

Evaluation of the Cross-border Justice Scheme

Final report

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Executive Summary

Introduction

Spanning the three jurisdictions of Western Australia (WA), South Australia (SA) and the Northern Territory (NT), the cross-border region is sparsely populated with an estimated 7,000 people living in more than 26 communities, with the predominantly Aboriginal population highly mobile for family, cultural and other reasons.

The impetus for the Cross-border Justice Scheme (CBJS) was a range of social and justice problems in the region and the impediments created by jurisdictional borders to regional responses from law enforcement and justice services, and more broadly victim and other social support services.

It took over five years to develop and implement a legislative framework, and inter-governmental and organisational agreements for the Scheme, which has been operational since late 2009. The expected outcomes of the Scheme were to generate timely, efficient and meaningful justice responses in the region that would contribute to greater community safety.

The evaluation project

This report provides the first evaluation of the Scheme. Lasting more than eight months, the aim of the evaluation was to assess how well it was operating and its impact on stakeholders, including justice services. The evaluation project involved a team of researchers who undertook a review of the literature, documentation and data.

More than 124 people in 10 communities across the region were interviewed; 50 local justice service providers in the region participated in an online survey; and more than 35 key stakeholders participated in face-to-face or telephone interviews. A census for the region was compiled for December 2012 of current police warrants, community corrections cases and prisoners in regional prisons. In addition, court and police data was reviewed for the region, and the demographic profile of the region updated, based on 2011 Australian Bureau of Statistics (ABS) population census statistics.

Implementation and operation of the Scheme

As there is very little in the public domain on the Scheme, a considerable part of the evaluation involved documenting the origins and framework for the Scheme. An Inter-Government Agreement between the three jurisdictions was signed in 2007 in which it was recognised that there were constraints to the delivery of justice services caused by state borders and exacerbated by remoteness, and it was agreed

to establish a scheme for cooperative justice services that would be implemented through the enactment of legislation. Identical laws were enacted in WA, NT and SA in 2008 and 2009, with amendments to Commonwealth legislation enacted in 2009. The laws allow police to be appointed as special officers in all three jurisdictions, and make it possible for persons who reside in, who are 'connected with', or who commit offences in the cross-border region to be dealt with by a magistrate sitting in any of the three jurisdictions.

Cross-jurisdictional service level agreements (SLAs), which aimed to give effect to the legislation by describing how cooperation between services would work, were signed off between 2009 and 2011 and cover in considerable detail the appointment and management of police and justice officers, procedural arrangements, review and monitoring, and cost-sharing.

After the legislation was enacted, there was an initial effort to publicise the Scheme among local residents in the region, for example, through posters. Cross-border personnel were appointed and induction or training sessions were held with various key stakeholder groups (e.g. magistrates) and within agencies.

The Project Executive Group (PEG), involving regional and senior representatives of the key agencies from the three jurisdictions along with federal government representatives from the Department of Housing, Community Services and Indigenous Affairs (FaHCSIA) and the Australian Crime Commission, meets twice a year. It has oversight of the Scheme and each of the sectors' sub-committees that were established under the SLAs is expected to report to the PEG. However, as few CBJs cases were identified since 2009, the level of reporting and effort invested in training and communication has waned, the exception being the training material and procedural guidelines developed more recently by police.

The key mechanism for monitoring CBJs cases is a court report that includes an updated table of cases which is provided at every PEG meeting. The most recent report indicated there have been, since 2010, 43 individuals identified as CBJs matters, with 80 individual appearance dates listed before the magistrates' courts to deal with them.

Placing the Scheme in context

The number of CBJs cases recorded in the court table is only a very small fraction of the total volume of matters being dealt with by police, courts and correctional agencies in the region. This is indicated by two measures – the December 2012 census of regional cases showed there were 276 outstanding warrants for the region (with only about one third of the WA ones having last known addresses over the border), 106 offenders on community based orders (with none registered as cross-

border cases), and 31 prisoners from the region (of which only one was recorded as being in a regional prison outside of his home jurisdiction).

The other measure is the recorded police and court data for the region, with the most recent statistics showing there were:

- 748 offences recorded by police in ten communities in 2012, and 1,378 listings recorded in the magistrates courts in five communities, in 2011/12 in the NT cross-border region
- 340 offences against the person and offences against property recorded by police, and 540 cases finalised in the courts, for the WA cross-border region in 2012
- 1,131 offences recorded by police, and 356 court cases finalised, in the cross-border region of SA in 2011.

Factors that have changed since the Scheme was first conceived back in 2004 include the volume of matters being dealt with by the justice services in the region. Although the Indigenous population is estimated to be about the same, for example, there has been at least a six-fold increase in the past decade in the annual number of distinct defendants (both adult and juveniles) appearing in the WA courts in the region. In part, the increase in recorded crime and court and correctional cases is due to the increased police presence in the region.

The statistical data, however, show domestic or family violence remains a dominant form of personal crime, even though it seems not many restraining orders are recorded as being breached in the region. Victim protection was a key driver for the Scheme, and although some community residents and local stakeholders feel that community safety has improved (mainly as a result of the additional police presence), it does not necessarily mean that there has been a reduction in domestic violence or that victims feel safer.

Stakeholders' perspectives

Among key stakeholders who were interviewed there was widespread support for the overall aims of the Scheme. There were more cautious responses to the question of whether it has achieved its objectives, as it was frequently noted there have not been many cases, and, in effect, aspects of cooperation and case management remain untested. A range of reasons were proffered for the low numbers, including delays in signing the police MOU, the perceived resistance and reluctance to take on cases in some quarters, poor relations between a magistrate and police, the current lack of 'champions' at a senior level, and unrealistic expectations.

Positive comments included its contribution to an environment that is more flexible and effective in its responses to crime and justice. Moreover, some responses

identified the Scheme as one part of the positive changes in recent years including more police, the uptake and increased use of video-links in courts, and an increased awareness among local residents of domestic violence as a crime. Improved networks and communication across borders among various stakeholder groups was the most commonly identified positive impact of the Scheme, and a number of police stakeholders noted that it was a very useful tool for their operational work generally.

Nodes of knowledge and expertise have emerged over time, most notably among court registrars and police prosecutors in the three jurisdictions, some local police in the region, and senior representatives in key agencies. However, there was not a lot known about the CBJs among local community residents and various local service providers. Local justice service providers were often uncertain about the circumstances in which the Scheme would apply, and they seemed reluctant to proactively engage with it, as it was viewed as an administrative burden.

Key areas of concern raised by stakeholders related primarily to increasing access to training, streamlining and clarifying processes and administrative arrangements, and the limited capacity to deal with a broader range of offences.

Conclusion

The evaluation reveals a number of things about the Scheme, some of which have unfolded as anticipated, and some of which were unexpected:

- Although the Scheme was appropriately designed and planned, and promoted in its earliest phases, it is still not well known in the region and many community residents, police officers and magistrates are still quite unsure how it operates;
- Of all the justice agencies that operate in the region, and across the three jurisdictions, the police have been most affected by the Scheme;
- There was an expectation that many offenders would be affected by the Scheme, and indeed, budgets would be affected thereby. However, the very low number of cases identified as cross-border cases means that budgets have not been impacted greatly;
- For that same reason, the Scheme rarely impacts local communities;
- In the eyes of other stakeholders, however, there has been an increase in the efficiency of justice service delivery in the region, much of which is attributed to the increased police presence in the region, and to cross-border policing initiatives;
- It is difficult to form a conclusion, however, about the extent of any efficiency 'dividend' from the Scheme;

- Indeed, it is also difficult to determine whether the Scheme has operated to reduce the fear of crime in the region due to the fact that, over the period of the Scheme's implementation, there have been additional policing resources stationed in the region;
- The heightened levels of communication and cooperation required to implement the Scheme have resulted in a diffusion of benefit across a range of justice agencies in so far as there has been a rise in inter-agency cooperation;
- Nevertheless, the inefficiencies of geographical 'remoteness' remain, and it is not possible for any initiative to overcome in one fell swoop the tyranny of distance involved;
- To many of the persons interviewed through the evaluation, the Scheme is necessary but not sufficient to deliver the justice outcomes sought by the initial proponents of the Scheme;
- Nevertheless it is the view of the evaluators that the Scheme should continue to be supported by the respective governments, subject to the caveats and recommendations that follow.

The aim of this ground-breaking initiative was to deliver justice services more appropriately and effectively in the region, and to better reflect the regional affiliations and mobility of people within the area by reducing the significance of borders on criminal justice responses to offending and other aspects of service delivery. Overall, the Scheme has largely met these objectives. Moreover, there has been a lift in the communication between personnel in each jurisdiction, and, to the extent that there has been some standardisation of practices, one can safely offer the view that, regardless of its effects upon crime and fear of crime in the region, it has been a qualified success.

There were seven questions guiding the evaluation. We offer the following brief answers to the evaluation questions posed:

Has the cross-border legislation operated as intended?

Yes, but not to the extent predicted. There are a number of procedural matters related to the implementation of the Scheme that need to be addressed. For example, there is evidence that the Scheme is actively avoided by some practitioners because there is a perception that it involves too much additional work.

To what extent have agencies developed collaborative and cooperative practices across jurisdictions? How effectively have these worked?

Nodes of collaborative practice are currently working effectively. Court registrars, police prosecutors, and local police (in some places) are far better informed than before.

Does the CBJs deliver timely and efficient responses by justice agencies?

This was not the case at first. But the response is getting better, and is now more streamlined.

Does the CBJs deliver a cost-efficient response by justice agencies?

With regards policing, one can say 'probably'. One cannot be sure in the absence of any specific costings, however.

How has the CBJs impacted upon police, courts, service providers, community and the surrounding region?

The first two of these have been impacted strongly. Corrections, other service providers and the communities themselves have been less impacted.

Does the CBJs strengthen and improve community safety in the region?

The answer to this question is 'potentially'. The involvement of community people/non-government sector has been minimal, however.

What changes, development, improvements are recommended to the CBJs to further facilitate the achievement of the strategic objectives?

Key recommendations are found in the final section of the report, with detailed explanations. They are summarised here as follows:

1. The objectives of the Scheme must be re-visited
2. Awareness must be improved through tailored communication strategies for key target groups
3. Stakeholder knowledge must be enhanced and experience communicated
4. Any current administrative burdens should be lifted or lessened
5. There must be more dedicated support for key positions
6. A monitoring framework should be implemented
7. Victim safety must assume priority status
8. Aboriginal legal services must be encouraged to engage with the Scheme
9. Parole boards and appeals should be added to the Scheme's remit
10. Payment of fines are a major issue in continuing inefficiency in the delivery of justice throughout the region and an efficient process must be identified and implemented, whether through the CBJs or another mechanism
11. Resources should be provided such that they are adequate for the task.

Chapter 1: Background of the evaluation

1.1. Introduction

This report presents the findings of an evaluation of the Cross-border Justice Scheme (CBJS). Formally launched on 1 November 2009, the Scheme has only been fully operational for three and a half years. The Scheme (hereafter referred to as the 'CBJS') operates in a unique part of Australia – what is termed the 'cross-border region' in central Australia – which spans the Ngaanyatjarra Lands in Western Australia (WA), the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands in South Australia (SA), and the south-west region of the Northern Territory (NT). It is a remote, desert region covering over 476,000 square kilometres, with a small resident population of around 7,000 people who live in a constellation of small communities scattered throughout the region. The majority of local residents are Indigenous peoples who share strong language and cultural ties, and who travel frequently between communities and across the region for family, social and cultural reasons.

Almost a decade in development, the CBJS was implemented through legislation in, and an inter-governmental agreement between, three jurisdictions. It has been in operation for over three years.

Commissioned by the governments of SA, NT and WA, this evaluation was designed to assess how well the Scheme has worked. It was thought important to capture any lessons that have been learnt from its implementation and current operations. Undertaken over an eight month period in 2012 and 2013 by a team of independent researchers, the evaluation involved interviews with key stakeholders, a review of statistical information and documents, and consultations with service providers and residents in a number of communities in the region.

This report on the evaluation is divided into five main sections, namely:

- the evaluation approach and methodology
- the origins and implementation of the CBJS
- the operation of the CBJS
- stakeholder perspectives
- the current situation and ways forward.

1.2. The Evaluation

The project team

The project team comprised Dr Judy Putt, from the University of Tasmania, Professor Rick Sarre from the University of South Australia, and Dr Emma Rowden from the University of Technology in Sydney. They conducted key stakeholder

interviews in person or by phone, and Dr Putt and Professor Sarre attended or participated in Project Executive Group meetings. In addition, Ms Gillian Shaw of Bowchung Consulting headed a team that was responsible for the fieldwork component of the evaluation and was involved in writing up this particular section of the report.

Ethics approval

The initial phase of the evaluation, which has resulted in the more detailed evaluation framework, was approved by the University of Tasmania Social Science Human Research Ethics Committee on 31 May 2012.

An application for the main body of the evaluation was submitted to the Central Australian Human Research Ethics Committee (HREC-12-65) and conditional approval was obtained on 25 June 2012. After providing further information, the team was granted final ethics approval on 7 August 2012.

Meetings and reporting

During the evaluation a number of key people played a vital role in assisting us with access to information and to key stakeholders. The members of the Project Executive Group (PEG) for the Scheme were our main points of contact, and we participated in PEG meetings and teleconferences over the past year. These included:

- Attendance at a PEG meeting in Alice Springs in April 2012, and a meeting of the police sub-committee in Adelaide in May 2012.
- Participation in PEG teleconferences in September 2012 and April 2013.

Our key contacts in each jurisdiction were Jayne Marshall, the evaluation manager based in South Australia, Liz Perkins in Western Australia, and Fran Whitty in the Northern Territory.

A more detailed evaluation framework was provided to the PEG in August 2012, and progress reports were provided in September 2012, December 2012, and April 2013.

1.3. Evaluation framework

Original aims of the evaluation

The original aims of the evaluation were to answer the following seven questions:

1. Has the cross-border legislation operated as intended?
2. To what extent have agencies developed collaborative and cooperative practices across jurisdictions? How effectively have these worked?
3. Does the CBJs deliver timely and efficient responses by justice agencies?
4. Does the CBJs deliver a cost-efficient response by justice agencies?

5. How has the CBJs impacted upon police, courts, service providers, community and the surrounding region?
6. Does the CBJs strengthen and improve community safety in the region?
7. What changes, development, improvements are recommended to the CBJs to further facilitate the achievement of the strategic objectives?

The proposed approach for the evaluation was settled early but it had to be modified soon after the project commenced when it became clear that:

- The numbers of identified cross-border cases was very small, and that it was unlikely that much impact would be discernible in some settings;
- There were major gaps in information, with no routine monitoring of criminal justice responses across the region and certainly not any record-keeping of the costs involved in implementing the Scheme.

As a result, the original objectives of the evaluation and the proposed methodology were adjusted.

Given the number of identified CBJs cases to date, the evaluation shifted to what is commonly termed a 'process' evaluation (rather than an 'outcome' evaluation). This involves looking at how the program has been implemented in order to identify barriers and opportunities for future improvement. Expectations of outcomes and impact had to be fine-tuned in accordance with the scale of Scheme's implementation. Given the number of people directly affected, as stakeholders, the outcomes related to changes in practice, not necessarily the longer term objectives of the Scheme.

Another factor we needed to be mindful of was the effect of the evaluation itself. The process of conducting an evaluation acts as a catalyst, and it was noticeable that there was an increase in interest and activity in policy and management circles because of the evaluation. The Scheme continues to evolve. The evaluation provides, however, an opportunity to capture as best we can what the Scheme currently looks like.

In doing the evaluation, we also had to be acutely aware of the context in which the Scheme was implemented and we needed to consider some of the previous attempts to undertake evaluations of programs and strategies in remote settings, especially where they involve and/or affect local Indigenous people (e.g. Fisher et al 2011). Hence, an underpinning component of the evaluation was to improve our understanding of the context of justice service-delivery in remote cross-cultural settings. There were, therefore, a number of critical contextual factors that had to be taken into account when thinking about the Scheme and its impact, for example:

- how long the CBJs has been in operation

- other significant initiatives and changes that have occurred in the cross-border region, including an increased police presence in remote communities in all three jurisdictions
- the relatively small number of people who have been directly affected by the Scheme
- the relatively high turnover of service providers in remote community settings
- different practices and priorities amongst and across justice services in three jurisdictions, and their delivery
- the unique geographical and socio-cultural environment of the region.

Approach

Our approach was informed by theoretical and practical knowledge of the Australian criminal justice system more generally, and influenced by the ‘realist’ evaluation tradition which stresses the need to look at how a program or initiative is implemented and the ‘mechanisms’ integral to the implementation (Pawson and Tilley 1997). For example, as the evaluation progressed, a crucial question became obvious (and one that had not been expected) namely, why have there been so few identified CBJs cases, many fewer than were originally envisaged?

To help frame the program theory behind the CBJs, we took a systems-analysis approach combined with a program logic model (Funnell and Rogers 2011). Because the Scheme represents an intervention to a system that operates with certain shared features in all three jurisdictions, a system-analysis helped provide the context in which the program was designed to operate and to deliver its effects. The construction of a program logic model helped us to articulate why certain outcomes were expected and the relationship between inputs, outputs and these outcomes.

Program logic

In any program evaluation, it is helpful to understand the underlying theory of change. With the CBJs, the ‘program’ is a suite of building blocks designed to foster a cross-border approach to the delivery of justice. The main building block is the legislation enacted in the three jurisdictions (and at a federal level), which was agreed to in an initial Inter-Government Agreement (referred to below). The next tier of building blocks is the Service Level Agreements/Memoranda of Understanding between key services in the three jurisdictions. The aim of these blocks is to create an environment whereby justice practitioners in the three jurisdictions can work collaboratively to deal with cases and individuals in the region. In effect, the focus of the theory of change is on the system, moving from a jurisdictionally-specific system to one that has regional cross-jurisdictional

elements that are shared by all three jurisdictions. The expected outcome from this change is more efficient and effective justice services (and, therefore, 'system').

The implementation of the program was expected to produce the short term outcome of increased victim safety and the longer term outcome of community safety. Although it is not articulated in much detail in the few available accounts of the CBJJS, it is implied that the second focus of the theory of change is on offenders, who are expected to offend less over time because they are deterred by the system changes. It may also be that perceptions of safety amongst local residents improve because of an increased confidence in the criminal justice system generally.

A program logic, in its basic form, was developed in the initial phase of the evaluation, and is shown in Figure 1.

An Inter-Government Agreement on the Cross-border Justice Scheme (IGA) was agreed to on 28 November 2007. Signed by the Attorney Generals of WA, SA and NT, it was a memorandum of understanding between the three state/territory governments to establish a commitment to, and shared understanding of, the purpose and building blocks of the Scheme. According to the Inter-Governmental Agreement, the stated objectives of the CBJJS are to:

- Provide an efficient and effective service, irrespective of borders.
- Assist in addressing community safety issues by ensuring a responsive justice system.
- Take into account the difficult position of victims of crime.
- Provide a shared use of facilities.
- Facilitate expeditious resolution of prosecutions.

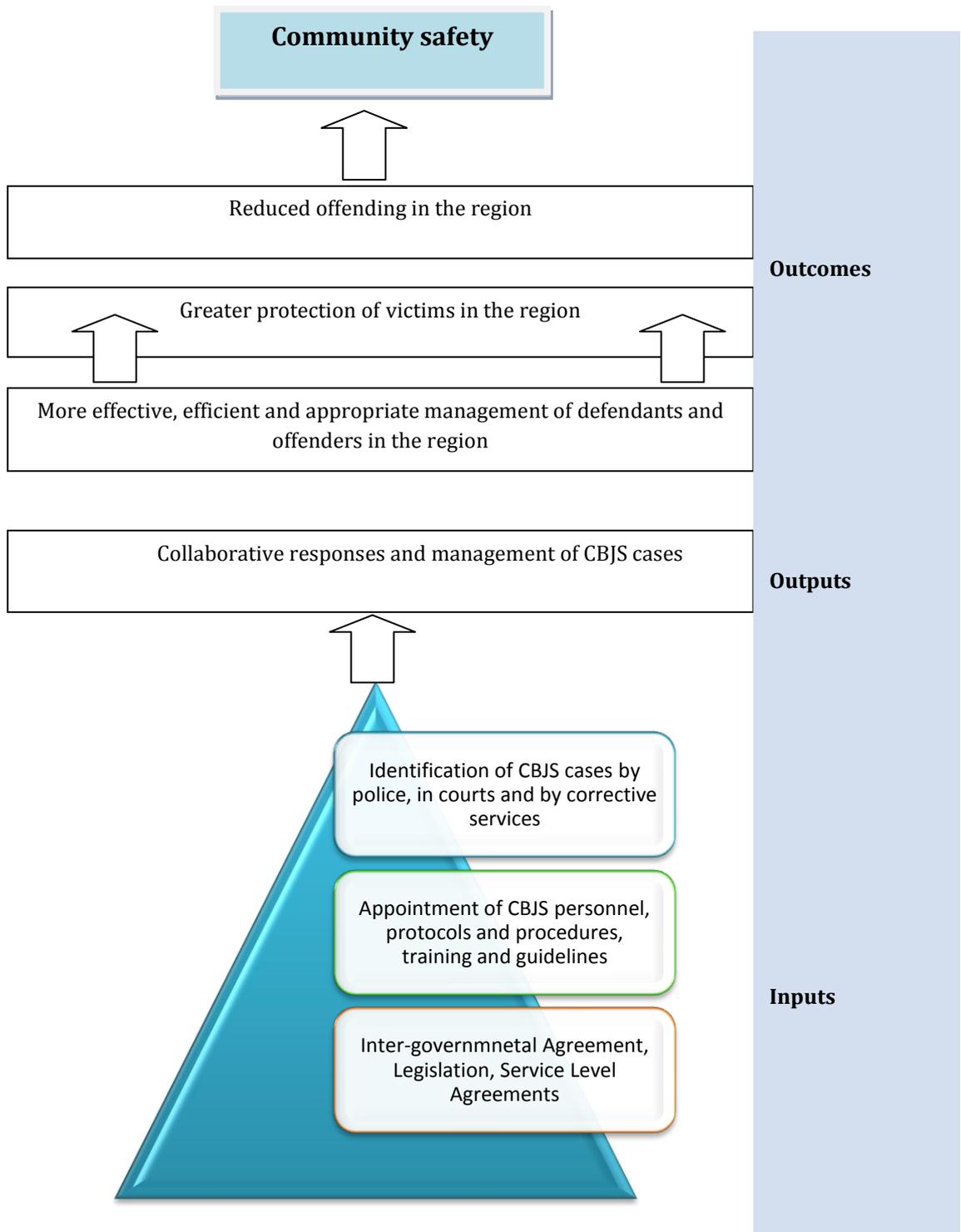
The evaluation of the CBJJS involved investigating whether there are ongoing and productive *collaborative relationships* across jurisdictions and agencies, and whether these relationships have contributed to the coordination of justice services.

The two expected outcomes were

- *timely and efficient justice responses* that are meaningful to people affected by crime and justice in the cross-border region, and
- *greater community safety*.

A number of key concepts are built into the stated purpose of the CBJJS, and below is a brief discussion of those that seem most pertinent to the setting in which the Scheme operates.

Figure 1: Building the CBJs initiative and expected outcomes



Key outputs and outcomes

Collaborative relationships

A certain degree of collaboration is integral to the criminal justice system. Although organizations have discrete and legislatively and administratively-defined responsibilities, the actual day-to-day operations of the system involve communication and collaborative activities across the sectors and services.

However, in large part, these are typically confined within a jurisdiction and, in regional and remote Australia specifically, are networks of relationships that are most pronounced in the regional centre. Given the purpose of the CBJs – to reduce the barrier of state/territory borders on the administration of justice – new or stronger relationships have to be generated within sectors across borders, and cross-sectorally within the region.

Collaboration between organisations and practitioners (as part of a network) is often seen as an essential, or at least a desirable, means of improving the effectiveness and efficiency of service delivery (Allen Consulting Group 2011). In practice, evaluations of services and inter-agency collaboration frequently refer to *perceived* (and less-than-optimal) collaboration, with only some or few parties doing it well. Factors that are commonly identified as hampering collaboration include divergent priorities and philosophical orientation to service provision, and organizational structures, standards and accountability that foster and reinforce ‘silos’.

Collaboration, other than being understood as an aspirational goal, is imprecisely defined, with the consequence that it is not an easy ‘process’ or ‘outcome’ to measure. An important point was made in a recent review of collaboration and engagement amongst services in remote communities in the Northern Territory: that one may be able to identify critical factors in good coordination (shared objectives, clear roles and responsibilities, open communication, sharing of information, continuous improvement) but such an exercise does not, in and of itself, produce actual outcomes; rather, it enables the effective and efficient achievement of outcomes (Allen Consulting Group 2011).

Procedural justice

It might be claimed that efforts to create more timely, effective and meaningful justice in modern societies began over several decades ago. Parker (1998) has cited the movement from more institutional frameworks to user-oriented and client-focused models of justice delivery as occurred around the early 1990s. These responses were most likely driven by the findings of researchers such as Tyler (1990, 2005) and Thibaut et al (1973-4), who argued that the perceived fairness of justice procedures matters. According to these theories, litigants can, and do, distinguish between outcomes and procedure, and that people’s satisfaction in the

process increases when their perception of the fairness of the procedure is increased. Results from procedural justice and 'legitimacy' research have also consistently found that there is a considerable social consensus that exists amongst people — regardless of age, gender, education, income, ideology or ethnicity — as to what constitutes fair procedure, in contrast to notions of what constitutes a fair outcome in any given case, which can vary widely between these groups (Tyler 2005). This theory has been operationalised to allow discussion more broadly about what motivates citizens to obey the law, and to understand the factors relating to long-term compliance to authority figures and decisions made in court (Tyler 1990).

Client-focused models of justice delivery have influenced the practices and procedures of courts in several ways, including the establishment of Client Service Charters (such as those of Victoria and the NT), and efforts to improve access to justice. Measures include providing more accessible information for court users, the ability to attend court from regional communities via videoconferencing, the implementation of universal design principles to court buildings, and making court buildings and procedures more culturally inclusive (Grant 2009).

Cultural safety

Cultural safety is a term that originated in the 1980s among nursing practitioners in New Zealand (Papps and Ramsden 1996) and refers to a praxis that is mindful of the disparities between Maori and non-Maori. Framed in terms of how one experiences the justice system, cultural safety might encompass the ways in which personnel within the criminal justice system behave in a way that is sensitive to cultural differences. Conversely, it allows a picture to emerge when personnel lack this sensitivity. Similarly, it might relate to the way in which features of the court setting — its architecture, and its processes and procedures — can exacerbate feelings of exclusion and alienation, rather than encouraging participation, or promoting a sense of inclusion or helping to reduce the stress of attending court. The concept recognizes systemic culturally-based inequality, and may explain how culturally unsympathetic applications of jurisdictional boundaries and state control can exacerbate disadvantage.

The CBJs was clearly devised with cultural safety in mind, given that the premise of the system recognizes that state jurisdictional boundaries can cause undue complications to the communities and families that are spread across them. This has important ramifications for the delivery of justice across the CBJs as, for example, mechanisms afforded in one jurisdiction are not always replicated in another. The extent to which justice services across jurisdictions are sensitive and inclusive to different understandings of space and justice might have significant implications on the quality of justice received.

Community safety

At a national level, community safety is one of the seven building blocks of the Closing the Gap initiative. One's being and feeling safe is affected by experience and perceptions of victimisation and offending. Within the context of Indigenous remote communities, much of the literature on the topic refers to community safety as both a collective outcome of multiple measures and practices, and as a crucial social determinant of whether those measures and practices will improve collective well-being (Putt and FaHCSIA 2011).

From an individual perspective, recent analysis of data from the national social survey of Aboriginal and Torres Strait Islander peoples shows the strong correlation between self-reported offending and victimizations, feelings of personal safety and wellbeing (Biddle 2011).

Improving community safety in the cross-border region, a stated aim of the CBJS, involves reducing offending and victimisation, and related potentially social and self-harming behaviours, such as substance misuse. It also means addressing the factors that contribute to people feeling unsafe, which can be related to physical and social 'signs' of poor governance, conflict and community functioning and cohesion. The interventionist reforms, how they work in the CBJS, and the contribution they may make with regards personal safety are rarely well articulated.

Measuring outputs and outcomes

There has been limited research on the way justice works in remote and regional Australia (an example, nonetheless, is Seigel 2002) whilst evaluations have mainly related to social service delivery (e.g. Delahunty and Putt 2006, Pilkington 2009, Putt et al 2011, Seigel 2002, Shaw and d'Abbs 2011, Willis 2010a). Typically, evaluations combine qualitative research (interviews, small scale surveys) with statistical information on service clients or on events as indicators of process and outcomes. A similar mixed methodology was adopted for this evaluation, with more detail provided in the next section.

A challenge for the evaluation was determining an ideal versus a realistic set of performance indicators for CBJS outputs and outcomes, and assessing whether the evaluation would produce suitable information that could be used as indicators. Some work was undertaken on developing a performance framework that drew on existing indicator measures used nationally for justice services and to measure progress in overcoming Indigenous disadvantage and this is described further in Appendix 5.

Developing output and outcome 'indicators' for the CBJS needed, therefore, to draw on not only existing measurement frameworks but to incorporate, where feasible, those that are better suited to reflect how the system works (or does not work) in

the region. Table 1 shows the minimum range of indicators that were identified as being required. As the evaluation progressed, it became more apparent that various key data was not available and/or not easy to obtain, and that despite agreement in Service Level Agreements to review and collate information on costs and cases this has not occurred in practice, except to a very limited extent.

As previously flagged, the numbers of CBJs cases is small to date, and it is too early to be considering longer term outcome indicators such as these for the current evaluation. However, collecting them now will provide a future means for monitoring the impact of the Scheme over time, and will enable a more robust outcome evaluation in the future.

Table 1: Basic output and outcome indicators for the CBJs

	Output indicator	Tool/source
Equity	% identified CBJs offences and defendants	Not available (NA) (Census of potential cases in December 2012)
Effectiveness	Established procedures Established networks Satisfaction with the CBJs	Stakeholder interviews
	Number of CBJs identified cases	NA (except for CBJs Court table)
Efficiency	Time taken to process CBJs cases	Case studies
	Costs per CBJs case	NA
	Outcome indicator	Tool/source
Effectiveness	Perceptions of effectiveness	Interviews with stakeholders Survey of local service providers
Efficiency	Perceptions of efficiency	Interviews with stakeholders Survey of local service providers
Appropriate (meaningful) justice	Perceptions of fairness	Community interviews
Community safety	Perceptions of individual and community safety Recorded offences per community/jurisdictional area Applications and breaches of restraining orders	Community interviews Survey of local service providers Police and court data

As can be seen from Table 1, it was not within the scope of this evaluation to assess comprehensively how well the CBJS has performed against a basic range of indicators. Only a limited number of methods were employed, which are described in more detail below. In Appendix 5 there is more background and discussion on how a more comprehensive framework could be used in future efforts to monitor and to review the Scheme.

1.4. Methodology

In our original proposal we had four elements to the evaluation. These remained but were adjusted in light of our improved knowledge of the scale of implementation and of data availability, including the absence of documentation of costs. The four elements are:

- Review of legislation, literature and program/policy information.
- Criminal justice administrative data analysis and case studies.
- Key stakeholder consultations: interviews and survey.
- Community consultations: interviews.

Review of legislation, literature and program/policy information

We examined the complementary legislation enacted in WA in March 2008, the NT in March 2009 and SA in November 2009. We also examined the effect of the September 2009 amendments to the *Commonwealth Service and Execution of Process Act (SEPA) (1992)* that came into being with the enactment of the *Law and Justice (Cross Border and other Amendments) Act*, especially in light of the Senate Inquiry that gave rise to the amendments.

The literature review included published research on service delivery, justice, and community safety in remote and cross-cultural contexts, and CBJS policy/program information. Evaluations and reviews of justice service delivery that relate to the cross-border region, along with academic commentaries, have been carefully reviewed (e.g. Allens Consulting 2010, d'Abbs and Shaw 2008, FaHCSIA 2011, Fleming 2011, Fleming and Sarre 2011, Nicholas 2007).

Other than that, there was never much about the Scheme in the public domain.

As part of the policy and program review, a number of key documents were provided to the team, primarily by key PEG members, including the service-level agreements, training and communication material, and a table of CBJS-identified court cases. Information that was provided included:

- Memoranda of Understanding/Service Level Agreements.
- PEG meeting minutes.

- Court sub-committee report (April 2012) and table of cases, also April 2013 report.
- Example of a prosecution brief (SA).
- Diagrams of interstate warrant process, investigation, and prosecution (NT).
- Communication material (NT).
- Training material and guidelines (SAPOL manuals).
- Cross Border Justice Project 2004 report and companion profiling reports on each jurisdiction's area (WA).

The document review helped inform the system analysis and program logic of how the Scheme is supposed to work and how best to assess service delivery within the regional context. Along with the stakeholder consultations and review of current literature such as guidelines on procedure, it helped to build up a picture of how different aspects of the Scheme contribute to outputs and outcomes.

Key stakeholder interviews

Semi-structured interviews (face to face or by telephone) were conducted with over 35 key stakeholders in the relevant areas of policy/program in WA, NT and SA (see Appendix 2 Stakeholder list and Appendix 3 Stakeholder Interview Schedule).

Three-quarters of the interviews (74%) were done face-to-face with the rest conducted over the phone. The specific questions that guided the content of the interview schedule and other draft research instruments included:

- What do you know about the CBJs?
- What kind of work do you do and do you have responsibilities that relate to the CBJs?
- How has the CBJs been implemented?
- How important are the jurisdictional boundaries to achieving justice?
- What do you see as the major changes that have occurred in the past three years in justice and community safety in the cross-border region or in your community?
- How can justice be more effective, efficient and meaningful?

The main sections in the Stakeholder Interview schedule are the background of the participant, knowledge of the CBJs and its operation, knowledge of the cross-border region and the significance of borders and cross jurisdictional cooperation, the effectiveness and efficiency of the justice system, community safety, and suggested improvements to the CBJs and the delivery of justice. An amended Stakeholder Interview was used with SAPOL, at the request of the SAPOL Police Research and Survey Coordination Committee.

Online survey

A survey, using the Survey Monkey software, was set up, and details about access provided to PEG members who then passed these on to justice service providers across the cross-border region. In addition a number of NGOs were invited to participate in the survey.

The draft schedule and questionnaire were developed based on previous surveys and research with service providers (e.g. Willis 2010a, Putt et al 2012, Allen Consulting Group 2011) and informed by thematic and content analysis of the document and literature review, and the first few interviews. The main areas covered in the original questionnaire were:

- the significance of jurisdictional boundaries on service delivery within and between sectors
- nature and extent of justice services
- impact of justice services
- perceptions of social problems and community safety.

The original questionnaire mainly included fixed choice responses with some open-ended questions.

The original questionnaire was revised to comply with the requirements of the SAPOL Research and Survey Coordination Committee. The revised version is shorter and with more open-ended than multiple choice questions. Rather than run a different survey in SA to that in WA and NT, the revised version was used in all three jurisdictions (see Appendix 2 for copy of the Service Provider Questionnaire).

The members of the PEG were asked to contact their networks to encourage participation via a web-link and password. The aim was to recruit participants who work in government in the justice sector (police, courts, corrections, juvenile justice) who are based in communities or who provide services in these communities. In addition, key contacts in Aboriginal legal services, the Cross-border Family Violence program, and the domestic and family violence service run by the Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council were asked to pass on the survey details to their workforce.

The online survey went live at the end of March 2013 and remained open until 19 April 2013.

There were a total of 50 responses to the questionnaire. The sample had the following characteristics:

- 40% from SA, 38% from WA, and 22% NT.

- The majority were police (54%), followed by community corrections (19%). Fewer than five responses were from each of the following sectors – victim support, legal, courts, juvenile justice and prisons.
- Over one quarter of the respondents (26%) had worked in central Australia for over five years. Nearly one half (42%) had worked in the area for less than two years with 14% having done so for less than six months.
- Just over a half (54%) mainly worked in an Aboriginal community, and 36% resided full-time in a community.
- The majority (89%) worked for government, while 11% worked for a non-government organization.
- Just over half (54%) were male, and 5% indicated they identified as being of Aboriginal and/or Torres Strait Islander background.

Community interviews

In the past few years there have been a number of consultations in the region, especially in the NT associated with evaluating and modifying the federal Northern Territory Emergency Response (NTER) intervention. The research team was mindful of not adding to the consultation burden yet at the same time wanted to give local residents and those involved in local justice service delivery in the region the opportunity to engage with the evaluation of an initiative that affects their lives, and to allow them to provide their perspective on community safety and facets of the CBJs.

Bowchung Consulting was responsible for coordinating and undertaking the research in the cross-border region. Three interview schedules were devised for community members and local justice service providers, including police and magistrates. These are attached at Attachment 2.

Fieldwork has been conducted in three distinct areas within the cross-border region. Each area has communities that are geographically close, and enjoy strong cultural ties. Figure 2 shows the three areas that have been visited.

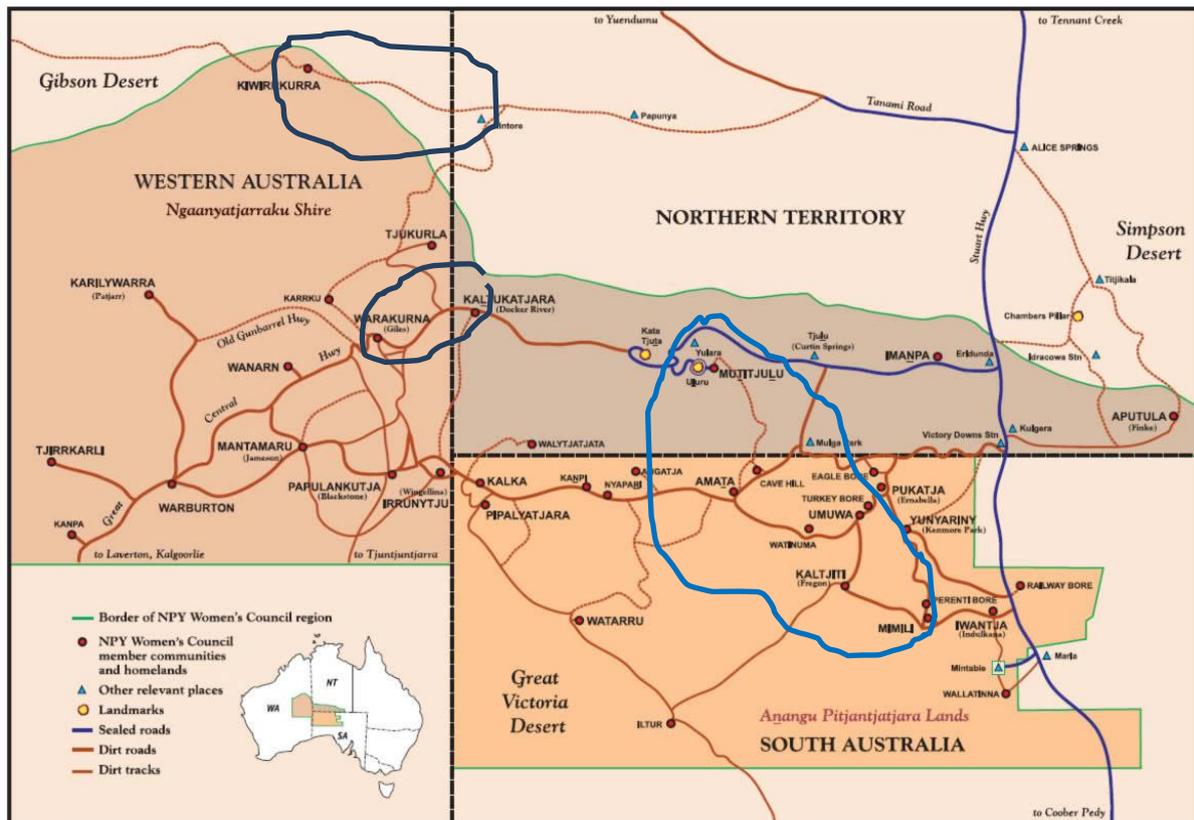
Prior to conducting the consultations, permission to conduct the evaluation was sought and given by each community and overarching Council body. Each researcher also tried to organise a local research assistant to work with the researcher. In Amata, Mimili and Kiwirrkura local researchers were identified, and worked in the evaluation. We could not identify local researchers for Docker River, Warakurna, Mutitjulu, Blackstone, Wingellina, Pipalyatjara and Kalka.

Each researcher contacted community organisations prior to their visit to organise convenient times to visit and speak with staff and local residents. Organisations that were likely to have had some contact with the justice system, and/or victims of crime were prioritised. However, the research team also spoke to organisations

such as schools to gauge their perspective of any changes that had taken place in community safety.

In addition to interviewing staff of service provider organisation, local residents were asked to participate whenever possible. Residents were identified through people that were already known to the researcher, and their families and friends. People who were visiting places such as Women’s Centres were also asked to participate.

Figure 2: Three areas within the cross-border region where consultations have been conducted.



NPY Women’s Council covers an area of 350,000 sq km in the tri-state region of NT, SA and WA. This includes 26 remote Aboriginal Communities and smaller homelands.

Source: NPY Women’s Council website: www.npy.org.au

Key: Areas visited

The tables below present details for each site visited.

Table 2: Fieldwork by jurisdiction, community, date and researcher

Jurisdiction	Community	Date	Researcher
Western Australia	Kiwirrkura	September 16 – 20, 2012	Anne Mosey
	Blackstone	September 27, 2012	Gill Shaw and Steve Payne
		March 4 – 6, 2013	Dr David Brooks
	Wingellina	March 6 – 8, 2013	Dr David Brooks
	Warakurna	September 26 – 27, 2012	Gill Shaw and Steve Payne
Northern Territory	Docker River	September 24 – 28, 2012	Anne Mosey
	Mutitjulu	September 24 – 28, 2012	Gill Shaw
South Australia	Amata	October 21 – 24, 2012	Vicki Gillick
	Mimili	October 25 – 27, 2012	Vicki Gillick
	Kalka	March 11 – 13, 2013	Dr David Brooks
	Pipalyatjara	March 14 – 15, 2013	Dr David Brooks

A total of 124 people were interviewed across ten communities in the cross-border region.

In six communities, researchers arranged interviews with community members, police officers, clinic staff and any other service providers that may have had valuable input. The fieldwork in Warakurna, Amata and Mimili was timed to coincide with the visits of the Magistrates Court sessions. This meant that we were able to speak with magistrates, sheriffs, prosecutors and staff of South Australian Department for Correctional Services. We also visited Umuwa, the administrative centre for the Anangu Pitjantjatjara Lands (South Australia), and spoke with Victim Support, Domestic Violence and Aged Care service officers.

In the remaining four communities, the researcher concentrated exclusively on Indigenous residents of the area. This was partially done because the key service providers lived in adjacent communities, and had already been interviewed. However the aim of this segment of the field research was to get in-depth interviews with Indigenous residents of the area to understand their perceptions and experience of the Scheme. The researcher, Dr David Brooks, is very well known in the region, and speaks the local language well. He was therefore very well placed to achieve the aims of this section of the fieldwork.

Table 3 presents a listing of the 47 people interviewed in Western Australia. The first section is the list of service providers who cover more than one community, and the other two sections list staff and community members whose input relates to experiences specifically in their community. Table 4 provides a listing for the 31 people interviewed in the Northern Territory.

Table 3: Western Australia

Site	Description of interviewee	Number of interviews
Western Australian Service Providers	Police officers	5
	Magistrate	1
	Sheriffs	2
	Total	8
Kiwirrkura	Clinic staff	1
	Community members	13
	Community Development Adviser	1
	School	1
	Women's Centre	1
	Project officer	1
	Total	18
Warakurna	Community members	6
	Community Development Adviser	1
	Clinic staff	1
	Total	8
Blackstone	Community members	7
	Total	7
Wingellina	Community members	6
	Total	6

Table 4: Northern Territory

Site	Description of interviewee	Number of interviews
Northern Territory Service providers	Police officers	3
	Magistrate	1
	Total	4
Mutitjulu	Government Engagement Coordinator	1
	Night Patrol	2
	Language Learning Centre	1
	Community members	7
	Total	11
Docker River	Community members	12
	Clinic	1
	Aged Care	1
	Women's Centre	1
	Government Engagement Coordinator	1
	Shire Services Manager	1
	Total	17

Table 5 provides a listing for the 46 people interviewed in South Australia.

Table 5: South Australia

Site	Description of interviewee	Number of interviews
South Australian service providers	Police officers	3
	Domestic violence officer	1
	Aged Care provider	1
	Victim support officers	2
	Magistrate	1
	Corrections officer	1
	Total	9
Amata	Community members	17
	Community development officer	1
	Government Service Coordinator	1
	Total	19
Mimili	Community members	10
	Government Service Coordinator	1
	Total	11
Kalka	Community members	4
	Total	4
Pipalyatjara	Community members	2
	Total	2*

*Unfortunately the fieldwork in Pipalyatjara was marred by community disruption due to a funeral with a high level of tension. One positive from this was that police officers from both South Australia and Western Australia were there, so multi-jurisdictional policing was in the forefront of people's minds.

Data analysis and case studies

In the initial stage, a scan was undertaken to identify criminal justice data, that is publicly available, either on communities or at a regional level. Sources identified were:

- NTER/Stronger Futures monitoring (i.e. NT police incident and court data for each community) (FaHCSIA 2012) (selected confirmed incidents, assault and sexual assault lodgements in court, applications and breaches of restraining orders 7/07-12/11, six monthly totals).
- NT police offence data for each community used in the Australian Institute of Criminology chapter of the NTER evaluation (FaHCSIA 2011) (selected offences, 7/07-12/10, six monthly totals).
- Remote Service Delivery baseline mapping - police offence data for Mimili and Amata (SA), selected offences, 2004-2010, annual total offences.
- WA police crime statistics (on the website) – monthly offence data, selected categories, for Warburton but none of the other Ngaanyatjarraku communities.
- SA Office of Crime Statistics and Research Crime Mapper – APY Lands annual total of police recorded offences, selected categories, 2006-2010.

This scan (see Appendix 5 for more detail) indicated there was nothing to match the kind of detailed criminal justice statistical profile of the region that was compiled for the Cross Border Justice Project 2004 report (NT Department of Justice et al 2004), and that to create a similar profile would involve multiple requests of many justice agencies and a level of agreement among key parties about the variables (core, consistent items) to be collected.

In the original evaluation design, it was envisaged that a wide suite of criminal justice statistics would be collected and analysed as a measure of the impact of the CBJs. However, given the numbers of CBJs cases, it was viewed as improbable that the Scheme would have contributed to trends in recorded criminal justice data.

Instead, when it became clear that considerable effort had gone into documenting the region and the volume of criminal justice matters (see various reports) and that there were not the resources to undertake a similar exercise, it was decided that a limited amount of information would be compiled to see how the region may have changed since 2004.

As a result, the following was done:

- the most recent census data for 2011 were compared to 2001 census data for the region
- key agencies were asked to provide criminal justice data for the past few years for the relevant region
- key agencies were asked to provide information on the number of cases or persons in December 2012 that related to the region.

The questions that this information and data were designed to address were:

- What is the proportion of cases or matters in the system that is potential CBJs cases?
- What are the recorded trends in crime and justice in the region, and a) how have these changed from 2004 when the Scheme was first developed and b) what does the current volume and characteristics of these data tell us about the CBJs and its likely significance in the future?

CBJS cases

It appears that the total volume of CBJs matters is not great, and that the number of defendants affected by the CBJs is small (over the life of the Scheme and up to April 2013 an estimate of just over 40 individuals have been involved in cross-border court matters). Numbers are affected by police operations and other variables. With the relatively small numbers, descriptive statistics should suffice. Given the small number of identified CBJs matters that have appeared in court, we did seek examples of cases that illustrate the issues that arise in relation to these matters.

What was described a 'perfect' case was provided by a police prosecutor. In addition, a number of hypothetical scenarios of how the Scheme should work were outlined in the 2004 report on the Cross Border Justice Project (NT Department of Justice et al 2004) and by Jamieson (2008).

The other examples that were provided to us were cases where confusion arose among key parties, or were recorded as reasons for orders by the retired SA Magistrate Rosanne McInnes. These examples are used in the chapter on the operations of the CBJs to highlight the procedural issues that have arisen over the past few years.

1.5. Conclusion

This chapter has presented an account of the evaluation process – the approach that was taken and how the original methodology and timeline was modified during the project. As more became known about the Scheme through interviews with key stakeholders and access to key documents and data, it became apparent that the evaluation would mostly be a story of implementation and process, rather than an assessment of outcomes in their broadest sense. It was never going to be an easy task to find information or to build a picture of a Scheme that has a legislative framework, but in practice comprises many diffuse micro-processes that are not routinely recorded as a 'program' or as part of the justice system in three jurisdictions.

The rest of the report presents the results from the evaluation, starting with an account of the origins and implementation of the CBJs and ending with an overview of the current situation and possible ways forward.

Chapter 2: Origins of the CBJs and its implementation

2.1. Background

Regionalisation of remote service delivery

In Australia it has long been recognised that service delivery is a challenge in rural and remote areas because of large distances, small populations and the costs associated with providing even basic infrastructure. The task of providing services in small remote Indigenous communities faces additional challenges linked to the history of these places and the specific cultural and political traditions that have existed in these communities for decades. Outside of the Aboriginal domain, many rural and remote towns and centres emerged as a result of economic development, with many acting as service centres for agriculture or mining in the area or region. Across Australia, local governments traditionally provided basic municipal services to these communities (e.g. roads and lighting) funded partly through rates revenue. Social services were provided through 'hub and spoke' models of regional service delivery with larger centres acting as a base for a network of outreach or visiting services. The core social services most likely to be found in small country towns were, and are, community health centres, schools and police stations.

In contrast, many remote Indigenous communities do not have an economic reason for being there; instead they have a history of being mission or government settlements specifically established for Aboriginal people. With the outstation or homeland movement of the 1970s onwards, a plethora of smaller satellite communities were established away from these settlements. Under the era of self-determination, the delivery of services in these communities increasingly became the responsibility of local community councils with networks of funded Aboriginal organisations providing specific services such as legal and medical services. Key government services continued to visit or have a small presence in these communities, but in a limited capacity. However, a major difference between Aboriginal remote communities and remote or rural towns was the lack of locally generated revenue, with the former dependent on a range of government funding streams to operate.

The past decade has witnessed an exponential increase in the funding of services to remote Aboriginal communities and a re-shaping of the structural arrangements in place to support service provision. Under the Council of Australian Governments (COAG) National Indigenous Reform Agreement, one of the three national investment principles in remote locations is that remote Indigenous communities and communities with significant Indigenous populations are entitled to standards of services and infrastructure broadly comparable with that found in non-Indigenous communities of similar size, location and need elsewhere in Australia.

According to Limerick et al (2012), in the past decade the social service provision pendulum has swung away from community-based organisations towards a government preference for more regionalised service delivery. In a recent report on local government service delivery to remote Indigenous communities, several case studies were examined, providing good examples of regionalisation. These examples include the creation of Shire Councils in the NT and the regional organisation being funded to provide services in the Anangu Pitjantjatjara Yankunytjatjara lands (APY) Lands, and the Regional Anangu Services Aboriginal Corporation (Limerick et al 2012). A further case study was of the Shire of Ngaanyatjarruku which encompasses the traditional lands of the Ngaanyatjarra people in WA provided another case study. Formed in 1993, it has its own unique character and history, and is the only almost entirely Indigenous local government in WA (Limerick et al 2012).

With remote service delivery, enduring problematic issues include lack of expertise and capacity at a local level, multiple agency involvement and short term funding. The resulting multiple services and agencies give rise to a confusing and often uncoordinated array of providers and services (Limerick et al 2012). Various attempts to improve service delivery and coordination include the COAG trials¹ and more recently Regional Partnership Agreements and Local Implementation Plans being developed in Remote Service Delivery (RSD) communities. These agreements are operated through the single government 'interfaces' established by the National Partnership Agreement on Remote Service Delivery (generally a Government Business Manager or equivalent plus a Regional Operations Centre). In central Australia there are a number of RSD communities including Amata and Mimili in SA, and Ntaria and Yuendumu in the NT.

Arguably, the CBJs is part of the trend towards the regionalisation of service delivery and shares at least in terms of its objectives, a commitment to cross-sectoral and interagency collaboration. However, what makes it unique is the cross-border component to the Scheme that reduces the effects of jurisdictional boundaries and enables, to some extent, a regional tri-jurisdictional approach to justice service delivery.

Cross-border region

The high rates of Indigenous over-representation in the criminal justice system in Australia, Canada and other parts of the world have been well documented. Indigenous peoples in Australia are especially over-represented in criminal justice

¹ The COAG trials were a whole-of-government approach designed to improve how governments worked together and with Indigenous communities, and were run from 2002 to 2006 in eight locations around Australia, including the APY Lands in SA. For more information, see <http://www.fahcsia.gov.au/our-responsibilities/indigenous-australians/publications-articles/evaluation-research/coag-trial-site-evaluation-reports/synopsis-review-of-the-coag-trials>

statistics for violent victimisation and offending (Bryant and Willis 2009, Sarre 2009, Wundersitz 2010), which would imply that many areas or communities where Indigenous people live have high levels of interpersonal violence. Certain discrete Indigenous communities have been identified as experiencing particularly high levels (Memmott et al 2001, Putt 2010).

Place-based research into crime, community safety and justice responses is a critical component of efforts to map and understand differences across locations, but does not necessarily take into account patterns of movement between urban, rural and remote settings. High mobility between regional and urban locations and within remote regions can have a disruptive effect on service provision such as in the justice, health and education sectors (Capobianco 2009) and generate specific forms of service delivery and practice (Putt 2011).

The cross-border region of Australia is sparsely populated with an estimated 6,928 people² living in around 26 communities with the predominantly Aboriginal population being highly mobile for family, cultural and other reasons. Over the past decade, inquiries and reports have drawn attention to social problems such as family violence, child neglect and substance misuse in remote Indigenous communities, all linked to the challenges of remote service delivery (e.g., Fisher et al 2011, South Australian Government 2012, Stewart et al 2011). Moreover there are limitations for research into these issues (e.g., Altman and Hinkson 2010). More specifically, in the cross-border region, a series of responses to inquiries have resulted in a constellation of government-led initiatives that have had an impact on communities, many of which have been subject to review, monitoring and evaluation (for example, see Putt 2012, Allen Consulting Group 2010, d'Abbs and Shaw 2008, FaHCSIA 2011, and Nicholas 2007).

There are unique governance and service delivery arrangements, although much is still managed and funded under the three state/territory administrations.³ In recent years, significant investments have been made in the provision of more police in the cross-border region (Fleming 2011, Fleming and Sarre 2011) and the instigation of programs to address the scourge of petrol sniffing and family violence (The Anangu Lands Paper Tracker 2011, Putt 2012). A few initiatives have had the mandate of providing a service or operating across the cross-border region, and these include the victim support services provided by NPY Women's Council, the Cross-border

² This estimated population is for the geographical area of the cross border region as defined in the original 2004 Cross Border Region Project report (NT Department of Justice et al 2004) and used to update the estimate for 2011 (see Appendix 5 for more detail).

³ The Commonwealth Government has a role to play, being an administrator of NT Indigenous communities through the NTER legislation.

Family Violence Program that works with offenders (Pearce 2009) and the Substance Abuse Intelligence Desk and Dog Operations Unit in Alice Springs (Putt 2012). In summary, it can be concluded that jurisdictional boundaries, while becoming more porous for the above initiatives, have remained an issue for various state and territory administrations.

2.2. The Cross-border Justice Scheme

Origins

In November 2001, the Western Australian government announced an inquiry in relation to complaints of family violence and child abuse in Aboriginal communities. This was prompted by a coroner's report following the death of a 15 year old Aboriginal girl at the Swan Valley Nyoongar community in 1999. In July 2002, the Inquiry published its report: *Putting the Picture Together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities* ('the Gordon Report'). The report stated that no fewer than thirteen agencies had been providing services to the girl, but that individual agencies had not been aware of the services being provided by each other and there was a lack of clarity as to which agency was leading the process (Gordon et al 2002).

In the context of WA Police, the Inquiry found that access to policing services by Indigenous people in remote areas was problematic (Gordon et al 2002: 212, 226-228). There was a need, the report said, for more services, more police, more effective information-sharing between relevant agencies, better service coordination and specific legislative and policy changes that would facilitate any these reforms.

The response to the Gordon Inquiry thus provided an opportune environment for various agencies and groups to come together with the relevant governments to discuss the idea of a cross-border justice project with a central objective of implementing a legislative base that would address jurisdictional barriers in central Australia (Fleming 2011).

In May 2002, senior officers from WA, NT and SA met at a Justice Roundtable in Alice Springs. In the months that followed, the NT's decision to erect a multi-functional police facility at Kintore – 40 kilometres east of the WA/NT border – opened up the possibility of expanding the multi-jurisdictional approach and establishing a model that could be implemented across the NPY lands (Remote Service Delivery Project 2003). A multi-functional police facility allows for a permanent police presence and provides a base for other agencies – in child support, community services, education, health, and correctional services – for those who live within a 200 kilometre radius. Over the next five years, multi-functional police facilities were opened at the following locations - Kintore: 15 April 2004 (NT

Police Station), Warburton: 20 December 2005 (only a police post prior to that), Warakurna: 23 March 2007 (only a police post prior to that), and Blackstone: 27 April 2009.

Impetus for reform

Convened by the NT Department of Justice in Alice Springs in June 2003, the Tri-jurisdictional Justice Initiative Roundtable included magistrates, senior police, court administrators, community corrections officers, lawyers and members of the NPY Women's Council (NPYWC 2010a). The various representatives from government agencies in the three jurisdictions and representatives from the NPY Women's Council agreed that the prevention of violence and the administration of justice needed to improve (Jamieson 2008). A conference presentation in 2010 on the Scheme referred to complex justice issues, which were linked to Indigenous people being highly mobile across the region, the nature and extent of violence, and the increase in supply and misuse of substances. It also states that Indigenous people, especially women identified the need for outside help and improved criminal justice interventions (Lloyd, Coates and Gwilliam 2010).

Key 'drivers' for the Scheme were described as the need to reduce long-distance police patrolling within borders with limited capacity for prevention and early intervention, and lengthy delays in arrests and matters being dealt with. The Scheme was seen as potentially contributing to improved information-sharing between agencies and across jurisdictions, victim protection and a desire to meet the needs of criminal justice services (Lloyd, Coates and Gwilliam 2010). Similar themes are found in a short description of the CBJs and its model legislation (Jamieson 2008), which refers to the difficulties in investigating and prosecuting offences because of the movement of people across border – sometimes to evade the police by more often as part of normal life.

According to a fact sheet on the Scheme published by the NPY Women's Council in 2010:

NPYWC members from the 'three sides' have always stressed the commonality of issues that affect them, and the need to address these in a way that does not allow state and territory borders to impede progress....

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

constables through conflict of interest because of kinship connections and obligations have been well documented. (NPYWC 2010a)

The vision of the Cross Border Justice Project

According to the 2004 report on the Cross Border Justice Project, at that time it was envisaged that the Project would lead to a comprehensive approach to addressing community safety concerns through more effective justice services that would involve cross-border arrangements, cross-border case management, an expansion of community based sentencing options and a community correctional facility for low security offenders, more programs and services to address substance abuse, and victim and offender support (NT Department of Justice et al 2004). The scope of the area covered by the Project had expanded in the NT to include Kintore because of the creation of a multi-jurisdictional police station there, which meant a number of other communities (Papunya, Mt Liebig and Haasts Bluff) were added due to cultural links.

After the June 2003 Tri-Jurisdictional Justice Initiatives Roundtable, six teams were established to progress the resolutions from the Roundtable. The 2004 report summarises the team's recommendations and proposes a way forward. The Project's strategic objectives are characterised as strengthening and improving community safety, delivering timely and efficient justice responses that are meaningful to people on the lands, addressing gaps in justice services to people living in this remote area, developing collative relationships across jurisdictions and agencies to improve and co-ordinate the delivery of justice services, and engaging with Aboriginal communities in developing local solutions to law and justice concerns. The objectives were to be achieved through a process that acknowledged cultural boundaries, improved administrative efficiency, and optimized the delivery of services. Co-ordination and co-operation both within and across jurisdictions at a number of different levels was seen as essential to this process.

The report's recommendations were presented under six headings:

- Programs: The development of culturally and linguistically appropriate programs and opportunities for community based management of offenders that build on existing services and address family violence, substance misuse (including petrol sniffing), anger management, victim perpetrator awareness, driver training and licensing, and vocational literacy. The priority was given to the immediate establishment of a case management team to work with individuals in petrol sniffing and other substance misuse behavior. It is also stressed that new programs and strategies were required to respond to the issues and behaviours underlying juvenile offending, including diversion from court, and that victim services need a greater profile. Attention is also drawn to the limited availability of mental health services, and how the

effective use of the NT's Aboriginal Interpreter Services across the region will support the consultation and capacity phases of the project.

- Legislation: State and Territory borders were described as meaningless, with the frequent movement of people across the region causing difficulties for justice services that only operated within an individual jurisdiction. Priority was given to amending Commonwealth legislation to allow magistrates in the three jurisdictions to deal with people apprehended on interstate warrants, and the enactment of State and Territory legislation to allow effective cross jurisdictional operation of circuit courts, police and correctional services.
- Cross-border custodial facilities: As there were no custodial facilities in the region, and given the distance to Port August or Kalgoorlie facilities, it was recommended that the use of the Alice Springs Correctional Centre by SA and WA prisoners be piloted.
- Community sentencing initiatives: It was proposed to increase the availability of community based sentencing options such as home/community detention, community work, bail supervision, community based rehabilitation and other forms of intensive supervision. It was also proposed that a business case for the management of low security prisoners, including pre and post release.
- Community engagement: Because the process of developing programs and introducing facilities was seen as supporting community capacity and community involvement in the development and delivery of services, it was proposed that participatory planning and engagement with communities and other service providers be part of building justice related strategies.
- Cross agency and intergovernmental mechanisms: It was suggested that formal and informal management protocols be put in place to ensure high level policy commitment, and service level agreements between justice agencies and police in the three jurisdictions and between agencies and local providers. Agreements and protocols with Indigenous communities in the region were also advocated.

Policing and courts were covered separately in the Project report. With the former it was proposed that there be other multi-jurisdictional facilities (in addition to Kintore) in the cross-border region in the near future. With the latter it was recommended that an analysis of future demand for court and correctional services be undertaken as it was expected that additional police officers and operationalising cross-jurisdictional circuit courts would have resource implications.

In terms of future project management, it was proposed that a monitoring and evaluation framework be developed, and that Project Executive Group with representatives from each jurisdiction would be responsible for providing

stewardship of the project, including the establishing the implementation planning and management arrangements and overseeing the evaluation of the project.

The Project report sought funding of \$1.08 million in the NT and its authors indicated that there was an expectation that the three jurisdictions would contribute relatively equally in a manner that reflected existing and planned outputs. The funding for the NT included \$480,000 for case managing petrol sniffers.

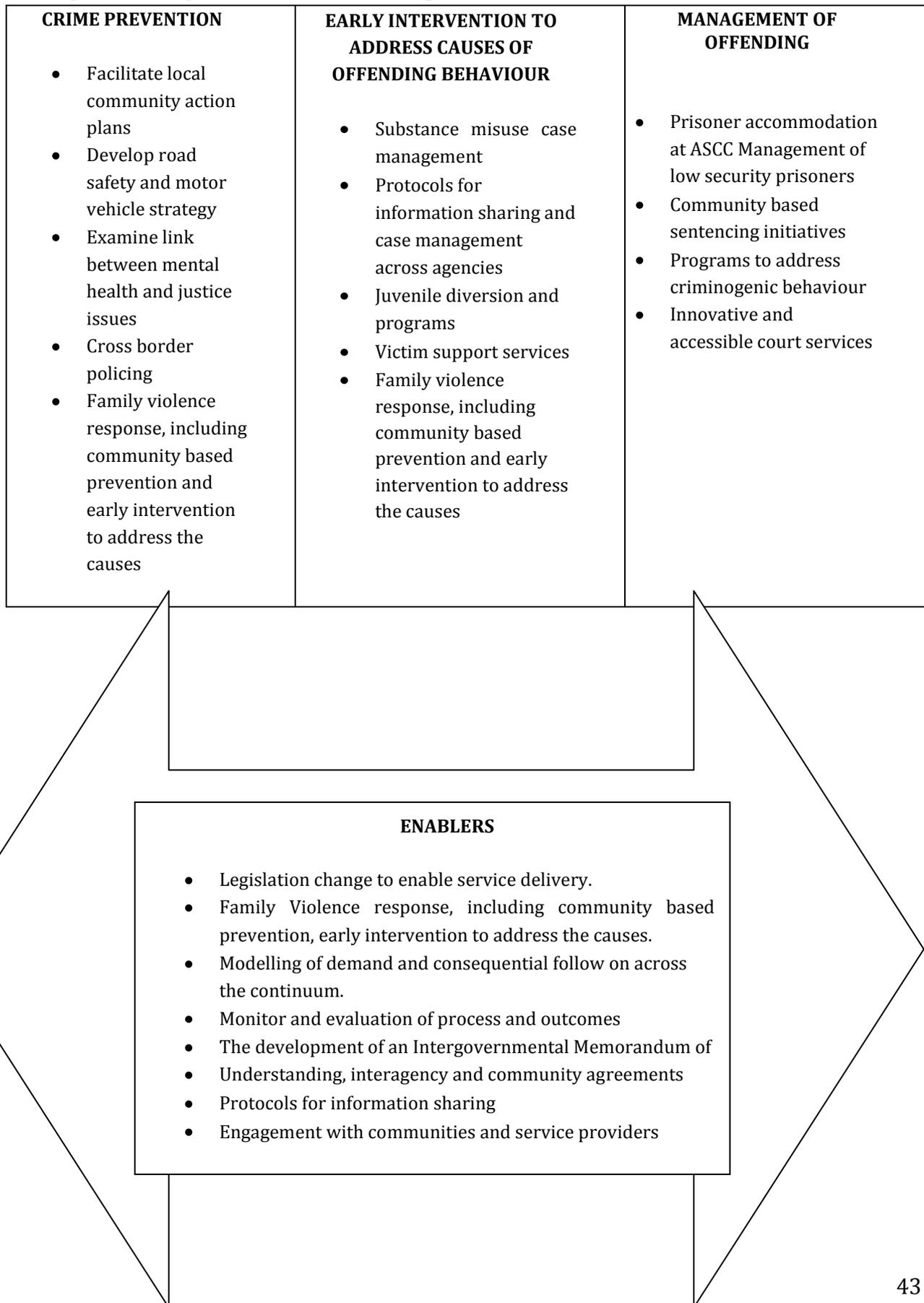
The comprehensiveness of the approach being advocated for the Project with a range of elements under crime prevention, early intervention and the management of offenders, underpinned by enablers, was conveyed in the report through a diagram (see Figure 3, where it is re-produced).

It took over five years to implement formal arrangements, including the enactment of legislation, to enable the cross-border delivery of justice services, although an expanded cross-border policing initiative was introduced during this period (Fleming 2011).

Operational since late 2009 and underpinned by consistent legislation in SA, NT and WA, the main aim of the CBJs was to minimize the effects of state/territory borders on law enforcement and justice services in the cross-border region. The legislation enables the exercise of relevant powers by police and other office holders and allows court decisions and proceedings to apply in the cross-jurisdictional region where offences occur and where individuals reside in the region. More detail on this and Service Level Agreements is provided in the next section.

However, it seems that aspects of the original Project plan were not implemented as envisaged. As far as we can ascertain, although participatory planning methodologies were advocated with communities and non-government organizations, this does not seem to have occurred. There does not seem to have been a trial to place low security prisoners from WA and SA in the Alice Springs facility and no business case was developed for the cross-border management of low security prisoners, although a Work Camp was recently opened outside of Warburton. It also seems that community sentencing options and key programs were not implemented as cross-border initiatives or through cross-border case management. Instead various programs and initiatives have been developed and funded within jurisdictions and a regional cross-border approach was somewhat superseded by national agreements to address remote service delivery, the NTER, and the Whole of Government strategy to address petrol sniffing through the introduction of Opal fuel and other strategies. As a result there does not appear to have been a dedicated or specific budget to implement the Cross-border Justice Scheme in 2004.

Figure 3: Diagram from the 2004 report Cross Border Justice Project



In October 2005, the documentation formally establishing the Cross Border Justice Project was signed by the Solicitors-General of the NT, WA and SA. Two years later an Inter-Government Agreement was signed, followed by the enactment of legislation in 2008 and 2009, and the progressive signing off on cross-jurisdictional service level agreements from 2009 to 2011.

Inter-Governmental Agreement

In the Inter-Government Agreement of 2007 it was stated that the parties recognised the constraints to the delivery of the justice services in the region caused by State borders and exacerbated by remoteness. It was agreed to establish a Scheme for cooperative justice services to facilitate improvements to the delivery of justice services and that the establishment may best be implemented by enactment of legislation by the States in, or substantially, the terms of the Model Bill.

The goals of the Scheme were articulated as an acknowledgement by the parties that the Scheme would:

- Provide an efficient and effective service, irrespective of borders.
- Assist in addressing community safety issues by ensuring a responsive justice system.
- Take into account the difficult position of victims of crime.
- Provide a shared use of facilities.
- Facilitate expeditious resolution of prosecutions.

Parts 4 and 5 of the IGA states that parties agree to give effect to the Model Bill and Regulations and to maintain uniformity of the core premises of the Bill and Regulations. Part 6 covers the appointment of cross-border magistrate which requires the agreement of key stakeholders in the home jurisdiction of the magistrate. Parts 8 and 9 relate to changes, termination and withdrawal from the IGA, whilst Part 10 means the parties agree to a review of the Scheme no later than three years after the commencement of the first Act enacted in accordance with Part 4.

Legislation

In accordance with the IGA, and in order to implement the cross-border justice Scheme, identical laws were enacted by the parliaments of the three respective jurisdictions. In order to achieve this, a model Bill was drafted by WA and Jamieson (2008) in her conference presentation, explains the intent of the legislation primarily by way of examples, and outlines why an active approach was taken for the model Bill.

In drafting model legislation, Jamieson (2008) noted that the substantive law in each jurisdiction was examined to determine the extent of differences, and if there were differences, to decide whether or not the substantive law of each jurisdiction should apply to its full extent in the other jurisdictions. She refers to two particular areas of difference – restraining orders and the enforcement of fines. With the former, only in NT and WA were there provisions by which police could make short-term orders. It was decided that the NT and WA police should be able to make and enforce such orders in each of the other two jurisdictions, but that it was important to ensure that SAPOL were not being given additional powers that they could exercise in WA and NT but not in SA. In relation to fines enforcement, only in WA and NT can the non-payment ultimately lead to imprisonment. For the model Bill, it was decided that each jurisdiction's fines enforcement legislation could apply in the other jurisdictions except for imprisonment.

A Cross-Border Justice Act was enacted in WA in 2008. A similar Act was passed in the NT and in SA in 2009. Commonwealth legislation, *the Law and Justice (Cross-Border and other Amendments) Act*, was enacted in 2009. This legislation added a new section – section 8 (3A) – to the *Service and Execution of Process Act 1992* (Cth), the effect of which is to make that Act inapplicable to any person to whom the Cross-Border Justice Acts applies. On the introduction of the Cross-Border Justice Amendment Bill 2009 to the WA Parliament, on the 17th June 2009, the WA Attorney-General said the following:

The cross-border justice scheme will introduce a collaborative system of justice administration in the region where the borders of Western Australia, South Australia and the Northern Territory meet. The scheme was instigated by the NPY Women's Council, which initially approached state and territory governments in 2003 seeking a solution to the serious justice problems in these remote regions.(cited in NPYWC 2010a)

The NT/SA/WA legislation allows police to be appointed as officers in all three jurisdictions. Officers from these jurisdictions become 'special constables' with little regard for jurisdictional boundaries.

The Cross-border Justice Scheme makes it possible for persons who reside in, who are 'connected with', or who commit offences in the cross-border region to be dealt with by a magistrate sitting in any of the three jurisdictions. Police, sheriffs and correctional officers from each jurisdiction can now exercise cross-border powers regardless of where the offences have been alleged to have taken place (Fleming and Sarre 2011).

The term 'connected with' requires further elaboration. This connection is very broadly defined. Section 20(2) of the *Cross-Border Justice Act 2009* (SA), for example, provides that the person has a 'connection' with the cross-border region if:

- a. the offence is suspected of having been committed, or is alleged or was found to have been committed, in the [cross-border] region.
- b. at the time of the person's arrest for the offence—
 - (i) the person is or was in the region; or
 - (ii) the person ordinarily resides or resided in the region; or
- c. at the time at which the offence is suspected of having been committed, or is alleged or was found to have been committed, the person ordinarily resides or resided in the region.

The CBJs only applies to matters that are heard in the Magistrates Courts in the three jurisdictions, which, in effect, results in only summary offences being covered by the Scheme.

In the three Acts that were enacted in WA, SA and NT the geographic area covered by the CBJs is defined in regulations by a map and geo-coordinates. For example, Section 19 of the *Cross-border Justice Act (NT)* states the region (a) straddles the border between the Territory and 1 or both of the other participating jurisdictions; and (b) is prescribed by regulation to be a cross-border region. Regulation 3 of the *Cross-border Justice Regulations 2009 (NT)* and its schedule includes a map showing police areas covered by the region, and a list of map coordinates for the boundaries.

Service Agreements

Under Part 7 of the IGA there is agreement between the Parties to act cooperatively and in good faith to implement the Scheme and to endorse the use of service agreements between agencies to enable cooperative police, court and corrective services. The agreements are expected to cover the appointment, management and remuneration of justice officers; cost-sharing arrangements for the delivery of services; and any other matters to further the objectives of the legislation.

Service agreements have been signed off at different times (see Table 6). The agreements cover police, court, corrections and most recently, juvenile justice services. The main task of all of the agreements is to indicate the allocation of responsibilities of jurisdictions (for example, 'home' and 'sending' or 'host' jurisdictions). This was clearly designed to anticipate and address administrative and communication problems that might arise in particular situations. Unless otherwise stated, it seems that the 'home' jurisdiction is where the offence has or is

alleged to have occurred. Although there are core elements that are consistent across the agreements, for example in relation to their purpose and such matters as modification or withdrawal from the agreement, they do vary in their specificity and content.

Table 6: Service agreements

Sector	Parties	MOU/Agreement	Date signed
Courts	Director General Attorney-General's Department WA State Courts Administration Council SA and CEO Department of Justice ⁴ NT	Court service agreement	December 2009
Community corrections	WA Department of Corrective Services, NT Department of Justice and SA Department for Correctional Services	Service Level Agreement – Community Corrections	March 2010
Corrections	WA Department of Corrective Services, NT Department of Justice and SA Department for Correctional Services	Prison services	March 2010
Police	WA, SA and NT Police services	MOU	August 2011
Juvenile justice	Department of Families and Communities, SA SAPOL Court Administration Authority, SA Department of Justice, NT NT Police Department of Corrective Services, WA WA Police	Service Level Agreement by Juvenile Justice Agencies	June 2011

Key details from each service agreement are summarised below.

Court Service Agreement

- First agreement to be executed in December 2009.
- The agreement deals with operational and practical issues of conducting court in another jurisdiction.
- Outlines protocols for the provision of cross-border court services, such as interpreters, witness support, handling of appeals and youth court cases.
- Clarifies there is no collection of fines, fees or costs under laws of another state, and that magistrates may use facilities in another state at no cost.
- Established the crucial cross-border registries that co-ordinate cross-border cases and circuits between jurisdictions, and liaise with each other to update one another of changes to procedure, legislation and forms.
- Cross-border registrars sit on the Cross Border Services Committee.

⁴ As of September 2012, the former NT Department of Justice ceased to exist and the new NT Department of the Attorney-General and Justice and NT Department of Correctional Services were formed.

- Agreement provides for a Court Services Committee that meets quarterly to monitor and coordinate the operation of cross-border court services.

Prison Services Agreement

- Signed off by three jurisdictions in March 2010.
- Objective is to deal promptly and effectively with prisoners.
- Intent is to neither advantage nor disadvantage a prisoner by the Scheme.
- Prisoners and their sentences are both managed under the policies and legislation of the jurisdiction in which the prisoners are located.
- The prison sentence remains unchanged regardless of the jurisdiction in which the prisoner serves his or her sentence.
- Parole authority in the jurisdiction in which offence was committed is responsible for making decisions about parole.
- Outlines protocols for dealing with cross-border remand warrants, prison transfers.
- Three prisons named in agreement to hold 'cross-border prisoners' (Eastern Goldfields Regional Prison, Alice Springs Correctional Centre, Port Augusta Prison).

Community Corrections Agreement

- Executed in March 2010.
- Community corrections officers in each of the three jurisdictions are authorised in the agreement to supervise interstate offenders from anywhere in the cross-border region. Appointment of authorised officers by each of the community corrections agencies. It is not intention of service agreement for officers to provide services to those courts outside their jurisdiction.
- When an offender is being supervised in a participating jurisdiction, the authorising officers are responsible for updating the home jurisdiction of the offender's progress, and are charged with helping prepare parole reports and pre-release planning.
- Interstate collaboration between participating officers to allow for information sharing and records management is built into the agreement. Responsibility for training rests with each participating community corrections agency.
- Community residency to be decided administratively, taking into account victim location and views, normal residence of offender, access to treatment, access to support, preference of community, family or elders and expressed preference of offenders.
- Interstate parole transfers, community service orders, work orders are addressed in the agreement.

- Establishment of Cross Border Community Corrections Committee to monitor and coordinate cooperation across the borders.

Police MOU

- Signed by the three Police commissioners in August 2011.
- Intent of MOU is not to be restrictive, but adaptive and flexible to meet particular requirements of policing the cross-border region.
- Each police service retains primary responsibility for the provision of police services within their own borders.
- Agreement covers that each police service will provide assistance to neighbouring jurisdiction in emergency as requested, conduct joint operations, enforce the legislation of the State/Territory where the offence occurs ('Home state') when an offender has moved to a 'host state', (the converse applies), charge the offender at the nearest location where detention facilities exist, prosecute offenders or lay charges arising from within neighbouring jurisdiction, and manage prisoner delivery from one participating jurisdiction to another.
- Staffing issues and capacity is addressed, as well as who has the authority to agree to specific activities.
- More references than other agreements to existing arrangements/legislation that enables cooperation between police services.
- Emergency responses, extraordinary incidents, investigative action and prosecution, prosecution costs are covered in the agreement.
- Bail arrangements, detainee location and transfer, deaths in custody and other custody incidents are also covered in the agreement.
- Communication, media, information sharing are agreed upon, including sharing of information about incidence of offending, victims and offenders and Freedom of Information applications and subpoenas.
- Cross Border Police Committee established, and agreement made to hold regular meetings and to report on costs quarterly.

Juvenile Justice Agreement

- Executed June 2011 between seven government agencies (see Table 6).
- It should be a principle that each party considers the best interests of young people in decision-making.
- Modelled on Community Service SLA, adjusted to refer to juveniles and youth.
- Authorised officers to assist cross-border magistrates and to monitor and supervise interstate offenders at sittings and decisions regarding breaches of court-ordered conditions.

- Supervision and discipline are responsibility of state under which the officer holds their primary position; the home state assumes responsibility for record management, data exchange.
- The conditions for assuming responsibility for cautioning, conference supervision, supervision, compliance with conditions, breach of court orders, court ordered detention, remand/police detention, transportation, court reports, are allocated in the agreement.
- The Juvenile Justice Monitoring committee is established, and has the responsibility for monitoring and assessing the CBJs as it operates in relation to youth and juveniles.

Further details about each agreement can be found in Appendix 6.

2.4. Other regional justice services

There are a number of justice services that were not mentioned in the legislation nor part of the IGA and therefore do not have service level agreements.

These include the Aboriginal legal services in the three jurisdictions and victim support services, for example as provided in the cross-border region by NPY Women's Council. Offenders may also be directed by the court to attend a program or service that operates in the region, such as the Cross-border Family Violence Program. Given that these two programs operate in the tri-border region and have been linked to the CBJs, the programs are briefly described below after a short description of the Aboriginal legal service in the region. The victim support and legal services are in the non-government sector, while the Cross-border Family Violence Program is a government program.

Aboriginal legal services

There are three key Aboriginal legal services that provide services in the cross-border region – the Central Australian Aboriginal Legal Aid Service (CAALAS) based in Alice Springs, the Aboriginal Legal Rights Movement (ALRM) based in Adelaide with an office in Port Augusta, and the Aboriginal Legal Services of WA (ALSWA) with a regional office in Kalgoorlie.

According to their websites, both CAALAS and the ALSWA provides legal advice and representation (criminal, family, civil and human rights law), in accordance with grant conditions imposed by the Commonwealth Department of the Attorney General, as well as community legal education and assists prisoners and their families(<http://www.caalas.com.au/2-history-of-caalas.html>; <http://www.als.org.au/>).

The ALRM (ALRM 2013) provides similar legal aid and, according to its website, 'through the provision of legal services and associated activities, ALRM promotes legal, cultural, economic, political and social rights for Aboriginal and Torres Strait

Islander peoples as dispossessed peoples within South Australia. The major aim is to advance the legal interests of Aboriginal people in South Australia and to ensure that those interests and rights are protected by the law and not adversely affected by abuse or misuse of any powers under the law'. The Movement has over 80 staff, with offices in Adelaide, Ceduna, Murray Bridge, Port Augusta and Port Lincoln. As part of the criminal law practice, legal assistance is provided through court circuits - Whyalla, Coober Pedy and Port Pirie. The office also delivers services to the Anangu Pitjantjatjara Yankunjatjara Lands (APY Lands), and north-west Aboriginal communities of South Australia.

CAALAS has around 40 full-time employees based in Alice Springs and Tennant Creek. In addition to providing representation in the Alice Springs and Tennant Creek sittings of various courts, CAALAS lawyers and Aboriginal Legal Support Officers regularly attend bush court sittings in the following communities - Ali Curung, Elliott, Hermannsburg, Kintore, Mutitjulu, Papunya, Ti Tree, and Yuendumu.

CAALAS is a member of the Aboriginal Peak Organisations Northern Territory, which is an alliance comprising the Central Land Council, Northern Land Council, North Australian Aboriginal Justice Agency and the Aboriginal Medical Services Alliance of the NT. The alliance was created to provide a more effective response to key issues of joint interest and concern affecting Aboriginal people in the Northern Territory, including through advocating practical policy solutions to government.

ALSWA is currently the largest community based Aboriginal and Torres Strait Islander legal organisation in Australia and employs over 100 people in 15 offices throughout WA. There is a regional office in Kalgoorlie, and the website mentions offices in Laverton and Warburton but, according to information provided in an interview with a key stakeholder, they are now closed. The Law and Advocacy Unit is described as being funded to provide support to incarcerated Aboriginal and Torres Strait Islander adults and juveniles in Western Australia. This includes visiting men, women and children in prisons and juvenile detention centres, assisting their families by developing relationships with the Department of Corrective Services staff and external agencies to assist in the through care of Aboriginal and Torres Strait Islander prisoners in their integration from prison to the community.

NPY Women's Council

The NPY Women's Council was a strong advocate for the creation of the CBJs and participated in the Tri-Jurisdictional Justice Initiative Roundtable convened in Alice Springs in 2003 (NPYWC 2010a), where there was broad agreement among stakeholders to develop what became the CBJs. The Council oversees a range of programs, including the Domestic and Family Violence Service. The area covered by the Council is not as large as the CBJs but represents a significant proportion, as it

only excludes the communities in the north-east corner of the CBJs (see Figure 2 for a map of the area covered by the Council).

The Service is described as offering practical help and advocacy for individual victims of violence and sexual assault with their safety as the priority within a case management framework (NPYWC 2010b). It is described as having considerable contact with police and court services, as part of its work includes:

- crisis assistance, including reports to police
- legal assistance to obtain domestic violence restraining orders and have them registered interstate if required
- court support at remote bush circuits and at town courts
- information sessions for police, justice, health and other agencies
- maintaining and building relationships and developing guidelines with other organisations and services.

Cross-border Family Violence Program

The Cross-border Family Violence Program was initially developed as a 'component' of the Cross-Border Justice Project (Pearce 2009). It has been operating since 2007 with funding and in-kind support from the Australian, South Australia, Western Australian and Northern Territory Governments. The program is managed from Alice Springs and delivered in three to four week blocks in communities in the Cross-border region. Its aim is to reduce the incidence of physical and psychological harm in Aboriginal communities in central Australia by working primarily with violent men. The program is targeted at adult Aboriginal offenders, particularly those on probation under community supervision by State or Territorial correctional agencies, and those referred on a voluntary or non-mandated basis by other agencies, with examples given of the police and the NPY Women's Council. Group sessions are run over a three to four week period. Individual sessions are held with men outside of group times, as experience had shown that the 'small size of communities is one of the factors making it very difficult to talk openly about personal matters in the group' (Pearce 2009). The program is well supported by correctional service agencies and enjoys a 'valuable working relationship' with the NPY Women's Council. In 2013 the Cross-border Family Violence Program has piloted a new 'Kungas program' developed for female offenders.

2.5. Other services in the region

An idea of the range of other key services that might be aware of or familiar with the CBJs or linked to justice services through referrals and notifications is conveyed in the recent update on the APY Lands by the South Australian Government. The report outlines positions, infrastructure and programs that are now in place that are

seen as contributing to the Closing the Gap building block of safe communities (SA Government 2012). From a service provision point of view, this includes:

- *Policing*: police stations at Mimili, Amata and Ernabella, each of which is staffed by a Sergeant and three officers. In total, 19 police officers are said to work in the Lands. There are also 10 Community Constable positions (three of which are filled) and three filled Aboriginal Police Liaison Officers positions.
- *Crime prevention and youth activities*: A night patrol was expected to commence in Amata in March 2012⁵, and involves local people as volunteers and paid staff. Youth workers are employed to run recreational youth programmes in six communities, but it does not say whether these workers are based in the communities.
- *Child protection*: six Lands-based workers have been appointed by Families SA in the six major schools in the Lands to implement early prevention strategies and training to prevent child sexual abuse and to minimise its effects. Two Child Protections Workers are based in the Lands.
- *Health and wellbeing*: the equivalent of four full-time doctors are based in the Lands, and three Family Wellbeing Centres were being established, in Mimili (December 2012), Amata (mid-2012) and Pukatja (late 2012). Each has its own lead agency.

Similarly, the *Closing the Gap in the NT* report, compiled by FaHCSIA (2012), gives an NT-wide update on services and initiatives that are regarded as contributing to the building block of 'safe communities', including:

- Police
- Night patrol services
- Safe places
- Mobile child protection teams
- Remote Aboriginal Family and Community Workers
- Legal services
- NT Aboriginal interpreter service.

The majority of these initiatives would affect, at least on an intermittent basis, all of the remote communities in the NT CBJs region except for where infrastructure has been built. For example, in relation to funding for increased police and infrastructure, upgrades to permanent police stations have occurred and safe places created at Ntaria (Hermannsburg) and Yuendumu, which are outside the designated

⁵ Night patrols did commence in February 2012 in Amata, and in October 2012 in Mimili.

cross-border region, and an upgrade to police overnight facilities have occurred at Docker River.

2.6. Training, induction and guidelines

Based on key stakeholder recollections, there seems to have been a flurry of training or induction sessions about the Scheme around the time of its commencement. For example, a magistrates' orientation forum was held in Alice Springs in 2009 and recorded on a CD. Court registrars and correctional stakeholders recalled that, around this time, staff were given some training; however, there does not seem to have been, since then, any systematic approach to inducting or training new staff about the Scheme. Representatives of the Aboriginal legal services were involved in an early meeting about the Cross Border Justice Project, and took the opportunity to discuss the Scheme at a recent national gathering of Aboriginal legal services, but have not introduced any formal induction into their respective services. The likely reasons for the rather ad hoc approach to information and training are discussed further in Chapter 5.

Various materials have been generated to assist practitioners and provide guidance on the CBJs. For example, a Benchbook for magistrates was developed and is currently in the throes of being revised, with some debate over its purpose and usefulness.

The following documents that are relevant to policing in the cross region were provided to the evaluation team:

- Special Constable Manual – South Australia Police (2012).
- Cross-Border Justice Act 2009 training manual – South Australia Police (2010).

Both of the two SAPOL manuals are substantial documents, with the Special Constable manual 37 pages in length, which highlight the many areas of policing affected by the CBJs. Figure 4 shows a map of the region which the CBJs covers, and police stations in the region, based upon information from one of the manuals. It is an example of the very practical and applied information in the document.

2.7. Community and public awareness of CBJs

After the CBJs had formally commenced, the NT Department of Justice produced a storyboard and a poster on the Scheme. These were designed to inform local community residents in the cross-border region about the Scheme, but it is not clear how they were distributed or used. During the community consultations, CBJs posters were displayed in some police stations but it is not known when or how often these materials have been displayed since that time.

Given the number of changes in policies and programs in recent years in the region, it is not expected that this kind of information would have made much impact. It is more likely that only those who have direct contact with the criminal justice system and those who work within it (for example, local police or support staff in the NPYWC Domestic and Family Violence Program) would be aware of any effects of the legislation on how criminal incidents are dealt with.

There is not much about the Scheme in the public domain, aside from a NPY Women's Council fact sheet (NPYWC 2010a), and a presentation at the Australian and New Zealand Society of Criminology conference held in Alice Springs in 2010 (Lloyd et al 2010). An article highly critical of the Scheme appeared in 2009 (Charles 2009). Mr Charles argued, from the perspective of the Aboriginal Legal Rights Movement, that the Scheme would work to the detriment of clients and was probably unconstitutional. More recently, there was a section in the 'safe communities' section of a recent FaHCSIA report on Closing the Gap in the Northern Territory (see FaHCSIA 2012). The stress in the report is on law enforcement collaboration, but, interestingly, it conveys the impression that there is a new 'cross-border court system' throughout the region and that the federal government is part of the cooperative arrangement.

2.8. Conclusion

This chapter describes, by reference to foundational agreements between governments, how the Scheme was born. Although a comprehensive approach to developing and supporting the Scheme was first envisaged in its earlier manifestation as the Cross Border Justice Project, over time the focus was on ensuring the mechanisms were in place to allow government justice services to work collaboratively and in limited cross-jurisdictional capacities. As a result, although other key stakeholders such as non-government service providers and Aboriginal community residents of the region were expected to be involved in its planning and implementation, this never really occurred. In addition, over the past decade, other major and national initiatives have had dramatic consequences for the region with significant investments in remote social services and an increase in police numbers in communities. It has been a period of turbulent policy and program change that has affected local community governance and safety, and diverted attention away from the formal Scheme.

The next chapter explores in more detail how the Scheme actually operates.

Chapter 3: The operation of the CBJs

3.1. Introduction

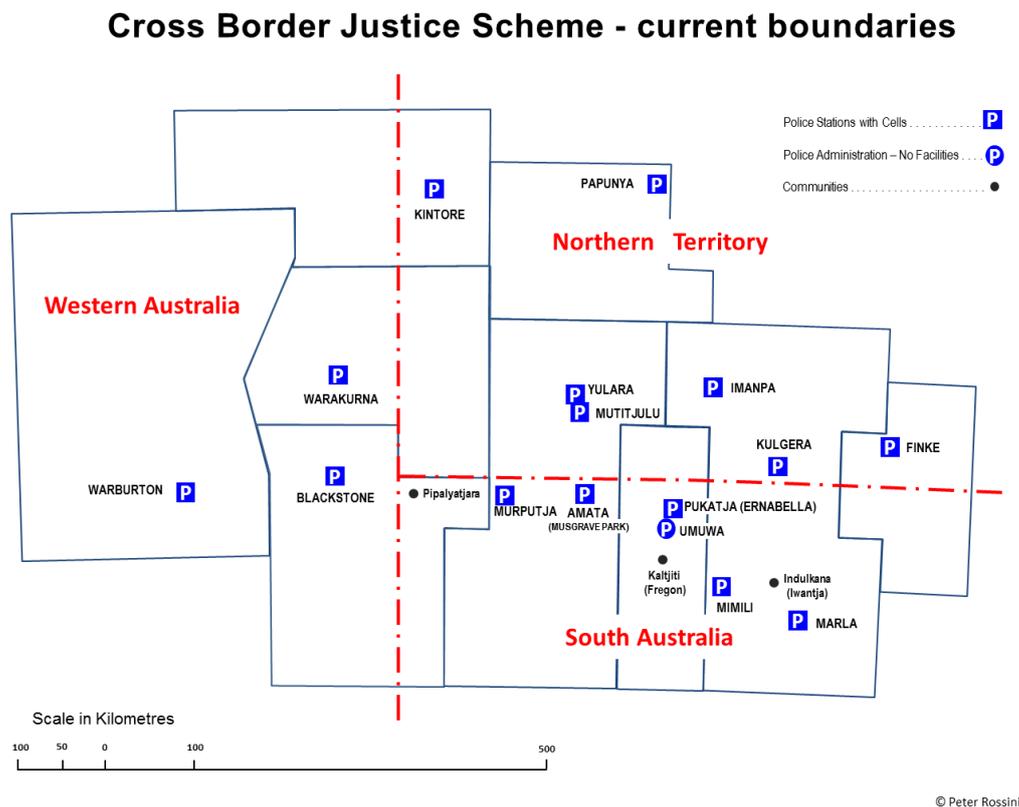
The purpose of this chapter is to describe how the Scheme currently operates. It outlines how various facets of the Scheme are working, based on what the researchers could piece together from various documents and from talking with key stakeholders. It is, however, an opaque picture. Most people have a strong sense of how it should work, but have less clarity surrounding what happens in practice and on the ground.

As a consequence, this chapter begins with a brief review of the key elements of criminal justice delivery in the region. This sets the scene for the rest of the chapter which describes current governance and coordination arrangements, appointed cross-border personnel, points in the system where a CBJs case may arise, and a summary of ideal, problematic and known cases. It concludes with several diagrams that outline various processes that should occur when a CBJs case might be identified, and the proportion of matters or individuals, based on a 'census' that was undertaken in December 2012, that may fall within the ambit of the CBJs.

3.2. Criminal justice in the region

As noted in the background chapter, the number of police stationed in the cross-border region has increased dramatically since 2003, from no permanent police to a situation where there are three police stations in the Ngaanyatjarra Lands, a number of new or upgraded stations in the cross-border region of the NT, and police who are rostered on in SA in the APY Lands in such a way that there are usually two police officers at a police station at all times. A map of the cross-border region (Figure 4) shows 16 police stations marked on it. A consequence of the increased police presence has been a reduction in the duration of time, caused by distance, between a call for assistance and a patrol arriving. Local police are now able to respond more quickly to adverse events and to be better placed, too, through their knowledge of the local context and links with local people, and to act in a pro-active fashion before matters escalate.

Figure 4: Cross-border Justice Scheme, current boundaries and police stations



Source: Adapted from Special Constables Manual (SAPOL)

Courts sessions, too, are more common today. Circuit courts in rural and remote Australia outside of regional centres have been around for a long time, but the frequency with which they are held in the cross-border region has increased in recent years. The day on which court is held can often be quite a community event, with both local residents and visiting service providers milling around the designated courtroom. The magistrate on circuit is often accompanied by a panoply of justice practitioners and professionals, including prosecutors, victim support staff, legal aid solicitors, court staff, and community corrections personnel. However, access to justice remains 'intermittent' and is often far from ideal, with matters dealt with as best they can in an often difficult and uncomfortable environment, and with both complainants and defendants often not appearing for a scheduled court appearance. However, the increased frequency of court circuits, at least in the WA and SA areas, means that there are at least two opportunities per month for a court listing in the cross-border region. Table 7 shows the listed court dates for the cross-border region for the period of September through to December 2012.

The 'nerve centres' for much of the criminal justice activity, and service delivery more generally, are the regional towns outside of the cross-border area. These act as a base for many service providers who visit communities in the region, and key agencies have offices in the towns. Courts are permanently based in these towns, and it is where there are regional offices for the Aboriginal legal services, police, and community corrections. Prisons are also near or in these towns, at Kalgoorlie, Port Augusta and Alice Springs. The last of these is even more of a 'hub' for service delivery in the cross-border region, with the SAID and Dog Operation Unit, the NPY Women's Council services, and the Cross-border Family Violence program based in the town.

3.3. Governance and coordination of the CBJs

It is not uncommon to have both a state/territory head office and regional representative from an agency on the Project Executive Group (PEG), along with Australian Government representatives through either FaHCSIA and/or the Australian Crime Commission. They typically have oversight of the implementation and management of the Scheme. The various Committees set up under the SLAs/MOU report at PEG meetings on progress and issues that have arisen. Membership of the PEG has varied over time, although there is usually at least one representative for each jurisdiction from police, courts administration, legal policy, and corrections (Community Corrections and Prisons). At a recent meeting (in April 2013) there were also representatives from juvenile justice in WA and NT, and several ACC staff participated in order for them to talk about the newly formed Family Violence Intelligence Unit in Alice Springs.

The chairing of the PEG meetings is rotated among the jurisdictions on an annual basis with WA recently handing over to SA. Minutes are circulated after each meeting by the agency responsible for convening and chairing the meetings. Despite what was stated in the various SLA/MOUs there is not much formal reporting by the sub-committees. Only the courts sub-committee submits a written report, accompanied by a table of known CBJs cases since its inception. The PEG currently holds teleconferences at least twice a year, which is a convenient and cost-effective mode of meeting. However, it does not offer the same opportunities as face-to-face meetings to build personal relationships and to conduct in-depth discussions. One might anticipate that there may be more face-to-face meetings if and when CBJs cases are affecting workloads and priorities, and/or there are additional resources allocated to the CBJs.

Table 7: Court Circuit dates, cross-border region, September – December 2012

Month	Place	Date
September	Amata	10 September
	Ernabella	11 September
	Mimili	13 September
	Indulkuna	13 September
	(Coober Pedy)	(14, 18 September)
	Warburton	25 September
	Warakurna	26 September
October	Amata	22 October
	Fregon	23 October
	Mimili	24 October
	Indulkuna	25 October
	Warburton	31 October
November	Warburton	1 November
	Pipalyatjara	26 November
	Amata	27 November
	Ernabella	28 November
	Indulkuna	29 November
	(Coober Pedy)	(12,16 November)
	Warburton	26 November
	Blackstone	27 November
	Mutitjulu	27 November
	Kintore	28 November
December	Warburton	11 December 11
	Warakurna	12 December 12

Legend: WA SA NT

Sources: Court registrars, WA, SA and NT

At present, the police subcommittee seems to be the most active, with at least three face to face meetings of senior police in the past year. In contrast, the juvenile justice sub-committee met for the first time in April 2013.

This is not to say that there is not a great deal of communication across borders. In terms of coordination, there is event-based or case-based communication between key parties in the same roles across the three jurisdictions. For example, it is reported by key stakeholders that there is regular phone and email contact between police prosecutors, court registrars, and local police in some places. Less frequent, and not necessarily CBJIS-inspired, is contact between community corrections or prisons about particular cases or individuals. For similar reasons there may be contact between court staff or police with correctional staff, most obviously about the transporting individuals in custody to or from prisons or other facilities.

Liaison between non-government agencies and government justice services seem to be mainly between police and the NPYWC family violence service on the one hand, and the Cross-border Family Violence Program and police or correctional personnel on the other. Courts have to routinely advise legal services of matters relevant to their clients, but this did not seem to extend to cross-border communication, except in rare instances. An example of a more strategic approach being taken to planning communication and inter-border liaison was the recent discussion between various parties on the Family Violence Intelligence Unit, which is being trialled over the forthcoming year.

3.4. Appointment of cross-border personnel

Under the agency agreements, key positions to take action under the cross-border legislation (and in accordance with agreed cross-border service provision) include cross-border magistrates, cross-border registries (registrars), Special Constables, and authorised officers (community corrections and juvenile justice). PEG representatives were asked to provide details of appointments by December 2012.

Table 8 shows the summary of information that was provided. As is to be expected, the highest number of cross-border appointments was Special Constables in the police. A conservative estimate for the region is 72 police appointments, though the numbers vary depending on the jurisdiction (see Table 8 for more detail). Police prosecutors are not specially appointed but that there about seven across the three jurisdictions involved in cross-border matters. There seems to be at least 10 magistrates, who are currently appointed as cross-border magistrates and continue to work as circuit magistrates in the cross-border region. The NT has the largest number of court registry and community corrections staff who hold cross-border appointments. However, for these services and others across the region, an ongoing issue for all agencies is keeping up to date with appointments, due to staff turnover

and the length of time it can take to make changes. Again, it seems, the small volume of matters contribute to such administrative tasks not being a priority.

Table 8: Number of cross-border appointments by jurisdiction*

	WA	SA	NT
Cross-border magistrate	6 (2 no longer based in Kalgoorlie 1 leaving in January 1 starting in January appointed in SA but not NT)	4	3 (and 1 in Darwin)
Cross-border registry/ registrar	11 (4 no longer in Kalgoorlie 1 on maternity leave)	1	24
Special Constables	33 for the NT, 44 for SA in the cross-border region of the NPY Lands. Most hold Special Constable status for both NT and SA. The number is higher for SA because Eucla police and Goldfields traffic police cross over to SA. Other Special Constables in the Kimberley and Pilbara, but are not included.	8 police stationed within APY Lands and Marla appointed special constables for NT. Several members appointed for NT from Far North Highway Patrol and Port Augusta Criminal Investigation Branch. 14 police stationed within APY Lands and Marla appointed special constables for WA. Several for WA from Far North Highway Patrol.	31 police of which 10 were in communities stationed outside Alice Springs. Of the 31, all of them bar 3 were Special Constables for SA, all bar 3 were Special Constables for WA, and 9 were Special Constables for Qld.
Authorised officers (community corrections)		6 All Community Correctional Officers and Remote Community Service Supervisors, working from the Marla and Cooper Pedy Community Correctional Centres, are authorized to work with offenders who fall within the cross-border region.	26 All Community Corrections Officers in Alice Springs including Surveillance Officers are gazetted and therefore authorized. Any member of staff may be called upon in court to undertake assessments etc. 3 officers who work with the offenders in the 3 regions that fall within cross-border area.

*Note: Juvenile justice agencies were not asked to provide information on the number of cross-border authorised officers. During an interview, a key stakeholder was not sure whether there were any, and it does not appear to have been priority because of the lack of cases involving juveniles.

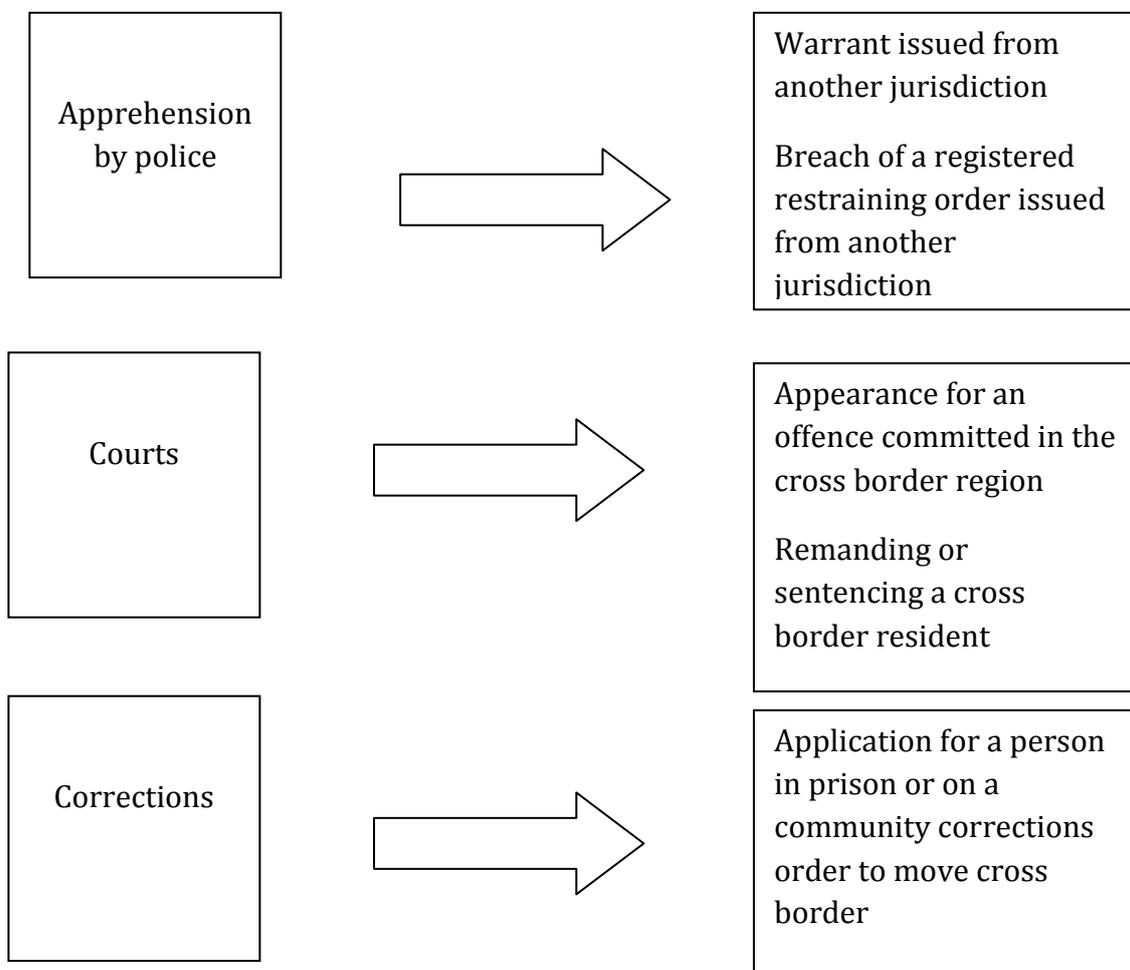
Sources: Various PEG representatives

3.5. System responses to CBJs cases

The criminal justice system is described as ‘involving the interaction of many entities and their processes and practices are aimed at providing protection for the rights and freedoms of all people. For most people who come into contact with it, the criminal justice system is a sequentially structured process’ (SCRGPS 2012). A good flow diagram of the process is found in the information paper on the National Criminal Justice Statistical Framework (ABS 2007).

Based on what is agreed in the SLAs, there are a number of points in the process where a case may be identified as a CBJs matter (see Figure 5). With police, it may be when a person is apprehended on a warrant or charges are laid, and it is found that there outstanding charges or a warrant from one of the participating jurisdictions. There may also be a request from police in a participating jurisdiction to apprehend someone who is known to have crossed into their jurisdiction.

Figure 5: ‘Triggers’ in the criminal justice system that may result in a CBJs case or matter



In the courts, a cross-border magistrate may be made aware by court administration or the prosecution that the alleged offence or defendant makes it a cross-border matter. Where a restraining order is granted, there may also be an application for the order to be registered across the borders. In corrections, a person may be remanded or sentenced to custody and it is most likely that the court administration would advise the relevant corrections' service that it is a cross-border case. Alternatively, while someone is already serving a prison sentence or on probation or parole, he or she may seek to move interstate and the responsibility for supervision can transfer to another jurisdiction.

While the Scheme was being developed, a number of scenarios were devised to illustrate how the Scheme should work. In the report on the Cross Border Justice Project (NT Department of Justice et al 2004: 43-44) the following scenarios were listed with the expected response under the Scheme:

- Scenario – Police officers stationed at Kaltukatjara (Docker River), NT are advised that a man has assaulted a family member in Warburton, WA, and that he is driving along the Central Highway towards the Territory. The officers apprehend the man in the Territory and take him to the Kaltukatjara Police Station for questioning. The man makes admissions to the assault and is charged under the Western Australian Criminal Code.
 - Response – The NT Court of Summary Jurisdiction is sitting in Mutitjulu that day, so the man is transported to Mutitjulu to appear before the NT magistrate. A police check reveals that the man has outstanding traffic charges in the NT and in South Australia. The man indicates that he will plead guilty to all of the charges. The magistrate acts as a magistrate of Western Australia to sentence the man for the assault charge, as a South Australian magistrate to sentence the man for the SA traffic offences, and as a NT magistrate to sentence the man for the NT traffic offence.
- Scenario – Western Australian police officers have driven to Wingellina (WA) to investigate an offence. While they are there the officers are advised that a man has come to the community from South Australia with a large quantity of cannabis. They go looking for the man but discover that he has just left the community and is believed to be driving to Kalka (South Australia). The police officers drive to Kalka where they find and apprehend the man who still has a quantity of cannabis.
 - Response – The police officers take the man back to the Warburton police station for questioning. He is charged and by video-link appears before the Kalgoorlie magistrate. The magistrate acts as a magistrate of South Australia for a bail application and grants the man bail to

appear at the next sitting of the Magistrates Court in Port Augusta, where the man usually resides.

- Scenario – The police at Yulara (NT) receive a call from the Amata (SA) clinic about a young boy who has been sniffing inhalants and assaulted his grandmother. The young boy has stolen a car from the clinic and is driving on the road towards Yulara. The police officers drive down the road and apprehend the boy 50 kilometres from Yulara, in the NT.
 - Response – The boy is charged and taken before a magistrate from Alice Springs by video-link. The lawyer acting for the boy indicates that the boy will be contesting the charges. Acting as a South Australian magistrate, the magistrate adjourns the charges for hearing at the next court sittings in Umuwa and grants the boy bail.
- Scenario – Western Australian police officers based at Kaltukatjara (Docker River) NT drive to Warakurna (WA) to apprehend someone suspected of sexually assaulting a child in that community. On reaching Warakurna the police are told that the suspect has gone to Wingellina. The police drive to Wingellina where they are told that the person is now in Kalka (SA). They find the person in Kalka and take him back to the police station at Kaltukatjara.
 - Response – The person is charged and taken before a magistrate from Alice Springs who has come for court sittings at Kaltukatjara. The magistrate hears a bail application as a magistrate of Western Australia. Bail is refused and the person is remanded in custody to appear at the Magistrates Court in Kalgoorlie. The police arrange for the person to be taken to Kalgoorlie. Committal hearings will take place in the Magistrates Court in Kalgoorlie.

In 2009, (at a later stage of development), one of the authors of the model cross-border legislation, Gail Jamieson, in a conference presentation, also provided examples of how the Scheme should work and why it should create an improved response to certain situations. She gave the following examples:

- Example 1: An offence of dangerous driving is committed at Kiwirrkurra in WA and the alleged offender is arrested there. Currently, the alleged offender has to be taken to a police station in WA to be formally charged. The nearest WA police station is at Warakurna. Instead, it is necessary to drive from Kiwirrkurra across the border to Kintore in the NT and from there back across the border to Warakurna. Unless a WA magistrate happens to be on circuit at Warakurna, the alleged offender will then have to be driven to Kalgoorlie where there is a resident WA magistrate. If the alleged offender is convicted and sentenced to gaol, the offender will have to serve the sentence in the Kalgoorlie prison, which is a long way from

the NPY Lands. The health and safety risks involved in transporting a prisoner in a police wagon such long distances in such a remote area are very real. By way of example, on 27 January, 2008, an Aboriginal man, Ian Ward, died while being transported by GSL Custodial Services from Laverton to Kalgoorlie, a distance of 360 kilometres, in temperatures above 40C.⁶ Under the cross-border justice scheme, when the alleged offender is arrested in Kiwirrkurra, the alleged offender need only be taken to the police station at Kintore where the alleged offender can be charged under WA law. From there, the alleged offender can be taken to Alice Springs in the NT to be tried under WA law before a WA magistrate. If the alleged offender is convicted and sentenced to gaol, the offender will be able to serve the WA sentence in the Alice Springs prison, which is a lot closer to the NPY Lands (Jamieson 2009).

- Example 2: Family members in Kalka in SA cross the border to visit members of the same family in Walytjajata in the NT. During the visit, an argument breaks out and an assault occurs. The family members from Kalka, including the alleged offender, then return to Kalka. Currently, the alleged offender can only be arrested in Kalka under a warrant issued in the NT and executed in SA by an SAPOL police officer. The alleged offender must then be brought before an SA magistrate (most probably the resident magistrate in Port Augusta) for an order under the *Service and Execution of Process Act 1992(Cth)* to extradite the offender back to the NT. Under the cross-border justice scheme, a NT police officer can arrest the alleged offender in Kalka in SA and take the alleged offender to the nearest police station, which is at Warakurna in WA. There the alleged offender can be charged under NT law and then taken to Alice Springs to be tried under NT law before a NT magistrate (Jamieson 2009).

The above two examples focus on policing. A third example was provided in the paper (Jamieson 2009). It illustrates the 'three hats' concept, which was the title of the paper.

- Example: A WA police officer and a SAPOL police officer conducting a patrol at Kalka in SA come across a person who is alleged to have committed an offence in the NT. As NT special constables, they can arrest the alleged offender at Kalka. They can then take the alleged offender to the nearest police station which is at Warakurna in WA where the offender can be charged under NT law. From there, the alleged offender can be taken to Alice Springs to be dealt with by an NT magistrate. In

⁶ Inquest into the death of Ian Ward, Record of Investigation into Death, Ref No 9/09 by State Coroner Alastair Hope, May 2009.

addition to the NT charge, the alleged offender has outstanding charges for WA and SA offences. A resident magistrate in Alice Springs can deal with all of the charges because the magistrate is not only a NT magistrate but is also a WA magistrate and a SA magistrate. In other words, the magistrate will be wearing 3 hats – a NT hat, a WA hat and a SA hat. If on conviction the magistrate sentences the offender to gaol for any of the offences, the sentence can be served in WA, SA or the NT. It may be appropriate, for example, for the offender to be detained in the Alice Springs prison because the offender's family travels regularly to Alice Springs and can more easily visit the offender there than in Kalgoorlie or Port Augusta. If a non-custodial sentence is imposed for any of the offences, it can also be served in WA, SA or the NT. It may be appropriate, for example, for the offender to carry out community service in Warakurna in WA so as to limit the offender's contact with certain people who live in communities in SA and the NT without the offender having to be relocated to somewhere outside the NPY Lands (Jamieson 2009).

The 2004 examples and these more recent scenarios (provided above) underline the appeal of a cross-border approach to justice, and the theoretical advantages for offenders and justice service providers. However, they rely on a seamless process and flow of information, with all parties confident that they know what to do and are aware of the options. A considerable amount of time and travel are involved in most of the scenarios, and 'real time' effective communication with key parties may be required to prompt or forewarn of such travel. With the last example, for instance, it assumes that there has been a check for outstanding charges in other jurisdictions, that police are in position to travel back and forth to convey the alleged offender, and that 'someone' (for example, an Aboriginal legal aid representative, a magistrate, or correctional staff) has raised the possibility, with the offender, of serving his or her sentence in one or other of the jurisdictions, and that the relevant authority is happy with that arrangement and able to take the offender.

3.5. Actual cases

In real life, as with all new schemes, the operation of the CBJs has run into difficulties and there has been considerable 'learning on the job'. There is no way of knowing officially how often cross-border matters have been raised in various contexts. The police sub-committee does not report on how many times local police have identified potential cross-border matters, although from an operational perspective, there is clear evidence of police crossing over the borders to assist colleagues to ensure a police presence at large community events. Although the WA and NT police already had arrangements in place prior to the Scheme being introduced, it does seem tri-jurisdictional cooperation took some time to become

more embedded in everyday practice as the MOU between the three police services was not signed off until 2011.

Key stakeholders in all of the justice services in interviews suggested that they had very limited exposure to the Scheme, with most suggesting there had only been a handful of cases (most notably among police, Aboriginal legal services and community corrections). With juvenile justice, it seemed there may have been only the one possible case, which was not pursued, since the Scheme started.

The best record of known cross-border cases is maintained by the courts sub-committee and updated and submitted at each PEG meeting or teleconference. The most recent version of this record of cases shows that since 2010 there have been 43 individuals⁷ (on 80 individual appearance dates) who have appeared in courts in the region on CBJs matters. Most recently, in the first four months of 2013, eight individuals have been dealt with in courts in the region as cross-border cases. These seemed to have been dealt with without any problems arising unlike the first few cases, back in 2010, when there were multiple and subsequent remands at different locations for several individuals. Based on summaries provided to the evaluation team, it seems there was considerable confusion and poor communication with some of these initial cases. The issues varied:

- In one case it seems to have been caused by the magistracy lack of understanding of the CBJs operations.
- Different instructions were given to the WA and NT legal services, and the correctional services in the two jurisdictions were not clear whether a remand or imprisonment warrant had been issued.
- An issue of conflicting parole periods between the two jurisdictions.

These examples show how key parties were learning from the experience of using their authority under the Scheme to operate in a cross-border fashion. A factor, however, that may have contributed to the smaller number of CBJs cases than originally envisaged and caused more systemic issues, were increasingly poor relations between a SA magistrate and police in both SA and NT. At one stage it reached a point where the NT police had taken the decision not to deal with any more SA cases. The suspension of any dealings with SA cross-border matters seems to have been precipitated by the SA magistrate asking for information and/or files

⁷ There are 44 persons listed in the Table, but as one person appears twice for two quite separate cases, the number is in fact 43 individuals.

from the NT police, which, at least according to the NT police, were not cross-border matters.⁸

It is not part of the evaluation task to investigate or pass judgement on the rights and wrongs of actions taken by various parties, including the magistrate, who has since resigned. An irony perhaps is that the key parties were one of the few 'champions' of the Scheme with an active interest in making it work and using it wherever possible. Below is a summary of the concerns that seem to have contributed to the magistrate taking actions that were not necessarily supported by other agencies:

- Hard copy files were allegedly going back and forth with no formal record, resulting in little time to prepare.
- This led to a potential duplication of matters being heard in both jurisdictions, because the electronic record-keeping was not adequately keeping up with events nor necessarily corresponding to what was agreed and recorded on hard-copy files. An example seems to have been a case where parallel hearings were held on the same charges in NT and SA. This led to the magistrate dismissing NT charges being heard in SA courts (as a stay of proceedings).
- Disagreements over whether a person had a 'connection' to the region. This led to the then magistrate in SA to insist that a Form 23⁹ be completed and signed by the defendant (as the onus is on the defendant to claim connection to the cross-border region), after what was described as the 'debacle' of a specific case.

An insight into some of these concerns, and a rationale for the magistrate's decisions, are a matter of record in the reasons for orders in a number of cases. Since the magistrate has since resigned, these matters have subsided as issues. However, they are flagged here as potential issues – the task of proving 'connection' and the duplication of matters – that could re-surface in the future.

⁸ There should be no inference drawn from the discussions herein that the magistrate or the police were acting unreasonably.

⁹ We were given a copy of Form 23, which is an order of the court under the Magistrates Court Act, 1991 - Section 10 - Rule 29 Cross Border Justice Act 2009. It seems at least the one magistrate requested that this order be served on an applicant prior to a cross border matter being heard. In the form, the applicant is agreeing to the following statements:

- I apply to be declared a cross border resident within the meaning of the Cross Border Justice Act
- I apply for my Court case to be declared a Cross Border case
- I apply for my charges to be dealt with in South Australia under the Cross Border Justice Act

In contrast to the examples provided above of how the Scheme was envisaged to work, a video link was used in a 'perfect' CBJs case provided by a police prosecutor. The defendant was in a SA court charged with a violent offence but also had an outstanding NT traffic warrant. On the traffic matter, a CAALAS lawyer and a NT police prosecutor appeared via video-link before the magistrate in SA. An interpreter was also present. According to the police prosecutor, who is one of the few key stakeholders who had considerable applied experience and knowledge of the Scheme, the matter resolved itself well. Nevertheless, it should be noted that there were initial problems because SA legal aid did not want to represent the defendant for a NT offence and CAALAS did not want to act in a SA court.

3.6. Development of procedural guidelines

In the earlier report on the Cross Border Justice Project (NT Department of Justice et al 2004) a number of challenges and risks were identified, including a range of procedural issues such as jurisdictionally-specific forms and inconsistent practices. Considerable thought and discussion also seems to have gone into addressing procedural issues and how to overcome them in the Service Level Agreements/MOUs between services in the three jurisdictions.

Nevertheless, after the Scheme commenced (and as was expected) there were a number of hiccups along the way, as outlined above. In response to these, a more standardized approach has emerged with various 'templates' and 'diagrams' being drawn up to assist those involved to follow an agreed path and to ensure the appropriate information or exchange of information occurs when it is meant to. The following documents were provided to the evaluation team to help us understand a number of CBJs processes:

- Training manuals (SAPOL).
- Diagrams of procedures for an interstate warrant, interstate inquiry/investigation, and cross-border prosecution guide (provided by NT police).
- An example of a prosecution brief (SAPOL).

In the Special Constables Manual (SAPOL 2012) there is considerable detail about the circumstances in which the CBJs legislation applies and how police responses need to be both guided by the cross-border legislation and accompanying regulations, and SA state legislation and standard police operating procedures.

The diagram of the process involved with an interstate warrant is provided in Figure 6. Figures 7 and 8 are diagrams of the interstate inquiry/investigation for the NT police, and a cross-border prosecution guide.

The example of a police prosecution brief, provided by the South Australia Police, is the instructions for police prosecutors in another (cross-border) jurisdiction. It is attached to a file which contains the:

- Complaint
- Bail Papers
- Summary of Facts
- Antecedents
- Photograph
- Notes of officers

The instructions run to five pages and include information that provides a brief overview, the witness and police versions of what happened, and extracts of relevant sections from the *Summary Offences Act 1953 (SA)* and the *Bail Act 1985 (SA)*.

3.7. Accessing guidance and advice

Access to manuals, templates and diagrams, such as the examples provided, are one way for front-line service providers to know about the Scheme and to know what procedures to follow. Having 'easy' access is another issue and increasingly the online environment is enabling such access. WA police are making their CBJs information available online. Indeed, having a central repository of information, as is being developed by the NT Department of the Attorney-General and Justice as the CBJs website, will make a huge difference. As noted, the magistrates' Benchbook (as regards its content and accessibility) is currently being reviewed, in recognition that information needs to be updated, and easily accessible.

However, in the everyday practice of delivering justice services, it is important to know whom to ask for advice, within one's own agency or in another agency across the border. As is discussed in the next section, because of high turnover of staff it is not always easy to maintain 'corporate knowledge' especially when the Scheme is infrequently used. It seems several senior representatives with a number of agencies are the main holders of CBJs knowledge, while the police prosecutors and court registrars in the three jurisdictions have built up expertise of the Scheme and good relationships with each other to work through any issues that may arise in the future.

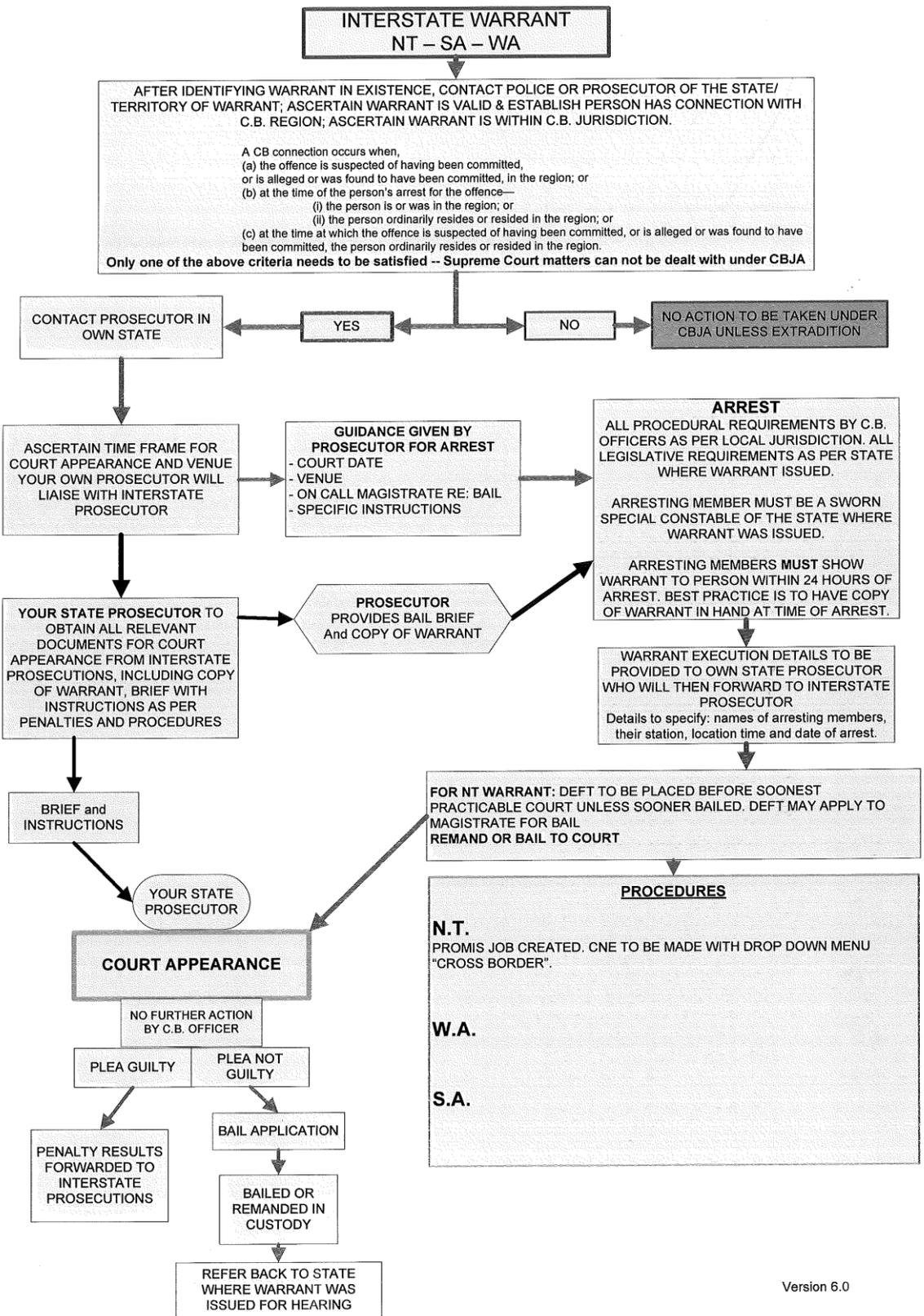


Figure 6: Interstate warrant process (Source: NT Police)

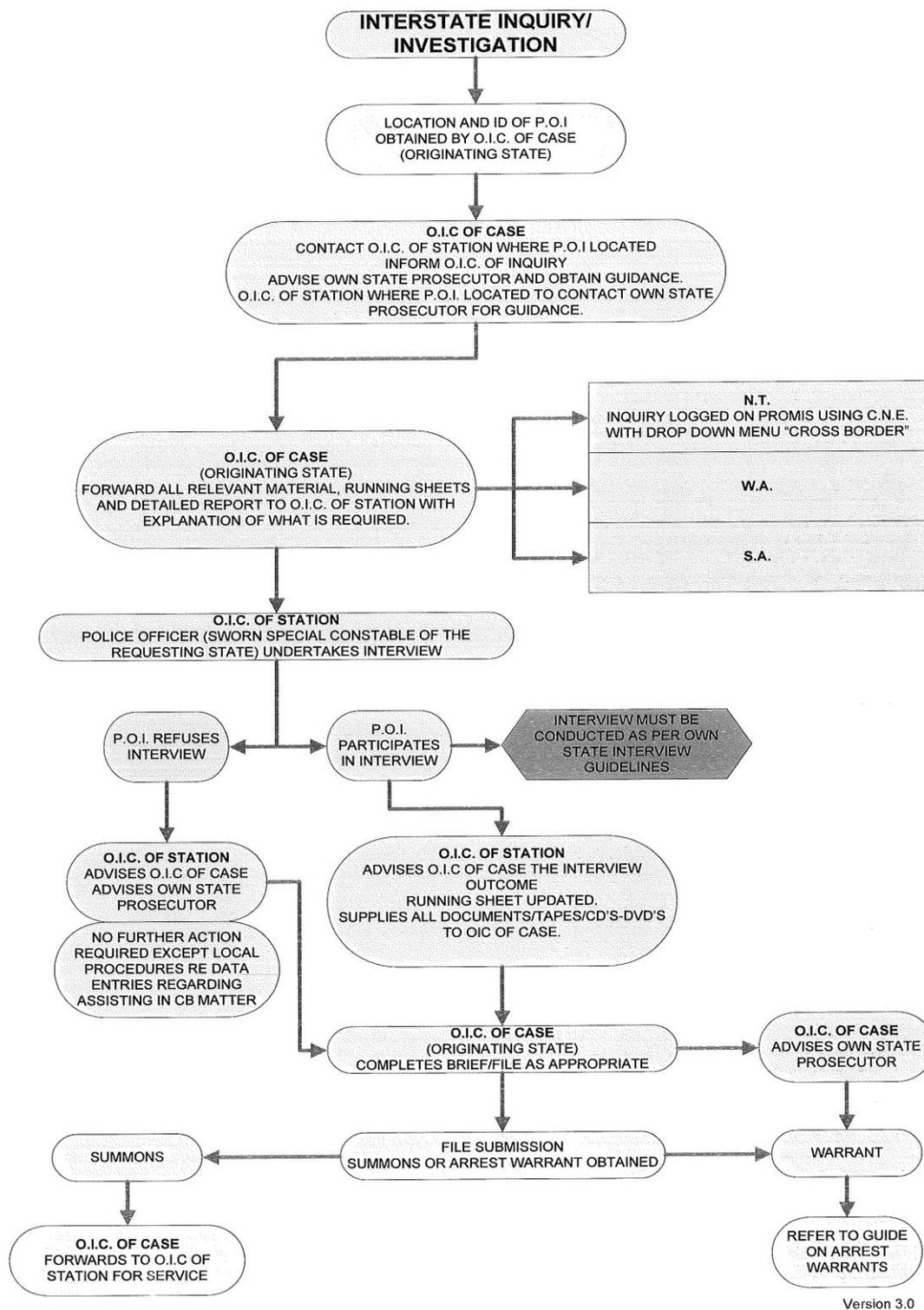


Figure 7: Interstate investigation (Source: NT Police)

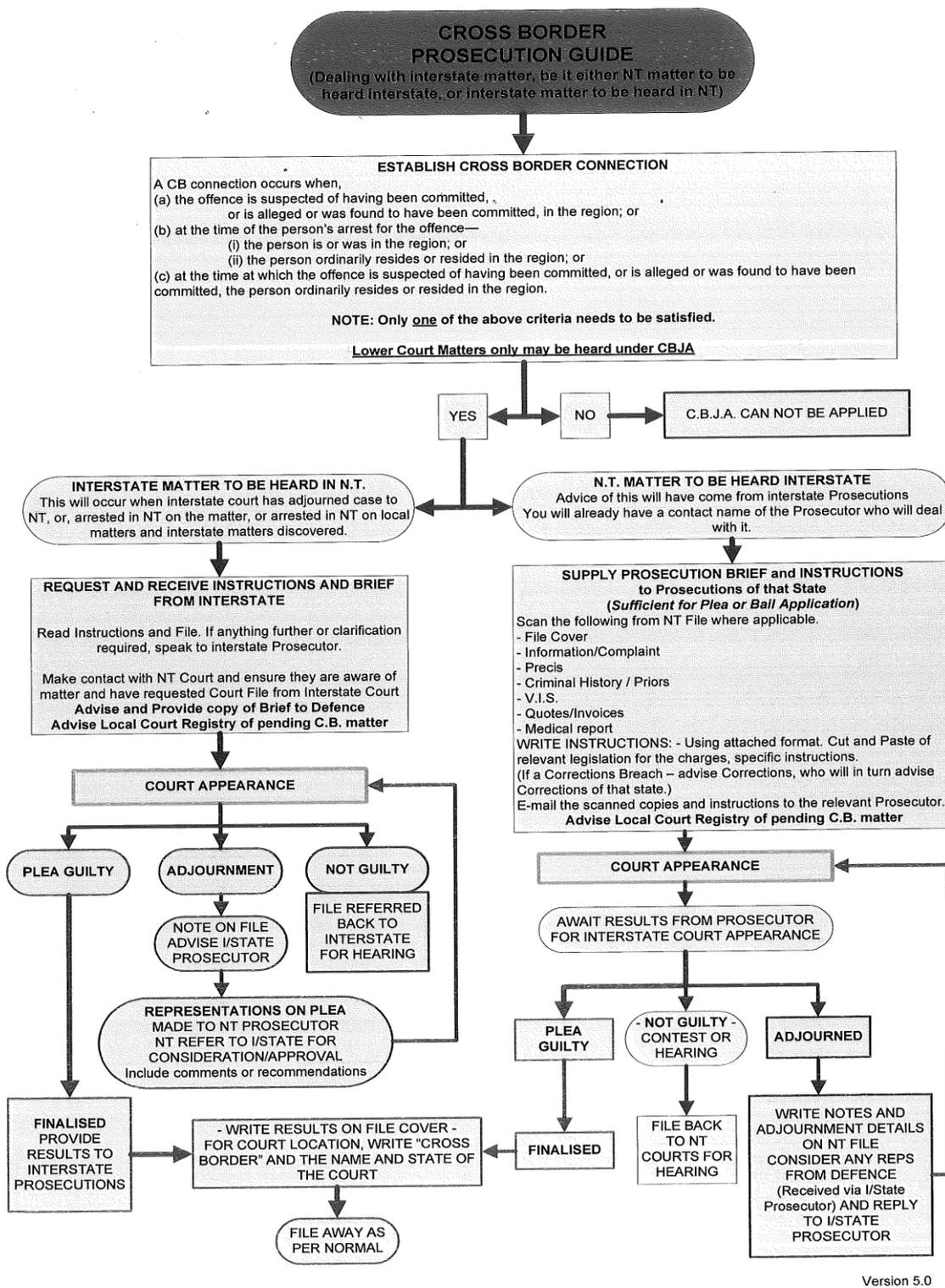


Figure 8: Cross-border prosecution guide (Source: NT Police)

3.8. Potential cross-border cases

A question that was posed to key stakeholders was why they thought there had been so few identified CBJs cases and whether they expected the volume to pick up in the future. For the same reason, in an effort to understand whether there were more potential CBJs cases, PEG members were asked to undertake a 'census' for December 2012 of individuals from the cross-border region who were on orders or had outstanding warrants. In addition, available criminal justice output statistics for the region give some sense of current workload, and the proportion that involves potential cross-border cases. These data are summarised in Chapter 5 and described in Appendix 3.

Police

As Table 10 shows, there were 47 warrants on WA Police records for the cross-border region of which 25 were arrest warrants, 21 warrants of commitment (for eight offenders who failed to pay fines after appearing in court) and one bench warrant. Aside for one that was issued in Wingellina, all the other warrants were issued in Warburton or Warakurna. It appears that the 47 warrants apply to 32 offenders, and, based on the recorded last known address, 12 (37%) had places of residence over the border, with two being recorded as having SA addresses and the rest NT addresses. Several offenders were also recorded as being in the Alice Springs prison.

There appear to be only nine outstanding offenders wanted for assault offences which are likely to be domestic related or related to assaults on a community member.

In the NT in December 2012, a review of outstanding warrants in the area (including Papunya, Kintore, Ntaria, Mutitjulu, Imanpa, Yulara, Kulgera and Finke) indicated that there are currently 167 outstanding warrants to the middle of that month. No further detail were available on how many were potentially cross-border matters, but a senior police representative indicated that, based on his experience, only a few would be.

SAPOL reported that there were 62 active warrants allocated to the APY Lands in November 2012, but no further detail was provided on the categories of warrants.

The total of 276 outstanding warrants for the cross-border region suggests there could be quite a few potential CBJs matters in the future. However, as the WA police indicate, a much smaller proportion of the warrants apply to offenders where their last known place of residence was over the border (n=12). Having these warrants dealt with as cross-border matters would involve a defendant being placed before a

court or being apprehended for another offence in a jurisdiction outside of the jurisdiction in which the warrant was issued.

Table 9: Outstanding warrants for the cross-border region, November – December 2012

	Number	Types of warrants
WA	47	25 arrest warrants 21 warrants of commitment 1 bench warrant
NT	167	1 warrant of commitment 66 <i>mesne</i> warrants 50 warrants of apprehension 1 warrant of imprisonment 9 warrants when summons disobeyed
SA	62	
Total	276	

Source: WA, NT and South Australia Police services

In terms of volume of police activity in the region, the police data for the region (as presented in Appendix 3) suggest that cross-border matters (such as the 12 warrants identified by the WA police, see above) are a fraction of the total annual volume of offences and apprehensions dealt with by the police. In WA the total number of offences against the person and offences against property for the Warburton, Warakurna and Kintore areas in 2012 was 340. In the NT, in 2012, police recorded 253 unique apprehensions for ten communities in the cross-border region. In SA, in 2011, a total of 1,131 offences were recorded in the Anangu Pitjantjatjara local government area. Even though domestic or family related violence continues to be a common offence category (based on WA and NT police data), there are not many breaches of restraining orders being brought before the courts, which was one of the cross-border ‘triggers’ identified in Figure 5.

The court CBJs table had no CBJs matters listed for December 2012. Only two circuit courts were listed for the month – in WA (see Table 7). Even taking the total number of CBJs cases in a one year period (involving no more than 15 individuals with a maximum of say four listings, based on the current rate of recorded cases), this annual number is only a very small proportion of all the charges or matters listed in the courts in the region. The volume of matters being dealt with in courts in the region is indicated by the criminal court statistics (Magistrate Courts and Youth

Courts in SA and WA, Magistrate Court in WA, presented in more detail in Appendix 3). For example, in SA a total of 356 cases were finalised in SA courts in the APY Lands in 2011, in WA a total of 540 cases were finalised in the Ngaanyatjarraku region in 2012, and in the NT there was a total of 553 magistrate (criminal) listings recorded in 2011/12 for five communities in the cross-border region.

According to information supplied by a key stakeholder, in the NT for all court lodgements in the Alice Springs Region, the CBJs matters remain at a very low level with an estimate provided of 1% of the overall workload:

- In 2010/11 there were 14 cross-border matters representing less than 0.2% of the Alice Springs workload.
- In 2011/12 there were 17 cross-border matters representing less than 0.3% of the Alice Springs workload.
- In 2012/13 there have been 12 cross-border matters so far representing less than 0.25% of the Alice Springs workload.

With regards community corrections, 22 individuals were recorded as being on community correction orders in the NT section of the cross-border region, in December 2012. No actual cross-border cases were recorded, though it was indicated by a key stakeholder in the community corrections that all of them could potentially be.

In WA, in December 2012 there were 17 offenders on community orders in the region. Of those, none was identified as a cross-border case. Of those 17 offenders, nine were on supervised orders, six were on Work and Development Orders for fine default and two were not honouring court orders and were thus in breach. All of the offenders were primary residents of WA and their offending also occurred in WA. Most of the offences subject to the orders occurred outside of the immediate cross-border justice region (e.g. Laverton or Kalgoorlie).

In SA, in mid-December 2012, there were 67 offenders assigned to the Marla community corrections area.

Corrections

With prisons, in WA, on 31 December 2012 there were 19 prisoners in the Eastern Goldfields Regional Prison identifying as from the Ngaanyatjarraku region. On the same date, there were an additional 40 prisoners in the Western Australian prison system identifying as being from the Ngaanyatjarraku region, making for a total of 59 prisoners from that area. Of those prisoners, none was identified as a cross-border case.

There was one cross-border prisoner in WA who was located at Port Augusta prison.

In the NT, there were 10 prisoners from the cross-border region held in the Alice Springs Correctional Centre in December 2012, but there were no cross-border region prisoners held in the Tennant Creek Work Camp. None of the 10 prisoners was a cross-border case.

In SA, in mid-December there were 458 prisoners in the Port Augusta regional prison of whom 163 identified as being Aboriginal. Based on the postcode of last residence, two were from the APY Lands.

In terms of placing these correctional figures into some kind of context, there is only a limited correspondence between the numbers from the cross-border region recorded as being imprisoned and on community corrections orders in the cross-border region, and the number of magistrate court imposed penalties of imprisonment, suspended imprisonment and community based supervised orders for the region. There is likely to be some overlap with individuals who were sentenced in the cross-border region being detained or supervised in the region and being recorded as being from the region, but not necessarily all. However, court data in Appendix 3 does suggest that few people appearing in the magistrates' courts in the region are sentenced to imprisonment or suspended imprisonment orders in a year.

In SA, in 2011, in the APY Lands two imprisonment orders and 38 suspended imprisonment orders were imposed, and in WA eight custodial orders and 45 suspended imprisonment orders were imposed by the magistrates in the Ngaanyatjarraku region. The fact that approximately a total of 31 people from the cross-border region were in one of the regional prisons at the end of last year seems quite high in the circumstances, but many of these could, one might speculate, be serving terms of imprisonment for indictable offences and/or serving sentences imposed by courts outside of the cross-border region. Importantly, only one of those held in custody in the regional prisons was identified as being from another cross-border jurisdiction.

With community corrections, it is not possible to estimate numbers who are sentenced to community corrections supervision, from the sentencing outcome statistics for the magistrates' courts. No-one was recorded in the census as a cross-border case.

Juveniles

Juvenile justice agencies were not asked to provide any statistics for the census at the end of 2012. Since the Scheme's inception, only one juvenile was identified as a cross-border case, but this was found not to be the case when it became apparent he was facing serious, indictable offence/s. The court statistics for WA and SA indicate there were a total of 29 defendants in WA children's court in 2012 for the Ngaanyatjarra

region, and eight cases being finalised in the Youth Court in the APY Lands in 2011 (see Appendix 3), which is a much smaller number of juvenile defendants or cases than that for adults.

3.9. Conclusion

This chapter provided a brief overview of criminal justice in the region, and underlined the substantial increase in the police presence and the greater frequency of circuit courts. The significance of regional centres was noted, and the PEG comprises both regional and head office representatives from relevant government agencies. Although the PEG holds teleconferences at least twice a year, only the police sub-committee has met regularly in recent times and only the court sub-committee provides a written report to PEG meetings.

Unsurprisingly, the highest number of designated cross-border personnel is the police Special Constables, with an estimate of 72. There seems to be at least 10 cross-border magistrates and a considerable number of authorized community corrections officers. However, it seems it is an ongoing issue to keep up to date with the number and currency of appointments.

During the development of the Scheme, various scenarios or examples were devised to illustrate how the CBJs might operate. However, in practice and as is often the case, there have been a number of glitches during implementation and concerns raised about the potential duplication of matters being heard in more than one jurisdiction. To assist with the process and to improve understanding of how the CBJs should operate, several procedural diagrams and templates have been developed, along with police training manuals and a Benchbook. How aware local justice stakeholders are of the CBJs, and their experience of the Scheme, is discussed in the next chapter.

A 'census' of what might constitute potential CBJs cases, conducted at the end of 2012, revealed that there were an estimated 276 outstanding warrants, but this is only a fraction of the total volume of offences and apprehensions dealt with by the police. Similarly, based on the current rate of recorded CBJs cases in the courts in the region, they represent only a very small proportion of all the charges of matters listed in the courts in the region. More than 100 offenders were on community corrections orders in the region and none were recorded as cross-border cases. An estimated 31 prisoners from the cross-border region were housed in the relevant regional prisons, but only one was a known 'cross-border' prisoner who was from WA but held in the Port Augusta prison.

In conclusion, this chapter suggests that there have been limited opportunities across sectors to test out the arrangements and the guidelines that are in place to enable effective use of the CBJs. Offenders to whom it may apply rarely come before

the courts or are known as such to correctional services. This may not be surprising, because there are many ways in which operatives will continue working across borders with protocols and special arrangements that existed prior to the CBJIS and which continue to apply in the region and elsewhere today. For example, there are still Special Constables, extradition proceedings, and informal or more formal agreements between agencies for the interstate transfer of cases. The next chapter examines the views of stakeholders of the CBJIS, including those who are responsible for the delivery of justice services in the region.

Chapter 4: Stakeholder perspectives

4.1. Introduction

This chapter presents stakeholders' views and perceptions from three elements of the evaluation:

- Key stakeholder interviews
- The online survey of local justice service providers
- Interviews and consultations during community visits

Although many of the same themes emerged from these interviews and consultations, they are presented separately, as there were differences in viewpoints often related to whether the stakeholder was representing a management or policy oriented view, or whether they were conveying their direct experience of using the Scheme in their daily work.

The chapter concludes with a section on future improvements and directions, based on what was recorded in the survey and from key stakeholder interviews.

4.2. Key stakeholder interviews

Stakeholder knowledge and experience of the CBJs

Figures 9 and 10 are diagrams that attempt to capture the almost inverse relationship between stakeholder groups' knowledge of the region versus stakeholders' knowledge of the CBJs. Most of the key stakeholders who were interviewed were likely to be members of the PEG and in more senior positions within agencies. Several had a long history with the Scheme.

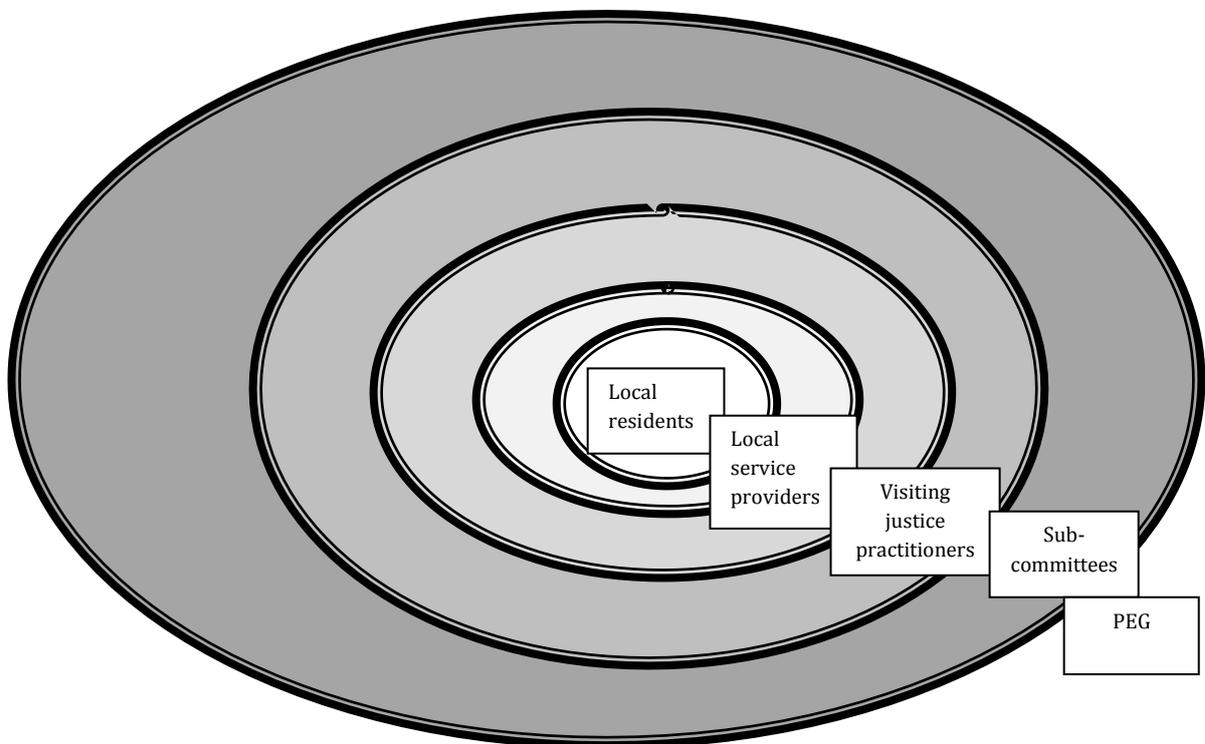
The several interviewees who were involved in the genesis of the Scheme and subsequent meetings to progress its implementation stressed:

- that justice delivery was quite different in the cross-border region in 2003, when no police were stationed in any of the remote communities;
- that the 'drivers' behind the scheme were the safety of women and from a police perspective, ensuring that a move across the border did not mean evading charges or warrants;
- that there had been a key role for 'champions' in cross-border policy development such as Allan van Zyl (NT) and the NPY Women's Council;
- that there was broad support for the concept although reservations were expressed even then by several representatives about the practical challenges of implementation.

Not many of the interviewees were directly involved in the developmental phases of the CBJs, although the majority had at least several years' exposure to the Scheme.

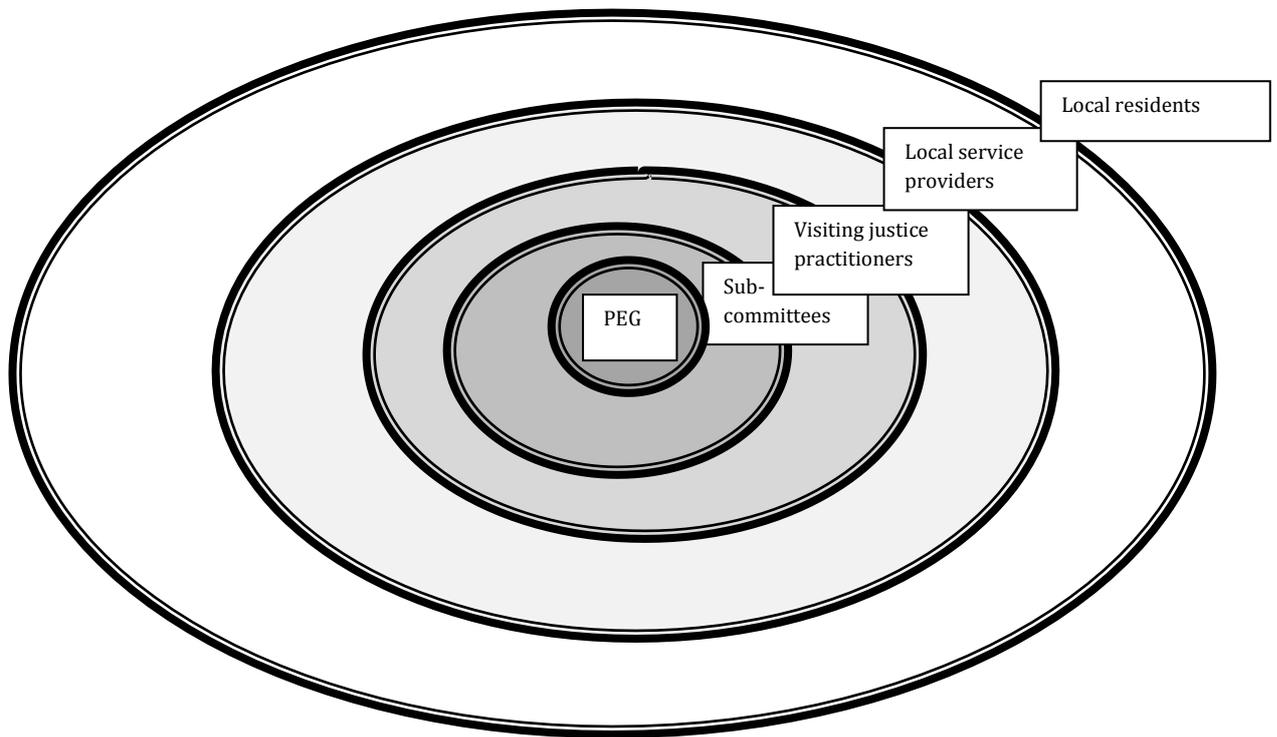
All of the interviewees had the CBJs as an 'extra' responsibility, and their level of exposure to the Scheme varied from the occasional meeting or inquiry to more matters arising through their routine business, which reflected the diversity of positions held by the interviewees and the sector to which they belonged.

Figure 9: Diagram of stakeholders' knowledge of the cross-border region



Only a few interviewees were directly involved in providing a justice service in the cross-border area on the ground (such as magistrates and regional managers in police and community corrections), which limited their exposure to the cross-border area and regular contact with and knowledge of the remote communities. Several NT stakeholders expressed the view that being based in Alice Springs meant there was a greater focus on and understanding of service delivery in remote settings.

Figure 10: Diagram of stakeholder knowledge of the CBJs



Other factors that seemed to influence the experience of the CBJs was an interviewee's exposure to cross-border cases, the difficulties arising from the high-turnover of staff across departments and the ensuing loss of CBJs knowledge, as well as the extent to which the CBJs was promoted and endorsed at a management level within the jurisdiction and/or department.

Understanding the aims of the Scheme

Stakeholders cited several reasons as driving the implementation of the CBJs. Most commonly mentioned was the overarching aim to reduce violence against women and children in the cross-border areas through better, more timely, justice responses and to prevent the perceived 'border-hopping' of offenders to evade the law. Some stakeholders also put forward the view that a key aim of the Scheme was to adjust the justice system in the area to be more attuned to the movement of Aboriginal people in the region, rather than the jurisdictional boundaries. The consequence was that offenders could be dealt with wherever they were arrested: 'that the body stood still and the system moved around them' was the way this was described by two interviewees. Often, it was claimed, before the Scheme was introduced, outstanding offences were not being dealt with because the offender

was not extradited. If cases were not dealt with quickly and early, the victim was not always protected. Other reasons cited include the desire to be able to deal with multiple offences across multiple jurisdictions, to be able to facilitate a prisoner transferring to a prison closer to their community, as well as a better exchange of information amongst those who play key roles in providing justice and safety in the region.

Impact of the Scheme

Among the interviewees, there was widespread support for the overall aims of the Scheme. However, a number noted that although they had prepared themselves for a significant volume of cross-border cases or matters, this had not yet transpired.

Questions about whether the Scheme is achieving its objectives were met with cautious replies. The overall impression was that there had been insufficient cases for the Scheme to have much impact, so it remained largely untested. A number of reasons were posited by interviewees for the relatively smaller number of cross-border matters, since the legislation was enacted, including:

- The time it took for the police to sign off on their memorandum of understanding.
- Circumstances having changed, with the Scheme not being as important as when it was first conceived, with, for example, the increased policing presence in the cross-border area.
- Resistance in some quarters to what is seen as a potentially time consuming and complicated way of dealing with matters. This includes the complex process of registering a matter as a cross-border case as well as the increased amount of paperwork for tracking each cross-border case as it progressed through the system. According to one magistrate: 'not enough thought went into the process requirements, and hence a set of procedures which were designed to make things faster and simpler has made things slower and more complicated'.
- The impact of an individual magistrate, whose perceived unorthodox approach and legalistic application of the cross-border legislation acted as a brake on pursuing cross-border matters, at least for an interval of time.

A range of positive comments have been made by key stakeholders about the Scheme. By some, it is seen as contributing to an environment that is more flexible and effective in its responses to crime and justice than what existed in the past. Among those who had been working in the region for a considerable period of time, the Scheme was regarded as one of the positive changes that had occurred in recent years, and includes more policing, the uptake and increased use of video-links, and increased awareness of domestic violence as a crime among local residents. A positive example of cross-border cooperation, referred to by several key

stakeholders, was the very visible police presence from all three of the police services at a recent sports carnival.

Improved networks and communication across borders among various stakeholder groups was the most commonly identified positive impact of the Scheme, with many noting an increased level of co-operation, discussion and exchange between counterparts in neighbouring jurisdictions. Even where there were no formal mechanisms for sharing information across jurisdictional boundaries (for example, among magistrates or legal services) several interviewees noted that they now know whom to contact in another jurisdiction.

Other perceived benefits of the Scheme included:

- The ability to monitor domestic violence offenders in the cross-border region and following up on families post-trial if they move interstate.
- The ability for someone serving Community Service Orders to move interstate (subject to checking for victim protection orders or other known impediments).

Barriers to use

Related workforce issues were raised in various ways by key stakeholders. Turnover in staff and limited training and induction about the Scheme, coupled with the relatively small number of cross-border cases, means that there is a lack of knowledge and confidence in employing elements of the Scheme. One interviewee related how he often found himself having to explain the Scheme to his liaison point in other states. These issues have contributed to a conservative approach to implementing the legislation at a practitioner level, both in terms of numbers of identified cross-border cases and in terms of the way in which the Scheme has been adopted. This has perhaps stemmed from the view that its use involves an additional administrative burden. One stakeholder characterised the Scheme as an 'addendum rather than core business,' and another noted that the reality of the Scheme 'is a lot more time consuming and a lot messier than anyone thought it would be'.

Conservative implementation has resulted in the development of practices that could be seen to be at odds with a core idea of the CBJs, namely that, 'the body stood still and the system moved around them'. Stakeholders described how a judicial officer from one jurisdiction would present himself via video-link to preside over a cross-border defendant held in another jurisdiction, actions that were explained by the observation that: 'there seems to be a great discomfort about using someone else's laws'. The use of the video-link may not be an example of 'wearing the other hat' as described in Jamieson (2009) but is a practical solution to the problem at hand. It could be argued that the use of video-link saves time and resources, and

addresses any concerns related to imposing an additional workload on another jurisdiction/agency and/or magistrates not necessarily familiar with other jurisdictions' laws.

A number of stakeholders also noted that they are not 'proactively' seeking out opportunities to use the cross-border legislation, either because they saw their role as largely reactive to matters being brought before the courts, or because existing caseloads or prison numbers were already very high. A lack of dedicated additional resources to cross-border matters is viewed as contributing to a reluctance to proactively engage with potential cross-border cases, and to limited opportunities to build up specialist skills and practical knowledge of how to use the Scheme. One interviewee described how cross-border cases were so variable and different from each other that it was difficult to foresee some of the conflicts and discrepancies that have to be worked through 'on the run'.

In the past year, there appears to have been pockets of expertise developing among some practitioners, for example, among regional court registrars and police prosecutors in the three jurisdictions, as well as with those who have built up experience across the life of the Scheme. This can pose challenges as it may not been seen as appropriate for police prosecutors to be seen as 'educating magistrates and lawyers', which is how one interviewee described the process.

Specific sector issues/perspectives

Another barrier to use is a range of unresolved concerns about jurisdictional 'territoriality' and differences in practice and areas of law. The concerns raised were typically related to the sector in which the interviewee worked, for example:

- Courts/legal services: dealing with appeals of a magistrate's decision of a cross-border case (which hasn't happened yet). Different penalty regimes for similar offences e.g. mandatory sentencing.
- Victim support: registration and breaching of domestic violence restraining orders. Support for victims of crimes other than family/domestic violence.
- Corrections: sentencing and parole, including which parole board has authority when there are multiple sentences being served in a bundle. Prisoner transport and transfers.
- Juvenile justice: the relevance of the Scheme to juveniles when there are national arrangements in place for the transfer of cases.

Several concerns were 'what if?' type of issues, with several stakeholders indicating that more cases will help resolve the issues. At a more pragmatic level, knowing jurisdictional and agency differences in terms of administrative process (including terminology and forms) seems to have improved over time but is not necessarily 'captured' anywhere.

Having raised concerns such as these, interviewees often went out of their way to stress that the very existence of the Scheme was a tribute to the dedication of those involved, and one underlined that over time the ‘goodwill and competence of those involved has been good’.

4.3. Local justice service providers: survey results

Views of the Cross-border Justice Scheme

There were 41 responses to the question about how jurisdictional boundaries affect their work. Several focused on the transience and mobility of people who reside in the region, and the challenges this can create, while others underlined the differences in law, practice and procedures in each jurisdiction and how they are being addressed through for example, information sharing. Some were in effect describing the impact of the Scheme, and several are cited under the section below. In relation to people’s transient lifestyle there were the following comments:

Given the transient nature of offenders supervised by this service, there are instances where boundaries become a consideration.

A few DV victims and offenders are transient between states

Young people frequently travel between WA/NT border whilst subject to court orders.

We work across the tri-state area. Our clients and their families, including perpetrators of violence, are very transient between the borders and their lives and are support to them are impacted by different laws, policies, funding, resources and so on.

The ability for clients to travel between the NPY lands with ease affects our ability to effectively supervise clients on community based dispositions when they are so transient. To our clients that is part of their way of life. There are clients who are totally aware that they can avoid us by moving between the states.

Some of the challenges that were referred to include the ability to provide quality supervision of offenders on orders, people avoiding detection, time spent travelling and limiting the ability to service communities. More practical matters included the slowness and less than comprehensive information sharing, different time zones, different attitudes to common goals, and policing practices that can vary, as can access to intelligence holdings. There is another issue, too, regarding the source of the criminal law. SA operates under the Common Law while both WA and the NT are Criminal Code jurisdictions. Moreover, practitioners who are licensed to practise in one jurisdiction need to be licensed to practise in each jurisdiction if they are to

appear in court, or via video-link. Several challenges were raised by the following respondent:

Frequent changes of the law, usually with little or no prior notice; changes in prosecution staff and their knowledge base; inability in remote locations to have ready access to the current law of other jurisdictions, where there is no telephone or internet access.

A number of respondents stressed how well they worked across the borders, and often communicated with their counterparts in other jurisdictions. This was most noticeable among police, several of whom stressed regular 'liaison' and 'contact' with other police as a hallmark of the beneficial changes in practice.

Nearly all of the respondents had heard of the Scheme (96%). In response to a question about its impact, 15% said it had 'a lot' of impact on their service, 46% said it had made 'a bit' of an impact while 20% said it had made no impact, and 20% did not know if it had had an impact.

Some respondents stated that they had not had much to do with the Scheme. However, a senior prosecutor stated that s/he dealt with cross-border matters every day, and a magistrate described dealing with cross-border jurisdictional matters in Kalgoorlie as well as when on circuit.

From a more general service delivery point of view, most comments were positive about the Scheme.

Since the introduction of the Cross-border Act it has enabled us to work in conjunction with police across other jurisdictions to enhance the service delivery of police.

The fact it exists and advocates for cross-border legislation has a positive impact on the work our service tries to do. The cross-border program for offenders is in its infancy and as such will need more time and pro-active evaluation to assess its impact on perpetrator perspectives and behaviour

Allows for better management of situations across states and for improved service delivery

The improvement in criminal justice responses across the 3 jurisdictions is of great importance for victims of domestic violence and can have a critical impact on the safety of victims.

Higher level of cooperation. Better access to courts.

One respondent noted the Scheme had created more work but had given them more powers. Another police officer noted that it avoided lengthy extradition

applications. However, several commented that the Scheme had not had the expected impact on their work and/or service. One stated that the Scheme was not 'used to its capacity by the judiciary' and another commented that 'courts are seemingly reluctant to engage with the Scheme and can frustrate police activity'. Another respondent stated that the Aboriginal legal services especially in SA and NT were less than enthusiastic about offering legal advice on cross-border matters.

In response to a question about whether they would like to see changes to the Scheme, 41% said yes, 20% said no and 39% did not know.

A number of open-ended questions asked the survey participants to comment on what was working well and what was not working so well, which tied in to the kind of changes they would like to see. It was noted by several respondents that the Scheme works effectively or fairly well when required and in relation to specific cases. Several also said having a single point of contact in each state and being aware of who that was, was useful. From a police perspective, one respondent said that there was a good working relationship but it was limited to showing who regularly participated in cross-border initiatives. Another said there were excellent working relationships, but that the process needed to be more formalized so all relevant members are aware of the correct process and procedures to follow. The sharing of intelligence was cited by some police participants as an example of what was working well. Communication and the level of cooperation across borders were also cited by several other respondents as aspects that were working well.

In terms of what *isn't* working well, several noted that the Scheme was not being utilized as intended. The court process and communication between courts was referred to, along with, according to one participant, magistrates not using the agreements. Another drew attention to how high turnover of staff meant there had to be continuous work invested in developing good working relationships. One participant said there was the 'occasional misunderstanding of protocols' and another suggested there had been teething problems but these were being addressed:

The Cross-border Justice Scheme can get bogged down in process and on occasion there have been differences more at a corporate level that have been challenging, but overall each jurisdiction and each department has put their hand up and participated.

Perceptions of service delivery, community safety and changes in local communities

For the second half of the questionnaire respondents were asked to respond to a series of questions in relation to the community they live in or where they provide a service. Most respondents thought their service did a good job of engaging with the

local community, with 29% of those that answered the question saying it was 'always' and 56% saying it was 'most of the time'. Only 7% said it was 'some of the time', no-one said 'never' and 7% did not know. When asked to describe how their service engages with the community, police often mentioned general policing along with blue light discos, youth and sport activities. It was different to the responses for services that 'case manage' or support individuals, as these sorts of services do not usually have an ongoing presence in the community and/or their responsibilities are focused on individuals rather than community engagement per se. When asked about how safe they felt in the local community, 35 responded, all of who either indicated that they felt very safe or fairly safe. One said that one needs to rely on local information to tell what to do and not to do sometimes, and another said that given the nature of their work, they sometimes 'get indications that our presence and/contact is very unwelcome. We leave at these moments'.

There were also 35 responses to the open-ended question about the groups of people who are seen as vulnerable in the nominated community. The most frequently mentioned were children (n=18) followed by women (n=11), the elderly (n=8), and youth (n=6). Government workers and service providers were mentioned by three respondents and two referred to those that are mentally ill.

For 11 of the 14 categories listed as areas of potential change over the past three years in local communities, the most common response from those that felt they could answer the question, was to say that there had been no change. Just over 50% of respondents indicated there were no changes in local leadership, local people running the community, local capacity to deal with issues and in fighting within and between families.

The only category which had 'significant change' as the most common response was 'petrol sniffing' and two categories had 'minor change' as the most common response - 'children going to school' and 'local people in paid jobs'. Other categories where there were signs there had been a change in were gambling (19% said significant change), and minor changes in vandalism (30%), marijuana (30%) and alcohol (27%)¹⁰.

When asked if there were any other changes they would like to mention, several respondents said there had been no change. Of the 13 who did refer to changes, two

¹⁰ Due to the wording of question, which was modified in accordance with the specifications of the SAPOL Research and Survey Coordination Committee, there is no way of knowing whether the perceived changes were for the worse or the better. However, a similar question was asked in surveys of service providers in the NTER evaluation and based on the results from that survey that marijuana is being seen as worse, alcohol as better, and children going to school and employment as better in some places (FaHCSIA 2011).

mentioned greater restrictions on alcohol and fewer alcohol-related incidents. Improvements in education and work, a reduction in the level of violence, an upsurge in criminal activity by youths in one community and in the regional centre, a reduction in petrol and glue sniffing were other changes that were raised.

When asked to list two factors that had contributed to positive change, 27 people responded. The most common factor was policing (permanent police, new stations in communities, tri-state policing), followed by low aromatic Opal fuel. Other factors that were listed included the cross-border Family Violence Program, the employment of locals on building projects, better service availability and government workers based in the community, increased funding for domestic violence services, good Shire management, engagement of youth, alcohol restrictions, income management and the Basics Card, monitoring of compulsory participation in education and/or training that is court ordered, and a strong focus on sport.

Over half of the respondents (56%) said their organization had difficulties in recruiting appropriately skilled and experienced staff while 25% said it didn't and 19% did not know. Slightly more (60%) said their own organization had difficulties in retaining staff, 20% said no and 19% didn't know.

4.4. Results from the community visits

Awareness of the Scheme among residents of the region

Levels of awareness of the Cross-border Justice Scheme were extremely low throughout the region. People who *did* know about the Scheme tended to have seen the poster which is on display in many police stations. However they did not know what the Scheme entailed.

There were, however, high levels of awareness of multi-jurisdictional policing among Indigenous residents of all ten communities in which consultations took place. In general, residents were extremely supportive of this, and saw it as improving the effectiveness of policing in their region.

By chance some of the fieldwork occurred at the same time as a funeral at which there was a high likelihood of violence. Police from both SA and WA were in attendance. The expected violence did occur, but residents reported that, from their perspective, it was less intense than it would have been without the police presence.

Interviewees also expressed a concern for the safety of police, particularly when they are undertaking activities to the community's benefit, such as providing conflict-deterrence at large scale events like funerals and sporting carnivals. They recognised that police officers on their own might get stoned by the mob, if violence flares. This is given as a reason for the desirability of having several officers present.

Residents understand that for this to occur, police officers need to be called in from interstate where officers are close to the location of the event. 'We need them to work together' was a view commonly expressed.

Another issue that arises in the cross-border region is which police station residents should call when they need assistance. In most locations in Australia it is clear that you call 'the local police'. However in these communities the 'local' police could be any one of three police forces. The story below presents some of the issues that both local residents and police officers face on a routine basis.

The classic case is that of the Tjuntjuntjara road. [An extremely remote road, close to the border of WA and SA in the Great Victoria Desert.] There was a recent case, which was fresh in everyone's memory, where calls were made to the South Australia police to alert them to a likely breakdown along this road, but the response apparently was that they should approach the Blackstone police instead (presumably because the Tjuntjuntjara road is in WA). The caller had purposely begun with the South Australia police because she knew that there was only one officer in Blackstone at the time. Anyway, she then rang the Blackstone officer, who despite being alone went and undertook the rescue, finding, among others, a small child in the stranded group. (Excerpt from Dr Brooks' report).

The impact of increased police presence

Several people interviewed identified that, over the last three to four years, the quality of the delivery of justice services had improved in their region. They tended to attribute this to an increased police presence and is not surprising, given the low level of awareness of the Scheme.

One police officer described the improvements in one community:

One community near here is a good example of what happens when there are no police. It used to be awful – violent, sniffing, loads of grog. The nearest police were two hours away and they did what they liked. Having the Themis¹¹ station there has made a big difference. People are a bit more careful in how they behave.

There are several levels to the impact of continuous police presence, as described by one interviewee. One interviewee in WA vividly described her feelings and observations about how simply having the police around in the community served to ease her stress. She said that the persons likely to start or get involved in a flare-

¹¹ Funded by the federal government, 'Themis' police stations in the NT are more permanent or new stations established in remote communities since the NTER was introduced.

up are much less likely to do this if the police are on hand, or if they are expected to arrive soon. This person (and other interviewees in this community, WA) thought that the level of crime had decreased because of the more continuous police presence and the high quality of the officers. This applied to such occurrences as break-ins and causing wilful damage, as well as to conflicts between persons and families.

A long term non-Indigenous resident commented that she thought that sometimes people would actually 'bring on' their fights when the police were in the community, in the knowledge that the police would be there to prevent them escalating too much; or to provide an excuse (for the benefit of witnesses) for someone to moderate their attack on another. This is another avenue through which police presence improves safety in communities.

Crossing borders to evade justice

Although attempts were made during the community visits to find out what interviewees might know about cases of 'fugitives' ducking across borders and whether or not they thought that such strategies had been curtailed by the new ability of police to cooperate multi-jurisdictionally, there was little specific information forthcoming. This is no doubt partly attributable to the low level of awareness about the multi-jurisdictional arrangements, but often, unless a serious matter (or a member of their own family) is involved, community people probably have a limited interest in these 'hide and pursuit' activities between police and offenders. It was of note, however, that interviewees generally seemed to think that fugitives would be just as likely to run off into the bush outside their community when they knew that the police were coming, as they would be to deliberately cross the border. There were a number of comments to the effect that the police often find it difficult to apprehend offenders because they 'don't know the face' of the offender, or that they are less adept at spotting their target from a distance than a local Indigenous person would be.

To explain more fully the issue of local attitudes to offenders and whether or not they are caught, no underlying attitude was detected *against* the police's role in pursuing offenders, nor any feeling that the breaking of the (European) laws is acceptable. However, it was evident that some people see it as a stress on the community to have such occurrences happening, and they would rather they not occur. Thus, some interviewees commented favourably about an apparent change in practice recently, whereby the sheriff has offered a work order as an alternative to jail for outstanding fines cases. It was said that if a person with a list of outstanding fines (for a greater amount than he would ever be able to pay) were to be chased by police, he would run and hide in the bush, or over the border, if he knew that he faced jail if caught. But if he was facing only a work order, he would be much more

relaxed about it, and might even give himself up, easing stress on everybody. (This option has presumably become possible since the opening of the Work Camp at Warburton.)

As a further observation on the 'giving themselves up' question, it is perhaps worth noting that there is a strong cultural imperative in some Indigenous communities for a person who has offended to want to 'make peace' with the world. This is based on the pressing need in small scale, kin-based societies for people not to allow disputes or conflicts to persist. In a recent serious case, the offender quickly handed himself in when a highly-respected police officer approached him in a personal and understanding way, and reinforcements that had been brought in urgently from Kalgoorlie were not required. Of course, this will not always work, but it is valuable to take account of the particular cultural and social attributes when they can be harnessed to everyone's advantage.

Feedback from police in communities

Feedback from police was very mixed. Some police use the Scheme extensively, and are convinced that it is an important element in the efficient and effective delivery of justice to the region. Others would like to use it, but find a range of barriers that prevent them. Still others believe that it is not particularly useful, and in fact creates additional work for very little outcome.

The following comment demonstrates the frustration that is a factor that drove the creation of the Scheme in the first place. When asked if cross-border issues affect the delivery of justice this officer responded:

They affect it a lot. We have a guy at the moment who is wandering around with a whole lot of warrants from Queensland. We can't touch him. So it makes sense to have the Cross-border – we just need to use it more and figure out how it can work.

Similarly one very experienced officer commented that the Scheme was useful:

Yes the Scheme is still needed, to have powers to lock offenders up. Previously he couldn't easily lock up a Kintore [based] man for WA offence unless they extradited from the NT first - depending on the nature of the offence.

However some officers disagreed. Their perception was that, since the increase in continuous police presence in the region, there is no need for the Scheme because people are getting picked up for their offences anyway:

Those aims aren't being met by this Scheme because we don't use it. Being a sworn multi-jurisdictional officer is a really good thing – it means that we can do joint patrols and initiatives. But the justice part of that – which is what this

Scheme is – hasn't really been affected. People tend to get picked up for what they've done anyway. The need for Cross-border hardly ever comes up.

Despite some evidence that the Scheme had not been widely used, several of the police interviewed described cases in which it had been used to demonstrate their perceptions of the Scheme. We have included a range of the examples given in order to give context for the discussion of issues arising.

- 1. A guy broke into the project officer's house and stole a firearm and other stuff, and then skipped to WA. South Australia police told us that they'd heard he was here. We checked it out and confirmed the rumour. So we raided him in Wingellina and found him with the firearm, and the offender wearing the clothes he'd stolen. The South Australia police came over to Wingellina (WA), interviewed and charged him.*
- 2. Picked up someone in Pipalyatjara (SA) who had outstanding warrants from an offence in Wiluna (WA). We rang the Kalgoorlie Court from Pipalyatjara (SA) and he attended Court in Blackstone(WA).*
- 3. A guy burned down a school in SA and we found him in WA. We held him in custody, and then took him to the border and the South Australia police came and picked him up. Then they charged him under SA law and he was taken to Port Augusta.*
- 4. We've also realised now that we can arrest someone in SA and bring them to WA – which is easier for us because it means we can work from our home station.*
- 5. Also thinking that a RTO taken out in the NT can include the cross-border area.*

Another officer has also used the Scheme where multiple warrants were involved:

- 6. Three people with NT offences have gone to the WA court. All three had a mixture of NT warrants and WA fresh offences. They were arrested for the WA offences, then the outstanding NT warrants were attached to the sentences by WA Courts.*

Some cases were not successful, for a range of reasons as detailed below:

- 7. In December 2011 a bloke assaulted his wife in NT and got locked up for it. She got the police involved. When they interviewed her they realised that he had also bashed her in another community in SA. They sent the transcript of the interview through to the South Australia police and got them to raise a complaint and make a prosecution file (quite a lot of work for them). Amata then forwarded the prosecution file through to Port Augusta, who forwarded it to Alice Springs prosecution. They held the man on remand for the NT based charge (because they found a*

cross-border magistrate), but had to bail him for the SA one because they couldn't find a magistrate. They made the SA bail condition that he present in Court for the same date that the NT remand finished.

The matter landed up in the SA Court (he can't remember why) and the magistrate there threw the whole thing out.

8. *One was a domestic violence assault in Docker. NT wanted to apply for a domestic violence offence, but the offender skipped off to Amata – where it turned out he was wanted for a host of other charges. He did apply for a court order- but was then told that it couldn't be heard in an SA court because it wasn't an SA order. (The man was in prison by this time, but the SA officers wouldn't serve a summons on him because the paper work was wrong as it wasn't registered in SA). So in the end SA made the order and it was registered in the NT. So the man is now in prison in SA, but he still has outstanding warrants from NT. Frustrating because he thought the whole purpose of the Cross-border Scheme was to put charges together and have them heard together.*
9. *We charged a guy in SA and summonsed him to appear in WA court (Blackstone) on WA paperwork. The magistrate threw it out. Apparently the case should have started on SA paperwork because we charged him in SA. We should have contacted the South Australia police and asked them to start the paperwork.*

Policing issues

Several issues arise from discussion of officers' experiences with the cases described above. They are as follows:

- The somewhat convoluted nature of the processes that need to be followed to successfully prosecute a cross-border case.
- The need for training.
- The lack of access to trained cross-border magistrates and prosecutors.
- Difficulties created by a lack of access to the computer systems of other jurisdictions.
- High staff turnover and slow bureaucratic processes impeding efficiency.

The cases described above give a clear picture of the extent of cooperation needed between jurisdictions to successfully (or unsuccessfully) prosecute a cross-border case. Paper work must be sent hither and thither, files must be raised in different jurisdictions and the processes used must be legally correct. All officers spoken with were somewhat wary of the complexity:

It's not a streamlined system. There are a lot of phone calls, calling in favours and using personal relationships. It would improve if there was more training

about it, and understanding it. It's also generating work for everyone, and we're busy enough already.

The need for training is discussed below in the feedback received from magistrates. It is also an issue for police officers hoping to use the Scheme. The need for training is in two key areas – how to use the Scheme, and the legislation of different jurisdictions.

Feedback from some sections of police indicates that training has been made available to their officers.¹² However at the time of interviews officers had not accessed any formal training on how to use the Scheme. WA officers were working on creating training materials and an on line training module, and remote officers were planning to use those materials as soon as they became available.

At the time of interview the perceived lack of training meant that many officers were loath to use the Scheme:

Because police officers are unfamiliar with the Scheme they don't want to use it. If they do it wrong they could get into trouble with their own career, or even be sued for deprivation of liberty if they lock someone up wrongly. That is a big disincentive to using it.

Despite this, a number of officers were keen to try the Scheme, and had read the relevant legislation to try to understand it. This had led to some confusion about issues such as whether the Scheme is limited to summary offences – several officers were convinced it can be used for indictable offences. There was also confusion over when and where the cross-border legislation applies. The following question typifies this confusion:

Is it to all residents of the gazetted cross-border area, or all offences committed in the cross-border area?

At that time the lack of knowledge about the Scheme also created confusion about what can, and cannot be done through the Scheme. For example, one officer was told by the chief prosecutor that there a number of things that he can't do – such as pick up someone in Docker (NT) and take them to Warakurna (WA) to charge them. Consequently this police officer feels that he can't really do much at all. However, other officers are doing this, and it appears to be both legal and effective.

¹² SAPOL did indicate that they have developed training material, administered 'face-to-face' training sessions during the development of the Scheme, issued training packages to policing jurisdictions and made the comprehensive packages available on the 'Training Gateway' intranet website.

An example of the need for training in the laws of different jurisdictions was given by WA officers who use the Scheme for their work in South Australia:

It's tricky – the law does change between the States – for example we do a lot of gunja [marijuana]-related stuff. In SA there are infringements for possession, and for possession of a smoking implement, whereas in WA you can't charge someone for possession of an implement. So you do have to know the laws in each State – at least for the areas in which we have a lot of traffic.

Training would also provide an opportunity to address some of the current anomalies in the Scheme. One officer wanted to use the Scheme to involve an individual in a juvenile diversion program:

The Cross-border Act says that it can be used. He has got a juvenile who assaulted his wife in an NT community, then moved to a community in Western Australia. He contacted the juvenile diversion people saying that he wanted this kid to be included. They quoted the NT Juvenile Diversion Act back to him, which says that he can't be included because the person concerned has gone interstate. So the two pieces of legislation directly contradict each other. Apparently the person has to agree to it while they are in the NT – they can't move and then agree.

A number of officers referred to the barrier of not having access to the police computer systems for the neighbouring jurisdiction:

The main barrier is that I don't have access to the NT Police computer systems. I can arrest someone in Kintore if the NT OIC is absent, but I have no computer and justice system access to deal with the arrest process. Usually, the NT Constable, if present, would deal with it through his NT access. If there were no NT officers at Kintore Station at the time, he would bring them to Kintore Station, lock them up, and phone other NT stations, e.g. Papunya, to deal with the offence. He would need to fax the details to the Papunya police.

This was corroborated by an officer in another station:

There is no NT computer in the Warakurna office. You have to log in remotely using VPN, which is really really slow. You can't print, save or anything. You have to email yourself everything, and then open it on the WA system.

An officer in an adjacent station in the NT commented:

There also needs to be some work done on the computer support available to the NT position in WA. He can't do much because he has no access to the NT system. So if he wants to charge someone, he can ring me and tell me to

generate charges sheets and fax them to him. So if no one is in the station here, he is stuffed.

A related issue is the extent to which the data systems in each jurisdiction 'talk' to each other. The following case gives an excellent example of the problems that can arise:

A man from a community close to the border got done for DUI in Alice. Then he went to Port Augusta in SA and got into trouble there and was locked up. This time the charge from ASP was added to his other Port Augusta charges and they were all heard together. He lost his licence for it all. But the loss of licence didn't register on the NT system – only the SA one because the systems don't line up. So he applied for a licence in the NT and got it. But then this officer stopped him, recognised the name and looked him up. In the end he got additional charges for getting a licence under false pretences.

Given the complexity of the Scheme, it is not surprising that high staff turnover is seen as a significant barrier to its being used more often. Slow bureaucratic processes magnify this. One officer had been working at a Station for almost a full year, and had still not been sworn in as a Special Constable for South Australia. That limited his role to working solely in the NT – he could not even participate in multi-jurisdictional policing. As he said

I'll be gone from here soon, then there'll be another guy sitting here and waiting.

There was some frustration (as well as confusion) over the limits to the Scheme. As described above, some officers believe it can be used in indictable matters. Others are frustrated that it can't:

The one person that I really wanted who is hiding interstate I can't get because it's a Supreme Court matter.

Differences in equipment worn by the police services were raised as an issue, for example the wearing of tazers¹³.

Some police officers had the perception that various individual magistrates do not like the Scheme, and do not want it used in their courts. This is a huge disincentive to one's undertaking the additional work needed to bring a cross-border case:

¹³ The issue of differences in work practices is covered in the Police MOU in that it was resolved that police entering into another jurisdiction would conform with the work practices of that 'host jurisdiction'. However, comments by several stakeholders suggest it is still perceived as an issue by some local police.

The lesson that I took for it was that it was a lot of hassle. I was calling the police in SA and asking them to do work –which is always tricky because they might be really busy. I was calling in favours, and relying on the strength of personal relationships to get it done. Then it got thrown out anyway.

The difficulties described above highlight the conditions that are necessary for the Scheme to flourish from a policing point of view. These include:

- good relationships between officers in adjacent locations
- sympathetic magistrates.

Making the Scheme work necessitates working closely with colleagues from other police services:

At the moment it really depends on the relationship you have with the officers across the border. We used to work a lot with a particular officer. He's gone now. So we'll have to see how we go with his replacement. It really shouldn't depend so much on that relationship, because it's so important that it be used a lot.

High staff turnover makes such relationships harder to develop. However speeding up processes such as the granting of Special Constable status would help these relationships become established.

It is clear that magistrates are a vital link in the process. Without their support the likelihood of the Scheme achieving its aims are minimal. From a police officer's perspective, there is little point in trying to use the Scheme without assurance that the courts will cooperate.

The views of magistrates

Five magistrates were interviewed in total, several of them while they were on circuit, and only one of whom had experience of more than a handful of cases.

Magistrates are clearly crucial in the functioning of the CBJs. However their role within the Scheme is unusual, as one pointed out:

Judiciary can't be pro-active, only reactive. We don't have a role to encourage participation.

Another magistrate had a similar perspective:

We really rely on the defence lawyers and prosecution and the police. It's easy for me to deal with it when it comes up, but they have to do a lot of work to make it happen.

The interviews indicate that some magistrates support the Scheme and are happy to hear cases that use it, whilst others are less so.

One magistrate reported a case in which the Scheme did work effectively to 'clean everything up':

One case that worked well - they were all traffic related matters in WA and the NT. He was put on a payment of fines order in the WA and fines for the NT, and the whole matter was dealt with at one go. That is how it's supposed to work.

The magistrate went on to comment:

When it does work like that it is efficient, and is in the client's interests because it is all dealt with. It is a useful mechanism. You can deal with an entire selection of charges in one place and time while you have the offender there with you. Good for them and us.

The magistrates merely respond to the cases that are presented to them, and do not have a role in determining whether or not a case should be heard as a cross-border matter. However for the Scheme to work magistrates need to be able to administer the laws of each of the three States.

More broadly, a magistrate was less than positive about the impact of a CBJS matter interrupting a circuit court:

If a cross-border matter is identified, the staff see this as inevitably leading to delays. There are usually something like three or four minutes per case and if one has to stop to set up a video to have a dialogue across the border when a cross-border issue is identified, the whole list can be thrown out. Not enough thought went into the process requirements, and hence a set of procedures which were designed to make things faster and simpler has made things slower and more complicated.

Other barriers to the use of the Scheme, from the magistrates' perspective, included:

- training
- accessibility of cross-border magistrates
- prisoners in custody
- differing levels of support among magistrates.

It is vital that magistrates have knowledge of the Scheme, and are able to use it effectively if the aims are to be achieved. Of the five magistrates interviewed only two had received any training or induction, which occurred at its commencement and was given by a Western Australian Parliamentary Counsel. There has been no formal training provided since. However a Bench Book has been developed.

Feedback on the usefulness of it was mixed, with one magistrate suggesting that it needs to be complemented by a Practice Book. However one magistrate commented:

There's a bench book for us, which is reasonably easy to use. I did try to ring an NT magistrate at one point to get some information, but I couldn't get through. No doubt if I made a mistake someone will alert me to it.

Despite the lack of training, most magistrates expressed that they were supportive of the Scheme, with one saying:

I see it as an opportunity to "clean everything up" rather than face arrest again. People move freely across the region, and matters could be finalised before one court.

Most magistrates stated that they were prepared to use it if the opportunity arose. The most experienced cross-border magistrate commented:

I've probably heard a dozen cases all together. Most of those dozen have been in the last year. I think things are slowly ramping up as people become more familiar with the Scheme and more prepared to use it.

One key barrier to the Scheme being used more widely associated is access to magistrates who have been sworn in as cross-border magistrates. One magistrate from Western Australia commented that:

In 2009 three magistrates were sworn in (as cross-border magistrates). Since then two have left and gone to other jurisdictions. Two new magistrates arrived, and it's taken them months to be sworn in – about two months for SA, and eight months for NT. Not sure what the holdup was. But it's meant that I have to do all cross-border matters, and if any are scheduled for court when I'm not there, they have to be deferred.

A comment from one police officer in the NT corroborated this:

All the cross-border magistrates are in Alice Springs, and they are not often on call. The on call magistrates tend to be in Darwin – and they aren't cross-border. You don't go and ring the one who is in Alice Springs when they aren't on call – you won't be blessed for it.

The officer checked the 'on-call' roster for magistrates, and there were only four days in the preceding two months during which a cross-border magistrate was on call, and therefore easily accessible¹⁴.

¹⁴ It should be noted that the CBJs was never intended to be utilised in an after-hours situation.

The custodial requirements of different jurisdictions can impact on how often the Scheme can be used. Once a prisoner is in custody it becomes difficult for them to be released in order for a matter in a different State to be heard, as the following case demonstrates:

One case was a SA man who had serious assault offences in SA, and had committed a burglary while in WA. It was his third strike here, so it has to be a prison term. I didn't want to sentence him for the WA matter because he wasn't sure how he was going to plead on the SA matter. It would have been better to have heard all the offences together and then take the totality of offences into consideration for sentencing.

But because he would have gone into custody in WA for the sentence that would have meant that he couldn't be transferred to SA for court. We are finding that once someone is in custody in WA the corrections people won't let them be moved. It raises all sort of very difficult issues for them. So I didn't sentence, and the matter went to the SA court. That magistrate wouldn't hear it as a cross-border case, so nothing happened. Now he has been sentenced to custody in SA, and when he comes out he will still face the WA matter. It would have been much better to have heard them all at once and sentenced in the light of that.

The magistrate went on to comment:

The transfer of prisoners has been a significant stumbling block. Once they are in custody in WA we can't move from there which means that we are reluctant to sentence until other matters can be added to the charge and they have pleaded guilty. No one has thought that through in the legislation. It really needs to be addressed, otherwise a significant element of the Scheme can't really work. The different warrants that operate between the jurisdictions, and how that impacts on the movement of prisoners once they are in custody also needs to be looked at.

The case described above also highlights the need for magistrates to work together in order for the Scheme to realise its potential. The necessity for support from magistrates is particularly evident in one jurisdiction where a magistrate did not support its use. His or her perception was that cross-border matters slowed down the functioning of the court with argument over whether or not a matter could be heard as cross-border, and with communication with other jurisdictions. Because of this, the first cross-border cases that were heard in that court were not successful because they were deemed by the magistrate to be lacking in substance. The flow on from this was quite marked. Police in both jurisdictions involved reported that they were discouraged from trying to use the Scheme more extensively, as they felt it had been a lot of extra work for no result.

A police comment from another jurisdiction also indicated that a particular magistrate did not like the Scheme, and that when they moved on the Scheme would be easier to use.

Payment of fines – a sheriff’s perspective

One stakeholder pointed out that the Scheme currently allows matters that attract fines (such as traffic offences) to be heard and sentenced together. However once the sentence has been given, the offender has to go through each separate state or territory system to pay those fines.

The issue around the payment of fines is extremely problematic. One sheriff from WA was interviewed, and felt very strongly that the payment of fines should be included in the Cross-border Justice Scheme:

When Cross-border was initially being considered they wanted the payment of fines to be part of it. But that was knocked back. But the imposition of fines is intimately associated with the magistrates’ court, and potentially with the operation of the Cross-border. It doesn’t make sense not to link it.

The following is an excerpt from the interview with the sheriff:

The sheriff’s role is to collect fines that are given out by the magistrate. There are payment options:

- 1. Accept cash from the offender and give them a receipt*
- 2. Assess offender’s income and arrange for deductions to be made*
- 3. Use Centrepay if on Centrelink – but lots are on CDEP*
- 4. Community service order – but can’t have fulltime job, or a driver’s licence – because if they did they could look for a fulltime job*
- 5. Seizure of goods to the value of – not really used up here because people tend not to have goods, and hard to value if they do – e.g. car is likely to be unregistered and in poor condition*
- 6. Jail*

Once someone gets a fine the following process happens

- 1. They get 28 days to pay in full*
- 2. After that the fine gets registered on the system and a notice of intention to suspend is mailed to the offender. There is no obligation on the department to check that it is received or understood*
- 3. A suspension notice is mailed*
- 4. Driver’s licence and vehicle rego are suspended*

At steps 1, 2 and 3 the level of the fine increases because of late payment. It ends up as being 56% above the initial fine.

The problem points are that people don't get/understand the suspension notices, and can then go on to not understand that their driver's licence has been suspended – then they are caught driving without a licence, and then they get more fines etc.

The sheriff gets several requests for assistance with the payment of interstate fines every time they do a circuit. People worry about the other fines, but do not know how to pay. In fact there is no clear system of how they pay them. They can't give cash to the WA sheriff for an NT offence. The WA sheriff doesn't have a process through which that money can be sent through to the SA (or wherever).

So the offender needs to go to court in the other jurisdiction (requires vehicle, knowing time for court etc) to pay cash. This is very difficult for people to achieve, so they land up in fine trouble interstate.

The sheriff proposed that one way out of this cycle is to enable the WA sheriff to accept payment of cash for SA or NT fines and give a receipt that lists the case number for a different State.

4.5. Stakeholders' future priorities

This section summarizes the priorities that stakeholders identified in the online survey and in interviews. In the online survey of local providers of justice services, 20 interviewees responded to the question about changes they would like to see, and the following suggestions were offered:

- Training and induction – for example, one comment was:

I would like service providers to be given a comprehensive induction on the running, operation and programs offered by the Scheme. This is especially important as we are a victim's service and work with and for women. As such it is important for us to know what the program entails to have an understanding of what the participants will gain from it.

- Simplifying the legislation so that it is not an administrative burden to choose to use it.
- Shorter delays in the registration of domestic violence orders taking effect, with an earlier response providing the context for this statement:

Perpetrators of domestic violence routinely move out of places in which they have committed offences and across borders. When there are warrants out for their arrest, we can assist Police in the original jurisdiction to locate and request apprehension of the perpetrator. When the perpetrator is only deemed 'an arrest target', this cross-border cooperation does not occur and the perpetrator can continue living with impunity in the new location.

Jurisdictional boundaries also have an effect on the ability of victims to protect themselves with a DV Order from any given state as there is a delay between such an order taking effect in the original state and its taking effect in a state where registration of that order is sought. Awaiting service of the order registration, or registered variation to an order, can take a long time.

- Streamlining the administration, with several examples given:

The paperwork involved in the court process and the sentencing process needs to be streamlined and better incorporated into the normal judicial process.

The requirement to be a Special Constable in each neighbouring jurisdiction is unwieldy and an administrative nightmare!

- More funding. One respondent argued for increased funding for training and induction, and several others referred to how over-stretched services were.
- Improved information including on the Scheme, changes to the law, improved communication between jurisdictions for the processing of warrants, and updates on whom is doing what. Related to this point was the following response:

Needs to be actively marketed. No-one at work has any simple, clear, definitive information about it. It is not promoted.

- More use of the Scheme, with the following point made:

To be used more often and more as a matter of course rather than on limited occasions. For this to occur there needs to be wider understanding of the Scheme so that it is embedded in everyday practice for all three jurisdictions.

For several key stakeholder interviewees, it was viewed as inappropriate to consider any significant changes to the Scheme, such as expansion (in geographical area or to more serious offences), because it largely remains untested. Suggestions for improving the Scheme included:

- Renewed political commitment and engagement at a senior level.
- More consistent uptake by individual police in communities and standardised procedures for identifying cross-border cases.
- More cases so the 'bugs' are ironed out.
- Review of legislation, particularly areas identified as having 'holes'. Subjects for review include the potential to misinterpret terminology (terms such as 'home state', 'supervising state' were mentioned), as well as sections of the judicial process that have less detail in the legislation (parole and sentence review were mentioned).

- Central coordination and orchestration through, for example, the new Family Violence Intelligence Unit in Alice Springs.
- Streamlined information sharing and increase the ease and ability to flag and track CBJs cases across jurisdictions.
- Six monthly meetings between magistrates, prosecutors and lawyers.
- CBJs training for new staff to be included in induction. As put by one stakeholder: because of turnover with staff, new staff now don't know the detail of Scheme, don't know their role. They suggested that there should be annual events, brief information sessions, videoconferences, online presentations. Another stakeholder commented on the need to operationalise training sessions: 'unless all staff are fully aware of what needs to happen on the ground, all the training in the world will not assist.'
- Reappraisal of the legislation and the MOUs where more detail may be required.
- More thought should be given to the potential difficulties arising from jurisdictional differences regarding the 'back-end' of the justice process (sentencing, prison transfer, parole and release). The lack of a service agreement between the three parole boards is 'a minefield that awaits us', according to one stakeholder.
- Work through the identified disconnect between the intent of the CBJs (to allow prisoners to serve term closer to their community) and the reality (a lack of medium to high security prisons in the region to be able to achieve this for those cross-border prisoners).
- Increase co-ordination and information gathering to include a more holistic coverage of sources, including legal aid, health and education services in the region. Communities and councils lack coordination; don't always impart information to police, for instance, regarding family feuding. Potential for more MOUs to develop with other service providers, e.g. NPYWC Domestic and Family Violence Service doesn't currently have MOUs with corrective services, which makes it hard to get information such as release dates or about those on community corrections orders. Currently they rely on relationships established with particular staff but the information flow between these two organisations is vital for future safety planning on a person's release.

A more radical approach was put forward by one key stakeholder:

There is only one way in which the Scheme could ever be successfully implemented and that would be if the entire region were to be given self-determination with one set of criminal laws and one justice system to process them. What we really need is a special division of the federal magistrates' court

which would administer justice in central Australia. That way the criminal and civil matters can be dealt with in one Division, prosecution services can be specialised, administration services can be centralised, interpreters can be appropriately trained and all people would be well versed in what needs to happen.

4.6. Possible extensions or expansion of the Scheme

As noted above, with the exception of the inclusion of payment of fines, most stakeholders were reluctant to comment on or suggest any significant changes to the Scheme, either in its geographical coverage and/or the type of offences it covers. A caveat, however, should be noted: several police, in interviews, were supportive of an increase in the area covered and/or adopting similar schemes in other cross-border regions.

At present, a limitation on the Scheme is the exclusive focus on summary matters, as magistrates in WA and SA are restricted to non-indictable matters unlike their counterparts in NT, who have greater powers (as no District Court operates in the NT). Some correctional representatives, however, were forthright in their view that the legislation was not far reaching enough and should include the jurisdiction of the higher courts. According to these respondents, as some domestic violence cases and sexual assault charges are indictable they should be included in the Scheme, especially given that these kind of offences were seen as a key driver for the CBJS implementation.

Although it was rarely explicitly stated, it seemed to the evaluation team that restricting the Scheme to summary offences did run counter to the effort involved in dealing with cross-border matters. As one police officer said: 'They eventually come back to their home community', and it seemed that unless there was a serious charge or conviction involved, it was not necessarily worth pursuing the matter in another jurisdiction.

4.7. Conclusion: stakeholder views

There were key themes that emerged from different stakeholders:

- Community residents knew very little about it, but strongly supported the increased police presence in their communities and the visible incidences of joint cross-border policing.
- Feedback from police was highly variable. Some use the Scheme and find it highly beneficial to maintaining law and order, while others are reluctant to use it for the following reasons:
 - Lack of confidence that they know how to use it correctly.

- Concern that any mistakes made due to that lack of understanding could impact negatively upon them.
- Perception of increased workload necessary to use the Scheme.
- Lack of confidence that it is effective in improving outcomes.
- Lack of access to cross-border magistrates.
- Slowness of the process in becoming a cross-border police officer.
- Difficulties with very slow computer access meaning that any attempt to do cross-border work takes many hours, and is not a productive use of time.
- Magistrates also gave mixed feedback. Some use the Scheme regularly, but most do not. Magistrates that use the Scheme reinforced its potential for improving the efficiency of the delivery of justice in the region. However others were sceptical, and felt that the Scheme only raised the amount of paperwork needing to be done, for no obvious outcome. Particular issues raised were:
 - Lack of sworn cross-border magistrates.
 - Lack of information and training on how to use the Scheme.
- The only sheriff interviewed highlighted the need for an effective and efficient system for the payment of fines. At the moment there is no clear process through which residents of the region can pay fines incurred jurisdictions other than their home state. It appears that the only mechanism is for them to attend court in another State and pay the fine in cash. This is an unreasonable requirement for people who have scant access to functioning motor vehicles, and cash; and are unlikely to be able to work out when the court dates might be. The impact of non-payment of fines is further entanglement with the justice system through loss of licensed and unpaid fines.

Solutions offered for these concerns were:

- Improve access to training.
- Improve resources available to magistrates.
- Create and implement a system through which fines from interstate can be paid in defendant's own State.
- Encourage use of the Scheme so that knowledge, experience and support for it can be improved.
- Explore the streamlining of administrative processes needed to implement the Scheme.
- Examine the detail of the Scheme and resolve apparent conflicts between the provisions of the Scheme and State legislation.

- Resolve jurisdictional differences with the 'back-end' of the justice process (sentencing, prison transfer, parole and release) in order to streamline use of the Scheme.

Many people who work in justice services, or in a related sector, are not always sure how the Scheme applies to them. Indeed, the justice system continues to operate within each jurisdiction in the cross-border area and it is apparent from the data and from the interviews conducted with stakeholders that the CBJs is probably best regarded as an infrequently occurring 'add-on' to, or distraction from, the daily business of justice service delivery region. Personnel working in criminal justice fields are still primarily guided and structured by existing jurisdictional and organizational imperatives.

Chapter 5: Current situation and ways forward

5.1. Introduction

A range of issues worthy of further exploration were listed in the 2004 report on the Cross-border Justice Scheme, based on contemporary reports of the cross-border region (NT Department of Justice et al 2004). The issues fell under three main categories – poor justice response, inadequate services, and community factors – many of which were inter-related.

With the first heading, the list included large distances and time needed to travel to locations, difficulties in recruiting and retaining staff, lack of cultural sensitivity and awareness, limited access to police services, difficulties in collecting evidence and undertaking investigations, difficulties in accessing bail, lack of access to trained interpreters, the need to rationalize circuit courts to allow for timely resolution of matters, and the lack of appropriate/low security detention facilities.

Under the second heading, the list included the need for more support services for victims, improved mental health services, the need for services for substance misuse including petrol sniffing, the need for domestic violence services, the need to support offenders and their families on release from prison, and the need to improve child protection services.

Under the third heading the list included under-reporting of offences and unwillingness by victims to seek assistance, offenders being protected by the community or ‘border’ jumping, limited community knowledge and understanding of justice processes, and the need to consider customary law and the input of community members into the court process.

Combined with criminal justice data that showed an increased in recorded offences and court cases for the cross-border region, these issues help underline why a response and reform approach was seen as a priority. Before summarizing the issues that arose from the evaluation of the CBJs to see whether it has been implemented effectively (and has made a difference), this chapter outlines some of the changes that have occurred in the region. This is important to consider as it raises questions about whether the same ‘drivers’ and rationales for the Scheme still apply, and whether any of these changes need to be reflected in future developments, including any changes to the CBJs.

5.2. Changes in the context

Life in remote Australia in the past decade has been affected by major changes that have occurred across the world, most notably as a result of rapid innovations and take-up in

information and communication technologies. The way this is most manifest in the cross-border region is the widespread ownership and use of mobile phones, and internet access through phones and computers. It is of course still more challenging to access the internet, both in terms of coverage and speed. Nevertheless, communication has taken on a different character, which has flow on effects on criminal activity and the administration and practice of justice. From the point of view of collaboration and coordination across borders and between agencies, it is much easier to relay information in a timely fashion than it was a decade ago. A crucial goal of the CBJs was to bring justice to the defendant at a single point and on a single occasion, thereby avoiding or reducing long-distance travel and long delays in matters being finalised. The most obvious change that enables this to occur is the use of video-links in courts (within or between jurisdictions). This and other ICT innovations can and will, no doubt, continue to help support the intent and operations of the CBJs.

As noted in the second chapter, the region has also been affected by the major policy and program focus on remote Indigenous communities in the past decade. A corollary of this reform agenda has been considerable turbulence in local community governance (and local government in the NT). Integral to the national commitment to overcome Indigenous disadvantage there has been a significant investment in infrastructure and services in many remote communities, although much of this has translated into discrete programs on the ground, often delivered by visiting service providers and a constellation of government and non-government service providers. Except for a very significant increase in police numbers and facilities in the cross-border region, there has not necessarily been a coordinated or strategic investment in justice services or in crime prevention measures. In totality there may be more crime prevention programs and initiatives (such as youth services, night patrols and safe houses in some places in the NT, greater alcohol restrictions in some places), the only other key change aside from a greater police presence in the region, that is seen as directly relating to crime reduction and social disruption, has been the roll-out of low aromatic (Opal) fuel. In terms of justice services, the main facilities (regional prisons, court premises) remain largely unchanged and although there may be more circuit courts and a Work Camp at Warburton, there is very little tangible difference to observe in justice service delivery at a local level.

A comparison of key census statistics for the region for 2001 and 2011 indicate that:

- The estimated population of Indigenous persons in the region has dropped slightly (from 6,075 to 5,601 persons). There has been a considerable decline in the estimated non-Indigenous population (3,497 to 1,327) although it is not known how much of this decrease is due to a decline in the resident (as against visiting) population.

- In 2011, the number of non-Indigenous children in the region recorded as attending school is very small compared with Indigenous children (47 compared with 1,179), which does suggest there are not many non-Indigenous families resident in the region. Of non-Indigenous persons aged 15 years and over in the region, the most common category for occupation was professionals (26%) followed by managers (17%), technicians and trade workers (14%), and community and personal service workers (13%), which was a very different profile for the non-Indigenous population aged 15 years and over.
- Indigenous people in the region seemed to have maintained their use of local languages (94% said they spoke an Australian Indigenous language in 2001 and the same proportion said they did in 2012).
- There were signs of improvement in educational and employment outcomes. In 2001, 15% of Indigenous persons said they had no formal education and 70% said they had completed Year 10 or below. In contrast, in 2011, 8% said they had no formal school education and 79% said they had completed Year 10 or below. Labour participation rates were 35% in 2001 and 40% in 2011.
- It seems that those who are still employed on CDEP are working fewer hours on average than those on CDEP back in 2001. In terms of occupational categories, a smaller proportion is classified as labourers nowadays (39% in 2011 while it was 48% in 2001). This category however remained the most common occupation in 2012, compared with 17% who were professionals and 24% who were classified as community and personal service workers.

More information on these census statistics is in Appendix 4. It could be argued that these data suggest a number of small positive changes in relation to underlying factors that affect offending (i.e. education and employment). It appears there may have been a relative decline in the employment of non-Indigenous people and a slight improvement in employment opportunities for local Indigenous people, including in the delivery of services.

However, a review of regional criminal justice data for the region compared with similar statistics compiled a decade ago, indicate a substantial increase in criminal justice matters being dealt with by the police and by the courts in the region.

Back in 2004, a review of criminal justice data for the cross-border region (see the report by NT Department of Justice et al 2004) highlighted the following:

- Police data from SA and NT (WA data were not available) showed that the APY Lands had a much higher rate of recorded offences per 1,000 population (781.7) than the NT portion of the cross-border region (194). Large increases were recorded for both in the previous five years, with a large proportion of the increase due to road traffic and motor vehicle regulatory offences, and in 2003 in SA, 'miscellaneous' offences primarily

because there was a targeting of petrol sniffing during that year. Common to both areas was the high proportion of offences related to road traffic and motor vehicle regulatory offences, acts intended to cause injury, public order offences and property damage. The majority of people (over 80%) apprehended in both jurisdictions were male and the majority of apprehension reports (77% in NT and 95% in SA) involved Aboriginal individuals. The age group -25-24 years - accounted for the highest proportion of apprehensions.

- Court data for all three jurisdictions showed increases in the number of cases finalized over the previous few years where the defendant was from the cross-border region. In SA the number of adult defendants rose from 373 cases in 1999 to 1,079 in 2003, NT had 321 cases finalised in 1999 and 419 in 2003, and WA had a rise in adult cases finalized but a drop in the cases of finalized juvenile cases¹⁵. The most common major charge in SA was 'miscellaneous' (548 cases), in the NT 'road traffic and motor vehicle regulatory offences' (208 cases), and in WA 'offences against justice procedures' (139 cases). Given different sentencing options and the way penalties were recorded, caution is advised when comparing penalties – in SA the most common penalty was 'no penalty' (497 cases), in the NT a fine, levy or restitution order (260 cases) and in WA fines (217 cases). Imprisonment orders occurred in 83 cases in SA and an imprisonment/detention/suspended imprisonment order was imposed in 131 cases in WA.
- Both the NT and SA corrections data showed fluctuations in adult receptions from year to year. In SA they had risen to 65 while NT was close to 80 in 2003. The majority of adult receptions were male and Aboriginal. In both SA and NT community-based correction orders had decreased substantially in the previous few years. In SA they had fallen to 52 and to 26 in the NT in 2003.

A review of more recent criminal justice data from the three jurisdictions and made available for the evaluation revealed a number of patterns and trends (see Appendix 3 for more detail). As the type of information provided by the police or the courts varied by each jurisdiction, the summary of each is presented separately:

WA police data for a seven year period (2006-2012) show:

- The total annual number of combined offences against the person and property have fluctuated over the seven years, with a decrease since 2010

¹⁵ The WA data included adult and juvenile cases.

- The total of offences against property was greater than the total number of offences against the person in the Warburton area and in Warakurna, while the converse was true of the Kintore area.
- The Warburton area had each year the highest volume of recorded offences against the person and offences against the person than Warakurna or the Kintore area. Trends over the seven years differed by area.
- The number of breaches of restraint (which includes breaches of violence restraining orders, misconduct restraining orders and police orders) is not large, with seven year totals for the Warburton area being 68, for Warakurna 36, and for the Kintore area 12.
- For the seven year period, half of the total number of offences against the person (49%) in the combined WA area of the cross-border region is recorded as domestic assaults. Since 2010, the total annual number has declined.

The WA court data for a six year period (2007–2012) show:

- The number of finalized charges involving adults has been decreasing since 2009, but is part of a broader state-wide trend. The average number of charges is fairly constant over the period.
- For matters involving juveniles, there are much fewer defendants involved than adults (15% of distinct defendants in 2012). There is no clear trend over the period and the number of charges per matter for juveniles is higher than adults. The small number of defendants (n=29 in 2012) helps explain the absence of CBJs cases.
- Over the six year period the most common offence types were public order offences and traffic and vehicle regulatory offences. However, in 2012 the most common charge type related to offences against justice procedures. The majority of offences over the six year period occurred in the Ngaanyatjarraku region, while almost all of the rest were in other locations in regional WA.
- In 2011 and 2012 there was a total of 12 charges where the offence location was interstate, which is less than one per cent of all charges. This small number accords with the low number of CBJs cases recorded for the cross-border region.
- Nearly all charges are finalized as a result of conviction and the most common sentence type over the six year period was a fine. However, the actual number of fines imposed has dropped by over 40%. Only eight charges in 2012 resulted in a custody order.

NT police data (2006-2012) show:

- The volume of recorded offences varies a lot between communities, with Mutitjulu overtaking Papunya with the second highest annual total in 2012.
- The highest aggregate total of offences for all the selected communities was recorded in 2009 with the lowest recorded in 2007. Over the seven years the trends in annual number of recorded offences varied between communities, with several (e.g. Apatula and Impanpa peaking in 2009 or 2010) while others had their own distinctive trends e.g. overall decline in Papunya.
- Of fourteen offence categories, overall, the most common was road traffic and motor vehicle regulatory offences, followed by public order offences and acts intended to cause injury.
- Of the total of 721 recorded assaults recorded for the seven years for the selected communities, the year, 2009, had the highest aggregate total, with a slightly lower number recorded in each of the following three years.
- For the three communities which had the biggest number of assaults over the seven year period, there were differences in the proportion of assaults recorded as alcohol related, with Walungurru (Kintore) having the lowest percentage. However, the proportion that was recorded as related to domestic violence was consistently high across the communities.
- The number of unique apprehensions recorded for an aggregated number of selected communities has decreased each year (with the exception of 2009 and 2012). The annual number of apprehensions recorded for a community also varies, with less than 10 per year for Kaltukajara (Docker River) and more than 50 per year for Papunya.

NT magistrates' court data (for individual communities in the NT area of the CBJs region from 2007/08 to 2011/12) show that:

- Small annual number of criminal court listings and lodgements are recorded for certain communities. Even the aggregate number of listings for all the communities listed in Appendix 3 for 2011/12 is much less than the annual total of listings recorded for Alice Springs in 2011/12 which was 22,152. The annual total of criminal court lodgements in the magistrates' court for Alice in 2011/12 was 4,754 (nearly 24 times the aggregate annual total for the listed communities in Appendix 3).

The SA police data on recorded offences for two five-year periods (1999-2003 and 2007-2011) show that:

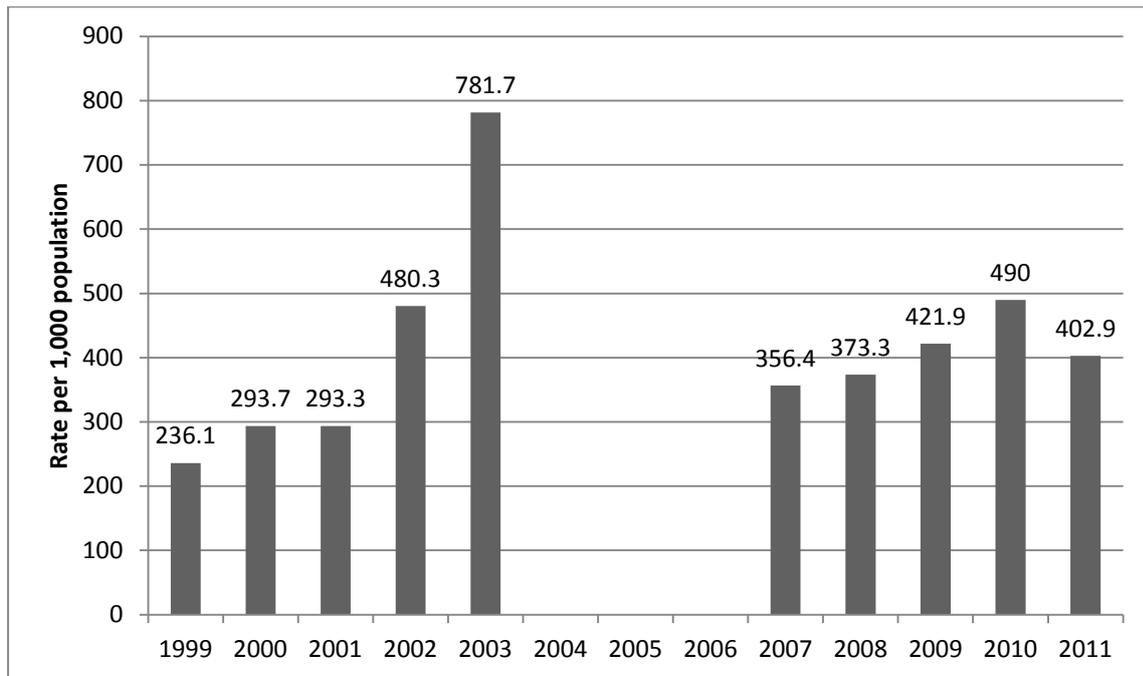
- When the first five year period (1999-2003) is compared with the second period (2007-2011), the total number of recorded offences is nearly the same – 5,140 and 5,322 respectively.

- However, as Figure 11 shows, there has been a consistently higher rate of recorded offences per 1,000 population from 2007 to 2011, compared with the three years from 1999 to 2001. As noted previously, 2002 and 2003 recorded an exceptionally high number of offences, primarily due to driving offences and miscellaneous offences related to substance abuse.
- The trends in major offence categories vary (see Figure 12). The annual total number of recorded offences against property was much higher in the more recent five year period, although consistently the most common category of the selected offence types. Offences against the person climbed steeply from 2000 to 2003, but remained at a similar annual total in 2008 through to 2011. Offences against public order have increased fairly steadily in both five years, with higher annual totals in the most recent five year period. Driving offences have fluctuated dramatically, with the highest annual totals recorded in 2002 and 2003.
- The trend in rates of total recorded offences in the most recent five year period is very similar to that found in the trend for NT remote communities (from mid-2007 to the end of 2010) (see FaHCSIA 2011).

SA court data for the APY Lands show that for each year from 2008 to 2011:

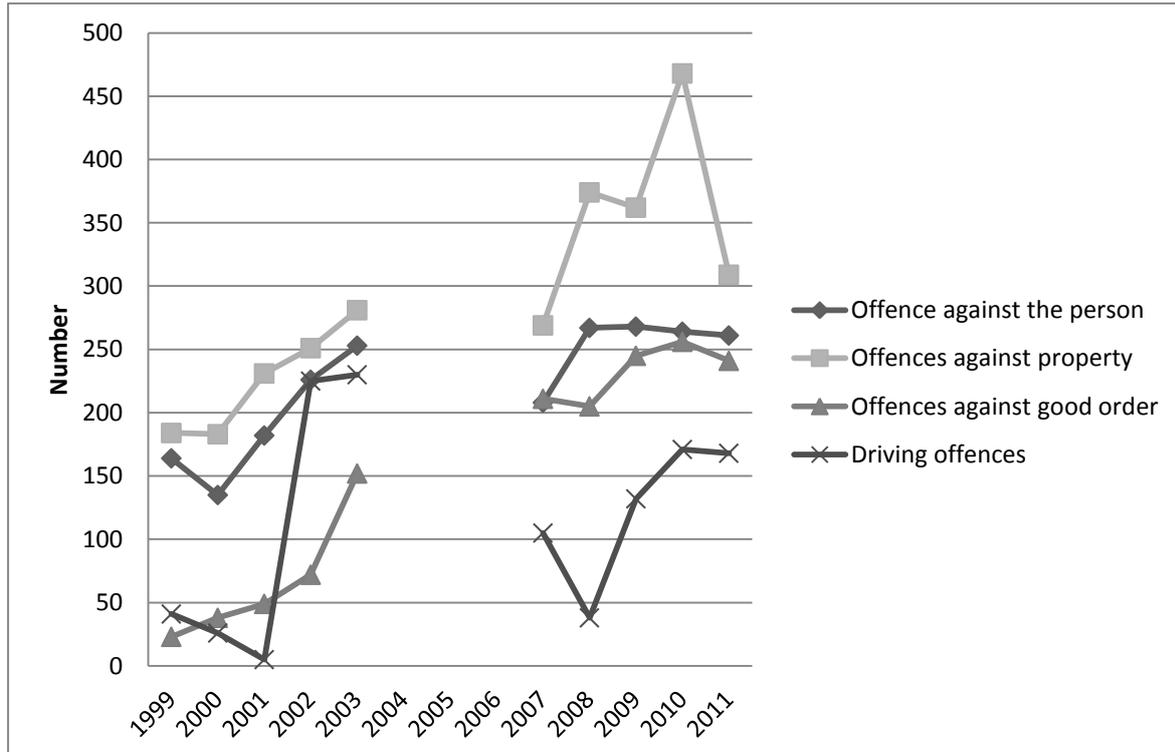
- Finalized cases increased from 302 to 365 then dropped to 312 and increased in 2011 to 348.
- Small numbers of finalized cases in the Youth Court with 35 in total recorded over the four year period.
- Convictions also varied each year with an increase in 2009, a decrease in 2010 and an increase in 2010 (243, 300, 236 and 286 each year).
- The penalty of imprisonment is imposed infrequently (five orders for the four year period), while the imposition of fines seems to be declining (77, 72, 39, 44) and the number of community service orders increasing (49,76,72,91).
- Small numbers of applications for domestic violence restraining orders and declining (13, 11, 3, 5).

Figure 11: Annual rates of recorded offences per 1,000 population, APY Lands, 1999-2003, 2007-2011



Sources: SA Profiling Information, APY Lands, 20 April 2004, unpublished report; Crime mapper, SA OCSAR

Figure 12: Annual total number of recorded offence, selected offence categories, APY Lands, 1999-2003, 2007-2011



Sources: SA Profiling Information, APY Lands, 20 April 2004, unpublished report; Crime mapper, SA OCSAR

The majority of statistical data for the most recent period could not be compared directly with the earlier data compiled for the 2004 report. However, where it was possible to do so, the following differences were identified.

When compared with the earlier three year period (2000/01 to 2002/03) to the most recent period (2010 to 2012), the WA court statistics show:

- The volume of finalized charges and matters has increased significantly (approximately twice as many charges for adults and six times as many involving juveniles). The increase in the number of distinct defendants is even more marked, with a seven-fold increase in adult defendants and a six-fold increase in juveniles in the past decade.
- There appears to be a larger proportion of charges related to juveniles in the more recent period, but the number of charges per juvenile defendant is smaller.
- There are three times as many offences recorded for the period 2010 to 2012, when compared with the earlier three year period. A wider spread of the most common offence types characterizes the most recent period, with a marked increase in the proportion of several offence categories (illicit drug offences, theft and related offences, and unlawful entry with intent) and a decline in acts intended to cause injury.
- As a proportion of sentence types, imprisonment and suspended imprisonment orders are imposed less frequently in the most recent three year period, and the outcome of a fine is more common.

The NT police statistics indicate:

- Based on figures for the total number of discrete individuals apprehended each year from 1999 to 2003 in the NT cross-border region, there has been a substantial increase when compared with the annual figures of unique apprehensions for 2006-2012.

The criminal justice data provided for the evaluation are not as comprehensive as those compiled for the profiling that was done in 2004, and they are not suitable for inter-jurisdictional merging or comparison. Nevertheless, they do suggest or reflect a number of changes in the context, and also underline a number of issues relevant to the CBJIS.

First and foremost, even though the estimated Indigenous population in the region is nearly the same, there has been a big increase in the past 10 years in the volume of charges being laid by the police and being finalised by the courts. The evaluation of the NTER concluded that a significant increase in recorded offences in NT remote communities could mainly attributed to the increase in policing numbers, along with

other factors such as legislative changes related to alcohol restrictions and domestic violence (FaHCSIA 2011). Undoubtedly, a contributing factor to the dramatic rise in charges and finalised charges in the cross-border region has been the increased presence of police. In the past few years, there has been a stabilisation in police outputs and a decrease in the volume of matters in the WA courts but these seem to be part of a broader trend.

Similar offence categories continue to be dominant, that is, public order offences and traffic and motor vehicle regulatory offences. Even though in WA courts the proportion of offences related to Acts intended to cause injury has declined, as has the proportion of various other categories, police data for WA and NT indicate personal crime is still a major issue. Importantly, given it was a key driver for the Scheme, domestic or family violence remains a predominant category of personal crime, according to police data.

The WA sentencing data indicates that a smaller proportion of imprisonment/suspended imprisonment orders are handed out by the courts in more recent times. In recent years, the actual number of imprisonment orders for SA and WA were very small per year. There seems to be an increase in the use of community based orders, but fines remain the most common penalty for convictions.

More specifically, in relation to the CBJIS and understanding its significance within the context of criminal justice systems in the region, the data reveals:

- A very small number of contested charges in magistrates' courts.
- The smaller proportion of juveniles being dealt with by the courts compared to adults, with actual numbers being quite low.
- The small number of breaches of restraining orders (e.g. in SA and WA).
- The very small proportion of interstate court cases in the WA courts in the cross-border region.
- The low volume of matters for the cross-border region compared with regional centres (e.g. in the NT).

5.3 Addressing the evaluation questions

There were seven questions guiding the evaluation. In the final analysis, posing them provides some small indicative measures of whether the outcomes expected have been fulfilled. It should be noted that, as cost information was not available, it was and is not possible to address question 4 other than to provide, in terms of stakeholder perceptions at least, rough estimates.

Specifically, we offer the following brief answers to the evaluation questions posed:

Has the cross-border legislation operated as intended?

Yes, but not to the extent predicted. There are a number of procedural matters related to the implementation of the Scheme that need to be addressed. For example, there is evidence that the Scheme is actively avoided by some practitioners because there is a perception that it involves too much additional work.

To what extent have agencies developed collaborative and cooperative practices across jurisdictions? How effectively have these worked?

Nodes of collaborative practice are currently working effectively. Court registrars, police prosecutors, and local police (in some places) are far better informed than before.

Does the CBJS deliver timely and efficient responses by justice agencies?

This was not the case at first. But the response is getting better, and is now more streamlined.

Does the CBJS deliver a cost-efficient response by justice agencies?

With regards policing, one can say 'probably'. One cannot be sure in the absence of any specific costings, however.

How has the CBJS impacted upon police, courts, service providers, community and the surrounding region?

The first two of these have been impacted strongly. Corrections, other service providers and the communities themselves have been less impacted.

Does the CBJS strengthen and improve community safety in the region?

The answer to this question is 'potentially'. The involvement of community people/non-government sector has been minimal, however.

What changes, development, improvements are recommended to the CBJS to further facilitate the achievement of the strategic objectives?

Key recommendations are found below.

5.4. Recommendations

What changes, developments and improvements are recommended to the operational personnel involved in CBJs matters in order to further facilitate the achievement of the strategic objectives? Recommendations are as follows:

1. The objectives must be re-visited in a specific forum designed for this purpose

The Scheme has been in operation for over three years. A question that has dogged the evaluation is 'why have there been so few CBJs cases' in this time? It is not an easy question to answer and multiple factors seem to have come into play. Various explanations that were proffered by stakeholders included:

- Delay in having the police MOU signed off.
- There were unrealistic expectations of the number of CBJs cases. Everyone agreed there is high mobility of people across the region, but only a fraction are charged with criminal offences and at some point, nearly everyone returns to a 'home' community where they are known by local police.
- There is no champion for the CBJs to promote its use and to increase awareness of its components.
- Workloads are such, and staff turnover so high, that it has never become integrated into core business.
- Sufficient changes in the region that already address the original 'drivers' for the Scheme.
- Key services such as the Aboriginal legal services were never consulted, and remain disengaged from (and in some instances, critical of) the Scheme.
- Poor relations between a magistrate and police over cross-border matters, which had an adverse effect on the uptake of the Scheme.
- Only more serious matters are worthy of the effort involved in dealing with matters through inter-jurisdictional cooperation, and indictable offences are excluded from the Scheme.

These reasons do not amount to a failure in implementation. Lengthy, extensive and careful preparatory work went into creating a framework under which the Scheme would operate. At the time, however, it was expected that there would be considerable numbers of people caught up in the CBJs, and the Service Level Agreements reveal there were anxieties about cost, as well as a potential lopsided impact on one or more jurisdictions. With the small numbers, in contrast, much of the energy attached to, and interest in, the Scheme seems to have dissipated. A number of issues such as legislative definitions and appeals also remain untested in the courts. In such circumstances, there is now less priority given to operational aspects of the Scheme and thus monitoring and reporting on its progress.

The formal agreements between justice services in different jurisdictions is a huge achievement, yet much of what is specified in these agreements has not necessarily occurred nor been tested. In addition, the focus on government justice services in the initial development of the framework means that other key stakeholders were not privy to its development nor directly involved in its implementation. In the report on the Cross Border Justice Project, prepared in 2004, it was envisaged that community consultations and engagement with the non-government sector would occur as the Scheme got off the ground. However, such engagement has not eventuated. In addition, in the report, it is underlined that the core of the Scheme (cross-border operations and powers) was to be complemented by a boost in prevention programs, central case management for the region, and a new correctional facility. This more ambitious approach to a regional and comprehensive response to community safety concerns has not been realised either. Even though there has been federal funding to roll out low-aromatic fuel across the region, very little has been set up or funded as a regional service or program. The principal support services that work across the borders and have a direct connection to criminal justice remain the NPYWC services and the cross-border family violence offender program.

Finally, there were few concrete examples of how the delivery of justice services has become more 'culturally appropriate' or 'meaningful' to local Indigenous people in the past decade, and it can be argued that these need to be addressed if further improvements in community safety are to be attained.

The key personnel should convene a forum (or some other agreed process) that involves stakeholders from the non-government and government sectors, and who represent local community residents, to revisit the objectives of the Scheme. It would be worth examining at that forum the broad, longer term goal of the Scheme to improve community safety.

2. Awareness must be improved with specific communication strategies for key target groups

At the moment there is very little in the public domain that describes the CBJs. Although there were some attempts to publicise and promote the Scheme in its early days among local residents through posters and storyboards, these efforts have had negligible impact. The awareness, let alone knowledge, of the Scheme was virtually non-existent among local community residents in the region, and very patchy among local service providers. It is also not clear whether defendants who have any matters dealt with as cross-border matters in the courts understand or appreciate the distinction. The community fieldwork did suggest that, even if they did, the CBJs is

unlikely to act as deterrent for cross-border movement, as the reasons for moving across borders is typically unrelated to justice concerns. Local residents were aware of the increased police presence in the region, and had witnessed examples of cross-border policing operations. Such changes seemed to have been welcomed by most and contributed to greater feelings of safety.

However, if there is a decision to improve awareness of the Scheme among local community residents, some thought would need to be given to the message(s) as well as the mechanisms through which it is promoted. At its current level of operations it is not likely to impact on many individuals' lives, and there may be more specific aspects of cross-border justice service delivery (such as the capacity to breach restraining orders irrespective of jurisdiction or the opportunity to apply to move interstate to another prison or on a court order) that could be communicated to key target groups. In terms of generally accessible information, the proposed website on the CBJs, currently being developed by the PEG, will be an invaluable resource both for the general public and for multiple stakeholders.

There should be an effort to increase and improve information provision to communities generally about the Scheme and its potential benefits. Other forms of communication including social media should be explored. There should be a focus on creating forums and/or accessible information for key groups and justice service providers that act as critical facilitators for a more efficient and effective CBJs.

3. Stakeholder knowledge must be enhanced and experience communicated

Except for senior members of justice agencies, represented on the PEG, with long term involvement in the development of the CBJs along with some key regional court and police staff and local police officers in some communities, there was limited knowledge and experience of the CBJs among justice service providers. Induction and awareness-raising occurred at the outset of the Scheme, but, except for the development of police manuals, this was not followed up with formal training or induction material. A further caveat to this statement is the Benchbook for the cross-border magistrates, which is currently being reviewed and updated.

Given the infrequency with which many justice service providers will have contact with CBJs cases (particularly in juvenile justice and corrections) it is recommended that simple fact sheets that explain the Scheme and offer guidance on procedure for each sector/key roles would be a useful resource. For some sectors (such as police) and a few specialist positions (magistrates, defence lawyers, police prosecutors, court registrars) it does seem worth the cost and resources to develop and run training courses and induction sessions at regular intervals, especially when there is

high staff turnover, but this should be complemented by short and simple information/guidelines. Annual meetings of key personnel are also advised, independent of the existing PEG and sub-committee meetings. In particular, court registrars and police prosecutors, who are vital cogs in CBJs processes, should have the opportunity to meet and discuss their concerns.

A plan to increase awareness should be devised that targets key groups that are likely to benefit from the Scheme. Moreover, it would be significant to the on-going viability of the Scheme to improve the availability of computer access times and communication-related technology including video conferencing between jurisdictions.

4. Current administrative burdens should be simplified and staffing concerns addressed

Among local service providers there is a common perception that the CBJs is an additional time-consuming burden that can slow down otherwise routine processes and involves becoming aware of processes that are not usually employed. There was some anecdotal evidence provided to the evaluators that the low numbers of cases classified as cross-border might be as a result of people actively avoiding classifying matters as cross-border cases because of a perception that such a designation would actually increase the amount of paperwork involved, and for no real benefit. Procedural and administrative issues should be reviewed for streamlining purposes. It should never be the case that the Scheme is avoided simply because of a perception that to employ it is to create more work

From a policing point of view, at a practical level, the experience of not having access to cross-border magistrates and difficulties created by a lack of access to computer systems of other jurisdictions only further contributes to often uncertain and convoluted processes. Consulting the legislation or the relevant SLA is not likely to be attractive to busy and under pressure justice practitioners. Simple, short guidelines (such as the prosecution flow diagram) should exist along with summaries of other jurisdiction's terminology and processes that have a bearing on the CBJs. It is also apparent there are often long delays in cross-border appointments, no great certainty about who is currently appointed, and from time to time appointments (including police, court registrars and magistrates) are left in limbo. This requires a more efficient process.

More attention should be given to ensuring appropriate flagging and recording within agency record systems and agreed protocols on record keeping by agencies in different jurisdictions for cross-border matters, to reduce the risk of duplication of matters being listed in more than one jurisdiction. The appointment of special constables with specific cross-border expertise should be considered.

5. There must be more dedicated support for key positions

At present, the oversight of the CBJs rests with the PEG, which continues to hold teleconferences three times a year, with the chairing and allocation of tasks shared between jurisdictions and agencies. Only the police sub-committee is now holding regular meetings, and only the court sub-committee is providing regular written reports to PEG. Compared with a decade ago, today there are not the high level 'champions' at an operational or policy level to ensure there are the resources and high level support for the CBJs. In effect, the continued operations and governance of the CBJs relies on the efforts and goodwill of a few key people at different levels within agencies, none of whom seems to gain much acknowledgement for their efforts. The Family Violence Intelligence Unit that has been funded on a trial basis may act as central focal point that collates and disseminates useful information for the region, and to several key stakeholders, but is unlikely to have a broad enough mandate or capacity to assist with and direct CBJs work.

More dedicated resourcing of a few key positions would improve the administration and coordination of CBJs operations. Engaging with the non-government sector will also contribute to further coordination.

6. A monitoring framework should be implemented

As previously identified, there has not been the level of monitoring and reporting that was agreed in the various SLAs. Partly this is a result of the small numbers. It has been difficult to obtain certain information and data relevant to the CBJs because it is not routinely collected or analysed.

A renewed commitment to the CBJs should include a plan of work for the next two years that incorporates a monitoring framework, and reporting timelines and responsibilities, that is agreed and actually implemented.

7. Victim safety must assume priority status

The registration of restraining orders in all three jurisdictions does not seem to be happening as a matter of course, with the process again being viewed by some interviewees as cumbersome. A regional support service is offered to victims of family or domestic violence but there are victims of other crimes who may require help. In addition, the service run by the NPY Women's Council does not cover the entire cross-border region. These are more like potential gaps in service provision as it was not possible to investigate the extent and nature of demand for other or additional victim support services.

There should be greater integration with other justice services (such as victim support services) to meet continuing victim needs as they emerge.

8. Aboriginal legal services must be encouraged to come on board

The Aboriginal legal services are available to deal with matters within their own respective jurisdictions, but for a range of reasons (including what was viewed by various stakeholders as a lack of funding and training) there appears to be certain degree of reluctance at least in SA and NT for their lawyers to represent clients on cross-border matters.

To fully realise a regionalised model of justice service delivery Aboriginal legal services must be encouraged to overcome their reluctance to deal with CBJs matters.

9. Parole boards, appeals and fines should be added to the CBJs remit

There were several areas of the justice system that were identified as not being covered by legislative provisions or the SLAs that flowed from the IGA. Two of them have been raised at PEG - Parole Boards and appeals of court decisions on cross-border cases. A further area raised by key stakeholders was fine payments, which was seen by several as an issue that needed to be addressed on a regional basis by enabling payments across the region rather than only within a jurisdiction in which the fine was imposed¹⁶.

¹⁶ The SEPA amendments in theory provide for the enforcement of fines, but there are still unresolved issues in implementation, an issue that is not confined to the cross-border region.

Proponents of the Scheme must be tasked with considering how parole boards and appeal courts should be brought within the CBJs remit. Policy-makers should explore expanding the Scheme to include fine payments within the

10. Resources should be adequate for the task

Agencies have provided considerable in-kind support for the CBJs but rarely any direct funding. To improve the operations of the Scheme and to address the barriers expressed and implied above, there is a need for a larger allocation of resources to the CBJs. Building on achievements to date, and being prepared and planning for a greater uptake of the Scheme and the challenges ahead, will involve dedicated resources. At a minimum, this funding should support several positions related to monitoring and coordination; communication and training activities and products; and planning and review forums at regular intervals.

Each jurisdiction should seek greater high-level commitment to the Scheme from those in charge of budgetary and policy priorities.

5.5. Conclusion

The cross-border initiative was devised over a decade ago and yet was only finally implemented three years ago. The impetus for the Scheme came largely from a small group of senior public servants and representatives of the NPY Women's Council, who were concerned about inadequate responses to a range of social problems in Central Australia. Developing and implementing an initiative that involved three jurisdictions and multiple agencies was no easy task, and it took some years to effect legislative reform and organizational agreements to create a framework for its operation.

Lasting over eight months, the evaluation project involved a team of researchers undertaking a review of the literature, documentation and data. This was the first time an evaluation of the Scheme had been undertaken. A key focus of the evaluation was employing various methods to ascertain stakeholder views of the Scheme.

Over 124 people in 10 communities across the region were interviewed; 50 local justice service providers in the region participated in an online survey, and over 35 key stakeholders participated in face to face or telephone interviews. In addition, an effort was made to develop an appreciation of how the context for the Scheme had changed since it was first developed and this included accessing current population census data for the region and, where available, key criminal justice statistics for the region.

The key proponents of the Scheme wanted to reduce long-distance police patrolling and the transport of offenders within borders, to address the limited capacity for crime prevention and early intervention, and to prevent lengthy delays in matters being dealt with following arrests. The Scheme was seen as potentially contributing to improved information-sharing between agencies and across jurisdictions, victim protection and meeting the needs of criminal justice service providers. For people working and living in the cross-border region it was deemed important to know whether there had been tangible progress and, if there had been, how much the Scheme had contributed to this progress.

Our evaluation highlights that cross-border *policing* has been the most obvious operational beneficiary of the Scheme (although it could be argued that this was occurring without the Scheme's legislation), and that there has not been the same level of, or demand for, cross-border cooperation between courts, community corrections, prisons and juvenile justice agencies. Despite the low numbers of offenders being caught up in the Scheme, there are now calls for it to be extended through to other aspects related to the administration of justice, such as the payment of fines. These calls are to be applauded.

Moreover, the evaluation has shown that the Scheme has been implemented fully, yet there are many who are still unsure about how it works and how it is currently operating. Key areas of concern raised by key stakeholders related primarily to streamlining and clarifying process and administrative arrangements. Its proponents must now address these concerns. The capacity of the proponents to engage successfully in that task is chiefly dependent upon political will, and high level, cross-sectoral commitment to the Scheme.

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Other documents and resources

- Memoranda of Understanding/Service Level Agreements (from PEG representatives)
- PEG meeting minutes
- Court sub-committee reports (April 2012 and April 2013) and table of cases, also April 2013 report (PEG)
- Example of a prosecution brief (SA)
- Diagrams of interstate warrant process, investigation, and prosecution(NT)
- Communication material – storyboard and poster (NT)
- DVD of magistrates' orientation (NT)
- Training material and guidelines (South Australia Police manuals)
- Access to draft CBJIS website (NT)
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List of Appendices

A1. List of key stakeholders interviewed

A2. Research instruments - Interview schedules, questionnaire

A3. Regional criminal justice data

A4. Census data (2001 and 2011)

A5. CBJS monitoring framework

A6. CBJS Service Agreements

Appendix 1

List of key stakeholders interviewed

Name	Agency
NT	
Nanette Rogers	Deputy Director, Department of Public Prosecutions, Alice Springs
Lindsay Westphal	Senior Constable, Prosecutor and Hearings Administrator, and Project Officer – Cross-border Justice Act. Alice Springs
Peter Gordon	Superintendent, Southern Division, NT Police, Alice Springs
Louise Blacker	Regional Manager Community Corrections, Alice Springs
Bill Yan	A/g Deputy Superintendent, Alice Springs Correctional Centre
John Birch	Magistrate, Alice Springs
Mark O'Reilly	Central Australian Aboriginal Legal Aid Service, Alice Springs
Liza Balmer	Deputy Coordinator, NPY Women's Council, Alice Springs
Hannah Meredith	Manager, Domestic Violence Unit, NPY Women's Council, Alice Springs
Directors	NPW Women's Council meeting, Alice Springs
Jane Lloyd	Australian Crime Commission, National Indigenous Intelligence Task Force, Alice Springs
Sarah McNamara	Judicial registrar, NT Courts, Alice Springs
Mark Coffey	State Manager, Northern Territory, Department of Families, Housing, Community Services and Indigenous Affairs, Darwin
Allan van Zyl	Former policy manager, NT Justice
WA	
Stephen Boylen	Manager, Strategic Policy, Policy Directorate, WA Department of the Attorney-General, Perth
Brian Ellis	Director Sentence Management, Department of Corrective Services, Perth
Anonymous	Department of Corrective Services, Perth
Katrina Carlisle	Regional Manager, Court services, Kalgoorlie
Richard Stevenson	(formerly in Katrina's job), Regional Manager, South West Region
Wayne Silver	Inspector, Goldfields Esperance District Office, WA Police Service

Murray Smalpage	Commander, Regional operations, WA Police Service, Perth
Peter Collins	Director, Legal Services, WA Aboriginal Legal Service, Perth
Andrew Salter	Juvenile Justice, WA Department of Corrective Services, Perth
Anthony Howson	Juvenile Justice, WA Department of Corrective Services, Perth
Annie Patterson	Juvenile Justice, WA Department of Corrective Services, Perth
SA	
Barbara Tiffin	Legislative and Legal Policy Section, SA Attorney-General's Department, Adelaide
Jeff Andrews	Executive Director, Community Corrections, Department for Correctional Services, Adelaide
David Thompson	Regional Manager, Northern Country, Community Corrections, Department for Correctional Services
Bernie Beston	Head of criminal solicitors, Aboriginal Legal Reform Movement, Adelaide
Fred Trueman	Chief Superintendent, SAPOL
Jacqueline Young	Police prosecutor, Port Augusta, SAPOL
Sue Barr	Director, Juvenile Justice, Adelaide
Clive Kitchin	Magistrate, Port Augusta
Glen Batty	OIC, Murpatja, SAPOL
Rosanne McInnes	Former magistrate, South Australia

Appendix 2

Research instruments

Interview schedule for key stakeholders

Background of the participant

- What is your current position or job?
- What area do you cover? (for example, jurisdiction, region or local area)
- In what capacity have you been involved in the CBJs?
- Is there a particular sector or aspect of the CBJs that you would like to focus on in the interview?

Knowledge of CBJs

- How long have you been familiar with the CBJs?
- What do you see as the main reasons for the CBJs?
- Which groups do you see as the main stakeholders in the CBJs and what are their roles?
- Knowledge of the cross-border region
- How familiar are you with the cross-border region?
- Has the region changed since 2003, and if so, how?
- What do you see as the significant characteristics of the region and how do they affect the delivery of justice?

Operation of the CBJs

I will now ask a number of questions about how well you think that the scheme been implemented.

There are various elements that underpin the operation of the CBJs. I'd like you to indicate what you see as their strengths and weaknesses, and give examples.

Element	Strengths	Weaknesses	Example/s
Legislation			
MOU/Service level agreements			
Governance and coordination			
Procedures			

Training and guidance			
Marketing of the CBJs			

Note for interviewer: put “NA” if can’t answer and make a note if only answering for a particular sector and/or jurisdiction

- There haven’t been many CBJs identified cases (a couple of dozen or so). Why do you think this is so?

Significance of the borders and cross-jurisdictional co-operation

- How do you see the jurisdictional borders affecting the delivery of justice before and then after the introduction of the scheme?
- Consider the cooperation across these borders. How does it work?
- Would you say that there is effective coordination of justice across the borders? Please describe an example of good coordination and poor coordination.

Justice system – effectiveness and efficiency

- Generally speaking, how well does the justice system (police and courts, for example) work in a local community in the region?
- Generally speaking, how well does the justice system work across the region?
- How relevant and meaningful is the justice system to local Aboriginal people in the region?

Community safety

- What do you see as the main social problems and crimes in the region?
- What contribution does the justice system make to personal and community safety?
- What has or could the CBJs contribute specifically to community and personal safety?

The future

- What would, in your opinion, improve the CBJs?
- What would, in your opinion, improve the delivery of justice?

Interview schedule for community members

CBJS AND REGIONAL JUSTICE SERVICES

Background for interviewer

NPY Women's Council and some of the police wanted this system for a long time, and in the end it started in 2009 – three years ago.

The NT, WA and SA each passed its own legislation to enable police, corrections and magistrates in any of the three sides to deal with those charged, applying the law of the jurisdiction where the alleged offence occurred.

It means that:

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

The Scheme only applies to crimes that are dealt with by Magistrates Courts (the ones that visit communities) and by corrections if the prison sentence is less than two years. So the sort of offences are traffic, public order, causing minor trouble, property, breach of restraining orders and small scale break and enters.

Because the Scheme started three years ago, the government wants to talk with people about whether the way the police and the Court deal with people who are in trouble has changed. They want to see if the Scheme has made the community a safer place.

Knowledge of the Scheme

- Did you already know about that scheme? (If yes, prompt for information on how they heard about it and what they understood it to be)

- Do you think the State you live in makes a difference to how you are dealt with by the Police and the Court? (Prompt for comments on why there is or isn't an effect)
- Do you know people who got into trouble in one State and went to Court for it in another? (Get comment here – number of people, general response)
- Do you know any people who have been picked up by Police in one State for something they did somewhere else? (Get comment here – number of people, general response)
- Do you know any people who've been to jail in a different State to where they got into trouble? (If yes, more detail)

Aims of the Scheme

The aims of the Scheme are:

- Increase the ability of justice services to respond to matters anywhere in the region, no matter who they work for;
- Speeding up the delivery of justice services so that they make more intrinsic sense to offenders, their families and the wider community;
- Being able to offer better protection to victims because offenders would be removed from communities more quickly

Perceptions of how well the justice system works

Find a marker to distinguish the 3 year time period

- Do you think that there is less/the same/more time between when someone has done something wrong and the time that they go to Court than there was 3 years ago? (Prompt for reasons e.g. more/less police, more/less Court circuits..)
- Do you think that people who have done something wrong are taken away from the community more quickly or slower than they used to be? (3 years ago) (Again, prompt for reasons e.g. better communication (mobiles), more/less police..)
- Do you know stories where someone who committed family violence was still in the community and hurt their partner again before they went to Court or were taken away by the Police?
- How often does that happen:
 - Pretty often
 - A bit
 - Hardly ever

- Do you think it happens
 - More than it used to
 - About the same as it used to
 - Less than it used to
- Do you think victims of violence are protected more/same/less?(Prompt for reasons)

Community safety

- Do you think your community is safer than it was 3 years ago?
 - More safe
 - About the same
 - Less safe
 - Don't know/don't want to say

Get comments on why

- How safe do you think these people are in your community?

Type of person	Safe all the time	Safe some of the time	Unsafe some of the time	Unsafe all the time	Don't know
Men	4	3	2	1	0
Boys	4	3	2	1	0
Women	4	3	2	1	0
Girls	4	3	2	1	0
Old men	4	3	2	1	0
Old women	4	3	2	1	0
Kids	4	3	2	1	0

Comments

Perceptions of the police and justice systems

- Do you think the police and Courts work in a good way here? (Get comments)
- Are there a lot of people here who are waiting for Court? Do you think that waiting for Court for a long time means that people forget about what they did?
- Is there any way that you think that the Police and Courts could improve?

Perceptions of 'meaningful' justice

- Do you think having the police coming to the community makes this a better place to live? – Yes/No/Don't know - comment
- Do you think it is right that people have to appear in Court and sometimes go to prison? (Get comment here)
- What sort of things should people go to Court and prison for?
- What do you think it would be like here if there were no police and court?

Mobility

Just one more question – the government started the Cross-border Justice Scheme because people travel a lot in between South Australia, Western Australia and the Northern Territory, so they might get into trouble in any State. Can I ask you:

- How often do you go into South Australia/Western Australia/NT (Choose which one/s are relevant)
 - Every week
 - Every month
 - Less than that

Background of the participant (researcher to fill in)

- Male/female
- Approximate age
- Community
- Job or position (if relevant)

Questions for police officers and other local service providers

CBJS AND REGIONAL JUSTICE SERVICES

Background for interviewer

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

The NT, WA and SA each passed its own legislation to enable police, corrections and magistrates in any of the three sides to deal with those charged, applying the law of the jurisdiction where the alleged offence occurred. It allows:

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

The Scheme only applies to crimes that are dealt with by Magistrates Courts (summary offences) and by corrections if the prison sentence is less than two years. So the sort of offences are traffic, public order, causing minor trouble, property, breach of restraining orders and small scale break and enters.

Knowledge of Scheme

1. Are you aware of the Cross-border Justice Scheme? (Prompt for more detail if yes – how, what etc)
2. If yes, can you think of how many people you know of whose matters have been dealt with through the Cross-border Justice Scheme over the last year?
 - Less than 5
 - Between five and ten

- Between ten and twenty
 - More than 20
3. Have you received any information and/or training about the Scheme and how to work within it?

Cases

4. In the past year, are you aware of people who have been picked up by police or dealt with by the court who come from or committed the crime in another jurisdiction?
5. How many of these matters have been dealt with through the Scheme?
- Stories
 - Advantages
 - Disadvantages
6. If they haven't been dealt with by the Scheme, why not?
7. What kind of matters do you think the Scheme should deal with?

Low usage

(Only ask if they don't use the Scheme)

8. Why do you think the Scheme hasn't been (much) used here?

Aims

The aims of the Scheme are:

- Increase the flexibility of the delivery of justice services;
 - Speeding up the delivery of justice services so that they make more intrinsic sense to offenders, their families and the wider community;
 - Being able to offer better protection to victims because offenders would be removed from communities more quickly
9. Do you think that any of those aims are being achieved in the communities you deal with?
- If Yes - How?
 - If No - Why not?

Improvements (only ask this if they have had anything to do with the Scheme)

10. Are there any changes you'd like to see in the way the CBJs operates?

Interview schedule for South Australia Police

CBJS AND REGIONAL JUSTICE SERVICES

Background for interviewer

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

The NT, WA and SA each passed its own legislation to enable police, corrections and magistrates in any of the three sides to deal with those charged, applying the law of the jurisdiction where the alleged offence occurred. It allows:

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

The Scheme only applies to crimes that are dealt with by Magistrates Courts (summary offences) and by corrections if the prison sentence is less than two years. So the sort of offences are traffic, public order, causing minor trouble, property, breach of restraining orders and small scale break and enters.

Aims

The aims of the Scheme are:

- Increase the flexibility of the delivery of justice services;
- Speeding up the delivery of justice services so that they make more intrinsic sense to offenders, their families and the wider community;
- Being able to offer better protection to victims because offenders would be removed from communities more quickly

1. Do you think that any of those aims are being achieved in the communities you deal with?

- If Yes - How?

- If No - Why not?

2. Are there any changes you'd like to see in the way the CBJS operates?

Questionnaire

Service Provider Survey (online)

The Cross-border Justice Scheme (CBJS) was introduced three years ago in the cross-border region of central Australia.

Funded by the governments of South Australia, Northern Territory and South Australia, an evaluation is being undertaken to assess how well the Scheme has been operating.

It is important to ascertain the views of local service providers to find out how much they know about the Scheme and what that experience has been. The questionnaire covers the following themes:

- the significance of jurisdictional boundaries on service delivery within and between sectors
- nature and extent of justice services
- impact of justice services
- changes in social problems and community safety

In this survey, we are seeking the views of justice service providers from a range of sectors that work in the communities in the cross-border region. In-depth research is also being conducted with local residents in a number of communities.

The results will also inform the evaluation of the CBJS due mid-2013.

Participation in this survey is voluntary. Your answers will be completely confidential.

The survey should take about 15-30 minutes to complete.

CONTACT DETAILS

If you have any problems with the online questionnaire please call 0458 110 092 or email judy.putt@utas.edu.au. If you have completed a hard copy of the questionnaire, please mail it to **Dr Judy Putt**, Private Bag 22, University of Tasmania, Hobart, Tasmania, 7001.

Note: If you have any concerns or complaints regarding the ethical conduct of this online survey, you should contact the Central Australian Human Research Ethics Committee (CAHREC).

Introduction

SIGNIFICANCE OF BORDERS

1. Which jurisdiction do you work in?
WA
NT
SA

2. How long have you worked in central Australia?
Less than 6 months
More than 6 months and less than a year
More than one year and less than two years
More than two years and less than three years
More than three years and less than four years
More than four years and less than five years
More than five years

3. Which sector do you work in?
Health
Education
Policing
Courts
Corrections
Legal
Victim support
Child protection
Other (please specify)___

4. In the region, do you mainly work in a:
Town/regional centre
Small Aboriginal community
Other

5. Is recruiting appropriately skilled or experienced staff a priority for your service?
Yes
No

6. Does your organization find it difficult to recruit appropriately skilled or experienced staff?
Yes
No

7. Is retaining staff a priority for your organization?
Yes
No

8. Does your organization have difficulty in retaining staff?
Yes
No

9. Please describe how jurisdictional boundaries affect you in your work? _____

CBJS AND REGIONAL JUSTICE SERVICES

10. Have you heard of the CBJS?
Yes
No
Don't know

11. If yes, has the CBJS had an impact on your service?
No
Yes, a lot
Yes, a bit
Don't know

12. If yes, please describe _____

13. Are there any changes you'd like to see in how the CBJS operates?
Yes
No
Don't know

14. If yes, please describe _____

15. How well does your organization work with justice agencies across jurisdictional boundaries ?

16. Please describe what you think works well

a. Please describe what you think doesn't well

SERVICE DELIVERY IN LOCAL COMMUNITY SETTINGS
(only answer if work in community settings)

In this survey we will ask questions about service provision in a particular community.

Please answer these questions about the community you have worked with the most over the last 12 months.

17. Which community will you be answering questions about?

18. How long have you worked in this community?

- Less than six months
- Over six months and less than a year
- Over a year and less than two years
- Over two years and less than three years
- Over three years

19. Do you reside in the community?

- Yes, full time
- Yes, on a roster basis
- No

20. If no, how many days do you estimate you have spent in the community in the past year?

- Less than 10 days
- Between 10 and 30 days
- Between 30 and 60 days
- More than 60 days

21. What services are available in the community? (Examples include medical, aged care, night patrol etc)

26. Our service does a good job of engaging with the local community

Never

Some of the time

Most of the time

Always

Don't know

27. Please describe how _____

OUTCOMES

28. How safe do you feel in the local community?

29. What groups of people do you think are vulnerable in this community?

30. How do you think the following have changed in the local community in the past three years?

	Significant change	Minor change	No change	Not applicable (not around long enough to say)
Local people in paid jobs				
Local leadership is strong				
Children going to school				
Local people running the community				

Families managing their money well				
Local community has capacity to deal with issues				
Drinking alcohol/grog				
Smoking marijuana/gunja				
Petrol sniffing				
Gambling				
Fighting in families				
Fighting between families				
Managing unsafe or feral animals				
Vandalism or damage to property				

31. Are there any other changes you would like to describe?

32. Please describe two factors that you think have led to positive change in the past three years

DEMOGRAPHICS

33. Are you?

Female

Male

34. Are you of Aboriginal or Torres Strait Islander origin?

No

Yes, Aboriginal

Yes, Torres Strait Islander

Yes, both Aboriginal and Torres Strait Islander

35. Do you currently work for a government organisation, local government, a non-government organisation, or a private business?

Government organisation

Local government

Non-government organisation

Private business

Don't know

Thank you for your time and for answering these questions.

Appendix 3

Regional criminal justice data

Introduction

The evaluation team requested police and court data from the three jurisdictions for their area of the cross-border region. It is not possible to directly compare what was provided, as different variables, time periods, and counting rules applied to each jurisdictional collection (as Table 9 shows). However, the statistics were examined to see what it might show in terms of volume and trends in recorded matters over recent years.

Table 9: Police and court statistics, WA, NT and SA, type of information and time period

	WA	NT	SA
Police data	<p>Individual communities and outstations</p> <p>Jan 2006 to Dec 2012, six monthly totals</p> <p>Recorded offences by major offence categories, alcohol related, domestic relationship</p>	<p>Individual communities and outstations</p> <p>Jul-Dec 2005 – Jul-Dec 2012, six monthly totals</p> <p>Recorded offences by offence type, domestic violence or alcohol related</p> <p>Apprehensions by offence categories; unique apprehensions</p> <p>Convictions</p>	<p>Anangu Pitjantjatjara Local Government Area</p> <p>2007 – 2011, annual totals</p> <p>Rate per 1,000 population and number of recorded offences, major offence categories</p>
Court data	<p>Ngaanyatjarraku local government area (Children’s Court and Magistrates Court held in Blackstone, Warakurna and Warburton)</p> <p>January 2007-December 2012, annual numbers</p> <p>Finalised charges and matters, distinct defendants, average number of charges per finalized matter, offence categories (ANZSOC), offence location, outcome group, sentence type</p>	<p>Towns and individual communities</p> <p>2007-08 to 2011-12, annual numbers</p> <p>Listings, lodgements</p>	<p>APY Lands and individual communities</p> <p>2008-2011, annual numbers</p> <p>Finalised cases, convictions penalties, applications for restraining orders</p>

Sources: WA Police, WA Department of Attorney-General and Justice, NT Police, NT Department of the Attorney-General and Justice, SA Office of Crime Statistics and Research

Western Australia

WA police data shows:

- The total annual number of combined offences against the person and property have fluctuated over the seven years, with a decrease since 2010
- The total of offences against property was greater than the total number of offences against the person in the Warburton area and in Warakurna, while the converse was true of the Kintore area.
- The Warburton area had each year the highest volume of recorded offences against the person and offences against the person than Warakurna or the Kintore area. Trends over the seven years differed by area.
- The number of breaches of restraint (which includes breaches of violence restraining orders, misconduct restraining orders and police orders) is not large, with seven year totals for the Warburton area being 68, for Warakurna 36, and for the Kintore area 12.
- For the seven year period, half of the total number of offences against the person (49%) in the combined WA area of the cross-region is recorded as domestic assaults. Since 2010, the total annual number has declined.

Note: Police data was not included in the WA profile of the Ngaanyatjaraku region, compiled in 2004.

Table 10: Total annual number of offences against the person and offences against property, Warburton, Warakurna, Kintore (WA), 2006-2012

		2006	2007	2008	2009	2010	2011	2012	Total
Warburton - Gibson Desert South	Offences against the person	39	24	17	17	3	0	0	100
	Offences against property	24	23	21	20	6	1	2	97
Warburton	Offences against the person	141	78	154	92	112	70	55	702
	Offences against property	108	94	105	68	160	122	119	776
Warburton Range	Offences against the person	0	0	3	0	0	0	0	3
	Offences against property	0	0	1	0	0	0	0	1
Warakurna	Offences against the person	45	40	66	62	67	42	69	391
	Offences against property	47	65	75	77	78	101	87	530
Kintore -Gibson Desert North	Offences against the person	0	3	7	13	13	13	4	53
	Offences against property	0	3	9	11	8	8	4	43
Kintore - Kiwirrurkurra	Offences against the person	15	1	0	0	0	0	0	16
	Offences against property	1	2	0	0	0	0	0	3
Total		420	333	458	360	447	357	340	2,715

Source: WA Police, unpublished data

Table 11: Total annual numbers of recorded domestic assault*, Warburton, Warakurna, Kintore (WA), 2006-2012

	2006	2007	2008	2009	2010	2011	2012	Total
Warburton - Gibson Desert South	17	10	5	3	2	0	0	37
Warburton	63	45	75	45	59	28	26	340
Warburton Range	0	0	0	0	0	0	0	0
Warakurna	25	21	25	26	31	24	39	191
Kintore - Gibson Desert North	0	3	5	9	6	9	2	34
Kintore - Kiwirrukurra	6	1	0	0	0	0	0	7
Total	111	80	110	83	98	61	67	610

*Domestic assault is a sub-category of offences against the person, and refers to family or domestic incidents

Source: WA Police, unpublished data

The WA court data for a six year period (2007–2012) shows:

- The number of finalized charges involving adults has been decreasing since 2009, but is part of a broader state-wide trend. The average number of charges is fairly constant over the period.
- For matters involving juveniles, there are much fewer defendants involved than adults (15% of distinct defendants in 2012). There is no clear trend over the period and the number of charges per matter for juveniles is higher than adults. The small number of defendants (n=29 in 2012) helps explain the absence of CBJS cases.
- Over the six year period the most common offence types were public order offences and traffic and vehicle regulatory offences. However, in 2012 the most common charge type related to offences against justice procedures. The majority of offences over the six year period occurred in the Ngaanyatjarraku region, while almost all of the rest were in other locations in regional WA.
- In 2011 and 2012 there was a total of 12 charges where the offence location was interstate, which is less than one percent of all charges. This accords with the low number of CBJS cases recorded for the cross-border region.

- Nearly all charges are finalized as a result of conviction and the most common sentence type over the six year period was a fine. However, the actual number of fines imposed has dropped by over 40%. Only eight charges in 2012 resulted in a custody order.

When compared with the earlier three year period (2000/01 to 2002/03) to the most recent period (2010 to 2012), the statistics show:

- The volume of finalized charges and matters has increased significantly (approximately twice as many charges for adults and six times as many involving juveniles). The increase in the number of distinct defendants is even more marked, with a seven fold increase in adult defendants and a six-fold increase in juveniles in the past decade.
 - There appears to be a larger proportion of charges related to juveniles in the more recent period, but the number of charges per juvenile defendant is smaller.
 - There are three times as many offences recorded for the period 2010 to 2012, when compared with the earlier three year period. A wider spread of the most common offence types characterizes the most recent period, with a marked increase in the proportion of several offence categories (illicit drug offences, theft and related offences, and unlawful entry with intent) and a decline in acts intended to cause injury.
 - As a proportion of sentence types, imprisonment and suspended imprisonment orders are imposed less frequently in the most recent three year period, and the outcome of a fine is more common.

The following tables and text were provided by the WA Department of Attorney General for the period 2007 to 2012. The statistics for the earlier period of 2000/01 to 2002/03 were from the WA Profiling report prepared in 2004. Where comparisons were possible, the results are presented in text boxes throughout the following section on WA courts.

The following are a series of tables containing data sourced from the lower courts case management system CHIPS, via the relational data mart tables. The data is a count of Children's Court and Magistrates Court charges finalised, unless otherwise specified. In particular, these are charges which have been finalised in the courthouses of Blackstone, Warakurna and Warburton in the Ngaanyatjarraku local government area between January 2007 and December 2012. Only the first instance of a finalisation is counted – resentencing due to breaches, or subsequent orders made are excluded.

Table 12 shows the number of charges which were finalised each year from 2007 to 2012 in courthouses in the Ngaanyatjarraku region. It can be seen that the number of charges finalised each year has been decreasing since 2009. This decrease in charges lodged, and therefore finalised has been seen state-wide and is not particular to this area. Note, however, that the decrease is mainly limited to the Magistrates Court. The Children’s Court does not have a similar identifiable pattern.

Table 12: Number of charges finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, by jurisdiction

Jurisdiction	2007	2008	2009	2010	2011	2012
Children’s Court	181	211	131	308	114	164
Magistrates Court	667	778	796	492	425	376
Total	848	989	927	800	539	540

Source: WA Department of Attorney General

For the period 2000/2001 to 2002/03 finalised charges for the same region is in a graph form and the numbers were not provided. There were approximately 150 finalised charges involving adults and 25 juveniles, in 2002-03, compared with 376 adults and 164 juveniles in 2012, which is a significant increase in volume. This suggest there are approximately twice as many finalized charges involving adults and six times as many involving juveniles nowadays than there were 10 years ago.

A matter is defined as a group of charges for a single defendant, lodged in court on the same day. Table 13 shows the number of matters which make up the charges represented in Table 12. This data also illustrates the general decrease in lodgements/finalisations state-wide since 2008.

Table 13: Number of matters finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, by jurisdiction

Jurisdiction	2007	2008	2009	2010	2011	2012
Children's Court	62	114	72	101	37	53
Magistrates Court	386	454	473	317	242	249
Total	448	568	545	418	279	302

Source: WA Department of Attorney General

A person may appear in court on multiple occasions for different matters and charges. The following table counts the number of distinct defendants that had one or more matters and charges finalised at the Ngaanyatjarraku courthouses during a single year, for the years 2007 to 2012. Note that it is possible for a person to appear in multiple years if they have had matters finalised in different years. These people may also have had matters and charges finalised in other court locations, but these are outside the scope of this report.

Table 14: Number of distinct defendants finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, by jurisdiction

Jurisdiction	2007	2008	2009	2010	2011	2012
Children's Court	34	46	40	42	25	29
Magistrates Court	266	286	306	201	173	165
Total	300	332	346	243	198	194

Source: WA Department of Attorney General

In the 2004 report the data on distinct defendants for 2000/01 – 2002/03 was presented in a figure, with no actual numbers provided. However, it is noted that the annual average for the three years was 31 adults and 5.6 juveniles, while in 2012 there were 165 adults and 29 juveniles. The average for the six year period (2007-2012) was 233 adults and 36 juveniles. These figures suggest an increase of over seven fold increase in adult defendants and a six-fold increase in juveniles since the earlier period.

The following table (Table 15) lists the proportion of distinct defendants in Table 3 who were male. Note that defendants with an unknown gender have been excluded.

It can be seen that a greater proportion of defendants appearing in the Children’s Court are male, compared to the Magistrates Court.

Table 15: Per cent of distinct defendants finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, by jurisdiction, who were male

Jurisdiction	2007	2008	2009	2010	2011	2012
Children’s Court	82%	72%	80%	74%	76%	90%
Magistrates Court	63%	65%	62%	66%	72%	67%
Total	65%	66%	64%	68%	72%	70%

Source: WA Department of Attorney General

For the three year period, 2000-01 to 2002-03, the percent of distinct persons attending court who were male was 60% and 38% were female and 2% did not have any gender recorded. Male defendants had an average of 6.3 charges whilst females had an average of 3.5 charges. There was a distinct drop in the number of charges for juveniles with two offenders having a total of 52 charges in one year, and 53 charges in the next year, which dropped to only 13 charges in 2001-02 when one was placed in detention and the other moved to the adult jurisdiction. No direct comparison can be made with the figures in Table 4, but it seems that a greater proportion of defendants are male (both adults and juveniles) in the more recent period.

The average number of charges per Magistrates Court matter finalised is fairly constant over the six year period. The average number of charges per Children’s Court matter finalised has been more variable, though this is may be due to the smaller number of matters involved. In each year, the average number of charges per matter is higher for Children’s Court matters than for Magistrates Court matters.

Table 16: Average number of charges per matter finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, by jurisdiction

Jurisdiction	2007	2008	2009	2010	2011	2012
Children's Court	2.9	1.9	1.8	3.0	3.1	3.1
Magistrates Court	1.7	1.7	1.7	1.6	1.8	1.5
Total	1.9	1.7	1.7	1.9	1.9	1.8

Source: WA Department of Attorney General

The Australian and New Zealand Standard Offence Classification (ANZSOC) is a coding system used to group similar offence types together.

Over the six year period, the offence types which have been finalised in the Ngaanyatjarraku courthouses the most often are Public Order Offences and Traffic and Vehicle Regulatory Offences. However, in 2012 the most common charge type finalised were related to Offences against Justice Procedures, Government Security and Government Operations. This can be seen in Table 17.

For the three year period, 2000/01 to 2002/03, 24% were offences against justice (predominantly breaches of bail), 15% were public order offences (predominantly disorderly conduct), 13% were acts intended to cause injury (nearly equal numbers of aggravated or non-aggravated assault), and 11% were road traffic and motor vehicle regulatory offences. Adults were most likely to have charges related to offences against justice procedures (26%), public order offences (15%) and acts intended to cause injury (14%) while juveniles were more likely to be charged with unlawful entry (20%).

For the three period 2010 to 2012, the proportion of offence types were spread far more evenly across the offence categories – offences against justice procedures (15%) traffic and vehicle regulatory offences (14%) public order offences (14%) theft and related offences (14%) unlawful entry with intent (11%) illicit drug offences (11%) and acts intended to cause injury (8%). The most noticeable change is the drop in the proportion that are acts intended to cause injury and an increase in the proportion that are illicit drug offences (6% in 2000/01-2002/03), theft and related offences (6% in 2000/01-2002/03) and unlawful entry with intent (8% in 2000/01-2002/03).

The total number of offences for the three years was 590, which is substantially lower than the than the total of 1,879 for the three year period 2010 to 2012.

Table 17: Number of charges finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, by ANZSOC division

ANZSOC Division	2007	2008	2009	2010	2011	2012
Homicide and Related Offences						1
Acts Intended to Cause Injury	84	99	127	73	44	40
Sexual Assault and Related Offences	1	2		1		
Dangerous or Negligent Acts Endangering Persons	40	55	63	26	24	15
Abduction, Harassment and Other Offences Against the Person	1	3	7	7	3	5
Robbery, Extortion and Related Offences	1					
Unlawful Entry With Intent/Burglary, Break and Enter	76	67	22	125	45	43
Theft and Related Offences	62	59	25	124	53	88
Fraud, Deception and Related Offences	3	1	1	2	1	5
Illicit Drug Offences	93	123	119	116	64	33
Prohibited and Regulated Weapons And Explosives Offences	8	6	17	3	8	6
Property Damage and Environmental Pollution	21	32	50	26	22	49
Public Order Offences	153	209	173	119	56	88
Traffic and Vehicle Regulatory Offences	263	236	221	95	107	64
Offences Against Justice Procedures, Government Security and Government Operations	42	96	99	79	110	103
Miscellaneous Offences		1	3	4	2	
Total	848	989	927	800	539	540

Source: WA Department of Attorney General

The charges finalised in the Ngaanyatjarraku region may have been lodged in any courthouse, and relate to an offence committed anywhere in the state. Table 18 lists the offence location for the charges that were finalised in the Ngaanyatjarraku region. The majority of offences did occur in the Ngaanyatjarraku region, and most other offences were committed in regional locations.

Table 18: Number of charges finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, by offence location

Location	2007	2008	2009	2010	2011	2012
Ngaanyatjarraku Region	580	644	610	589	367	319
Other Regional	265	345	303	206	169	210
Perth Metropolitan	3		13	5	2	
Interstate			1		1	11
Total	848	989	927	800	539	540

Source: WA Department of Attorney General

Based on the available information on the location of the offence, in the three year period 2000/01 to 2002/03, 49% offences were committed within the Ngaanyatjarra communities of which 92% were recorded as being committed at Warburton. Outside of the Ngaanyatjarra Lands the majority of offences were committed in the region, at Laverton (48%) and Kalgoorlie (24%). Those who committed offences outside of the Lands were more likely to be charged with traffic offences and less likely to be charged with illicit drug offences.

For the period 2010 to 2012, of the total of 1,879 charges, 68% had an offence location within the Ngaanyatjarraku region and 31% in 'other regional'. This is a substantial increase in the proportion that is recorded as being committed in the Ngaanyatjarraku region. A total of 1% was recorded for Perth or interstate. It is worth noting that 12 out of the 1,879 charges are recorded as offences committed interstate, which is less than 1% of the total, and that these 12 may have been cross border matters.

Charges can be finalised in a number of ways. The most important is through a plea or finding of guilt, and the resulting conviction. A charge may also be withdrawn or dismissed, committed to a higher court for trial or sentencing, or referred to the juvenile justice team (for Children's Court matters). Table 19 shows that in the lower courts, charges and matters are overwhelming finalised as a result of a

conviction. Very few charges are committed to a higher court and only a small proportion of charges are dismissed, or referred to a juvenile justice team.

Table 19: Number of charges finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, by outcome group

Outcome Group	2007	2008	2009	2010	2011	2012
Conviction	807	874	848	680	458	488
Committal¹⁷	2	4	1	4	9	3
Dismissed	17	28	34	31	29	21
Juvenile Justice Team	22	83	44	85	43	28
Total	848	989	927	800	539	540

Source: WA Department of Attorney General

For each of the charges resulting in a conviction, a range of sentences may be handed down. Fines are the most common sentence handed down for a conviction, followed by community based orders. In the 2011/2012 financial year, fines represented 88% of all sentences handed down in the Magistrates Court in Western Australia (sourced from 'Report on Criminal Cases in the Magistrates Court of Western Australia 2007/08 to 2011/12' available on the Department of the Attorney General's website). In the Ngaanyatjarraku region in 2012, fines represent only 56% of sentencing outcomes.

Note that each convicted charge may result in more than one sentence (for example, a community based order and a fine). Only the most serious sentence handed down is used to represent the charge.

¹⁷ The low number of committals suggest there are very few indictable matters, and therefore outside the purview of the CBJS.

Table 20: Number of charges finalised by the lower courts in the Ngaanyatjarraku region between 2007 and 2012, which resulted in a conviction, by sentence type

Sentence	2007	2008	2009	2010	2011	2012
Custody	15	35	49	24	18	8
Suspended Imprisonment Order	14	28	65	40	31	45
Community Based Order	273	109	141	238	120	104
Good Behaviour Bond	29	56	49	34	24	11
Fine	457	567	507	276	257	271
No Penalty	19	79	37	68	8	49
Total	807	874	848	680	458	488

Source: WA Department of Attorney General

For the three year period 2000/01 to 2002/03 there were the following outcomes recorded imprisonment/detention/suspended imprisonment 131 (24%), community based order 110 (20%), fine 217 (39%) work and development order 23 (4%), no punishment 73 (13%), which gives a total of 554.

For the three year period 2010 to 2010, as Table 20 shows, work and development orders are not recorded as a category and good behaviour bonds are listed as a separate category. The total number of sentencing outcomes is 1,626, of which 10% were custody or suspended imprisonment order, 28% community based order, 4% good behaviour bond, 49% fines and 8% no penalty. The most noticeable differences are the decline in custody/suspended imprisonment and the increase in the imposition of fines. With imprisonment/suspended orders it was however a sizeable increase in numbers from 131 to 166 sentencing outcomes, while the number of fines has increased from 217 to 804.

In the three year period 2000/01 to 2002/03 the outcome of a restraining order was recorded as occurring for three charges.

Northern Territory

NT police data for a six year period (2006-2012), and covering the NT area of the cross-border region¹⁸, shows:

- The volume of recorded offences varies a lot between communities, with Mutitjulu overtaking Papunya with the highest annual total by 2012.
- The highest aggregate total of offences for all the selected communities was recorded in 2009 with the lowest recorded in 2007. Over the seven years the trends in annual number of recorded offences varied between communities, with several (e.g. Apatula and Hermannsburg and Impanpa peaking in 2009 or 2010) while others had their own distinctive trends e.g. overall decline in Papunya.
- Of fourteen offence categories, overall, the most common was road traffic and motor vehicle regulatory offences, followed by public order offences and acts intended to cause injury.
- Of the total of 721 recorded assaults recorded for the seven years for the selected communities. The year, 2009, had the highest aggregate total, with a slightly lower number recorded in each of the following three years.
- For the three communities which had the biggest number of assaults over the seven year period, there were differences in the proportion of assaults recorded as alcohol related, with Walungurru (Kintore) having the lowest percentages. However, the proportion that was recorded as related to domestic violence was consistently high across the communities.
- The number of unique apprehensions recorded for an aggregated number of selected communities has decreased each year (with the exception of 2009 and 2012). The number of apprehensions recorded for a community also varies, with less than 10 per year for Kaltukajara (Docker River) and more than 50 per year for Papunya.
- Based on figures for the total number of discrete individuals apprehended each year from 1999 to 2003 in the NT cross-border region, there has been a substantial increase when compared with the annual figures of unique apprehensions for 2006-2012.

¹⁸ The main communities in the NT portion of the cross-border area are Docker River (Kaltukatjarra), Yulara, Mutitjulu, Imanpa, Kulgera, Finke (Apatula), Areyonga, Haasts Bluff, Papunya, Mt Liebig (Watiyawanu), Kintore (Walungurru). Police statistics for Kulgera were not included in this project data, but should be in future statistical monitoring or review for the region.

- For the selected communities, there were a total of 153 unique convictions in 2006, followed by a drop in 2007 to 116. There annual total stayed at this level until 2010, when there was another drop in 2010 to 89, before climbing to 109 in 2012.

Table 21: Annual number of recorded offences, selected communities in the cross-border region, NT, 2006-2012

	2006	2007	2008	2009	2010	2011	2012
Apatula (Finke)	29	64	61	60	112	60	83
Areyonga	22	0	1	4	18	26	10
Haasts Bluff (and outstations)	43	91	59	51	67	36	34
Imanpa	44	106	146	156	173	117	36
Kaltukatjara (Docker River)	11	8	25	29	37	32	26
Kaltukatjara outstations	0	0	4	1	13	7	0
Mt Leibig and outstations	40	37	24	44	17	18	36
Mutitjulu (and Uluru)	141	97	171	172	100	165	266
Papunya	398	259	228	224	150	247	141
Walungurru (Kintore)	117	91	48	106	139	90	116
Total	845	753	767	847	826	798	748

Source: NT Police unpublished data, provided by the NT Department of Attorney-General and Justice

Table 22: Number of offences, selected communities, NT, 2000-2003

	2000	2001	2002	2003
Apatula (Finke)	3	0	2	10
Areyonga	1	0	1	0
Haasts Bluff	17	21	23	40
Imanpa	29	19	39	51
Kaltukatjara (Docker River)	11	14	65	49
Mt Liebig	40	30	25	62
Mutitjulu	310	297	393	272
Papunya	103	136	105	242
Walungurru (Kintore)	65	36	33	28
Petermann (the 'balance')	62	45	50	20
Total	641	598	736	774

Sources: NT Cross Border Region Profiling Information report, 20 April 2004

Table 23: Annual number of recorded assaults, selected communities in the cross-border region, NT, 2006-2012

	2006	2007	2008	2009	2010	2011	2012	Total
Apatula (Finke)	7	13	5	10	10	11	10	66
Areyonga	2	0	0	0	8	5	1	16
Haasts Bluff (and outstations)	3	4	2	6	10	8	7	40
Imanpa	9	19	11	20	17	6	4	86
Kaltukatjara (Docker River)	0	0	4	8	5	8	6	31
Mt Leibig and outstations	11	3	3	10	3	3	5	38
Mutitjulu (and Uluru)	10	10	16	29	19	15	40	139
Papunya	45	13	17	25	18	24	13	155
Walungurru (Kintore)	18	8	17	29	30	21	27	150
Total	105	70	75	137	120	101	113	721

Source: NT Police unpublished data, provided by the NT Department of Attorney-General and Justice

Table 24: Annual number of recorded assaults, alcohol and domestic violence related, selected communities in the cross-border region, NT, 2006-2012

			2006	2007	2008	2009	2010	2011	2012
	Alcohol	DV							
Mutitjulu (and Uluru)	Yes	Yes	3	3	2	5	2	8	13
		No	1	1	3	2	4	1	5
	No	Yes	2	2	5	13	6	5	11
		No	1	2	3	7	4	1	8
	Don't know	Yes	2	3	3	0	1	0	1
		No	1	1	0	2	2	0	2
	Total		10	10	16	29	19	15	40
Papunya	Yes	Yes	25	3	5	4	7	10	2
		No	5	1	0	3	4	0	0
	No	Yes	5	4	7	5	5	10	9
		No	2	0	0	1	1	3	2
	Don't know	Yes	2	1	3	10	0	0	0
		No	6	4	2	2	1	1	0
	Total		45	13	17	25	18	24	13
Walungurru (Kintore)	Yes	Yes	1	0	1	1	1	0	5
		No	0	0	0	1	1	0	0
	No	Yes	12	7	8	21	15	14	15
		No	1	0	4	6	11	5	7
	Don't know	Yes	4	1	4	0	2	2	0
		No	0	0	0	0	0	0	0
	Total		18	8	17	29	30	21	27

Source: Source: NT Police unpublished data, provided by the NT Department of Attorney-General and Justice

Table 25: Annual number of recorded assaults, percentage alcohol or domestic violence related, selected communities, NT, 2006-2012

	2006	2007	2008	2009	2010	2011	2012	Total
Mutitjulu (and Uluru)	10	10	16	29	19	15	40	139
-% alcohol related	40	40	31	24	31	60	45	
-% dv related	70	80	62	62	47	87	62	
Papunya	45	13	17	25	18	24	13	155
-% alcohol related	67	31	29	28	61	42	15	
-% dv related	71	61	88	76	67	83	85	
Walungurru (Kintore)	18	8	17	29	30	21	27	150
- % alcohol related	5	0	6	7	7	0	18	
-% dv related	94	100	76	76	60	76	74	

Source: Source: NT Police unpublished data, provided by the NT Department of Attorney-General and Justice

Table 26: Annual number of unique apprehensions, selected communities in the cross-border region, NT, 2006-2012 [2001 – apprehension reports]

	2001*	2006	2007	2008	2009	2010	2011	2012	Total (2006-2012)
Apatula (Finke)	0	14	13	17	25	33	15	22	139
Areyonga	3	15	9	13	6	5	13	3	64
Haasts Bluff	2	20	40	24	23	31	19	15	172
(Petermann)**	11								
Imanpa	2	19	25	9	23	15	21	10	122
Kaltukatjara (Docker River)	4	6	2	9	9	6	9	9	50
Mt Liebig (Watiyawanu)	1	26	11	10	16	11	5	14	93
Mutitjulu (and Uluru)	43	3	34	51	60	46	52	84	330
Papunya	78	219	167	103	97	60	74	60	780
Ukaka		0	0	0	0	2	0	0	2
Walungurru (Kintore)	16	41	41	25	31	19	16	36	209
Total	160	363	342	261	290	228	224	253	1,961

*Number of apprehension reports recorded for each community, which is a slightly higher number than the total number of discrete individuals apprehended in the same year, which totalled 151

** In the 2001 data Peterman was included as the 'balance' for the cross-border area

Sources: 2001 data from the NT Cross Border Region Profiling Information report, 20 April 2004; more recent unpublished data from NT Police unpublished data, provided by the NT Department of Attorney-General and Justice

Table 27: Total number of discrete individuals apprehended by Indigenous status, NT cross-border region, 1999-2003

	1999	2000	2001	2002	2003
Total number	198	155	151	174	227

Source: NT Cross Border Region Profiling Information report, 20 April 2004

Table 28: Annual number of unique convictions, selected communities, NT, 2006-2012

	2006	2007	2008	2009	2010	2011	2012	Total
Apatula (Finke)	11	12	9	8	9	6	7	62
Areyonga	8	7	1	3	9	4	3	35
Haasts Bluff	10	7	16	13	8	10	7	71
Imampa	10	8	9	14	8	6	11	66
Kaltukatjara (Docker River)	5	1	2	10	1	11	2	32
Mt Liebig	9	7	6	3	2	3	5	35
Mutitjulu (and Uluru)	1	11	19	24	12	21	25	113
Papunya	84	45	31	28	25	25	27	265
Walungurru (Kintore)	15	18	19	16	15	11	22	116
Total	153	116	112	119	89	97	109	795

Source: NT Police unpublished data, provided by the NT Department of Attorney-General and Justice

Based on figures for the total number of discrete individuals apprehended each year from 1999 to 2003 in the NT cross border region, there has been a substantial increase when compared with the annual figures of unique apprehensions for 2006-2012.

NT magistrates' court data shows for individual communities in the NT area of the CBJs region from 2007-08 to 2011-12 that:

- Small annual number of criminal court listings and lodgements are recorded for certain communities. Even the aggregate number of listings for all the communities listed in Table 29 for 2011-12 is much less than the annual total of listings recorded for Alice Springs in 2011-12 which was 22,152. The annual total of criminal court lodgements in the magistrates' court for Alice in 2011-12 was 4,754 (nearly 24 times the aggregate annual total for the listed communities in Table30).

Table 29: Annual number of magistrate (criminal) court listings, selected communities in the cross-border region, NT, 2007-08 to 2011-12

	2007-08	2008-09	2009-10	2010-11	2011-12
Docker River	0	0	0	0	0
Kintore	147	103	118	82	113
Mutitjulu	169	268	238	104	257
Papunya	418	276	179	283	183
Yulara	0	0	0	0	0

Source: NT Department of the Attorney-General and Justice, unpublished data

Table 30: Annual number of magistrate (criminal) court lodgements, selected communities in the cross-border region, NT, 2007-08 to 2011-12

	2007-08	2008-09	2009-10	2010-11	2011-12 (incl breach bail)
Kintore	39	24	28	20	29
Mutitjulu	79	77	81	37	100
Papunya	136	122	55	90	71

Source: NT Department of the Attorney-General and Justice, unpublished data

South Australia

SA police data for the years 2007 to 2011 shows that the:

- Total annual rate¹⁹ of offences recorded for the Anangu Pitjantjatjara local government area increased each year and peak in 2010, with a rate of 1,317 offences per 1,000 population. In 2011, the rate dropped to 1,131 offences per 1,000 population.
- Of eight major offence categories, the most common category in each year was offences against property. Some of the offence categories followed a similar trend over time to the total offences. Offences against the person (excluding sexual offences) and sexual offences, peaked in 2008 and 2009 respectively.

Table 31: Rate per 1,000 population of offences recorded by police, 2007-2011, Anangu Pitjantjatjara Local Government Area

	2007	2008	2009	2010	2011
All offences against the person, excl sexual	86.59	107.19	103.92	98.21	92.98
- Homicide	0.42	0.40	0.00	0.37	0.00
- Major assault	18.73	17.26	14.35	8.56	12.11
- Minor assault	62.45	81.09	85.30	86.68	76.59
- Other against person	5.00	8.43	4.27	2.60	4.28
All sexual offences	1.25	4.82	5.43	2.60	2.14
- Rape	0.83	1.20	3.10	0.74	0.36
- Indecent assault	0.00	3.21	1.16	1.49	1.07
- Unlawful sexual intercourse	0.00	0.40	0.39	0.00	0.36
- Other sexual offences	0.42	0.00	0.78	0.37	0.36
All robbery and extortion offences	0.00	0.00	0.39	0.00	0.00
- Armed robbery	0.00	0.00	0.39	0.00	0.00
- Unarmed robbery	0.00	0.00	0.00	0.00	0.00
- Extortion	0.00	0.00	0.00	0.00	0.00
All offences against property	111.99	150.14	140.36	174.11	110.08
- Serious criminal trespass/break and enter	29.56	45.36	41.10	61.01	37.76
- Fraud and misappropriation	1.25	0.80	1.94	2.23	1.07
- Receiving & illegal possession of stolen goods	0.83	1.61	1.16	3.72	2.14
- Larceny/illegal use of motor vehicle	2.50	3.61	3.88	4.46	1.43
- Other larceny	20.40	32.12	19.78	32.74	17.46

¹⁹ The rate per 1,000 population is based on the resident estimated population of 2,402 in 2007, 2,491 in 2008, 2,579 in 2009, 2,688 in 2010 and 2,897 in 2011 from the Australian Bureau of Statistics catalogue 3218.0 'Regional Population Growth, Australia, 2011'

- Larceny from shops	8.74	9.23	9.31	11.53	7.48
- Larceny from a motor vehicle	3.75	6.82	5.43	7.44	4.63
- Arson/explosives	3.33	3.21	5.82	5.58	2.85
- Property damage and environmental offences	41.63	47.37	51.96	45.39	35.27
All offences against good order	87.84	82.30	95.00	95.24	85.50
All drug offences	3.75	1.61	4.27	15.25	5.34
- Possess/use	0.00	0.80	2.33	0.37	1.07
- Sell/trade	3.75	0.80	0.78	14.51	4.28
- Produce/manufacture	0.00	0.00	1.16	0.00	0.00
- Possess implement for drug use	0.00	0.00	0.00	0.37	0.00
- Other drug offences	0.00	0.00	0.00	0.00	0.00
All driving offences	43.71	15.25	51.18	63.62	59.85
- Driving alc/drugs	2.91	0.80	4.27	2.98	2.85
- Dangerous driving	4.58	2.81	3.88	3.72	2.49
- Driving licence	13.74	5.62	22.10	30.51	29.21
- Traffic offences	0.00	1.20	0.39	5.21	6.41
- MV registration	20.82	3.61	19.00	20.46	16.03
- Other MV	1.67	1.20	1.55	0.74	2.85
All other offences	21.23	12.04	21.33	40.92	47.03
Total offences	356.37	373.34	421.87	489.96	402.92

Source: Office of Crime Statistics and Research, 2012

For explanatory notes and counting rules see <http://www.ocsar.sa.gov.au/maps.html>

Note: Rates for regions with populations less than 3,000 people should be used with caution

Table 32: Annual total number of offences recorded by police, 2007-2011, Anangu Pitjantjatjara Local Government Area

	2007	2008	2009	2010	2011
All offences against the person, excl sexual	208	267	268	264	261 (23%)
- Homicide	1	1	0	1	0
- Major assault	45	43	37	23	34
- Minor assault	150	202	220	233	215
- Other against person	12	21	11	7	12
All sexual offences	3	12	14	7	6 (<1%)
- Rape	2	3	8	2	1
- Indecent assault	0	8	3	4	3
- Unlawful sexual intercourse	0	1	1	0	1
- Other sexual offences	1	0	2	1	1
All robbery and extortion offences	0	0	1	0	0 (0%)
- Armed robbery	0	0	1	0	0
- Unarmed robbery	0	0	0	0	0
- Extortion	0	0	0	0	0
All offences against property	269	374	362	468	309 (27%)
- Serious criminal trespass/break and enter	71	113	106	164	106
- Fraud and misappropriation	3	2	5	6	3
- Receiving & illegal possession of stolen goods	2	4	3	10	6
- Larceny/illegal use of motor vehicle	6	9	10	12	4
- Other larceny	49	80	51	88	49
- Larceny from shops	21	23	24	31	21
- Larceny from a motor vehicle	9	17	14	20	13
- Arson/explosives	8	8	15	15	8
- Property damage and environmental offences	100	118	134	122	99
All offences against good order	211	205	245	256	240(21%)
All drug offences	9	4	11	41	15 (1%)
- Possess/use	0	2	6	1	3
- Sell/trade	9	2	2	39	12
- Produce/manufacture	0	0	3	0	0
- Possess implement for drug use	0	0	0	1	0
- Other drug offences	0	0	0	0	0
All driving offences	105	38	132	171	168 (15%)
- Driving alc/drugs	7	2	11	8	8
- Dangerous driving	11	7	10	10	7
- Driving licence	33	14	57	82	82
- Traffic offences	0	3	1	14	18
- MV registration	50	9	49	55	45
- Other MV	4	3	4	2	8

All other offences	51	30	55	110	132 (12%)
Total offences	856	930	1,088	1,317	1,131

Source: Office of Crime Statistics and Research, 2012

For explanatory notes and counting rules see <http://www.ocsar.sa.gov.au/maps.html>

The police data for the period 1999 to 2003 showed that:

- The total annual number of recorded offences in the APY Lands had increased from 582 in 1999 to 1,927 in 2003. The rate per 1,000 population increased from 236.1 in 1999 to 293.3 in 2001 with large rises in the following two years to 480.3 in 2002 and 781.7 in 2003.
- The large increase recorded in 2002 was mainly due to the rise in the number of road traffic and motor vehicle regulatory offences, and in 2003 an increase in the number of miscellaneous offences (principally related to substance abuse).
- There were steady increases over four years in the annual number of recorded acts intended to cause injury, from 2000 to 2003, and over the five years in recorded public offences – see Table 33 for more detail.
- In 2002 (rather than 2003 when there was a very large number of miscellaneous offences recorded), the proportion of recorded offence categories was as followed: all offences against property 21%, road traffic and motor vehicle regulatory offence 19%, all offences against the person (excluding sexual offences) 19%, public order offences 6% and less than 1% were sexual assault and related offences, robbery and extortion, and illicit drug offences. All other offences made up the remaining 28%, of which the majority were miscellaneous offences.
- The annual total of offences against justice procedures climbed from 43 in 2000 to 135 in 2003, and in this year, 21% related to a breach of a domestic violence order
- The four largest communities accounted for over 80% of all offences recorded in the APY Lands from 1999 to 2003. In 2003, 33% were recorded for Ernabella, 26% for Amata, 15% for Indulkuna, and 10% Fregon and Homelands. Except for Pilpyatjara, all of the major communities recorded an increase in the rate of recorded offences per 1,000 population from 2001 to 2003.

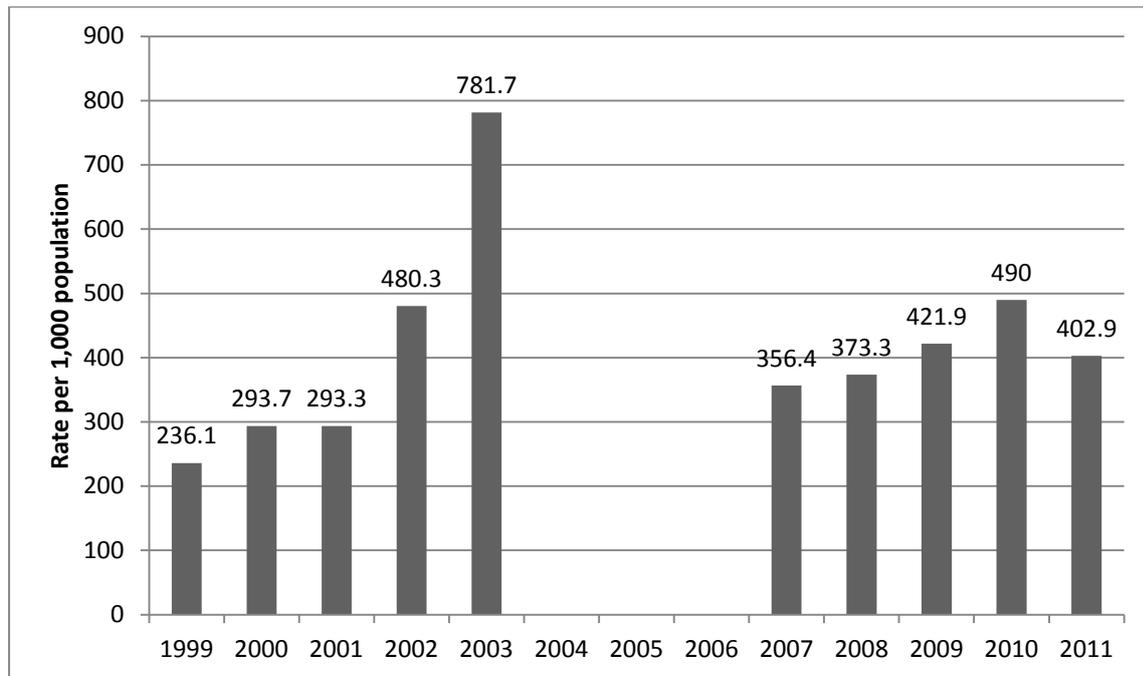
Table 33: The annual number of recorded offences, APY Lands, by type of offence, 1999-2003

	1999	2000	2001	2002	2003
All offences against the person, excl sexual	164	135	182	226 (19%)	253
Homicide and related offences	7	0	1	0	1
Acts intended to cause injury	141	129	173	199	217
Dangerous or negligence acts endangering persons	16	6	8	27	35
Sexual assault and related offences	3	2	3	3 (<1%)	5
Robbery, extortion and related offences	3	0	0	1 (<1%)	0
All offences against property	184	183	231	251 (21%)	281
Unlawful entry with intent/burglary/break and enter	81	89	94	71	70
Deception and related offence	5	2	0	2	4
Weapons and explosive offences	10	20	17	36	65
Property damage and environmental pollution	88	72	120	142	142
Public order offences	23	38	49	72 (6%)	152
Illicit drug offences	4	3	3	3 (<1%)	2
Road traffic and motor vehicle regulatory offences	41	26	5	225 (19%)	230
All other offences	128	293	195	327 (28%)	946
Offences against justice procedures, government security and operations	46	43	63	69	135
Miscellaneous offences	82	250	132	258	811
TOTAL	582	724	723	1,184	1,927

Note: The offence categories in the 2004 report were grouped under the headings used in Crime Mapper for the more recent data

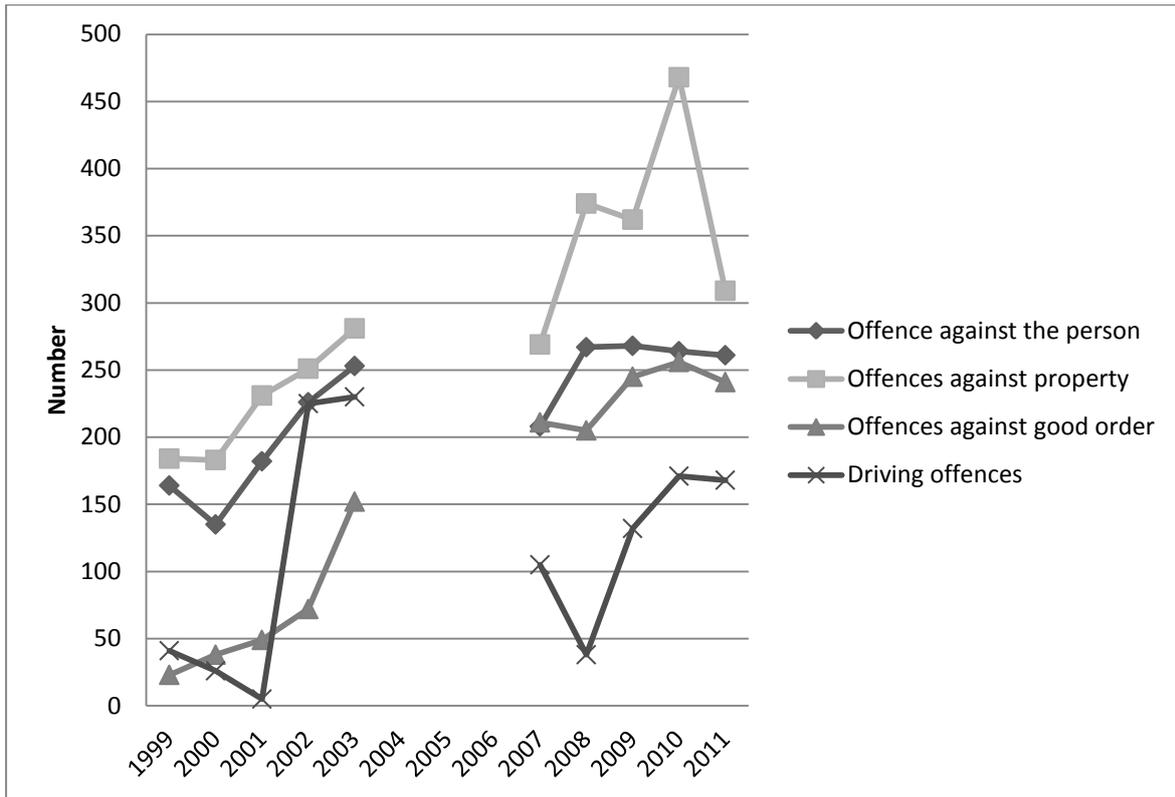
Source: SA Profiling Information, APY Lands, 20 April 2004, unpublished report

Figure 11: Annual rates of recorded offences per 1,000 population, APY Lands, 1999-2003, 2007-2011



Sources: SA Profiling Information, APY Lands, 20 April 2004, unpublished report; Crime mapper, SA OCSAR

Figure 12: Annual total number of recorded offence, selected offence categories, APY Lands, 1999-2003, 2007-2011



Sources: SA Profiling Information, APY Lands, 20 April 2004, unpublished report; Crime mapper, SA OCSAR

When the first five year period (1999-2003) is compared with the second period (2007-2011), the total number of recorded offences is nearly the same – 5,140 and 5,322 respectively.

However, as Figure 11 shows, there has been a consistently higher rate of offended offences per 1,000 population from 2007 to 2011, compared with the three years from 1999 to 2001. As noted previously, 2002 and 2003 recorded an exceptionally high number of offences, primarily due to driving offences and miscellaneous offences related to substance abuse.

The trends in major offence categories vary (see Figure 12). The annual total number of recorded offences against property was much higher in the more recent five year period, although consistently the most common category of the selected offence types. Offences against the person climbed steeply from 2000 to 2003, but remained at a similar annual total in 2008 through to 2011. Offences against public order have increased fairly steadily in both five years, with higher annual totals in the most recent five year period. Driving offences have fluctuated dramatically, with the highest annual totals recorded in 2002 and 2003.

The trend in rates in the most recent five year period is very similar to that found in the trends for NT remote communities (from mid-2007 to the end of 2010), which was primarily attributed to an increase in the police presence (see FaHCSIA 2011).

SA court data shows for the APY Lands that from for each year from 2008 to 2011:

- Finalized cases increased from 302 to 365 then dropped to 312 and increased in 2011 to 348.
- Small numbers of finalized cases in the Youth Court with 35 in total recorded over the four year period.
- Convictions also varied each year with an increase in 2009, a decrease in 2010 and an increase in 2010 (243, 300, 236 and 286 each year).
- The penalty of imprisonment is imposed infrequently (five orders for the four year period), while the imposition of fines seems to be declining (77, 72, 39, 44) and the number of community service orders increasing (49, 76, 72, 91).
- Small numbers of applications for domestic violence restraining orders and declining (13, 11, 3, 5).

Unfortunately the data collated for the profiling of the APY Lands in 2004, included court data where the defendant had a home address of the APY Lands. This means there can be no direct comparison with the more recent data, as a larger number of matters involving APY Land residents are likely to be heard in courts both on the Lands and elsewhere. However, certain features remain the same, for instance, the small number of cases in the Youth Court and penalties resulting in imprisonment.

In 2003 there 25 cases finalized in the Youth Court in the one year, but this is for APY defendants not necessarily cases dealt with in the APY circuit courts. The total number of cases finalized in the Magistrates Court where the defendant had a home address in the APY Lands each year from 1999 to 2003 was 373, 309, 435, 422 and 1,079. In the majority of cases finalized in 2003 (57%) no penalty was imposed, 14% received a fine, 9% had their driver's licence disqualified, and 24 imprisonment orders were imposed (SA profiling info APY Lands 2004).

2003 and 2004 seem to have a busy period for the criminal justice system, and therefore exceptional years of a high volume of matters, attributable no doubt to the two police campaigns at the time (Delahunty and Putt 2006).

Table 34: Number of cases finalised in the APY Lands Circuit Courts by sitting location and jurisdiction, 2008 to 2011

Sitting location	Lower Court				Youth Court				All Courts			
	2008	2009	2010	2011	2008	2009	2010	2011	2008	2009	2010	2011
AMATA	58	73	51	79	3	4	2	5	61	77	53	84
ERNABELLA	76	80	59	80	4	0	0	2	80	80	59	82
FREGON	69	48	23	21	1	5	0	0	70	53	23	21
INDULKANA	73	90	98	88	1	0	0	0	74	90	98	88
MIMILI	0	48	68	62	0	0	3	1	0	48	71	63
PIPALYATJARA	26	26	13	18	4	0	0	0	30	26	13	18
Total APY Lands	302	365	312	348	13	9	5	8	315	374	317	356

Source: SA OCSR

Note: A case is a group of charges finalised in the same court involving a single defendant. Multiple defendants are counted as separate cases. Each retrial is counted as a separate case. Procedural hearings, appeals and applications are excluded.

The major or most serious offence charged on a case is determined on the basis of the maximum statutory penalty associated with each charge.

Table 35: Number of cases finalised in the APY Lands Circuit Courts by sitting location and outcome, 2008 to 2011

Disposition year, Sitting location		Committed for trial	Committed for sentence	Convicted	Guilty - no conviction recorded	Dismissed, withdrawn, nolle prosequi	Dismissed, withdrawn - mental health diversion	Not guilty	Not guilty (mental incapacity)	Other	Total	Found guilty of other charge
2011	AMATA	0	1	68	9	5	0	0	1	0	84	1
	ERNABELLA	2	0	61	3	15	0	0	1	0	82	2
	FREGON	0	0	15	3	3	0	0	0	0	21	2
	INDULKANA	1	0	75	5	7	0	0	0	0	88	2
	MIMILI	0	1	54	3	4	0	0	1	0	63	1
	PIPALYATJARA	0	0	13	2	3	0	0	0	0	18	0
	Total APY Lands	3	2	286	25	37	0	0	3	0	356	8
2010	AMATA	2	0	35	3	11	0	0	2	0	53	0
	ERNABELLA	0	0	46	7	4	0	0	2	0	59	0
	FREGON	0	0	15	6	2	0	0	0	0	23	0
	INDULKANA	1	3	77	13	3	0	0	1	0	98	1
	MIMILI	0	3	51	11	5	0	0	1	0	71	1
	PIPALYATJARA	0	0	12	0	1	0	0	0	0	13	0
	Total APY Lands	3	6	236	40	26	0	0	6	0	317	2
2009	AMATA	5	0	56	8	8	0	0	0	0	77	1
	ERNABELLA	2	0	68	3	7	0	0	0	0	80	2
	FREGON	0	0	43	6	4	0	0	0	0	53	2
	INDULKANA	2	0	77	4	7	0	0	0	0	90	1
	MIMILI	2	0	38	2	6	0	0	0	0	48	0
	PIPALYATJARA	0	0	18	5	3	0	0	0	0	26	0
	Total APY Lands	11	0	300	28	35	0	0	0	0	374	6
2008	AMATA	5	0	47	8	1	0	0	0	0	61	0
	ERNABELLA	1	0	54	8	17	0	0	0	0	80	6
	FREGON	0	0	57	3	10	0	0	0	0	70	0
	INDULKANA	0	0	64	3	6	1	0	0	0	74	0
	MIMILI	0	0	0	0	0	0	0	0	0	0	0
	PIPALYATJARA	0	0	21	5	4	0	0	0	0	30	0
	Total APY Lands	6	0	243	27	38	1	0	0	0	315	6

Source: SA OCSR

Table 36: Major penalty imposed per case finalised in the APY Lands Circuit Courts, by sitting location, 2008 to 2011
Cases with a conviction or finding of guilt

Disposition year, Sitting location		No penalty	Rising of the court	Other order	Compensation	Restraining order	Fine	Suspension of driver's licence	Bond	Community service order	Suspended imprisonment	Imprisonment	Total
2011	AMATA	18	0	0	0	0	15	2	12	18	13	0	78
	ERNABELLA	15	0	0	0	1	10	2	11	16	11	0	66
	FREGON	2	0	0	0	0	2	2	8	6	0	0	20
	INDULKANA	18	0	1	0	1	13	10	12	23	3	1	82
	MIMILI	7	0	0	1	0	3	9	5	24	8	1	58
	PIPALYATJARA	3	0	0	0	0	1	2	2	4	3	0	15
	Total	63	0	1	1	2	44	27	50	91	38	2	319
2010	AMATA	8	0	0	0	0	2	2	6	16	4	0	38
	ERNABELLA	12	0	2	1	0	8	1	10	11	8	0	53
	FREGON	4	0	0	0	1	3	1	6	4	2	0	21
	INDULKANA	18	0	1	1	0	14	13	15	19	10	0	91
	MIMILI	12	0	1	1	0	8	4	12	18	7	0	63
	PIPALYATJARA	1	0	0	1	1	4	0	0	4	1	0	12
	Total	55	0	4	4	2	39	21	49	72	32	0	278
2009	AMATA	6	0	1	0	0	15	5	17	18	3	0	65
	ERNABELLA	5	0	0	2	0	23	9	7	16	10	1	73
	FREGON	8	0	1	0	0	14	2	7	14	5	0	51
	INDULKANA	3	0	0	0	0	11	19	19	18	12	0	82
	MIMILI	3	0	0	0	1	2	12	7	7	8	0	40
	PIPALYATJARA	3	0	0	0	0	7	2	5	3	3	0	23
	Total	28	0	2	2	1	72	49	62	76	41	1	334
2008	AMATA	10	0	1	2	0	19	4	11	4	4	0	55
	ERNABELLA	14	0	0	0	1	18	5	12	11	7	0	68
	FREGON	19	0	1	1	0	17	3	1	14	3	1	60
	INDULKANA	14	0	0	0	0	17	10	2	13	10	1	67
	MIMILI	0	0	0	0	0	0	0	0	0	0	0	0
	PIPALYATJARA	3	0	2	0	0	6	3	3	7	2	0	26
	Total	60	0	4	3	1	77	25	29	49	26	2	276

Source: SA OCSR

Table 37: Number of applications for restraining orders in the APY Lands Circuit Courts by sitting location and type of application, 2008 to 2011

Sitting location, Type of application		2008	2009	2010	2011
AMATA	Restraining orders / summary protection orders	2	0	1	3
	Domestic violence restraining orders	4	2	1	0
	Total applications	6	2	2	3
ERNABELLA	Restraining orders / summary protection orders	1	4	1	1
	Domestic violence restraining orders	4	2	0	3
	Total applications	5	6	1	4
FREGON	Restraining orders / summary protection orders	0	0	0	1
	Domestic violence restraining orders	1	0	0	2
	Total applications	1	0	0	3
INDULKANA	Restraining orders / summary protection orders	1	5	0	0
	Domestic violence restraining orders	3	3	0	0
	Total applications	4	8	0	0
MIMILI	Restraining orders / summary protection orders	0	0	2	0
	Domestic violence restraining orders	0	3	0	0
	Total applications	0	3	2	0
PIPALYATJARA	Restraining orders / summary protection orders	0	0	0	0
	Domestic violence restraining orders	1	1	2	0
	Total applications	1	1	2	0
Total APY Lands	Restraining orders / summary protection orders	4	9	4	5
	Domestic violence restraining orders	13	11	3	5
	Total applications	17	20	7	10

Source: SA OCSR

Applications may be made to issue, vary or revoke a restraining order or to register a foreign order. Each finalised application is counted once, hence an order that is issued and varied in the same year is counted as two applications. Interim orders are not reported.

Appendix 4

Census data for the cross-border region (2001 and 2011)

2001 and 2011 Census data for the cross-border region

The following census statistics for 2001 and 2011 are from two unpublished data sources. The first was the Cross Border Demographic Profile, dated the 20th of April 2004, and was undertaken by the Office of Crime Statistics and Research in SA. It is a summary report so there is not always much detail. Any reference to Indigenous persons for the region was taken from the report and is listed below.

The second was unpublished data extracted by FaHCSIA from the ABS census using Table builder. Matching was undertaken to ensure the same geographic area was covered, and statistics extracted that seemed comparable or similar to what was in the 2001 report. In addition, a number of tables were drawn up to summarise statistics for Indigenous and non-Indigenous persons in 2011.

Total population

- In 2001, a total of 9,572 persons were recorded in the census (excluding overseas visitors but including those who usually resided interstate) of which 6,075 were recorded as Indigenous persons.
- In 2011, a total of 6,928 persons were recorded for the region of which 5,601 were recorded as Indigenous persons.

All Indigenous persons

- In 2001, the median age of Indigenous persons was 23 years. The proportion under 10 years was 21.5%, and 21.4% were aged 10 to 19 years.
- In 2011, the median age was 24 years and the proportion under 10 years of age was 21% and those aged 10 to 19 years was 18.6%.
- The sex ratio in 2001 was 96.5 and in 2011 it was 90.3.
- In 2001, 94.4% of Indigenous people spoke Australian Indigenous Languages, and 5.6% spoke English only. In 2011 it was 94.5% and 4.9% respectively.
- In 2001, 19.8% of Indigenous people in the region were attending an educational institution either full time or part time. In 2011 it was 24.3%.

In 2001, the most common types of educational institutions currently attended by Indigenous people were Infants/Primary (66.3%) and Secondary (government) (19.3%).

In 2011, of those Indigenous persons who were attending a school or pre-school, 64% were in a government Infants/Primary School, while 20.2 % were attending a government secondary school (see Table 38 for more detail).

Table 38: Current attendance at schools and pre-school, Indigenous and non-Indigenous persons, 2011

	Indigenous persons		Non-Indigenous persons		Not stated		Total
	No.	%	No.	%	No.	%	No.
Pre-school	111	9.4	8	17.0	0	0	119
Infants/Primary - government	756	64.1	22	46.8	3	100	781
Infants/Primary - Catholic	3	0.2	0	0	0	0	3
Infants/Primary - Other non-government	8	0.6	3	6.3	0	0	11
Secondary - government	239	20.2	11	23.4	0	0	250
Secondary - Catholic	24	2.0	0	0	0	0	24
Secondary - Other non-government	38	3.2	3	6.3	0	0	41
Total	1,179	99.7	47	99.8	3	100	1,229

Source: 2011 ABS census unpublished data, FaHCSIA

Indigenous persons aged 15 years and over

Table 39 compares key characteristics for the Indigenous persons aged 15 years and over.

Table 39: Census 2001 and 2011 cross-border region, Indigenous persons, selected categories, (%)

		2001	2011
Educational history – no formal schooling		15.0	8.1
Educational history – completed Year 10 or below		70.4	78.7
Non-school qualification – completed a certificate		1.6	6.1
Labour force participation rate		34.8	40.0
Unemployment level		4.9%	19.8
Employment rate with CDEP		NA	32.1
Employment rate without CDEP		NA	19.4
Of those employed on CDEP, hours worked per week	0	3.5%	9.1
	1-15	32.5%	52.2
	16-24	40.9%	18.9
	25-34	14.7%	9.3
	35+	8.4%	10.5
Occupation*		Labourer 47.7	Labourer 39.1
		Clerical and production 28.6	Community and personal service workers 23.8
		Professionals 21.9	Professionals 17.3
		Tradepersons 1.8	

*Note: It is not possible to directly compare 2001 and 2011 as different occupational categories were used

Sources: 2001 ABS unpublished census data, Cross-border region demographic profile, 2011 ABS census, Table builder, FaHCSIA

Table 40: Occupation, Indigenous and non-Indigenous persons aged 15 years and over, 2011

	Indigenous persons aged 15 years or over		Non-Indigenous persons aged 15 years or over	
	No.	%	No.	%
Managers	44	4.0	161	16.6
Professionals	187	17.3	249	25.8
Technicians and trade workers	28	2.5	136	14.0
Community and personal service workers	257	23.8	122	12.6
Clerical and administrative workers	72	6.6	62	6.4
Sales workers	21	1.9	34	3.5
Machinery operators and drivers	22	2.0	92	9.5
Labourers	422	39.1	97	10.0
Inadequately described	25	2.3	12	1.2
Total	1,078	99.5	965	100.00

Note: Excludes not stated

Source: 2011 ABS census unpublished data, FaHCSIA

Table 41: Family households, type of family, Indigenous population, 2001 and 2011(%)

Type of family	2001	2011
Couple family with children	51.8	50.0
One parent family	26.4	26.1
Couple family without children	19.1	10.9

Appendix 5

Framework to measure CBJs outputs and outcomes

Indicators have been defined as agreed information that allows for the assessment of a state or condition over time or between/within groups (UNDP 2006 – cited by Willis 2010b). It seems important to consider the indicators currently employed to monitor and evaluate performance of justice services, and whether they are applicable to the delivery of services in the cross-border region. A complementary set of national indicators are used to assess progress with the national commitment to overcome Indigenous disadvantage, and they too are relevant to the review of the CBJS.

In its Report on Government Services, the Productivity Commission uses a range of indicators to monitor the performance of three justice services – police services, civil and criminal courts administration and adult corrective services (SCRGSP 2012). The overarching objectives of the justice sector are listed as first, safe communities and second, a fair, equitable and accessible system. The performance indicator framework has three sector-wide indicators for the ‘safe communities’ objective:

1. Community perceptions of safety
2. Crime victimisation (self-reported)
3. Re-offending rates (police and corrections data)

The two sector-wide indicators for the second objective are:

1. Justice staff (numbers of police staff and judicial officers per 100,000 population)
2. Higher numbers of court defendants pleading guilty or being found guilty.

Service specific performance indicator frameworks are summarized in Table 42. An indicator of efficiency used by the Productivity Commission is annual government recurrent expenditure per person on justice services, which is broken down for each jurisdiction, for police services, civil and criminal court administration, and corrective services. However, the most recent report notes that a number of factors contribute to significant differences in expenditure including factors such as geographic dispersion and economies of scale.

Table 42: Performance indicator frameworks for police, court administration, and corrective services

Services	Objective	Outputs	Outcomes
Police	Equity	Indigenous staffing	Perceptions of safety
		Staffing by gender	Crime victimisation
	Effectiveness	Complaints	Reporting rates
		Juvenile diversions	Outcomes of investigation
		Satisfaction with police services	Road safety
		Perceptions of police integrity	Road deaths
		Perceptions of crime problems	Land transport hospitalisations per registered vehicle
	Efficiency	Dollars per person	Deaths in police custody
		% of prosecutions where costs were awarded against the police	Indigenous deaths in custody
			Lower court defendants resulting in a guilty plea or finding
Court administration	Equity	Fees paid by applicants (affordability)	None developed yet
		Judicial officers (geographical access)	
	Effectiveness	Quality - To be determined	
		Timeliness and delay	
	Efficiency (Inputs per unit of output)	Attendance indicator	
		Backlog indicator	
		Clearance indicator	
		Cost per finalisation	
Corrective services	Equity (Access)	To be developed	Escapes
	Effectiveness (Access, appropriateness and quality)	Assaults in custody	Completion of community orders
		Apparent unnatural deaths	
		Time out-of-cells	
		Employment	

		Community work	
		Education	
		Offence related programs	
	Efficiency (Inputs per output unit)	Cost per prisoner/offender	
		Offender-to-staff ratio	
		Prison utilisation	

Source: SCGSP 2012

 = Data comparable across the jurisdictions (with various caveats)

Annual reports are produced to monitor progress in reducing Indigenous disadvantage and efforts to close the gap between Indigenous and non-Indigenous Australians. High-level indicators include those that relate to justice and community safety: substantiated child abuse and neglect, family and community violence and imprisonment and juvenile detention. The strategic change indicators (of measures that can be influenced by policy and programs) include alcohol consumption and related harm, drug and other substance (ab)use and harm, juvenile diversions as a proportion of all juvenile offenders and repeat offending (SCRGSP 2009).

It has been stressed that conventional justice outcome indicators (such as those used by the Productivity Commission) should include measures of access to justice for victims of crime, and Willis (2010b) refers to research from the Netherlands that focused on cost, procedural quality and outcome quality. A further point underlined by Willis (2010b), in his review of international literature on measuring justice outcomes, is that, aside from monitoring the proportion of Indigenous people who make up various justice indicators, there is a need to develop culturally appropriate indicators that are meaningful to Indigenous peoples. This includes accessing their views and employing perceptions of 'wellbeing' and 'safety' as measures of outcomes. Depending on the context, there may need to be indicators that reflect or take into account other factors such as traditional authority, community justice mechanisms, mobility, extended family and kin networks, degrees of socio-economic disadvantage, and access to services in remote locations.

What is in the public domain about criminal justice trends in the region

A scan was undertaken to identify criminal justice data, that is publicly available, either on communities or at a regional level. Sources identified were:

- NTER/Stronger Futures monitoring (i.e. NT police incident and court data for each community) (FaHCSIA 2012) (selected confirmed incidents, assault and sexual assault lodgements in court, applications and breaches of restraining orders 7/07-12/11, six monthly totals).

- NT police offence data for each community used in the Australian Institute of Criminology chapter of the NTER evaluation (FaHCSIA 2011) (selected offences, 7/07-12/10, six monthly totals).
- RSD baseline mapping - police offence data for Mimili and Amata (SA), selected offences, 2004-2010, annual total offences.
- WA police crime statistics (on the website) – monthly offence data, selected categories, for Warburton but none of the other Ngaanyatjarra communities.
- SA OCSAR Crime Mapper – APY Lands annual total of police recorded offences, selected categories, 2006-2010.

The rationale for the exercise was that firstly, it is in the public domain and has already been used to show a trend for or provide information on the area or community, and secondly, to indicate what might be easy to extract and use for the evaluation. A summary of what this information told us is below.

NTER/Stronger Futures monitoring

Every monitoring report, which is produced every six months, includes police confirmed incident data (for each community) presented as a total for the NTER communities, 2007- ongoing, key variables

- *Violent incidents* – armed person, 3 categories of assault, sexual assault, indecent behaviour, breaches of DVOs, domestic violence related incidents.
- *Contact with at risk individuals* – missing persons, mentally ill, child welfare
- *Alcohol and other drugs* – alcohol, substance abuse and drug related incidents

The same reports have bush court aggregate totals, six monthly, 2007-ongoing, with the following key variables:

- Assaults – lodgements, convictions and conviction rate
- Sexual assault – lodgements, convictions and conviction rate (%)
- Restraining orders – applications, orders granted, sentencing occasion for RO breach

NTER evaluation (2011)

The Australian Institute of Criminology obtained data from the NT police that enabled them to look at selected offence data, from mid-2007 to the end of 2010. For the chapter, they also looked at alcohol-related offences by the selected offence categories. Table 44 shows the changes in the recorded number of selected offences for the NTER communities (nearly all the remote communities in the NT). As can be seen from the table, all of the selected offence categories increased from 2007 to 2010, with the exception of theft. In the NTER evaluation report, this change in recorded crime is not equated with an increase in actual crime, but is seen to be

largely a product of the increased police presence in remote communities, with additional funding for more police provided until the NTER.

Table 44: Changes in recorded numbers of offences, selected offences, NTER communities, July 2007 to December 2010

Offence type	Direction of change	Degree of change (%)
Assault	Increase	44
Unlawful entry with intent	Increase	22
Theft	No change	-
Public order	Increase	43
Traffic and vehicle regulatory	Increase	61
Offences against justice procedures	Increase	54
Alcohol-related	Increase	56
Non-alcohol-related	Increase	26

Source: Table in the evaluation report of the NTER (FaCHSIA 2011) using NT Police unpublished data, converted into Australian Institute of Criminology offences dataset

SA, Mimili and Amata

For the 29 Remote Service Delivery remote Indigenous communities and towns across Australia, extensive indicator data was collected in 2010, including criminal justice data. The period covered and offence categories varied somewhat across the jurisdictions, with for example in WA, alcohol related offences being included. In the cross-border region, there are four RSD communities – two in the NT and two in SA. The recorded offence data for the two SA communities – Mimili and Amata – were updated for the review of the SAID/DOUs (Putt 2012) and are presented in Table 45.

These data show a different picture of trends in recorded offences for the two communities, which highlights the challenges of monitoring and analysing change at such a community level. The total annual number of recorded offences for Mimili dropped from 2004 to 2007 remained stable in 2008 and increased in 2009 to 2004 levels and then increased significantly in 2010. In Amata, the annual number of recorded offences did decline from 2004 for each year until 2010 and then climbed again in 2009 and 2010 but not anywhere near the levels recorded for 2004 and 2005. In these two years a considerable proportion of recorded offences were for breaches of Aboriginal Lands by-laws, and the annual number of these dropped from 311 to just 18 in 2010.

Table 45: Recorded offences, annual total number, Mimili and Amata, SA, 2004-2010

	2004	2005	2006	2007	2008	2009	2010
	Mimili						
Offences against the person	25	19	15	26	32	41	35
Offences against property	30	25	16	22	18	32	47
Offences against public order	22	27	14	15	11	30	30
Drug offences	4	-	-	-	-	-	-
Traffic management offences	3	2	-	-	2	1	2
*Breach of by-laws Aboriginal Lands	14	13	14	1	-	4	36
Total	98	86	59	64	63	108	150
	Amata						
Offences against the person	78	82	75	45	40	66	80
Offences against property	72	57	72	65	74	58	101
Offences against public order	118	77	82	71	29	51	80
Drug offences	1	6	6	-	-	4	3
Traffic management offences	5	10	6	4	-	3	3
*Breach of by-laws Aboriginal Lands	311	114	50	6	6	6	18
Total	585	346	291	191	149	188	285

* Breaches of by- laws Aboriginal Lands is normally counted in Offences Against Public Order

Sources: SAPOL Business Information Section Unit, provided October 2011

Published in Putt (2012)

SA APY Lands

On its online Crime Mapper tool, the SA Office of Crime Statistics and Research (OCSR) has the rate of offences recorded by police for the local government area of Anangu Pitjantjatjara, for the years 2006 through to 2010 (see Table 46). The rates are calculated using the estimated resident population for the area for each of the five years - 2,341; 2,338; 2,364; 2,389; 2,438 (ABS 2011).

Table 46: Rate per 1,000 population of offences recorded by police, Anangu Pitjantjatjara Local Government Area, 2006 -2010

	2006	2007	2008	2009	2010
All offences against the person, excl sexual offences	105.08	88.96	112.94	112.18	108.29
-Homicide	0.43	0.43	0.42	0.00	0.41
-Major assault	27.77	19.25	18.19	15.49	9.43
-Minor assault	75.18	64.16	85.45	92.09	95.57
-Other against person	1.71	5.13	8.88	4.60	2.87
All sexual offences	1.71	1.28	5.08	5.86	2.87
-Rape	0.43	0.86	1.27	3.35	0.82
- Indecent assault	0.43	0.00	3.38	1.26	1.64
- Unlawful sexual intercourse	0.00	0.00	0.42	0.42	0.00
- Other sexual offences	0.85	0.43	0.00	0.84	0.41
All robbery and extortion offences	0.00	0.00	0.00	0.42	0.00
- Armed robbery	0.00	0.00	0.00	0.42	0.00
- Unarmed robbery	0.00	0.00	0.00	0.00	0.00
- Extortion	0.00	0.00	0.00	0.00	0.00
All offences against property	172.15	115.06	158.21	151.53	191.96
- Serious criminal trespass/break and enter	59.80	30.37	47.80	44.37	67.27
- Fraud and misappropriation	0.85	1.28	0.85	2.09	2.46
- Receiving & illegal possession of stolen goods	2.14	0.86	1.69	1.26	4.10
- Larceny/illegal use of motor vehicle	2.56	2.57	3.81	4.19	4.92
- Other larceny	28.62	20.96	33.84	21.35	36.10
- Larceny from shops	9.82	8.98	9.73	10.05	12.72
- Larceny from a motor vehicle	2.99	3.85	7.19	5.86	8.20
- Arson/explosives	3.84	3.42	3.38	6.28	6.15
- Property damage and environmental offences	61.51	42.77	49.92	56.09	50.04
All offences against good order	111.49	90.25	86.72	102.55	105.00
All drug offences	5.13	3.85	1.69	4.60	16.82
- Possess/use	0.85	0.00	0.85	2.51	0.41
- Sell/trade	2.99	3.85	0.85	0.84	16.00
- Produce/manufacture	0.43	0.00	0.00	1.26	0.00
- Possess implement for drug use	0.85	0.00	0.00	0.00	0.41
- Other drug offences	0.00	0.00	0.00	0.00	0.00
All driving offences	21.79	44.91	16.07	55.25	70.14
- Driving alc/drugs	1.71	2.99	0.85	4.60	3.28
- Dangerous driving	2.99	4.70	2.96	4.19	4.10
- Driving licence	9.40	14.11	5.92	23.86	33.63
- Traffic offences	0.43	0.00	1.27	0.42	5.74
- MV registration	6.83	21.39	3.81	20.51	22.56
- Other MV	0.43	1.71	1.27	1.67	0.82
All other offences	67.92	21.81	12.69	23.02	45.12
Total offences	485.26	366.12	393.40	455.42	540.20

Source: Office of Crime Statistics and Research, 2012

For explanatory notes and counting rules see <http://www.ocsar.sa.gov.au/maps.html>
 Note: Rates for regions with populations less than 3,000 people should be used with caution.

Source: Office of Crime Statistics and Research, 2012
 For explanatory notes and counting rules see <http://www.ocsar.sa.gov.au/maps.html>

These statistics show that from 2007 the rate each year dropped until 2009 when it increased, until in 2010 it was higher than that recorded for 2007. The most noticeable increases in offence categories were for offences against property and to an even greater extent, driving offences.

WA, Warburton

The WA Police Service, on its website, has a portal that allows the public to search for monthly crime statistics by suburb. Although Jameson, Blackstone Ranges and Warakurna are search 'suburb' categories, no data was available for these communities. However, there were monthly statistics for selected recorded offences for Warburton and these were aggregated for each year, from 2007 to 2011 (see Table 42). The total number of recorded offences for the five year period for the six offence categories of assault, burglary (dwelling), burglary (other), graffiti, robbery and steal motor vehicle were 366, 102, 152, 0, 0 and 9 respectively, so that only the annual totals for the first three offence categories are included in Table 47. Similar to the data for Mimili and Amata, these numbers show how difficult it is to detect trends at a community level, due to fluctuations in small number, with for example the largest number of assaults occurring in 2008 while burglary (both of home and other) peaked in 2010.

Table 47: Warburton, WA, selected recorded offences, annual total, 2007 - 2011

	2007	2008	2009	2010	2011	Total
Assault	65	112	65	75	49	366
Burglary (dwelling)	21	22	7	41	11	102
Burglary (other)	28	20	19	49	36	152

Source: WA Police website

Future priorities for a monitoring framework

The publicly available data in the three jurisdictional areas demonstrate that at a community level, recorded crime is not high. Across the region, more high volume recorded crimes are assault, property damage and public order offences. In some places, it seems traffic offences may be more common. However, if we are to monitor trends then it would be helpful to include more serious crimes (such as serious assault and motor vehicle as they are less likely to be affected by changes in policing numbers and priorities). It would also be useful to include indicators for domestic violence and alcohol and other substance misuse although the police

categories for these seem to vary by jurisdiction (for example, domestic assault compared with domestic-related offences).

The published data did not shed any light on whether circuit court information is readily accessible at a community or regional level. The Closing the Gap in the NT monitoring data includes court lodgements, convictions and the conviction rate for assault and sexual assault, which is only a sub-set of the matters being brought before the courts. Arguably, we need a greater range of variables for court data, including all lodgements, convictions and the outcomes. Akin to the NT monitoring data, it would be worth also including application and orders granted for restraining orders, and sentencing occasions for the breach of orders.

With correctional data, again it is not known, how easy it would be for each jurisdiction to separate out the number of persons who are imprisoned or on community corrections orders and who are from the cross-border regions. We would also need to know the proportion of persons who were imprisoned or on orders for a summary offence (as their most serious offence).

These data can be employed as basic indicators of outputs and outcomes, and their extraction and analysis has three potential purposes:

- What are the recorded trends in crime and justice workflow in the region?
- What proportion of cases in the system that are potential CBJs cases?
- What is the impact of the CBJs on justice services in the region?

A basic framework for the collection is presented in Table 48 below, and demonstrates that a considerable amount of work would still be required to agree on consistent methods of collection and the frequency of reporting.

As it was, as the evaluation progressed and became more apparent that output indicators were the priority and only some information easily accessible, a modest approach was taken. Table 49 shows how various elements of the evaluation methodology contribute or provide indicators on a range of measures.

In addition, although the same request was made to key agencies for police and court data, mid-way through the evaluation, the statistics provided varied in a number of significant ways.

The profiling reports that were undertaken in 2004 and which came to light mid-way through the evaluation contained a wealth of criminal justice data. Undertaking this kind of exercise takes up considerable resources, and is not something that can be replicated too often.

Table 48: Framework for CBJs data collection

Purpose	Scope (timeframe, intervals, location)	Scope of variables	Key variables	Comparability across the region
What are the recorded trends in crime and justice workflow in the region?	2006 – onwards; 6 monthly; community/CBJS area in the jurisdiction	Main offence categories All magistrates courts criminal justice listings	TBC	TBC
What proportion of cases in the system are potential CBJs cases?	2006 – onwards; 6 monthly; community/CBJS area in the jurisdiction	Summary offences All magistrates courts criminal justice listings All known correctional clients from NPY	TBC	TBC
What is the impact of the CBJs on justice services in the region?	2010 – onwards, 6 monthly;	Number of identified CB warrants Number of police custody transports of CB offenders Number of CB prosecutions Number of magistrate court listings and determinations Number of CB correctional clients Number of correctional transports of CB offenders	TBC	TBC

In the future, if there is to be a basic monitoring framework for the CBJs, then there has to be agreement among jurisdictions and agencies on core items and the frequency of reporting. Engaging in comprehensive profiling akin to what was undertaken back in 2004 would only seem worthwhile for the next evaluation and only if there are considerably more CBJs cases identified.

Table 49: Basic output and outcome indicators for the CBJs

	Output indicator	Tool/source
Equity	% identified CBJs offences and defendants	Not available (NA) (Census of potential cases in December 2012)
Effectiveness	Established procedures Established networks Satisfaction with the CBJs	Stakeholder interviews
	Number of CBJs identified cases	NA (except for CBJs Court table)
Efficiency	Time taken to process CBJs cases	Case studies
	Costs per CBJs case	NA
	Outcome indicator	Tool/source
Effectiveness	Perceptions of effectiveness	Interviews with stakeholders Survey of local service providers
Efficiency	Perceptions of efficiency	Interviews with stakeholders Survey of local service providers
Appropriate (meaningful) justice	Perceptions of fairness	Community interviews
Community safety	Perceptions of individual and community safety Recorded offences per community Applications and breaches of restraining orders	Community interviews Survey of local service providers Police and court data

Appendix 6

Service Agreements

CBJS Service Agreements

Summary table of Service Agreements

Sector	Parties	MOU/Agreement	Date signed
Courts	Director General Department of Justice WA, State Courts Administration Council SA and CEO Department of Justice NT	Court service agreement	December 2009
Community corrections	WA Department of Corrective Services, NT Department of Justice and SA Department for Correctional Services	Service Level Agreement – Community Corrections	March 2010
Corrections	WA Department of Corrective Services, NT Department of Justice and SA Department for Correctional Services	Prison services	March 2010
Police	WA, SA and NT Police services	MOU	August 2011
Juvenile justice	Department of Families and Communities, SA SAPOL Court Administration Authority, SA Department of Justice NT NT Police Department of Corrective Services, WA WA Police	Service Level Agreement by Juvenile Justice Agencies	June 2011

Court Service Agreement

The Court Service Agreement was the first to be executed (in December 2009), and in addition to the three parties that are signatories to the agreement, the Chief Magistrates of the participating jurisdictions are acknowledged as having agreed upon and approved the agreement. Under the definitions in the agreement, 'court' is defined as any of the Courts of Summary Jurisdiction and the Youth Justice Court of the Northern Territory, the Magistrates Court and Children's Court of WA, and the Magistrates Court and Youth Court of SA.

The crucial mechanism to manage and support cross-border matters is the establishment of cross-border registries which are set out in Schedule 1. The agreement outlines the role of the registries, including providing each other information on court circuits in the region and forms for sittings of cross-border magistrates. Under Part 5, they are also expected to provide each other with copies of court procedure manuals and notify one another of changes in procedure and legislation. The cross-border registrars are to be members of the Cross-border Services Committee established under the agreement. Although it is not explicitly stated as their responsibility, they may also be involved in providing information

under Part 8, where a magistrate makes or varies a restraining and upon receipt of a request from the protected person, to another participating cross-border registry for registration purposes. Home State police services are also to be advised of court outcomes and copies of community corrections orders are to be sent to the home jurisdiction. Under Part 12, information provided to other jurisdiction's registries and any protocols developed for the provision of information to victims' services and other agencies has to be allowable by the cross-border legislation and privacy legislation.

Under Part 13, there is agreement to the protocols for the provision of cross-border court services, including the possibility of two or more parties agreeing to local protocols at particular locations.

Part 9 makes it clear that there are no facilities for collecting fines, fees or costs under the laws of another state. Part 6 states that where a magistrate conducts proceedings in another state, the facilities will be used at no cost. Under Parts 10 and 11, where a cross-border magistrate requires an interpreter or witnesses to a proceeding before a cross-border magistrate requiring support, these services are to be provided by the State in which the cross-border magistrate is located. Part 7 sets out the handling of appeals and reviews. With the review of children's or youth court cases in WA and SA, the President of the Children's Court and the Senior Judge of the Youth Court in the respective jurisdictions are named as the responsible authority.

Under Part 14 it is stated that the Court Services Committee must meet quarterly to monitor and coordinate the operation of cross-border court services. It is agreed that each jurisdiction on a monthly basis will provide a report on multiple CBJs output indices, including the number of charges/files heard outside the home jurisdiction; type of offences and outcomes; location of offences and proceedings, number of times an interpreter was provided and a defendant was self-represented; number of bail applications and appearances; amount of time magistrates sat as cross-border magistrates; numbers of appeals; and costs of services provided. Part 14.5 states that 12 months after the CBJs has been operational, there is to be review of costs. This is to be done in order to determine whether the parties need to enter into negotiations regarding a cost-sharing agreement.

Prison Services Agreement

Part F of the Prison Services Agreement, which was signed off in March 2010 by representatives of the three jurisdictions, says that the objective of the Agreement is to deal promptly and effectively with prisoners. Part E also states that, in implementing the Agreement, the Parties do not intend any prisoner to be advantaged or disadvantaged by the Agreement.

In Part D it states that the cross-border legislation is to provide that a prisoner held on a warrant or remand warrant issued under the legislation may be held in prison or on remand in any of the jurisdictions. Prisoners and their sentences are both managed under the legislation (and policies) in the jurisdiction in which the prisoners are located. The prison sentence remains unchanged regardless of the jurisdiction in which the prisoner serves his or her sentence. The parole authority in the jurisdiction in which the offence was committed is responsible for making decisions about parole.

Part 6 refers to the responsibilities of 'home' and 'location' authorities to communicate and calculate sentence details. Part 7 refers to a remandee whose views must be sought regarding her/his placement when being sentenced by a cross-border magistrate. To be considered as well is any perception of the likelihood of prisoner self-harm and the capacity of the location authority to hold remandees.

When a person is remanded on a cross-border remand warrant, Part 8 states that he or she will be taken to the court location in which he or she was remanded, unless listed for a trial or committal when he or she would be taken to the home jurisdiction. If the possibility of an alleged offence identified by the court could result in a custodial sentence and could be served in another jurisdiction, then there is to be a discussion to see if an agreement can be reached. If not, serving of the whole sentences is to occur in the court location where the prisoner has been sentenced.

In relation to prisoner transfers, the sending authority has the responsibility to organise transport and it is expected that transport details and arrangements will be made according to agreed protocols. The sending authority is expected to forward electronically all necessary records as soon as practicable, and files and property are to be sent within seven working days. Confirmation of the reception of prisoners is to be sent by email as stated under Part 10.

Three prisons are named in the agreement as being in the cross-border region: Eastern Goldfields Regional Prison, Alice Springs Correctional Centre, and the Port Augusta Prison – but could more properly be said to be used to hold identified 'cross-border' prisoners.

Community Corrections Agreement

The Service Level Agreement - Community Corrections was also executed in March 2010. Part 6.2 specifies that the cross-border legislation authorises community corrections officers in each participating jurisdiction to supervise and generally deal with interstate offenders and defendants from anywhere within the cross-border region. Central to the service level agreement is the appointment of authorised officers by each of the community correction agencies. These officers are, where

practicable, authorised to provide assistance to cross-border courts and provide assessment, monitoring and supervision of interstate offenders and defendants. In Part 7, it is stated that it is not the intention of the agreement that the authorised officers will provide services to those courts outside of their jurisdiction.

The authorising officers are to be supervised and disciplined under the existing management structure (Part 8). Where practicable, the officers are to attend sittings of cross-border magistrates in their jurisdiction (Part 9) and wherever possible, attend court hearings of breaches of supervised orders before cross-border magistrates (Part 15). When an offender is being supervised in a participating jurisdiction, the authorising officers are responsible for ensuring that the home State is informed of the supervised offenders' progress (Part 12). Similarly, where an offender is being released from a participating jurisdiction, the officers are expected to assist home State agencies prepare parole reports and with pre-release planning (Part 17), and with the variation, revocation or suspension of parole orders (Part 18). Wherever practicable, prior to crossing a border of another participating jurisdiction to perform actions, the officers are to inform the community corrections agency of that jurisdiction.

Parts 10 and 11 refer to information management (such as records management) and the exchange of information that has to be in compliance with the law and cross-border legislation. It is agreed that staff in the region are to maintain regular contact and share information on current activities, issues and opportunities for collaboration. In Part 24, it is specified that there is a responsibility placed upon each community corrections agency to ensure that staff are adequately trained and resourced to perform functions under the cross-border legislation.

The circumstances that result in the supervision of interstate orders are outlined in Part 13. These include where an offender:

- is sentenced by a cross-border magistrate for an interstate offence
- is on an order that she or he normally reside or should reside in another jurisdiction
- moves to another State
- is released from prison or police custody and will be living in another jurisdiction
- is a defendant who is being released on bail conditions that require supervision.

It has been agreed that the supervising agency must provide rehabilitation services in accordance with the standard practice and policy of the home agency, but subject to the availability and practicality of providing such services.

Under Part 14 (pre-sentence assessments and reports) it is agreed that community residence is to be decided administratively. The assessment is to consider community residence that will offer the most support and best prospects for the offender completing the order. Factors that are listed for consideration for community of residence include the location and the views of victims, one's normal place of residence, access to any treatment, preference of family or community elders, access to family and/or support people, and expressed preference of offenders. The community corrections agency in the jurisdiction where the cross-border magistrate sits is to meet all reasonable costs to facilitate the above.

With the variation or breach of supervision orders, under Part 15, it is agreed that the supervising state is responsible for initiating both. But in terms of prosecuting the breach of an order, the supervising state collaborates with and supports the home state.

The circumstances for the supervision of parole and re-entry released orders (WA) are outlined in Part 16 and include sentencing by a cross-border magistrate, being released under such orders and living in one of the participating jurisdictions or where she/he moves to another participating jurisdiction. The overall management is specified to be the home State agency but parole authorities have to approve the formal transfers of parole orders.

With community service orders, work orders or work and development orders, it is agreed in Part 19 that a home State agency may approach a community corrections agency in another jurisdiction to see if the offenders can perform requirements for such orders in the other state. The costs are to be met by the supervising agency unless separate arrangements are made. The date and time of any offender travel interstate (Part 20) is to be worked out in consultation with proposed supervising agency.

The Cross Border Community Corrections Committee was established as part of the agreement, and comprises regional managers from the three jurisdictions. It meets as required to monitor and coordinate the operation of community corrections cross-border services. Participating jurisdictions agree to report to the Committee on the number of offenders being supervised under different categories of supervision orders and to raise any issues for consideration and resolution. Every 12 months a review is to occur to see whether the agreement needs to be amended to include cost-sharing arrangements. The cross-border community corrections services are to be reviewed at the same time as the review of the CBJs and a longer term evaluation may include data on re-offending and compliance rates and the availability of rehabilitation, education and training programs in each jurisdiction (Part 23).

Police MOU

The Memorandum of Understanding (MOU) between the NT, SA and WA Police Services, which was signed by all of the three Commissioners by August 2011, states that the intent of the MOU is not to be restrictive but to be adaptable and flexible to meet the particular requirements of policing in the CB region. It makes it clear that each police service retains primary responsibility for the provision of the police services within their own borders, before going on to agree to:

- provide assistance to neighbouring State or Territory, as requested where an emergency response is required;
- conduct joint operations;
- enforce the legislation of the State/Territory within the jurisdiction in which the offence occurs (termed the 'Home State') where the offender(s) has moved across the border and remains with the jurisdiction of the Host State. Conversely, where vice-versa applies, the Host State will enforce the legislation where the offender is located in the Home State;
- charge an offender at the nearest police station where the facilities of detention exist, where practicable, and irrespective of the location of the facility;
- prosecute offenders or lay charges arising from within the jurisdiction of another State/Territory by agreement between participating parties;
- have responsibility for the management of prisoners to be delivered from a participating jurisdiction.

As the police services have personnel who have the power to operate outside of their home jurisdiction, the MOU between the police services includes several sections that address workforce issues (Parts 18, 19, 20, and 21), as well as stressing that much of the joint activity by the three police services is only upon agreement, and only if there is the capacity of participating parties to be involved. Throughout the agreement there is explicit reference to whomever has the authority to agree to specific activities, such as the Police Commander or, in at least one instance, the Commissioner, and who has to be notified of certain events. In comparison to the other service agreements, there are also more references to existing arrangements or legislation that enable cooperation between police services – for example, The Police Assistance to Neighbouring States MOU 2002 under Part 7 in relation to emergency responses; in Part 11 the management of individual detainees under the *Service and Execution of Process Act 1992* (Cth), and in Part 22 the agreement between NT and WA police services that established the multi-jurisdictional police facilities.

The MOU Part 7 covers emergency responses; Part 8 extraordinary incidents; Part 9 investigative action against interstate offenders and Part 10 the prosecution of

offenders. Section 9.1 applies when a person is taken into custody within the region. In that event, the party will make inquiries as to whether the person is subject to an interstate warrant or the subject of inquiries by another agency with respect to an offence. Under Part 10 prosecutions are initiated and managed by the prosecution agency in the jurisdiction in which the offence occurred, with the host prosecution agency acting on written instructions of the home prosecution agency. All court awarded costs are to be borne by the home agency.

In relation to detainees, under Part 11, it states that the relevant bail legislation must be complied with, and, as a general principle, that detainees should be bailed to the Court nearest to the place of primary residence. In the case of pre-existing charges, detainees should be bailed to the Court in which those charges are next listed. The section acknowledges that this principle applies notwithstanding that it is preferable for trials to be listed at the Court area within which the offending occurred, particularly if local witnesses need to be called. Full notification of the history occurrence or suspicion of self-harming is to occur when a detainee is transferred. It is acknowledged in Part 12 that particular parties have different arrangements and contracted agents responsible for performing custodial transport. Parts 14 and 15 cover deaths in custody and other custody incidents.

The appointment of Special Constables under Part 16 is possible to the extent necessary to give effect to the uniform Cross-border Acts and for the purposes that are outlined earlier in the MOU. It notes that processes are to be established for the efficient and timely appointment of Special Constables and that each party is to provide training. Police continue to be managed under their Home Agency unless, as stipulated in Section 17, when operating as Special Constables when they act in accordance with the host agency requirements. Issues such as the use of force and the appropriate amount of force are determined by State/Territory legislation and general orders and guidelines. It is also noted, under Part 13, that if a Special Constable exercises any authority in respect of a domestic violence order when a member of a host agency, then he or she is to advise the home agency.

Parts 24, 25 and 26 cover costs, media and communications, and confidential information respectively. In relation to information more broadly, under Part 23 there is agreement to establish a process for sharing information about the incidence of offending, victims and offenders, with the other sub-sections covering Freedom of Information applications and subpoenas. There is also agreement in Part 27 that there will be quarterly reporting of costs; arrests and prosecution of interstate offenders; arrests outside the State; emergency, joint and other incident responses; and occupational health and safety issues and that the Cross Border Police Committee must hold regular meetings. A review was meant to happen within 12 months of the MOU coming into effect, with the expectation that the

recommendations would include altering or further development of Common Police Standard Operating Procedures, but that has not yet occurred.

Juvenile Justice Agreement

Executed in June 2011, the Service Level Agreement by Juvenile Justice Agencies involves seven government agencies (see summary table). The principles underpinning the Agreement echo the aims of the CBJs found in the IGA, that the best interests of young people are the key consideration and that decisions made by parties to the MOU should comply with the applicable Act of the home State i.e. *Youth Justice Act 2006* (NT) section 4, *Young Offenders Act 1993* (SA) section 3, and *Young Offenders Act 1994* (WA) sections 6, 7 and 8.

Much of the content of this material is modelled on the Community Corrections SLA, but modified to refer to juveniles and young people, and with 'tweaking' due to the different responsibilities and processes in juvenile justice around the nation. In Part 5, it is agreed that officers authorised by or under cross-border laws will be made available to provide assistance to cross-border magistrates and to monitor and supervise interstate offenders. Authorised officers are to attend all sittings of the cross-border magistrates within their own state when a juvenile is appearing before the court. The Juvenile Justice authorised officers of other States are to cooperate with the home State in implementing any decision to breach court-ordered conditions of a juvenile being supervised in the other State, and where practicable the officer is to attend breach applications before the cross-border magistrates in the relevant state.

Part 4 outlines the circumstances in which officers will act with respect to an interstate offence:

- where the alleged offence has been committed in the cross-border region
- where a juvenile or young person has been arrested or reported in the cross-border region; or ordinarily resides in the region; or was dealt by a cross-border magistrate on other matters arising from any of the States.

It is agreed that the supervision and discipline procedures for juvenile justice officers and youth justice conference coordinators are the responsibility of the State agency under which they hold primary office or position (Part 6). The home State is responsible for record management and criminal justice data related to the offence and associated activities and events, and exchange of information is agreed to that is required to facilitate the CBJs and where it adheres to privacy laws and practices of their state and cross-border laws (Part 9).

The allocation of jurisdictional responsibilities are agreed to for the various processes or events that juvenile justice personnel are involved in – cautioning,

conferencing, supervision and compliance with conditions of a sentence imposed by a CB magistrate, breach of court orders, court ordered detention, remand/police detention, transportation, court reports requested by the cross-border magistrate and reports to supervised release Review Board, Training Centre Review Board and Parole Board (Parts 10-19). The onus is on the home State staff (i.e. police for cautions, Youth Justice Conference Coordinator for conferencing) to provide written instructions to the other State. With conferencing, the legislative requirements of the home State apply but other operating practices and standards of the State convening the conference are to be employed, subject to the agreement of the home State. Non-compliance with a caution and conference outcomes are to be communicated to the home State.

The Home State and supervising authority are to liaise with regards the supervision and compliance with conditions imposed by a cross-border magistrate, in circumstances where the young person normally resides or should reside in one of the other states; is placed on an order and moves; or is released from detention and is living in one of the other states.

The Home State is to be notified in writing of any breaches of court conditions, to enable the Home State authority to make a decision about any further action.

With court-ordered detention, the decisions on the location of the detention, which are to be decided administratively, are to be based on the best interests of the young person above all considerations. It is agreed that the factors to consider include normal place of residence; access to treatment, family or support people; preferences of parts/guardians and the expressed preference of the young person.

If a young person is on remand or in police detention, it is agreed that the responsibility for transportation lies with the state in which the young person is detained, and that the state needs to consult with the authority in the other state about the intent to transport and availability of placement.

Part 20 makes it clear that new programs only apply within that State's borders and the other states are to be notified. It is agreed that any such new programs will only become operational across the region when there is agreement between the states on operational practice and protocols, and this is documented in writing.

The Juvenile Justice Monitoring Committee is established under Part 21, and has the responsibility of monitoring and assessment. It is to meet on a six monthly basis or more frequently if agreed by the parties. The MOU is to be reviewed 12 months after the CBJs commences operation, and under Part 23, each state is to maintain a record of direct costs so that the Committee can review costs and determine whether there should be cost-sharing.

States bear their own costs unless otherwise agreed and in Part 22, it is agreed that training be the responsibility of each relevant government agency in order to ensure staff are adequately trained and resourced to perform functions in accordance with the cross-border laws.