

Chapter 3

Issues

3.1 The committee received two submissions to this inquiry, from the following organisations:

- WA Department of the Attorney-General; and
- Aboriginal Legal Rights Movement.

3.2 Both submissions focussed on the amendments in Schedules 1 and 2. No submissions were received in relation to Schedule 3.

Support for the Bill and the Cross Border Justice Scheme

3.3 The WA Department of the Attorney-General expressed strong support for the Bill, noting that it is 'pivotal'¹ for the successful implementation of the Cross Border Justice Scheme (the scheme) later in 2009.

3.4 The submission provided useful background on the scheme, noting that it had its origins in a meeting held in Alice Springs in 2003 between representatives from justice agencies, the judiciary, police and community groups.

3.5 At that meeting, representatives of 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. The Women's Council highlighted significant safety and security issues in the region, including high levels of family violence, sexual abuse, substance misuse and relatively limited access to justice and other services.

3.6 The Governments of the three jurisdictions initiated the Cross-border Justice (CBJ) project in response to these issues. The submission explains that the objective of the CBJ project is to minimise the effect of borders in the region for the purposes of law enforcement and delivery of justice services. It will 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.

3.7 The CBJ scheme will not officially commence until complementary legislation has been proclaimed in WA, SA and the NT.

3.8 The submission highlights that the CBJ project is without precedent and has been 'an impressive exercise in collaboration' and co-operation between the

1 *Submission 1*, p. 4.

jurisdictions concerned and the Commonwealth Government.² The WA Department's submission concludes that 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.

3.9 The committee also notes advice from the Commonwealth Attorney-General's department in response to a question taken on notice, that:

- the former Attorney-General wrote to his State and territory colleagues in April 2006 consulting them on the proposed SEPA amendments, and all jurisdictions supported the proposal; and
- in February 2009, the current Attorney-General also circulated a draft of the proposed amendments to the States and territories, and no issues or concerns were raised in relation to the correspondence.³

Concerns of the Aboriginal Legal Rights Movement

3.10 The committee also received a submission from the Aboriginal Legal Rights Movement (ALRM).⁴ This submission did not raise any specific concerns about the direct effects of the Bill. Concerning the Bill, the ALRM stated that it made no submission in relation to the schedule 1 amendments, other than they appear to achieve what the Explanatory Memorandum specifies. Commentary on schedule 2 was confined to how well audio-visual links were working on NPY lands.

3.11 The majority of the ALRM's submission focussed on the proposed South Australian legislation.

3.12 The ALRM's focus on the South Australian legislation presents a particular difficulty for the committee as it is well out of scope of the committee's inquiry into the Bill. Further, the detail and operation of the South Australian legislation is a matter for the South Australian Parliament alone. The committee does not consider it would be appropriate for a Senate committee to either comment on or seek to influence such legislation, and so confines itself to drawing the submission to the attention of the South Australian Attorney-General.

3.13 One area raised by the ALRM that the committee considers it can reasonably flag is the question of custody notifications. The ALRM submitted that it was unclear what effect the Cross-Border legislation will have on compulsory custody notifications, stating that none of the Bills comprising the scheme have yet made mention of it. The ALRM argued that the *Commonwealth Crimes Act 1914* imposes a detailed obligation upon Commonwealth officers investigating Commonwealth

2 *Submission 1*, p. 3.

3 Correspondence from the Attorney-General's Department dated 1 May 2009, p. 3.

4 *Submission 2*.

offences to notify the Aboriginal and Torres Strait Islander Legal Service of the arrest of an Aboriginal or Torres Strait Islander person and suggested that this model should be a benchmark for the States and Territories.⁵

3.14 The committee has not investigated this proposal, nor does it make any recommendation in this regard as it is clearly outside of the scope of the Bill. Nonetheless, it draws the matter to the attention of the relevant jurisdictions for attention if this is considered to be warranted.

Committee comment

3.15 As noted by the WA Attorney-General's Department in its submission, the Cross Border Justice scheme to be implemented by Western Australia, South Australia and the Northern Territory was established in response to a genuine community need. Its implementation has the potential to have a real and positive impact on the lives of the women and children in the cross-border communities. This Bill facilitates the operation of the scheme and is seen as 'pivotal' to its success. As such, the committee is strongly of the view that the Bill should be supported.

Recommendation 1

3.16 The committee recommends that the Bill be passed.

Senator Trish Crossin

Chair

5 *Submission 2*, p. 9.

