

SELECT COMMITTEE ON SUBSTANCE ABUSE
IN THE COMMUNITY

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CONTENTS

A. *The Role of Community Organisations, Elders and Traditional Owners* ***in Aboriginal Dispute Resolution***

A number of photographs and explanations are attached to assist this presentation. They are taken from the "Kurduju Committee Report 2001". The Kurduju Con-uittee draws its members from the law and justice committees, Tribal councils, safe house and night patrol workers from Ali-Curung, Lajamanu and Yuendumu. The committee meet four times a year to develop practical solutions and recommendations, which are relevant to remote area Territory communities. These issues include family violence, petrol sniffing, alcohol issues, Aboriginal suicide, the use of Aboriginal Dispute Resolution and the operation of community safe houses and night patrols. The Chairperson's forward to the Report is included.

Kurduju: Warlpiri, meaning to block, shield, protect or ward off. The committee emblem is a shield.

Presenters: Gwen Brown and Marjoric Hayes.

B. *Attachment.. The Report, A Model For Social Change: The Northern Territory's Aboriginal Law And Justice Strategy 1995-2000*

The Report describes the processes and methodology used in law and justice planning at Ali-Curung, Lajamanu and Yuendumu.

ALI-CURUNG PRESENTATION

" Tried Kardia (while fella) way, didn't work A lot of women were running away and leaving their husbands. Culture gets hurt. Kardia way is ok for Kardia, but we don't know that way".

Jane Haywood, Kurduju Committee Meeting, Tennant Creek 24-25h July 2001.

Aboriginal Dispute Resolution has proven effective on these communities for addressing a range of law and justice issues. Particularly family violence. In this presentation Gwen and Marjorie discuss the role of community organisations, Elders and Traditional Owners in this process.

Aboriginal Dispute Resolution as practised on these communities refers to a process which is worked out by the community, is controlled by the community, responsible to the community, can incorporate the acceptable social, cultural, traditional and contemporary structures of the community, and has a capacity to work across both cultures. Aboriginal Dispute Resolution maximises and enhances the role and functions of community Elders and organisations and minimises the influence of, and reliance on, external agencies and inappropriate dispute resolution mechanisms which have been introduced on many Territory communities over the last two decades or so, and has significantly contributed to the disempowerment of Aboriginal people in law and justice on these communities.

This is not a straightforward revival of customary law although it certainly incorporates many elements of that law. Rather it is an innovative adaptation of culturally relevant decision making, merged with mainstream law and justice.

Gwen and Marjorie are describing in their presentation some of the community outcomes and responses from a strategic planning process in law and justice, which commenced in 1996. In 1997 the Ali-Curung Law and Order Plan was signed between community organisations and ten (10) Territory and Commonwealth agencies to give effect to strategies identified in the community plan. The Lajamanu Law and Justice Plan was signed in 1999, and Yuendumu community is currently in the process of developing a plan.

It is through the framework of community law and justice planning that an appropriate and relevant role for community organisations and individuals is determined, and the importance of customary dispute resolution is recognised and empowered. Planners assist the community with the development of a plan and the coordination of government and non-government service provision. There is considerable ongoing work in the Territory in relation to accommodating both systems for dealing with law and justice on aboriginal communities.

CHAIRPERSONS FOREWORD

Men and women from Ali-Curung, Lajamanu and Yuendumu have been working together on their communities to tackle law and justice issues effecting those communities.

We have been able to look at a number of different programs that our communities have implemented through our law and order plans, and we have seen the value of the ones that work. We have also seen the problems with programs that do not work for our communities and we can understand why these programs do not work.

The Kurduju Committee provides us with a unique forum to come together to discuss and document what works well for our communities and why. The Kurduju Committee is not simply a meeting. It is a serious attempt by us to write down for other remote area communities and government agencies how programs and initiatives should best be established and operated. In our first report we have looked at the issue of family violence and strategies that work well to reduce the levels of family violence. Namely the operation of safe houses and night patrols and the use of aboriginal dispute resolution in a way which is worked out by communities for communities.

The success of these initiatives occurs because we have been able to draw on the strength of our culture. Our message is simple. No fancy programs and no big expenditure items. As we have said throughout this report the Kardina way for addressing these issues does not work for us and it is time communities received assistance, encouragement and practical support in developing and implementing community based initiatives.

Aboriginal Dispute Resolution and the development and management of safe houses and night patrols which can operate using culturally based problem solving does not cost a lot.

We urge other remote area communities to do as we have done, include your culture in the search for answers to your problems.

We ask that government supports this, by supporting the development of programs and initiatives, which can accommodate our culture.

The committee would like to thank Mr Peter Ryan, Ms Jackie Antoun, Mr Robert Fuller and Mr Neil Price for their support and contribution to the Forum.

GWENBROWN
Chairperson
Kurduju Committee
2001

ABORIGINAL DISPUTE RESOLUTION

This painting depicts Aboriginal dispute resolution process at AliCurung. The left side of the painting is the focus of Gwen's description below. Marjorie Hayes, below describes the right side.

It shows community organisations arching over the large centre circle, which represents an open community meeting. The two groups below are Elders and Traditional Owners. These two groups act as adjudicators and provide legitimacy to the decision making processes. (The left-hand side is described below by Gwen).

Gwen Brown explains how the system works at Ali Curung:

“.. during the day people go out to drink. They are out all day and come back a bit late. They cause problems on tire community. When Night Patrol finally stops them they won't listen because they're all drunk and want to fight. And maybe there can be jealous fights too you know - maybe husband might be drunk, wants to fight his wife but she's not home and all that, but they won't listen ...

Then the next day the families come over to the Night Patrol, going to sort this problem out. So they get together in the community meeting, just the family members for that person, the Elders and the Night Patrol.

We use the Elders to come in and support Night Patrol in the community. If it gets worse and the person won't listen to the Elders, well we call in traditional owners then. They come and talk with the Elders and the Night Patrol about this person who's causing too much trouble. They then decide, the Elders and the traditional owners, what to do with the troublemaker. So this is just sorting out problems in this community meeting. It's like that's the highest people (the traditional owners) because we live on other people's land, they're traditional owners. But we never want to use that. (We use it) when trouble keeps going higher and higher.

KURDUJU COMMITTEE REPORT (EXCERPT)

Marjorie Hayes explains the Kardia criminal justice process. There is a Judge, the secretary, Jury, Prosecutor, Defence Lawyer, the troublemaker and members of the public. She explains that sometimes there is no verdict, "then they close the Court and appeal to the High Court, and the High Court finds the verdict". She juxtaposes this with the 'Yapa' legal system:

"when here you've got Aboriginal community meetings. This is where the paybacks are paid. The community witnesses the payback. Here (in the Courtroom) you only got these people from the public here. Not all the public, but few of the public witnessing the Court. Here (at the community meeting) you got the whole community witnessing".

The demand for formal recognition of customary Aboriginal law is inextricable from the business of the community Law and Justice Committees. It is important to note that the legal system here described, is not a straightforward revival of customary law although it certainly incorporates many elements of that law. Rather, it is an innovative adaptation of traditional decision making processes to the modern situation.

ABORIGINAL FAMILY VIOLENCE

This painting by Marjorie Hayes of Ali Curung, depicts two different types of violence that affect her community. *Jealous Violence and alcohol Violence*

Jealous Violence is depicted on the left-hand side of the painting and alcohol related violence on the right. The painting is used to raise awareness among Aboriginal people about violence in their community.

Marjorie explains the painting:

"This is the Cycle of Violence. We got honeymoon phase, we got build up, bring to boil, explode, make up. Build up is your jealousies building up, the jealousy comes to the boil and then it explodes. And they make up, "I'm sorry, I shouldn't have hurt you" "I'm sorry I thumped you". It just goes round and round in a circle. It's what's called a cycle of violence.

Here we have the alcohol violence - showing family alcohol violence. We've got dad, we've got mum and their 4 children. Dad goes on drinking and mum worries about dad, not worrying about her children. Here we've got a hero child who plays tire hero looking after his brothers and sisters. You've got a scapegoat, he's going to take all his mum's attention. You've got a lost child here, sitting in the corner saying "I'm lost, nobody loves me" and you've got the clown child here wants to act like a clown to take mum's attention. But mum's not taking any notice of her children, she's just worried about her husband. Later on she joins him, she gets drunk with dad and this hero child plays the part of looking after his brothers and sisters. Later on these children follow their mum and dad's footsteps. This is alcohol violence caused by alcohol, and this is where they lose responsibility for their children. "

Tennant Creek meeting 23rd – 24th October 2001

ABORIGINAL COMMUNITY SAFE HOUSES

This painting by Jane Haywood shows the role of the Ali-Curung Safe house.

The centre circle represents the safe house (clients, children and staff). The circle in the top left shows men drinking. The circle in the top right shows a woman and her kids without a father' The bottom left and right circles shows a woman and her kids travelling to the safe house whilst the husband is drinking with other men. This painting is used within the community to bring shame' to men by showing how they neglecting their duties as a father and husband.

Aboriginal community safe houses take on a whole new meaning and role for a community engaged in its establishment. This is what has emerged at Ali-Curung Lajamanu and Yuendumu, with results for family violence (and other community law and order concerns), significantly beyond that which town-based safe houses have achieved for aboriginal women in the area of resolving family violence issues.

Town based crisis' centres for women, are essential in addressing the need for crisis accommodation and counselling services, however their central role as a provider of crisis accommodation, does not meet the expectations or needs of a remote Aboriginal community safe house. A fundamental tenet of aboriginal community safe houses is that the safe house functions in conjunction with all other relevant community organisations, programs, community groups, structures and decision making processes. Aboriginal Community Safe houses function most effectively when it is a contributor to a much large community response to resolving family violence.

The painting by Jane for example clearly depicts the important role the safe house women have in dispute resolution and in the use of customary relevant techniques to achieve outcomes. The use of shame has long been a powerful ingredient for social control among aboriginal

people and this painting is used effectively by the women in community forums for that purpose.

DEPARTMENT OF
COMMUNITY DEVELOPMENT
SPORT AND CULTURAL
AFFAIRS

MODEL FOR SOCIAL CHANGE,

THE NORTHERN TERRITORY'S ABORIGINAL LAW
AND JUSTICE STRATEGY

1995-,2000

This Report is based on the work undertaken by Peter Ryan and Jackie Antoun of the Office of Aboriginal Development at Ali-Curung, Lqiai7zanu and Yuenduniu Communities and also information from planning workshops at Borroloola, Port Keals, Igukurr and Numbulwar.

ACKNOWLEDGEMENTS

The Department of Community Development, Sport and Cultural affairs wish to acknowledge the hard work and support for this program by the Aboriginal residents of Ali-Curung, Lajamanu and Yuenduniu.

The residents of the communities of Port Keats, Numbulwar, Borroloola, Papunya, Haasts Bluff and Mt Liebig are also acknowledged for their participation in workshops about law and justice which has provided valuable information.

The Kurduju Committee representing the Law and Justice committees of AliCurung, Lajamanu and Yuendumu are thanked for their special contribution in recording and documenting issues relating to family violence, the establishment and operation of safe houses and night patrols in remote communities and Aboriginal dispute resolution techniques. Departmental officers and regional staff have contributed significantly to the development and implementation of the Strategy and their support is appreciated and acknowledged. Other Territory and Commonwealth agencies who have participated in the Strategy, particularly those signatory to the plans, are acknowledged and their commitment much appreciated.

Contents

Introduction

Law and Justice Plans: An Overview

A Model for Social Change in Aboriginal Communities

 Planning for Change

 Coordinating Service Delivery and Policy Development

 Practical Use of Agreements

The Model: Methodology and Process

 Male/Female Planning

 Essential Skills of the Planner

Community Support and Intellectual Awareness

 Aboriginal Dispute Resolution within the Model

 The Role of Aboriginal Dispute Resolution in Mainstream Justice

Ali-Curung: 1996-2000

 The Ali-Curung Community

 Participatory Planning at Ali-Curung

 Community Empowerment and its Results

 Community Objectives and the Future

Trends in Law and Order: A Statistical Snapshot

 Mainstream Data Collection

 Ali-Curung Model 1

 Ali-Curung Model 2

Applying the Model Beyond the Justice System

Conclusion

"In the last three years at Ali-Curung, women and men working together have been able to reclaim the safety of women at Ali-Curung.

We know, as Aboriginal women, as wives and mothers as grandmothers and aunts that the violence that happened against women a few years ago has now stopped.

We know, as women who operate the Safe House and Night Patrol that assaults against women that happened a few years ago have now stopped.

The statistics we keep in our daily journal tell us this is so. But fire peace around our community also tells us this is so.

Statistics show that it was common for 27 to 30 women to seek safety each month in the Safe House when it commenced operation three years ago. Statistics now show the Safe House is rarely used. Assaults against women on our community have gone from being common, to being uncommon.

Violence against women has gone from being part of community life, to being something that is now out of place in community life.

How has this happened? We are still married to the same men. Our men still drink, there are still three roadhouses within 80 kilometers of our community.

"There wasn't one single thing that happened that changed things but a lot of things that all contributed to this change".

Excerpt from the keynote speech delivered by the Ali-Curung Night Patrol and Safe House staff at the Alice Springs Reclaim the Night Rally, 24 October 2000.

INTRODUCTION

Aboriginal people comprise almost 30% of the Northern Territory population. Most live in outlying communities, typically having about 600 Aboriginal residents and a handful of non Aboriginal residents.

Such communities experience social problems typical of indigenous minorities world wide. Aboriginal Territorians remain considerably disadvantaged compared with non-Aboriginal Territorians in terms of their life expectancy, health, education and economic circumstances. Aboriginal Territorians are much more likely than other Territorians to be victims or perpetrators of crimes or to be imprisoned.

These issues are well-documented elsewhere, and it is not the purpose of this publication to discuss the many complex and inter-related factors behind the statistics. Rather, this document examines a strategy that has worked to effect change for Aboriginal people in the area of law and justice; and proposes that it be used as a model for broader social change.

The Aboriginal Law and Justice Strategy was implemented at Ali-Curung in 1996 and the Ali Curung Law and Order Plan began in 1997. This Plan has proved to be a success on many levels for the community. The Plan has achieved national recognition and has led to reduced violence and crime. Importantly, it is seen as a success by the community from which it grew. The Strategy has since been extended to the Lajamanu community, which formalised its own law and justice plan in 2000.

LAW AND JUSTICE PLANS: AN OVERVIEW

The Aboriginal Law and Justice Strategy

The Aboriginal Law and Justice Strategy was a response to a number of law and justice initiatives occurring on Aboriginal communities across the Territory. It was also a way to give effect to several of the recommendations of the Royal Commission into Aboriginal Deaths in Custody (1989).

The Strategy was developed after the Northern Territory Government approved arrangements for coordinating the initiatives in March 1995.

It was designed to provide a comprehensive, whole-of-government response to Aboriginal law and justice issues at the Territory, regional and community levels. It focused on three main areas:

- 1. Establishing consultative and participatory decision-making arrangements at Territory and regional levels;*
- 2. Developing policy for priority and emerging issues; and*
- 3. Developing community law and justice plans.*

This paper addresses the methodologies used to assist communities in developing and implementing their own law and justice plans. Community law and justice plans are the result of a process requiring community planning and coordination of government and non-government resources.

The Northern Territory Office of Aboriginal Development (OAD) took on the role of planner in a process called participatory planning. This process allows the community to identify law and justice concerns and develop strategies to address them. OAD also had a role in coordinating government and non-government agencies to effect a whole-of-government response in supporting the community as it implemented its strategies.

The purpose of community law and justice plans varies from community to community, but generally they aim to:

- Increase Aboriginal people's participation in the law and justice process through an appropriate local structure using local organisations;
- Encourage greater responsibility and accountability by Aboriginal people in law and justice matters;
- Reduce the level of family and community violence and ultimately the rate of Aboriginal incarceration; and

- Formalise arrangements between the community, government agencies and non-government agencies in relation to law and justice responses and resources.

The plans recognise the need for agreement between **the** community and service providers on issues with law and justice implications. This ensures:

- Community needs and priorities for services are communicated at a whole-of government level; and
- Community planning processes are used in the actual delivery of services

The Lajamanu Community Law and Justice Plan is attached. This Plan is a typical outcome of the law and justice planning process

A MODEL FOR SOCIAL CHANGE IN ABORIGINAL COMMUNITIES

Planning for Change

What is participatory planning?

Participatory planning has proven to be the most effective tool for bringing about social change in Aboriginal communities. The focus is on self-help, with a planner from outside the community in the role of facilitator.

It allows the community to start addressing issues quickly. The community can identify tasks that are manageable and can be done immediately - tasks that are not dependent on outside funding and resources. A timeframe is agreed for the projects needing substantial funding or outside expertise.

The process depends on local people identifying problems and providing solution. It discourages 'wish list' planning that would require large amounts of external funding or expertise. 'Wish list, planning ultimately contributes to disempowerment, which has been strikingly evident in the area of law and justice.

Action based participatory planning is the central component used in assisting communities develop community law and justice plans and implement initiatives arising from the plans. The process involves a wide range of community individuals and organisations as planners, problem solvers and partners in program implementation.

This type of planning revealed the consequences of many years of non-participatory social and community planning, evident in law and justice outcomes. At Ali-Curung, Lajamanu and Yuendumu, individuals and community organisations had largely lost their capacity to resolve their own law and justice issues through the introduction of and consequential reliance on external dispute resolution.

External agencies such as police, social workers, counsellors, advisers, lawyers, the courts, council clerks, local health staff and other non-Indigenous people often become involved in dispute resolution and generally engage in problem solving from a position that requires a legislative framework, or is guided by their statutory responsibilities. They usually approach problem solving from the perspective of their own learned cultural experience which may not be compatible with, or relevant to, dispute resolution in a vastly different culture. In addition to this, agencies have introduced a plethora of new programs and services, not always designed to accommodate Aboriginal management structures or cultural practice.

The disproportionately high rates of incarceration and recidivism among Aboriginal people, their lack of participation and involvement in the law and justice system generally and reports such as the Australian Law Reform Commission inquiry into the Recognition of Aboriginal Customary Law, the Australian Institute of Criminology Report into Aboriginal Deaths in Custody and the Aboriginal and Torres Strait Islander Women's Task Force on Violence were critical of **the** effectiveness of the law and justice system for many Aboriginal people and are powerful reminders of the extent to which they have been marginalised and played a minor and passive role in law and justice.

This has hastened the loss of control by Aboriginal people in remote communities over issues effecting family and community, which not many years ago would have been dealt with at the community level. At Ali-Curung, Lajamanu and Yuendumu for example, this resulted in sporadic attempts to address issues, usually when a situation was desperate. The normal recourse though was to simply allow events to develop until Police intervention was inevitable. External agencies too, were mainly located in major regional centres (Lajamanu, for example is 550km from Katherine) and staff only became aware of situations which were already critical, such as women presenting to the health clinic, reports made to police, or women running away to **the** regional centres. There was little preventative or early interventionary work occurring and external intervention was doing little to prevent situations becoming critical in the first place.

It was clear there needed to be a strategic focus to law and justice at the community level which could incorporate the main elements of low level, early intervention by appropriate community groups or individuals, empowerment in law and justice and meaningful participation (partnership arrangements) between **the** community and the justice system. These processes needed to be controlled by the community, responsible to the community, incorporate the acceptable social, cultural, traditional and contemporary structures of the community, and have a capacity to work across both cultures. This type of intervention in Aboriginal communities is termed Aboriginal Dispute Resolution (ADR).

The most suitable systems for achieving these objectives are worked out by the community through participatory planning, facilitated by the planners. This is an evolving process as the community works to establish an appropriate forum, which has community endorsement to make decisions. The systems will vary. In much of Amhem Land for example, sociopolitical decisions effecting family and extended family groups are made at a "clan" level, rather than at a "language" or "tribal" level. At Port Keats family groups based on "Estate ownership" is the preferred structure, whilst many centralian communities including Lajamanu and Yuendumu use a system of "Elders" or "Tribal Council" which is based on representation from "skin" groups.

Juxtaposing the mainstream law and justice system is another clearly defined and traditionally based system for maintaining social harmony, cultural practices and Aboriginal customary law which is inextricably bound to community law and justice planning and to the work of local law and justice committees or other initiatives developed through the planning process. These systems are not a straightforward revival of customary law though they incorporate many elements of traditional decision making. Rather what is occurring is an innovative adaptation of traditional decision making in a contemporary situation through the merging of community based dispute resolution with mainstream law and justice. The process is negotiated and agreed to between community organisations and government agencies.

The OAD planners assisting the communities with law and justice planning were also conscious of the many gender based issues which had to be taken into account and a male and female team were used through out. Importantly there was a separateness of gender roles in law and justice, with the males and females having defined and different roles and responsibilities for issues effecting social harmony, and separate ceremonial responsibilities and obligations. A good example of this occurs when dealing with problem youth. Youth issues were identified by all communities as a major concern in local law and order however child rearing practices on many remote Territory communities are substantially different and are governed by different mechanisms for influencing social order (for example through ceremonial obligations) This requires a different role for male and female relatives in relation to children.

There were also occasions when issues arose that women would not or could not discuss with the male planner.

Women were often poorly represented on the relevant Community Councils, and other decision making bodies. Several ATSIC Regional Councils have had to establish Womens Advisory Committees to ensure better representation of women's issues on Council, and consequently mechanisms to ensure adequate consultation and participation in planning and the implementation of strategies by women needed to be manufactured.

To be effective, community law and justice planning had to achieve a number of objectives;

- The intellectual and conceptual awareness of the project;
- The development of a community law and justice plan;
- Achieving continuity participation and involvement in the process;
- Establishing formal arrangements (agreements) between the community and the law and justice system;
- Facilitating the development and use of Aboriginal Dispute Resolution (ADR);
- Ensuring the participation of women in the process;
- The accommodation of elements of customary law and cultural practice in the processes;
- The coordination of government services and funding;
- The implementation of achievable strategies throughout the planning process; and
- Capacity building.

(The development of the personal skills of individuals and collective skills of organisations in order the process is sustainable at the community level).

It is important to note here that the planners were also seeking a "whole of community" commitment and responsibility to improving law and justice outcomes as a practical and meaningful contribution to the "whole-of-government" response. Too often planners fail to identify and nurture the community commitment and this results in the under-utilisation of local knowledge and skills and the relegation of the "community" contribution to a secondary role in the process. This detracts from real community development and continues the process of disempowerment.

Achieving the types of outcomes required to give effect to a community law and justice plan is measured in a time frame of twelve to eighteen months

The type of planning normally undertaken by communities and funding agencies was unlikely to achieve these objectives. Planning to date, be it social, community, economic or infrastructure development is severely inhibited by funding and time constraints, which in turn impacts on the planners' capacity to apply sound planning methodology to the task. In a number of cases in plans which were reviewed, methodology was either not described, or not described adequately in the reports, and in another example, two of twenty eight (28) recommendations of a five year community plan had been implemented at the end of the five year period. There was only one example where a male and female approach had been used in the planning process and this implies a lack of meaningful contribution from a critical sector of the community.

Non-participatory planning models are often susceptible to producing superficial outcomes. An acceptable time frame for this type of planning appears to be in the range of three to ten or twelve weeks, and outcomes are consequently based on a limited number of visits to a community and a consultation process that is not community inclusive and often restricted to key council and administrative staff and government service providers. The degree of conceptual awareness and community support for proposed outcomes is questionable, and all too often the responsibility for implementing recommendations are left to under resourced or inadequately equipped councils or community groups. The plans are often silent on the issue of implementation and provide communities with insufficient or inadequate tools with which to put recommendations in place. Funding constraints, rather than practical and achievable planning outcomes appeared to be the priority.

Dealing with the issues raised by the community in a way in which the community felt they might be best dealt with, required a different type of process all together. It requires flexibility on behalf of the planners to engage in a range of planning, capacity building and coordination activities at the community and government levels. Participatory planning provided the vehicle for this to occur. This requires intensive male and female field work with the community on a frequent basis for the duration of the planning process, which is normally twelve to eighteen months. (The consultation process is described elsewhere in the report).

An equally important component of participatory planning is that it is action based and can involve relevant groups on the community almost immediately in problem solving and working with agencies to implement strategies to address issues. Skilled planners can facilitate community action whilst the planning process continues so that planning and actions become part of the same process. An advantage of this type of planning is that the community can participate in both the planning and implementation phases of the process and direct parallels can be drawn between planning and outcomes.

This is not always the case with non-participatory planning models which are often plagued by a lack of real community awareness and support, time and funding slippage between recommendations and implementation or the development of recommendations that are not or cannot be delivered. Non participatory planning often cannot draw a connection between planning outcomes and planning methodology and consequently communities do not always value "planning" as an effective tool for development. Planning was a miss-understood and maligned concept on the three communities.

The selection of inappropriate planning methodology for the job required is a powerful disincentive for communities not to trust the process again.

Further to community planning, there is a requirement by the planners to assist and monitor the implementation of strategies, programs and resources identified in the planning process and agreed to by service providers. Community law and justice plans are a formalised agreement, between community organisations and government and non-government service providers and are usually signed for a three-year period. Participatory planning was able to give effect to a whole of community and whole-of-government response to addressing law and justice issues. Equally, it is an effective coordinator of government services and resources at the community level. It is based on community development principles and practices and can work to identify and empower relevant and appropriate individuals and community organisations in decision making in law and justice which is meaningful to the community.

Coordinating Service Delivery and Policy Development

Service delivery

There were serious impediments to implementing other important elements of community law and justice plans. These related primarily to the way in which government and non-government services are coordinated and delivered to communities. It was evident from the way in which communities planned and from their expectations about how law and justice outcomes should be achieved, that service provision systems would not always be adequately equipped to meet these challenges.

The Aboriginal Law and Justice Strategy has shown that a community's law and justice concerns encompass a myriad of interrelated social, cultural, economic, development and educative issues. A Borroloola workshop (conducted in 2000) on law and order, identified 29 separate issues to be addressed in the context of a law and justice plan. The Ali-Curung and Lajamanu law and justice plans identify more than twenty (20) programs, services and initiatives to be implemented by various agencies, and a further twenty (20) community initiatives to be undertaken over the course of the three year agreement between service providers and the community. These include a range of short and long term crises, preventative, interventionary and educative programs that required the expertise or resources of a number of government and non-government agencies. A typical law and justice plan will require the coordination of as many as ten (10) Commonwealth and Territory agencies with a responsibility for legislation, funding or program delivery in law and justice and a number of non government and community organisations.

Service provision to communities however was ad-hoc and not coordinated between agencies. Agencies operated within the constraints of what were perceived to be core agency business even though in many cases these were single-issue functions and agency agendas determined the delivery of services and visits to communities. An audit of visits to Ali-Curung and Lajamanu by key agencies showed visits were infrequent and usually of a crises nature. A similar audit of government services at Borroloola showed services were being provided from a number of different regional centres, (Katherine, Tennant Creek and Alice Springs) visits were infrequent, (in some cases once or twice a

year) and almost all visits by agency staff to Borroloola were of a crisis nature. Borroloola is known to have major social problems effecting the community which have been well documented over the last decade, but there still remains to be an effective service delivery system designed for the town.

Service provision was shown to be largely reactive (to crises situations) with very little focus on preventative or follow-up work. Although government's various coordination mechanisms at a Territory and Regional level may seek to achieve the objectives of coordination, there is a lack of practical structures in place to reflect this at the coal face level of service provision to communities.

To address these deficiencies, it was necessary for OAD. planners to assume a role of coordinator of service provision for the project. This provided a strategic approach and consistent focus for community organisations and service providers in implementing programs and initiatives. It enabled a degree of quality control by ensuring programs and delivery methodology were compatible with the directions established by the community through its planning process and it established a system for the regular evaluation and forward planning between community organisations and agencies to occur. These elements are important for an effective whole-of-government, whole of community response, this is however lacking in government's existing service delivery arrangements.

To achieve these objectives OAD planners were required to both coordinate meetings at the regional level with government and non-government service providers and to establish a system of agency and community meetings at the community level. OAD also provided presentations in other forums such as Government's Regional Coordinating Committees and ATSIC Regional Council Meetings.

A number of various committees and support group involving agency and community representation were established to support the process, and OAD planners provided the administrative support for these forums. These included:

- Community law and justice committees
- Agency and community meetings
- Safe House Management Committee Meetings
- Pre-court conferencing and other court mandated diversionary programs
- Regional Alcohol Working Groups
- Kurduju Committee

All these forums require substantial support (agendas, minutes, monitoring actions, formal correspondence).

A further level of coordination is required to monitor the effectiveness of programs and initiatives being implemented and the way in which they are implemented. There are obvious and strategic linkages between the range of crises, interventionary, preventative and educative measures arising from the plans. They are intended to be complementary to each other and therefore a critical relationship exists in terms of time frames, timing, target groups and those with a specific purpose, in order it has a place within the over-all plan that is logical and appropriate. The implementation of these programs and strategies requires coordination across agencies, and cannot be left to the vagaries of ad-hoc service delivery.

Similarly, the services need to be compatible with the direction the community has worked out in its plan. Ali-Curung, Lajamanu and Yuendumu have adopted a community based and non-punitive response to family violence problems using local dispute resolution and "healing" methodology, whereas many practitioners still advocate a criminal justice and law enforcement response. Practitioners in family violence therefore need to support community initiatives and take cognisance of the approaches identified by the community. At Ali-Curung a family violence program was discontinued because it was viewed as being "too confrontational " and "divisive". The planners and community had to then reconsider how family violence issues could be best addressed.

Under the *Aboriginal Law and Justice Strategy*, the Plan is monitored and evaluated during two-day workshops held every quarterly at the community, with all the signatories to the Agreement.

The workshops provide:

- A reinforcement to the Plan
- A reporting forum;
- An opportunity to fine tune the forward plan for the next three months;
- A mechanism to review, update and modify strategies in the original Plan, and;
- To provide a forum where programs and initiatives can be assessed against the community's objectives.

This type of coordination does not occur naturally within government's current service delivery system so mechanisms must be established at the community level for this to occur.

Policy Development

The Council of Australian Government (COAG) determined at its meeting on 3 November 2000 that it would take priority action in three main areas of Aboriginal Affairs:

- Investing in community leadership issues;
- Reviewing and re-engineering programs and services to ensure they deliver practical measures that support families, children and young people. In particular government agreed to look at measures for tackling family violence, drug and alcohol dependency and other symptoms of family dysfunction; and
- Forging greater links between the business sector and indigenous communities to help promote economic independence.

The council agreed to take a leading role in driving the necessary changes and will periodically review progress under these arrangements. Where they have not already done so, Ministerial Councils will develop action plans, performance reporting strategies and benchmarks.

The Ministerial Council on Aboriginal and Torres Strait Islander Affairs (MCATSIA) will continue its overarching coordination and performance monitoring roles, including its contribution to the work of the Review of Commonwealth/State Service Provision.

The coordination of policy and service provision should be consistent across the Territory agencies involved in law and justice if the objectives of COAG and MCATSIA are to be realised. This coordination is not yet evident in policy formulation or service provision and it appears there is some way to go before the results of improved coordination will be reflected in better outcomes for communities and government.

There has been no single agency or authority with sufficient resources or responsibility to research, develop or advise on a whole-of-government policy for the social, political and economic development of remote area communities. Rather individual departments develop policy and service delivery systems for programs relevant to them. The linkages across the departments to enable consistent policy direction and service delivery systems do not always succeed. There will need to be some form of overarching agency or coordination mechanism if the Northern Territory Government's stated aim of providing a whole-of-government response to community concerns is to be achieved.

In law and justice, it seems obvious that consistency can only be achieved through coordination between police, the Attorney-General's Department, Correctional Services, Territory Health Services, Department of Education, Local Government, Aboriginal Legal Aid Services, ATSIC and non government agencies including Aboriginal organisations. This is not occurring outside of the communities where the Law and Justice Strategy has been implemented.

Policy fracturing detracts from the very objectives programs seek to achieve. The effect in Aboriginal communities is extremely detrimental. It is possible to have programs from different government agencies that are ideologically inconsistent. For example, there is a divergence of views among agencies on the role of Aboriginal customary law in the law and justice system and of Aboriginal Dispute Resolution as a means of addressing issues. Some agencies would argue that customary law and Aboriginal Dispute Resolution must be seen as a significant contributor to community empowerment. Whereas other agencies may well view customary law and Aboriginal Dispute Resolution as being in conflict with their own statutory responsibilities.

The long standing and vexing issue of customary marriage practice is an excellent example of where a powerful and acceptable (to the community) cultural practice is often maligned by external practitioners operating within the constraints of legislation or statutory responsibilities. Although the combined law and justice committees of Ali-Curung, Lajamanu and Yuendumu (Kurduju Committee) have indicated a willingness by their communities to develop protocols with government agencies in this regard, it is unlikely there will be a consistent view across agencies and every probability exists that the issue will remain unaddressed. This highlights the inherent differences between the value and belief systems of the two cultures in dealing with complex social and cultural issues and the need for clearer policy positions across government.

Localised responses to community concerns that acknowledge the different histories, politics, infrastructure, resources and capabilities on communities are proving most effective. Under-resourcing and inadequate research in policy development tends to produce a 'one size fits all' approach to working on Aboriginal communities.

The development of sound social justice policy and service delivery systems for remote Aboriginal communities must work across two cultures to be truly effective. Experience in the development and implementation of the Ali-Curung and Lajamanu Law and Justice Plans and ongoing work at Yuendumu indicates clearly that a whole-of-government response to law and justice requires an agreed overarching policy framework, based on effective research and capable of monitoring and applying professional rigour to all government policy in the area of law and justice. This would lead to consistency between the agencies on one hand and a greater capacity for agencies to interpret government policy direction.

The experiences at Ali-Curung, Lajamanu and Yuendumu show service delivery can be dramatically improved if government agencies are obliged to ensure what they do in the community is consistent with other agencies also servicing the community and consistent with the aspirations of the local community. In the absence of a similar mechanism for policy development, a major barrier to a whole of-government response in law and justice remains.

Challenges in coordinating service delivery

Audits on service delivery to four remote area communities illustrated typical problems. For example, services to Borroloola were provided from Tennant Creek, Katherine and Alice Springs. Two of these centers are 1000 km apart and all three are a vast distance from the community. The logistics of coordinating government officers for work at the community are in Katherine; several major initiatives in law and justice were being piloted. One agency was involved at Barunga and Beswick, establishing night patrols as part of a policy of 'Aboriginalising' the Maranboy policing area. Another agency was implementing a Family Violence Program at Ngukurr; and a third agency was providing support for programs within the Katherine town area. There were no linkages between the programs although they were all interrelated.

Agencies generally have a single focus, for example health, housing or education. They usually have no charter to take part in broader community planning or to develop working relationships with community organisations or other agencies with complementary programs.

In Katherine, several major initiatives in law and justice were being piloted. One agency was involved at Barunga and Beswick, establishing night patrols as part of a policy of 'Aboriginalising' the Maranboy policing area. Another agency was implementing a family violence program at Ngukurr and a third agency was providing support for programs within the Katherine town area. There were no linkages between the programs although they were all interrelated.

Non-government organisations are major service providers to Aboriginal communities, but there are no linkages between them and government agencies. There is no requirement for them to participate in community social planning.

Workshops with agency staff revealed a reluctance to be 'coordinated'. Many staff lacked sufficient understanding of Aboriginal culture and of community development practice. Other factors include poor quality field staff and program managers, and high staff turnover. For example, within 12 months of signing the Ali-Curung Law and Order Plan, several government

agencies had a 300% turnover of staff servicing the community. One agency responsible for providing a key program under the agreement had difficulty recruiting for a particular position, which remained vacant for more than nine months. Two other programs critical to the Ali-

Curung Law and Order Plan were relocated from Tennant Creek to Alice Springs where Barkly region communities such as Ali-Curung could not access them.

A number of agencies have withdrawn from practical grass roots service provision and have become grant controllers or training providers. The value of this type of service provision should be questioned. These are long-term objectives that should be implemented in conjunction with strategies to assist communities in dealing with current and crisis issues occurring on a daily basis. There is a duty of care issue for agencies who ignore what is happening around them, rather than focusing on trying to develop long-term solutions at the expense of addressing the community's immediate concerns.

Aboriginal cultural practice may itself be a mitigating factor in how effective service provision will be. Dispute over the distribution of resources, which is often predicated by cultural considerations, was a main cause of community tension in all the workshops conducted by the planners. The training of community people and the use of community organisations to provide services does not always provide for effective or equitable service provision and this should not abrogate agencies from the responsibility of ensuring services are being provided equally for all residents of the community. There is a tendency to ignore this by characterising it as 'community business' while the reality is dominant clan or family groups will always control the information and resource flow unless safety mechanisms are built into the programs.

It is unlikely coordination of the scale undertaken at Ali-Curung, Lajamairu and Yuendumu encompassing as many as ten government and non-government agencies, six community groups and over 20 program areas would have occurred if it had not been a responsibility of a dedicated agency such as the Office of Aboriginal Development.

Practical Use of Agreements

Formalised agreement between the agencies and the community is essential. The agreement period is usually three years. The Ali-Curung agreement was recently revised and re-signed for a further three-year period.

Consultation, negotiation, partnerships and community capacity building are not necessarily effective vehicles for social change or community development. Consultation and negotiation should not be objectives in themselves; they are merely the tools used by the planners to elicit relevant information, views and opinions and to meaningfully engage the community. The outcomes need to be the ultimate objective; otherwise outcomes can be easily disregarded or manipulated by the agency controlling the consultation or negotiation. Similarly, the development of partnerships can be flawed. There cannot be a 'partnership' when the parties are unequal. Research shows that, in law and justice, Territory Aboriginal communities have been unequal partners. Workshops at Port Keats, Numbulwar, Ali-Curung and Lajamanu demonstrated an abysmal understanding by Aboriginal people of the law and justice process. Aborigines have responsibilities to Aboriginal customary law, and English is often a second, third or even fourth language. Inadequate numeracy and literacy make it even more difficult for Aboriginal people to participate meaningfully in law and justice.

Aboriginal communities are rarely equal to government agencies in terms of.

- Capacity to negotiate responsibilities under the agreement;
- Ability to contribute equally to the partnership, and;
- Financial and human resources.

Partnerships must recognise and allow for these factors. Effective partnerships cannot be formed unless agencies are prepared to invest substantially in the individual development of Aboriginal people and the collective development of local organisations, committees or groups to the stage where they are able to participate equally.

Agreements are a logical outcome of participatory planning. They are designed to ensure the contributions from signatories remain relevant, realistic and achievable.

Formalised agreements are necessary for empowerment. There is little value for a community in going through an exhaustive and lengthy planning process to find government agencies do not endorse the outcomes. Without a formal agreement, the implementation of strategies and programs rests on loose, informal arrangements and 'gentlemen's agreements' - which in the past have proven easy to abrogate. Such ad-hoc arrangements continue to disempower Aboriginal people.

THE MODEL: METHODOLOGY AND PROCESS

Essential Elements

- *A male/female planning approach;*
- *Highly skilled and experienced planners;*
- *Community awareness and support for strategies and initiatives identified in the plan;*
- *Accommodation of Aboriginal Dispute Resolution systems, which can incorporate cultural, traditional, and social and lifestyle variances but must coexist with the mainstream law and justice system, and,.*
- *Coordination of government service delivery systems (described above)*

Male/Female Planning

Effective planning on Territory communities is unlikely to occur without a male/female approach. Many communities segregate on the basis of gender and separate male/female forums are essential. It is often difficult for women to access community decision-making. Some communities lack female representation on councils and other local forums. Some ATSIC regional councils have had to establish separate women's issues committees to ensure representation for women.

The separation of male/female roles and responsibilities is clearly defined on many communities. In law and justice, men and women have separate ceremonial obligations and responsibilities for maintaining social harmony.

Research through the *Aboriginal Law and Justice Strategy* shows men and women place different priorities on issues such as family violence, alcohol, health and education.

Unless this is understood and addressed by the planners, it is possible that men in vested interest groups may negate women's input.

Essential Skills of the Planner

Planners must have knowledge and skills in at least these four main areas:

1. Traditional culture and customary practice;
2. Contemporary Aboriginal management practice;

3. Social planning and community development practices and principles; and
4. The role and responsibilities of agencies involved in the law and justice system.

Traditional Culture and Customary Practice

Practices that impact on the social structure of the community, and hence the effectiveness of planners and service providers, include:

- Aboriginal customary law;
- Aboriginal spiritual beliefs;
- Avoidance obligations;
- Land ownership systems and responsibilities;
- Land management systems and responsibilities;
- Customary marriage practice;
- Ceremonial obligations;
- Mortuary rites and responsibilities;
- Clan and skin group obligations such as family management and social and cultural systems;
 - Obligations within the broader social unit (language, ceremonial, totem), and;
 - Aboriginal Dispute Resolution systems.

Contemporary Aboriginal Management Practice

Overlaying those structures are contemporary management systems, legislation and issues such

as:

- Local government legislation (NT);
- Associations Acts (**Cth & NT**);
- Aboriginal and Torres Strait Islander Commission;
- Commonwealth service delivery systems;
- Community stores and other enterprises;
- Cattle Industry;
- Tourism;
- Mining;
- Territory service delivery systems;
- Health, education, housing, law and justice, social services, essential services;
- Communications;

- Infrastructure development;
- Community political and development agendas;
- Contemporary Aboriginal political agendas; and
- Land councils, Legal Aid Services and other Aboriginal organisations.

Social Planning and Community Development: Practices and Principles

- Successful social planning and community development require specific skills and knowledge on the part of the facilitator, including:
- An understanding of community development including building community and individual capacity;
- A capacity to implement participatory planning;
- Cross-cultural communication skills;
- A sound understanding of Aboriginal cultural practice;
- A good understanding of local anthropology and community dynamics; High level consultation and negotiation skills;
- An ability to coordinate across government;
- High level of communication skills - written and oral, and;
- Good presentation skills.

Role and Responsibilities of Agencies

This model for social change is fundamentally a community development model. Its aim is to facilitate the empowerment of the local community to assume a greater role in law and justice, and to address law and justice concerns through local dispute resolution where practical.

It is therefore essential for agencies to identify a law and justice role which is appropriate for and relevant to the community, and which the community has a capacity to undertake. Agencies must facilitate the transfer of skills from the agency to a community organisation to enable the community to undertake a particular function. Field officers working in law and justice planning must be capable in a range of specific skills necessary to achieve this transfer.

Field officers were formerly required to undertake a properly structured course. The Remote Area Field Officers Training Course conducted in the 1980s comprised a number of two-week intensive block modules over 12 months. These modules were then linked into an extensive on-site training component, where a senior field officer would work with a training field officer. In the 1970's the Australian School of Pacific Administration provided field officers working in Australia and the South Pacific countries a structured and inclusive course.

Comprehensive field officer training courses are no longer available and there are currently no induction courses of the type described above provided to field officers working in Aboriginal communities. Training offered by government departments at present is a two to three day cross-cultural awareness course. Cross-cultural communication is one of the total range of skills field officers need to rely on to encourage a transference of skills to Aboriginal people and Aboriginal community organisations. For example, some community organisations could take on victim/offender conferencing, pre-court conferencing, diversionary programs, community dispute resolution, family violence programs or night patrol services.

Government and non-government service providers need to invest more in the development of an effective field service. Planners noted that few agencies used a male/female team approach to community work, and few agencies were resourced sufficiently to undertake the extensive fieldwork this planning requires. Many staff did not have an adequate level of skills or knowledge to operate effectively at the field level.

Community Support and Intellectual Awareness

Before consultation takes place there must be awareness about the topic or issue. If a community does not understand the implications and responsibilities, it cannot be consulted effectively, let alone on an equal basis.

Under the model, the first six months or more are spent developing community awareness of and support for the concept of law and justice planning and its implications. This period develops an intellectual awareness of the concepts.

This is particularly sensitive and slow process because it requires opening up community debate on complex issues including:

- family violence;
- alcohol and drugs;
- customary marriage practice and acceptable rights and obligations within that relationship;
- the role and effectiveness of Aboriginal customary law in social control, and;
- Aboriginal Dispute Resolution and its role in mainstream law and justice.

Few issues can be dealt with comprehensively on any one visit to a community. Aboriginal decision-making systems must be used, which means issues are usually deferred until a broad cross-section of people are consulted. Often this will require consultation with people on other communities or outstations. This in itself precludes the hasty development of law and justice plans and strategies.

Successful strategies for enabling community awareness include:

- Male and female representatives visiting other communities where successful strategies are in place;
- Using appropriate visual aids,
- Using Aboriginal interpreters, and;
- Ensuring continuity of the planning process, for example making sure the same members of the planning team is involved throughout the process.

Field visits should ideally be maintained every two to three weeks during this period. The experience of OAD has shown that planners' field visits are more effective when undertaken over three to four days. This allows the planner and the community to prepare and ensure the appropriate follow up. Frequent intermittent visits allow time for community decision-making systems to operate, and ensures people are not overloaded with information. Less frequent visits are generally not effective. The planning loses impetus and people lose interest.

Ideally there should be trained community development staff, or planners resident on communities employed by either the community council or government. It is unfortunate this capacity no longer exists within government agencies, and most community councils are provided with budgets which restrict the employment of staff to key essential services and administrative personal. In lieu of this, there are few options but extensive fieldwork.

All relevant groups and factions must be involved, including:

- Traditional owners
- Community organisations
- Local council
- Tribal council
- Community leaders
- Women's groups
- Council administration
- Support staff and visiting government service providers
- Youth
- Drinkers
- Non-drinkers

Experience to date shows that, towards the end of the community awareness phase, the groups will agree on the composition of a working group or community committee to deal with law and justice planning and government service delivery systems.

The working group or committee will become pro-active in local law and justice. Participatory planning will emerge and the community will identify and begin to put in place strategies to address specific issues.

It can take about 12 to 15 months from commencement to the signing of a law and justice agreement. Coordination and support will be ongoing throughout the duration of the agreement. By the end of the

agreement, the law and justice committee and other community groups should be sufficiently skilled and empowered to sustain the process. This has occurred at Ali-Curung, where the council has now become the major contributor to the process and an agreement has been signed for a further three years.

Aboriginal Dispute Resolution within the Model

A community law and justice plan is unlikely to be effective if it cannot accommodate the dispute resolution systems worked out by the community. Workshops showed that cultural practices impacted heavily on many law and justice issues. Disputes were based on issues such as:

- the use of Yarda (Warlpiri: cursed bone or stick, causing illness);
- the illegal use of malevolent curses;
- payback;
- inter-clan conflicts;
- land ownership disputes;
- community management issues;
- the inequitable distribution of scarce community resources based on land ownership and ceremonial customs, and;
- customary marriage practice and other traditional custom and value/belief systems.

Planners observed that, on some Territory Aboriginal communities, alcohol precipitated violence arising from disputes based on cultural and customary practice. Such disputes are not best resolved by outside counsellors, police, social workers or mainstream programs and service providers. That responsibility rests with the community. At Ali-Curung and Lajamanu, local disputes including family violence was more effectively resolved by restoring customary procedures and the use of Aboriginal Dispute Resolution.

A good example of Aboriginal Dispute Resolution comes from Ali-Curung. The women responsible for achieving such a remarkable turnaround in family violence through community dispute resolution, point to another factor they say is

responsible for much of the violence and social disharmony on the community. This is referred to as Yarda, the practice of making people ill or causing death.

The women described this as the 'inside illness' or 'the illness', which is caused by someone for some reason. The women used motor vehicle accidents as an example, and simply stated: There are no

accidents you know, they are all caused [by Yarda]. The community violence associated with this appears to occur when individuals or families who believe someone has used Yarda attempt to seek out or make allegations about the people they believe are responsible. The women estimated at least 50% the Ali-Curung population was affected by Yarda at any given time. They also stated that Yarda can cause 'sickness in the head' which causes the man to act in way that he normally would not. This explanation was given in relation to reasons why some men are violent towards their wives.

The women are now applying Aboriginal Dispute Resolution to other forms of violence including Yarda. Recently, for the first time, they were able to instigate a meeting with a group of men some suspected of practicing Yarda on a very ill woman. They argued Yarda was having a disruptive effect on the woman, her family and the community generally and were successful in having the illness removed. The woman made a full recovery. They are confident they will be able to negotiate in other cases involving Yarda and ultimately reduce the levels of violence associated with its practice.

The women pointed out this was an increasingly important issue for the community because of the growing numbers of injuries and deaths occurring through motor vehicle accidents and other emerging lifestyle and health-related illness affecting the community. In this example, the women used contemporary arguments to address problems created by traditional practice.

It is highly improbable that government agencies or mainstream programs can deal adequately with issues stemming from such powerful and longstanding belief systems. The logical outcome for government agencies is to support the mechanisms used by the community to address that community's own cultural realities.

In her book *Daughters of the Dreaming* (1983), Diane Bell refers to community tension, fighting and sorcery accusations which were a daily occurrence at Ali Curung during her fieldwork in the 1970s. She also refers to the use of most powerful and spectacular rituals as mechanisms for resolving a myriad of disputes and problems.

It is ironic in the ensuing three decades years since Bell, government agencies have continued to implement and maintain countless programs at an enormous cost, in the pretext that Yarda and other equally significant rituals and practices do not exist and do not have a major impact on the effectiveness of government service delivery.

The challenge for policy developers and service providers is to acknowledge that many important Aboriginal cultural practices are changing slowly, too slowly to contemplate another 30 years of programs and services which fail to recognise cultural realities or accommodate community participation in the development and delivery of services. Law and justice planning provides a framework that acknowledges and supports these processes and enables a better understanding of the issues by agencies.

The Role of Aboriginal Dispute Resolution in Mainstream Justice

Local dispute resolution is an important part of law and justice planning and a way for communities to take on more responsibility for law and order. But it must work closely with mainstream programs.

For example, the communities of Lajamanu and Ali-Curung found it necessary to establish a women's safe house as a crisis measure for women at risk, until longer-term educative and local dispute resolution systems could be put in place.

Women's safe houses are a mainstream strategy to prevent family violence; however the Ali-Curung safe house is based on the concept of *jilimis*, or women's business areas, from which men were traditionally prohibited. Prior to a safe house being established, women used *jilimis* to escape family violence. Aboriginal women manage the safe house; and local dispute resolution is practiced. This combination of contemporary and traditional strategies has been successful in assisting women at risk from violence, often from husbands affected by alcohol.

Sometimes, Aboriginal Dispute Resolution may fail or be ineffective, perhaps because of the absence of senior people who could intervene. Alcohol may have weakened customary structures, or perhaps the structures are simply no longer relevant to the community. In this situation, there are few options other than to engage the full range of mainstream law and justice. It does seem however, that in most areas of law and justice, including court processes and developing diversionary programs, it is possible to find programs to complement local initiatives.

An important role for community organisations involved in ADR is to monitor the effectiveness of the relevant decision making systems which apply and to ensure parties to a dispute are properly represented and decisions are reached in a constructive and negotiated manner. ADR will not be successful if **the** forum itself is unable to establish legitimacy or broad community support.

Apart from ADR, the Ali-Curung and Lajamanu law and justice committees are involved with mainstream agencies in a broad range of law and justice programs such as diversionary programs, pre court conferencing, victim offender conferencing, con-unity service orders, and the operation of night patrols and safe houses.

ALI-CURUNG: 1996-2000

The Ali-Curung Community

About 500 people live in Ali-Curung, 160 kilometers southeast of Tennant Creek. The community was established in the 1950s under government relocation policies of that time. There are four main language groups: Warumungu, Kaiditch or Kaytej, Alyawarra and Warlpiri.

The community is not homogenous. There are differing obligations and affiliations relating to family, land, ceremony and so on. The language groups have diverse views, often based on the perceived status of groups relative to each other. Relationships have not always been friendly.

Initial workshops identified underlying cultural issues almost immediately as contributing to social disharmony. For example:

- Traditional land-owning groups had long-standing concerns about the influence of non traditional groups in community management and development.
- The Aboriginal Community Police Officer was a Warlpiri and not originally from the area. His effectiveness was limited to working within his own language group. Furthermore, local landowners felt that he should not be involved in law and justice on land which was not his own. Traditionally this could not have occurred.
- Some men not supporting the concept of a safe house argued that its proposed location was too near an area known to be inhabited by dangerous spirits.

Over time, strategies were developed to address all these issues.

Participatory Planning in Ali-Curung

The Office of Aboriginal Development began working with the community in early 1996. This was a result of criticism by community representatives about what was perceived to be a poor relationship between police and the community. Police, aware of this criticism, offered to negotiate a Memorandum of Understanding (MOU) with the community about law and order and policing issues.

The Office of Aboriginal Development established through initial visits that community members had a poor understanding of law and justice and the police role and responsibilities. They were not informed about the implications for the community entering into a MOU. They lacked sufficient information to enter meaningful negotiations. OAD observed that cultural factors such as Aboriginal customary law and dispute resolution were crucial but were unlikely to be adequately addressed through an MOU with police.

A cross-cultural consultant was engaged to help the community in its proposed negotiations with police. After an initial workshop, the consultant advised against proceeding with the development of an MOU between police and the community because such an arrangement could not address the myriad of cultural and social issues arising from the workshops.

The consultant found that, apart from crisis intervention, a policing response to the issues was not appropriate. Broader community law and justice planning was recommended to allow a range of crisis, preventative and educative measures.

The Ali-Curung Council reviewed the consultant's recommendations and endorsed the concept of an agreement between the community and relevant agencies instead of an MOU with a single agency. Council established a subcommittee of three male and three female council members as a focal point for law and justice planning.

In January 1997 the Council held a two-day workshop at Ali-Curung involving the Women's Resource Centre and eight Commonwealth and Territory agencies identified as having programs or resources in law and justice. The workshop developed a draft community law and justice plan. The plan identified fundamental objectives and 13 priority issues.

In terms of government service delivery level, OAD coordinated meetings at the regional level (Tennant Creek) and at the senior management level (Darwin) throughout February 1997. The meetings provided information about the proposed agreement established the capacity of agencies to undertake the tasks identified in the draft plan and sought the relevant assurances from the agencies.

A further two-day workshop was held at Ali-Curung in early March 1997 to finalise the draft agreement, implementation and reporting. In April the draft agreement was circulated to the relevant agency Chief Executive Officers and the Yapakurlangu Regional Council (ATSIC) for endorsement.

The document was formally signed at Ali-Curung in June 1997, 17 months after the initial visit. By that time, several initiatives were already in place.

Community Empowerment and its Results

The preamble of the Ali-Curung Law and Order Plan identified three objectives, which have largely been met.

Objective 1: To reduce the level of community and family violence and other law and order concerns.

The incidence of family violence at Ali-Cul-ung has, according to all community generated evidence, declined to the extent that it is now considered to be negligible.

Daily journals are kept by all Night Patrol and Safe House staff on duty. They document all activities and incidents and the course of action pursued.

Three Tiers of Dispute Resolution

Night Patrol and Safe House staff use a three-tier dispute resolution method. Broadly speaking, the three tiers are:

1. *Family*
2. *Extended family and community participation*
3. *Relevant elders as adjudicators*

The journals show three-tier dispute resolution being used. Staff gather relevant family members ' instigate community meetings the following day and seek elders to adjudicate large community meetings.

Other law and order issues identified by the community and included in the plan are also being successfully addressed. For example, data collected by police reveals a downward trend in total assaults and property offences and total arrests from 1996 to 1999.

Objective 2: To enable greater participation by Aboriginal people in law and justice processes

A tremendous amount of interest has been generated among Ali-Curung residents over the past few years relating to the law and justice process. Many residents have now become pro-active. Initiatives include:

Ali~Curung Law and Order Committee

The Law and Order Committee was established early 1997, with a good cross section of people from the community.

Meetings with Government Agencies

The Law and Order Committee meets regularly with government agencies to workshop and monitor initiatives and arrangements under the plan. For example, the Safe House Committee developed through the Law and Order Committee has regular meetings with agency representatives responsible for women's issues. These meetings include Night Patrol staff, as they work in conjunction with the Safe House staff.

Law and Order on the Council Agenda

The chair of the Law and Order Committee is required to report to council each time council convenes. Council has also asked police to report to the council regularly. This has enhanced communication between police and council.

Pre-court Conferencing

Pre-court conferencing has been practised at Ali-Curung since 1998 and is now standard part of the justice process. Law and Order Committee members and relevant community members are involved in the conferencing.

Objective 3: Encourage greater responsibility for local law and order matters by Aboriginal people

Ali-Curung Community efforts are being channeled into the following areas:

Diversionary Programs

The Law and Order Committee develops community based diversionary programs for 'at risk' youth.

Extending Pre-court Conferencing

Pre-court conferencing is now becoming standard. The community has a strategic role in reducing high incarceration rates through pre-court conferencing. The development of appropriate local diversionary programs will support this.

The Three-Tier Community Response

The three-tier concept has been very effective as a preventative measure. The practice of 'shaming' men who are violent towards their wives has been an effective community tool under this mechanism. Safe House staff consider shaming to be a primary factor in reducing family violence. Safe House women and Night Patrol staff are now using Aboriginal Dispute Resolution to address other forms of community violence.

Alcohol Issues

The council has imposed restrictions on alcohol sales and trading hours through local agreements and is now looking at formalising these arrangements by having them included in the licensing conditions of nearby hoteliers. The Night Patrol's role is to ensure residents abide by the arrangements and dry area legislation. The Night Patrol deals with alcohol-related issues within community as a matter of priority. The Law and Order Committee is currently examining the legislation relating to dry areas.

Typical strategies under the plan include:

Coordinating Government Service Provision

There is now a greater degree of cooperation between agencies and a clearer understanding of community goals and objectives. This is evidenced by:

- The number of working groups dealing with joint funding arrangements between the levels of government, and
- The educative, preventative and community awareness programs now being provided by service deliverers.

The Night Patrol

Tangentyere Council was contracted to help establish a Night Patrol at Ali Curung and provide training. Funding for research, development and establishment was through Territory Health Services' Wine Cask Levy, and joint operational funding through ATSIC and the Council.

The Night Patrol began in August 1998 and was assessed in May 1999 and May 2000 as part of the consultant's contract. The Ali-Curung Night Patrol is one of the longest continuously operating and more effective night patrols.

The Night Patrol is operated and managed solely by a group of Aboriginal women and is inextricably linked to the operation of the Safe House. It operates on foot rather than with a vehicle. This is important to its success, as it ensures drinkers do not hijack its operation, as they have on other communities, where the vehicle has been used for 'grog running'. The women's Night Patrol is an example of a program being managed by Aboriginal rather than non-Aboriginal people. In contrast, many other night patrols in the Territory have been based on non-Aboriginal management and administration, and have had limited success.

Safe House

Workshops conducted throughout 1996 established that family and community violence were the highest law and order issues for women. The establishment of a Safe House was a key strategy in assisting in the reduction of violence.

Joint funding from the Commonwealth and Territory governments and the community council allowed for a suitable building to be renovated and refurbished. ATSIC, and the council provides operational funds.

The Safe House is operated and managed by a female Aboriginal coordinator, responsible to the Safe House Management Committee. The Safe House has been operating for almost three years and is an excellent example of the achievements of a locally managed program using Aboriginal Dispute Resolution.

Family Violence

A number of educational strategies were implemented to supplement the interventionary responses involving police, court orders, night patrols and Safe House. These include:

- Implementing the Aboriginal Violence Program in the community and in the school;
- Introducing Family Violence and Alcohol and Other Drugs programs in the school;
The community council adopting law and order including family violence as a standing agenda item;
- Establishing a council law and order committee as a focal point for law and order; and,
- Establishing the Women's Safe House Committee (comprising agency and Safe House staff) reporting directly to the council.

Safe House Usage

Initially there was a strong reaction to the issue of family violence and the concept of a Safe House, predominantly by older men. This included:

- Council writing to the Office of Women's Policy in July 1997 asking that the Aboriginal
- Family Violence Program be withdrawn;
- Men arguing during workshops in 1996 that there were customary mechanisms for dealing with family violence, and that a Safe House interfered with that process; and
- Men 'cursing' the Safe House only days before its official opening in August 1997.

There is now wide community support for the Safe House and the role of Safe House staff and Night Patrol staff in resolving family violence. The Safe House Committee reports the Safe House is now involved less in crisis intervention and more in prevention and resolution.

Men accept this and now openly encourage Safe House use and the participation of men in the resolution process. Consequently, family violence at Ali-Curung is now minimal.

¹ The Wine cask levy refers to income generated by the imposition of an additional tax in the Northern Territory. The Levy was introduced in 1990 to fund programs specifically targeting alcohol-related issues. The Federal Government collects the levy **and** passes the equivalent amount on to the NT Government. The funds are administered by Territory Health Services in accordance with the Wine Cask Levy's Committee's recommendation, now known as the Public Behaviour Program.

Men's Cultural Centre

The Men's Cultural Centre has an important role in family violence resolution. Men at the centre frequently discuss the issue of family violence. A trend has emerged whereby younger males involved in family violence will visit the centre and discuss problems with other males.

Council of Elders

The Council of Elders has an important role as an arbitrator in difficult matters. The council has publicly endorsed the Safe House, after some initial concerns about its role, and members have used their authority to ensure women and children are not 'humbugged' while using the Safe House.

Pre-court Conferencing

Representatives of the police, the Department of Correctional Services and the Law and Order Committee meet frequently before court to discuss relevant issues relating to judicial and community perceptions about offences and offenders.

Alcohol Issues

The implementation of the Aboriginal Living with Alcohol and Alcohol and Other Drugs Programs by the Department of Health and Community Services (formerly Territory Health Services) has been significant. Alcohol issues were identified as the second most important law and order issue. Both programs were operated at **the** community level and through the school. These programs targeted four aims for the year 2000:

- Re-establish a Regional Alcohol Working Group, comprising the Law and Order Committee, Licensing Commission, police and hoteliers to develop a regional approach to alcohol issues;
- Seek to establish a Community Drinking Area within the Warrabri Land Trust (currently a dry area);
- Formalise the informal agreements in place between Ali-Curung Council and hoteliers about the sale of alcohol and the hours alcohol may be sold to Ali-Curung residents; and,
- Establish an Ali-Curung Alcohol Support Group.

This is another excellent example of strategies evolving beyond the original agreement.

Ali-Curung Council

The Ali-Curung Council has ensured that law and justice achieves a high community profile. The council has:

- Provided substantial council funds and human resources for strategies identified in the plan;
- Allocated a building for use as a Safe House;
- Supported the Safe House;
- Refurbished and repaired the dwelling;
- Provided ongoing operational funds for the Safe House;
- Provided ongoing funds for the Night Patrol;
- Established law and order as a standing agenda item at Council meetings;
- Established a Law and Order Committee;
- Collected data relating to law and justice, and,
- Targeted youth issues, alcohol and family violence as priorities.

Youth Issues

Youth issues were identified in community workshops as the third highest law and order priority. Strategies to date include:

- Reticulating and grassing the football field;
- Renovation and securing the recreation hall;
- Upgrading, lighting and securing the basketball court;
- Establishing the Blue Light Disco;
- Purchasing \$10 000 of equipment such as disco lights, television, pool tables and juke boxes;
- Establishing a recreation program through the Community Development Employment Program;
- Establishing football and basketball competitions;
- Establishing a school holiday activities program, and;
- Holding after school activities at the recreation hall from 2.30pm to 6.30pm each weekday.

The February 2000 evaluation workshop determined youth issues should remain a high priority for the year 2000.

Community Awareness about Law and Justice

Research and workshopping identified that Aboriginal people had a poor understanding of law and justice issues. Strategies to overcome this included:

- Establishing the Law and Order Committee;
- Pre-court conferencing;
- Relocating court sittings from the police station into the community (council conference room), and;
- Community based workshops on law and justice issues.

Workshops facilitated by OAD, police, Correctional Services and Aboriginal Legal Aid Services on the law and justice strategy were identified as a high priority for 2000,

Cross-cultural Awareness

The Ali-Curung School's Aboriginal teachers produced a cross-cultural awareness kit. The school and the council have developed an information and awareness program for use by the council and other organisations employing non Aboriginal staff.

Community Objectives and the Future

The achievements at Ali-Curung have been significant. The main objectives identified during the planning processes in 1996 and articulated in the formal agreement of 1997 have been achieved. Similarly, new and emerging issues were identified to be addressed during 2000 and 2001. The Council has been a significant contributor to this.

Council has prioritised its main law and justice concerns, particularly family violence and youth issues, and has supported strategies to address these issues financially and through human resources.

A transition has taken place at another level. Council and community organisations such as the Safe House committee and Night Patrol staff are now major contributors and major innovators. The community has developed a pool of expertise in law and justice planning and community dispute resolution that is receiving widespread recognition.

In October 2000, the Ali-Curung Safe House and Night Patrol staff were invited to be the keynote speakers at the annual Alice Springs Reclaim the Night March and functions. The women were given a standing ovation. The community of Ali-Curung has been inundated with requests for people to attend meetings in other communities to discuss law and justice planning.

People from a number of other Aboriginal communities have already visited AliCurung to observe the types of programs and strategies operating there. The council office staff receive frequent requests for information about the law and justice plan, from within the Territory and interstate. As a result Ali-Curung Council has put in place an itinerary of visits to other communities during 2001 to facilitate discussion about law and justice concerns.

It is significant that an Aboriginal community is taking a pro-active role. Often it has been a responsibility of government agencies to provide information about issues and programs that operate well on other communities and to facilitate the development of new programs.

TRENDS IN LAW AND ORDER: A STATISTICAL SNAPSHOT

Statistical indicators show a downward trend in a number of law and justice areas at Ali-Curung. However, it is difficult to collect accurate information about community wellbeing. There are often variances between tire statistical data collected by departments and agencies, and tire anecdotal or qualitative data provided by community-based collection. This suggests current data collection methods should be reviewed.

OAD has trialled several models for data collection at Ali-Curung in an effort to find a practical, workable model to measure Aboriginal perceptions about everyday community life. There is a growing need for this model as the gap between mainstream and aboriginal data widens. Work is ongoing.

Mainstream Data Collection

Mainstream data collection systems are usually:

- Designed by non-Aboriginal people to measure the outcomes of programs intended primarily for non-Aboriginal clients, and;
- Based on data collected by non-Aboriginal people (police, health, education, housing etc) and analysed and researched by non-Aboriginal statisticians.

Forms, surveys and questionnaires are more often designed to meet the requirements of the service provider or funding agency than those of the community. Often the data is used for internal acquittal purposes, fiscal control, financial reporting, administrative requirements or measuring workloads and performance of agency staff.

Statisticians and researchers sometimes hold community-based data, which is usually anecdotal or qualitative, in low regard. Aboriginal anecdotal and qualitative data is of the most value in gauging community activity and wellbeing. However, it is seldom collected. When it is collected, it is sometime disregarded or considered unimportant and is used supplementary to mainstream data.

OAD has sought advice from the Australian Bureau of Statistics (Aboriginal Liaison Unit) about developing appropriate forms and data collection methods for use in Aboriginal communities. The bureau advised that its data collection relied on mainstream methodology and therefore could not accommodate Aboriginal specific data forms or collection systems.

Ali-Curung Model 1

In conjunction with Ali-Curung Community groups, OAD devised a community controlled method for collecting data on law and justice. It used data from the Night Patrol, Safe House, the police station and the health clinic.

The Ali-Curung Council undertook to collect and collate data on a monthly basis. OAD developed 'tick box' forms with the community groups, and a spreadsheet in the council office where data was to be input. An Aboriginal office administrator was trained in data collection and data input. The system worked well for a while, but finally ran into difficulties.

For example:

- The spreadsheet information was not sufficiently clear or readily understood by council members;
- There were differences between data provided by government agencies such as Police and Territory Health and community organisations such as Safe House and Night Patrol in a number of areas, and;
- Staff were not consistent in filling out the relevant forms

It was clear Aboriginal staff were having difficulties with quite rudimentary data collection and interpretation. The council was also unable to maintain regular data collection because of Aboriginal avoidance relationships between the office administrator and Safe House and Night Patrol staff. Aboriginal Safe House and Night Patrol workers also found it difficult to determine which events should be recorded against which tick box. Further, the data collection systems could not accommodate or record accurately events affected by different cultural circumstances.

At one meeting, council members concluded the only meaningful way for law and justice data to be interpreted and understood by local people would be to have the data incorporated into a series of dot paintings. This highlights the different worldviews between the two cultures and the inherent weakness of relying on mainstream data collection and analysis methodology to provide accurate information.

Ali-Curung Model 2

The most useful data collected at Ali-Curung has been that recorded by the Night Patrol and Safe House staff. Each staff member records events in the daily diary. The information is recorded in story form, in either basic longhand or printed format. Where the staff member lacks literacy skills, another worker enters the story.

Female OAD project officers visit on a regular basis and workshop each individual journal entry with **the** workers to ensure an accurate interpretation of events. This approach has provided a valuable community perspective of local law and justice which statistical data collection could not provide.

For example:

- The journals show that local dispute resolution in family violence using customary mechanisms is effective. Daily journals do not record the same perpetrator offending over a prolonged period of time. Habitual family violence matters have been resolved within six months;
- The purpose of the Safe House can be seen to have changed from crisis intervention to facilitating the community response to resolving family violence. Statistics show that 27 to 30 women used the Safe House each month for respite when it first opened. This has been reduced to one or two a month;
- Community-based data provides a relevant and acceptable community definition of family violence. Facilitating Aboriginal Dispute Resolution has become a major component of the Safe House women's role, but it is difficult to record with a mainstream statistical model because these models cannot define 'customary'. The women's role is substantially different to counselling or referral to other programs;
- Female on female violence is the most prevalent form of violence recorded in the journals and is often described as 'jealousy fighting'. It is regarded as controlled violence and is closely monitored by family who will intervene if necessary, and;
- Yarda is likely to be responsible for much of the violence including family violence and jealousy fighting.

In the examples used above, statistical data collection is unable to provide information for the community, planners or service providers on which strategies can be based or resources targeted, because statistical data does not interpret culture or measure the extent and outcomes of Aboriginal Dispute Resolution practices. Community based data can be interpreted by the women and can be used by the agencies to develop strategies supporting local initiatives.

These examples also question the wisdom of pursuing policy and programs with a typical Eurocentric bias. Consequently agencies send a message to communities that all violence is wrong, and that violence is not the Aboriginal cultural way, or is solely a result of alcohol abuse or post colonial stress, when clearly this is in conflict with some elements of, Aboriginal Dispute Resolution practices. Programs advocating these views reflect policy desires of agencies rather than providing communities with assistance in developing constructive ways of handling problems. A denial of Aboriginal cultural realities in order to achieve politically sound policy (irrespective of **the** outcomes) does little to assist communities in addressing their present problems. It needs to be recognised that some Aboriginal dispute resolution cultural practices contain elements of low level violence. Whilst not condoning the use of low-level violence, controlled violence and violence associated with ritual should be recognised as still having an important role in remote and traditional communities dispute resolution processes regardless of any views to the contrary. This demonstrates the difficulties of trying to apply one problem solving process across two fundamentally different cultures.

Police and the Health Clinic at Ali-Curung use statistical data collection systems that do not analyse types of violence, levels of violence or causal factors. All violence is viewed and recorded as criminal

violence and not as part of dispute resolution which may be the more accurate reflection of events. Because of this, mainstream data and community-based data will be different.

Agencies that rely solely on statistical data without the community interpretations of the causes, can easily implement inappropriate programs or waste resources targeting the wrong issues. At Ali-Curung, because of the use of community based and interpreted data, the planners were able to support community dispute resolution structures which do resolve issues. Mainstream data could only have pointed towards additional policing resources or more family violence programs, which would not have resolved the issues.

Community-based data allows a distinction between different types of violence and brings into question whether some events historically recorded as violence in normal data collection systems are in fact violence at all.

For example, most non-Aboriginal service providers are unable to distinguish between violence and ritual. The early stages of community dispute resolution are invariably conducted publicly and loudly - sometimes with low-level violence, such as pushing, slapping, hitting or stone throwing, but predominantly with shouting, yelling and threatening. This is rarely spontaneous and is often planned and negotiated.

This is ritualistic. Often the people involved in the public display may not be the people involved in resolving the dispute. It may be the first stage of a lengthy process that will be negotiated to a conclusion by other clan members. It is wasteful and dis-empowering to the community for agencies to develop interventionary strategies for what is normal behaviour associated with dispute resolution.

The planners have seen many cases of where this behaviour has been recorded as both verbal and physical abuse, while the community reality is that it is necessary to achieving an outcome. Aboriginal people see it as restoring relations between the parties and within the community to prevent similar incidents in future. In her book *Daughters of the Dreaming*, Diane Bell refers specifically to this at Ali Curung in 1976. She recounts a meeting between Warlpiri and Kaytej disputants to determine the community store was the ideal venue to stage a forthcoming fight because it was a location where all the community residents could gather to listen. She also refers to the frequent staging of fights on a weekend when there was less chance of intervention in the disputes by white staff. The events recorded by Bell were planned. Her reference to 'fights' was most likely in the context of ritual associated with fighting, which is usually controlled to minimise bloodshed. Nonetheless, it is a powerful form of dispute resolution for Aboriginal people.

There are other types of ritualistic penalty, relating to mortuary rites, marriage obligations and ceremony. The community does not view this as violence per se, but as a cultural imperative.

Often, violence under the influence of alcohol or drugs is viewed quite differently from 'sober violence'. Sober violence, because it is manageable and can be controlled by the women, is often not viewed with the same importance as 'drunk violence', which may be uncontrolled and have far more serious implications. The indiscriminate or ill-informed recording of what constitutes family and community violence can quickly distort statistics. Often it reflects nothing more than the moral judgments of the data collector.

For these reasons statistical data collection and analysis cannot deal with the complexities of another culture. The planners have therefore not relied on this information as the primary indicator of community wellbeing or to measure the effectiveness of law and justice planning.

Applying the Model Beyond the Justice System

The law and justice planning model should be portable across oilier program areas and oilier government and non-government service providers.

The law and justice planning model has been successful at Ngukurr community, where Paul Josif and Associates used participatory planning to assist the community in developing a five-year housing plan from 1994 to 1999. It turned housing in the community on its head. Ngukurr had had major housing stock problems, serious housing design faults affecting many houses and a serious water problem. In 2000, the Menzies School of Health Research in their Evaluation of Environmental Health Survey Data - Indigenous Housing Report, found Ngukurr's housing program the best from a study of 80 communities.

At Ngukurr, participatory planning was the ideal vehicle to identify and empower local management and decision-making systems.

"A clear, traditionally based system of social, cultural and land management exists within the Yugal Mangi area. The system is clan based and forms the basis of maintaining traditional Aboriginal law within a contemporary cross-cultural setting. A 'clan' refers to a group of people who ha e for example, common totems, and lands. Members of the Yugal Mangi clans have both patrilineal and matrilineal associations with land, although primary responsibility is claimed through the father (ie. Miniringi). Clans consist of one, or several extended family groups linked by both kinship and marriage. These clan groups manage their own affairs in ways which are relevant at both a cultural and social/political level.

Decisions and actions are made which are all of political and managerial traditional and contemporary and work across two cultures."

Paul Josif and Associates, Yugal Mangi Housing Plan 1994 -1999

There are seven language or tribal groups and 20 clans at Ngukurr. Self management, in both a traditional and contemporary sense, rests at the clan level, not with the language or tribal groups or the 'community' such as through a community council.

With this as the basis, the planner and clan leaders were able to work out ways to devolve responsibility for housing from a central administration model to clan based management. Each clan now has its own housing budget and set of books, and has financial accountability for houses occupied by clan members. Program areas managed by clan leaders include rent collection, repair and maintenance, minor new works, cyclical maintenance and participation in forward planning for

community housing. Clans also manage other programs such as CDEP and the Night Patrol/Warden Scheme.

There appears to be no major reason why participatory planning, involving the coordination of service provision and the development of agreements between community organisations and agencies, should not be used as a model for social change in other program areas.

The practice and principles described in this paper, and by Paul Josif and Associates, could equally apply to health, community management, education, infrastructure development and economic development as much as they do to housing and law and justice.

Territory and Commonwealth service provision systems have not been particularly successful in promoting the marriage of traditional and contemporary management practices. For example the Territory and Commonwealth normally deliver services at the 'community' level through community councils established under the *Local Government Act (NT)* or the *Associations Incorporation Act (NT)* or through 'community' programs. However, decision-making affecting people's daily lives are enacted at a different level. Because these different levels of decision making are informal (such as those described by Josif previously) it has always been difficult for government service provision to utilise these mechanisms.

The key factor in facilitating successful self-management at community level is enabling the interaction of community groups (clans, family, skin, tribal council, traditional owner's etc) with government services (police, health, education, family violence etc). The planner's role in identifying and developing these mechanisms is critical.

There has been considerable discussion at the national and state Territory level about different models for improving service provision outcomes for indigenous people and a number of different framework agreements and regional agreements have been proposed. It is likely that the further traditional decision-making is from the primary service providers, the more tenuous will be a compatible arrangement between Aboriginal and non-Aboriginal management systems. Accordingly, any change in service delivery method will need to be carefully managed to ensure there is no further disempowerment of local community organisations. Individual communities will need to ensure they have a mechanism in place to reflect local aspirations and allow them to effectively deal with a new system of service provision.

It is equally important that the development of individual and organisational skills at the community level is continued to enhance the change occurring at other levels of government. There appears to be no reason why communities should not be assisted in the development of community self-management systems, which recognise and formalise locally relevant structures as a mechanism through which change can be managed. Law and justice planning provides a model that could apply to other program areas and deal with service provision and development issues at the Commonwealth, Territory or regional levels.

CONCLUSION

This paper presents a model for social change in remote Aboriginal communities seeking to address law and justice concerns. It is based on the proven and powerful process of participatory planning. This model, in conjunction with effective coordination of resources through agreement between a community and its service providers, is recognised as successful in an area characterised by failure - on the part of governments and Aboriginal communities. This model shows how Aboriginal communities and their service providers can successfully establish common ground and work towards a mutual purpose.

It promotes devolving responsibility for law and justice issues from agencies to community organisations where relevant and appropriate, including using Aboriginal Dispute Resolution and customary decision-making mechanisms.

The process demands a whole-of-government response to issues identified by communities and a range of interventionary, crisis, preventative and education programs for short-term and long-term priorities.

Governments need to focus on ensuring:

- Responsibility for policy and program development rests a unit that is adequately resourced to research, develop and monitor an overarching policy framework. An overarching framework will ensure policy and program development occurs in a community context and is not focused on a single issue;
- Field officer skills need to be to a great extent upgraded through appropriate training. Service delivery to remote area communities can be significantly improved if adequate resources are provided; and
- The development of a data collection system that gives more weight to community-based and qualitative data to in order that an effective evaluation of community planning is undertaken.

If these challenges can be met, Aboriginal law and justice planning will fulfill its potential as a model, making it a valuable tool for change in program areas such as housing, health and community management.