfare Act in conjunction with that management order. In December last year, I certainly authorised, given the use of powers, the staff to enter the camp and to make some assessments of a number of the children who lived in the camp. In December last year, we also had an occasion when we needed to make an assessment of a particular child about whom we had received a report. We took the opportunity to go into the camp again; we advised the office we wished to interview a child. We were not allowed to interview that child in her home. We had to interview that child in the open kind of compound area with one of the women from the office standing by and taking notes. So, the interview with the child took place in full view of everybody in the camp. This was an eight-year-old child who certainly would not have been free to have a conversation with us - nor we with her. As you would appreciate, creating opportunities to interview children about issues for them takes time - it takes the building of a relationship, and it takes an opportunity to engage with those children. We were being denied any of the opportunities to form those normal relationships required in the kind of interviews that needed to take place.

The CHAIRMAN: What concerns me is this: I cannot think that there are too many parents who would welcome DCD into their house with a view to discuss removing their child from their care. I would have thought that you might have struck that before; that is, that people are a little reluctant for you to talk to their children. Second, it seems you either had hard evidence or you did not have hard evidence you could have acted upon. Third, I have certainly on occasion had reports of the DCD moving fairly rapidly to take children into care, even without what you would call prosecutorial evidence. Would you agree with that?

Ms Brazier: I would certainly agree that there would be few families who in the light of a complaint about abuse or neglect would feel comfortable about the contact we might have with them. I am also clear that - I am sorry; could you go back through your questions?

The CHAIRMAN: The second matter was whether you did or did not have hard evidence.

Ms Brazier: Yes. The question of hard evidence or otherwise was always a difficult one for us. It is fair to say that we were unable to consider what was happening in the community in the six months since the Gordon report without the knowledge of what had gone before. There have been over many years serious concerns about behaviours in that camp. We know that the tragic death of Susan Taylor led to the Gordon inquiry. Sitting in my position, information that I would receive from a range of different sources and in a range of different ways would not necessarily bring with it hard evidence, but it would bring with it an accumulation of concern.

The CHAIRMAN: I understand that.

Ms Brazier: I guess the dilemma for me is always: do you sit and do nothing about those allegations, or do you try to form relationships with the people you need to engage with to try to assess them? That is what we believed we needed to do. You had a third point, Chair.

The CHAIRMAN: The third point is that sometimes you are able to move, even without hard evidence.

Ms Brazier: Yes, sometimes we are. We knew that these were fairly disempowered people who did not have a voice; they were always heard through a spokesperson. In the light of a lack of hard evidence, our commitment was to try to work with these people living in the community.

The CHAIRMAN: Did you think removing them all from the place was going to engage their confidence?

Ms Brazier: Can I say that my focus was not on the nature of the strategy. I had hoped and anticipated that the focus would be on removing those people - there was a small group of men in the camp who there were concerns about; that the focus be on the administrator having a role in relation to the removal of those people, to enable us to then work with and engage the women and children. That was the objective I always had. It was not our decision to move all of those people out of the camp; that was a decision that Robert Bropho, as I understand it, took. It was taken before we were able to engage with women.

The CHAIRMAN: You are aware that the Government intended to move everybody out of the camp, are you not?

Ms Brazier: I am aware that there was an intention to move everybody out of the camp. I would question that the timing was as it rolled out. My understanding was that there was some opportunity for flexibility around the removal of the women and children. As it happened, events overtook us, and we did not have that opportunity.

The CHAIRMAN: In your planning for this, did you consider the possibility that Mr Bropho might move out and go somewhere else and take everyone with him, if he had this influence over them?

Ms Brazier: It is fair to say that the collective planning of government agencies did not factor that into the equation.

The CHAIRMAN: Are you aware that it was raised in the course of debate in the upper House that it was one possibility?

Ms Brazier: No, I am not aware of that.

The CHAIRMAN: Are you also aware that amendments in the upper House would have allowed the removal of the men separately?

Ms Brazier: I had no direct involvement with the legislation, its formulation and the debate and discussion with the amendments. It was not something I was directly concerned with. My focus was on the advice that related to the safety and security of women and children. Chair, I have to say that that is where my focus stayed, and where it stays today.

The CHAIRMAN: Yes; fair enough. You might not have needed legislation, but if you had your druthers and you had the ability to make some legislation, what would you like to have done?

Ms Brazier: Chair, in fairness, I would prefer not to comment on legislation or otherwise. In order for my officers to exercise their statutory responsibility, I required an opportunity to freely access the women and children in that camp to begin a process of forming a relationship with them - as we have done subsequent to the closure of the camp - to work with them, to assess their needs for services, and to assess their need for safety and security, as it is our core business. How should we have best achieved that? It is hard to indicate how that might have been done with the wisdom of hindsight. We have a different scenario. That is as much I can say at this time.

The CHAIRMAN: Were you surprised with the speed at which the decision to legislate and close the camp was made?

Ms Brazier: The process of managing a piece of legislation through the Houses of Parliament, again, I am sorry, Chair, is not something with which I had a direct involvement.

The CHAIRMAN: But you were not surprised by it.

Ms Brazier: I honestly did not form a view.

Hon JON FORD: Ms Brazier, your submission contains a section in which you refer to one of your workers suffering some level of intimidation.

Ms Brazier: Yes.

Hon JON FORD: I have a couple of questions in that regard. In that example, the submission refers to the officer becoming uncomfortable because she had lost sight of Jim - that is, the police sergeant. Was it normal to have the police sergeant act as an escort as a matter of course into the camp with your agency workers? Were there other examples? There does not seem to be a natural ending to the story. It finishes off, but it does not tell the final story. It finishes with the agency worker finding an area from which there was no escape. I would not mind knowing the final story and how it ended.

Ms Brazier: Could I go to your first question? We did not enter the camp under normal circumstances without a police officer, and practice suggests that Jim Clarysse was the officer with whom my officers would normally attend the camp. There was an occasion early in May in which I wished for my staff to have regular access to the camp because I believed there were heightened emotions for the reasons we are discussing today, and that it would be advisable for us to be able to regularly check on the children in the camp. I asked for Irene Thomas, the manager out at Midland, to seek the assistance of the Kiara police to enter the community. On the occasion that she asked, she was told that Jim Clarysse was away on a course, and although they could provide somebody else, it would be preferable to wait until Jim Clarysse returned.

[12.30 pm]

That was not satisfactory from my point of view, and I made contact with the Commissioner of Police and asked for immediate assistance for my staff to enter, regardless of whether Jim Clarysse was on the course or not. You had a subsequent question?

The CHAIRMAN: The end of the story.

Ms Brazier: I might, chair, with your agreement, ask Mr McCulloch to make a comment, but in -

The CHAIRMAN: In Parliament, the proper reference to the chair is "Chairman", and it is "Mr Chairman" or "Madam Chairman" for a female chair.

Ms Brazier: Thank you, Mr Chairman, for that clarification. I am never quite sure. The staff member concerned would have been responded to in the normal way that critical incidents are responded to within the department.

Mr McCulloch: She did have a couple of days off work. She was pretty traumatised by the event. We did lock in some support and counselling to her and, to give her credit, she is very resilient. She is back and she is still working with the ex-residents of the Swan Valley Nyungah Community, as they are now.

Hon JON FORD: Was that just a one-off incident?

Mr McCulloch: Our staff have felt intimidated going to the Swan Valley Nyungah Community for a while. This has been heightened since the release of the Gordon inquiry report. I cannot say that there have been other incidents, where people have had to have those types of services wrapped around them.

Hon JON FORD: Would you say that those tensions have been more prevalent since the Gordon inquiry, and were not the experience prior to that?

Mr McCulloch: There was a period for a number of years when we did have difficulty getting in, but the Gordon inquiry has certainly heightened this - the coronial inquiry and the Gordon inquiry.

Hon DERRICK TOMLINSON: I would like to show Ms Brazier a document and ask her some questions about it. Ms Brazier, the document I have given you is entitled "Swan Valley Nyungah Community Management Plan - Summary". It is not dated and it has no author. Have you seen that document before?

Ms Brazier: I cannot say that I have seen this particular document, but I have certainly seen a document that outlined arrangements for the provision of services prior to any action being taken in relation to the community. So, I am aware, and the document I am referring to does contain some of the information that is in this summary.

The CHAIRMAN: Could you table the document you have?

Ms Brazier: The document I am referring to is from the Department of the Premier and Cabinet. My preference would be that it was discussed with that department.

The CHAIRMAN: I am happy for you to do that. When you have discussed it, would you arrange for it to be sent to us?

Ms Brazier: Yes, certainly.

Hon DERRICK TOMLINSON: You have not seen this document. As a bit of background, this document was presented to members of the Opposition in the Legislative Council following a briefing on the Bill on the day that it was introduced into the Legislative Council.

The CHAIRMAN: Can you identify that other document, by the way, because the clerk will need to follow up on it? Can you give us some information?

Ms Brazier: It was a document head "Management Order Plans - Swan Valley Nyungah Community" and it contains a range of material, covered in this document, but it is longer than this one.

The CHAIRMAN: Yes, but I wonder if you could identify it by who signed it, and what date is on it, so that we can make sure we get it.

Ms Brazier: It is a document that Lynsey Warbey prepared, and it is not actually signed or dated. Lynsey would need to speak to the purpose of the document, but I know that it was put together in discussion with senior representatives from a range of government departments. The purpose of the document was to outline the arrangements that were ready and in place to respond to the families in the community. It covered some information without identifying details about people in the camp

and the number of children. It talked about the role of police, the Department of Housing and Works, the administrator, the Department of Indigenous Affairs -

The CHAIRMAN: That is enough for us to identify it. That is fine. While you are talking to the Department of the Premier and Cabinet, we are entitled to that document. I will not insist on it now.

Ms Brazier: Oh, sure; it is just that it was not my document.

The CHAIRMAN: I understand the courtesy you want to give before handing it over. You might just mention that we have actually called for that document, and ask if she could send it along. She is giving evidence at some stage, is she not?

Ms Brazier: Yes, I think on Thursday.

The CHAIRMAN: If we could have it before then, it would be nice.

Ms Brazier: Yes.

The CHAIRMAN: Actually, I was going to ask, while we are waiting, if you could give us all the internal documents that deal with this matter, or the basis of the decision. I do not mean everything, such as case histories and so on, but material particularly related to the legislation. I do not want all the case histories on each child, but the documents directly related to making the decision for the legislation, on which you based your information.

Ms Brazier: It may well be that the Department for Community Development does not have a lot of documentation relating to the legislation.

The CHAIRMAN: I will ask all witnesses today for documents - things like briefing notes, minutes, and things of that nature that might give some insight into the mental processes that went on. Do you understand the sort of thing I mean?

Ms Brazier: Yes, I do. I am not wanting not to be helpful, but I am not sure what documentation we would have that relates to the legislation. We certainly would have documentation that relates to case concerns, which was the focus of, as I have already indicated -

The CHAIRMAN: No, I do not think we want that. What I am looking for is what is related. You might very well have nothing.

Ms Brazier: I certainly will send you anything we have.

The CHAIRMAN: Mr Curry, we require the same thing from you.

Hon ROBIN CHAPPLE: Does that included e-mails, and that sort of thing?

The CHAIRMAN: Yes, anything of that nature; anything that will help us see our way into the thought processes that were taking place at that time.

Hon DERRICK TOMLINSON: I was giving you the explanation that the document, which is unsigned and undated, was presented to members of the Opposition following a briefing on the Bill on Friday 16 May, by policy officers of the Department of the Premier and Cabinet, one of whom was Lynsey Warbey. I draw your attention to the words -

The Department of Housing and Works (DHW) has accommodation available for the key people who will be removed from the Community. This includes two houses for Herbert and Harvey Bropho, who have families, and emergency hostel lodging for Robert and Richard Bropho, who do not have dependants, and who, it is believed can source private accommodation elsewhere.

Are Herbert, Harvey and Richard the persons you referred to in your submission as Robert Bropho's lieutenants?

Ms Brazier: Yes, they certainly were people of concern.

Hon DERRICK TOMLINSON: So the intention was to remove them immediately. The document continues -

The Department for Community Development (DCD) will consult with the remaining five family groups regarding their future housing options . . .

Were you aware of that?

Ms Brazier: Yes - that was certainly our plan, and I think my reference earlier to the removal of the men that you have alluded to, providing an opportunity for us to work with the women and children, was our intention.

Hon DERRICK TOMLINSON: The document continues -

DHW is aware the some families may choose to leave the Community immediately after the Act takes control, and have made provisions, for this. However, residents will be encouraged to remain on the Reserve until suitable housing can be arranged.

That was your understanding?

Ms Brazier: That was my understanding, yes. That was our hope, I guess - that we would have that opportunity to work with people in that way.

Hon DERRICK TOMLINSON: Did you anticipate how long that might be? \

Ms Brazier: No, because I think that would have been very much up to the individuals concerned.

Hon DERRICK TOMLINSON: What do you mean?

Ms Brazier: Well in the sense that, if they had chosen to move more quickly, as they did, that was not something we could have controlled. Our intention - our hope- was that we could make some connections with these people, in a way that we had not been able to do in the past. As I have indicated, that hope has been borne out, and has happened as a result of having access to them much more freely than we had when they were living in the community.

Hon DERRICK TOMLINSON: You used the phrase “engage with persons”, with the women. “Engage” was an engaging phrase for you. What do you mean by “engage”?

Ms Brazier: Well, I think our hope was that we would be able to meet with these women; to sit down and have conversations with them, to talk to them about their needs, their wishes, their requirements for services, what they hoped for for their children; to be able to respond to them in ways that you would respond to anybody who lived anywhere else in the community, if they were in need of family support or if there were concerns about their children. That was our hope.

Hon DERRICK TOMLINSON: But was it your hope that this would be done before they were relocated?

Ms Brazier: I guess ideally, yes.

Hon DERRICK TOMLINSON: From your department’s point of view it would be preferable?

Ms Brazier: It was a process that would start immediately we were free to enter the camp, yes.

Hon DERRICK TOMLINSON: But it was preferable to engage with the women and to work with their families in situ?

Ms Brazier: If we had had an opportunity to do that, and then facilitated their relocation, with their involvement, and with their wishes being taken into consideration, that is how we would prefer to work.

Hon DERRICK TOMLINSON: That might have taken some time.

Ms Brazier: It might have.

Hon DERRICK TOMLINSON: I refer to the section of the document headed “Department for Community Development”, which reads -

The Midland offices of DCD have several Indigenous Family Program (IFP) specialist workers, who are experienced . . . The implementation of the plan to manage the

community relies on both local 'on the ground' service providers and a strong commitment, already shown, by regional managers.

I have no argument with any of that, but do you interpret that as indicating that there might be the opportunity that you had hoped for to work with those people in the community?

Ms Brazier: Yes, and I think it is fair to say that the two indigenous family workers have maintained some contact. These are workers who are on contract to us at the moment. The Indigenous Family Program was a non-government funded program. The coalition of Aboriginal agencies that was administering that was unable to continue to do so, and indicated to us that they did not wish to be the administrative body for that service any longer. So, as a transition arrangement we have employed those two contract workers. That service will go out to tender, if it has not done so already, to the non-government sector. Those two women have maintained contact with the women and children to the best of their ability, and they provide us with the opportunity to maintain a range of connections, as do other staff in the Midland office, now that they are able to work with those people.

Hon DERRICK TOMLINSON: I would like to explore that further at another time, but I think it may require divulging identities and locations of the families that have been relocated, and therefore we would have to observe strict confidentiality about that. I do not want to do it now, but perhaps it is something you can prepare for. At the end of the Department for Community Development section of the document are the words -

This progressive movement of families from the camp will end its use as this type of residential accommodation and allow for its closure.

That management plan was consistent with your hope that there would be a progressive relocation after working with the families - women and children in particular - in situ, with the men, particularly the oppressive men, absent from the community?

Ms Brazier: That was my hope, and I think, in point of fact, when we met with you - Lex McCulloch and I - we indicated that that was our hoped-for plan.

Hon DERRICK TOMLINSON: Yes, I think I asked the question about how long it would take, and you indicated to me - I hope I am not misrepresenting you - that you did not know because you did not know the nature of the problem you would confront. You did not know how badly damaged some of these women and children were; that you might have little hope to redeem the life chance of many of them, but you had to work on it, and it may take time. Were you surprised, therefore, that the appointment of the administrator resulted in the closure of the camp almost immediately?

[12.45 pm]

Ms Brazier: I was disappointed that action was taken - without going into the detail of how because I was not privy to that information - by the individuals living in the community to relocate themselves in whatever way that happened and that the immediate opportunity for a more considered transition, if you like, for us to work with the women and children did not occur. It is fair to say there was an initial period when the families moved to Saunders Street when they did not want to know about us. But we persevered and through a range of contacts we were able to connect with and engage with those women and their children. There is a document that I would like to make available that spells out all of the actions we have taken with those families, the occasions on which they have been seen by us and the services that have been offered. If I could just add one other comment, certainly with one family - it will become evident when you see this material - some of the concerns about the lack of life skills that a mother of a number of children has has been borne out by the kind of connections we have now been able to make.

Hon DERRICK TOMLINSON: I am interested in that because I too have heard some anecdotal stories about the way in which the families are or are not coping.

The committee has already decided to keep some of your evidence confidential as per your request. I draw your attention to paragraph 62 of your submission. On the second line there is a very important name that would identify the sister. Is it your request that it be deleted?

Ms Brazier: Thank you for bringing that to my attention - yes, please.

Hon DERRICK TOMLINSON: We cannot; we have a problem.

The CHAIRMAN: I am sure we can handle it.

Hon LOUISE PRATT: Should the age reference in paragraph 60 also be deleted?

The CHAIRMAN: Our record says that it is deleted.

Ms Brazier: Thank you Mr Chairman.

The CHAIRMAN: Do you want paragraph 60 deleted also?

Ms Brazier: If that is possible, because the age of the child identifies her.

The CHAIRMAN: I am sure we will manage it when we are on our own.

Ms Brazier: Thank you.

The CHAIRMAN: The interesting thing about it is that these four men were still present at Saunders Street.

Ms Brazier: Yes, they were.

The CHAIRMAN: It seems almost like a bit of persistence that Lord Street might have got the same result.

Ms Brazier: What can I say Mr Chairman, we were not to know.

The CHAIRMAN: It seems strange that these four men have had the finger pointed at them as the reason it was not possible to engage with the women. Yet, as soon as they moved to another community, and even though the four men were still there, you are able to engage with them. Do you have any idea why that might have been?

Ms Brazier: The critical difference with any of those families living anywhere else, be it Saunders Street or out in the community, is that while they are still potentially the subject of intimidatory action - I can give a little more information about that - they are not under the control of the corporation, which would monitor who went in, who went out and how they were spoken to. That does not mean that there have not been issues in relation to the intimidation and harassment of families since they left the camp. But we have far greater opportunity to manage that because we can, in a different setting, have much easier access to these women. The other thing is that when the women moved out, although I indicated that initially the families who moved to Saunders Street did not want to know about us, over time - it was a matter of a couple of weeks - the women started coming forward and saying "we want this" or "we want that" and "we want you to hear from us directly." There was, if you like, a breaking up of the dynamics that enabled that kind of access to occur. One can only speculate about why that happened, but that is what happened.

Hon LOUISE PRATT: In a number of submissions there are claims from people who had access to the Swan Valley Nyungah Community over some time that they were unaware of allegations of domestic violence and child abuse and that what they saw was a healthy and happy environment. Can you explain why they had those perceptions? Is it something to do with the hidden nature of the abuse?

Ms Brazier: I think it is probably due to a number of factors. There is rarely a case that comes across my desk in which there are not different opinions about what is going on in a family situation. There will always be people who believe they know and will tell one story and another group of people who will tell a different story. That is the nature of our business, and the nature of our business is that everybody out there has a view about how the issue - whatever it happens to be - should be responded to. But there is only one person sitting in my place. Having said that, the

nature of family and domestic violence, the nature of substance abuse and alcohol abuse wherever you happen to see it is such that you will not always get clarity about what is happening for the individuals who are involved in those circumstances. There were certainly one or two people who believed that they had easier access to Robert Bropho. The majority of government workers did not always enjoy that access. I believe that we were looking at a management arrangement that probably had an ideological position about working with government and that the focus of that management group was around the politics, if you like, of the relationship with government, rather than a focus on necessarily the people in the community. That certainly is my view.

Hon ROBIN CHAPPLE: In relation to the concerns that appeared at the strategic management group about the safety and welfare of the children, what is your recollection about who proffered the view that the welfare of the children and women was at risk, or were you asked?

Ms Brazier: My recollection is that I would have made a comment to that effect. Whether anybody else did I cannot remember, and I honestly cannot remember whether I was asked the specific question. The comments that I would have made would have followed an earlier meeting of the Gordon implementation group - I think that is referred to in my written statement - in March, at which a number of directors general had indicated some concern about the way we were able to work with the community.

Hon ROBIN CHAPPLE: So at an earlier meeting a number of other directors general indicated concern about the welfare of the women and children?

Ms Brazier: Yes. The reference in my statement is paragraph 42. There was a directors general Gordon implementation group meeting on 14 March which talked about the approach that departments were trying to take post the new management order in October 2002 and that we were not satisfied with the improvements that had been made in the working relationship. There was a minute of that particular meeting, if I could read that.

Hon ROBIN CHAPPLE: I have the report in front of me.

Ms Brazier: It is No 43.

Hon ROBIN CHAPPLE: Could you guarantee the safety of women and children at Balgo Aboriginal Community, Tjalka Boorda, Warburton, Punmu, Kiwirrkurra or any of the other remote Aboriginal communities?

Ms Brazier: I think you would appreciate that we cannot guarantee the safety of children wherever they happen to live. We require the opportunity to hear from those who will advocate on their behalf without constraint, and opportunity for us to be involved in their lives as and when necessary without constraint. In some of the communities in the north of the State, you may be aware that we have been able to negotiate successfully memorandums of understanding. Those MOUs provide for us, should we be required to investigate an issue to do with the safety and security of a child, to advise the community, but they do not need to know from us, as a result of that memorandum of understanding, the detail about the family involved or the nature of the allegation. If I could, Mr Chairman, you might be interested to have Lex make reference to one of those memorandums of understanding. We have brought copies of those that we thought might be of interest to you.

Hon LOUISE PRATT: What is the nature of the management of the communities that have successful memorandums of understanding? Can you contrast the nature of the leadership in the communities?

Mr McCulloch: It is a much more open management. The director general was referring to the political nature of the management at Swan Valley Nyungah Community. Certainly we have not found that with the others. In the document you have before you, section 33.6 refers to it. The communities understand that they have a responsibility in terms of protecting their children and we have negotiated this. I think it is with 10 communities in the Kimberley.

The CHAIRMAN: I have to ask a question - look at 2.2.1.

Mr McCulloch: That is a courtesy thing to let them know we are coming, but it not telling them -

The CHAIRMAN: How is that different from what was said to you at Lockridge? It is exactly what was said at Lockridge. It did not say you had to, it was less than this. It said "We advise you to." It states -

- where individual persons have requested government departments to come to see them the government departments can come without asking or prior appointment
- the government department officers wish to see individual persons living here, the government departments to write or ring first on home numbers to individual persons and give those individual persons reasonable notice
- It is not needed for Government Departments to ring or come to the office of the management Body, ie Swan Valley Nyungah Community Aboriginal Corporation
- all government departments visitors to have clearly seen ID on their car and ID on themselves so there is no confusion with undesirables
- government departments to drive with caution at 5kph and park in parking areas along the roads.

That is a letter to the Minister for Lands dated 21 September 2002. That sounds pretty reasonable. It sounds even less of a regime than the one applicable in this anonymous community.

Mr McCulloch: What were you referring to then?

The CHAIRMAN: It is a letter from Mr Bropho to the Minister for Lands in September 2002.

Mr McCulloch: I have not seen that letter.

The CHAIRMAN: At the Swan Valley Nyungah Community, even from your account and in your submission, which I see you had something to do with, it says no more. Have a look at your own submission.

Ms Brazier: The critical pieces in the memorandum of understanding are contained in 3.6 and 3.7. I think we have a different approach to child protection issues -

[1.00 pm]

The CHAIRMAN: Mine stops at 3.3; which ones are you referring to? There is another one on the next page.

Ms Brazier: I refer to 3.6 and 3.7. There is a different approach, as a result of child protection issues, that we have as a result of these memorandums of understanding, from those that we were able to enjoy with the Swan Valley Nyungah Community.

The CHAIRMAN: That raises another question. The recommendation was in regard to the Swan Valley Nyungah Community - bear in mind that the Gordon inquiry was not all about the Swan Valley Nyungah Community but about Aboriginal people around the whole of Western Australia - that there would be a memorandum of agreement with the Swan Valley Nyungah people. Did you attempt to do that?

Ms Brazier: I recall that when the Government released its response to the Gordon inquiry report, the Premier announced two recommendations from the report of which the Government was not fully supportive. One was the establishment of a children's commissioner and the other was the development of a memorandum of understanding. My recollection was that the focus was to be on the management order, which had been renegotiated in October last year, and the subsequent response from the corporation by way of the management plan.

The CHAIRMAN: You can understand though that a memorandum of understanding is a way of engaging with people? An order is hardly a way of engaging with people. The names alone would indicate to you the difference between the two.

Ms Brazier: I agree that in theory that is what one would hope would happen, but if there is any suggestion that attempts were not made to engage with the management corporation in the camp to enable a much more constructive and productive working relationship, that is not the case from where we sit.

Hon DERRICK TOMLINSON: I draw your attention to recommendation 141 of the Gordon inquiry, which was that government agencies develop memoranda of understanding. Did your department attempt to discuss a memorandum of understanding with the Swan Valley Nyungah Community?

Ms Brazier: I do not have specific information about actions that we took in relation to that.

Hon DERRICK TOMLINSON: Could you find out?

Ms Brazier: Yes, certainly.

Hon DERRICK TOMLINSON: The Government's paper in response to recommendation 141 indicated -

The State Government has acted quickly to register a new management order over the land to ensure it is managed in the best interests of its' residents.

You have already indicated that a management order is quite different from a memorandum of understanding in terms of its impact.

Ms Brazier: Yes.

Hon DERRICK TOMLINSON: Did the officers of your department take part in the development of that revised management order?

Ms Brazier: No.

Hon DERRICK TOMLINSON: Do you know the circumstances in which the management order was promulgated?

Ms Brazier: No, I do not have the detail of that.

Hon DERRICK TOMLINSON: Are you aware that it was a consequence of the failure of the Minister for Housing and Works to have access to a school building in that community?

Ms Brazier: The Minister for Housing and Works or the Minister for Indigenous Affairs?

Hon DERRICK TOMLINSON: I am sorry, the Minister for Education and Training.

Ms Brazier: I was not aware that there was a relationship between the new management order and that issue. I was clearly aware of that issue. My understanding was there were some concerns about the effectiveness of the original management order and a new one was negotiated, but I was not involved in that process.

Hon DERRICK TOMLINSON: Were you or officers of your department involved at all in the Government's response?

Ms Brazier: Yes, we were, from the DCD perspective and in terms of senior officers working together to develop that response. In fact, I think Lex was involved directly in the development of that response.

Hon DERRICK TOMLINSON: Did you agree to or acquiesce in the rejection of recommendation 141 of the Gordon inquiry for a memorandum of understanding in favour of a management order?

Mr McCulloch: I guess that was a political decision, not a departmental decision. My recollection is that the Premier was very clear that the management order was going to be the way it was; and that is the way it was.

Hon DERRICK TOMLINSON: Rather than the council of directors general, or whatever its title was, was it the ministerial coordination group that made such a decision?

Ms Brazier: Yes.

Hon DERRICK TOMLINSON: You were not involved?

Ms Brazier: No, I was not.

The CHAIRMAN: It seems to me that it was a bit of a high-handed way of dealing with things. Is that the way you would go about dealing with engaging people - ordering them to do it rather than trying to engage them?

Ms Brazier: I do not wish to be drawn on how the Government managed it.

Hon ROBIN CHAPPLE: Going back to the original question on the safety of women and children, is it your view that you proffered that information without any prompting at the meetings of the DGs maybe on 2, 5 or 8 May; it was not drawn from you? Did the Department of the Premier and Cabinet, or any other department, actually ask you?

Ms Brazier: No, it was not drawn from me; it did not need to be drawn from me. Throughout the Gordon inquiry I had phone calls from a number of people who were talking to me about their concerns for women and children in the camp. I was dealing with cases that I have put before you that were heightening those anxieties and concerns. The dilemma for us always is: do we sit on that concern, that anxiety, or do we take action? My view was that we had a responsibility to bring those concerns to the attention of our political masters, if you like; for them to be aware that we were managing those concerns on a daily basis; and that we believed the arrangement that was in place and the way my staff needed to work with that community was not conducive to the best exercise of our statutory responsibilities however we want to couch it.

Hon ROBIN CHAPPLE: On that very point, prior to any of those meetings you or your department must have corresponded with the Department of the Premier and Cabinet to proffer that view.

Ms Brazier: That view was expressed, as I indicated, at the directors general Gordon implementation group meeting.

Hon ROBIN CHAPPLE: So that was brought forward by you at that meeting?

Ms Brazier: Yes, it was, and by a number of other directors general. That meeting was attended by people from the Department of the Premier and Cabinet, not the Premier's office; so there was a view that those concerns were such. I obviously meet with my minister on a fortnightly basis. I kept her informed not only of the progress we were making in implementing the Gordon inquiry recommendations, but also the ongoing relationship that we had with the community. Certainly, I keep her apprised in writing of case matters that are of concern to me because I believe that she needs to be aware of them.

Hon ROBIN CHAPPLE: Have you conveyed concerns about any other communities in the State to your minister?

Ms Brazier: I am on a regular basis conveying concerns to her about families and communities that we work with. For example, if there is issue in the Carnarvon community or in Port Hedland that I believe she needs to be aware of and that people or staff are bringing to my attention, I give her that information.

Hon ROBIN CHAPPLE: Who convened those meetings you referred to on 2, 5 and 8 May?

Ms Brazier: My recollection is that they were convened by staff from the Premier's office.

Hon ROBIN CHAPPLE: We have heard that some concerns were raised about the continuation of communities and that they were not necessarily functioning well as entities. Were you aware of concerns being raised that communities could have been a failed experiment?

Ms Brazier: I was party to discussions, I think it is fair to say, that the policy direction that had seen the establishment of communities specifically for indigenous people had not always realised the benefits for their health and wellbeing, and that it was probably important that we begin to look at that policy direction to see whether it still truly met the best of all possible needs and outcomes for people living in those communities. So, to that extent, it was a general policy direction kind of discussion.

Hon ROBIN CHAPPLE: Was that specific to metropolitan communities or communities in general?

Ms Brazier: I think it focused more on metropolitan communities, but it also raised issues in relation to other communities that might not be functioning particularly well.

Hon ROBIN CHAPPLE: So, that might have been where the minister's statement about a failed experiment came from?

Ms Brazier: I cannot tell you where that would have come from.

Hon ROBIN CHAPPLE: To your knowledge who was present at the meeting with the community in December last year about which there is a report on an eight-year-old child who went to the community centre and discussed the matter?

Ms Brazier: Do you mind if I confer with Lex so that I can be sure?

Hon ROBIN CHAPPLE: No.

Ms Brazier: I might need to come back to you, but Roley Bayman was definitely at that meeting. I imagine there would have been a police officer.

The CHAIRMAN: Could you take note of that question and write back to us?

Ms Brazier: Yes, certainly.

Hon ROBIN CHAPPLE: In that sense, could you advise us who from the community was present? It is important that we get a handle on that matter.

Ms Brazier: Yes. I know Sharon was present with some kind of a notepad of some description. I imagine we indicated by way of a telephone call that we wanted to make contact with this little girl, because we had received some concerning reports about her health and wellbeing. Our preference would always be to interview a child fairly discreetly but not to be -

Hon ROBIN CHAPPLE: From where would you have got the information about that child's health and wellbeing?

Ms Brazier: That came from an Aboriginal health worker, I think, with the Department of Health.

Hon ROBIN CHAPPLE: It would be useful if you could indicate where you got that information from.

Ms Brazier: Certainly. It would have gone to the local office and been responded to at that level.

Hon LOUISE PRATT: We had some discussion earlier about the need for your DCD officers to attend the Swan Valley Nyungah Community with police attendance. It appears to me that that would create difficult circumstances for building a relationship of trust with the people you are trying to speak to because it would be problematic to have to do that in the presence of a police officer. I wondered whether or not that was indeed the case.

Ms Brazier: The dilemma for us was that there was a particular police officer, to whom I have already made reference, who, for whatever reason, was able to access the camp with less difficulty than anybody else. It is also fair to say that although there had not been an incident of the dimensions we discussed earlier in relation to one of my workers, there was an intimidatory attitude from senior people in the camp.

[1.15 pm]

My workers were reluctant to enter the camp without that sort of support from someone who clearly could. The last thing I ever wanted was a workers comp issue in relation to this.

Hon LOUISE PRATT: You have spoken about your workers but I am interested in whether the people you were trying to get evidence on were intimidated by the presence of a police officer.

Ms Brazier: I suppose my opinion would be - I cannot speak from direct first-hand experience; Lex might want to make a comment - that they would have found a police officer less intimidatory than some of the men in the camp. I am drawing the conclusion because of the intimidation that some of the women have experienced outside the camp. In one particular instance they sought to take out a restraining order to prevent that sort of intimidatory behaviour and were successful in being able to do that.

Hon LOUISE PRATT: What I am trying to draw out is that I presume that not all teenagers in the camp had a positive relationship with police throughout their lives. It would not be ideal -

Ms Brazier: It certainly would not be ideal. It is certainly not ideal for us to be only able to speak to an eight-year-old with a police officer standing next to her, or anyone else. There are occasions, however, when we are quite clear that we are investigating a serious allegation and we might do that interview jointly with police. That is as a result of specially trained police and DCD workers engaging in that sort of interview.

Hon LOUISE PRATT: I have a further question. You expressed before how you were keeping your minister up to date in respect of ongoing circumstances, obviously the ongoing difficulties you were having. Was there a point in discussing potential solutions at which you could not foresee one? You had ongoing problems with access but was there a foreseeable solution to those problems?

Ms Brazier: It is fair to say that the approach I would have taken in discussion with the minister would have been that we will continue to do the best that we can in working with this community but you reach a point where the amount of information that you have concerning behaviours is such that you cannot continue to just do the best you can. It is actually not enough. I do not recall a discussion with the minister in which the range of options that we alluded to at the outset of this discussion were canvassed.

Hon DERRICK TOMLINSON: May I follow up on the question of the sergeant in charge of the Kiara Police Station having a relationship that enabled him to have access to the camp and the officers of your department using his good services to gain access. At paragraph 70 of your submission you quote at length a statement by one of the workers from the Midland office.

Ms Brazier: Yes.

Hon DERRICK TOMLINSON: It does not say that that worker had gone to the camp with Jim, but it is a fair inference that she had been accompanied by Jim to the camp.

Ms Brazier: It is my understanding that she had been accompanied by him. During the time of the particular incident he was obviously off in the distance.

Hon DERRICK TOMLINSON: That is the point I want to explore. The evidence you have quoted would indicate that your officer from the Midland office had gone about her business in one part of the community and Jim had gone about his business in another part of the community. While your officer was dealing with the client, Jim was elsewhere dealing with matters relating to the police portfolio.

Ms Brazier: I think you could draw that inference, but that was not my understanding. My understanding was that he wandered off and she was left there.

Hon DERRICK TOMLINSON: My understanding is that on every occasion that officers of your department were accompanied by Sergeant Jim Clarysse or one of his officers from the Kiara Police Station, the procedure was that they would report to the office -

Ms Brazier: Yes.

Hon DERRICK TOMLINSON: They would then be shown which of the houses the client was currently resident in, because they did not stay in one house all the time. Your officer would go about his or her business and Jim would go about his business quite separately from one another.

Ms Brazier: I would really like to check on that to see whether that was the practice.

Hon DERRICK TOMLINSON: I would like you to check.

Ms Brazier: The notion that we were invited to visit people in their homes is not information that I have been given, so there are some emerging different views about the detail of the practice.

Hon DERRICK TOMLINSON: I am quite willing to accept your statement that they were not always invited to their homes but I would like you to explore and give further information about the practice and the extent to which your officers were accompanied by Sergeant Clarysse or his officers from the Kiara Police Station. I would like you to know whether it is correct that once in the camp they worked separately with their individual clients.

Ms Brazier: I am very happy to do that. I have to say that when I read the statement of the worker I was concerned that she appeared to be left on her own, with Sergeant Clarysse being somewhere else.

The CHAIRMAN: We know that. We know she was on her own but we do not know how she got there.

Ms Brazier: That is right.

Hon DERRICK TOMLINSON: But is that not desirable?

Hon LOUISE PRATT: Not in view of the abuse she received.

Hon DERRICK TOMLINSON: I would suggest to you that the fear that your officer had of Robert Bropho was of her own making. She saw him and was immediately fearful. She identified him as Robert Bropho by his white hair.

Ms Brazier: And the way he approached her, in fairness, waving his walking stick or whatever it was.

The CHAIRMAN: But he is an old man. I got the exact same impression as Hon Derrick Tomlinson that most of the fear was generated internally. I suppose one can read that any way one likes. A personal view was not involved in that. I read that and thought that she has only to see Robert Bropho and she is instantly afraid.

Ms Brazier: I think the events that followed would suggest that it was not just the sighting of Robert Bropho that caused her some anxiety.

The CHAIRMAN: Your people must be shouted at every day. I think there was a question in the upper House about how many violent incidents there had been. There were 32 in a year.

Hon ROBIN CHAPPLE: Forty-two.

The CHAIRMAN: Forty-two in a year.

Ms Brazier: But this was not just any community, was it? This was a community that triggered an inquiry. This was a community in which a little girl -

The CHAIRMAN: On triggering an inquiry - the girl died there. Where did she actually live?

Ms Brazier: But that was not the only incident, was it?

The CHAIRMAN: It is one of the questions. She did not actually live in the community, did she? There are allegations that the incidents that led to her - you know - are questionable. No-one knows what the incident was. There are allegations that she was being sexually assaulted elsewhere.

Hon ROBIN CHAPPLE: That is quite clear in the report.

Ms Brazier: Susan Taylor's death was not an isolated incident in this camp, was it?

Hon DERRICK TOMLINSON: How many deaths have there been?

Ms Brazier: We know of another little girl who was found hanged on a fence in the camp. A baby aged three was brutally raped in that camp.

The CHAIRMAN: We can go into that.

Ms Brazier: We know of other incidents. This was a camp - a community; I would rather call it a community - in which I felt good reason for my staff to be concerned, not only about what was going on there but also the way in which they were received or otherwise.

The CHAIRMAN: You will accept that partly it is an apprehension caused by the history of the camp?

Ms Brazier: Without any doubt but we cannot take that apprehension away because the history of the camp is as we know it. It is one of the things we need to manage as we try to work with this particular community.

Hon DERRICK TOMLINSON: I want to explore that because I think it is true that the Swan Valley Nyungah Community has had a rather sordid reputation since 1977, or certainly earlier, that was brought to a head in 1999 with the death of Susan Taylor and the subsequent coronial inquest at which other information was provided by witnesses. There is no doubt that community perception would reinforce the self-generated concerns - if they are self-generated - and the concerns that officers of your department have. However, I find it interesting that Sergeant Jim Clarysse was able to establish such a good working relationship, particularly with Robert Bropho, when the evidence given to the coronal inquiry indicated that before 1999, police officers would enter the camp only if two police patrol cars were despatched. Even police officers shared the fear that DCD or Department of Family and Children's Services officers had at that stage. Sergeant Clarysse was able to build bridges, to use a phrase used by him and Robert Bropho. Your officers have not been able to build bridges. Can you offer me an explanation as to why?

Ms Brazier: I cannot obviously proffer any explanation as to how Jim Clarysse has been able to do what he has been able to do. That is a fact. We know that, for whatever reason, it is a fact that he was able to visit the camp.

Hon DERRICK TOMLINSON: And with the officers from the Kiara Police Station - not Jim Clarysse alone.

Ms Brazier: Well, the information that I was given when my manager made contact with Kiara police was that whereas the officer in charge was prepared if necessary to let somebody else go in there he would prefer to wait until Jim Clarysse came back from whatever he was doing - training or whatever - because he was not sure that there might not be difficulties or trouble if anyone else went in there. I cannot -

Hon DERRICK TOMLINSON: I accept that. Given the fact that a good working relationship - bridges built between DCD officers and people within the community - is extremely important - and you use the term "engage" -

Ms Brazier: Yes.

Hon DERRICK TOMLINSON: Did you not engage with Sergeant Clarysse to find out?

Ms Brazier: Certainly the staff at the local office will have done that. I guess in doing that they would have visited with him. They were clearly not able to emulate whatever success he had had in being able to visit without accompaniment.

Hon DERRICK TOMLINSON: The community nurse from the Midvale office also had a good working relationship.

Ms Brazier: She was able to visit the Aboriginal community health worker. My understanding is that she was not prepared then to pass on any information about the children in the camp or what was happening to them except on the one occasion where her manager provided some information about the eight-year-old. We were not getting a steady flow of information about those children from her.

The CHAIRMAN: That was the first step you needed to take.

Ms Brazier: In what sense, Chairman?

The CHAIRMAN: To first make the engagement and then follow up the results of the engagement. Is not the first thing to do to establish some sort of relationship before acting on it?

Ms Brazier: Chairman, we could well be wise with hindsight. The fact is that we made serious, genuine attempts to work with the people in this community in an open, free, unfettered way. We were not successful in doing that and the concerns still came my way.

Hon DERRICK TOMLINSON: My disappointment in all that is that rather than persisting, the decision was taken to close the community - to relocate and dispossess those people and disadvantage any attempts to engage with them.

Ms Brazier: Well, I would have a different view about the engagement because I think the document I will table for you actually indicates how we have been able to do that.

Hon DERRICK TOMLINSON: Perhaps we can go through that at another time.

Hon ROBIN CHAPPLE: I have one last question. I appreciate your sustained response. I wish to return to the concerns about the lieutenants and Robert inhibiting people's access to the camp and the whole issue of whether there was to be somebody present or not during the interviews.

[1.30 pm]

From where did you get the notion - I am not saying it is not a correct notion - that Robert and/or his lieutenants inhibited access to the camp? Was it more to do with the fact that the officers accessing the camp had to go through some protocols and they did not like those protocols? Was it more that possibly office workers were inhibiting access rather than necessarily the lieutenants and Robert?

Ms Brazier: If I could make one comment, and then Lex might want to comment further, paragraph 69 makes reference to concerns regarding access to the camp; namely, that after the Gordon inquiry they did not find it more difficult to access the camp, but they found that Mr Bropho was more visible and that he seemed more vigilant and more interested. One worker put it that the members of the community were disempowered and without a voice. He was more intent on - I cannot find a better phrase - playing politics than he was on focusing on the needs and interests of the women and children. That is my preliminary comment.

Hon ROBIN CHAPPLE: Would this be the same person who had problems also in the camp or were there a number of different people?

Ms Brazier: There were a number of different people.

Hon ROBIN CHAPPLE: Do we have some notion of who all these different people were?

Ms Brazier: I think we have made reference to a number of staff who you wanted some information about, such as Roley Bayman and Terry Powell

The CHAIRMAN: Yes, and if I have not mentioned a name that I should have mentioned could you pick that up too?

Ms Brazier: Sure. Having made that comment about Robert, there were allegations that we are still in the process of pursuing that relate to the behaviour of another of the Bropho men, without going into the detail at this time. They are quite serious allegations and they involve children.

The CHAIRMAN: Were you aware that Mr Bropho was about to be re-arrested on those earlier charges?

Ms Brazier: I am aware that there have been a number of charges.

The CHAIRMAN: He was re-arrested. He was arrested on some charges that were nolle. He was then re-arrested on those same charges at a later date. Were you aware before he was re-arrested that he was going to be re-arrested?

Ms Brazier: I think as he was arrested I was aware.

The CHAIRMAN: Briefly before?

Ms Brazier: No.

The CHAIRMAN: Just a point of clarification - you would probably be able to check this up - the DIA submission says that the task force resolved on 14 March to make a submission to the Cabinet Standing Committee on Social Policy that the safety of women and children at Lockridge cannot be guaranteed. Can you check to see whether that was a formal resolution?

Ms Brazier: It certainly was. That was certainly our discussion. We sought some information, however, before taking that action -

The CHAIRMAN: Will you let us have that?

Ms Brazier: The actual minute of that decision? Certainly.

The CHAIRMAN: Again it does not sound like your wording. I think you just said that you cannot guarantee the safety of women and children anywhere.

Ms Brazier: No. The wording that I have always used is that there were concerns about the safety of women and children in the camp, and that we were not free to exercise our statutory responsibility in relation to those women and children, or any other responsibility that we might have. The other concern is that I have always indicated that I did not believe that the women and children in that camp were free to come to us under the current management arrangement.

The CHAIRMAN: I understand that. I am trying to get some wording. For how long has your department had concerns about the Lockridge camp?

Ms Brazier: I have been back in the department for only a couple of years. Lex might be in a better position to talk about prior to that.

Mr McCulloch: Probably for about the past four years.

The CHAIRMAN: What happened at around about this time that made it so urgent to act as opposed to the previous three or four years?

Ms Brazier: I think the number of cases that I have made reference to. In my statement I also make reference to some concerns that were coming to us via the media. In our business I regard the media as often the voice of a community, either generally or specifically, that for whatever reason is not able to come to us directly with its concerns. I think historically we might have had a defensiveness about media interest in our business, but I take the view that the media does represent a voice and that it is a voice that needs to be listened to, and I always take very seriously where the media may be coming from. In this instance we were talking about a very credible journalist who I believe had some access to some people that we did not have access to, and so it was important that we respond to those concerns. So coupled together with the cases that I have given you information about, there was also some information that was coming to us from a third-party source. Having said that, I then began to get additional information - I do not want to speak about the details - that was coming to me via people who had a direct connection with individuals, shall we say.

The CHAIRMAN: One could get the impression that you had not done very much for years and once the media started sniffing around you decided to act quite quickly. It does sound like that - almost with undue haste.

Ms Brazier: Again I do not want to comment on the haste of the process. I guess what I am doing is trying to pull together some of the threads that contributed to my concerns, and those concerns I then indicated to the Government.

The CHAIRMAN: Would you have been concerned if, for instance, the Parliament had taken a month to go through the process of passing the Bill?

Ms Brazier: I was concerned that we get a resolution one way or another as quickly as possible, and in a hiatus, if you like, the vulnerability of women and particularly children in that camp would be something that I would be even more concerned about.

The CHAIRMAN: So the mere fact of the introduction of the legislation caused the need for it to be moved quickly? Is that the point you are making?

Ms Brazier: I think it could follow, yes.

The CHAIRMAN: If you went to somewhere like Cullacabardee, Gnangara or Saunders Street, would your officers normally call at the office first before going into any of the premises?

Mr McCulloch: We might well let the community know that we were coming, normally with a phone call. It would depend. If they indicated people were there, then we would just go straight to the house.

The CHAIRMAN: If you found out where they were?

Mr McCulloch: Yes.

The CHAIRMAN: One of the things you have to do with Aboriginal communities is find out whether they are even there.

Ms Brazier: Sure, and of course we would never know who was in the community and who was not in the community. We were really dependent on the people in the office or whoever else we were having contact with as to whether somebody we wanted to connect with was there or not. We had no way of knowing.

The CHAIRMAN: Is controlling and intimidating behaviour fairly usual in association with sexual abuse and family violence?

Ms Brazier: Yes, I would say it is.

The CHAIRMAN: It would be fairly unusual not to have that?

Ms Brazier: I do not disagree with that.

The CHAIRMAN: It would not be unusual for you to meet people with controlling and intimidating behaviour when you are dealing with both sexual abuse and domestic violence?

Ms Brazier: It is not unusual, but I do not believe that that extends to preventing us from fulfilling our responsibilities.

The CHAIRMAN: That is the question, is it not?

Hon ROBIN CHAPPLE: I would like to go back to the original question that I asked with regard to lieutenants inhibiting access. I was asking whether the office workers were inhibiting access; that is, Sharon Davis, Margaret Jeffries and Ida Haywood. Were they a problem, because you have said that Sharon Davis had been at one of the meetings and had taken notes.

Ms Brazier: I think whoever happened to be there represented the corporation, be it the people in the office or others; and those three who you have named are three who I have referred to in my statement. Equally if Robert or others in his family were there they would make their view heard.

Hon ROBIN CHAPPLE: If you went to Warburton or Wiluna and you wanted to meet with the Ngaanyatjarra people, or whoever, would you expect to have a community adviser or one of the representatives in attendance at that meeting with individuals within one of those communities?

Mr McCulloch: Not with individuals. If you had a community meeting, certainly at community meetings, but not with individuals.

Hon ROBIN CHAPPLE: But as you say if you had cleared the access -

Mr McCulloch: We would let them know that we were coming.

Hon ROBIN CHAPPLE: And whoever was managing the community or was in charge or in authority had given you the okay -

Mr McCulloch: Things do not tend to be that way. We tend to advise that we are doing a visit. We have to do our job -

Hon ROBIN CHAPPLE: The reason I am asking is that I worked in Aboriginal communities in the early part of my life, and invariably if we wanted to speak to an individual and the community did not want that person to be spoken to that person just was not available.

Mr McCulloch: Sure. That can be controlled. The person is just not there.

Hon ROBIN CHAPPLE: I just feel that perhaps access to remote communities is managed much more cleverly and more discreetly than perhaps access to metropolitan communities.

Ms Brazier: I suspect that some of those communities are more sophisticated in the way they manage the connections back with government workers too.

Hon ROBIN CHAPPLE: You said that you gained some views on this by listening to the media and watching what the community was saying. I refer to the comment in the media on 16 August 2002, after the coming down of the Gordon report, that -

Indigenous Affairs Minister Alan Carpenter has taken the localised issue into his own hands, pushing a plan to either force Mr Bropho off the former Crown land property or ensure government services had access to it.

It said that was supported by Michel Poland, Susan Taylor's former mentor, who has agitated for government action on Aboriginal child abuse since Susan died and has welcomed the thought that the Swan Valley camp may be closed. Do you think those are the sorts of issues that you were reading in the media that would have given you some views?

Ms Brazier: No. I was talking about a particular concern that was brought to the attention of certainly my department about a woman who had a child and who wished to leave the camp and who was threatened that if she did her house would be burnt. That was the issue that I was referring to.

Hon ROBIN CHAPPLE: That was in the media?

Ms Brazier: That was brought to our attention. I was not talking about the general media coverage of this issue at all. It was one specific issue

Hon LOUISE PRATT: Did that issue actually make it into the media or was it behind the scenes?

Ms Brazier: I think it might have made it into the media eventually, but it was behind the scenes.

Hon LOUISE PRATT: So you were responding to it before it was published in the media?

Ms Brazier: Yes, and my concern was that somebody felt more comfortable taking it via a network to the media than to anybody who might be able to respond to it.

Hon DERRICK TOMLINSON: Can I just get confirmation from you about the powers available to you to act decisively? I agree with your statement that once a decision was made it was imperative that the action be swift because any hiatus might have led to unintended consequences or outcomes; and in fact the hiatus did lead to unintended outcomes.

[1.45 pm]

Is it not a fact that, under the Child Welfare Act, you have the power to act decisively to protect any child in moral or physical danger, and that at any time you could have moved into that community and removed the 10 children about whom you were apprehensive?

Ms Brazier: If we had sufficient evidence to do so.

Hon DERRICK TOMLINSON: No. You simply need to have a disclosure and you act on the disclosure; you then pursue the evidence.

Ms Brazier: I guess my view is that that is a fairly blunt instrument in terms of -

Hon DERRICK TOMLINSON: Not much blunter than -

The CHAIRMAN: -an Act of Parliament.

Ms Brazier: I understand, but from my point of view, that is not the preferred way we have of working with families.

Hon DERRICK TOMLINSON: I understand that, but you do have the powers.

Ms Brazier: Obviously we do have powers.

Hon DERRICK TOMLINSON: Yes, and the police have the power to intervene in that community.

Ms Brazier: Yes.

Hon DERRICK TOMLINSON: And any government department under the management order had the power to act decisively.

The CHAIRMAN: Under the Land Administration Act.

Ms Brazier: We certainly had the power under the management order, but I think the management plan that came back from the corporation -

Hon DERRICK TOMLINSON: The management order gave the power to you.

Ms Brazier: It certainly gave us the power, but I guess what we are talking about here is not power in isolation; it is power in response to a response from the corporation, which I think is the very piece that got in the way of being able to exercise whatever power we had under the management order, rightly or wrongly.

Hon DERRICK TOMLINSON: Was it the response from the corporation to the management order that triggered this?

Ms Brazier: No, that is part of what we were trying to manage here, I think.

Hon LOUISE PRATT: Surely the exercise of those powers might not be what is in the best interests of the children about whom you are talking.

Ms Brazier: Certainly that is not our preferred way of doing our business.

The CHAIRMAN: From the point of view of a parliamentarian, asking us to pass an Act of Parliament related to one community, not an Act that applies generally in the community, on the basis of evidence that you considered was not enough to act on under the general powers you had, and to take away not only their right to live there but also their right to natural justice and to go to court, is a pretty blunt instrument itself.

Ms Brazier: I concede that these were fairly unusual circumstances. I do not want to get into comment about the political strategy. As I have indicated to you, my focus has always been my concerns for the women and children and the opportunity to work with them in an open and reasonably transparent way to provide them with the assistance and services which, from the messages I was getting, I believed they required. For whatever reason, my staff were not free to do that. I was concerned that, in the light of the history of behaviours that we were aware of in that

camp, we needed to take some action that was decisive and that enabled us to have those working relationships.

The CHAIRMAN: I do not have a problem with your concerns. I am just airing my concerns. I wonder whether anybody else aired those concerns. Did anybody at any stage in all the meetings of the directors general that you attended ask whether this was a fairly radical deprivation of rights for you to engage in?

Ms Brazier: There were obvious concerns about the pretty unusual nature of the strategy.

The CHAIRMAN: What were those concerns? Who said what?

Ms Brazier: I honestly cannot recall who said what to whom, but you do not have a conversation about a range of strategies without looking at the pros and cons of each. There were clearly some by-products of the approach that the Government took about which we would have had a conversation. I do not want to be drawn any more than that.

The CHAIRMAN: Did anyone consider, for instance, the request that the bail conditions for Mr Bropho include that he was not allowed at the camp? Was that discussed?

Ms Brazier: I am not sure that we were having a conversation about charges to Mr Bropho at that time.

The CHAIRMAN: Did you look at all the legal capacity you had to remove Mr Bropho and his lieutenants, if I can use that term?

Ms Brazier: I am sure that the lawyers involved in the discussions and the process would have looked at all those.

The CHAIRMAN: However, as directors general, you did not.

Ms Brazier: I did not, from where I sit.

Hon DERRICK TOMLINSON: I move that we proceed to private session.

The CHAIRMAN: Would those people who are not witnesses in this matter please leave.

[The committee took evidence in private.]

The CHAIRMAN: Thank you very much. You can stay and listen to the rest of the hearing if you would like. We will move out of private session into a quick deliberation.

Ms Brazier: Mr Chairman, do you need me any more? Otherwise I may not sit and listen.

The CHAIRMAN: No, I think not. We will have to end the hearing because we will no longer have a quorum. You are excused.

Hon DERRICK TOMLINSON: However, you are prepared to come back again, but not this afternoon.

Ms Brazier: I am prepared to come back and discuss cases if that would be of assistance.

Hon DERRICK TOMLINSON: Yes, it would be.

The CHAIRMAN: Also, it would be helpful if you could track down the 13-year-old with the broken legs.

Ms Brazier: I am not sure it was a 13-year-old.

The CHAIRMAN: I meant the young man with the broken legs.

Ms Brazier: I cannot tell you about the broken legs because we could not find that ourselves.

The CHAIRMAN: That is one of the things we were told about.

Ms Brazier: However, I cannot take responsibility for what you were told because it did not come from my department.

The CHAIRMAN: I realise that.

Ms Brazier: In point of fact, I think it might have come from another source.

The CHAIRMAN: Thank you very much.

Committee adjourned at 1.59 pm.