

NGAANYATJARRA PITJANTJATJARA YANKUNYTJATJARA

Women's Council (Aboriginal Corporation)

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Submission to the NT Coroner in the matters of Brumby, Coulthard and Presley (deceased): Vicki Gillick, NPY Women's Council Co-ordinator.

1. I am employed as the Co-ordinator of Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (Aboriginal Corporation) (NPYWC). I have held this position since 9th October 2003. Previously I acted in the position from August 2001 to April 2002 while the previous incumbent was on leave, and I continued to be employed as a senior project worker and policy adviser from April 2002 to end June 2002, to work on a number of matters, including the 2002 SA Coronial inquest into the deaths of Kunmanara Ward, Thompson and Hunt. NPYWC has been separately represented at two South Australian inquests, the findings of which were released in September 2002 and February 2005. His Worship will be familiar with the content of those findings. NPYWC has disseminated the information therein to members and has tried to pursue their implementation.
2. I have mostly lived in the Northern Territory since July 1979 but spent six years in Canberra between 1992 and 1997 while completing a Bachelor of Laws and a Diploma in Legal Practice. I worked at the now-defunct Pitjantjatjara Council Inc. Legal Service between August 1997 and August 1999, for the Central Land Council from August 1997 to August 1999 and in the Criminal Section of the Central Australian Aboriginal Legal Aid Service from August 2002 to September 2003. I currently hold a Northern Territory Class 3 Restricted (Corporate) Practising Certificate. I am also a member of the Uluru-Kaṯa Tjuta National Park Board of Management, nominated by the Northern Territory Government and appointed by the Federal Minister for the Environment.
3. I am required to provide over-all co-ordination of NPYWC's operations and functions, including the management of staff and of planning, policy, human and financial resources, external relations and funding. I am required to work closely with the NPYWC Executive and membership, to maintain contact with government departments and other funding bodies and with relevant Aboriginal organisations; to advise the Executive on funding, policy and other matters that

affect the organisation and its work. My work includes lobbying and advocating to various departments and agencies on behalf of the organisation, in relation to funding and also to policy and program content.

4. NPYWC is currently funded at a level of around \$4M per annum from various Commonwealth, State and Territory sources, to provide various human services delivery programs in the tri-state region. Attached and marked "VMG 1" is background information on NPYWC which includes a list of funding sources. The region consists of the Anangu Pitjantjatjara Lands in South Australia, the Ngaanyatjarra Lands in Western Australia and four Northern Territory member communities: Finke (Aputula), Mutitjulu, Docker River and Imanpa. Attached and marked "VMG 2" is a map of the NPYWC region. The members and their families to whom we provide services are connected through common languages, land, cultural and spiritual beliefs and practices and kinship ties.
5. NPYWC is the disability case management and advocacy agency for Anangu and Yarnangu (WA) in the NPY membership region. This work is funded by the WA Disability Services Commission, NT Health and Community Services and the (now) SA Department for Families and Communities. NPYWC is also the Cross-border Carer Respite Centre (CBCRC) and Service for the same region, funded by the Commonwealth Government. The CBCRC supplements its Commonwealth funding with brokerage funds from the States and Territories in order to provide respite for the carers of people with disabilities, both physical and intellectual. In many of the cases we manage, these disabilities result directly from sniffing petrol.
6. NPYWC Youth Programs: SA and WA
These come under the NPYWC Youth Programs section. The Young People's Project was developed in response to concern by the NPYWC Executive and members about substance misuse on the NPY Lands. The Young People's Project is a prevention and early intervention program targeting young people between 12 and 25 years who are at risk, or at the early stages of volatile substance misuse. It employs a range of strategies ranging from individual support and assistance to development of community initiatives, input into services addressing volatile substance misuse and broader advocacy and policy development in relation to volatile substance misuse.
7. The current funding grant covers the period April 2004 to June 30, 2006. The funding, of \$550,000 over this period, is only just sufficient to employ the equivalent of three full-time positions to cover the Anangu Pitjantjatjara (SA) and Ngaanyatjarra (WA) Lands. In practice it employs one full-time worker and one twenty-hour per week Anangu co-worker for the AP Lands, two part-time positions on the Ngaanyatjarra Lands and a contribution to the cost of wages for managing the Program. Negotiation of the performance indicators and objectives of the agreement was protracted, time-consuming and generally extremely

frustrating. The funding body expected a significant and quick reduction in petrol sniffing through detoxification and rehabilitation (see 'Services' below at para. 10).

8. NPYWC Youth Programs: NT

8.1 NPYWC is funded by Commonwealth Family & Community Services to assist youth in its NT member communities. At present we have a worker placed at Finke (Aputula) and also at Docker River. These workers run recreational activities for young people and encourage local youth to be part of organising activities both within and outside the community.

8.2 In relation to the Mutitjulu Community, NPYWC's work in recent years has been mainly in the following areas:

- trying to respond to requests from families to get their sniffing relative into some sort of treatment program (see 'Services' below at para 10);
- lobbying for an increased police presence as an essential pre-requisite to stopping or at least seriously reducing the supply of cannabis, petrol and liquor;
- involvement in the Mutitjulu *Working Together* Project and regional Youth Forums;
- case management of those with disabilities secondary to sniffing;
- lobbying of government child protection agencies and some assistance with child nutrition work;
- domestic violence services including attendance at Mutitjulu Magistrates' Court and close liaison with Yulara police in relation to both domestic violence and suspected sexual assault matters, the latter including the supply of petrol to young women in exchange for sexual favours; and
- supporting the Mutitjulu Respite House, originally established by NPYWC and later handed over the community to operate.

8.3 It would be fair to say that in some areas our work at Mutitjulu has not been as intensive in recent years. This is due to a number of factors, including safety concerns for staff, the lack of office and housing (a bed-sit/office was completed in July 2005). In early 2002 while acting in this position I arranged the removal of two staff members for occupational health and safety reasons, following threats to them and to NPYWC property by Anangu men at Mutitjulu.

9. Mutitjulu Community and the region.

9.1 To my knowledge, Mutitjulu is a relatively recently permanently settled community (late 1970s) and this change coincides with increased tourism in the Uluru area. It is my observation that in the past fifteen years or thereabouts, Mutitjulu, along with other communities in the region including Amata, Ernabella, Docker River and Imanpa, has become progressively more dysfunctional. At Mutitjulu, many older leaders have died and other senior

people in the community have become overwhelmed by the escalating sniffing, cannabis use, drinking and associated behaviour of younger people. Aboriginal people from outside the region who claim family connections to local residents have been attracted to Mutitjulu as a place where they can get employment because of the resources that have gone into the community.

9.2 These are people from urban backgrounds whose literacy and work experience, while fairly basic, is nevertheless of a higher level than those of locals, but whose presence in my observation has generally had a deleterious effect on a community that is already struggling to cope with a clash of cultures and the resulting contemporary pressures. The comparatively better skills of these later arrivals means that they compete successfully for jobs, few of which are held by local residents from the region (although admittedly many of these people are not what is sometimes called 'job ready'.) Some of these more recent arrivals are alleged by our members and suspected by police to be the main suppliers of illicit substances. Local residents have told me they feel unable to provide names because these more recent arrivals are their relations. There has also been enormous pressure on Mutitjulu residents, many of whom are also traditional owners of the Park, to be involved in its day to day management, intellectual property rights issues, policy matters, film rights and any number of other issues, all in an atmosphere of increasing substance misuse and all of its associated results.

9.3 As a community becomes more chaotic and lawless, it becomes harder to attract staff with strong skills and good analytical capacity. It sometimes happens, therefore, that workers are attracted who have an idealised view of life in Aboriginal communities. Some want to acculturate and others lack the capacity to objectively assess the damage that is being done to the most vulnerable - usually women, children and those who are not part of the drinking, sniffing and dope-smoking lifestyle. This is of course not confined to Mutitjulu. I am aware that Mr. Gregory Andrews has provided further detail in his submission and I concur with many of his comments, in particular note pp 5, 6 and 9 - 13.

10. Services in the Cross-border region

10.1 His Worship Mr. Donald of course made a number of recommendations in September 1998 following the Muller (Armstrong) inquest. One was that facilities be established and maintained for the safe detoxification and or rehabilitation of sniffers. This has not occurred, apart from at a couple of outstations such as Mount Theo and Ilperle, and a small number of extra beds for this purpose at the Drug and Alcohol Services (DASA) facility in Alice Springs, with, from time to time, follow-up at the Central Australian Aboriginal Alcohol Program Unit (CAAAPU), funded by the Cth. Department of Health and Ageing.

10.2 In order to attend at CAAAPU, the sniffer had to be accompanied by a family

member at all times during an eight-week program. A couple of sniffers from the NPY region who volunteered for the combined program completed the course, but to my knowledge they have returned to sniffing. It also proved difficult to find family members who were willing or able to stay the distance. In any event I believe the CAAAPU governing committee has recently determined that CAAAPU will not accept sniffers.¹

10.3 Mr. Donald also recommended that the Commonwealth set up facilities for chronic sniffers in Alice. This has not occurred. He also recommended a tri-partite approach by SA, the NT and WA along with the Commonwealth on the collection and dissemination of information and the co-ordinated use of resources. The Cross-border Volatile Substance Misuse Reference Group, with a Secretariat provided by the Department of Health and Ageing, commenced to meet in 2002 and has operated over the past few years. I have regularly attended meetings on behalf of NPYWC since taking up my position in October 2003, along with the Chairwoman and another Executive member. It is my opinion that the progress of this group has been extremely slow. Representatives of government agencies have changed, and NGOs other than NPYWC have dropped off in attendance. The framework for the Group was only settled in 2004, as were the Terms of Reference for a 'Feasibility Study for Effective Community Service Models to Address Volatile Substance Misuse.' Attached to this submission and marked "VMG 3" is a copy of those Terms of Reference.

10.4 The NT, SA, WA and the Commonwealth have each contributed funds towards the cost of engaging a consultant, through tender by SA Department of Health, to conduct a feasibility study under the Terms of Reference. NPYWC believes this to be a useful avenue, particularly as the Terms of Reference have been broadened. There were, unfortunately, numerous delays in the tender process, including the appointment of replacements for delegates who had left their positions, the receipt of monetary contributions and no responses to initial advertisements for tenderers, who were finally appointed in mid-2005.

10.5 The feasibility study has been one of the main reasons for NPYWC's consistent attendance, as we believe it is essential to look at service needs from intervention to after-care on a regional basis. In my opinion, while there has been a useful exchange of ideas and information, little else has been achieved so far and this is very disappointing. It is especially disappointing that the feasibility study is only now about to commence. The Group does not report to any Minister or Department. In my opinion it has become a forum consisting mainly of bureaucrats, has little or no influence, and unless it can find a way to have a stronger voice and attract non-government representatives, may not have a future. It is the view of NPYWC however that it is important to have some sort of

¹ Pers. Comm. with funding body representative.

cross- border forum because this is a regional issue and there are social and economic advantages in addressing it without the false constraint of borders.

- 10.6 The SA Government in the meantime has acquired a commitment of funds, around \$2M, from the Commonwealth to build a rehabilitation centre for those who misuse substances (inhalant, alcohol, illicit drugs) on or near the AP Lands, as per the SA Coroner's 2002 and 2005 recommendations, but a suitable site has yet to be chosen and accurate costings determined. No date is set for the commencement of for construction. The SA government has determined that entry to this 'health facility' will be voluntary; it will not deal with detoxification, which in more severe cases the SA Government believes may require a period in the Alice Springs Hospital; it will be available to 'primary' and 'secondary' sniffers but not to those in the 'tertiary' or chronic category who have serious brain damage and who often exhibit high levels of anti-social, violent and or uncontrollable behaviour.
- 10.7 Such persons, when they come to the attention of mental health services, are in my experience deemed not to have a mental illness as defined under Mental Health legislation, but rather an 'acquired' or 'organic' brain injury, for the sufferers of which there are no services. NPYWC has raised the issues of potential difficulty in recruitment and retention, the voluntary nature of admission, high cost of construction on the AP Lands and the need for a regional or cross-border approach to the issue. The facility will be available to residents of South Australian communities.
- 10.8 The SA Government has a view that treatment does not work when there in compulsory attendance; however, given the extent of the problem, the generational effects (across the region), the fact that there is no facility for inhalant abusers with which to compare, that we are constantly asked to have sniffers taken into treatment whether they wish to go or not, and the likelihood in my view that some families will feel sorry for their relative and simply collect them, an involuntary regime should be considered. As one NPYWC Executive member noted during a presentation about this proposed facility in June 2005:

*"They'll want to go home because they'll miss their family and they'll ask their family to ask for them to go home and that's what will happen. We have a huge problem... Just say, if my child sniffs petrol, I will want to bring him home if he asks me. We have got plenty of family and the community constables are our family as well, so they'll just get asked to bring them home. And now of course because hanging themselves is such entrenched behaviour they'll just go and hang themselves."*²

² Mrs Nura Ward – translation by NPYWC staff member and accredited interpreter, Ms Linda Rive.

- 10.9 The SA Government in mid- 2004 introduced the *Regulated Substance Amendments Bill* to amend the *Pitjantjatjara Land Rights Act* (SA) 1981 to, among other things, include petrol as a regulated substance, increase penalties for supply and allow for the confiscation of vehicles. The Bill can be found on the SA Parliament website. Unfortunately it has not been passed. It is my understanding that the reason for this is that an Independent member wishes to amend the Bill to include provisions that would allow media representatives on to the AP Lands without permits. NPYWC is disappointed with this state of affairs. We believe that the permit argument is of minor comparative importance and can be held at a later date. At present the penalty for 'possession for the purpose' under the by-laws is a small fine (maximum \$100), normally converted to a Community Service Order which is often not carried out, and the fine is frequently, eventually, waived.
- 10.10 As His Worship would know, the NT Government has introduced the *Volatile Substance Abuse Prevention Bill*. When the legislation is enacted, sniffing will be banned but will not be an offence. Sniffers will be able to be taken to a 'safe place' by 'authorised persons.' Tenders have been advertised for the provision of treatment in Alice Springs, expected to be in the form of several beds. One of the concerns we have is that in a number of communities there will not be a 'safe place' and that if 'authorised persons' try to act in dysfunctional communities where there is no permanent police presence, this attempted solution could be ineffectual at the very least.
- 10.11 On the Ngaanyatjarra Lands, by-laws prohibit the possession and sale of 'deleterious substances' used for inhalation. Sniffers who committed offences related to sniffing were often dealt with quickly by a Justice of the Peace and given a short custodial sentence, thus removing them from the community and providing respite from their anti-social behaviour. Note that under the *Sentencing Act* 1995 (WA) (s86) there no longer exists judicial discretion to sentence offenders to custodial periods of less than six months. Changes to minimum custodial sentences, initially to three, then six, months, have not been welcomed by the Ngaanyatjarra Communities. They argue that the removal of short-term sentencing options have diluted the deterrent affect of the *Aboriginal Communities Act* 1979 (WA)³ under which offenders could be sent to the Kanpa Substance Abuse Centre near Warburton on the Ngaanyatjarra Lands.

11. Police Services

- 11.1 NPYWC has lobbied intensively for the implementation of cross-border policing and for a sworn police presence in every community. The organisation takes the view that Community Constables (Police Aides or Aboriginal Community Police Officers) are too closely linked to their communities to effectively police them; if they are to be employed, they must be accompanied by sworn officers. Many

³ Ngaanyatjarra Community Law and Justice Submission to the Attorney-General of Western Australia, the Hon. J A McGinty MLA, April 2002.

communities are in such a violent and dysfunctional state that there is no option but to deal with personal safety as a priority. Without some law and order it is not possible for people to deal with their daily lives. I believe that many community members must surely exist in a state of severe depression because of the unceasing violence and disruption to which they are exposed, much of it associated with substance misuse. Trite responses from governments to the effect that 'the elders/community has to take responsibility' ignores the fact that they simply do not have the capacity to deal with such damaging contemporary pressures, and that Aboriginal residents are no less entitled to personal safety and protection than are any others. It is also a convenient but spurious argument that can be employed by those seeking to avoid expending further funds on police services.

11.2 It is NPYWC's view that a permanent police presence would serve as a deterrent, particularly in relation to youth, as well as enabling quick responses to offending and vastly improved surveillance and response in relation to the supply of illicit substances. We are pleased that Mutitjulu Community is finally to get a police post. I have some concern however that the relatively sophisticated model proposed, and funded by the Commonwealth, may set a precedent that will tempt government to find economic reasons for not providing services to more communities.

12. OPAL Unleaded Fuel

12.1 NPYWC's members have enthusiastically welcomed the introduction of Opal Unleaded, but wish to see it introduced throughout a large geographic region. To that end, the organisation has joined forces with General Property Trust (GPT), the owners of Ayers Rock Resort, CAYLUS and the Mutitjulu Working Together Project in order to persuade the Federal, State and Territory Governments to provide a broader subsidy. It is logical that if the proximity of Regular Unleaded was the main barrier to the effectiveness of AVGAS (see Cth. Health & Ageing evaluation of the AVGAS scheme, November 2004), then the same will apply in relation to Opal.

12.2 It is my observation that this is already proving to be the case. In April the Amata (SA) community was so enthusiastic about the fuel that it held its own launch of Opal. Staff advise me that after a brief lull, Regular Unleaded is being brought in and sniffing is as rife as ever. On recent visits to Mutitjulu I have observed several sniffers openly pursuing the practice in broad daylight. Alice Springs appears to be attracting more sniffers as communities move to Opal, so it is important that the main regional centre is included.

12.3 The 'Opal Alliance' is about to commission a cost benefit study that will include the calculation of the cost of providing a subsidy or rebate across the Central region as compared to the economic and social costs of not doing so.

12.4 We are not under any illusion that comprehensive coverage is the sole answer to the problem. The situation however is desperate, as the number and ages of sniffers of which His Worship will be aware clearly demonstrate. Few if any other interventions have been effective and there is neither the community capacity nor outside expertise across the region to replicate Mt. Theo in all parts. We believe that excluding Regular Unleaded from the area has great potential to assist, and would also give Aboriginal people hope that there is support for eradicating this insidious habit. There would remain an urgent need for increased policing, after-school and youth workers on communities and vigilance to try to ensure that petrol is not replaced by cannabis, the use of which is itself a growing problem or other drugs.

13 Summary

13.1 We invite His Worship to conclude that, despite the obvious and often -stated need for a regional approach, there has been little success in dealing with the problem of inhalant abuse in the cross-border region in a timely, ordered and co-ordinated manner as among the governments of the Commonwealth, the two States and the Northern Territory. We ask that His Worship make recommendations that deal specifically with the need for greater speed, co-operation and uniformity in matters of prevention, intervention, treatment, after-care programs, legislation and other matters relevant to overcoming sniffing in the region. The latter would include a more strategic approach to sport and recreation facilities, including better funding and support.

13.2 Specifically, we ask that His Worship recommend that the four governments that have funded the Cross-border Feasibility Study give due consideration to its conclusions and recommendations in determining what services are needed to address volatile substance misuse in the region.

13.3 We ask that His Worship accept that Opal Unleaded has the potential to provide an effective prevention and intervention mechanism in relation to petrol sniffing and that it should be the only petrol permitted to be used in the region and recommend accordingly.

13.4 We ask that His Worship accept that law and order and community safety are priority requirements in dealing with sniffing, trafficking and associated violence, and that the residents of remote communities are entitled to the protection of police, including reasonable times for attendance and having offenders dealt with promptly, and recommend accordingly.

13.5 We ask that His Worship accept that most of the communities in the region are lacking in administrative resources, resilience and self-governance capacities, thus limiting their abilities to solve their own problems and guide their young people, that there be more and consistent support for services such as NPYWC, CAYLUS and Waltja, and recommend accordingly.

Vicki Gillick
Alice Springs
2nd August 2005