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Mr Peter Hallahan
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

<https://senate.aph.gov.au/submissions>

Dear Mr Hallahan

INQUIRY INTO LAW AND JUSTICE (CROSS BORDER AND OTHER AMENDMENTS) BILL 2009

Thank you for your letter, dated 25 March 2009, regarding the Parliamentary inquiry into the Law and Justice (Cross Border and Other Amendments) Bill 2009. The Department of the Attorney General strongly supports the Law and Justice (Cross Border and Other Amendments) Bill 2009, and I am pleased to provide the attached submission to inform the Standing Committee's inquiry.

The development of the Cross-border Justice Scheme has involved extensive collaboration between the Governments of Western Australia, South Australia and the Northern Territory, and cooperation with the Commonwealth Government. The Law and Justice (Cross Border and Other Amendments) Bill 2009 is critical to enable successful implementation of the Cross-border Justice Scheme later this year.

Please do not hesitate to contact me should you require any additional information.

I look forward to learning of the outcome of your inquiry.

Yours sincerely

(signed)
Cheryl Gwilliam
DIRECTOR GENERAL

6 April 2009

Att

Department of the Attorney General

Submission to the Parliamentary Inquiry into the Law and Justice (Cross Border and Other Amendments) Bill 2009

Senate Standing Committee on Law and Constitutional Affairs

1. Background

1.1 The Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) lands cover more than 476,000 square kilometres where the borders of Western Australia (WA), South Australia (SA) and the Northern Territory (NT) meet. In 2003, a meeting was held in Alice Springs with representatives from justice agencies, the judiciary, police and community groups to discuss justice issues in this region. A local representative body, the NPY Women's Council, urged the governments of WA, SA and the NT to solve the problem of offenders using the state/territory borders to evade police or the criminal justice system.

1.2 The NPY Women's Council highlighted the significant safety and security issues in this cross-border region,¹ including high levels of family violence, sexual abuse, substance misuse and relatively limited access to justice and other services. In response to these serious problems, and the obvious need for something to be done about them, the governments of the three jurisdictions initiated the Cross-border Justice (CBJ) project.

1.3 The objective of the CBJ project is to minimise the effect of borders in the cross-border region for the purposes of law enforcement and delivery of justice services. That is, to enable police, magistrates, fines enforcement agencies, community corrections officers and prisons of one jurisdiction to deal with offences that may have occurred in another of the participating jurisdictions.

1.4 This is a ground-breaking approach, and requires uniform legislation to be applied in each participating jurisdiction, as well as the implementation of agreements to facilitate the operational activities of all participating agencies.

1.5 The CBJ scheme will not officially commence until complementary legislation has been proclaimed in WA, SA and the NT. There is also a requirement that the Commonwealth Government amend the *Service and Execution of Process Act 1992* to enable the state/territory cross-border justice legislation to take effect.

1.6 All necessary legislative elements of the project are expected to be complete by mid-2009. Western Australia's *Cross-border Justice Act 2008* was assented to in March 2008. The Northern Territory's *Cross-border Justice Act 2009* was assented to in March 2009, and South Australia introduced their Bill in February 2009.

1.7 The Commonwealth Government's Law and Justice (Cross Border and Other Amendments) Bill 2009, introduced in March 2009, is critical to enable effective implementation of the scheme later this year.

2. Benefits of the Cross-border Justice Project

¹ The cross-border region comprises the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in SA, the Ngaanyatjarra Lands in WA and the central east and south of the NT.

2.1 As mentioned previously, the CBJ project was established in response to a call from the women and children of the NPY lands to help reduce the prevalence of violence and abuse in their communities.

2.2 The establishment of a joint NT-WA police facility at Kintore in 2003 also highlighted the many practical, time consuming and expensive barriers to the delivery of justice services in the area, including the problem of offenders using the state/territory borders to evade police or the criminal justice system. There was a collective view that the legislative and operational barriers needed to be overcome.

2.3 The cross-border legislation provides that officers in each of the participating jurisdictions are authorised to deal with interstate offenders, from anywhere within the cross-border region. The full implementation of the CBJ scheme will facilitate the delivery of improved service delivery to remote areas of Australia, and deliver significant social benefits for the local communities.

2.4 An evaluation framework for the CBJ scheme is being developed. Findings from the evaluation will facilitate an assessment of the impact of the CBJ scheme on local communities and the delivery of criminal justice services in the region.

3. Collaboration between and across governments

3.1 The project to develop the CBJ scheme has been an impressive exercise in collaboration, involving an alliance between the governments of WA, SA and the NT, and co-operation between the three jurisdictions and the Commonwealth Government.

Alliance between the Governments of WA, SA and the NT

3.2 The CBJ scheme is the first of its kind in Australia. When the decision was made to commence, there was no template, formula or existing model from which to draw. To develop and implement the scheme, two key bodies of work were identified as needing to be progressed:

- Legislation and high-level policy.
- Operational issues across community corrections, prisons, courts, fines enforcement, police and juvenile justice.

3.3 A legislation team led by the Solicitors General of the three jurisdictions was established. The Solicitors General were responsible for the development of the legislation and the accompanying Inter-Governmental Memorandum of Agreement.

3.4 A series of Service Level Agreements (SLAs) have been developed to deal with the operational level of detail for the scheme in the following areas:

- Police;
- Courts;
- Fines Enforcement;
- Community Corrections;
- Prisons; and
- Juvenile Justice.

3.5 The cross-jurisdiction membership of the SLA teams has helped to ensure that project developments complement existing policies and initiatives in each jurisdiction.

3.6 A Project Executive Group (PEG) was established in order to facilitate

communication and progress on legislation and operational issues. The PEG comprises senior officers from WA, SA and the NT and is responsible for overseeing, supporting and monitoring the progress of the CBJ project. Representatives from various Commonwealth Government agencies also attend PEG meetings.

Co-operation with the Commonwealth Government

3.7 Effective operation of the CBJ scheme relies on amendments to the Commonwealth Government's *Service and Execution of Process Act 1992* (SEPA). Without amendment, when faced with a cross-border justice matter, magistrates will have to choose which legislation to use – SEPA or the relevant CBJ Act.

3.8 During development of the scheme, the Commonwealth Government suggested that a solution would be to give primacy to the relevant CBJ Act in these cases, thereby disapplying SEPA. The fact that the Commonwealth is willing to give primacy to state/territory legislation clearly demonstrates the co-operative relationship that has underpinned the CBJ project.

3.9 The Law and Justice (Cross Border and Other Amendments) Bill 2009 realises the Commonwealth Government's commitment to the scheme. The cross-border amendments are pivotal to enable implementation of the scheme later this year.

4. Conclusion

4.1 The CBJ project was established in response to a genuine community need. Successful development and implementation will have a real and positive impact on the lives of the women and children in the cross-border communities.

4.2 Cross-border justice will facilitate improved service delivery across the justice system to some of Australia's most isolated communities. The scheme will enable police, courts and corrective services to operate between jurisdictions and serve the best interest of communities in the region.

4.3 The CBJ project is an impressive example of collaboration and co-operation across all levels of government. The results of the evaluation of the CBJ scheme may lend support to the approach being widened to other cross-border regions and/or to other aspects of government service delivery in remote areas of Australia.

4.4 The CBJ Scheme is scheduled for implementation in mid-late 2009. The Law and Justice (Cross Border and Other Amendments) Bill 2009 is critical to the operation and success of the CBJ Scheme. Without the amendments to the *Service and Execution of Process Act 1992*, WA, NT and SA will not be able to implement the CBJ Scheme.