

**VICTIMS of CRIME NT  
CONFERENCE**

**DARWIN  
NORTHERN TERRITORY**

**2006**

**Presentation**

**by**

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## ***WORKING WITH INDIGENOUS VICTIMS AND WITNESSES IN THE NT JUSTICE SYSTEM***

I have been the Aboriginal Support Co-ordinator in the ODPP since early 1999. This position is within the Witness Assistance Service. I will begin by explaining my position, which is unique and differs from all other WAS/ODPP nationally. Second, I will give a short history of WAS and how we have evolved since 1996. Third, I will look at some of the WAS projects that have been completed and how we have enhanced our working relationship with Indigenous victims and witnesses; then I will give a short insight into WAS involvement in Community Courts, not to be confused with Bush Courts. Finally I will then look at some of the barriers that WAS has experienced. A lot of these notes and anecdotes have come from my personal experiences working in this area. At the end I will make strong “suggestions” for doing things better. Most of my research has come from our ODPP annual reports as well as reports I have written and personal experience working in this field. A significant statistic noted in the 2004/05 ODPP Annual Report shows that Indigenous people make up 29% of the total NT population yet 78% of the NT prison population is Indigenous. This statistic shows the high number of Indigenous offenders, which in turn will show the high number of Indigenous victims and witnesses. I have included our WAS statistics for past five years 2001-2005 which show the significant number of Indigenous women, men and children victim and witnesses. (\* Statistics)

These statistics only reflect the cases that WAS has picked up. There are a lot of cases that do not come to the attention of WAS.

Most of our referrals come from within our Office or from NT Police. Diligent networking increases referrals from Government and Non Government agencies.

## ***WAS HISTORY***

The W.A.S. unit was established and in 1996/97 within the Office of the Director of Public Prosecutions. It was formerly known as the Victim Support Unit, but to come in line with W.A.S. units nationally, the name was changed in 2004. At present there are four WAS Officers in Darwin and two in Alice Springs.

W.A.S. was established to provide support to victims, witnesses and their families involved in a crime. In a nutshell WAS provides a service which includes: Support, Information, Referral, Explanation, Liaison, Interpreter Service for Language problems; Assistance with VIS; Policy and Law Reform, Training, and Networking.

## ***ABORIGINAL SUPPORT CO-ORDINATOR'S POSITION***

I have been in this position for the past seven years. This position was established in 1996 and was introduced by the ODPP because of the awareness of issues affecting our Indigenous victims and witnesses. This position is unique to the NT ODPP because other states have not given the same recognition to the variety of Indigenous cultural issues that arise when working with a large population of Indigenous offender committing crimes against Indigenous victims and witnesses. This position is Indigenous designated.

A major commitment of the ODPP is that all new staff members participate in a Cross Cultural Awareness Course.

Facets of the ASC position are: organising WAS Officers attendance at Bush Courts; promoting the Aboriginal Employment and Career Development within this Office; advising Prosecutors on matters of cultural significance, making comments on cultural issues affecting cases; researching and commenting on policies affecting

Indigenous victims and witnesses; networking with Indigenous community agencies; advise and set up training for Prosecutors on Indigenous issues.

In addition, I also do the general WAS Officer's role because of the diversity in working with Indigenous clients from a totally different cultural background, this in itself gives another dimension to our work.

## ***WAS PROJECTS***

### **Bush Promotions Report**

The Bush Promotions Report was an initiative of the ODPP through WAS to develop and implement a plan to allow WAS to effectively provide more support to victims, witnesses and their families in remote communities. This project was undertaken in the Top End of the NT in the later part of 2001. The aim of this project was to:

- Increase the level of support to victims, witnesses and their families;
- Increase the number of Victim Impact Statements presented to Bush Courts;
- Increase the level of access to WAS; and
- Ensure the appropriateness of service provision to victims of crime in remote communities.

From the Bush Promotions Report came several Recommendations, which you can view, on the ODPP/WAS web site.

## **Bush Report Recommendations**

1. VSU members regularly attend bush courts in the four major communities of Nhulunbuy, Oenpelli/Jabiru, Groote Eylandt and Wadeye/Daly River.
2. The VSU assess and attend other bush courts as required.
3. A permanent full-time VSU officer be employed in Katherine to provide support to the large number of bush courts in that region.
4. The necessary resources be provided to the VSU officer to effectively offer support in that region.
5. The location of the VSU officer be easily accessible and appropriate for people from remote areas.
6. Local language speaking VSU workers that are community based be provided in major community centres where bush circuits sit as a pilot project.
7. The community-based workers are given all necessary training. Development and implementation of that training be conducted in full consultation with the respective community elders.
8. The VSU monitor court facilities on a regular basis to ensure that victims' and witnesses' rights are maintained.
9. The VSU make regular visits to both Katherine and Darwin bush circuit courts to monitor services for victims and witnesses.



From the BP Report WAS staff were able to have significant changes made in the Darwin and Katherine Bush Court regions in regards to vulnerable witness equipment used. WAS staff increased their networks in various communities because of the extensive travelling and presentations given throughout this project.

WAS staff undertook to monitor the “User Friendliness” of Bush Courts, especially in cases where women and children are required to give evidence. For example we looked at safety, waiting areas, screens and use of CCTV, and at times video conferencing.

Unfortunately we still have not been able to secure a permanent WAS Officer in the Katherine region.

### **Bush Courts**

WAS staff attendance at Bush Courts in Darwin and Katherine region has increased since 1999 and more importantly after the Bush Promotions Report was finalised in 2001. At that time Bush Court visits were previously undertaken only by the Aboriginal Support Co-ordinator. This was mostly because the Bush Courts had Indigenous victims and witnesses. A decision was made to ensure all WAS Officers attended at Bush Courts. The ASC now co-ordinates which WAS Officer attends which Bush Court, which can mean that half the time there is a WAS Officer out of the office.

Statistics on VIS for the past five years there has been a definite increase. This highlights the importance of WAS commitments to Bush Courts and in particular, working with Indigenous clients positively.

### **DVD – Being Strong a Court Story**

This project came when WAS was given funding for a project which WAS had been wanting to do for many years. WAS wanted to provide an information tool for clients in urban and remote communities. The DVD would assist victims and witnesses understand what they have to do when going to court and also to understand the WAS Officers role in providing assistance. The story is about an Indigenous woman going through the court and the different stages of both the Magistrates and Supreme Court.

Our concern was that most Indigenous clients were often unsure of what to expect when they came into the major centres to give evidence at the Supreme or Magistrates courts. Our DVD has received favourable response. We want to do an updated version to keep in line with new information coming through. We also hope to do the DVD in various Indigenous languages. It is currently only available in English and Kriol.

WAS Officer are constantly organising presentations of our DVD to Government and Non Government agencies as it is also useful to demonstrate to other professionals the role of WAS Officers.

### **Community Courts (aka: Circle Sentencing)**

Although this is not a specific WAS project, it is a project that WAS staff are very supportive of and have been involved with from the start. Community Courts are designed to have full community involvement, with victims and offenders in the sentencing process. “It aims to broaden the sentencing phase so that it can fully examine the underlying issues of offending behaviour and examine the needs of victims of crime.” (NAALAS, Circle Sentencing Info Package). Although Community Courts are available to the whole community, most clients to date have been Indigenous.

WAS staff have been involved in the Community Court Project and are involved at various levels from the Steering Committee; the assessment and WAS staff providing the support to victims and witnesses at court. WAS staff have been able to see the benefits and the affects on victims of crime firsthand. One of the most important Objective of Community Courts is that it will hopefully reduce re-offending.

### **Correctional Services Parole Reports**

This is an initiative that WAS and Correctional Services have undertaken and it involves the WAS Officer contacting the victim for their views to be considered by the Parole Board hearings.

## **BARRIERS**

### **Language**

Language has always been the biggest barrier for Indigenous victims and witnesses. And this is particularly so in the justice system. There are often legal words that do not have an equivalent in most Indigenous languages. I have seen Interpreters struggle trying to explain one legal word with five Indigenous words to help the witness understand. In my experience I have had witnesses who have spoken three or more languages before they speak English. Usually they will speak their Mother's, Grandmother's, Father's, Grandfather's languages which they would have grown up with. Some will even speak their partner's languages.

Most of the time the Aboriginal Interpreter Service is able to supply an Interpreter. But the difficulties have always arisen when there are not enough Interpreters available, short notice given, other work commitments, conflict of interest, usually because of close family ties with victim or offender, cultural issues (poison cousin), gender issues etc or simply that there is no accredited Interpreter available in particular languages.

When speaking to someone who does not speak English as their first language, I have often noted that if you don't ask a question the right way you won't get the right response. Keep it simple. Use direct language. I have, in the past arranged for the AIS to give workshops to ODPP staff, to educate on "how to use Interpreters" correctly.

## **Cultural Barriers**

Over the years I have experienced many times when Indigenous victims and witnesses have been reluctant to give evidence at court. In some circumstances the witness may feel intimidation from the defendant or defendant's family. The court itself is not always set up to make Indigenous witnesses comfortable in giving evidence. In some situations our justice system fails the victims and witnesses. At times it is hard to explain to Indigenous clients the justice system we have to follow. I have had first hand experience working on cases that have received widespread media attention, eg. Promised bride cases. What the media don't report is the aftermath of such cases. The upheaval, displacement and confusion that Indigenous people experience. Often when defendant's family are seated in court listening to the proceedings, this can be intimidating to victims, witnesses and their families. I have heard witnesses change their evidence when in this situation.

Another example I have seen was a victim refusing to use an accredited Interpreter because that Interpreter was her "poison cousin". In that type of relationship the victim could not, and would not, talk about intimate details of evidence in front of her "poison cousin" who had to be dismissed from the case and the client asked to do her evidence in English. The client did struggle, but we got a conviction in the end. This situation highlights how overwhelming cultural issues are for Indigenous people.

Part of my role as a WAS Officer is explaining the court process and I have often come across a situation where Indigenous witnesses would think that because they have given a Statement to Police, that's the end of it.

As far as most Indigenous witnesses are concerned they have done what they had to do. Most are not prepared to give evidence at court and become quite nervous at the thought of “telling their story in court” for fear of intimidation from the defendant’s family.

I have often had Indigenous witnesses say to me that “they should just read my statement in court”, if only it was that easy. There needs to be some explanation at this early stage to advise potential witnesses of the process.

### **Cross Cultural Awareness Courses**

I am quite proud to mention that our Offices in the NT have always strongly encouraged new staff members to take on a Cross Cultural Awareness Course. This will give a new staff member a better insight into working with Indigenous witnesses that they may not have experienced in the past. I have found that most staff from down south don’t always understand our Indigenous people in the north.

In conclusion, WAS has always been positive in its endeavour to provide a good service to victims and witnesses in remote communities. WAS has evolved because of the positive projects like the Bush Promotions Report and the production of the WAS DVD and the strong presence at Bush Courts. The statistics show that we are getting more referrals and our networks have become stronger and this in turn is positive in the way we work with Indigenous clients. See statistics.

We have been able to ensure that we attend the more prominent Bush Courts, but this does not always eventuate because of other court commitments.

Darwin WAS staff cover Top End Bush Court communities as well as Darwin Supreme and Magistrates Courts. It is in our best interest to network with non-government agencies because the workload can be very demanding.

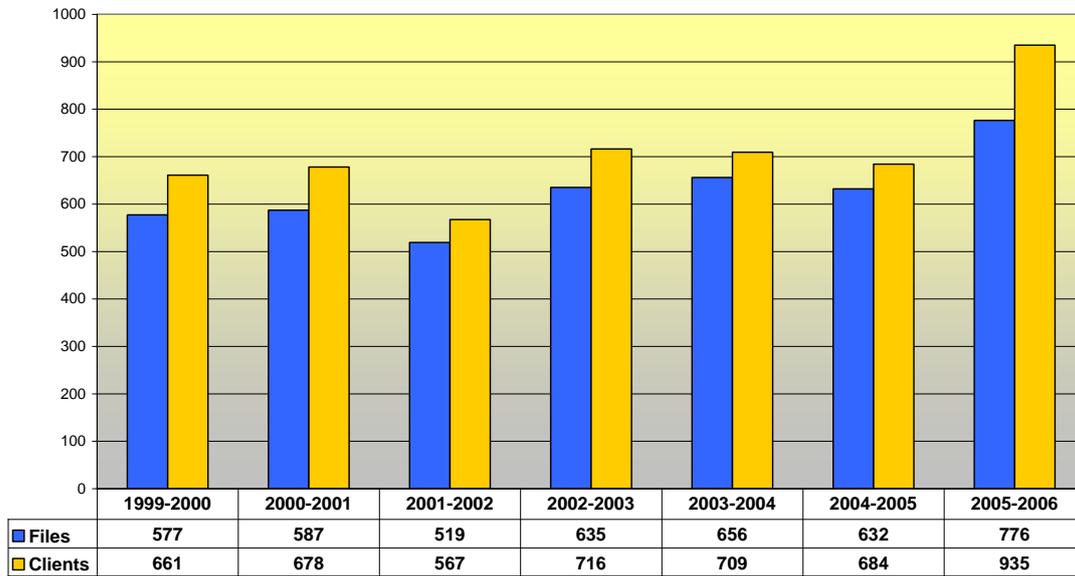
Funding we could always use more money because of the increased workload. I have several projects that I would like to see funded which include production of DVD in various languages. I believe the WAS DVD is a great learning tool. I would also like to see more Indigenous staff working with Indigenous clients. This would, I think overcome some of the issues faced. WAS will continue to encourage a stronger network in communities. Education is probably one of the strongest and most important tools to use in "Prevention" of crime. Prevention of Indigenous women and children being sexually abused and beaten. Prevention of family violence in our communities. The Indigenous lawbreakers need to learn that hiding behind cultural laws will not protect or be tolerated in the current justice system.

My overall suggestions for "a positive way: Indigenous say" would be: (1) Education, (2) Stronger Networking between Govt and Non Govt agencies, (3) Employment of more Indigenous staff; and (4) More preventative programs in communities.

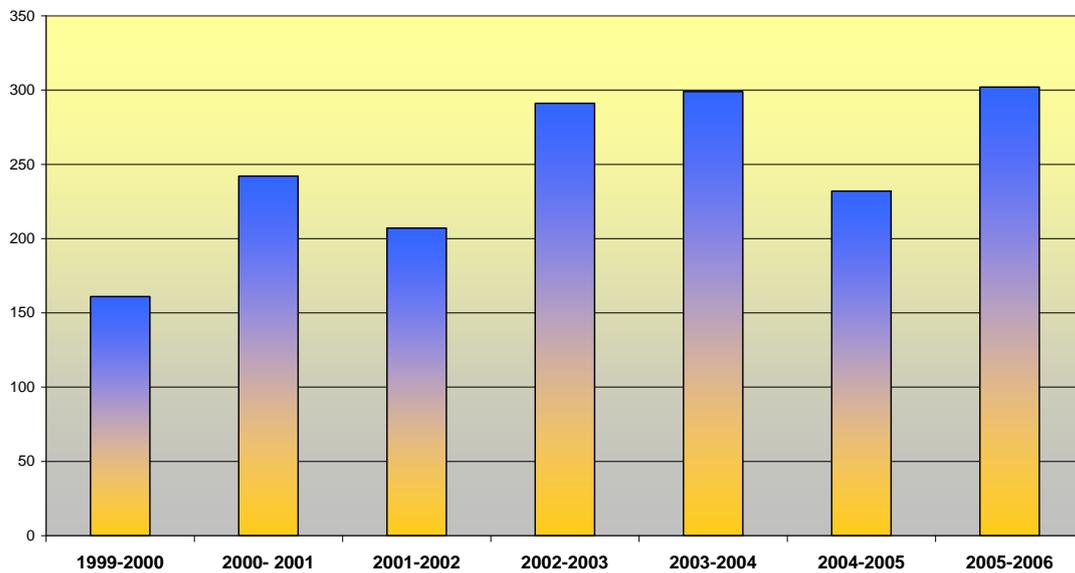
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## STATISTICS

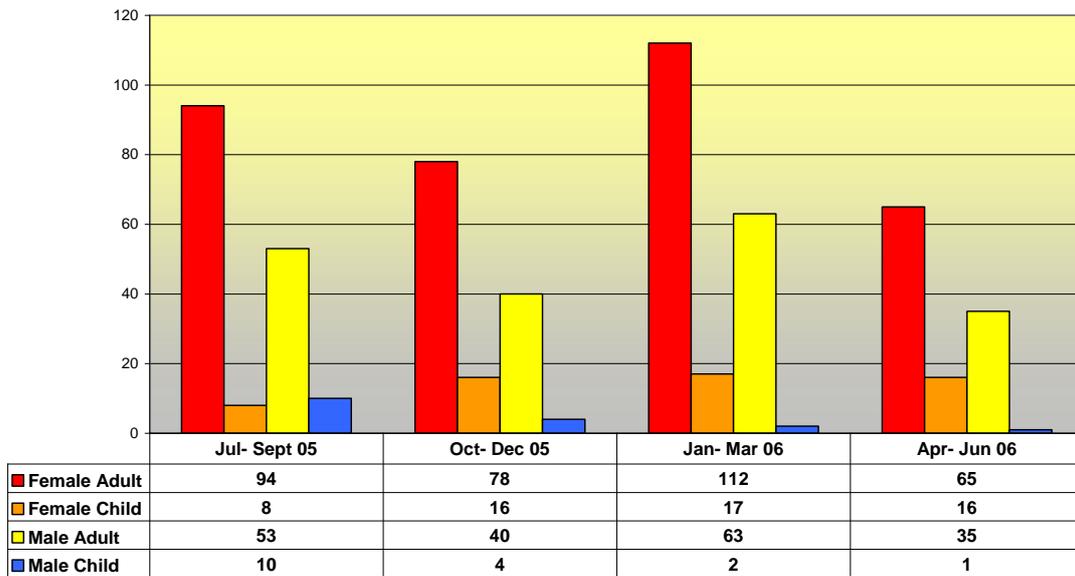
**Figure 1 - NT Files / Clients Financial Years 1999 – 2006**



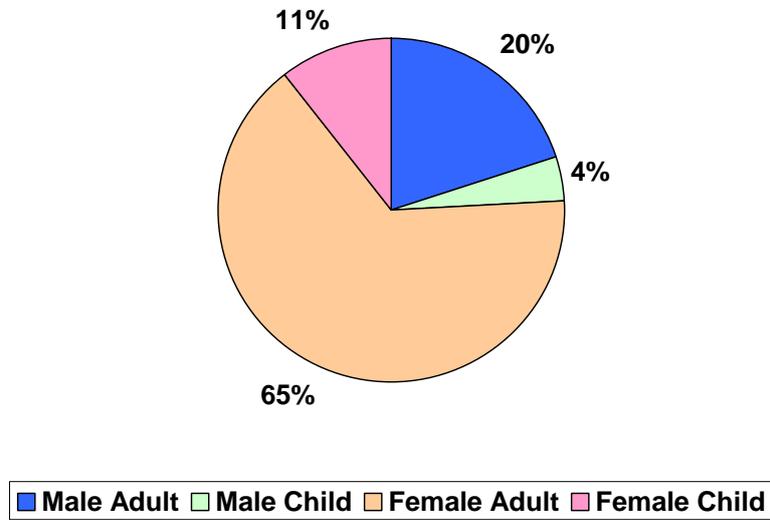
**Figure 2 - Darwin VIS's for 1999 - 2006**



**Figure 3 – WAS Gender Darwin Financial Year 2005-2006**



**Figure 4 - WAS Indigenous Clients for 2001 - 2005**



Indigenous WAS Clients  
Period 2001- 2005

Male Adult	260
Male Child	56
Female Adult	855
Female Child	138
Total	1309