

Law Reform Commission of Western Australia – Project 94

Aboriginal Customary Laws – Prison Consultations

METROPOLITAN THEMATIC SUMMARIES

The Law Reform Commission was greatly indebted to the Aboriginal Peer Support Officers, who translated the discussion into the various dialects required.

The consultations were an essential means of ensuring that the Commission heard at first hand the views of Indigenous prisoners regarding Customary Law. The consultation has been guided by four key questions that together provide a focal point for discussion of law issues. Briefly, the questions ask:

- how is Aboriginal law still practised?
- in what ways is it practised?
- in what situations is it practised?
- what issues confront Aboriginal people when practising their law today?

The Commission has employed these questions as a general guide for discussion. However, these questions may not always be in direct alignment with the particular set of issues confronting Indigenous people at this time. The consultation has, therefore, not rigidly followed a pre-defined script, but has tended to adapt in accordance with the flow of local circumstances.

These notes represent a thematic summary of the issues that were raised, not chronological minutes.

The discussions embraced a wide range of issues, covering the following broad themes:

Men's Issues:

- General Context
- Family Relations and the Law
- Men's Law Business
- Self Policing/Governance
- Traditional Punishment
- Substance Abuse and Aboriginal Law
- Issues of Identity
- Criminal Justice Issues
- Racism
- Welfare and Family Violence Issues

Women's Issues:

- General Context
- Traditional Law and Punishment
- Women, Law and Culture
- Criminal Justice Issues
- Welfare and Family Violence Issues
- Homelessness

Men's Issues

General Context

- Much law was secret and could not be discussed, but the basis of law was respect - for other people, ceremony and land.
- If you are born Aboriginal then law binds you, it belongs to you (and visa versa). You must abide by the law of the country you are in.
- The law was still strong, even in prison because old men were still talking to the young men about law. In their communities the law was strong, because old men were putting young men through the law (that is how it is practiced today).
- Even in prison a form of law was practiced - through talk with old men and through art. 'It needs the old fellas to keep law strong.'
- On the community, the special places are still respected. We know how to practice law, in the correct places, "we sing our law" in these places.
- The two laws can't go together, because "Aboriginal law is better, white man's is too weak". You can't mix them or Aboriginal law will suffer.
- You must punish people the Aboriginal way.
- "Aboriginal way does not change, white law always changes". "Creator gave us law, it can't change".
- "No politician can grab law and introduce it somewhere else". "Elders can't do it either". "No one has this power, to put law somewhere else".
- White law must acknowledge Aboriginal law. "Let punishment happen", without interference.

Family Relations and the Law

- If a white fella married a black woman, he is bound by black law. By black law first, white law second.
- Skin relationships are crucial still. They regulate relationships in prison as well.

Men's Law Business

- Men have strong bonds with those they have gone through the law with.
- Law time can be a dangerous time. Boys have been killed when they make a mistake, or mess up. Some boys from town go back for law but don't understand and are killed. Family are told they got sick. You need family with you to keep an eye on you at law time, otherwise you can get badly hurt.

Self-Policing / Governance

- There was some discussion about having a full time police presence. Some thought it might stop feuding. Others said that Aboriginal people should do the policing.
- Elders should be the wardens and give sniffers a 'belting' '- 'Elders are our police'.
- Sometime police charge people for carrying out law. Administering a 'flogging', for example. This bleeds communities of their law and order. Elders are locked up so the transmission of law between generations is lost - this is a 'slow desecration of our souls'.

- Need a separate 'space' for our law. Maybe more by-laws are needed where we can enforce our law. Also it should be written into the white man's laws, with exemptions for regional variations.

Traditional Punishment

- Most agreed that it was ok to get white law out of the way first, to focus on the real issue of Aboriginal law. If a man breaks our law, the police must bring him to punishment place for spearing. White man should 'leave it alone', 'stay out of it'.
- Aboriginal way was 'too strong, even if you are in prison a long time (life)', 'the old people might say he should be killed and he will die "magic way" in prison'. The law will happen, wherever you are, this is why it is too strong to stop. It is inevitable. The 'Kardatji' will come to put spirits on them in prison, when they have not finished things outside.
- An example was given of a drunken fight where a person was killed. The man was arrested and the law-men petitioned the court for him to be released and bailed to the community. He was speared seven times, and was later sentenced to 8 years imprisonment (instead of life) as a result. His family was spared the punishment they would have received had he not been allowed to return. The men in the discussion thought this was a good way of dealing with it.
- If someone dies in prison, the family still faces the punishment, but it would be just one event and then it would be over (the implication was that the punishment might be moderated in light of this).
- The idea of having some kind of tribunal of elders and judges to decide which law to use in specific instances was mooted as a useful option. Going through Aboriginal punishment should mean a reduced sentence.
- Men should be able to go back to communities for punishment - even though the offence may have occurred without them being present. For example, if a child dies, the mother must be punished, as there is no such thing as an accident. The husband or brother in prison must be hurt as well.
- Black and white laws have different time scales. Whites think they have been duped and blacks have escaped punishment when they don't see immediate evidence of punishment being carried out. An example was given of man who received a lighter sentence for killing his wife because he was to face Aboriginal law. The community did not spear him immediately and the lawyers complained about it and said he 'got off'. They didn't understand that this was part of the punishment, to walk around not knowing when it would occur. But when the appropriate people and the families were gathered, he was speared 5 times.
- There was concern that Judges might place some impossible restrictions on punishment, for example, that it 'must not break the skin'. This had happened in the NT and it meant that the offender had effectively 'got off with it'. There needed to be some guidelines for judges to follow
- Spearing must be carried out according to special protocols. The right people must do it, sober, and according to rules. A man might choose a family member to lean on when the spearing occurs. Depending on the circumstances and local custom, the spear might be barbed, and/or on a woomera. Or a flat spear might be used, held in 2 hands from very close range. Police must not stop it from occurring - they will make it worse for the offender and it might all have to happen again.

Substance Abuse and Aboriginal Law

- There was agreement that a functioning out-station was required to take sniffers, and their families sometimes.

- A young man who confessed to being a sniffer said that petrol sniffing was about two things: 1. it overcame male inhibitions and sense of 'shame' and made boys 'brave' (in what is a very conservative culture with many prohibitions and taboos about sexuality and gender); and 2. it makes girls 'do things they only see in blue movies'.
- If Aboriginal people want to physically punish young sniffers, this should be allowed. Police and welfare should not interfere. Sometimes the community wants to jail them as well.

Issues of Identity

- Some stated that there was a big divide between urban Aborigines and people on communities. There were some, however, who moved between the two, who kept their language, had been initiated, but had a foot in the white world. They kept their culture alive.
- Others felt that many urban blacks had no identity, it was lost to them. They stated that they felt 'sorry for this mob'.
- Urban Aborigines looked to American black culture - 'we are being niggerized' - They have a 'damper and kangaroo-tails idea of culture'.
- They need to have an affiliation with the land.

Criminal Justice Issues

General

- White man's law is 'Johnny come lately law' - we didn't need police before, they just interfere.
- We need a cultural understanding of why offences occur. Crimes are related to a place. On communities different issues are important, for example break and enter less important.

Funerals

- There is a lack of sensitivity on the issue of funerals. Whites have a strictly limited, 'blood' view, of kinship. Aboriginal people have complex relationships - e.g. aunty-mother/cousin-brother
- You lose respect if you don't attend a funeral. It creates enormous problems, "white rules make the mess".
- Regional Prisons handle the matter better, for example. Greenough Prison recently sent 7 to a funeral in Wiluna, not all of whom were strictly kin.
- Security people (AIMS) are responsible for shackling prisoners. This brings shame, you need your hands free for respect, 'when the family see a man in handcuffs, they feel sorry for him, and shame'. Escorts prevent prisoners from grieving with relatives.

Policing

- Police work better when they work with Police Aides. There is a need for more Aboriginal policemen.
- However, Aboriginal police women cannot arrest Aboriginal men. Aboriginal men will not have anything to do with an Aboriginal police woman - black or white.
- You can't force people to be together, for example, putting a son in law and a mother in law together. This has happened in police vehicles for example. The son in law (but not the mother in law) will be punished for it.

Courts

- Some find the language difficult to understand. They need someone to talk in their language and have elders sitting with the judges.
- Others commented that there is often no room for all family in court.
- Others felt that judges should go more often to the communities, as it is too hard and expensive for families to go to town.
- There should be an advisory body or council - of whites and blacks, to advise courts on specific cultural and community issues when sentencing.

Prisons

- WA Prisons have a particular problem with predatory sex by men in prison. Some Aboriginal men can't be gay outside, so prison provides opportunities. Young people in prison are easy prey.
- Self-harm occurs, because people feel isolated when they come from far away and family can't visit. RCIADIC looked at this and they do have video-link up now from Hakea.
- An Aboriginal person might have to commit a minor offence to get into jail to protect a young, vulnerable relative from other prisoners. You need family support inside. Blacks bring their support systems with them. This makes it comfortable. Whites do it harder in many respects.
- Some felt there should be access to traditional food whilst in prison.

Parole

- The most important thing is staying off grog and petrol. There is a need for strong family members to take them away from places of temptation. Parole officers can help with this.
- There is also the need for earlier contact with Case Managers, one year before release, so that they can plan for re-entry.
- We need something like a 'cultural report', not just psychologist's reports, which assess the capacity of communities to cope and the cultural state of mind of the prisoner. Often the wishes of communities are ignored.
- There were also criticisms of the new 'points system' on security ratings, this influences parole decisions, but it is culturally insensitive, for example an Aboriginal man might be penalized because he can't talk to or take orders from a woman, or refused to have dread-locks cut. This leads to negative incident reports.
- Prisoners are not always clear on how these procedures work. There should be orientation videos explaining them in different languages.
- The two priorities for most on release are 1) going back to country 2) family contact.

Racism

- The white system cannot recognize the problems blacks have, for example mental health or disability issues (intellectual disabilities particularly). They do not screen blacks properly. Blacks get a level of service that is poorer and would not be tolerated by whites.
- Whites just see Aboriginals as 'niggers in high speed chases, arrested by police and hand-cuffed'.

Welfare and Family Violence Issues

- Alcohol & money are the main reasons family violence occurs. People 'fight to get more money for that grog - or for food'. "Women want to keep money to buy food, men want it for grog".
- There is no excuse for family violence. Normal domestic violence law should apply. Urban Aborigines should go through white law. Communities might need different rules. They should adhere to the rules where they are living.

Women's Issues

General Context

- The laws need to be made equal for them to work together, instead of one being higher than another.

Traditional Law and Punishment

- There was agreement that 'double punishment' was unjust. Aboriginal law is harsher, and it is inevitable for those living in desert communities. In the towns you are 'always up against police and white-fella law'.
- Aboriginal law is strict. Many young women come down to Perth to escape the close control, promised men, etc. There has to be physical punishment. The police in Kalgoorlie knew not to interfere, they take men back for punishment, then to jail.
- Many felt you shouldn't be punished twice. The two laws need to talk together to decide which way a person should be dealt with, either the Aboriginal way or the 'government' way. The offender should have a say.
- In the north, people would rather go to gaol than go through punishment, but eventually they have to go back to the community.

Women, Law & Culture

- Women's law business goes on in prison. Aboriginal women carry out law, to help or punish, by only on other Aboriginal women, not prison staff.
- Some women come from outside the area and 'chuck spirits at them, snakes, spears and other things, bad things, that give you nightmares, tormenting'. Women fear them.
- Learning 'dance culture' is part of becoming an Aboriginal woman. The stolen generations were responsible for breaking up these traditions.
- Some women 'sang corroboree way', according to their law and customs. This made other women afraid when they saw them tell stories to each other in 'language' and draw in the sand. This was their traditional way of yarning and sharing their culture. Desert people always draw in the sand like this, it is part of communication. Other women get frightened and say 'why she banging that sand?' But they are just 'yarning about home and family' telling their stories.

Criminal Justice Issues

Policing Issues

- The attitude of the police is a problem. Aboriginal people are seen as low-lives. Aboriginal women are disrespected by police. They have been sworn at and bashed. Aboriginal youth have no respect for police.

- The police treat our old people badly. They are kicked by police when drinking in parks. This also includes Aboriginal people who become cops. APLOs 'turn funny', look down on you and think they are better.
- The Northbridge curfew is "all about Nyoongar kids, keeping them down." "Many can't go home, it isn't safe. Some girls aren't safe at home, safer on the street".
- Many Aboriginal women would never 'go to the police for help'. Domestic violence victims do not go to the police for help. "The police are not a service - the service is to lock you up".
- They also said that they would never complain to an internal police complaints body. One woman said she had complained to the Ombudsman and trusted this process more.
- The women had negative experiences of lock-ups. They were 'not a safe place, dirty places'. 'There was no toilet paper, men watched you in the cell, in toilets', it was 'degrading'.

Courts

- White judges, juries, victims might be biased against Aboriginal people.
- The Drug Court was mentioned. Some thought it was harsh, whilst others said it was a 'get out of jail card'. It was easy to manipulate the system.
- Women said that they tended to plead guilty, even through they were not guilty on all the charges, just to get it over with, "just rip it off, like a band aid". They agree to 'fast track' otherwise they would have lengthy periods on remand, so might as well cop a plea. Lawyers (including ALS) 'frighten you' so that you just plead guilty to everything. We get pushed through the system. Also, the police have a practice of laying further charges in prison - several women said they refuse to cooperate.

Prisons

- Not all women find the experience wholly negative. They develop strong friendships and are safe from what they perceive to be a racist society and from family violence. "Its 80% black here, so I like it - outside we are a minority, here we are the majority". Its 'sad but true, we are safer here'.
- The prison tries hard to accommodate their needs, during NAIDOC week the children were allowed in all the time.
- There needed to be more appropriate courses, including more on Aboriginal studies. Aboriginal women tended to be put out in the garden, rather than in more skilled areas, such as the canteen or library, or doing textiles, "white get a better deal". Male prisoners also earn more.
- The peer support team has programs to assist new prisoners, helping them to settle in and avoiding deaths in custody. Remand periods were often very stressful. The prison tries to help prisoners re-integrate with pre-release courses linked to a job and with the support of Outcare.
- People from the desert die in prison in Perth (spiritually), they should have jail in the bush, nearer family. They get no visitors in Perth.
- Some described how uncomfortable the transport was from the regional lock-ups to the Perth prison, with hard benches and nothing to hold on to. Some had injuries that were sustained when arrested.
- Many women end up in jail because they are homeless, some because of alcohol and drugs, a number get themselves imprisoned to escape male violence. "Jail is a kind of refuge for Aboriginal women".

Welfare and Family Violence Issues

- The whole community gets involved in family violence, families take sides, they all fight. They hit with sticks, then they throw spears, they see it is going to far and back down then. Elders, old people will intervene to stop fighting.
- Jealousy is a serious problem. Not allowed to look pretty, 'beautifying' is a new thing for Aboriginal people, painting faces etc. Aboriginal men are more jealous than white, its all about insecurity.
- Pornographic movies are a serious problem, Aboriginal youths act on them, they are very dangerous in Aboriginal situations, no controls, things seen are immediately acted out.
- The women were no strangers to violence. They had experienced violence in their communities and in white society.

Homelessness

- Homelessness was a real problem. In Perth only Bridge House is any good to Aboriginal women. Aboriginal agencies need to be closer to real people. The Nyoongar Alcohol and Substance Abuse Service needs to go out bush. It's no use where it is. It should go out and talk, take some kangaroo tails and go bush.

REGIONAL THEMATIC SUMMARIES

Regional Prison Consultations are an essential means of ensuring that the Commission heard at first hand the views of Indigenous prisoners outside the Metropolitan area regarding Customary Law.

The consultation has been guided by four key questions that together provide a focal point for discussion of law issues. Briefly, the questions ask:

- how is Aboriginal law still practiced?
- in what ways is it practiced?
- in what situations is it practiced?
- what issues confront Aboriginal people when practicing their law today?

The Commission has employed these questions as a general guide for discussion. However, these questions may not always be in direct alignment with the particular set of issues confronting Indigenous people at this time. The consultation has, therefore, not rigidly followed a pre-defined script, but has tended to adapt in accordance with the flow of local circumstances.

These notes represent a thematic summary of the issues that were raised, not chronological minutes. The summaries do not identify individual prisons, however, in deference to Aboriginal protocol, they remain separated in men and women's sections. Some of the comments that appear in the regional prisons thematic summaries are also included in the general regional summaries.

The discussions embraced a wide range of issues but can be loosely subsumed under the following broad headings:

Men's Issues

- General Context
- Customary Law and the Importance of Elders
- Traditional Punishment
- Criminal Justice Issues
- Post Release - Employment
- Youth Issues
- Men and Family Violence

Women's Issues

- General Context
- Customary Law and the Importance of Elders
- Traditional Punishment
- Criminal Justice Issues
- Drugs and Alcohol
- Youth Issues
- Welfare and Family Violence Issues

Men's Issues

General Context

Both male and female Aboriginal prisoners in regional prisons had strong views on Aboriginal Customary Law and many believed themselves to be bound by law, even while serving sentences under the white-fella legal system.

Customary Law and the Importance of Elders

- Many men identified what they perceived as a general lack of understanding of - and some well embedded indifference to - Aboriginal law and its underpinning values and beliefs, both in the prison system and in the community at large. Men and women expressed the opinion that lack of understanding of Aboriginal law and culture led to discriminatory treatment in the justice system and that the white system needed to acquire a better understanding of these matters.
- "White law does not respect Aboriginal customary law. White-man, needs education big time".
- "Aboriginal culture/law still exists and is being practised today. You need to recognise and acknowledge this and make changes to the constitution."
- Some Aboriginal men said that Aboriginal law still had authority over them when they were in prison and that this fact should be better acknowledged by the system.
- Some wanted to see "spaces" created in prisons which would be set aside for law and culture to be practiced. Elders (including both those who were serving sentences and from outside the prison) would talk to the young people and raise awareness of culture. The correct kinds of food could be prepared and some ceremony practiced. Currently, it was said, few concessions were made, for example, "you can't wear traditional clothing, like headbands"
- Elders were still viewed as the embodiment of law (not simply as people with knowledge of law). A number maintained strongly that only elders could talk about law, saying that law was, "not our business" and "we get into trouble" if they discuss with the Commission.

- It was explained to the Commission that Elders are law people and they are like the judge, lawyers for prosecution and defence (all in one). Elders will talk to the families involved in any dispute and the community and make a determination.
- Moreover, the law is practiced differently in different places; the Commission needs to listen to the different ways. White man cannot elect Elders. Each person from each area knows who the Elders are.
- Within the Aboriginal communities there is still respect for Elders, "They carry our law and culture very strongly".
- "The responsibilities of Elders has to be recognised and respected by the white system".
- In the south west of the state many issues were viewed differently. Here, prisoners were less optimistic about the future of Aboriginal law and culture and that too much damage had been done to the fabric of Aboriginal society.
- "Aboriginal people - were treated like second-class citizens - the white people have stolen their culture and this project is all too late."
- Another person expressed the view that the necessary reform will never happen and in the end it (law) will all fade away. "Nobody knows about our law down here. Culture will die out if its not passed down to the young people". While another said that it was already too late and that "we cannot go back".
- There was a sense of loss and sadness when speaking about the massacres and the "policy to breed out" Aboriginals and a feeling that there was a loss of Nyoongar identity. One person stated that he had been institutionalised all his life. "People have been half brought up in one system and half in the other".
- Elder were viewed differently: and elder was someone you respect due to their wisdom "what they say makes sense" and "young fellows listen to them".

Traditional Punishment

- Most men were supportive of the practice or traditional punishments and believed it was an effective means of resolving problems on communities. Many saw the loss of the "power punish" as a vivid symbol of the decline of Aboriginal society since colonisation.
- Double jeopardy should be avoided and "traditional punishment should be undergone first. Then the judge should take it into account in passing sentence". It was recognised that traditional punishment can be hard, but at least after it is undergone the slate is wiped clean, with no risk of banishment from the lands. This is also true in family feuding, where, however, such feuding is the infliction of bodily harm in white law.

Being Bound By Law

- A number of men stated that undergoing traditional punishment was not a matter of choice. If it is not undergone, the families affected by the offence will be after you, or after your family. However, some people do sometimes go across "the invisible boundaries", so as to avoid traditional punishment.
- One person indicated that if you commit an armed robbery then you should be punished "white way" but if it's a family issue then it should be the Aboriginal way.
- Elders are more effective in stopping feuding than white law.

Acknowledging Aboriginal Authority

- Many men saw a need for Aboriginal judges (including not just magistrates but also judges at the District Court level) and jurors (as part of mixed white / black ones) to provide an inside view of the communities. At present, even the elders are inhibited and do not say anything about traditional law. There is a need to explain to white judges what an offender may face under traditional law.

Cultural and Historical Teaching

- A number of prisoners talked of the need for increased teaching about Aboriginal history.
- "We need to be taught the real history of Australia, it's a shame that white fellows are taking the history away".
- "We need to know the history of massacres and the Aboriginal heroes".
- Government has to take responsibility for what happened and it has to be recorded. There is a monument in Albany to a white fellow who killed a lot of Aboriginal people, that is offensive. Aboriginal people need to know where we fit in.
- "Nothing has been done around here for Aboriginal people and no-one is responsible for that".
- "We need to know what happened with the black fellows and put it in the history books." So much of the history has been sanitised.
- "We need to write down the history and look at cultural education. The history is there it just has to be written down".

Criminal Justice Issues

Funerals

- Rules governing attendance of funerals were a source of concern to prisoners who believed they did not take into account the imperatives of Aboriginal law. The rules of the Department of Justice do not recognise "skin" relations, only blood relations. The criteria are therefore too restrictive.
- "If appropriate persons do not attend the funeral, then their family is upset as it shows disrespect".
- The process needs to be made more culturally appropriate, and recognise skin relationships as well as the bonds of "family", obligation and reciprocity created when men go through law together. Several suggested that DOJ should re-draft guidelines after due consultation with Aboriginal people.
- The way those attending funerals are restrained so as to prevent proper grieving, creates problems.
- There is a need for proper training for prison officers, in local cultures, so they can appreciate the sorts of stress suffered by prisoners brought from far away to a prison like this one.
- More Aboriginal prison officers are needed. At present there are relatively few, and they tend to be caught up in the white culture rather than Aboriginal culture.
- Funerals are a problem because the extended family and obligations are not recognised. "I wanted to attend the funeral of my first cousin, I received a letter from my mother, but I was not able to attend the funeral and now that brings shame to me and I will have problems when I leave jail".

Interpreters

- Here were suggestions made that communication between the prison authorities and prisoners from remote locations (for whom English may be a fourth language) was often poor, prison officers lacked the skills and cultural knowledge to "ask the right questions" when the issue of funeral attendance came up.
- Interpreters were clearly necessary and needed to be accessible for both prisoners and prison staff. In addition, there appeared to be too many links in the decision-making chain. It was said that Regional Prisons did understand many of the issues and were willing to be flexible in making arrangements but the "bureaucracy in Perth" often over-ruled them. Some Regional prisons had gone as far as to create their own information sheets for prison staff, to assist them in making arrangements.

The Courts

- Interpreter services were also a major issue for those attending court. The lack of an Aboriginal interpreter service at the Broome Court House was noted, despite a significant need for such a service. One person stated "I felt that I wasn't heard".
- Most people felt that there was a problem with language, in addition people did not understand the language used in the Court. Also the Court processes were not properly explained; for example, some do not understand what the term "remand" meant. Also, Aboriginal people do not always understand why they are not dealt with quickly by the white system. Why it takes so long for a case to be heard in court.
- "Language used in court, doesn't make any sense to us. Aboriginal language should be used. Also, there are different meanings given to language. What a white person may perceive as a threat an Aboriginal person would not. One of our countrymen translating is important. Aboriginal language should be brought into the Court".

Fines Enforcement System

- This system was responsible for the incarceration of many Indigenous people: because Aboriginal people generally cannot pay the fines imposed so they receive a further term of imprisonment.

"Bulk Billing"

- On some occasions a person is picked up for 1 offence, but when they get to Court there are 3 or 4 more charges, they don't always know where these charges have come from.

Relations with the Police

- Following family feuding, police will sometimes lay charges, which will re-ignite the feuding. Better ways of handling these matters needs to be negotiated.

Driving While Black on Back Roads

- Some Aboriginal prisoners were certain that simply being behind the wheel of a car was enough to attract police attention. It is the case that many Aboriginal people do not have driver's licenses, however they are not driving on main roads or in towns. A lot of Aboriginal people were jailed for driving without a licence or for travelling between communities but not on a gazetted road ("back roads").
- Jailing for minor offences, such as these "doesn't make sense". Aboriginal people need to travel between communities and the back roads allow them to move freely between the communities. The police sometimes close back roads. The communities

use the back roads to travel to and from Court and to transport the sick to enable them to receive medical treatment.

- Aboriginal people in the communities without a driver's licence may still have to travel to Court and there is usually no other option but to drive.
- There was a need to educate the police as to the needs of the communities, particularly the use of the back roads. There is a real and justifiable need for the community's use of the back roads.

Drivers Licenses

- The test/form needs to be revised. Aboriginal people may have a sound understanding of driving theory but may not be able to answer the questions because of the way language is used. There should be oral tests for Aboriginal communities.

Police Attitudes

- There is also a need for proper training of police officers in Aboriginal culture. Many have a poor attitude to Aboriginal people. "A person gets picked up for a minor offence and then gets 12 months for resisting arrest".

Post Release - Employment

- Employment is an issue. There is nowhere for them to go, no men's resource centre and so men go back into crime. They want a fair go and not to have a criminal record. There should be funding for Aboriginal people in jail to assist them on their release from jail and on parole. In Katanning not one person employed by an independent authority.
- One person said that if he was able to full time work he would not involve himself in criminal activities, but now he has a record and as an Aboriginal then it is very unlikely he will get a job. "If I cannot get a job then I will sell drugs".

Youth Issues

- Need for Elders, shire, government, police and schools to work together on the problems existing within the communities, including but not limited to youth issues. Two of the problems identified were solvent abuse and lack of (or need for) a driver's licence.
- There are activities for the young people in the communities but in some cases the guardians/parents are not much help in encouraging the kids to participate.
- Parents and guardians are not allowed to smack a kid any more, "smacks are all right", also "shaming beating" within a community meeting is sometimes considered appropriate.
- Local agencies and Community Councils need to be adequately resourced. Support groups needed for the children.
- It was suggested that children should be allowed to go to prison for a visit and then "they may fear prison".
- Some pointed to a lack of specialised facilities for juveniles. In such facilities they could develop better self-esteem, communication skills and other job-related skills. There could also be training in the traditional ways. There is also a need for alternative sanctions, such as community projects, to break the cycle of re-offending and re-entry into the prison system.

- It was said that children and young fellows are no longer disciplined, children see that and grow up without discipline. Aboriginal children are now using the white man's law to protect them.
- Put money into schools so that young people can learn Aboriginal culture. "Somebody give us a chance, the scales are not balanced".

Men and Family Violence

- There needs to be a support structure. Violence needs to be spoken about more. There needs to be an Aboriginal Men's Group. Violence is the result of many factors; employment is one, Aboriginal people cannot get a job in this (Albany) region.

Women's Issues

General Context

- Both male and female Aboriginal prisoners in regional prisons had strong views on Aboriginal Customary Law and many believed themselves to be bound by law, even while serving sentences under the white-fella legal system.

Customary Law and the Importance of Elders

- As in the case of men, Aboriginal women expressed some deeply held beliefs about the importance of law in their lives. They also made it clear that many Aboriginal women still practiced their own women's law and that women elders were of significance.
- "Elders have the law - there are women elders"
- "Elders in consultation with family and community decide on the punishment".

Being Bound by Law

- There were differing views as to whether Aboriginal people could make choices about whether they were bound by law or not.
- Some were certain that people should have freedom of choice.
- Some said that you could live by white man's law if living an urban lifestyle and not practising Aboriginal Customary Law in your daily life, but those who lived by Aboriginal Customary Law in their daily lived should abide by it all the time.
- Others suggested that Aboriginal Customary Law was not a neatly packaged, "take it or leave it", object any longer. People did negotiate how it was employed under specific situations.

Traditional Punishment

- Traditional punishment is still a fact of life in many communities, however we were also informed that families, sometimes "say no to tribal punishment way".
- One strength of punishment, and the reason why some people feel that they should suffer the punishment, is that it closes the chapter.
- "If punishment is faced then you are free. If you do not face your punishment then worse things happen to you. You and/or your family can become very sick or die".
- Traditional punishment has more impact: "Family watches your punishment - and you are shamed".

Criminal Justice Issues

Funerals

- Prisoners - asking for compassionate leave to attend family funerals while in prison. DOJ have difficulty understanding family structures within Aboriginal culture due to extended families/immediate families, eg blood line.

Courts

- Translation services are required for Court proceedings and interviews with the police.

Legal Representation

- "ALS tells us we must plead guilty".

Community Based Corrections

- There was agreement that prisons should be built closer to family. However a preferable option is to leave people in the community and keep the family together - offenders can work in the community, for example cleaning up.
- Look at suspended sentences for men and women within the community and the Elders in consultation with the community decide what the people are required to do within the community.

Prison

- Meals within the prison - kangaroo tails and damper should be provided. Traditional medicines should also be available.
- Language is a major barrier for prisoners from remote areas. Explain things in language about how prison works and what the rules are, this will create peace of mind for the offender and will determine how she behaves in the prison system.
- Often prisoners can only express themselves by talking in their local language. This presents problems because prison/police staff cannot understand them.

Housing & Release from Prison

- Homeswest does not allow for an extended period of absence from the tenancy. Once you have completed the jail sentence and are on parole there is no house at the end. Lack of housing may affect your parole, so it is a Catch 22 situation. Housing should be provided upon release.

Fines Enforcement

- Current licensing requirements lead inevitably to fines and then inevitably to imprisonment, women said.
- "Fines catch up with you – they hold the fines until you are out of prison. You can not pay the fines, as you need to feed your children"

Drugs and Alcohol

- Alcohol a real problem for Aboriginal people. "Its killing people all the time".

- Sober Up Shelters and Night Patrols were viewed as good developments in the fight against alcohol, but there were some concerns expressed about the working practices of some shelters, for example they were not open enough hours of the night.

Youth Issues

- "There was nothing for the children to do in the communities- just a big hall".

Welfare and Family Violence Issues

- Women said that Family and Children Services (now DCD) takes the children and limits the mother's contact with her children. Need a greater emphasis on Aboriginal adoptions and foster care arrangements into the community rather than sending the children away. One woman identified a number of problems relating to children, in particular the separation of siblings.
- Restraining orders - do not work for Aboriginal women, they only wish to seek momentary protection and do not understand that the order has to be discharged. If in prison, no visits allowed if a restraining order in place.

Safe Places for Women

- Women from the Pilbara said that they have to travel to Hedland to be dealt with in court. One Hostel – would not let a person stay there if they are on bail from Court and it is expensive. There is no place to stay if you are coming from the community.
- There is a general lack of culturally appropriate safe places for women. Existing refuges are not always appropriate. A refuge was built right in the Town of Port Hedland. It is too dangerous and it should be more isolated.

Legal Education

- Legal education should go both ways. We should be educating people both Aboriginal and Non Aboriginal on the Aboriginal law and cultural system. Lots of Aboriginals do not fully understand the Justice System and they do not understand the consequences of the crimes they commit.