

TEWLS outreach services

By Joanna Martin, Principal Solicitor at TEWLS*

The Top End Women's Legal Service (TEWLS) is a community legal centre, fully funded by the Commonwealth Attorney-General's Department. TEWLS is funded as a community legal centre to provide legal advice and representation for women in the Top End of the Northern Territory.

TEWLS vision is to offer and provide women with educative actions such as legal advice, advocacy and assistance. In doing so we aim to empower all women, provide access to justice and ensure women are not disadvantaged in the legal system.

TEWLS is also funded to provide services in a number of remote Indigenous communities through two Family Violence Prevention Legal Services (FVPLSs). The FVPLSs are run as two separate units, the Aboriginal Women's Outreach Unit (AWOU) and the new (as of 1 July 2005) Remote Aboriginal Family Violence Unit (RAFVU).

Through AWOU, the TEWLS solicitors and Aboriginal Community Development Workers (ACDWs) travel each month to Wadeye, Groote Eylandt and Kunbarlanjnja (also known as OenPELLI). Through RAFVU we visit three communities on the Tiwi Islands and also Nhulunbuy.

Through the FVPLSs, TEWLS vision is to offer and provide legal advice and representation, community legal education, assistance and support to Indigenous women and children (most often those who are experiencing family violence) in the communities we visit. Our aim is to facilitate community development, participation and empowerment for the prevention of family violence and sexual assault.

In providing these services TEWLS aims to work together with, not merely in, the communities we visit. In each community we employ a number of women as Community Legal Workers (CLWs). It is through the hard work and dedication of these strong women that TEWLS is able to provide effective and appropriate services in these communities.

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Aboriginal Women's Outreach Unit and the Remote Aboriginal Family Violence Unit

AWOU has been a part of TEWLS since late 1998.

The AWOU model was originally developed by TEWLS as a result of direct consultation with remote communities. As a result of this consultation, TEWLS began travelling to certain remote communities every month and employed local women in those communities as CLWs. There are six women currently employed as CLWs with AWOU and five women employed through RAFVU.

Our CLWs are very strong women. The CLWs ensure that TEWLS provides a culturally appropriate service. They teach and provide guidance to the Darwin-based staff of TEWLS to, not only ensure services are culturally appropriate overall, but also appropriate for each of their individual communities.

Each month a solicitor and an ACDW travel to each community during the Local Court sittings (commonly referred to as bush court). Most trips are for three or four days. During this time, the solicitors provide legal advice and representation to women who have experienced family violence. The solicitor and the ACDW work together to provide women and children in the communities with support and education. Due to the fact that TEWLS is usually the only non-criminal legal service to visit these communities, the solicitors invariably provide advice and often referrals for women in a wide variety of other areas of law.

TEWLS aims to foster a community development approach based on purposeful and mutually beneficial relationships. TEWLS seeks to engage, support and encourage Indigenous women to provide them with self-determination. TEWLS works at a grass roots level and aims to



TEWLS Solicitor Anoushka Jeronimus with kids from Malkala at the Naked Pools on Groote Eylandt.

Cover photos: TEWLS Principal Solicitor Joanna Martin with Community Legal Worker Annalise Durilla having a swim and BBQ with kids from Malkala, at the Naked Pools, Groote Eylandt. TEWLS Community Legal Workers, Mildred and Hannah, on Groote Eylandt. TEWLS Solicitor Anoushka Jeronimus with Community Legal Workers, Mildred and Hannah, cooking damper at an outstation on Groote Eylandt.

extend, build and maintain links with each community.

TEWLS recently implemented a new project aimed at developing a role for a Sexual Assault Counsellor/Educator within TEWLS. The approach taken by TEWLS in developing this position is unique and demonstrates the way in which TEWLS operates within remote communities. TEWLS is conducting extensive research and consultation within the communities. Existing links in the communities are being utilized and research is being undertaken to explore and develop an appropriate model for implementing the role within the communities. The needs of the individual communities are paramount in this process.

The TEWLS staff is greatly privileged to be welcomed into these communities. We sincerely thank the community members, and most importantly our CLWs, for allowing us into their lives and onto their land, and for teaching us about their *continued next page...*

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traditions, history, culture and beliefs.

About the Communities – a brief insight

There is a high level of family violence in every community we visit. No one would deny that family violence is a major issue (among others such as drug and alcohol abuse) facing the Indigenous population of Australia, and in particular, those living in remote communities.

There are very few resources available to members of these communities. The Northern Territory Family Law Pathways group (together with the NT Legal Aid Commission and funded by the Commonwealth Attorney-General's Department) recently developed a publication entitled "Separating Families – Who Can Help You?". This publication was the result of a comprehensive survey of the services and resources readily available in remote communities in the NT.

The results? In the communities we visit, there are a number that have Drug and Alcohol Programs – albeit run on very limited resources. Most communities have a health clinic. Whether there is a full-time doctor depends on the community and this changes from time to time.

Nhulunbuy has a safe house and a domestic violence counsellor. Nhulunbuy is a mining town.

The other communities we visit have no safe house. There are no specified domestic violence services. There is one domestic violence service listed for each community and that is the local Police Station.

And what about perpetrator programs? These are rare. However, Community Corrections in the NT has a pilot program that is up and running in the Tiwi Islands and hopefully soon to be active in Oenpelli as well.

The communities are remote. Wadeye is six hours drive from Darwin. During the wet season however (this usually lasts from the first rains in December or January through to April or May) the road is cut off. Access is limited to flying in and out.

Oenpelli is probably our least remote community and it is also cut off by road during the wet season. During the dry it is only a four hour drive but during the wet, you are forced to charter a plane from Jabiru.

Once you arrive in these two communities, if you don't drive in, you don't have a car. This alone creates a myriad of challenges.

The Tiwi Islands now have a ferry service from Darwin or you can fly. As for access to a car, we are lucky there are people and organisations on Tiwi who lend us vehicles.

Groote Eylandt is accessible by plane only but once there due, to the presence of the Groote Eylandt Mining Company (GEMCO), you can hire a car. Nhulunbuy is the same, except the mining company is Alcan.

Our clients do not have a computer, or access to one. They usually do not have easy access to a working telephone, let alone one with any privacy. Our clients often do not speak English and if they do, it is usually a second, third or fourth language. They do not usually have cars of their own or a driver's license.

Issues facing women in the Community

Our client base for the FVPLSs are women (and their children) who are experiencing family violence.

Our clients are subject to, and live in accordance with, the traditional laws that exist in their community.

Women are most often under immense community and family pressure to remain in relationships with their abusive partners. Promised marriages are common. Furthermore, many women themselves wish to remain in relationships with their abusive partners. Although, as I am sure you are aware, this is a common theme in the area of family or domestic violence.

The subject of the role of traditional laws in remote communities is complex. The reality is that when dealing with Indigenous women from remote communities traditional laws cannot, and should not, be ignored. We must

work within a framework that includes taking into account these traditional laws. This is not to say that such laws will or should take precedence over the laws of the Northern Territory and Australia. This is not the case. However, it is impossible to work effectively in a community if you are unaware of the broader cultural framework in which you are operating.

Quite often our clients or CLWs are unable to talk to, sit near or even look at a particular person or persons. This is because the other person is their "poison cousin". Every community has different rules about kinship. And every community has rules about family and cultural obligations and responsibilities.

It is often the case that a family responsibility will outweigh, in the mind of a client, their legal responsibility. TEWLS needs to be flexible in its approach when such issues arise and in its approach to practising the law. We need to offer our clients options that enable them to best fulfil all their obligations.

The impact of western society, culture and religion has been different in every community. The impact has not been uniform and every community has responded differently to outside influences.

Black magic also plays a part in community life (and is often combined with strong western religious faith). For example, cursing is a regular occurrence. The only public telephone, the only grocery store or the council office may be cursed. This means they must close and cannot be used until the appropriately qualified community member removes the curse. One of our CLWs experienced her house being cursed. This meant many of her belongings had to be burnt including work materials that we then needed to resupply.

Incidences of family violence in the communities we visit are almost invariably combined with other entrenched social issues – petrol sniffing, alcoholism and drug abuse to name a few. Many women are forced to deal with partners who threaten suicide. In one of the communities we

cover story

visit the high suicide rate among young men is another social issue facing the community members.

Another client had to cope with her violent partner and his family threatening to curse their daughter if she did not return to him. A threat of a curse is a serious matter.

It is quite apparent that our CLWs play an extremely important role in guiding the TEWLS workers and educating us about their culture.

Family violence does not exist in isolation and therefore cannot be addressed in isolation of these other issues. However, our resources are limited. We can only provide so much and then we rely on the government to fund other appropriate services in the communities.

Community Corrections in the Northern Territory is implementing the Indigenous Family Violence Offender Program as a trial project in a number of remote Indigenous communities. The program specifically targets Indigenous domestic violence perpetrators who appear in court. Facilitators are trained in every community. The program receives referrals from the courts and the Parole Board of offenders (generally men) who have been found guilty of family violence related offences. The men are mandated to attend a program aimed at reducing family violence. Programs are also provided for spouses of the perpetrators.

It is working together with such programs and encouraging a holistic approach to family violence that will ultimately result in a reduction of such violence.

Below are a number of case examples that give further insight into the challenges of the work undertaken by TEWLS in the remote communities.

Case Examples RESTRAINING ORDERS AND SAFE HOUSES

There are no safe houses for women who are victims of family violence in any of the communities we visit. This is a huge problem in itself. Often TEWLS assists women to leave their community when they have no-where

else safe to live.

The first port of call for a woman who is a victim of family violence is the local police. Under the Domestic Violence Act (the DV Act) the police can obtain an urgent interim restraining order over the telephone from a duty magistrate. Usually, this will occur immediately after the violent incident and the order obtained will not allow for any contact between the parties. There are, however, provisions for flexible orders that allow parties to live together but prohibit violent conduct.

If there were a safe house for women to use, it is likely that the type of orders taken out would be more appropriate for the individual circumstances. Furthermore, police are not adequately trained and do not have the resources available to spend a large amount of time with women exploring the best type of order to obtain.

At the time of a violent incident, a woman will not wish to have any contact with her partner. However, often once a situation has "cooled" the woman may wish to reconcile with her partner. This is not to say TEWLS agrees with a woman returning to what is often an on-going violent situation. Why do women reconcile? There are numerous reasons why this may occur, including community and family pressure, access to children and lack of alternative accommodation.

There are no legal services in the community to allow a woman to amend an order to allow reconciliation. The police have the power under the DV Act to amend orders over the telephone. It has been the experience of TEWLS that the police will not do so, regardless of the circumstances.

TEWLS has contacted the NT Police Domestic Violence Unit and has been informed that there is no policy in place concerning this issue. Police in communities are given no guidance as to when an order should be amended and are merely instructed to follow the DV Act. The DV Act does not specify that the police must take such action, it merely allows them to.

TEWLS has received phone calls requesting assistance in amending

orders in such situations between bush court dates. TEWLS is in a very difficult situation. Without seeing the client, the solicitors at TEWLS are unable to determine whether a woman is being forced to make such a request and our CLWs do not have the expertise to take instructions and draft affidavits to allow TEWLS to make applications in the courts in Darwin.

If the restraining order is not amended, the orders are breached by the parties having contact. It is the experience of TEWLS that the parties will not delay reconciliation or contact just because a restraining order is in place. Therefore there is not only a risk of the defendant breaching the order, but also a risk that the woman could be charged with aiding and abetting that breach.

TEWLS was informed on one occasion that the police would merely not arrest the defendant for a breach unless he "flogged" our client.

It is clear that women in the community need access to face-to-face legal services.

CRIMES VICTIM ASSISTANCE

TEWLS refers clients from remote communities to private solicitors for victim of crime matters. However, it is very difficult for private solicitors to act in such matters and TEWLS can be put in an awkward situation.

Most private solicitors are hesitant to pay the cost of attending the remote community to see their client. Furthermore, it is not clear whether the cost of such travel can be claimed in the private solicitors bill of costs at the conclusion of the matter.

The private solicitor will also have difficulty contacting the client – generally they will not have a telephone, language is a barrier and often the clients find it difficult to talk over the telephone. There are usually no facilities for faxing.

TEWLS provides limited assistance to the private solicitors: however there are risks involved. It is not appropriate for TEWLS to take instructions to pass on to the private solicitor when TEWLS does not have
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carriage of the matter. It is also very difficult for the private solicitor to confirm the instructions and there is the potential for misunderstandings and miscommunications

If TEWLS does not have carriage of a matter, but is seen to be taking instructions, if a problem occurs between the private solicitor and the client, the client will see it as a TEWLS problem. Our reputation in the communities we visit is very important and we cannot risk it by seemingly taking responsibility for the actions of private solicitors.

Furthermore, if an offer of settlement is made TEWLS may be asked to put that to the client with a recommendation from the private solicitor. TEWLS may be put in a situation where they do not agree with the private solicitor's recommendation and when asked by the client what they think, the TEWLS worker will have to be honest. This will inevitably create difficulties.

The Impact of Traditional Law

Traditional laws, including laws concerning kinship and marriage,

have an on-going impact on TEWLS workers and clients. One TEWLS client is a young woman whose husband regularly hits her, or in slang, "flogs her". Her husband has been charged with assault on numerous occasions and the police obtained for our client a restraining order, under which they may live together but he is not to be violent towards her.

Her husband continues to flog her – it is sometimes reported to the police and her husband spends time in custody for these offences. However, she continues to live with him when he is not in custody.

The TEWLS worker has spent a considerable amount of time with the client talking to her about the violence and the options available to her. However, the TEWLS worker also understands that because this is a promised marriage under traditional law, our client is under extreme family and community pressure to remain with her husband.

Furthermore, our client's mother, who is generally a very strong woman who takes a stand against family violence, has in the past attempted to keep the

client from seeing TEWLS. Our client's mother encourages (to the point of forcing) her daughter to stay in the marriage. The TEWLS worker understands that the mother is doing this because her son-in-law is also her "poison cousin". As such, under traditional law, the mother's first priority and loyalty is to her "poison cousin".

TEWLS is in a very difficult situation. However, we must respect the traditional law and work within it and around it. The TEWLS worker spends a considerable amount of time talking to the client about her mother's actions.

On the face of it, the TEWLS client's behaviour in remaining in the relationship and the behaviour of her mother is very frustrating. However, it must be viewed in the context of the environment and taking into account the impact of traditional laws. In order to ever make a change in this situation, the TEWLS worker must take into account, and address, the issue of the traditional law, whilst at the same time advocating for the safety of the client.①

LCA and RSL combine to aid Australian troops

A memorandum of understanding has been struck between the Law Council of Australia and the RSL to provide free emergency legal aid to all Defence Force personnel.

RSL Legal Aid was launched by Attorney-General Philip Ruddock last month and will provide emergency pro bono legal advice to Defence Force personnel who, because of their service commitments, may not have time to organise to see a lawyer.

Law Council President John North said the agreement represented the first time the legal profession had offered pro bono services specifically designed to satisfy the needs of Australia's Defence Force personnel.

"Ready access to legal advice or guidance by telephone to a member of the Services, wherever they may be located, should provide reassurance to the Service Community that their legal problems can be readily addressed," Mr North said.

"RSL Legal Aid provides recognition by our profession that our service community, now exposed to new and unseen perils in the face of terrorism, requires practical assistance from the civilian population."

Mr Ruddock thanked the legal profession for its willingness to assist in such an important pro bono initiative.①

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