

**INQUIRY INTO ISSUES RELATING TO
REDFERN/WATERLOO**

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Theme:

Summary



Community Justice Centres
Attorney General's
department of nsw

The Chairperson
Legislative Council
Standing Committee on Social Issues
Parliament House
Macquarie Street
Sydney 2000

11th May 2004

Dear Madam,

On behalf of Community Justice Centres, please accept this submission to the Inquiry into Issues Relating to Redfern / Waterloo.

The submission addresses the terms of reference particularly 1. (b) "Other existing government programs in the Redfern/ Waterloo areas, including local, state and federal programs"

Community Justice Centres would be pleased to provide the Standing Committee on Social Issues with further information regarding CJsCs services, or any matter addressed in this submission.

Yours Sincerely

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Community Justice Centres, Attorney General's Department of NSW

**Submission to the New South Wales Legislative Council
Standing Committee on Social Issues Inquiry into Issues
Relating to Redfern / Waterloo**

Contents

1. Introduction	p. 3
2. The Role and Aims of Community Justice Centres	p. 3
3. Community Justice Centres' Alternative Dispute Resolution Services.....	p. 4
Mediation	p. 4
Conflict Management	p. 5
Information and Training	p. 6
4. Community Justice Centres' Services to the Aboriginal and Torres Strait Islander Community	p. 6
5. Community Justice Centres and the Redfern / Waterloo Community	p. 7
6. Conclusion	p. 8
7. Appendices	
1. Case Study 1	p. 9
2. Case Study 2	p. 11
3. Case Study 3	p. 14

Summary

Community Justice Centres (CJCs) is a business centre of the Attorney Generals Department of NSW. CJCs provides alternative dispute resolution (ADR) services such as mediation and conflict management, as well as information and training, to the community of NSW, including Aboriginal and Torres Strait Islander (ATSI) and culturally and linguistically diverse groups. CJCs has noted a positive response by ATSI groups to services involving indigenous mediators, but recognises that uptake of services is low in the Redfern / Waterloo area. We recommend a more proactive approach to the delivery of ADR services to that community, including the strengthening of links between referrers and providers including CJCs, and the promotion of ADR strategies, particularly to indigenous groups. This submission includes case studies that illustrate the nature and complexity of disputes mediated by CJCs.

1. Introduction

This submission provides information about the role of Community Justice Centres (CJCs) in New South Wales, as well as an explanation of the nature and scope of the mediation and alternative dispute resolution services provided to the community by CJCs. This information is presented to the Standing Committee on Social Issues to assist with its inquiry into issues relating to Redfern / Waterloo. The submission does not comment on the causes of recent issues arising in the Redfern / Waterloo area, rather it recommends measures that may assist that community to develop conflict management strategies.

2. The Role and Aims of Community Justice Centres

Community Justice Centres is a business centre of the Attorney General's Department of NSW. Established in the 1980's, the role of Community Justice Centres is to provide mediation and conflict management services to metropolitan, regional and remote populations, under the Community Justice Centres Act 1983 (NSW).

Community Justice Centres aims to contribute to the safety and harmony of NSW communities by improving individual, group and community responses to conflict, and to promote skills that will allow for the independent resolution of disputes. CJCs services are free of charge, confidential, impartial, accessible and responsive to the needs of all groups and individuals, including those from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander groups, and individuals living with disabilities.

In the last financial year CJs opened 7,139 new files. Subject to the agreement of all parties to the dispute, CJs provided mediation in 3,216 cases. Of these matters, 27% involved harassment, threats, property damage, theft or violence. In 16% of cases one or more of the parties held an Apprehended Personal Violence Order against another party.

3. Community Justice Centre's Alternative Dispute Resolution Services

Alternative dispute resolution (ADR) processes aim to resolve conflicts without the need for judicial determination. Use of ADR processes allows courts to effectively manage resources, and for the community, provides an option that is timely, less adversarial, and less costly than judicial options. The ADR services provided by CJs include mediation, conflict management, dispute counselling, facilitation, and technology assisted mediation. CJs also offers training and information.

Mediation

Community Justice Centres provides mediation services to resolve small and large-scale disputes. The nature of disputes addressed is diverse, including for example, disputes within families, between neighbours over fencing, noise or behaviour complaints, or between interest groups within communities experiencing complex and multidimensional conflicts.

Mediation is a process in which the parties to a dispute, with the assistance of a neutral third party (the mediator/s), identify the disputed issues, develop options, consider alternatives, and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome

of its resolution, but may advise on or determine the process of mediation whereby the resolution is attempted.

Referrals to CJsCs for mediation are made by magistrates, chamber magistrates, registrars, police, private solicitors, Legal Aid, legal centres, the Family Court, and LawAccess. Other key referrers include housing and community services authorities, non-government organisations, unions and family counsellors. People can also self-refer by calling CJsCs on regional toll free numbers.

Conflict Management

In complex disputes, particularly those involving communities, a conflict manager is appointed to oversee the dispute from the referral stage to the resolution of the dispute. Conflict Management involves the assessment of all aspects of the conflict and the planning of a course of action that will be most likely to result in the resolution of most, if not all, of the concerns. The three general approaches to conflict management are: conflict anticipation for potential conflicts; cooperative problem solving for acknowledged but not highly polarised disputes; and mediation for highly polarised situations. Conflict Management is outcome based, fosters direct negotiations between the disputants, and includes a design for the future, such as an agreement about behaviour during future contact between the parties.

Case study 1 (Appendix 1) demonstrates the complexity of disputes that may be resolved through mediation, and the role of the conflict manager.

Information and Training

CJCs also provides information and training sessions for community organisations and government departments on introductory mediation processes, dealing with difficult client groups, facilitation of meetings and the prevention of conflict.

4. Community Justice Centre's Services to Aboriginal and Torres Strait Islander Communities.

Community Justice Centres provides mediation services to the Aboriginal and Torres Strait Islander community, in consultation with the CJCs Aboriginal and Torres Strait Islander Network. In 2003 members of indigenous communities, initially in northern NSW, and to be expanded across NSW, successfully completed mediator training and now bring their skills to both indigenous and non-indigenous disputes. This has proved to be a successful strategy in the culturally sensitive management of conflict in indigenous communities, promoting self-determination and building communities' capacities to resolve their own disputes.

Case studies 2 and 3 (Appendices 2 and 3) illustrate CJCs' use of mediation processes to manage complex disputes with respect for indigenous communities.

At present Community Justice Centres has 30 ATSI mediators working throughout NSW. This includes 15 who were recruited and trained in 2003 in the Northern region, which takes in the area from the Central Coast to the Queensland border. In the Northern region there has been a significant increase in the number of disputes mediated by CJC where one or more of the parties is indigenous: 291 matters in the 10 months to April 2004, compared to a total of 153 cases opened in the financial year ending June 2003. This clearly demonstrates the positive response of

indigenous groups to alternative dispute resolution involving indigenous mediators, and highlights the need for CJC's Aboriginal mediation services to be further expanded in other regions of NSW. This strategy is a key objective of Community Justice Centres in the present financial year. In 2004, CJC will further expand its services to indigenous communities by recruiting and training Aboriginal and Torres Strait Islander mediators across the state.

5. Community Justice Centres and the Redfern / Waterloo Community

From July 2002-June 2003 a total of 14 files were opened where either of the parties resided in the Redfern /Waterloo area, however only two of these matters involved parties who identified as Aboriginal or Torres Strait Islander. Other cultural and linguistic groups represented in the referrals from this location included those born in Australia (5), Sudan (1), Vietnam (1), New Zealand (3), United Kingdom (1), and Malaysia (1). This data demonstrates the need for Community Justice Centres to maintain its focus on services to CALD groups, as well as to promote its services to the Aboriginal and Torres Strait Islander community of Redfern / Waterloo. In addition to increasing the availability of mediators, it will be important to build partnerships with potential referrers in the Redfern / Waterloo area, and to raise the profile of Community Justice Centres.

6. Conclusion

Community Justice Centres provides alternative dispute resolution services that are responsive to the needs of all cultural groups in New South Wales. The community of Redfern / Waterloo, including Aboriginal and Torres Strait Islander, and culturally and linguistically diverse groups, are potential recipients of services that will assist them to resolve disputes, including those of a serious and complex nature, and those

with a large number of disputants. CJs services, including mediation, conflict management, information and education, can contribute to the safety and harmony of this community and could promote conflict resolution skills for the independent resolution of disputes. Opportunities exist for increased referrals to CJs and other ADR providers, by legal and community service providers. CJs recommend that the Standing Committee on Social Issues considers this information in its inquiry into the needs of the Redfern / Waterloo community.

Appendix 1

Case Study 1

The Sikh Dispute

A dispute within a large, ethno-specific religious organisation (incorporated association) was referred to community Justice Centres in accordance with section 10 of the Model Rules for Incorporated Associations.

The association had not had an AGM or an election of office bearers since 1999. All extensions of time had run out. Attempts to have an election were thwarted by legal challenges and disputes over who the members were, the status of their membership, voting rights, accusations of breaches of rules and procedures and the validity of the incumbent executive committee. A complicated constitution which at times contradicted itself and was open to interpretation, added to the confusion. Another major issue was the election of replacement members for the Board of Trustees and the Council of Trustees when the cycle for their elections was "out of schedule"

The Community Justice Centre appointed a Conflict Manager to identify a process and manage the dispute resolution procedure. The aim was to clearly identify the issues from the perspective of both groups and then to work through the critical issues of membership and voting rights. Having established an agreed membership, the next step was to allow the parties to reach agreement on a procedure that was transparent, open, neutral and acceptable to the various factions. Agreement was reached on each issue through a series of Focus Group meetings and the information passed on to the 1000 strong membership for discussion and acceptance. Acceptance of the process by the full membership was achieved

through motions put to the members at a Special General meeting chaired by CJC facilitators for neutrality.

The only venue large enough for the meetings was the association's temple. Many religious and cultural traditions had to be observed. The Conflict Manager sought advice from the religious and cultural leaders on the appropriate, behaviour, stance, seating, head coverings, removal of shoes and partaking of only acceptable foods. Much respect was gained by CJC staff's strict observance of these traditions.

After all issues were resolved, by agreement, and the process accepted by the entire membership through special resolutions, the long awaited. Annual General Meeting and the election of office took place. The election results were accepted by the entire membership.

Appendix 2

Case Study 2

The matter was referred by the Registrar at the Local Court to Community Justice Centres. The initial parties referred presented as a dispute between two neighbouring families about the activities of the 8 year old daughter of one of the families.

The CJC Conflict Manager spoke to the people involved and found that there appeared to be two separate disputes and possibly a third dispute involving the local Land Council, CDP and Aboriginal Housing Organisation. While these disputes all appeared to be separate there were people who were involved in all of the disputes. CJC spoke to the Local Court Registrar to get a history of the dispute from the perspective of Local Courts and was advised that the dispute had been continuing for the past 12 years. CJC was also advised that a murder had taken place within the community and this had set the tone for the dispute. After careful analyses it was found that the people accused of the murder were not involved in the dispute. There had also been a recent stabbing. Immediately it became clear that the dispute was about more than the activities of an 8-year-old child.

In order to contact all of the people involved and gain their confidence in CJC the local police were approached for assistance. The police had an Aboriginal Liaison Officer (ALO) and arrangements were made for that person to be made available to assist CJC. The ALO was significant in building trust within the community about the role of CJC. This was done through being with the CJC Conflict Manager at meetings, arranging transport, venues, knowing where to locate people and

providing additional information about the background (from their perspective) of the disputes.

An initial mediation session was arranged and as a result both families had a greater understanding about how the dispute had arisen and they agreed on how they would live together in the future.

The second session was then held involving six young people (18 – 20 year olds). At this session it was identified that many issues occurred involving the children of the 'mission'. It was felt that the rest of the community were often involved in arguments between the younger members of the community and that without their issues being resolved it was unlikely that the community would find a lasting resolution.

The Police ALO was then instrumental in organising a facilitated meeting to be held in the common room of the 'mission'. With the help of the ALO the younger members of the community were contacted and agreement was reached that they would attend the meeting without their parents. The adult community members agreed to this and supported their children attending the meeting.

At the meeting the young participants (aged from 8 to 16) were initially reluctant to speak as they felt they would be 'dobbing' on their mates. Through the skills of a mediator who was experienced in living and working with children, the hall erupted into energetic discussions about what had happened and how it could be fixed. At the end of the meeting the adults were invited in to share a cup of tea and hear from their children about what had happened. The young participants were excited and

empowered by being treated with respect at determining the solution to their arguments. The young people also worked out a way of including the 8-year-old client who was part of the initial dispute referred to CJC, and there was agreement that she had been excluded by the community and that this had contributed to her behaviour in the neighbourhood. The adults were keen to support the outcome and there was a general air of good will.

Feedback from the Police ALO some time later indicated that there was a significant change in the community since CJC intervention and that it appeared to be sustainable.

Appendix 3

Case Study 3

The Registrar of the Local Court contacted CJs to see if we could assist with a very large Aboriginal community dispute where there appeared to be about 30 Apprehended Personal Violence Order (APVO) applications before the court and an unknown number of APVO applications already granted. The Registrar indicated that the Court would need to schedule a week of sitting time to the matter if CJs was not able to assist the community resolving it themselves.

The Regional Co-ordinator of CJs was the conflict manager and also one of the mediators. The Conflict Manager designed a tailor made process to suit the needs of the participants within the dispute. This included pre-mediation, facilitation and assisted negotiation.

The Aboriginal Client Service Specialist (ACSS) from Local Courts played a central role throughout the dispute. She acted as a contact for all of the disputants, went out and saw people before CJC had made a contact and encouraged them to resolve the issue in their own best interest, to clarify that CJC was impartial and to generally pave the way to acceptance of CJs intervention. On the days of the meeting she was there to welcome clients, settle them down and answer any questions disputants had. She also talked about what mediation was about and this was done both individually or as a group. The ACSS played a significant role in allaying the fears of participants. This happened on every occasion for every meeting.

Pre-mediation involved identifying influential people within the community. These included elders, or a respected and liked person. These people did not necessarily

have any applications before the court and in fact may have appeared to have the least to do with the dispute directly.

Each person participated in pre-mediation and identified the issues for them as well as some of the options they saw for solutions. With the agreement of each person, a complete list of issues was then circulated to each party in writing (A's issues to B's and B's issues to A's). This document was very brief and was written as a heading with some subheadings underneath. The purpose of the document was to give an overview of the issues and not a comprehensive description of events that had happened.

During the course of pre-mediation a number of people identified the role of other agencies as key to developing a sustainable peace. These agencies included the local housing provider, the Courts and Police. It was agreed that the Regional Co-ordinator would take these matters to other organisations only after they had been identified by the disputants as being an insurmountable barrier to resolving the matter. Issues of self-empowerment and self-determination were considered in any decision to liaise with agencies such as the local housing provider, Courts and Police. All other options were canvassed in the first place.

The Regional Co-ordinator negotiated with the housing provider for agreement in principle to consider priority moves for some families and this was accepted as also being in the best interests of the housing provider as there had been a number of house fires recently. Discussions were held with the local police about the way particular matters had been dealt with and how things might be different in the future. Negotiations were held with Local Courts about the process that would need to be

followed should any of the parties decide they did not wish to take any further legal action.

A final facilitated meeting was then held involving representatives of each group. Arrangements were made to hold this in the Court House in the evening. Given the intensity of the dispute, the Sheriff's Office was concerned about security and a condition of the use of the Court House was that there would be a large Sheriff's Office presence on the evening.

The meeting was held with as little formality as possible. Participants came and left the room for cigarette breaks, to collect children or just to have a break. CJsCs accommodated this and substantial good will came about as a result. On several occasions there were raised voices (a common occurrence in any mediation), and Sheriff's Officers attempted to intervene. This was not necessary and as the meeting progressed the Sheriff's Officers allowed the mediators to take responsibility for the meeting.

The outcome of the intervention was that the applications before the court were withdrawn, orders for variations on current orders were made, some families moved and the community moved on from the dispute.