

# Justice in Rural and Remote Areas

By Melanie Little SM

From 1988 I have regularly attended rural and remote courts in South Australia and the Northern Territory, firstly as an advocate and, since 2003, as a Northern Territory Magistrate. Bush courts often have unexpected occurrences such as domesticated dingoes coming into court and “sparked up” witnesses. While such happenings are part of the uniqueness of bush courts and make for great stories, we must never lose sight of the fact that a court is convened and there are significant consequences for those involved.

Courts are held in remote locations (Tennant Creek), mining towns (Nhulunbuy), resort towns (Jabiru), Aboriginal communities (Yuendumu) and some areas which are a combination of these types of communities.

Bush courts allow for persons to be supported by family, employers and community members. Local Police give useful assistance on a range of matters such as the issues facing the community, local geography and context. Local support services can have a direct input into the court case. This undoubtedly leads to a better informed court, and arguably leads to better outcomes for the defendant and indirectly for the whole community.

Community involvement can be nurtured and encouraged in a number of ways. The introduction of community courts is one way that community involvement can take place.

Community courts are reaching more remote communities in the Northern Territory than ever before. As with much of the work associated with bush courts, it is very easy to be out of your

comfort zone when conducting a community court. Care must be taken to ensure that the procedural safeguards associated with a more formal court sitting are not lost in the less formal structure of a community court. In many of our circuit courts, interpreters play an integral role in the running of the court. Without accredited interpreters on hand, it is difficult to run these courts.

Extreme weather conditions only serve to emphasise the inadequacies of the makeshift court rooms encountered on most circuit work. In the Top End, tropical conditions make work difficult with high humidity and torrential rain common occurrences. In the Central region, the courts encounter extreme heat and extreme cold. Air-conditioning and heating are often either non-existent or broken.

The working conditions for lawyers and prosecutions are extremely difficult, with limited or no areas set aside to speak privately with clients or witnesses. The Chief Magistrate and the Department of Justice are working to improve court facilities. The



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need for appropriate facilities has been recognised in the Report of the Intervention Review Board.

Essential services can be temperamental, and it is not uncommon for there to be power failures and difficulties with communications such as phones and faxes. At times there is limited or no direct access to phones or faxes, such as at Mutitjulu.

Large distances are travelled to reach remote communities. Travel itself is tiring and has its own stressors. It is recognised that if the court did not travel to these



Magistrate Melanie Little talks to local school children at Kalkaringi court during Law Week 2006. The room where court is held has very poor airconditioning and when there is a very quiet witness, the airconditioner has to be turned off, as it is very noisy. When it rains heavily you can not hear at all, as it has a tin roof



## JUSTICE IN REGIONAL AND REMOTE COMMUNITIES

communities, very few persons would be in a position to attend at the larger centres for court.

Circuit courts do provide an important role in access to the justice system. For example, the number of warrants issued for persons from the Ti-Tree region (200km north of Alice Springs) has now dramatically decreased with the establishment of the Ti-Tree court. It should be remembered that whilst those residing in the community where the court is held have been spared the need to travel, many defendants and witnesses come long distances to attend the circuit courts. It is a costly and time consuming exercise for them. If matters can be finalised promptly, they will not need to travel further and incur more expense to attend court. It is my practice to ask that something meaningful happen at any mention of a court case. Lengthy adjournments are discouraged. It is unlikely clients will be seen again before the new court date.

Participants in the court process must be mindful of the need to be respectful within a community which includes acting and dressing appropriately. Learning of the history and background to a community or region can greatly

enhance the ability to work effectively on a bush circuit. Social and economic circumstances can vary dramatically. Many communities have long and ongoing associations with established religions. Traditional cultural practices remain in some communities and are lost in others. Mining and company towns have distinctive characteristics.

The Law Council of Australia has been looking at issues of access to justice to rural and remote areas. This is a very positive move. The Australasian Institute of Judicial Administration (AIJA) held a conference in 2007 on Indigenous courts in Mildura, and has another conference scheduled from 5 – 7 August 2009 in Rockhampton.

Women's legal services and family violence services have led the way in access to legal education in remote areas in the Northern Territory. Community legal workers are now based in a number of communities. These programs have been very successful. It is encouraging to learn of other initiatives in legal education in the Northern Territory, such as the Northern Territory Legal Aid Commission Outreach Programme. Elliott was recently focused upon, and a range of agencies travelled



*Dane Meyers Court Orderly and Melanie Little inside Wadeye Court before Court starts*

there for legal education forums. Aboriginal Legal Services are also allocating more resources in this area. Magistrates have been giving presentations in remote locations during Law Week, and this initiative will no doubt continue into the future. While outcomes may be hard to quantify, these initiatives will enhance access to justice in remote and rural areas. Bush court work demands of all participants that they maximise the resources to hand, and that they are self-reliant. It is important and rewarding work.



*Wadeye School Childrens sign at the airport*



*Front of Wadeye Court house, and area where NAAJA lawyers work - slightly better table there now and we have a ramp for wheelchair access at the door (this was organised by Constable Bott - a local police officer and prosecutor - after seeing the difficulty our Court Interpreter Christine Cumaiyi had getting in and out of the Court room)*



*Walking from Wadeye airport towards town (this is the way lawyers and magistrates get to court)*

**Photographs by Robert Hall**