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16 July 2015

Hon Liz Behjat MLC
Chairman
Standing Committee on Public Administration
Legislative Council
Parliament House
PERTH WA 6000

By email: lcpcac@parliament.wa.gov.au

Dear Hon Liz Behjat MLC,

Inquiry into the transport of persons in custody in Western Australia

I refer to your letter dated 2 July 2015 requesting additional information that arose from the public hearing held on 15 June 2015.

I also confirm receipt of your letter dated 29 June 2015 confirming that a response to B1 is no longer required.

In relation to B2, and the frequency of occurrences of persons being released from custody in Albany when they reside in Katanning, our records indicate that between 1 January 2015 and 31 March 2015, Legal Aid represented eight persons in custody who had been arrested either in Katanning or near Ravensthorpe and transported in custody to Albany.

I provide the following by way of recent examples:

Example 1:

1. A Legal Aid client was arrested and charged with aggravated common assault in Katanning and transported 180km to Albany. He appeared on 5 February 2015 by video link from the Magistrates Court at Albany before the Magistrate who was sitting in the Magistrates Court at Narrogin.
2. He did not have a mobile phone, wallet or identification in his possession. The Magistrate made an order under section 63 of *Restraining Orders Act 1997* (WA) which prohibited him from contacting his wife or attending the matrimonial home.

3. He did not know anyone in Albany and as he did not have his phone, could not contact anyone to find an alternative bail address. Additionally, as he did not have any money he could not obtain overnight accommodation in Albany.
4. He was remanded in custody overnight due to the accommodation issues to appear in the Magistrates Court at Katanning. He appeared the following day by video link from the Magistrates Court at Katanning before the Magistrate who was sitting in the Magistrates Court at Narrogin and he was released to bail.

Example 2:

1. A Legal Aid client was summonsed to appear in the Magistrates Court at Ravensthorpe on 28 October 2013 for stealing property from IGA to the value of \$9.50. The client was 65 years of age. He forgot about the summons and a warrant was issued for his arrest.
2. The warrant was executed on or around 26 March 2015 and the client was brought to Albany to appear in court. He was arrested in Jacup, 250km east of Albany and 50km west of Ravensthorpe.
3. Although Ravensthorpe police station has video link facilities, he was transported unrestrained in the rear of a police van to the Magistrates Court at Albany where he appeared and was granted bail. He experienced difficulty in arranging transport to return home.

Example 3:

5. A Legal Aid client was arrested in Katanning on 13 January 2015 for two counts of breaching a violence restraining order and one count of breaching protective bail conditions. He was transported to and appeared in the Magistrates Court at Albany. He entered guilty pleas to his charges and was sentenced to Community Based Orders.
6. He had been arrested in the clothes that he was wearing, he was not in possession of his wallet, identification or mobile phone. Whilst in custody the client had urinated and his pants had to be removed. He was wearing the bottom half of a police issue temporary jumpsuit.
7. The Magistrate suggested the accused contact Community Corrections for a bus pass to return to Katanning. The Community Corrections Officer advised that the direct bus route to Katanning was not available and the best alternative was a bus ticket to Kojonup, which would leave the following day at 9.00am.
8. He intended to try and contact his Mother to see if she could collect him from Kojonup (44 km from Katanning) the following day. He had no alternative plan if he was not able to reach his Mother.

Example 4:

1. A Legal Aid client was arrested in Tambellup on 13 June 2015 for breaching a bail condition not to consume alcohol. She was conveyed approximately 126 km to Albany and remained in custody to appear by video link on 15 June 2015 before the Magistrate who was sitting in Katanning, 45km from Tambellup.
2. She was released to bail but required a surety. She was unsure how she would get from Albany to her home in Tambellup. If she had been held in Katanning and taken to the Magistrate there, she would not have had the same difficulty in organising transport.
3. The client was unable to raise a surety and remained in custody until 18 June 2015 when she was sentenced and released on Community Based Orders.

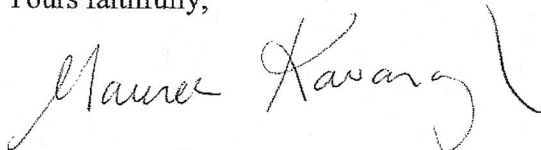
Interestingly from April 2015 to present we have only had one client caught in this situation. Mr Graeme Payne, the Solicitor in Charge of the Albany Legal Aid Office, has spoken with the local police and confirmed that there has not been a change in procedure. They instead assume that it is a result of the colder weather and expect that the occurrences will increase in the warmer months.

Mr Payne also enquired in June with the local Aboriginal Legal Service regarding the frequency of occurrences that they experience. It was reported to Mr Payne that it was difficult to calculate without going through their records but they recalled two or three occurrences since 1 April 2015.

I would suggest that the information we have received from legal services in Albany is these occurrences are not one-off occurrences and the frequency seems to be dependent on the time of year.

I hope this information is of assistance to you.

Yours faithfully,



Maureen Kavanagh
DIRECTOR OF CRIMINAL LAW DIVISION