

Inquiry into Regional and Remote Indigenous Communities

Kalgoorlie Community Court

The Kalgoorlie Community Court is a Magistrates Court or a Children's Court (constituted by a magistrate) in the criminal jurisdiction which acts as a sentencing court for Aboriginal accused who plead guilty to offences.

The purpose of the Community Court is to provide an environment that is more relevant and less intimidating to Aboriginal people. The processes of the Community Court are designed to be more informal than mainstream courts and it has a rehabilitative focus. The Community Court involves Aboriginal elders and respected community people (Panellists) who serve as advisors to the magistrate and give advice on cultural issues and other relevant matters. They also assist the accused in understanding court process.

The presence of the elders and Aboriginal respected persons in the court provides culturally relevant authority figures. The opportunity for greater involvement by the Aboriginal community in the sentencing process also promotes the sense of Aboriginal ownership of the justice process and may result in higher attendance rates and fewer breaches of bail by Aboriginal accused.

The Panellists have the knowledge of what is culturally appropriate and also have the respect of the community to pull offenders into line, when they use "culture" as an excuse for their offending.

Panellists also understand the community connection of the accused and which language group they are from. They are able to comment on the offender's connections to Elders and in most cases can give the accused and court insight to their family dynamics.

The court encourages the accused to cease their offending and focuses on how their offending behaviour impacts on themselves, their families and the community as a whole.

The Community Court has 6 objectives set out below:

Deliver culturally appropriate sentencing for local Aboriginal people

The court provides a change to the court environment that is more culturally relevant to the dynamics of the local Aboriginal community. The focus of this change is so that the justice process will better relate to local Aboriginal people.

As part of this environmental change an oval shaped table was crafted, which includes an inset of an Aboriginal painting, to be used in the Aboriginal Court. The participants around the table are the Magistrate, the Aboriginal Elders or Respected Persons (of whom one is male and one female where possible) and the Court Support Officer, the defendant, defendant's family or support person, defendant's lawyer, the Prosecutor and a Community Corrections Officer.

Changing the current environment to suit the users of the system is about showing respect and understanding of each person's background and circumstances which assists with the engagement process in the court. This encourages them to actively participate in the court process.

Improve access to and equity of court services for Aboriginal people

The court provides an informal atmosphere and an opportunity for greater participation by the Aboriginal Community in the process. The Magistrate sits at a table with the Panellists and other participants, not at the bench.

The accused sits with their family at the table and participants talk in plain English, rather than using technical legal language. As English is a second language to most offenders, and to ensure the impact of the court process, Panellists are encouraged to relay proceedings in an appropriate Aboriginal dialect. Panellists will at the same time translate in English for the court record. The shame factor plays a large role in the process.

Increase the openness and inclusiveness of court services for Aboriginal people

The panellists provide cultural, historic and social information on the accused. They also provide comment to the defendant on how their offending has impacted on both the Aboriginal community and the wider community.

Improve relationships between the court and Aboriginal people

The inclusion of the Panellist and changing the physical layout of the court itself is designed to assist in the relationship between Aboriginal people and the court. As part of the proceedings the Magistrate pays respect to the traditional owners and persons who have a connection to the lands before each court sitting

The Aboriginal and Torres Strait flags are hung alongside the Australian flag.

Reduce Aboriginal imprisonment numbers and recidivism rates in the Eastern Goldfields.

Family members of the accused are welcome and encouraged to attend the court and the accused can bring at least one support person to the court proceedings. The support person is also encouraged to speak to the court on behalf of the accused. This gives the court a better understanding of the issues the accused had in their life at the time of the offending.

Integral to this court process is the cultural and historical connection that most of the Panellists are able to make with the accused person in the court. Once this connection is established it helps to facilitate the shame aspect required for maximum impact.

The Panellists also takes the time to emphasise the impact that the offender's behaviour has on their own families. The impact that a term of imprisonment would have on them or even a fine is taking food from the children's mouths.

This connection is assisted by the Panellists showing genuine concern for the accused and trying to access as many services as possible. This also assists with the connection for Aboriginal people who come from outside the community to live in Kalgoorlie and appear before the court.

Although Kalgoorlie is a community that has a stable population it is a large and open community with many dynamics and at times has the capacity to become home to many different types of people. Kalgoorlie is a large regional centre with a contrast of urban, traditional, cultural and transient population. This highlights the need to tailor the sentencing process to individual needs and circumstances for maximum impact.

Enhance safety for all members of the local community

Depending on the offence the court may involve the accused and victim in mediation. Victims are given the option to attend and put their side of the story and make comment on how the offending has impacted on them personally and the lives of their families.

The court acknowledges and respects Aboriginal people's traditional and cultural beliefs. It takes into account regional dynamics and makes the current sentencing process culturally relevant and inclusive to achieve a better impact than the mainstream process. It is a space that is open and transparent and where Aboriginal people's voice can be heard during the justice process.