

The Cross Border Justice Project – Enhancing Justice and Victim Services in the Central Desert Region.

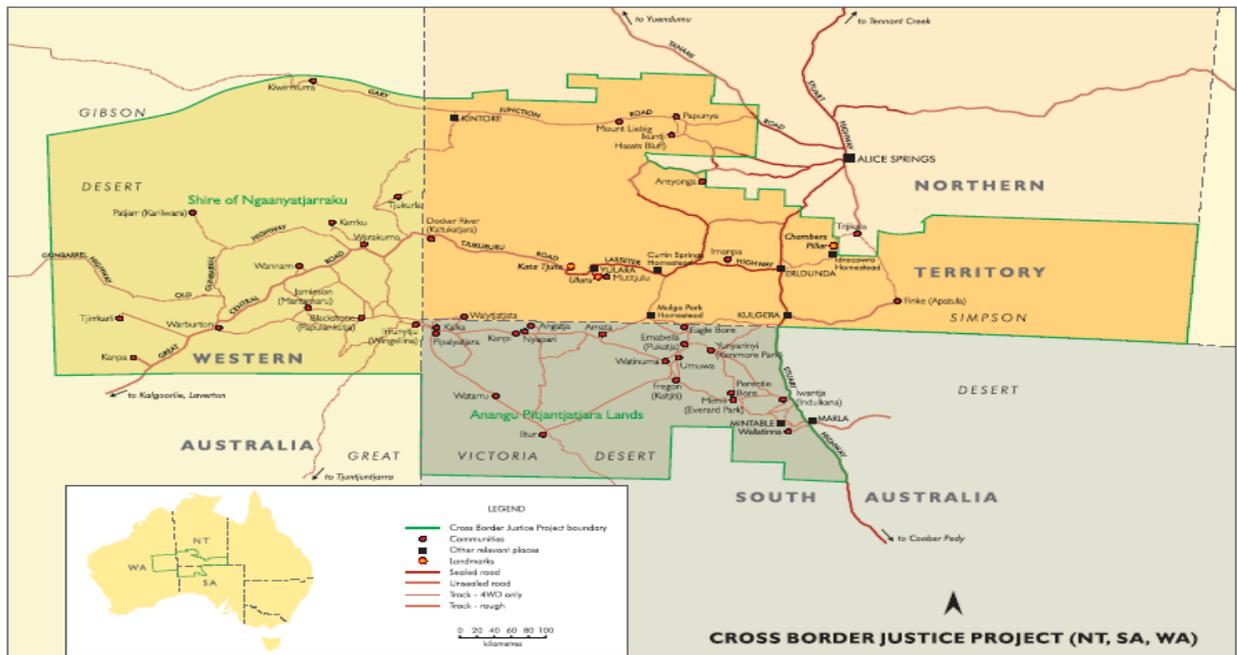
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Introduction

The Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Aboriginal lands of the central desert region of Australia cover a vast area of some 450,000 square kilometres. Within this area lie the State borders of Western Australia, South Australia and the Northern Territory. The local Anangu people still live a transient lifestyle, moving freely between various communities within this area. This issue has always brought challenges for justice agencies that generally have legislation, authorities and protocols for each independent jurisdiction, and are thus constrained by State borders throughout the NPY lands.

A recent innovation has seen cooperation between the three jurisdictions in a bid to remove the constraints of this present system, by developing shared legislation that will, in effect, break down State borders in this area for the first time since Federation. The initiative has been named the Cross Border Justice Project (CBJP). The project should see significant enhancements for justice services within the central desert region. The initiative may have wide ranging effects throughout Australia, as this process may be the precursor for complete abolishment of State boundaries for justice related organisations, and a major paradigm shift for State and Federal Governments.

Figure 1 – Outline of the NPY Lands



Prepared by Patricia Goodrich, April 2004

Project Background (The Vision)

The initial concept for the Cross Border Justice Project arose from a perceived need to improve safety and security issues for Aboriginal people living in the Central Desert areas of Australia. These issues were discussed at a Justice Roundtable in Alice Springs in June 2003. The concept was initially modelled on the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC), a non-Government organisation who provides support and advocacy services for Aboriginal women and had already been operating under a tri-State model in the area. They had achieved numerous successes by operating as one organisation across the borders of Western Australia, Northern Territory and South Australia, recognising that these borders mean little to the local Anangu people and that State provided services were hampered by jurisdictional boundaries.

The Justice Roundtable recognised specific issues that were peculiar to the area:

- Major safety and security issues for aboriginal communities.
- The strong social and cultural links among Anangu in the region.
- Lack of services due to extreme remoteness and isolation.
- Mobility of the Anangu population who frequently travel around the region.
- A general inability of dealing with offenders other than in the jurisdiction where they offend.

The challenge was clear to improve community safety and security, with the opportunity for separate jurisdictions to collaborate and cooperate rather than take an individual approach to a solution. From this sound concept the vision evolved.

The Cross Border Justice Project is led by the Standing Committee of Attorney-General's (SCAG) from the Northern Territory, Western Australia and South Australia, in consultation with their respective CEO's from the Department of Justice. The Project Executive Group (PEG) provides stewardship and project oversight. Teams have been established to develop specific strategies in relation to legislation, courts, policing, corrections, juvenile justice and victim services.

Project Objectives (The Mission)

The strategic objectives of the project were identified as:

- Strengthen and improve community safety in the cross border region. This was the overarching theme of the project – to provide real and tangible outcomes in relation to Anangu people being able to live and work in an environment free from the fear of crime and disorder. From a platform of safety and security, other benefits would flow onto the communities as other services became established.

- Develop and implement legislation that allows police, courts and corrections to operate in a multi-jurisdictional environment, free of the constraints of State borders. This is a major aim to ensure the philosophy behind the Cross Border Justice Project can legally function. A priority is an amendment to the Commonwealth Services and Execution of Process Act, 1992, which will allow magistrates of the three jurisdictions to deal with offenders on interstate matters.
- Deliver timely and efficient justice responses that are meaningful to people in the region. Remoteness and isolation severely effect the timeliness of justice responses in the area. The culture and nature of the Anangu lifestyle, and the people themselves, do not benefit from long delays in court and justice proceedings. Likewise, due to complex cultural reasons, justice responses should be tailored to ensure they have relevance and meaning to the Anangu people in the area.
- Address gaps in justice services in the region. This will call for benchmarking of present services and an extensive environmental scan to determine exactly what is needed to bridge service gaps in the area. The South Australia Attorney General's office has recently funded a consultant to specifically address the issue of victim's throughout the NPY Lands, and in particular identify gaps and make recommendations for service improvements. Engaging with Aboriginal communities in developing local solutions to law and justice concerns is vital to the project's success.
- Develop collaborative relationships across jurisdictions and agencies to improve and coordinate the delivery of justice services. Gross inefficiencies exist in the Cross Border region due to similar justice services from each respective jurisdiction working separately, sometimes only kilometres apart. For example, South Australia police may be working in a community near the State border, when an incident requiring a police response occurs only kilometres away in another State. They are restrained by legislation from acting, and other police services may have a response time of several hours. In particular, this often leaves victims vulnerable. Sharing infrastructure, in particular police stations, courts and prisons, is seen as an important initiative to reduce costs and streamline services.

Linked to these project objectives are specific strategies that are presently being implemented by the police that operate throughout the NPY area. These strategies aim to increase police services to all Anangu people in the NPY lands, and have already seen tangible benefits for all people in the communities, and especially victims. The overall philosophy of the police strategy is to move permanent police into communities in the NPY region, rather than conducting long range patrols that have been the norm for many years. Response times to requests for police attendance have been dramatically reduced, along with an increased confidence by the Anangu people to report crime and disorder. Previously, the local Anangu considered the reporting of incidents as a waste of time, with response times sometimes measured in days.

NT Police have built a shared police facility at Kintore near the WA border with a staff of two and WA Police have provided an additional police officer. They are also planning to build a police station at Mutitjulu, near Yulara. Likewise, WA Police are presently building a shared facility at Warakurna, which will be staffed by NT Police working alongside WA Police. In addition to this, WA Police have built a police station at Warburton, staffed by five officers. SA Police have recently moved eight police to live permanently at Umuwa and Murputja in the South Australian APY lands, and are planning to build two police stations at Amata and Ernabella. Overall, this has increased the permanent police presence in the NPY lands area from about five to over twenty five.

Project Benefits (The Outcomes)

The Cross Border Justice Project should provide significant benefits for victims of crime in the area. The expected outcomes include:

- More effective use of justice resources enabling victims to have greater access to assistance and support. In particular, with police services moving into the area on a permanent basis, it is expected there will be an increased willingness to report crime, knowing that police action will be timely.
- Increased confidence that reporting crime will lead to apprehension of the offender. Opportunities for criminals to evade apprehension will be diminished due to the number of police in the NPY lands, and their ability to move freely across borders to effect arrests.
- An improved capacity for Governments to provide services to the region, given the cost efficiencies of shared services. This is particularly relevant in a remote, vast area, with a relatively small population.
- Long term results should see an overall improvement to the safety and security within communities, with less violence, abuse and trauma. This will, in turn, give victims an improved sense of self-worth and dignity.
- Provide a model for other cross jurisdictional areas in Australia, by successfully demonstrating collaboration and cooperation between States in justice related issues.

Case study of proposed practical benefits to victims

The entire vision of the Cross Border Justice Project is based upon improving justice services on the ground in Anangu communities. Without realistic, tangible benefits for victims of crime in the region, the initiative fails. Perhaps the best way to explain the real benefits of the project is to consider a hypothetical case study, to demonstrate the expected improvements to justice services and in particular practical benefits for victims.

(circa 2004)

Dorothy is a young Anangu woman who lives at Pipalyatjara in the north western corner of South Australia. She has been in a relationship with John, who is the father of her two young children. The relationship is generally good, until John goes on drinking binges and becomes violent. Both John and Dorothy have family in Pipalyatjara, Wingellina, (16 kilometres away but in Western Australia) and Warburton, also in WA.

About 18 months ago, John assaulted Dorothy for the first time when he was drunk. He has continued to do this on several occasions every few months since then. At the time, Dorothy did not bother to report this to the police, as she knows they only visit from Marla, which is 600 kilometres away, about once a month. She thought by then there would be little point in telling the police about it. In any case, every time John does something wrong, he flees to Wingellina across the border, knowing full well that the South Australia police can't come and arrest him there.

At one stage, Dorothy did see the police in Pipalyatjara, and the local nurse encouraged her to report a recent assault. Dorothy was sick and tired of being pushed around and hit by John, so decided to tell the police. They took a report and advised they would arrest John for assault next time they saw him, but as he was in Wingellina they couldn't go and get him. They also told Dorothy they would do a restraining order so John couldn't assault her again.

Although they tried, the police could never find John in South Australia. They spoke to the Western Australia police about extraditing John back to SA to answer the charges. The nearest Western Australia police were based at Laverton, some 900 kilometres from Wingellina, and only went there every three or four months. They said the charge wasn't serious enough to extradite John, and it was too far away and they might not find him anyway.

Although there was a restraining order in place, John didn't care about that when he got drunk and violent, knowing too well that the police in South Australia would not drive 600 kilometres to enforce it, and knowing he would be long gone anyway.

As for Dorothy, the victim, she didn't bother reporting any further assaults to the police, believing it was a waste of time. Although she received support from the NPY Women's Council, justice services had failed her as a victim.

(circa 2007)

Dorothy noticed that the police station at Pipalyatjara had been refurbished. She heard one of the police community constables talking in Anangu on the local PY media radio station about the police station being opened twice a week for business. She had been past Murputja, a small community about 80 kilometres down the road and had seen the four new police houses where the new police were now living. She felt more hopeful that something might be done now that police were in the area.

Dorothy was assaulted by John when she went to visit family in Wingellina. Although she didn't think the South Australia police could do anything about it, she went and told them about it on one of the days the police station was open. They took a new report and noticed that John was wanted for other assaults in South Australia, and that he had breached his restraining order. Although the order was initiated in SA, they had ensured it was also ratified in WA and NT, and could take action wherever a breach occurred.

The SA police spoke to the WA police stationed at Warburton. They were also looking for John, as the linked computer systems from SA had identified that he was wanted, and they knew he came to Warburton from time to time. They found out John was at Wingellina at the present moment.

The SA police told the WA police they would go and look for him, as they were only 16 kilometres from Wingellina. The police left Pipalyatjara immediately. They drove the short trip to the SA/WA border, crossed it and continued onto to Wingellina. They found John and arrested him for several old assaults in SA, the recent assault in WA and breaching the restrained order in both WA and NT. They drove him back to Pipalyatjara to charge him.

Dorothy saw them drive into the community with John in the back. She was pleased they had caught up with him, yet worried that he might hurt her more to pay her back for reporting him.

John was bailed with strict conditions not to harm or assault Dorothy. As the next court date was three months away in Pipalyatjara, the police bailed him to appear at the Warburton court next week, where a magistrate was sitting with cross border jurisdiction powers. The police had noticed that a more immediate response by the courts had a positive effect on the likelihood of re-offending with the Anangu people.

John did breach the bail conditions and restraining order when he got drunk a few days later. He approached Dorothy in a violent mood, but she was able to seek refuge at a relative's house and call the police. The SA police were at another job at Amata at the time, so called the WA police to see where they were. As it happened, they were heading to Wingellina on their weekly patrol from Warburton and went across the border to Pipalyatjara and arrested John. This time, bailed was refused and they removed him back to Warburton to place him directly before the magistrate that was sitting the next day. John was sentenced to three months imprisonment in total. He was permitted to serve the sentence in the Alice Springs jail in the Northern Territory, rather than be transported all the way to Kalgoorlie, well outside of his traditional country.

Dorothy felt very happy that the justice system had worked effectively to prevent John from getting violent again. She felt much safer than ever before, and finally felt like she had been treated with dignity and respect as a victim of crime.

Conclusion

The Cross Border Justice Project has the potential to make significant social reforms in the central desert area of the NPY lands. Given the difficult and unique problems encountered in the region, the lack of safety and security in the communities and the gradual disintegration of an ancient culture, the task before the justice services will indeed be complex and challenging. The Anangu people in the area have the same right to be provided with effective justice services as other Australians, and the outcomes of this project should ultimately see this realised.