



LAW COURTS ALICE SPRINGS

A Very Large Bulldozer...

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During his farewell ceremonial sittings in Alice Springs, Brian Martin CJ reminisced about his welcome ceremonial sitting in 2004 when he was

“bold enough to say publicly that there was a solution for the problem here; it was a very large bulldozer.”¹

The problem he referred to was the inadequate court facilities in Alice Springs.

The out-dated court facilities in Central Australia are emblematic of the general dearth of resources allocated to the justice system in the region.

Central Australia is a busy criminal jurisdiction. In 2010-11, criminal listings in the Alice Springs Magistrates Court numbered 21,104, a mere 8,724 listings

fewer than the Darwin Magistrates Court.

The justice needs of Central Australia are significant, as often raised in the news, talk-back radio, police operations and political rhetoric. These needs must be taken seriously – and properly resourced – to address the current situation of geographical inequity.

Alice Springs Court complex

The Alice Springs court complex was opened in 1980. Original plans were for it to be larger than its current one Supreme courtroom and four courtrooms for Magistrates and specialist courts. However, in an effort to retain the neighbouring historical old gaol, this was not to be.

As stated by Riley CJ,

“this is a matter that has been raised by the judges over a long period of time”²

And, as was Brian Martin CJ, Riley CJ has remained vocal in his lobbying for an improved court house.

There have been minimal improvements to the existing structure, such as a \$265,000 facelift in 2006 to develop a safe victim space, interview rooms and offices. Considered by some to be lip service to the recurring censures. Despite this investment, the court is woefully deficient at meeting the increasing demand placed on Alice Springs courts.

1980
Alice Springs court opened

41% of criminal listings.....
22% of courtrooms



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1991 Darwin court opened

In stark contrast are the Supreme Court facilities officially opened in Darwin in 1991. The Supreme Court facilities comprise a main courtroom, four courtrooms equipped for jury trials, four courtrooms fitted for civil trials and two unused courtrooms. Similarly, there are eight courtrooms available for the Magistrates and specialist courts including the SMART

Court and Family Matters Court in Darwin.

Youth Justice Court

Since the *Juvenile Justice Act No. 77 (1983)*³, a separate court has been convened in the Northern Territory to hear criminal youth justice matters. Practically, this meant little in Central Australia until recent times, as Magistrates would regularly remain in the same open courtroom, before the same practitioners and on-lookers while closing the Court of Summary Jurisdiction and opening the Juvenile Justice or Youth Justice Court.

The Central Australian Aboriginal Legal Aid Service (CAALAS) and the Central Australian Youth Justice forum (CAYJ), amongst others, strongly advocated for a separate, youth specific and youth friendly

court for young offenders. In 2009, this was met with the concession that youth justice matters would be heard in a specific courtroom, Court 4 at the Alice Springs Court complex. Court 4, it was contended, is located in an area that is somewhat disconnected from the rest of the courtrooms and accessible through an independent door from the street and therefore a suitable Youth Justice Court space.

Court 4 was however, from the outset, an unsatisfactory solution. The separate access doors to Court 4 were infrequently open, requiring defendants and their families to enter through the main court foyer. Waiting space was limited, meaning defendants and their families waited with adult defendants in the main court foyer. Youth court lists were displayed beside adult court lists inside the main entry to the court complex.

Concerns around young people in custody held in court cells adjacent to adult defendants were not addressed given the court complex has only one cells area. Possibly most distressing was the fact that there was no direct entry

from the court cells to Court 4 and consequently young defendants in custody were routinely handcuffed and escorted by guards through the main court foyer to Court 4.

Many of these factors contravened the principles of the *Youth Justice Act*, by further stigmatising young offenders and hampering their re-integration; potentially impeding their opportunity to develop in beneficial and socially acceptable ways; and by enabling proceedings in relation to young offenders to be conducted in an environment not adequately separate from adult proceedings.⁴

In 23 September 2011, it was announced that the Youth Justice Court in Alice Springs was to be moved to new premises in mid-October: the Alcohol and Other Drugs (AOD) Tribunal, approximately 750 metres from the Alice Springs Court complex. This decision was made without consultation with stakeholders involved in the Youth Justice System. While Alice Springs practitioners and other youth justice NGOs were positive about the prospect of a dedicated, separate Youth Justice Court, it



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As a result, practitioners are often left to obtain instructions in the small public waiting room, or even outside the building on the footpath.

quickly became apparent that the Tribunal facilities do not meet the needs of the Youth Justice Court. The space was designed to cater for the AOD Tribunal and plans were amended at the eleventh hour to accommodate the Youth Justice Court.

The AOD Tribunal is furnished with only two, small court cells that must be accessed either through the court room or the registry. The cells are in fact so small that new Northern Territory Police standard operating procedures stipulate only six defendants can be held in court custody at one time. Therefore, where there are multiple co-offenders in a case, as is common in youth justice matters, the case may need to be relocated to the

Alice Springs Court complex to facilitate multiple appearances in custody.

The small AOD Tribunal foyer is fitted with only seven seats. The Northern Territory is a jurisdiction where Aboriginal young people accounted for 76% of young people apprehended by police over the past five years⁵,

and Aboriginal support networks are widely acknowledged of comprising extended family. With the justice system encouraging responsible adults and family to fulfil their responsibility for the care and supervision for a young person before the court⁶, it is pitiful that the waiting area at the Youth Justice Court is able to seat fewer people than the average number of young defendants listed to appear before the court on any given day.

There are only two interview/office rooms in the AOD Tribunal complex. These must be shared between defence practitioners interviewing clients; prosecutors conferencing witnesses; Corrections staff speaking to defendants; Youth Justice Advocacy Project officers supporting clients; and other service providers assessing defendants' suitability for programs. As a result, practitioners are often left to obtain instructions in the small public waiting room, or even outside the building on the footpath. While this lack of privacy is commonplace in bush court settings (and the continued cause of much concern), it is wholly avoidable and unacceptable in an urban setting such as Alice Springs.

If youth justice is to be taken

seriously in Central Australia we need a purpose built facility that is adequate to the task.

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Supreme Court

Despite the best efforts of Judges, court staff and practitioners, delays are inevitable for defendants appearing before the Supreme Court in Alice Springs.

In 2010/11, the Supreme Court had 174 criminal sitting days in Alice Springs, compared to 775 sitting days in Darwin. In August 2010, Brian Martin CJ commented that sitting days and hours in Alice Springs in 2009/10 were up by almost 40 percent on 2006/07.⁷ However, with only one courtroom equipped to hold Supreme Court matters, it is impossible to simultaneously run multiple matters.

The Supreme Court and Alice Springs practitioners have attempted to alleviate delays by maximising the matters able to be heard in each Alice Springs sittings of the Supreme Court. Pleas and breaches are regularly listed at 9am, some Judges will ignore standard lunch

174

Criminal sitting days in Alice Springs ...

775

Criminal sitting days in Darwin

2 Cells....
7 Seats in the foyer



n, that cannot said to be so in Alice Springs.

RILEY CJ

intervals and pleas have been listed to commence at 4.30pm. Matters are regularly brought forward in the list as time becomes available. This poses challenges for defence lawyers and prosecutors, the majority of whom manage court commitments in both the superior and lower jurisdictions.

Nevertheless, the obvious constraint imposed by our single Supreme courtroom significantly impedes our capacity, and that of the Northern Territory justice system, to guarantee equal access to justice to Central Australian defendants. While the number of pending Supreme Court matters in Alice Springs has consistently been lower than the number of outstanding matters in Darwin, since June 2010, the average age of pending matters in Alice Springs has been longer.

As observed by Riley CJ:

Whilst the Court is comfortably housed in Darwin, that cannot said to be so in Alice Springs.

This building....cannot accommodate both the Court of Summary Jurisdiction and the Supreme Court. ... In the absence of further facilities being made available, the lists here are going to blow out and unacceptable delays in delivering justice will follow.⁸

Magistrates Court

In 2010-11, there were 29,828 criminal listings in the Darwin Magistrates Court and a total of 32,085 criminal listings heard between the eight Darwin Magistrates throughout the Darwin region. If the matters were evenly distributed, just over 4,010 listings were heard by each individual Darwin Magistrate and just over 3,728 listings occurred in each Darwin courtroom.

In the same period, as stated above, criminal listings in the Alice Springs Magistrates Court numbered 21,104 and our four Magistrates together presided over 24,507 listings in Central Australia. Assuming even distribution, each Alice Springs Magistrate heard 5,276 listings during the financial year and each Alice Springs courtroom held over 6,126 listings.

Resources, such as court facilities, Magistrates and prosecution and defence practitioners are all crucial to the fair and even administration of justice. The above statistics make evident that defendants above the Berrimah Line compete less for court and Magistrate time than their counterparts in Central Australia.

Conclusion

The Standing Committee of Attorney-Generals (SCAG) stipulated in the National Indigenous Law and Justice Framework 2009-2015 (NILJF) the first goal to “improve all Australian justice systems so that they comprehensively deliver on the justice needs of Aboriginal and Torres Strait Islander peoples in a fair and equitable manner”. One objective toward achieving that goal is to

*“provide Aboriginal and Torres Strait Islander peoples in urban, regional and remote settings with access to services that are effective, inclusive, responsive, equitable and efficient”.*⁹

The disparate resourcing of courts in Central Australia, compared to Darwin, deprives regional and remote Central Australian Aboriginal people of responsive, equitable and efficient access to justice. ●

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5,276

Listings heard by each Alice Springs Magistrate ...

6,126

Listings in each courtroom

4,010 Listings heard by each Darwin Magistrate ... 3,728 Listings in each courtroom

Admissions to the Supreme Court of the Northern Territory



12 December 2011

Andreas Vorst-Hopkins – moved by Earl Johnson
 Kevin Kadrigamar – moved by John Lawrence
 Donna Marsh – moved by Chris Osborne
 Jonathan Bortoli – moved by Collette Dixon
 Saleha Awan – moved by David Lisson
 Palina Durgutovski – moved by Lia Finocchiaro

Patricia Hilder
 Maria Randazzo
 Billy Tarrillo Torres
 Che Walsh

– moved by Wayne Connop
 – moved by Chris Osborne
 – moved by Tom Silvester
 – moved by Hans Heilpern
 (his grandfather)

A very large bulldozer (from page 15)

Endnotes

- BR Martin CJ, Farwell
Ceremonial Sittings for the Honourable Chief Justice Brian Martin Ross, delivered at Supreme Court of the Northern Territory Alice Springs, 13 August 2010.
- Riley CJ, Welcome Ceremonial Sitting for the Honourable Chief Justice Trevor Riley and the Honourable Justice Peter Barr, delivered at the Supreme Court of the Northern Territory Alice Springs, 11 October 2010.
- Juvenile Justice Act No. 77 (1983), section 14.
- Youth Justice Act (NT), section 4.
- Review of the Northern Territory Youth Justice System: Report, p15.
- Youth Justice Act (NT), subsection 4(l).
- BR Martin CJ, Farwell
Ceremonial Sittings for the Honourable Chief Justice Brian Martin Ross, delivered at Supreme Court of the Northern Territory Alice Springs, 13 August 2010.
- Riley CJ, Welcome Ceremonial Sitting for the Honourable Chief Justice Trevor Riley and the Honourable Justice Peter Barr, delivered at the Supreme Court of the Northern Territory Alice Springs, 11 October 2010.
- National Indigenous Law and Justice Framework, Objective 1.2.