



NPY Women's Council: Advocacy: Cross-border Justice Issues



The cross-border justice scheme will introduce a collaborative system of justice administration in the region where the borders of Western Australia, South Australia and the Northern Territory meet. The scheme was instigated by the NPY Women's Council, which initially approached state and territory governments in 2003 seeking a solution to the serious justice problems in these remote regions." Christian Porter, WA Attorney-General, on the introduction of the Cross-Border Justice Amendment Bill 2009 to the WA Parliament, 17th June 2009¹.

The Issue

Anangu and Yarnangu² from the vast 350,000 square kilometre NPY Women's Council tri-state membership area share close language, family and cultural connections (see Fact Sheet 1.) NPYWC's programs operate across the SA, WA and NT borders, with few exceptions³.

NPYWC members from the 'three sides' have always stressed the commonality of issues that affect them, and the need to address these in a way that does not allow state and territory borders to impede progress. Many people are highly mobile across and beyond the NPY region and offenders can and do intentionally evade apprehension with relative ease by travelling from one NPY 'side' to another. Others simply never give a thought as to what legal jurisdiction they happen to be in.

Like other Australian states and territories, SA, WA and the NT each has its own police force, criminal code and court and corrections system. NPYWC's desire for a cross-border approach grew out of the difficulties that its Domestic and Family Violence (DV) Service encountered in assisting clients across the vast NPY area, with three different police services and justice systems.

The regional police presence over time had failed to keep pace with the level of offending that accompanied the social disintegration taking place in many communities, and responses were often slow, inadequate and at times non-existent (see Fact Sheet 8.) As the rates of substance abuse and violence increased and traditional controls broke down, many residents were vulnerable and unprotected. The limitations on Aboriginal police aides or community constables through conflict of interest because of kinship connections and obligations have been well documented⁴.

Action

Policing

NPYWC has advocated vigorously, and with considerable success over a decade or more, for additional policing in the region, and a cross-border approach to law and justice matters. The organisation has argued for an increased number of permanent and properly trained sworn

police officers in communities, for both deterrence and apprehension. NPYWC's members have pursued as a matter of priority what they see as the neutral and objective protection offered by the criminal justice system. This has been done through: direct approaches to police services at senior level; representations to relevant Police Ministers and other Ministers; submissions to coronial inquests⁵ and parliamentary and other inquiries; and the strategic use of the media⁶.

This advocacy eventually brought results, and the increase in the number of sworn in the cross-border region is due at least in part to NPYWC's determined efforts. There are now cross-border police posts staffed by NT and WA officers at Kintore in the NT - since 2003; and from 2007, another at Warakurna in WA. There has been a fully staffed police station with several resident officers at Warburton WA since 2005. A smaller post at Blackstone, also in WA, opened in 2009⁷.

The SA police service, SAPOL, has greatly increased the number of officers on the APY Lands, with patrols run from posts at Umuwa and Murputja for the past several years. New, permanent posts built with Australian Government funds and operated by SAPOL opened in 2009 at Mimili and Ernabella, followed by Amata in 2010. In NPYWC's NT sector, the Australian Government has funded police posts or stations at three of the four NPY member communities.

Mutitjulu opened in 2006 but was not staffed until Australian Federal Police (AFP) officers were sent there under the NT Emergency Response (Intervention) in 2007⁸, later joined by NT police. A police post opened at Imanpa in 2008 and in 2009 at Finke. Imanpa and Finke were set up under the Intervention and, like Mutitjulu, have been staffed by AFP officers together with NT officers.

NPYWC members are happy with the improved policing arrangements, although disappointed that despite having made strong submissions for many years, its fourth NT member community, Docker River, has not been included. It continues to be served by patrols from the Warakurna cross-border post, up to two hours away.

The DV Service also works with female victims alongside the joint correctional services' Cross Borders Indigenous Family Violence Program for men. This Program is designed to challenge beliefs and attitudes and change the behaviour of perpetrators, and has significantly reduced re-offending⁹.

Cross-border justice

Soon after the DV Service began in 1994 (see Fact Sheet 8), NPYWC began organising cross-border meetings with senior police and other interested, in an effort improve police, prosecutions' and court responses¹⁰ to domestic violence and thus the safety of victims. NPYWC hosted five such meetings between 1995 and 2003, with a protocol established between NPYWC and the three police services at the first meeting, and updated in 1998.

These protocols set out guidelines for police, and among other things stressed the need to:

- prioritise victims' immediate and ongoing safety;
- understand communities, including through cross-cultural awareness training;
- liaise with police in other relevant jurisdiction/s on domestic violence matters.

More detailed Memoranda of Understanding were later developed between NPYWC and each of the three police services, streamlining cross-referral systems and facilitating the (lawful and responsible) sharing of client information. In 2003 the years of lobbying for a regional approach to domestic violence perpetrators and other offenders began to show results. The NT Department of Justice co-ordinated an NPY Lands Tri-jurisdictional Justice

Initiative Roundtable, in Alice Springs. NPYWC members, magistrates, senior police, court administrators, corrections officers, lawyers and others met to find ways to address the damaging effects of domestic violence, child abuse, sexual abuse, substance abuse, and other forms of offending in the NPY communities.

The **Cross-border Justice Scheme** was developed over the next several years, with the NT, WA and SA each passing its own legislation to enable police, corrections and magistrates in any of the three sides to deal with those charged¹¹, applying the law of the jurisdiction where the alleged offence occurred¹². It allows:

- Cross-border magistrates to deal with charges from all three jurisdictions;
- Police to take a person from one jurisdiction to another to conduct investigations and to take the person before a magistrate more expeditiously;
- Police to make arrests and investigate offences in the cross-border region;
- Correctional Services officers to act on behalf of all correctional services in the region and provide for the enforcement of community-based orders; and
- Prisoners from the region to serve their sentences in any of the jurisdictions.

The **Scheme** covers some 475,500 square kilometres. In addition to the APY Lands SA, the Ngaanyatjarra Lands WA and the four southern NPY NT communities, it takes in others in the central west and southern NT, such as Kintore, Papunya and Areyonga¹³. The **Cross-border Justice Scheme** officially commenced in late 2009, and should be fully operational by the end of 2010. NPYWC will keenly monitor its effectiveness.

References

- 1 The Attorney-General was referring to the Tri-jurisdictional Justice Initiative Roundtable meeting convened in Alice Springs by the NT Dept. of Justice in June 2003, and attended by members of the NPY Women's Council, magistrates, senior police, court administrators, Community Corrections officers, lawyers, and others.
- 2 The names that Aboriginal people from the Pitjantjatjara and Yankunytjatjara (Anangu) and Ngaanyatjarra (Yarnangu) language groups use to describe themselves.
- 3 The main one being Aged Care Support on the APY Lands, which NPYWC is not funded to provide in the NT or WA. (See Fact Sheet 6.)
- 4 See for example the SA Coroner's 2005 findings in Ken, Ward, Ryan and Cooper (all dec.) at: www.courts.sa.gov.au/courts/coroner/index.html
- 5 NT 2005 inquest re Presley, Coulthard and Brumby at: www.nt.gov.au/justice/docs/courts/coroner/findings/2005/A22-04,%20A49-04,%20A54-04%20Petrol%20Sniffing.pdf ; SA inquest 2002 re Ken, Hunt and Thompson and 2005 re Ken, Ward, Ryan and Cooper at: www.courts.sa.gov.au/courts/coroner/index.html See for example Senate Inquiries at: www.aph.gov.au/Senate/Committee/clac_ctte/soc_sec_welfare_reform_racial_discrim_09/submissions/sub93c.pdf www.aph.gov.au/senate/committee/clac_ctte/completed_inquiries/2004-07/petrol_sniffing/submissions/sub15.pdf and: *Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities* (Gordon Inquiry), Gordon S., State Law Publisher, WA 2002.
- 6 *Sharp end of law fails* Glenys Toohey P., Weekend Australian, 27-28th April 2002. Story of the serious stabbing at Kintore, NT, of an NPYWC DV Service client previously the victim of other serious assaults by her husband. This incident in part prompted the establishment of the Kintore NT-WA cross-border police post in 2003.
- 7 An outcome of the Gordon Inquiry. See Ref. 5 above.
- 8 *Mutitjulu - a troubled community*, Murdoch L., The Age, 27th June 2007: www.theage.com.au/news/national/mutitjulu--a-troubled-community/2007/06/24/1182623741857.html
- 8 See: www.jennymacklin.fahcsia.gov.au/mediareleases/2010/Pages/violence_victims_sa_21jan2010.aspx and: *Cross Border IFVP Evaluation* Shaw G., and Brooks D. 2009
- 10 There are a large number of bush court circuits held in the NPY region. NPYWC assists existing and new DV Service clients at court, liaising with the prosecutor and at times making direct submissions to the magistrate on behalf of the client.
- 11 The Scheme applies only to offences that can be dealt with by a Magistrates Court.
- 12 *Cross-Border Justice Act 2009* NT; *Cross-Border Justice Act 2008* WA; *Cross-Border Justice Act 2009* SA. The Australian Parliament also passed enabling legislation, the *Law and Justice (Cross Border and Other Amendments) Act 2009*, to amend existing legislation that facilitates law enforcement, judicial procedures and dispute resolution across more than one jurisdiction
- 13 See map at: www.justice.sa.gov.au/about_us/news/pdfs/2009/map.jpg