

**Ngaanyatjarra Pitjantjatjara Yankunytjatjara  
Women's Council (Aboriginal Corporation)**



**Submission to the  
Joint Committee of Public Accounts and Audit,  
Parliament of Australia  
Indigenous Law and Justice Inquiry**

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## **1. Introduction**

Members of Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (Aboriginal Corporation) (NPYWC), who live in the remote Indigenous communities of the cross-border Central Australian region, suffer individual as well as collective disadvantage in respect of their access to law and justice.

Firstly, they have extremely poor access to legal services generally. Secondly, their representative organisation, NPYWC, has no funding for legal advice.

A recent report for the Office of the Status of Women found it hard “to imagine any community of women for whom access to legal services is more difficult”<sup>1</sup>.

NPYWC members live in a region where the incidence of domestic violence, sexual assault and child abuse is very high, but law enforcement and child protection services are grossly inadequate.

NPYWC is driven by its members' determination to improve the quality of life for families in the region. Its programs are funded from numerous sources (profile of NPYWC at Attachment 1.)

## **2. Access to Legal Services**

NPYWC members' access to legal advice and representation for civil law matters is very poor. It should not be assumed that the various legal services located closest to the cross-border region meet the needs of people living on the NPY Lands. For a general overview please refer to the list of agencies located in or near the region and the level of assistance available to NPYWC members (Attachment 4.)

The volume of civil matters in the NPY region is significant, but reliable data is hard to obtain. NPYWC understands that the now-defunct Pitjantjatjara Council Inc. Legal Service in 1992 had carriage of 90 files arising from a total population of around 3,400 on the Anangu Pitjantjatjara (AP) Lands of South Australia. It would be reasonable to assume that there are those who are unaware of their rights and so do not attempt to pursue matters at all.

NPYWC members frequently approach this organisation, in particular its Domestic

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<sup>1</sup> Access to Justice. Research into good-practice models to facilitate access to the civil and criminal justice systems by people experiencing domestic and family violence, Urbis Keys Young, 2003

Violence (DV) Service, to seek help in civil matters. They do so because there is often nowhere else to go for help with legal matters, because the DV Service has assisted with referrals and taking statements in the past when there was a functioning Pitjantjatjara Council legal service in the same resource centre, and because they are satisfied with the organisation's advocacy practice:

*"They help straight away. They work with families, including petrol sniffers. I see them at the court circuit all the time".*

*"They always help. When we ask staff they don't say no, they do the work straight away."<sup>2</sup>*

NPYWC is not a legal service, however, and cannot offer advice or representation to its members. Dealing with initial inquiries about matters such as crimes compensation and motor vehicle accident claims is inevitable, and trying to refer them on is a time-consuming exercise. It puts extra pressure on staff whose normal, funded work already taxes their time and energy beyond what could be reasonably expected.

## **2.1 Family Law**

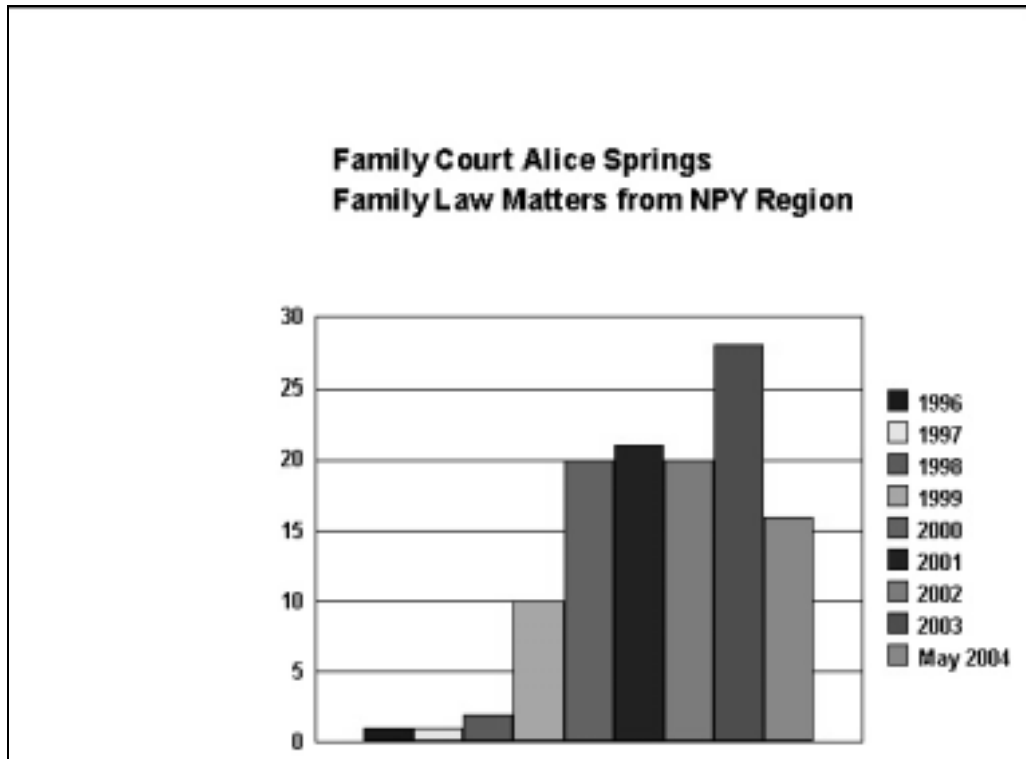
Family Law matters arise regularly in the course of the work of NPYWC's DV Service and its Child and Youth Program, and, again, staff do their best to refer clients for assistance with this difficult area. This is time-consuming and costly, due to the large distances between NPYWC staff based in Alice Springs and clients in the organisation's region.

The Family Court in Alice Springs deals with Family Law inquiries that arise in the SA and NT areas of the NPY region (see map Attachment 3) The Court's file research indicates a steady increase in cases where at least one party resided in an NPY member community at the time of intervention<sup>3</sup>.

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<sup>2</sup> NPYWC clients quoted in the report on the recent review of the organisation. Ngaanyatjarra Pitjantjatjara Yankunytjatjara Organisational Review, Kutjara Consultants et al., March 2004, p.44

<sup>3</sup> The increase in family law matters in the NPY region dealt with by the Family Court in Alice Springs mirrors the increase in the number of NPYWC's DV Service clients. The marked jump of cases in 1998/9 coincides with the commencement of Family Court Consultants attending the AP Lands Magistrates' Court circuit with staff of the DV Service.



Despite this increase there is minimal legal advice and representation available in the NPY region.

NPYWC's members in its four NT communities<sup>4</sup> are served in Family Law matters through the Central Australian Aboriginal Legal Service (CAALAS) and the NT Legal Aid Commission (NTLAC.) To our knowledge, neither agency visits these communities, except during the Magistrates' Court sittings at Mutitjulu Community. The CAALAS Family Lawyer assists if the matters come within that organisation's charter, but NPYWC is nevertheless called upon to locate and assist clients to a large extent.

English is not the first language of the vast majority of residents of the NPY region. Many do not know their legal rights. They lack both the language skills to seek advice over the phone and, in most cases, the means to travel to Alice Springs. In essence, a sole CAALAS Family Law practitioner must deal with the Aboriginal residents of Alice Springs and of communities across the CAALAS region<sup>5</sup>. It does

<sup>4</sup> Mutitjulu, Docker River, Imanpa and Finke.

<sup>5</sup> From the NT-SA border to the NT-WA border and east including the Barkly, and north-west including Lajamanu, but not Katherine (covered by the Katherine Regional Aboriginal Legal Aid Service – KRALAS).

not provide a service south of the NT-SA border.

NTLAC provides a limited service in relation to civil matters, for example child welfare, residence and access matters (on occasion calling on NPYWC to act as a local agent) NTLAC practitioners do not visit NPY communities but give advice over the phone as well as in person. NTLAC does not deal with matters such as crimes compensation and property settlements.

Women on the AP Lands in SA and the Ngaanyatjarra Lands in WA are in an abysmal situation where they are seriously disadvantaged by distance, State and Territory borders and inadequate services.

The Pitjantjatjara Council Legal Service, prior to its demise in 2002, provided limited assistance in Family Law matters, mainly through referrals, to NPYWC members living in AP Lands communities. It also provided assistance to NPYWC's Child and Youth Program in relation to care and protection orders.

Like CAALAS in Alice Springs, the Adelaide-based Aboriginal Legal Rights Movement (ALRM) and WA Aboriginal Legal Service (ALS) deal mainly with criminal matters and have at best one or two family lawyers to deal with their vast areas. They too have jurisdictional and self-imposed restrictions.

ALRM's Family Law service is restricted to Aboriginal residents of Adelaide and surrounding satellite towns. The ALS in WA also operates a very restricted Family Law practice that does not extend to the Ngaanyatjarra Lands.

NPYWC understands that ALRM does not provide any civil service on the AP Lands and may in fact not act where both parties are Aboriginal. The South Australian Women's Legal Service (SAWLS) does not deal with Family Law matters in the NPY region but provides some funding to NPYWC's Domestic Violence Service (see Attachment 2).

If matters are referred to private practitioners, NPYWC is almost inevitably called upon to act as a local agent but lacks the capacity to do so.

The Family Court, in response to submissions from NPYWC in 1999 for a court counselling service, now allows two Aboriginal Family Consultants to travel to the AP Lands during Magistrates' Court circuits. They must deal with all Aboriginal Family Law referrals in the Central NT area, including Alice Springs, as well as attend bush courts in the NT and on the AP Lands.

The lack of Family Law advice and representation has on occasion resulted in domestic violence victims being unable to retain custody or residence of their children. There have been instances where abusive family members have used children to prevent women from dealing with domestic violence. Children are exposed to abuse and neglect and family members are unable to intervene, other than through welfare agencies, which are also based a long way from communities.

It should be noted that some Family Violence Prevention Legal Units<sup>6</sup> (FVPLU), such as those at Port Augusta and Alice Springs, have previously provided limited Family Law advice and representation when the lawyer employed had the necessary expertise. As of early 2004 FVPLU are no longer permitted to deal with Family Law matters.

Anangu Pitjantjatjara (AP), the land-holding body for the AP Lands, has employed lawyers intermittently in the past couple of years; however their role has been mainly to provide legal advice and representation in relation to land issues and usually not in individual matters. Whilst AP has recently advertised for legal practitioners it is unclear what assistance with civil matters, if any, they will be able to give to NPYWC members in SA. The future role and structure of AP is to be examined during a review of the *Pitjantjatjara Land Rights Act*<sup>7</sup>.

The situation in WA is similar to that in SA. Women on the Ngaanyatjarra Lands are a very long way from any major town. The Ngaanyatjarra Council's lawyers are not in a position to deal with family matters between residents of the Lands. Members contact NPYWC looking for help and may be referred to someone in Kalgoorlie, often with great difficulty. NPYWC understands that WA Legal Aid and the ALS have little, if any, capacity to deal with these matters on the Ngaanyatjarra Lands.

## **2.2 Welfare matters**

NPYWC's DV Service and its Child and Youth Program each receives between four and five welfare matter referrals per month. These account for 15% to 20% respectively of the time each area of the organisation devotes to casework. This is a significant number considering that the total population of the NPY region is around 6000.

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<sup>6</sup> Funded to date by ATSIC/ATSIS.

<sup>7</sup> The Co-ordinator of government services on the AP Lands, Mr Bob Collins, in his interim report to the SA Government of 23rd April 2004, pointed out "fundamental structural problems in the current operation of the land council" and AP's limited mandate when it comes to matters other than land-holding issues. He recommended that the SA Government undertake a review of the *Pitjantjatjara Land Rights Act* 1981.

For example, a DV victim or young petrol sniffer may have a child who is neglected (frequently through malnourishment) or abused, and who eventually comes to the attention of the State welfare agency. Families may find themselves dealing with court applications for welfare orders, unrepresented and with little understanding of the process, and so will ask NPYWC for help.

In Alice Springs and the Central Australian region Family and Community Services is required to appoint a legal representative for parents when Child Protection intervenes. This enables parents to understand the proceedings and, if they wish, to challenge evidence presented to the court in support of the application. CAALAS is the agency provides this service to its region (as previously described), however it has very limited resources.

NPYWC currently works with families which are subject to welfare intervention to ensure that the authorities are aware of the family situation and cultural context and of what options might exist for the care of children. There is a need for parents to be legally represented so they can respond to the recommended actions of the welfare authorities.

The lack of legal representation for parents and carers also complicates NPYWC's work. In attempting to advocate, NPYWC has in the past become the target of family members who believe the child may be removed or given into the care of the in-laws.

*In a WA case in 2002, dealt with in Alice Springs, the very young child of an NPYWC member was the subject of a welfare application. NPYWC had previously assisted the mother of the baby. There was a dispute between the extended families on the mother and father's side. An NPYWC staff member, who had been asked for help in getting the families together, was accused (unjustly) of trying to take the baby away.*

Families in the NPY region also need legal advice in regard to Centrelink matters. They often have great difficulty merely in dealing with Centrelink unassisted, and would rarely if ever have the capacity to challenge an unsatisfactory decision.

NPYWC is not the organisation that should offer legal advice and representation to its members in Family Law and child welfare matters. Even if in the case of conflict one party was referred elsewhere, members would likely see NPYWC as taking sides. NPYWC delivers a variety of advocacy and human services to its members and their families, and should not be involved directly in acting for them in legal



matters. Further reasons are detailed at 4.3 below.

There is a considerable demand that is not able to be met by the services that are available, and despite NPYWC's best efforts to assist, it cannot and should not, breach the gap.

### **2.3 Personal and Criminal Injuries Claims**

NPYWC believes that many legitimate claims for personal and criminal injury compensation are simply not pursued do to the scarcity of legal services available.

Further, members may not be aware of their right to make a claim or Limitations statutes. As well as lacking the means to obtain legal advice, they are frequently difficult to contact (see Attachment 1). Services located outside the NPY region do not have local agents. As a result claims are either not made, or may lapse.

As noted above, the personal injuries claims of members living in the AP Lands i.e. were until 2002 dealt with by the Pitjantjatjara Council Legal Service. NPYWC understands that personal injury and work health matters accounted for 10 - 25% of the total volume of work. Since it ceased operating NPYWC has referred its members to ALRM in South Australia, CAALAS in Alice Springs and the ALS in WA.

As is the case with Family Law, each legal aid service allocates fewer (of its scarce) resources to civil matters than to criminal, and is in the main limited to its immediate urban and some satellite communities.

The same situation exists in regard to crimes compensation matters. These often arise out of spousal assaults. In the NT clients can be referred to CAALAS or the Central Australian Women's Legal Service (CAWLS) in Alice Springs. In SA and WA it is more difficult. Even where NPYWC can refer to WA Legal Aid or to a private firm (rare), the DV Service staff end up collecting information, finding the client, taking numerous calls about the progress of the matter and so on. They simply do not have the resources to provide this assistance any longer. There are no doubt many instances, particularly in WA and SA, where claims are either not made or are not pursued.

In regard to more complex civil actions, there is little assistance available.

*The acting NPYWC Co-ordinator in 2002 made considerable efforts to refer a possible medical negligence claim for a member on the Ngaanyatjarra Lands. The ALS would not take it on because an Aboriginal health service was the potential respondent. WA Legal Aid agreed to look at it but some months later there had been no response as to progress, and the member and her sister continued to approach NPYWC about the matter. The Acting Co-ordinator handed the matter over to the Co-ordinator on her return from leave, but nothing more was heard.*

## **2.5 Human Rights and Public Interest Matters**

NPYWC members expect the organisation to advocate on their behalf when human rights cases are identified, and in matters of public interest. A very significant matter in which NPYWC was involved culminated, after ten years, in an application for a Human Rights and Equal Opportunity Commission (HREOC) Special Measures certificate in regard to alcohol sales.

*In 1988 the licensee of Curtin Springs, a roadhouse on the Lasseter Highway en route to the Uluru Kata Tjuta National Park, began to sell large amounts of alcohol to Aboriginal people, resulting in serious detriment to NPY communities in the area.*

*After a series of unsuccessful complaints and applications for licence restrictions to the NT Liquor Commission, NPYWC organised 300 women members to march down the highway in protest against the irresponsible sale of alcohol. However, the license was renewed and the Liquor Act was amended to abolish annual licence reviews, which had provided some opportunity for communities to put objections to the Liquor Commission.*

*In 1991 the NT Supreme Court limited takeaway alcohol sales to six cans per person per day, regardless of how much someone had already been drinking at the roadhouse that day and whether they were taking the grog back to supposedly dry communities. Excessive drinking continued at the Curtin Springs Roadhouse.*

*After numerous deaths and injuries NPYWC applied for a Special Measures Certificate, which protects licensees from charges of discrimination when restricting alcohol sales to Aboriginal people. The Race Discrimination Commissioner in 1997 negotiated an agreement for trial restrictions between the licensee and NPYWC that resulted in a marked decrease in alcohol-related incidents. The licensee eventually agreed to the voluntary cessation of alcohol sales to Aboriginal people from NPY communities, which is covered by a Special Measures Certificate.*

NPYWC recently took a complaint to the HREOC in regard to two Yarnangu men from the Ngaanyatjarra Lands who have severe disabilities. Some pro bono assistance was provided, and a local legal practitioner was engaged short-term to prepare the application.

*In late 2003 NPYWC attended a HREOC conciliation hearing with representatives of the NT and WA Governments and the families of two young men who have been held in a psychiatric hospital in Perth for the past 10 years. NPYWC had lodged the complaint with HREOC regarding the impasse over arranging and funding the re-location of the men to supported care in Alice Springs, allowing them to be closer to their families. Despite NPYWC's efforts to enlist the support of numerous agencies it had proven difficult to find a way through the bureaucratic maze.*

*An agreement has now been executed by NPYWC on behalf of the families, and the NT and WA Governments. There is in-principle agreement to re-location, provision for independent assessments and regular visits home for the two men as well as regular progress reports to their respective families.*

In May-June 2003, using a grant from the Aboriginal Education and Rehabilitation Foundation (AERF), NPYWC was separately represented by Counsel at an SA Coronial inquest into the deaths of three petrol sniffers from the AP Lands.

While the HREOC application was assisted (in part at least) by pro bono work and the inquest by discrete funding, both involved considerable contributions by staff in addition to their usual work.

### **3. NPYWC's Lack of Access to Legal Advice and Representation**

NPYWC members are further disadvantaged because their representative organisation lacks the resources to assist them in law and justice matters. It cannot afford to employ a lawyer or to purchase external legal advice.<sup>8</sup>

#### **3.1 Domestic Violence Service**

NPYWC's Domestic Violence Service, *Atunypa Wiru Minyma Uwankaraku* (Good Protection for All Women) is an advocacy and case management service that does not have direct access to legal advice and services for its clients.

Now in its tenth year, the award-winning service currently employs only two workers, a Manager/case worker and a case worker. In return for a modest \$200,580 per annum<sup>9</sup> it has delivered extremely effective assistance to domestic violence

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<sup>8</sup> The recent organisational review of NPYWC has confirmed that funding of NPYWC is inadequate across the board (ibid, p. 104-119) and recommends NPYWC be funded to purchase legal advice (recommendation no. 38) or to employ a lawyer. While the current Co-ordinator happens to be a legal practitioner there is no guarantee that any successor will have legal qualifications.

<sup>9</sup> Finally about to increase with funding from ATIS Port Augusta: \$59,000 in 04/05 and hopefully

victims and their children throughout the remote cross-border region. It provides practical help to women who experience domestic violence, sexual assault and other violent crimes and supports clients through the legal process (see Attachment 2).

The NPYWC Executive in February this year resolved that the DV Service should cease work on the Ngaanyatjarra Lands in WA until an adequate level of funding could be negotiated with the WA Government. Funding negotiations that commenced in August 2003 were not settled at time of writing, and their conduct and lack of progress resulted in the lodgement by NPYWC of a formal complaint to the WA Premier in June 2004.

Domestic violence is pervasive in NPY member communities, as police at the most senior levels, NPYWC members and staff and management of the health services working in the region would attest. It is estimated that one in four of NPYWC's approximately 3000 members are, or have been, clients of its Domestic Violence Service, which assists more than 500 women each year. NPYWC members are disadvantaged by extremely poor access to the law enforcement services that most other Australians take for granted.

The two domestic violence services in Alice Springs are not in a position to provide assist women from the NPY Lands unless they reside in Alice Springs. The Domestic Violence Legal Service (DVLS), part of CAWLS, has from time to time visited Muṯitjulu with NPYWC; however it does not currently do so. DVLS has one lawyer for the entire Central Australian region and largely sees Alice Springs residents<sup>10</sup>. The Central Australian Family Legal Unit (CAAFU) is funded to serve Alice Springs, Ntaria (Hermannsburg), Papunya, Yuendumu and Tennant Creek, but not the NPY communities. The Port Augusta Family Violence Prevention Legal Unit does not extend its service to the AP Lands.

NPYWC's DV Service is barely coping with its large case load, as well as numerous child abuse referrals. It is supposed to operate on a staff-to-client ratio of 1:9. The actual ratio is approximately 1:22.

More than half of the duties of the DV Service's Manager involve casework, including regular attendance at the AP Lands Magistrates Court circuit. This is in addition to policy work, lobbying for increased policing, negotiating protocols with police and clinics, responding to requests for police and health worker training, preparing

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with a larger injection from the WA Government if protracted negotiations are concluded.

<sup>10</sup> Although media report in June 04 indicate an increase in funding from the NT Government.

numerous submissions, chairing the NT Chief Minister's Domestic and Aboriginal Family Violence Advisory Council and providing assistance to prosecutors in two States and the NT.

NPYWC's DV Service frequently receives child abuse notifications (as does its Child and Youth Program). Staff spend a lot of time advocating for and assisting families to deal with government agencies with the statutory responsibility to protect children. Not surprisingly, a recent organisational review of NPYWC by its funding bodies found that the Service is under-funded.<sup>11</sup>

In NPYWC's view this description also applies to the domestic violence crisis troubling the whole cross-border region. An important step towards redressing this crisis would be an innovative whole-of-government approach to funding successful and experienced services such as *Aṭunypa Wiru Minyma Uwankaraku*.

### **3.2 Advocacy**

NPYWC campaigns on and is regularly consulted about law and justice issues affecting its members. It successfully sought the first SA coronial inquest to be held into the deaths of petrol sniffers from the AP Lands in 2002 (mentioned above), at which NPYWC members and staff gave evidence. It has made submissions to inquiries such as the NT Aboriginal Customary Law Inquiry "Towards Mutual Benefit" and the WA Gordon Inquiry. Following the latter, NPYWC helped to develop the service delivery model for multi-jurisdictional police stations in the cross-border region. It will be represented at a forthcoming inquest into six deaths on the AP Lands and has been invited to present a paper on the use of coronial inquests as a strategy for social change to the Australasian Coroners' Conference in September 2004.

NPYWC is an initiator of and participant in the Cross-Border Justice Project that aims to bring efficient and effective justice services to the region through increased co-operation between the three jurisdictions. It convenes regular cross-border round-table meetings with police and justice personnel to lobby for improved responses to domestic violence and child abuse.

NPYWC unfortunately sometimes misses opportunities to contribute to relevant

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<sup>11</sup> "Given the identified need for this program - at the end of the day it is recognised that NPYWC's DV program saves women's lives, the incidence of domestic violence in the area is well documented, and the recent [Western Australian] Gordon Inquiry has highlighted the State's present inability to carry out its charter in this area - the funding situation of this program is anomalous". Ibid, p.89

consultations and inquiries because staff are over-extended and the organisation is under-resourced. An in-house legal/policy advice position would enable the organisation to prepare well-researched and timely submissions to inquiries.

### **3.3 The Impact of Inadequate Funding**

In 2003/4 NPYWC received around \$ 3.3 million in public funds to run the programs listed in Attachment 1. Many are cross-border projects, and are funded from various sources, including the Commonwealth, WA, SA, NT and ATSIIS Kalgoorlie and Port Augusta.

NPYWC does not receive recurrent core operational funding, including for senior management and administrative positions. The unremitting pressure of constantly having to apply for, report on and acquit what should be ongoing operational funding<sup>12</sup>, puts enormous pressure on the organisation, including its governance capacity, and arguably exposes it to risk, particularly in view of its many and complex funding contracts.

The services that NPYWC staff deliver are particular to remote areas and often involve individuals, families and communities with very high needs. The advocacy that staff provide for members and clients covers complex and difficult issues, including competing family interests.

The demise of the Pitjantjatjara Council Legal Service in 2002 meant that NPYWC lost reasonable access to legal advice, for example a quick assessment of a funding agreement, perusal or a lease, employment law advice and timely and straightforward advice to clients.

NPYWC urgently needs access to legal advice and representation for the following reasons and purposes:

#### **3.3.1 The number and complexity of funding agreements**

NPYWC's funding situation is very complicated. The organisation has more than sixty internal budget codes; several programs are funded from more than one source. Commonwealth funding alone comes from a number of areas, including the Department of Health and Ageing, Family and Community Services and the SAAP program, but often through state branch offices of Commonwealth Departments or other agencies, for example, SA Women's Legal Service (DV funding). Recent examples include:

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<sup>12</sup> As is granted, for example, to primary health care services.

- *The Commonwealth Department of Family and Community Services in 2002 provided drafts of funding agreements for brokerage for NPYWC's Respite for Carers Program and annual funding for its Disability Advocacy Program. Contracts were drafted by a private firm, no doubt at great expense (forty pages plus for \$11,000 in funding for respite brokerage.) Much of the content of the agreement was convoluted and irrelevant. NPYWC was asked to comment within a very brief period. Had there been no legal practitioner (the then Acting Co-ordinator) on staff, this would have been very difficult. Eventually these agreements were abandoned because of their unsuitability and the process had to re-commence. The same Department has, in June 2004, sought prior compliance on the terms of an equally convoluted and unsuitable contract concurrent with the lodgement of a funding submission. NPYWC has refused, but may lose out as a result of being frank about its objections.*
- *Other agreements that required close scrutiny included those with Commonwealth Dept. of Health and Ageing, under the now abandoned 'Integrated Funding Agreement', consisting of nine schedules covering different projects, the only 'integration' being that all were renewable at the same time. The Acting Co-ordinator spent a considerable amount of time dealing with variations, performance indicators, etc. In the two intervening years between her departure as Acting Co-ordinator and her renewed employment as Co-ordinator it was left to staff without legal training and without access to legal advice to conduct similarly drawn-out negotiations of these agreements in order to resolve numerous errors and inaccuracies in the department's draft contracts.*

When delivering his findings on the 2002 Coronial Inquest Mr Chivell noted:

"Many of the people in the field complained of the remoteness of bureaucracies, and their incessant demands for written reports on performance outcomes and so forth. It would be better if the bureaucracies appointed trusted representatives who could monitor and evaluate projects and programmes for themselves, rather than insisting that dedicated professionals in the field continue to spend valuable time and resources preparing reports in order to ensure continued funding. It would also be preferable, for a variety of reasons, if programmes are funded on a triennial basis, as recommended by the Royal Commission into Aboriginal Deaths in Custody."

### **3.3.2 Human Resource and Occupational Health and Safety Matters**

NPYWC is not funded for a Human Resources Manager's position, and funding bodies have indicated that such funding is unlikely to be forthcoming in the near future.

The organisation often engages consultants, short-term youth, arts and other workers and a number of casual drivers and temporary carers. It is essential that each contractual arrangement is carefully drafted and scrutinised, particularly in relation to cover for worker's compensation, public liability and professional indemnity insurance. While it is sometimes possible to use precedents, individual circumstance may differ, and the issue of insurance is one that requires attention in every instance.

In August 2001 a volunteer driver rolled a vehicle and was seriously injured. NPYWC in that case required advice as to its responsibility and cover, if any. NPYWC has become too large an organisation to deal with complex service delivery requirements and organisational matters without either in-house counsel or funding for external legal advice.

### **3.3.3 Service Delivery Matters**

The nature of NPYWC's work means that staff often need advice in relation to matters such as child welfare, e.g. who is the client when the child of a woman who has sought assistance on a domestic violence or child nutrition matter appears to have been subjected to neglect or sexual abuse and a welfare agency has intervened? Staff need to be able to get advice quickly in these circumstances.

They also often need to be able to advocate to welfare agencies to ensure that the woman, family, or child for whom NPYWC cannot advocate, is represented. Staff frequently ask for legal advice with respect to the case management of clients who, for example, have ABI<sup>13</sup> and a history of challenging behaviour that may result in, among other things, their coming into contact with the criminal justice system. They require advice about professional rights and responsibilities such as client confidentiality issues, professional boundaries when working with people with disabilities, the rights of people with disabilities, and how those rights may vary depending on the disability (psychiatric/ intellectual/ physical, for example).

NPYWC has this year opted to trial the use of an industrial relations

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<sup>13</sup> Acquired Brain Injury, typically as a result of petrol sniffing



consultant on a fee-for-service basis as an alternative to paying annual membership of the local Chamber of Industry and Commerce. There is no dedicated funding for either. While the current Co-ordinator is a legal practitioner who can deal with straightforward employment law matters, this is unlikely to always be the case. The preference would be for an in-house lawyer, or at least a Human Resources Manager position to ensure the ongoing availability of expertise on employment matters.

### **3.3.4 Legal Advice to the Executive**

NPYWC's Executive is elected annually. Of the eleven members, few would be literate in English, and none would be able to read unaided the NPYWC Constitution, funding contracts or other complex documentation, for example, explanations of Executive, or Directors' duties. It is essential that Executive members have access to a legal practitioner who can summarise documents and convey their meaning with clarity.

Similarly, it is often necessary to explain complex matters at general meetings. The assistance of an interpreter is not sufficient when the interpreter herself may not be familiar with the terms of the documents or the concepts under discussion (i.e., the processes of government, the functions or procedures of a court or tribunal).

The recent organisational review of NPYWC recommends that the organisation receive funding for legal services brokerage. NPYWC, however, believes an in-house lawyer would be more economical and more efficient. Staff and Executive run the risk of not adhering to their various obligations. Many Executive members have expressed the desire for this organisation to have its own, preferably female, lawyer. The women would undoubtedly be more comfortable dealing with a staff lawyer with whom they could build a relationship of trust.

Government departments that provide comparable services do not do so without access to legal advice. For the cost of a wage, an in-house legal practitioner could greatly assist both staff and Executive members.

## **4. Other factors that limit the access of NPYWC members to law and justice**

### **4.1 Lack of co-ordination and planning**

NPYWC's unique status as a cross-border organisation is a fundamental tenet of its members, who quite rightly regard state and other administrative borders as arbitrary and meaningless. It is often, however, a barrier to securing funding from government agencies that appear unable to think, plan or act beyond these borders.

Efforts to address this problem in the NPY region have not met with great success. For example, there is little evidence of progress in the COAG trial in the AP Lands.<sup>14</sup>

The recent organisational review of NPYWC found that the organisation suffered from the lack of any collective strategy by the States and the Commonwealth.<sup>15</sup>

ATSIC/ATSIS is a case study of NPYWC falling between the gaps and of NPYWC members, despite their undisputed need, missing out on Commonwealth funding intended to deal with domestic violence in indigenous communities and administered by this agency.<sup>16</sup>

*Two of Australia's thirteen ATSI-funded Family Violence Prevention Legal Services (FVPLS) are located near the NPY region, however they are not in a position to serve NPYWC clients, as noted above. The Port Augusta-based FVPLS is simply too far away to be of assistance to NPYWC members on the AP Lands.*

*The Director of the Family Violence Prevention Section of ATSI in Canberra advised earlier this year that there was no money for the expansion of the FVPLS program. She suggested approaching the Alice Springs ATSI office about obtaining Family Violence Prevention funding handled at the regional level, in particular under the Regional Council Family Violence Awareness Action Plan.*

*ATSI Alice Springs' response was that they were yet to develop a regional family violence awareness action plan and that, in any event, funding would be for "awareness raising" only. NPYWC - already acutely aware of domestic violence and its impact on members' lives - needs recurrent project funding covering case worker's wages and associated vehicle, travel and administrative costs.*

*The Federal budget of May 2004 contains an allocation for the funding of thirteen additional FVPLUs in rural/remote areas. NPYWC is considering applying for some of this funding, provided it can negotiate for the service model to be less rigid than at present.*

## 4.2 Law Enforcement and Child Protection Services

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<sup>14</sup> In his interim report to the SA Department of Premier and Cabinet, AP Lands Co-ordinator, Bob Collins, has referred to this trial as being "in the worst position of any COAG trial in Australia" and "completely stalled". He considered the situation "completely unacceptable in view of the great need that exists in the region and must be redressed immediately".

<sup>15</sup> Ibid. p.133

<sup>16</sup> No decision has yet been made (28<sup>th</sup> June) on NPYWC's 2004/05 funding submission to ATSI Kalgoorlie for a significant increase in staff and funding for the DV Service. ATSI Port Augusta, however, has advised that it has allocated \$59,000 to the DV Service for case work on the AP Lands. This will be the first time NPYWC has received DV funding from ATSI (ATSI.) There has been no response to a submission to ATSI Alice Springs.

Generally poor policing of the NPY region means that serious crime, particularly against women and children, goes unreported and unsanctioned. The lack of community safety is a fundamental violation of basic human rights. It is also a government responsibility about which NPYWC has lobbied for many years.

There is no police station between Laverton in WA and Yulara in the NT, a distance of 900km, and none for another 500 km between Yulara and Marla in SA. A new police station is, however, under construction at Warburton in WA and the Kintore (NT) station has been operating since January this year, staffed by NT and WA police<sup>17</sup>. One is planned for Warakurna in the next year or so. NPYWC members were told in 2003 that a bi-jurisdictional police station at the Docker River Community (NT) was still a long way off.<sup>18</sup>

As a result of the sparse service, many crimes go unreported. Response times, even when serious crimes have been committed, are extremely poor, as police acknowledge.<sup>19</sup> By the time police arrive the suspect has often fled the scene, evidence is hard to find and his family has had ample opportunity to persuade potential witnesses not to come forward. This frequently means that women and children in the cross-border region are assaulted with impunity.

One way of trying to deal with the security crisis in the NPY region has been the appointment of Aboriginal Community Police Officers (ACPO) (or community constables, or 'police aides'), mostly without adequate back-up from sworn officers. NPYWC members insist this is a woefully inadequate response to the lack of "proper," (sworn) police.

The effectiveness of ACPO or aides is frequently undermined by conflict of interest due to their obligations to members of their extended families, and because their dealings with community members are very often constrained by avoidance relationships that proscribe direct contact with a number of individuals.

Current NPYWC Executive member, Mrs. Jorna Newberry, Warakurna (WA) gave an

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<sup>17</sup> Officially opened by the NPYWC Chairwoman and NT Police Minister in April. Kintore is not in the NPY region, but the station does serve Kiwirrkurra, on the Ngaanyatjarra Lands.

<sup>18</sup> Warakurna is more than one hour's drive from Docker River. So is the police station located at Yulara. Members insist the latter does not assist in improving the appalling level of community safety at Docker River. Thus a permanent police presence in Warakurna, while welcome, is not expected to have much effect on the situation at Docker River.

<sup>19</sup> Bob Collins reported to the SA Department of Premier and Cabinet on his consultation with SAPOL officers: "I was told that response times to incidents of serious crime such as serious assault and murder had on occasions in the past been unacceptably long".

eloquent explanation in 2002:

*“Perhaps that Community Constable is umari, which is a mother-in-law; or a wapatju which is a father-in-law to [the victim or the suspect]; or malurpa, who are people who have a law separation from him, or who are drawn from his in-laws who are the same generation group as a relation to him who is deceased, and for whom they organised that person’s funeral; or any one of many types of relations connected to these other relations.”*

*“Because those problems [with drugs, alcohol abuse and petrol sniffing] are right inside our families it is hard for us to deal with them. This is why we need the help of outside police. Docker River needs a permanent police station,”* NPYWC (then) Executive member, Mrs. Martha Protty, Docker River (NT).

NT Police told a cross-border meeting hosted by NPYWC in May 2003 that they could not fill a vacant ACPO position at Docker River because the *community* had repeatedly failed to identify a suitable candidate. Former NPYWC Executive member and current staff member Mrs. Janet Inyika replied:

*“You say that the problem is that you can’t get an Aboriginal police person. What we want is to get a non-indigenous person because they are stronger and can give good help.”*

ACPO do not have the same level of training as do sworn police, they often lack resources and, because of low numbers of sworn police, sufficient back-up. NPYWC members have similar reservations about what are, in their view, infrequent patrols by officers from the few and far-flung permanent police stations.

The SA Coroner, Mr. Chivell, in delivering his recommendations following the petrol-sniffing inquest in September 2002, found the community constable scheme to be a worthwhile initiative, but with qualifications:

*“[It] could be improved with further training of community constables. However the scheme has significant limitations because of cultural constraints, and the fact that the Community Constables are members of very small communities”.<sup>20</sup>*

NPYWC supported the Coroner’s call for ongoing training, support and supervision of community police by sworn officers, which would require a permanent police presence on the AP Lands. Until very recently, there has been very little action on the Coroner’s recommendations.<sup>21</sup> Collins has identified the lack of community

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<sup>20</sup> Coronial Inquest into the Deaths of Kunmanara Hunt, Ken and Thompson, Report by the South Australian Coroner, September 2002

<sup>21</sup> Aboriginal and Torres Strait Islander Social Justice Commissioner: Social Justice Report 2003, p. 107-154

safety as a priority for action and echoed the Coroner's criticism regarding the reliance on community police without backup by sworn officers. The announcement of \$1.6 million to be spent on extra police resources on the AP Lands over the next 12 months is a welcome start. It is hoped that permanent sworn police officers will at some stage be posted to all major AP communities.

The increased police presence in the region appears likely result in an increased number of Magistrates' Court circuits and create an even higher demand for legal services.

The interim recommendations of Collins, of the Gordon Inquiry and of the SA Coroner all prioritise improved law enforcement and child protection services as an indispensable precondition of justice and positive development for indigenous people. Some solutions, such as a permanent police presence in NPY communities and a cross-border approach to law enforcement and justice, seem obvious enough and are delivering results where they are tried. The first bi-jurisdictional station in Kintore (near the NT/WA border and outside the NPY region) has reportedly reduced the rates of domestic violence and other crimes within a few months of its opening. The political impetus for such solutions, however, appears to need constant attention to ensure it does not wane.

Unless NPYWC members are able to report violence, whether domestic or other, to police officers who will deal with their calls promptly, members will continue not only to suffer serious assaults, and to face great barriers in seeking redress through the legal system.

#### **4.3 Safety of NPYWC Staff**

The security crisis in the NPY region is a further constraint on NPYWC's ability to assist its members in law and justice matters, particularly clients of its Domestic Violence Service and its Child and Youth Program.

*Until two years ago, on occasions when urgent orders have been granted and executed under family law, NPYWC has often been the only agency that could assist (very reluctantly and infrequently) with transport of the children. Following a number of serious threats to Domestic Violence Service and other staff and to NPYWC property in 2002, the organisation has ceased to offer such assistance. Police and state welfare agencies are also reluctant to enforce Family Court orders because they fear putting at risk their relationships with the community and being seen as perpetuating the 'stolen generation' practices.*

There have been numerous threats against NPYWC staff and members, in particular

DV staff. This necessitates DV Service workers being based in Alice Springs and generally not in member communities, at least not those without a permanent police presence. It is extremely difficult to find Anangu women to do DV work, in part at least because of likely threats from the husbands and other male family members of victims<sup>22</sup>. The ineffectual level of policing in the majority of NPY communities means that NPYWC staff, as well as members, are often at an unacceptably high risk of abuse or assault from violent men.

#### **4.4 Current orthodoxies**

The lack of access to law and justice for NPYWC members generally, and of their representative organisation in particular, are underpinned by current orthodoxies.

One of the more unhelpful notions, frequently confused with "self-determination", is the prevalent belief that indigenous Australians are somehow more capable of and more inclined towards running their own services than other Australians. Non-indigenous Australians, meanwhile, take it for granted that these services will reach them with ease. Tasks that would drive well educated, comfortably-off city dwellers to distraction are somehow thought to be within the capabilities of indigenous people with extremely limited education and numerous sources of conflict.

When this attitude informs policy the results may be that Indigenous communities are expected not only to deliver their own essential services, but also to take on some of the statutory responsibilities of the state, such as law enforcement, child protection and the administration of justice.

This approach can lead to unsatisfactory situations including:

- Programs and proposals ranging from night patrols in almost totally dysfunctional communities<sup>23</sup> to demands that Australian law allow sex with "promised wives" under the age of 16;
- An expectation that "the community" will somehow come up with innovative ways to, for example, get rid of drug traffickers or change entrenched attitudes to violence;

Rhetoric about "culturally appropriate" service delivery harnessing the "authority of elders" in order to prevent "family violence" may serve to mask a system of

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<sup>22</sup> This is one area where the organisation review of NPYWC did not recommend a 'malparara' or partnership arrangement between Anangu and non-Anangu workers.

<sup>23</sup> The existence of an effective night patrol is usually an indicator of a more or less functional community. Night patrols are not a realistic prescription for communities on the brink of collapse.

organised neglect that tolerates massive human rights abuses.

### **5. How could NPYWC members' access to law and justice be improved?**

Overcoming the disadvantage of NPYWC members with respect to access to law and justice would require all levels of government to collaborate effectively. The unique cross-border nature of NPYWC's membership and organisational structure responds to the social, cultural, spiritual and political realities of the NPY region. It is imperative that all levels of government should jointly develop and implement the following measures in consultation with the indigenous people of the NPY region and their representative organisations:

- The Commonwealth should assist SA, WA and the NT to implement a cross-border justice system prioritising improved law enforcement and child protection services throughout the NPY region.
- The Commonwealth should collaborate with SA, WA and the NT to adequately resource existing or new legal services to meet the vast unmet need for effective legal advice and representation for civil as well as criminal matters in the NPY region.
- The Commonwealth should collaborate with SA, WA and the NT to fund NPYWC to employ an in-house lawyer/policy adviser (or to purchase advice.)
- The Commonwealth should collaborate with SA, WA and the NT to adequately fund NPYWC's DV Service to provide effective advocacy, intervention, ongoing case management support and community education across the NPY region.<sup>24</sup>

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<sup>24</sup> A possible source may be the "New Initiatives in Indigenous Australia", contained in the 2004/05 federal budget, foreshadowing an expansion of the Family Violence Prevention Legal Services - \$22.7 million over 4 years - as well as additional support for state/territory and local projects that address Indigenous family violence - \$37.3 million over 4 years.

- The Commonwealth should fund and establish a legal service, with at least two legal practitioners, a para-legal and an administrative officer, and provision for interpreter services, to deal with civil matters on behalf of women in the NPY region, and based in Alice Springs.<sup>25</sup> While such a service would admittedly be based some distance from the clients' communities, a capacity for staff to travel would address a significant number of the current unmet needs, and recruitment would be less of an obstacle than in, say, Umuwa, SA or Warburton, WA. While travel is difficult for many Aboriginal people, Alice Springs is the regional centre and many do visit from time to time. This approach would be relatively cost-effective, and would sit well with current attempts to provide cross-border policing and justice services, with Commonwealth efforts to approach issues such as inhalant abuse on a cross-border basis, and, not least, with NPYWC's work in the region.

## 6. Summary

This submission outlines the double disadvantage that NPYWC members and their families experience with respect to access to law and justice.

At an individual level, they are disadvantaged by very poor access to legal advice and representation regarding civil law matters, in particular family law, welfare, personal and criminal injuries compensation and human rights abuses.

They fall between the gaps because legal services closest to the NPY region are restricted in their service delivery. Existing legal services lack the resources and the local knowledge and presence necessary to provide satisfactory advice and representation to people in the NPY region.

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<sup>25</sup> This is not to say that services are adequate for men in the region. Whilst in criminal matters defendants are generally well-served, this is in large part due to the dedication of the Aboriginal Legal Services staff, who often labour under severe budgetary constraints to deal with inordinate numbers of clients. We would also see a need for an increased capacity to deal with civil and criminal matters that affect men in the region. It is unclear what will be the future of Aboriginal Legal Services following the dissolution of ATSI and the introduction of the tendering system. What is needed, however, is an increase in legal services to meet the needs of NPYWC members that the existing agencies cannot, because they are often over-extended, or not funded to deal with the NPYWC region, or do not have a charter to do so.



NPYWC members are also disadvantaged at a collective level because their representative organisation (and major deliverer of advocacy, human and cultural services), is not adequately funded to assist them in law and justice matters.

NPYWC cannot afford the legal advice that is required to continue to provide effective individual and systemic advocacy in relation to human rights and law and justice issues and government policy. Lack of access to organisational legal advice exposes NPYWC, its community-based Executive and its staff to considerable risk.

Other factors limiting the access of NPYWC members to law and justice include the absence of a whole-of-government approach to the planning, co-ordination and funding of services, grossly inadequate policing and the consequent lack of safety for community members, especially women and children, and NPYWC staff. There exists an ideological climate that is detrimental to the well-being of indigenous women and children in particular.

NPYWC believes these barriers cannot be overcome without a whole-of-government approach as outlined above and that rare animal- the political will to address the overwhelming law and justice crisis in the region.

NPY Women's Council  
Vicki Gillick  
Co-ordinator

## **Profile of NPYWC's activities and membership**

NPYWC was established in 1980 and separately incorporated in 1994. The push for a separate women's forum came about during the South Australian Pitjantjatjara Land Rights struggle of the late 1970s. During consultations over land rights many women felt that their views were not being taken into account, so they established their own organisation. Its region covers 350,000 square kilometres of the remote tri-State cross-border area of Western Australia, South Australia and the Northern Territory.

Anangu and Yarnangu (Aboriginal people) living on the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara lands (Western Desert language region) share strong cultural and family affiliations and, quite rightly, regard state and territory borders as arbitrary and meaningless. Most do not read or write English as their first language, do not own private vehicles and do not know their rights. It is not uncommon that the same member resides in a number of communities across the NPY region over a period of time.

What began as an advocacy organisation is now also a major provider of human services in the region, in essence working to address the needs that clinical health services cannot, and that government agencies do not directly provide in this remote area.

*NPY Women's Council Projects: total budget around \$3.3M per annum (2003/04):*

Aged Care Support Project (on AP Lands SA only): SA DHS HACC program: including Tjilpi Pampa (Old People's) Festival;  
Aged Advocacy Project: Tjilpi Pampa Tjutaku Wangkantjaki (Talking up for Old People to distinguish from above): Cth. Health & Ageing;  
Central Australian Cross-Border Carer Respite Service: Cth. Health & Ageing;  
Disability Advocacy Project: Cth. F&CS;  
Ngaanyatjarra Disability Service: Disability Services Commission WA;  
Tri-state Disability Service: tri-state funding agreement, for case management across region;  
Ngangkari (Traditional Healers) Project: SA DHS  
Domestic Violence Service: Cth. Funding, through SA DHS;

Child (Nutrition) and Youth Development Program: Cth. Health & Ageing, through OATSIH and Cth. F&CS Re-connect program;  
'Need of Ageing Carers ' three-month current research project into the needs of older people caring for those with disabilities, including ABI: Cth. F&CS;  
Disability Employment Program Pilot: Cth F&CS (pending appointment of staff);  
Emergency Relief Program: Cth. F&CS;  
The Basket (Tjanpi) Project: providing materials to and purchasing baskets from more than 100 women to sell on;  
Annual Law and Culture meeting.  
Emotional and Social Well-being Project: Cth Health & Ageing, through OATSIH

*Other:*

Kungka Career conference aimed at presenting education and work options to girls and young women; now every two years.  
Ara Irititja archival project

*Publications:*

NPY Women's Council 10-Year Book, NPYWC, 1990.  
"Looking After Children Grandmothers' Way", NPYWC, 1991.  
"They Might Have to Drag Me Like a Bullock," on the care needs of the aged, NPYWC, 1995.  
Women's Centres Book – "Nganana Rawangka Alatji Warkaripai: We Have Been Doing This Work for a Long Time", NPYWC, 1999.  
"Tjungu Nyinapai/Being Together: Our work with the frail aged and disabled people and their families." NPY Women's Council Video, internal production, 2000  
"Minymaku Way" SBS Film Production documenting the work of NPYWC, 2001

"Ngangkari Work – Anangu Way: traditional healers of Central Australia," NPYWC publication documenting the work and life stories of various ngangkari (traditional healers), 2003

*Awards:*

"National Violence Prevention Award", NPYWC Domestic Violence Service 1994 & 1995;  
"Excellence in Health Promotion" for the Nutrition Project, 1997.

Awarded by Living Health SA;  
“Best Practice Award” for the Nutrition Project, 1997. Awarded by OATSIH;  
“An Outstanding Contribution to Australian Culture” for the Kungka Career Conference, 1999. Awarded by the Centre for Australian Cultural Studies Canberra;  
Human Rights and Equal Opportunity Commission Award to NPY Women’s Council in the Community Sector, 2000;  
Special Mention for the Women’s Centres Book – “Nganana Rawangka Alatji Warkaripai: We Have Been Doing This Work for a Long Time”, 2000. Awarded by the Centre for Australian Cultural Studies Canberra;  
The Australian Council for Children and Parenting (ACCAP) National Award for the Prevention of Child Abuse in Regional and Remote Areas, Melbourne, Nov. 2001, jointly to NPYWC Domestic Violence Service and Nutrition Project.

*Notable Achievements and activities:*

Negotiations with the Human Rights and Equal Opportunity Commission and Curtin Springs Roadhouse to successfully obtain a Special Measures Certificate to prohibit the sale of alcohol, 1997; Certificate current.

Co-ordination of 330 Aboriginal women to perform in the Sydney 2000 Olympics Opening Ceremony;

Development of innovative community development models of service delivery such as the Petrol Sniffing Support Project (now Young People’s Project);

National Travelling Exhibition of Ngaanyatjarra Manguri Women’s Weaving (baskets); recently purchased by the Araluen Centre in Alice Springs;

Extensive participation in SA Coronial inquest 2002, into the deaths of three petrol sniffers from the AP Lands, including separate legal representation for NPYWC, submissions, assistance to Coroner’s office in relation to expert and other witnesses, dissemination of information by radio during inquiry at Umuwa, May-June 2002, and afterwards by translation and distribution of findings; financial assistance by way of grant from Alcohol Education and Rehabilitation Foundation;

Active participation in the Cross-Border Reference Group on Volatile Substance Misuse; co-ordinated by Cth. Dep't. Health & Ageing<sup>26</sup>;

Securing of financial assistance from Australia Council and release of staff member to accompany and assist members of Pitjantjatjara Choir to perform at Adelaide Festival, Feb.-Mar. 2004;

Discrimination complaint to HREOC, on behalf of two Ngaanyatjarra families as part of ongoing efforts to have two long-term residents of institutionalised accommodation, re-located to secure supported care in Alice Springs so as to be closer to their families and communities. Agreement with WA and NT Governments to progress matter about to be executed.

Systemic advocacy and support for Indigenous women's and family issues at local and national levels.

## The value of NPYWC

1. NPYWC supports a strong role for women in the communities, particularly through the delivery of services which employ Anangu and Yarnangu women, including in: Respite for Carers, Frail and Aged Care plans and advocacy, Disability Advocacy and case management, Emotional and Social Well-being Child Nutrition education and Young People's programs aimed at early intervention for youth at risk of, or sniffing, petrol. The Tjanpi (Jarn-pee) (basket) project provides a small income to over 200 women who are basket-weavers in the region<sup>27</sup>.
2. The organisation has a very good record of representing and empowering Aboriginal women in the Western Desert cross-border region. Many women in the region have particularly difficult relationships with men. Domestic violence and controlling behaviour are pervasive and destructive realities across the membership area. NPYWC supports women's efforts to have some control and choice, and the possibility of being able to establish life-styles that are not blighted by violence. The award-winning but very stretched DV Service, for example, has operated for ten years, is unique and recognised as highly effective by its funding bodies and all three relevant police services.
3. NPYWC is now a major service delivery organisation in the remote tri-state region, providing services in remote areas that government agencies do not deliver directly. In a nutshell, it does the work of the state at a cut-price rate. Apart from the primary healthcare services in the region, NPYWC is the main provider of human services. The organisations controlled by men do not generally operate in this field or do not have good records when it comes to the delivery of such services.
4. All NPYWC project work is arduous and involves working with clients who often have multiple problems, for example, domestic violence, child assault and substance misuse; acquired brain injury (ABI), and a serious physical disability; dementia and frailty due to age and the responsibility of caring for an adult son or daughter with ABI, most commonly from sniffing petrol. In addition, many communities are highly dysfunctional and violent, lack a permanent police presence or strong local leadership, and can be dangerous for NPYWC's staff as well as for

residents. Extensive travel is part of the work, along with advocacy and negotiation with funding agencies. We are fortunate to have many highly skilled and dedicated employees. The organisation takes a community development approach in consultation with Executive, members and clients.

5. NPYWC is unique in its tri-state membership and operation. The members are adamant that the organisation must continue in this form, which is its greatest strength, but also its major difficulty when it comes to funding. NPYWC has used limited resources very efficiently by administering services in the cross-border region. NPYWC works collaboratively with other Aboriginal organisations in the region, including clinical health services, to ensure there is no duplication of services.

## *Atunypa Wiru Minyma Uwankaraku*

### **(Good Protection for All Women)**

The Pitjantjatjara name of NPY Women's Council's Domestic Violence Service, *Atunypa Wiru Minyma Uwankaraku*, sums up its philosophy and focus.

Set up in 1994 and still managed by the same worker, Ms Jane Lloyd, it helps Aboriginal women from the cross-border region escape violent situations, advocates effectively for individual women and supports them through the legal process. It also deals with numerous referrals of child abuse.



## **Practical Help**

The Domestic Violence Service offers practical help such as crisis travel, accommodation, food and clothing. It liaises with police, child protection agencies, indigenous family court counselors and clinics. In short, the service works closely with clients until a successful outcome has been achieved - be it through family negotiation, restraining orders, assistance with criminal proceedings or referrals for civil matters.

News of successful outcomes travels fast in the NPY region and has a powerful awareness-raising effect. It encourages other indigenous women to seek similar results. Many are referred by female relatives who have themselves benefited from the service. By demonstrating that they are prepared to report violence and are increasingly successful in obtaining protection from the legal system they send powerful signals to potential offenders that violence against women and children will not be tolerated.

## **'Capacity Building' and Co-operation**

The Domestic Violence Service practices community development by involving NPYWC members and their families in advocacy and case management. This improves the ability of NPYWC members and the wider community to reduce the incidence of domestic violence and sexual assault.

The service has established strong working relationships with justice agencies and other local services, such as clinics. It convenes regular cross-border meetings with NT, SA and WA police to improve responses to violence against women in the region. These meetings have produced a protocol agreement between NPYWC and the three police jurisdictions. The service continues to campaign for a vastly improved police presence in the NPY region and for a cross-border approach to law enforcement.

The service is in constant contact with police officers based in the region. It also attends the bi-monthly Magistrate Courts Circuits in South Australia and the NT communities of Mutitjulu and Docker River. The service also responds to requests for police and health worker training in domestic violence matters, prepares submissions to inquests and other

inquiries and provides ongoing assistance to prosecutors in two States and the NT.

### **Best Practice**

The groundbreaking work of the service, which has twice won the National Violence Prevention Award, is recognised as a best practice model. Two independent evaluations have found it to be highly effective and supportive of women throughout the legal process. In 2001 it won the "National Award for the Prevention of Child Abuse in Regional and Remote Areas" (together with Women's Council's Child and Youth Program). In March 2003 Ms Lloyd was appointed chair of the Northern Territory Domestic and Aboriginal Family Violence Advisory Council.

The NPYWC Domestic Violence Service enjoys "near unanimous support" from Anangu and Yarnangu women, according to an organisational review of NPYWC by its main funding bodies in 2003.<sup>28</sup> A recent report for the Office of the Status of Women found that *Atunypa Wiru Minyma Uwankaraku* had produced substantial achievements and outcomes after only six years of operation<sup>29</sup>.

### **Funding**

The organisational review of NPYWC concluded that the service is underfunded<sup>30</sup>. On its current annual budget of \$200,580 it struggles to support women and children experiencing domestic violence in the entire 35,000 square km cross-border region. The service also receives calls from police and community members in other areas outside of yet linked to the NPY

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<sup>28</sup> *Ngaanyatjarra Pitjantjatjara Yankunytjatjara Womens Council Organisational Review*, Kutjara Consultants et al, December 2003, p.90

<sup>29</sup> *Access to Justice. Research into good-practice models to facilitate access to the civil and criminal justice systems by people experiencing domestic and family violence*, Urbis Keys Young, 2003

<sup>30</sup> "Given the identified need for this program - at the end of the day it is recognized that NPYWC's DV program saves women's lives, the incidence of domestic violence in the area is publicly recognized, and the recent [Western Australian] Gordon report has highlighted the State's present inability to carry out its charter in this area - the funding situation of this program is anomalous". *Ngaanyatjarra Pitjantjatjara Yankunytjatjara Womens Council Organisational Review*, Kutjara Consultants et al, December 2003, p.89

region.<sup>31</sup> Requests for assistance to the service far outstrip the capacity of its two (!) staff members to respond.

Of the service’s 500 clients per year roughly 60% are from the South Australian AP lands, 25% from the NT and 15%<sup>32</sup> come from the Ngaanyatjarra lands of WA. The service ceased case work in WA communities in February 2004 due to inadequate funding<sup>33</sup>.

2003/04 financial year budget<sup>34</sup>:

Supported Accommodation Assistance Program (SAAP) administered by the SA Department of Human Services	\$158,200
South Australian Women’s Legal Service NT Crime Prevention Grant Scheme	\$20,000
Support and Advocacy for victims of family and domestic violence at Mutitjulu and Docker River Magistrates’ Courts	\$22,380
<b>TOTAL</b>	<b>\$200,580</b>

<sup>31</sup> Kintore and Papunya in the NT, Whyalla and Port Augusta in SA and further afield - due to an increase in numbers of people from the NPY region “marrying out”.

<sup>32</sup> . This relatively low percentage reflects the limited case work undertaken in these communities to date. The service’s experience in SA and the NT has been that client numbers will start to increase significantly as soon as case management work commences.

<sup>33</sup> A funding agreement for Domestic Violence casework with the WA Government is under negotiation following the Gordon Inquiry. The NPYWC Executive has reluctantly resolved that the service would cease doing casework for the Ngaanyatjarra Lands in February 04 due to delays in reaching an agreement. NPYWC is now hopeful of entering into a funding agreement with DCD for some \$180,000 pa over three years, although no agreement has yet been signed.

<sup>34</sup> The Cth. has funded NPYWC's Domestic Violence Service in the cross-border region since shortly after its inception as a pilot project nine years ago. The money, from SAAP, is passed on through SA DHS, and has remained regular, but static, at \$155,000 pa for several years. There is also some funding from the Cth. through the SA Women's Legal Service (\$40,000 pa.). The NT Government is now providing some funding for advocacy work at the Docker River and Mutitjulu Magistrates' courts through the Dep't. of Justice (\$22,000 pa.). NPYWC has recently had to return to the Cth. significant 'partnership' funding received in 01/02 that was to be specifically directed to educate school children about violence and protection issues, due to the lack of resources to allow recruitment and supervision of new staff.



Legal Services closest to the NPY region  
**and what they do**

<b>Northern Territory</b>	NT Legal Aid Commission (NTLAC)	Based in Alice Springs. Criminal defence cases. Some family law matters and other civil matters, such as child welfare, residence and access. No crimes compensation and divorce/property settlements. No outreach to NPY communities, except Muṯitjulu community for bi-monthly Magistrates Court, but provide advice over the phone.
	Central Australian Aboriginal Legal Service (CAALAS)	Based in Alice Springs. One solicitor to service the entire Central Australian region of the NT. Some assistance with civil (mainly family law) cases restricted to Alice Springs and Tennant Creek (i.e. outside NPY region). May refer civil cases to private solicitors. Assistance with criminal defence cases restricted to Alice Springs and Tennant Creek and bush courts (i.e. in NPY region only Muṯitjulu).
	Central Australian Aboriginal Family Legal Unit (CAAFLU)	Family Violence Prevention Legal Unit based in Alice Springs, under CAALAS auspices. Visits Ntaria, Papunya, Yuendumu and Mary Vale communities but does not extend service to NPY region. One solicitor.
	Central Australian Women’s Legal Service (CAWLS)	Based in Alice Springs and operates a Domestic Violence Legal Service (DVLS) for residents of Alice Springs and Tennant Creek only. Two solicitor positions only.
<b>South Australia</b>	Aboriginal Legal Rights Movement	Based in Port Augusta. Criminal defence cases only. Client

	(ALRM)	visits/contacts coinciding with court circuit. No local agent acting for this service in the NPY region. The ALRM office in Adelaide has one family law solicitor.
	South Australian Legal Services Commission (SALSC)	Based in Whyalla. Criminal defence cases plus limited family law cases that do not involve visiting clients. Client visits/contacts coinciding with court circuit. No local agent acting for this service in the NPY region.
	Family Violence Prevention Legal Unit	Based in Port Augusta. Does not extend service to AP Lands (part of the NPY region)
	South Australian Womens Legal Service (SAWLS)	Outreach at Port Augusta. One solicitor only who cannot cover AP Lands. Provided some limited funding to NPYWC Domestic Violence Service.
<b>Western Australia</b>	Aboriginal Legal Service(ALS)	Based in Kalgoorlie. Devote one day every 2 months to criminal defence matters in Ngaanyatjarra Lands, little or no civil law cases.