

Committee To Explore The Effect Of Motor Driver's Licence
And Driving Laws On Remote Communities

*Indigenous Licensing and Fine Default:
A Clean Slate*

Report presented on behalf of the Minister for Corrective
Services, Margaret Quirk MLA.
September 2007

Chairman's report

Indigenous Western Australians account for approximately 40 per cent of the prison population, yet represent only 3.5 per cent of the state's populous.

This is both unacceptable and alarming in light of the findings of this Inquiry, which show a significant number of Aboriginal people are in prison for licensing matters, driving offences and defaulting on the payment of fines for minor offences.

Imprisonment is one of the most severe methods of punishment our community can impose. To deprive a person of their liberty through incarceration should be reserved for the most serious of offenders. Imprisonment represents not only an enormous cost to the state in both financial and social terms, but to the community and families of those incarcerated.

The current licensing and fines enforcement systems in Western Australia pose a number of barriers for many Aboriginal people, particularly those living in regional and remote communities. Having a driver's licence is a necessity, not a luxury, for people in the more isolated areas of the state to not only obtain and maintain employment but also for access to health and other services. Whilst individual agencies have done much to address the issue there is an urgent need for a coordinated whole-of-Government response. Breaking the cycle of unlicensed driving leading to fine default and imprisonment provides a clean slate for Aboriginal people to participate fully in employment opportunities and create economic prosperity and independence for themselves and their communities.

I urge the Government to respond immediately to the recommendations contained in this report and consider the benefits to both the state and community in implementing the range of practical and legislative solutions put forward.

It is therefore my pleasure to present the final report of the Committee investigating Indigenous licensing and imprisonment on behalf of the Hon. Margaret Quirk MLA, Minister for Corrective Services, and extend my appreciation for the opportunity to chair this Committee.

I also extend my thanks to the organisations that prepared written submissions and to the communities of Jigalong, Halls Creek, Kununurra, Kalumburu, One Arm Point and Broome who participated in consultations with Committee delegates. Time constraints have not permitted wider consultation, however, a number of Indigenous organisations have responded in previous consultations and those submissions have been taken into consideration.

I also thank the members of the Committee who have given freely their expertise and time to participate in community consultations and prepare this report.

Ben Wyatt MLA
Member for Victoria Park



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1. Indigenous licensing and imprisonment

Snapshot

- Indigenous Western Australians accounted for approximately 40 per cent of the prison population in 2005/06, while representing around 3.5 per cent of the population.¹
- 148 Indigenous Western Australians were imprisoned during the period April 2006 to March 2007 for not having a motor driver's licence (MDL). These offences included driving under court-imposed disqualification, driving under fines suspension, driving with an expired licence and driving having never held a licence.²
- Aboriginal drink-driving and licensing convictions have risen by around 80 per cent from 2002 to 2004 and more than doubled for more serious drink-driving convictions. Around half of the prison population in Western Australia is Aboriginal. Of these imprisonments, about 30 per cent are related to drink-driving or licensing offences.
- 853 Aboriginal people were imprisoned during the period 2004-05 for Motor Vehicle/Driver's Licence or Driving Under the Influence (DUI) offences listed as their most serious offence.³
- 2075 warrants for imprisonment were executed (including fine default) on 1005 individuals for the offences of Driving Under Suspension, no MDL (suspended), failure to hold a valid MDL or no MDL during the period April 2006 to March 2007. Of those individuals, 52 per cent were Aboriginal people.
- The average sentence length for driving offences is between 6-12 months. The average cost of prison per person per day is \$150.⁴
- During 2004/05, Indigenous women represented 60 per cent of the total female prison population. Of those imprisonments, almost 20 per cent were imprisoned for DUI, Dangerous or Reckless Driving, MDL offences or other motor vehicle offences, compared to 6 per cent of non-Aboriginal women.⁵

¹ Mahoney, D. *Inquiry into the Management of Offenders in Custody and in the Community*, (2005) Government of Western Australia.

² Corrective Services (2007) Email 19 June, 2007, from MLB@correctiveservices.wa.gov.au

³ Ferrante, A., Loh, N., Maller, M., Valuri, G., Fernandez, J. *Crime and Justice Statistics For Western Australia* (2004) University of Western Australia Crime Research Centre

⁴ Ferrante, A., Loh, N., Maller, M., Valuri, G., Fernandez, J. *Crime and Justice Statistics For Western Australia* (2004) University of Western Australia Crime Research Centre

⁵ Mahoney, D. *Inquiry into the Management of Offenders in Custody and in the Community*, (2005) Government of Western Australia.

2. Executive summary

In response to the unacceptably high rate of imprisonment of Indigenous Western Australians, the Carpenter Government is seeking, as a priority, to reduce the rate of incarceration of Indigenous people. Of particular concern is the number of Indigenous prisoners serving sentences for motor vehicle driver's licence offences, driving offences and unpaid fines.

In April 2007, the Hon. Margaret Quirk MLA, Minister for Corrective Services, established a committee chaired by Ben Wyatt MLA (Member for Victoria Park) to report on the extent and nature of Indigenous licensing issues and imprisonment, and to make recommendations on legislative and non-legislative measures to reduce the number of Indigenous Western Australians entering the justice system for driver's licence and fine default offences.

Unlicensed driving — and driving offences generally — greatly contribute to Indigenous Western Australians being over represented in jail. For driving and vehicle offences, the Indigenous imprisonment rate is 12.5 per cent compared with 2.9 per cent for non-Aboriginal people. Two-thirds of the driving and vehicle offences are related to driving without a valid licence.

The Department of the Attorney General reports that Aboriginal people represent 13.4 per cent of convictions for unlicensed driving in the Perth Court of Petty Sessions, whereas in Kalgoorlie, Aboriginal people represent 51.4 per cent. The evidence points to regional and remote areas as having a significantly higher incidence of driving offences involving Aboriginal people. Of the eight courthouses with the highest number of unlicensed driving convictions for Aboriginal people, six were in regional areas, representing 63 per cent of convictions.⁶

The Fines Enforcement system in Western Australia overall is very effective in managing fine default. However, the issue of licence suspension for fine default remains a major factor in unlicensed driving for Aboriginal people, particularly in regional and remote communities. It is estimated at least 40 per cent of disqualified drivers continue to drive while disqualified.⁷ While the actual figure is difficult to estimate, that figure is likely to be much higher among Aboriginal people in isolated communities due to limited alternatives to driving while suspended.

The provision of accessible and appropriate driver education and licensing for Indigenous communities continues to be a priority at a national level. Road crashes remain one of the leading causes of death among Indigenous Western Australians. Aboriginal people are about three times more likely to be injured or killed in motor vehicle crashes than non-Aboriginal people.

The over-representation of Aboriginal people in drink-driving statistics is also concerning. Aboriginal people are about three times more likely than non-Aboriginal people to be arrested for drink driving and more than 25 times more likely to be imprisoned for driving under the influence (DUI) offences.

The proportion of Aboriginal drink-driving offenders increases with the number and severity of offence. Aboriginal people represent about 15 per cent of all drink-driving

⁶ Department of the Attorney General, submission to Committee correspondence June 2007.

⁷ Watson, B. *The Road Safety Implications of Unlicensed Driving: A Survey of Unlicensed Drivers*, (2003) Centre for Accident Research and Road safety Queensland University of Technology.

arrests, increasing to 28 per cent of third time arrests and 35 per cent of drink drivers disqualified from driving for life.

There is an over-representation of Aboriginal people in road crashes and resultant road trauma. Aboriginal people make up 3.5 per cent of the population of Western Australia, but represent 9 per cent of those killed on the roads and 8 per cent of those hospitalised as a result of a road crash.⁹ In the Kimberley, for example, one third of all crashes involve drink driving with drivers having a high blood alcohol concentration.

As at June 30, 2003, Western Australia had the highest rate of Indigenous imprisonment in the country — 23 times greater than the national rate for all prisoners. This makes Indigenous Western Australians one of the most imprisoned peoples in the world and the trend is increasing.⁸ For juveniles, the position in Western Australia is particularly alarming. Approximately 70-80 per cent of juveniles in prison in Western Australia are Aboriginal.⁹

It is not the purpose of this report to provide an evaluation of the effectiveness of imprisonment as a sanction for licensing, driving or fine default offences. It is important, however, to highlight the compelling evidence that offenders who are sentenced to prison have higher rates of recidivism and recidivate more quickly than offenders placed on probation.¹⁰ And, with repeat incarceration, all prisoners are more likely to progress with high probability to more serious crimes with each successive imprisonment.¹¹

The Australian Law Reform Commission states that the experience of imprisonment is negative and destructive, and the cost of imprisonment is enormous and the returns few.

*"To sentence a person to imprisonment is to order him to be deprived of his liberty by confinement. In our form of society, the deprivation of freedom is one of the severest methods of punishment we can employ."*¹²

While the forced separation from one's friends, family and domestic environment is undoubtedly traumatic for all prisoners, the greater significance of kin and community relations in Aboriginal cultures exacerbates the trauma of separation. Likewise, reported shyness and discomfort in the face of non-Aboriginal authority, a particular and severe aversion to physical isolation and — in the case of offenders from more traditional Aboriginal communities — fears associated with potential retribution and punishment as a result of the actions which led to imprisonment have all emerged as factors in evidence heard by the Law Reform Commission.

The spirit of cooperation and enthusiasm among all spheres of government and the corporate sector (particularly the mining industry) to work with Indigenous communities to address licensing and driver education issues provides a positive environment to make significant changes to the way Indigenous communities are engaged in the licensing process and the manner in which licensing services are delivered.

⁸ Ferrante, A (2005) Imprisonment: Facts Figures and Issues, Notes Submitted to Mahoney Inquiry, Crime Research Centre, University of Western Australia.

⁹ Mahoney, D. *Inquiry into the Management of Offenders in Custody and in the Community*, (2005) Government of Western Australia.

¹⁰ Criminology Volume 40 Issue 2 Page 329 - May 2002 THE EFFECT OF IMPRISONMENT ON RECIDIVISM RATES OF FELONY OFFENDERS: A FOCUS ON DRUG OFFENDERS CASSIA SPOHN DAVID HOLLERAN

¹¹ NATIONAL REPORT - 25.2 THE EXPERIENCE OF PRISON AND PREMATURE DEATH Reconciliation and Social Justice Library <http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/rciadic/national/vol3/164.html>

¹² The Australian Law Reform Commission Report "Reducing the emphasis on imprisonment Report 44 Sentencing, (1998)

Consultations carried out as part of this Inquiry revealed the hope of Indigenous communities that licensing not be seen within the 'justice framework' but rather as a tool for community development and education.

There are numerous benefits to the entire community of Western Australia and the Government in ensuring Indigenous communities are engaged within the licensing system and are able to address their own transportation requirements.

Committee terms of reference

Inquire into and report on:

- The impact of offences under the various Motor Driver's Licence laws and driving laws on Indigenous rates of imprisonment and, specifically, Indigenous people from remote communities.
- The impact of fine default legislation and driver's licence suspension on Indigenous people's rates of imprisonment.
- The capacity of people within prison and within the regions to regain their licences.
- Legislative and non-legislative solutions to problems identified.
- Options and make recommendations on opportunities that exist for driver training in remote communities.
- Options for better servicing of remote communities by the Fines Enforcement Agency and the Department for Planning and Infrastructure.
- Recommendations to Cabinet on solutions to the problems identified by the Committee.
- Any other observations and proposals for the consideration of the Hon. Margaret Quirk MLA, Minister for Corrective Services, the Committee in their discretion may deem appropriate.

List of recommendations

These are detailed further at the conclusion of the report.

1. Review current licensing education materials and develop education resource kits that are both culturally and environmentally appropriate and aimed at users with low literacy levels. Kits should be available to organisations assisting individuals and groups to obtain learner's permits.
2. Develop Indigenous specific community education and awareness programs to build awareness of the licensing process.
3. Extend the '*Keys for Life*' learner driver education program currently available, with the view to providing more culturally and environmentally appropriate programs for students with low literacy in regional and remote communities.
4. Develop specific Community Based Orders and Work and Development Orders for offenders with licensing and drink driving related offences, similar to the 'Under the Limit' program in Queensland.
5. Establish Remote Outreach Licensing Units staffed by officers who have an understanding of Indigenous cultural issues to deliver licensing education and testing in regional and remote communities.
6. Expand licensing programs and supervised driver training in prisons.
7. Coordinate the delivery of government services to remote communities. Ideally the model would see a single point of contact for the provision of all services relating to licensing including the ability to enter into time-to-pay arrangements.

8. Contract Aboriginal corporations to receive and process government payments, including fines and licence payments, in communities where appropriate infrastructure is available.
9. Remove the requirement for individuals over the age of 25 years to obtain 25 hours of supervised driving.
10. Provide flexible and culturally appropriate licence assessment and practical testing.
11. Provide support for a comprehensive ongoing Indigenous community education process to provide information and education about licensing and road safety issues, particularly drink driving.
12. Provide education, training and employment opportunities for Indigenous people in driver education and testing.
13. Devise strategies to build capacity within Community Development Employment Programs (CDEP), Structured Training and Employment Project (STEP) providers and other community based organisations to provide driver licence training.
14. Support Indigenous enterprises to develop driver education and instruction programs.
15. Amend regulations to enable the Director General of DPI to exercise his discretion for issuing conditional driver's licences that allow persons who do not meet the mandatory waiting periods for the issue of a 'heavy rigid' vehicle licence to drive on mine sites.
16. Support initiatives that create alternative and community based transport in regional and remote communities.
17. Investigate strategies that will assist remote communities to meet supervised driving requirements should 120 hours of supervised driving be introduced. Consideration should be given to the optimum number of hours of supervised driving required to achieve maximum benefit in regional and remote areas.
18. Include driver education and training and drink driving programs in Work and Development Order and Community Based Order programs.
19. Community programs aligned with Shared Responsibility Agreements, Aboriginal Justice Agreements and Regional Partnership Agreements to encourage changes in social norms and attitudes to driving behaviours.
20. Utilise imprisonment only where all other alternative sanctions have been exhausted for fine defaulters.
21. Review investigation and consultation into licence suspension as a sanction for fine default, including that it only be considered with respect to driving related offences.
22. Explore alternatives to reducing imprisonment for fine default, including:
 - Fines being served concurrently with other fines, and concurrently with other sentences of imprisonment.
 - Explore the legislative parameters for sentenced prisoners to be able expiate the fines and infringements while in prison by way of Work and Development Orders.
23. Impose Good Behaviour Orders to provide offenders with limited means to pay the opportunity to waive all outstanding fines with a period of good behaviour.
24. Impose Work and Development Orders, with an increased emphasis on development, to enable offenders to undertake specific training and education. Where possible, such programs should be linked to the original offence, for example drink driving programs for drink drivers.

25. Identify strategies to enhance assessment of an offender's ability to pay a fine, for example under the *Sentencing Act*, which requires judicial officers to consider an offender's ability to pay a fine before a fine is imposed as a penalty. Amend the *Sentencing Act* to authorise court officers to assess the offender's ability to pay to assist the court prior to sentencing.
26. Consider discounting of fines for early payment.
27. Give specific and formal consideration to the impact on Indigenous drivers when making legislative changes to road traffic or licensing laws so that they do not have a disproportionate impact on Indigenous communities.
28. The periods of disqualification for permanent suspensions are replaced with a finite period and amend *Section 49 of the Road Traffic Act* to remove the requirement that periods of disqualification be cumulative.
29. Require prosecuting agencies to take a more proactive approach to their collections through:
 - Exploring mechanisms for government agencies to accept payments for outstanding fines and that appropriate computer interfaces be established for immediate removal of licence suspension.
 - Training government authorities to process and accept payments for fines in regional and remote communities where no point-of-payment service is available.
 - Contracting community organisations to provide a "payment point" for all Government-provided services in regional and remote communities.
30. Consider more options to support collection of fines at the earliest point possible, such as procedures for early contact with offenders following the imposition of a fine, primarily at the time the fine is imposed.
31. Train all Aboriginal Court Liaison Officers to accept and process payments as part of their function in assisting Indigenous people in court.
32. Support initiatives that address the issues for which people receive fines.
33. Place greater emphasis on community awareness of fines enforcement, including specialist promotions aimed at Indigenous people.
34. Upon acceptance of all or any of the recommendations of this report, established a committee to monitor and progress the recommendations and prepare detailed implementation plans and business cases, including legal opinion of suggested measures. These actions to be undertaken by the relevant Cabinet Ministers on acceptance of the recommendations.
35. Implement the recommendations held in this report as part of budget process or through the Expenditure Review Committee for the May 2008 Budget.

Representatives

- Chairperson: Ben Wyatt MLA Victoria Park
- Secretary: Ryan Taaffe, Policy Officer Minister for Corrective Services
- Members: Kylie Olney, Office of Road Safety
- Narelle Thorne, Department of Indigenous Affairs
- Vanessa Elliot, Department of Local Government and Regional Development
- Duncan Ord, Department of Industry and Resources
- John McRoberts APM, WA Police
- Trevor Maughan, Department for Planning and Infrastructure
- Peter Mitchell, Sheriff of Western Australia
- Nigel Dickinson, Office of the Minister for Communities.
- Keith Shiers, Department of Corrective Services
- Graham Barrett, Department of the Premier and Cabinet

3. Introduction

“The statistics in relation to the over-representation of Aboriginal people in the criminal justice system are so well known that we are in danger of no longer being troubled by them.” Law Reform Commission – Aboriginal Customary Laws Discussion Paper 2006

The issues faced by Indigenous communities in Western Australia in participating in the licensing system and involvement in the justice system as a result of non-compliance with licensing laws have been well documented. There has been little done, until recent years, to improve the situation — despite the fact that Aboriginal people in Western Australia continue to be over-represented for motor vehicle driver’s licence offences and imprisonment for these offences.

Legislation (and changes to regulations) designed to enhance road safety or address security concerns place further barriers to Aboriginal people’s involvement in the licensing system. They continue to be introduced with limited consideration for the extreme hardship caused to large numbers of Indigenous Western Australians who are among the state’s most financially disadvantaged.

Whilst these legislative changes are introduced in the best interests of the community at large, they are primarily implemented in a manner designed to meet the needs of the general population living in the metropolitan area. This serves only to further disadvantage many Indigenous people living in regional and remote areas of the state.

Whilst the Committee recognises the Government’s responsibility to maximise the collection of revenue through the increased use of ‘Time to Pay’ arrangements for offenders in default of fines, there is a need to achieve a balanced approach to the regional and socio-economic environments of a significant number of Indigenous people.

In the process of this Inquiry, we have examined informed, successful practice in other jurisdictions and current initiatives in Western Australia, as well as the extensive library of research and reports on both licensing and the fines system in WA.

The report also highlights the potential implications of the current Novice Driver Review and the Repeat Drink Driving Strategy. The Committee has made a series of recommendations in relation to both these initiatives and the need to implement a range of measures to ensure equitable participation by Aboriginal people across the state.

This report identifies barriers faced by large numbers of Indigenous people in regional and remote areas of Western Australia to participating in the licensing system, including the issue of licence suspension as a result of fine default. The report also includes a series of practical measures and legislative considerations for change to enable easier access to the licensing process and resolving fines issues before imprisonment occurs.

Of concern also, is the significant over-representation of Aboriginal people in drink-driving offences, hospitalisation for traffic crashes and road fatalities. Aboriginal people make up around 3.5 per cent of the population of Western Australia, but represent 9 per cent of those killed on the roads and 8 per cent of those hospitalised as a result of a road crash.¹³

¹³ Road Safety Council of Western Australia, Aboriginal Road Safety Stakeholder Implementation Manual (March 2005).

Aboriginal people are around three times more likely to be injured or killed in motor vehicle crashes and road trauma costs on a per capita basis are up to three times as much as those for non-Indigenous people.

While the terms of reference for this Committee are focused on the licensing system, fine default and imprisonment, these figures highlight the need for more to be done to reduce the serious injury and death suffered by Aboriginal people in our state as a result of unsafe driving practices and unsafe vehicle use.

The investigation of these issues is timely in that changes to regional licensing services will have a significant impact on access to licensing in regional Western Australia. These include changes by the Department for Planning and Infrastructure and the rationalisation of Police resources away from providing licensing services in all regional and remote communities except in locations where Multi Functional Police Facilities (MFPPF) are in place.

4. Nature and extent of unlicensed driving.

“While a lack of a driver’s licence is an inconvenience in urban areas it compounds disadvantage in remote communities. These additional stressors are likely to have an adverse impact on family violence and child abuse.” Gordon Inquiry

Unlicensed driving is most often associated with a lack of knowledge and training in road rules, and unsafe driving practices. But for Indigenous people in Western Australia, particularly in remote and isolated areas, the viability of the community is directly affected by people’s ability to gain and maintain a driver’s licence and their access to transport.⁸

Unlicensed driving refers to drivers who continue to drive when they:

- have been disqualified or suspended from driving;
- hold an inappropriate licence for the class of vehicle they drive;
- drive outside the restrictions of a special licence;
- don’t currently hold a licence; and/or
- have never held a licence.

Watson (2003) reported that unlicensed driving — unlike alcohol or speeding — is not a direct cause of road crashes, however it does represent a major problem for road safety in a number of respects.⁹

Firstly, it serves to undermine the system used to monitor and manage driver behaviour, in particular through licence disqualification. Secondly, Watson (2003) suggests there is a body of evidence that links unlicensed driving to other high-risk behaviour such as drink driving and speeding.

Watson (2000) found that crashes involving unlicensed drivers tended to be more severe (i.e. more likely to result in a fatality or serious injury).¹⁰

Data for unlicensed driving convictions shows that Aboriginal people in regional areas are significantly over-represented for these offences.

SUMMARY UNLICENSED DRIVING 2002- 2005¹²

TABLE 1. UNLICENSED DRIVING CONVICTIONS BY MAJOR CATEGORY 2002-2005

Conviction category	Total number of individuals out of a total of 45,964
No driver’s licence (fine suspension)	12,902 (28%)
No driver’s licence (suspended)	6329 (13%)
Not holder of appropriate valid licence	5203 (11%)
No driver’s licence (disqualified)	4906 (10%)
Driving whilst legally disentitled	3365 (7%)
No driver’s licence (expired)	2128 (5%)
No driver’s licence (disqualification expired)	1753 (4%)

⁸ Phillips, D. Correspondence (2006) Drivers Licence Issues Mantamaru Community.

⁹ Watson, B. *The Road Safety Implications of Unlicensed Driving: A Survey of Unlicensed Drivers*, (2003) Centre for Accident Research and Road Safety Queensland University of Technology.

¹⁰ Watson, B. *The Crash Risks of Disqualified, Suspended and other Unlicensed Drivers*. (2000) Centre for Accident Research and Road Safety Queensland University of Technology.

¹² Source: Court of Petty Sessions (CHIPS) 2002- 2005; WA Police Service

TABLE 2. 2004/05 UNLICENSED DRIVING CONVICTIONS BY MAIN COURTHOUSE

All unlicensed driving convictions		Aboriginal unlicensed driving convictions	
Perth Court of Petty Sessions	5021	Perth Court of Petty Sessions	674
Midland	1269	Kalgoorlie	338
Joondalup	1146	South Hedland	285
Fremantle	1004	Broome	241
Armadale	944	Fitzroy Crossing	239
Mandurah	719	Geraldton	223
Kalgoorlie	656	Midland	216
Rockingham	643	Kununurra	199
Bunbury	513		
Total:	11,915	Total:	2,415

TABLE 3. 2004/05 UNLICENSED DRIVING CONVICTIONS (FINE SUSPENSIONS) BY COURTHOUSE

All unlicensed driving convictions (Fine suspensions)		Aboriginal unlicensed driving convictions (Fine suspensions)	
Perth Court of Petty Sessions	1658	Perth Court of Petty Sessions	218
Midland	431	Kalgoorlie	56
Joondalup	375	South Hedland	52
Fremantle	339	Broome	17
Armadale	353	Fitzroy Crossing	8
Mandurah	288	Geraldton	51
Kalgoorlie	145	Midland	71
Rockingham	205	Kununurra	21
Bunbury	168		
TOTAL	3,962	TOTAL	494

Why are Aboriginal people over-represented in unlicensed driving convictions?

Both consultations by the Committee and research reports in other jurisdictions such as Queensland have found similar issues that Aboriginal people face in both obtaining and maintaining a driver's licence, which can best be described by the following categories.

1. Realisation issues and perceived need to gain a licence.
2. Issues pertaining to obtaining a learner's licence.
3. Issues pertaining to practical driver training and testing.
4. Post-licensing performance and maintenance issues.

1. Realisation issues and perceived need to gain a licence

Generally there is a high level of awareness of the need to be licensed to be able to legally drive, particularly in environments where there are significant employment opportunities which necessitate driving. Perceived need and willingness to gain a licence is dependent upon:

- the driving environment (road conditions and signage);
- perception of the road laws applying to Aboriginal lands;
- the presence of enforcement (likelihood of being arrested);
- need, family or employment responsibilities;
- likelihood of driving outside the community; and
- access to and available resources.

2. Issues pertaining to obtaining a learner's licence

The barriers faced by Indigenous people in participating in the graduated licensing system in regional and remote communities are considerable. These barriers are among some of the most easily addressed to improve licensing rates and road safety.

- Lack of access to licensing services.
- Literacy problems causing comprehension difficulties. Call for test to be delivered in local language and in a pictorial style.
- Written test contains city concepts (traffic lights, roundabouts etc.).
- Acknowledgement by community that city/town drivers require additional road rules knowledge.
- Financial barriers — cost of tests and driving lessons prohibits many.
- Police stations often act as alternative licensing centres, but many Aboriginal people try to minimise contact with Police.
- The licensing process is bureaucratic. (WA has introduced mechanisms to address proof of identity evidence requirements.)
- People can believe they are debarred from holding licences because of earlier driving infringements.
- Getting your licence requires access to a teacher or licensed instructor and a registered vehicle.
- Getting your licence requires having someone to provide the 25 hours of supervised driving.
- Negotiating fines and suspensions to re-enter the system.

3. Issues pertaining to practical driver training and testing

These issues pertaining to practical driver training and testing are particularly difficult for many Aboriginal people in regional and remote communities to overcome.

- There are many communities where there are few or no licensed drivers to provide supervised driving instruction.
- Access to vehicles in many communities is restricted. In many cases, there is one vehicle for several families.
- The cost of petrol in regional and remote areas is expensive and travel is made only for specific business purposes.
- Access to a roadworthy and registered vehicle.
- Participating in the logbook system to record the number of supervised hours poses many challenges. Many people do not have the necessary literacy skills or personal record-keeping skills and lose their books.
- Remote communities do not provide the range of driving conditions that make supervised driving worthwhile.

4. Post-licensing performance and maintenance issues

Post-licensing issues and maintaining a licence also pose challenges.

- Accessing licensing and payment services.
- Not losing the licence for non-payment of fines.
- Cost of licence and registration.
- Maintaining personal records to know when the licence is due for renewal.

Related to the issue of maintaining a licence is the significant number of Aboriginal people charged with drink-driving offences.

Data shows that Aboriginal people are over-represented for drink-driving convictions and are more likely to lose their licence for Driving Under the Influence (DUI) than receive fines for lesser Blood Alcohol Content (BAC) offences.

Consultations at various forums, however, have shown there are additional factors impacting on Aboriginal people, which do not necessarily appear in general populations.

For example, the Law Reform Commission (LRC) consultations found that the compulsion to drive among Aboriginal people included family obligations and Aboriginal customary law, whereby individuals are unable to refuse a request to drive (regardless of their licence status) at the request of others who, according to customary law, they must oblige.

The LRC also raised concerns that in areas where there is no access to public transport, Aboriginal people sometimes have no alternatives to driving unlicensed to attend court, to comply with cultural obligations such as ceremonies and funerals or to seek medical treatment.¹³

"The recent "reforms" of the licensing system have significantly impacted on the net cost and complexity of obtaining a licence. Government has levied a series of fees on each step of the process, which total around \$100. On top of this is driving instruction costs at \$45 per hour and the costs of the 25 hours, soon to be 100 hours of supervised driving, 25 hours at 40km per hour is 1,000km at RAC per km costs of 50 cents per km equals to \$500 and 100 hours costs out at \$2,000.

*These costs, not to mention the complexity of the process and testing regime, are a major constraint on any family that is disadvantaged let alone many Aboriginal families who can add regional isolation and language difficulties to the mix."*¹⁴(Ord, 2007)

The effects of licence suspension and challenges faced by Aboriginal people in entering the licensing system pose disadvantages to not only individuals but also entire families and communities. Similarly, holding a licence is a precursor to obtaining and maintaining employment.

A strong negative feedback received from our consultations was that people do not receive a finite suspension.

Case studies

25-year-old Aboriginal woman and mother of five

Currently serving 12 months imprisonment in Kalgoorlie.

"Never been in trouble besides driving without a current licence and non-payment of related fines."

Aboriginal man

Currently serving nine months in prison in Kalgoorlie.

"No other offence, a good shire worker who drove the garbage truck in the Warakurna area for 10 years without incident but with no driver's licence."

Aboriginal community

One community of 150 people reported that not one licensed driver with a current valid motor vehicle licence lived there. They also cited examples of people driving

¹³ WA Law Reform Commission Chapter 5 Aboriginal Customary Law and the Justice System. Page 93.

¹⁴ Ord, D. 2007, Personal communication. Department of Industry and Resources

150km to attend court to face charges of unlicensed driving rather than breach the summons which would likely lead to a bench warrant and a prison sentence. Additionally, several people have been charged while driving to the local Shire Office 150km away to conduct driving exams and/or pay renewal fees.

Consultations in Jigalong highlighted the need for community members to drive 400km to Newman to obtain their licence and to pay renewal fees.

Addressing front-end causes

Measures focused on early intervention around the licensing system have the potential to decrease the number of individuals who drive unlicensed.

Education around the most common reason for licence suspensions would assist in:

- **Addressing lack of administrative skills**
This would help learner drivers and drivers to maintain records and renew licences. Programs are operating in some communities to assist individuals in financial management and forward planning. Licensing could be incorporated in to these programs.
- **Reducing driving under suspension**
Raising awareness of the licensing system and the seriousness of driving without a valid licence, as well as improving access to payment facilities and awareness of offences individuals can have their licence suspended for, should be encouraged.
- **Reducing drink driving**
In addition to the barriers that exist for many Aboriginal people in obtaining a licence, there is also a high rate of drink driving for which Aboriginal people are over-represented for these offences.

While Aboriginal people represent about 3.5 per cent of the Western Australian population, they represent about 15 per cent of all drink-driving arrests, increasing to 28 per cent of third time arrests and 35 per cent of drink drivers disqualified from driving for life.

In 2003, Aboriginal people were 28 times more likely than non-Aboriginal people to have DUI as the main offence for imprisonment and 40 per cent of those with licensing offences as the main offence for imprisonment were Aboriginal.

Current initiatives

In the past few years a number of projects aimed at improving Indigenous licensing have been implemented in WA. Many of these projects have achieved short-term success, mainly as pilot projects, but many have not been continued as a result of funding and/or staffing issues.

In addition, many of these projects have been operated by community-based organisations and have not been formally evaluated. But the work of these community-based organisations and schools operating training programs should not be under-estimated and should, in fact, be actively supported. Programs of this nature, aimed primarily at young people, have the potential to be of increasing value in assisting marginalised young people (including Indigenous youth) to gain their driver's licence and to support the Novice Driver legislation if and when it becomes operational.

The Office of Road Safety Indigenous Drink Driving and Licensing Project

The Indigenous Drink Driving and Licensing Project (IDDL) was established by the Office of Road Safety (ORS) to identify and progress initiatives to reduce the incidence of drink driving and unlicensed driving among Indigenous Western Australians, particularly those living in rural and remote areas.

The IDDL Final Strategy report is the result of a significant period of review of licensing and drink-driving initiatives in Western Australia and other jurisdictions, both nationally and internationally, and a detailed examination of the nature and extent of drink driving and unlicensed driving in Western Australian Aboriginal communities.

In February 2007, the Draft Indigenous Drink Driving and Licensing report was circulated among key stakeholders for discussion and comment. The Draft IDDL project report was endorsed by the Aboriginal Advisory Group and given the active support of a range of key Government agencies.

The Final Strategy report combines feedback and recommendations received to offer a framework for a range of measures for further development among Aboriginal communities in regional areas of Western Australia.

The IDDL project:

- provides detailed information on the extent and nature of drink driving and unlicensed driving amongst Indigenous people in WA;
- outlines existing measures in WA that deal specifically with drink driving and unlicensed driving among Indigenous people and considers their effectiveness;
- outlines what other Australian and international jurisdictions are doing to counter drink driving and unlicensed driving amongst Indigenous people and where possible detail their effectiveness;
- identifies new measures to reduce the incidence of Indigenous drink driving and unlicensed driving (including primary, secondary and tertiary prevention) that could be considered for WA and the systems within which they might best be established; and
- recommends a package of measures for implementation over time including a timeline for rollout and identification of associated resources.

The measures outlined as part of the IDDL project were considered by the Committee and were considered appropriate to be incorporated into the recommendations of this Inquiry.

Department for Planning and Infrastructure's Licensing Business Unit — Warburton Pilot

The Department for Planning and Infrastructure (DPI) is working with the Warburton community on a number of strategies to engage community members in the licensing process. DPI has been working with local Indigenous consultants *Indigenous Enterprises* for some time to develop locally-based initiatives which will, in a fairly short space of time, allow a number of community members to become licensed drivers.

However, the aim of the pilot is to provide a strategy that looks beyond these short-term gains and will put in place mechanisms to allow Indigenous people to maintain their licences in the long term. It is intended that the strategy will have the flexibility to be modified to meet the cultural needs of other communities and be rolled out statewide.

DPI and the community are also considering the next phase of the process which will be to engage local people to deliver training to other local people.

Queensland Transport — Indigenous Licensing Unit

Queensland Transport has recently adopted an outreach licensing service after an initial 18-month trial period. The service provides a culturally sensitive approach to the delivery of licensing services to Indigenous communities, particularly in the northern region of the state.

The initial trial period involved an education element in assisting individuals to gain their learner's permits. This, however, does not form part of the current model

provided by Queensland Transport which is focused on assisting individuals at the time of testing.

The unit comprises of a number of Indigenous staff and non-Indigenous staff who maintain a high level of cultural awareness.

This project has largely been successful in increasing the number of Indigenous people in remote communities gaining their driver's licences and improving the awareness around issues of obtaining and maintaining a licence.

The Queensland outreach licensing models provide both a thorough evaluation and justification for the delivery of this model. Anecdotal evidence from Magistrates courts in Queensland indicated that a drop in traffic court cases followed visits by the Mobile Licensing Unit.

Western Australia's unique Indigenous communities and the remote locations in which many people reside, present challenges similar to those in Queensland. Successful implementation in the Queensland jurisdictions provides us with a basis to explore suitable models for Western Australia.

One barrier identified in Queensland was the identification of suitable organisations to deliver the front-end education elements to help individuals obtain their learner's permit and essential road safety and driver education. Western Australia also has to consider this in the implementation of these initiatives.

Department for Planning and Infrastructure's Licensing Business Unit — West Kimberley

At a number of communities in the West Kimberley an example of an outreach service has been operating for some time that has enabled numerous community members to obtain and maintain a driver's licence. Through the cooperation of local communities, DPI's Licensing Business Unit and Aboriginal Police Liaison Officers (APLOs), APLOs provide all the driving education elements and regional DPI staff provide licensing testing in an appropriate manner.

This is an effective model and could be rolled out more widely.

Department for Planning and Infrastructure's Licensing Business Unit — Kalumburu

To address the lack of licensing facilities at Kalumburu, DPI's Licensing Business Unit has entered into a partnering arrangement with the Kalumburu Aboriginal Corporation which will see the delivery of basic licensing administration services to the community by the Corporation. The services to be provided include the renewal of vehicle and driver's licences, notification of change of address, return of number plates etc.

Whilst the arrangement is in its infancy, early signs are promising and may well provide the template for similar arrangements with other remote communities throughout regional WA.

Queensland 'Under The Limit' Program

The UTL program in Queensland is an 11-week education-based drink-driving prevention program, aiming to promote controlled drinking (not abstinence) and separating drinking from driving. The program is also delivered through distance education for people who live in remote areas or who cannot attend their local TAFE to participate in the program.

Evaluation of Queensland's 'Under the Limit' Program found that after completing the program almost three quarters of the participants (76%) reported they were unlikely to re-offend. Around 22 per cent reported that it was possible they would drink and drive in the future (Freeman, Scholfield and Edmonston).

The results of the evaluation also suggested that individuals who believe drink driving is common, have friends who drink and drive, and who believe that drink driving is acceptable under some circumstances, are more likely to drink and drive again in the future.

Further to this, the evaluation suggests that the behaviour of drink driving may be entrenched for some individuals, and the process of providing them with the knowledge, skills and strategies to avoid drink driving — in some cases — may not be adequate to stop further offending behaviour.

The Amity Drink Driving Program in the Northern Territory

Completion of the course is a condition of re-licence for drink driving offenders under the NT *Motor Vehicles Act* and is not a sentencing option.

Evaluation has found the course to be effective in reducing recidivism among first-time drink drivers, over a two-year period (12.8%) but found that there was a higher rate of re-offending among those who were repeat offenders and those charged with higher Blood Alcohol content. One explanation for this is the 'position' alcohol maintains in the lifestyle.'

Participant feedback showed that 93 per cent of individuals surveyed found the course to be effective in education regarding health, standard drink measurements and blood alcohol concentrations.

However, various reports have highlighted difficulties with the model of service used in the NT with Registered Training Organisations (RTOs) used to deliver the course. The RTOs operate commercially, and because the course is user pays, it is only delivered when the number of participants justifies the cost. This results in the frequency and the accessibility of the course being problematic for offenders in less populated areas, including Aboriginal people in remote communities.

5. Corrective Services

The Department of Corrective Services provides a program to assist inmates in Broome, Greenough, Wooroloo, Karnet, Boronia and Bunbury prisons to gain or regain their learner's permits and/or driver's licences.

Each of these centres has a facility for people to practise for their applications. Once people are ready and have the necessary ID and money, they can sit their learner's permit with a Corrective Services Licensing Officer.

The information provided to offenders in custody includes the driver education material provided by the Department for Planning and Infrastructure. This manual is a comprehensive guide to licensing, but is written in English and is more than 120 pages in length. For prisoners who are illiterate this is another barrier to obtaining their licence. However, it is noted that DPI orally presents this information in some regional prisons.

In 2005, 781 applications were processed and recorded for driver's licences and training. Of these:

- 32 per cent were eligible to make application for or renew a driver's licence;
- 91 per cent were male and 9 per cent were female; and
- 50 per cent were Aboriginal.

From the first six months of 2006, 350 applications were processed and recorded for driver's licences and training. Of these:

- 30 per cent were eligible to make application for or renew a driver's licence;
- 88 per cent were male and 12 per cent female; and
- 46 per cent were Aboriginal and 54 per cent non-Aboriginal.

Whilst obtaining a learner's permit can be a difficult task, it is only one of the barriers to obtaining a licence. Access to a vehicle and supervised driver can also be an issue. A window of opportunity exists to conduct driver education and drink-driving awareness activities for offenders in custody, which has the potential to reduce re-offending rates.

The prison population of Broome, Goldfields, Roebourne and Greenough regional prisons is generally 75 per cent or more Aboriginal offenders (often 95 per cent).

Broome Prison

During the Education Orientation of new prisoners, an application form to ascertain whether or not a prisoner is eligible for Driver Education is completed and this is then faxed to the Coordinator of Driver Education at Head Office.

The Coordinator completes a licence check and responds in writing to the prisoner stating the status of their driver's licence.

Prisoners that are eligible to apply for their driver's licence are then eligible to get their birth certificate through the Education and Vocational Training Unit (EVTU) and the prison assists them with completing the necessary forms. The forms are then forwarded to EVTU for processing.

The licensing process and cost involved in getting a driver's licence is outlined to the eligible prisoner. Prisoners are encouraged to save their gratuities to cover the cost.

Once the prisoner's primary identification (birth certificate) is identified the prison then ascertains what secondary ID they have in their property and if they do not have any, a support letter from the prison is used.

Those prisoners who can cope with the computerised practice tests are then encouraged to practise the written test on student computers. Once they are confident, and provided they have the necessary Identification documentation and funds, an appointment at DPI is made for them to sit the written test.

Those prisoners who cannot cope with the computerised practice test are assisted by peer tutors or an education staff member. Through negotiation with Police, an officer comes into the prison and leads a three-day Driver Education Workshop. The officer will go ahead with the workshop on the provision that there are at least 10 people with all the necessary ID papers and funds to pay for their driver's licences. The prison also ensures that any outstanding fines are sorted out through time-to-pay (TTP) orders. The officer is an Indigenous Police Officer who delivers the workshops throughout the Kimberley and classes are dependent on his schedule. The workshop is delivered in such a way that language does not impede someone getting his or her driver's licence. DPI representatives then come in at the end of the 3-day period to assist with the eye testing and paperwork involved in the written test stage of the licensing process.

Once a prisoner has successfully passed their written test, driving lessons with the Broome Driving School are booked. EVTU pays for eight driving lessons with the school. Once a prisoner feels confident enough to do their practical test the prison arranges for this to be undertaken with the support of the Broome Driving School. The Driver's Education officer at the prison negotiates with the EVTU Coordinator if someone is not ready to do the practical test and more lessons are required.

Once a prisoner is at logbook stage the prison can no longer assist them.

Prison staff have some issues with the program which include the following:

- Identification — sometimes a prisoner discovers that their name is different to that on their birth certificate and all their other paperwork is in another name.
- Fines — sometimes a TTP through the Fines Enforcement Registry is set up and more fines are found on the system making it impossible for the prisoner to pay them off, and then upon release the TTP is breached and so the licence cancelled again.
- The prison can only assist prisoners to logbook stage and there is no guarantee they will continue with getting their driver's licence on their release, particularly if they do not have a roadworthy vehicle or another driver to help them clock up their 25 hours .
- Medicals — those prisoners who have lost their licences for a second or subsequent drink-driving offence must undergo a medical and the best time to do this is while they are in prison. However, there is a cost involved and it requires booking a medical at the prison well in advance. Many prisoners go outside the prison to have their medicals. The prison covers the cost but this cannot happen if a prisoner does not have Section 95 approval.

6. Fine default and driver's licence suspension

Licence disqualification or suspension is a common sanction, both nationally and internationally, for traffic offending and for non-payment of fines.

Ferrante (2003) reported that while licence suspension had some deterrent effect, various studies had estimated the portion of offenders who drove while suspended ranged from 25 - 75 per cent. Concern for the high rate of non-compliance has reduced the level of disqualified driving through sticker plate laws, treatment and education programs rather than licence suspension alone.

There is no doubt that the issues of obtaining and maintaining a driver's licence among Indigenous communities in Western Australia are inextricably linked.

The average number of people disqualified from holding or obtaining a driver's licence at any one time throughout the state is 45,500. As ethnicity is not recorded, it is difficult to ascertain precisely the number of Aboriginal people in that figure. However, the following section provides evidence that suggests Aboriginal people are highly represented in regional and remote area data.

In Queensland, licence suspension is not a sanction for fine default for non-driving related offences. As a result, the rate of licence suspension is significantly lower and penalties for driving offences are linked to relevant programs such as the Under the Limit program targeting drink-driving offenders.

In addition, the Queensland Fines Enforcement System allows for the agency to garnishee wages or income, which allows for recovery of unpaid debts over a period of time.

The *Fines Legislation Amendment Bill 2006* is currently before the Legislative Council. The Bill includes a range of provisions for the Registrar to exercise greater discretion in the management of time-to-pay options. This means that offenders who breach their time-to-pay arrangements may be able to be given further chances to settle their fines.

The Bill also includes amendments to the *Sentencing Act 1995* to reduce the number of hours required to be imposed for a Community-Based Order from 40 to 10. It is envisaged this will allow courts to have alternative sentencing options for offenders who are less able to pay their fines.

Since the implementation of the Sheriff's/Community Development Officer program in 2006, as a joint initiative between the Department of the Attorney General and Corrective Services, additional officers have been assigned to regional areas to assist in the management of fine defaulters in regional and remote communities. Where possible, these officers manage Work and Development Orders, which offer an alternative to the payment of fines for those with limited means to pay.

Queensland

The State Penalties Enforcement Registry (SPER) in Queensland offers a model of Fines Enforcement that would deliver definite benefits for Western Australia. Of particular note is that SPER has a policy that fine defaults are not punishable by imprisonment and that vehicle and driver's licences are only suspended where the matter involves a traffic offence. It should be noted that once the licence is suspended the entire outstanding amount must be paid before the suspension is lifted.

The State Penalties Enforcement Agency is also able to garnishee wages to repay fines and implement what are called *Good Behaviour Orders*. These orders are designed for people who are experiencing financial hardship and who are not able to undertake Community Service Orders. The option is only available in certain circumstances.

A Good Behaviour Order is basically an agreement that no offences or infringements will be committed from a certain period of time from when the order is made. The Registrar can impose conditions as considered appropriate and if there are no other offences or infringements committed within this time and any other conditions have been met, the fines will no longer be payable. This option is available to people who are experiencing financial hardship, have a medical or psychiatric condition or have other exceptional grounds for consideration that prevents them from being able to pay or undertake community service work.

Other jurisdictions

The Victorian Fines Enforcement Agency introduced a series of safeguards that protect the genuinely vulnerable by making provisions for these people to be diverted out of the court system. A formal review procedure allows vulnerable people to apply to the issuing agency for a review of the decision to issue the infringement notice.

People in this category include those who are homeless, intellectually disabled or mentally ill, as well as individuals suffering serious addictions to drugs or alcohol, or people with other exceptional circumstances. Broader opportunities have also been provided to allow for vulnerable people, or persons acting for them, to apply to the Infringements Registrar to have an enforcement order made against them revoked. All agencies that issue fines now have the discretion to offer payment plans up-front. People can apply for a payment plan directly to the agency for reasons including financial difficulty.

The reforms to the infringements' system require enforcement officers and Infringement Registrars to consider the individual, special or exceptional circumstances of each person who makes an application.

In the Northern Territory, the Fines Recovery Unit (FRU) is only relatively new having only been in operation since 2002. The FRU offers a case-managed debt recovery system focused on assisting clients to manage their financial obligations to the Territory.

One of the FRU's main goals is to reduce the number of fine defaulters who are imprisoned. The FRU provides payment options that will hopefully reduce the imprisonment rate and recover Government revenue.

What are the problems for regional and remote communities?

Consultations carried out by the Committee as part of this Inquiry revealed several common issues across all jurisdictions, including:

- **Lack of payment facilities.** In some cases, payment facilities are 400km away and people driving to payment centres have been charged with driving while under suspension.
- **Reliance on mail to inform offenders of licence suspension.** In a number of cases, people were not aware their licence had been suspended because they had not received notification. In addition to this, all communities during the consultations said that even when they did receive notification they were unable to read the correspondence or could not understand the suspension.
- **No alternative transport.** In all remote communities there were few alternative transport options for individuals under suspension who may then feel forced to drive to access services and attend to cultural business.
- **Capacity to pay.** Income levels among Indigenous Western Australians are on average lower than for the broader community. Increased enforcement and harsher penalties do little to change behaviour among Aboriginal offenders, rather they serve to further disadvantage individuals and families.

Education

Only a small percentage of Indigenous Western Australians aged 15 years or over have completed Year 12, compared to 40 per cent of the broader community.¹⁵

Income

Of all Indigenous Western Australians over 15 years of age, 66 per cent earn less than \$21,000 per year (\$403 per week) and 40 per cent earn less than \$11,000 per year (\$211 per week). By comparison, 41 per cent of the general population earns less than \$21,000 per year and 20 per cent earn less than \$11,000.¹⁶

Employment

Twenty per cent of the Indigenous workforce is unemployed. If the number of unemployed is adjusted to include those participating on former Community Development Employment programs (CDEP), Indigenous unemployment is 40 per cent. By comparison, the proportion of unemployed non-Indigenous people is 5 per cent.¹⁷

In the Kimberley region 2004-2005, there was an unemployment rate of 4.3 per cent (not including people on CDEP projects.) In 2001, the most common average weekly individual income was \$160-\$199.

Main offences causing licence suspension for fine default:

- Failing to return licence plates (7988)
- Driver's licence offences (6692)
- Street drinking/park or reserve drinking (6500)
- Speeding offences (4985)
- Travelling without a valid ticket (3684)
- Driving and alcohol-related offences (DUI, Excess .02, .05, .08) (1477)

¹⁵ ABS 2001 and Department of Treasury & Finance Labour Force Statistics.

¹⁶ Law Reform Commission Aboriginal Customary Laws Discussion Paper 2005

¹⁷ ABS 2001 and Department of Treasury & Finance Labour Force Statistics.

7. Nature and extent of fine default

The following data provides a snapshot of the nature and extent of fine default in Western Australia in both regional and remote locations.

Table 1.
Individuals currently under Motor Vehicle Driver's Licence Suspension 2007

People currently under suspension by area	
Remote ¹⁸	5436
Goldfields	3353
Kimberley	4761
Murchison Gascoyne	2837
Pilbara	2843
Wheatbelt	1061
Southern	5333

* Data calculated on the postcode of the offenders' residential address.

* Remote areas include: Postcodes found in the most isolated regions of the Kimberley, Pilbara and Central Desert. Whilst this does not capture every postcode the data still provides an adequate representation of the group.

CONCLUSION:

Driver's licence suspension is most prevalent in the remote areas of the state, followed by the Kimberley and Southern Region of WA.

Around 30 per cent of Aboriginal people live in very remote areas of the state, as opposed to 1.7 per cent of non-Indigenous people.

Around 50 per cent of the population in the Kimberley are Aboriginal people.

Table 2.
Individuals in regional areas currently under time-to-pay arrangements 2007

Individuals on TTP and total party numbers			
Area	TTPs	% of total	Total parties¹⁹
Remote	481	5%	9336
Goldfields	563	8%	6761
Kimberley	379	5%	8099
Murchison Gascoyne	609	12%	5160
Pilbara	367	8%	4812
Wheatbelt	291	14%	2110
Southern	1338	13%	10403

¹⁸ For the purposes of the following data "remote" regions are calculated using the postcodes for the following: Halls Creek, Fitzroy Crossing, Telfer, Marble Bar, Nullagine, Paraburdoo, Jigalong, Tom Price, Timber Creek (NT), Wyndham, Djarindjin, Wickham, Pannawonica, Onslow, Exmouth, Gascoyne Junction, Wiluna, Meekatharra, Cue, Sandstone, Mount Magnet, Yalgoo, Mullewa, Near Mullewa, Denham, Kalbarri, Port Gregory, Laverton, Leonora, Leinster, Menzies, Waramun.

¹⁹ Total parties is all those that have a fine of any kind currently outstanding.

CONCLUSION:

The number of people on TTP arrangements varies from region to region. It appears from this information that a significant number of people could have their licence suspensions withdrawn if they were to enter into TTP arrangements.

TABLE 4
Fine default outstanding offences by region, value and percentage

Top offences Remote region	Total	Outstanding amounts	% of all
Street drinking/park or reserve drinking	2525	\$340,545.53	27%
Failing to return number plates	1430	\$262,014.34	15%
Driver's licence offences (never held, expired MDL, not valid MDL, disqualified)	1364	\$504,609.19	14%
Seat belt and child restraint offences	657	\$190,415.10	7%
Failing to transfer vehicle licence	611	\$197,458.15	6%
Failure to vote without a valid reason	545	\$64,438.85	6%
Speeding offences	385	\$122,699.05	4%
Travelling without a valid ticket	345	\$48,338.77	4%
Driving and alcohol-related offences (DUI, excess .02,.05,.08)	332	\$249,465.59	4%
Disorderly conduct and threatening behaviour	164	\$54,774.55	2%
Breach of Bail Undertaking, fail to appear, breach of protective bail.	143	\$55,607.20	2%
Top offences	8501	\$2,090,366.32	90%
Grand total offences	9428	\$2,259,012.95	100%

Top offences Goldfields region	Total	Outstanding amounts	% of all
Failing to return number plates	1168	\$217,087.98	17%
Speeding offences	687	\$132,631.21	10%
Driver's licence offences (never held, expired MDL, not valid MDL, disqualified)	602	\$222,845.18	9%
Travelling without a valid ticket	476	\$64,163.00	7%
Failing to transfer vehicle licence	475	\$190,468.15	7%
Seat belt and child restraint offences	425	\$96,463.52	6%
Failure to vote without a valid reason	387	\$44,813.36	6%
Parking-related offences	386	\$50,432.65	6%
Street drinking/park or reserve drinking	256	\$34,609.45	4%
Driving and alcohol-related offences (DUI, excess .02,.05,.08)	236	\$167,109.20	3%
Disorderly conduct and threatening behaviour	157	\$49,583.55	2%
Bicycle helmet not securely fastened	107	\$13,961.00	2%
Top offences	5362	\$1,284,168.25	76%
Grand total offences	7013	\$1,766,732.88	100%

Top offences Kimberley region	Total	Outstanding amounts	% of all
Street drinking/park or reserve drinking	2603	\$352,147.53	33%
Failing to return number plates	1043	\$190,962.55	13%
Driver's licence offences (never held, expired MDL, not valid MDL, disqualified)	617	\$232,329.50	8%
Seat belt and child restraint offences	432	\$100,102.21	5%
Failure to vote without a valid reason	422	\$48,876.80	5%
Driving and alcohol-related offences (DUI, excess .02,.05,.08)	340	\$350,929.88	4%
Failing to transfer vehicle licence	338	\$116,375.55	4%
Speeding offences	235	\$45,721.07	3%
Travelling without a valid ticket	223	\$30,164.00	3%
Breach of Bail Undertaking, fail to appear, breach of protective bail.	152	\$64,689.03	2%
Bicycle helmet not securely fastened	123	\$16,174.50	2%
Disorderly conduct and threatening behaviour	96	\$34,576.25	1%
Top offences	6624	\$1,583,048.87	84%
Grand total offences	7869	\$1,925,253.33	100%

Top offences Murchison Gascoyne region	Total	Outstanding amounts	% of all
Failing to return number plates	875	\$161,285.22	15%
Travelling without a valid ticket	639	\$85,341.50	11%
Driver's licence offences (never held, expired MDL, not valid MDL, disqualified)	563	\$179,705.29	10%
Speeding offences	545	\$103,683.25	9%
Failing to transfer vehicle licence	444	\$120,234.21	7%
Failure to vote without a valid reason	432	\$49,485.85	7%
Street drinking/park or reserve drinking	299	\$39,591.65	5%
Seat belt and child restraint offences	245	\$55,955.70	4%
Driving and alcohol-related offences (DUI, excess .02,.05,.08)	124	\$100,592.43	2%
Bicycle helmet not securely fastened	103	\$13,008.50	2%
Breach of Bail Undertaking, fail to appear, breach of protective bail.	87	\$51,874.40	1%
Disorderly conduct and threatening behaviour	79	\$27,549.65	1%
Top offences	4435	\$988,307.65	75%
Grand total offences	5922	\$1,414,295.58	100%

Top offences Pilbara region	Total	Outstanding Amounts	% of all
Failing to return number plates	992	\$183,879.14	20%
Street drinking/park or reserve drinking	508	\$68,021.50	10%
Speeding offences	465	\$89,131.85	9%
Failure to vote without a valid reason	402	\$46,873.50	8%
Driver's licence offences (never held, expired MDL, not valid MDL, disqualified)	376	\$131,155.17	8%
Seat belt and child restraint offences	363	\$83,856.20	7%
Failing to transfer vehicle licence	325	\$122,682.35	7%
Travelling without a valid ticket	263	\$34,353.26	5%
Driving and alcohol-related offences (DUI, excess .02,.05,.08)	102	\$81,032.87	2%
Bicycle helmet not securely fastened	98	\$12,951.50	2%
Various charges	79	\$70,422.70	2%
Failing to display P Plates	50	\$9,324.02	1%
Top offences	4023	\$933,684.06	81%
Grand total offences	4968	\$1,226,263.66	100%

Top offences Wheatbelt region	Total	Outstanding amounts	% of all
Failing to return number plates	546	\$101,716.00	19%
Travelling without a valid ticket	505	\$67,699.90	18%
Speeding offences	457	\$84,059.35	16%
Driver's licence offences (never held, expired MDL, not valid MDL, disqualified)	195	\$68,092.55	7%
Failing to transfer vehicle licence	189	\$51,593.70	7%
Failure to vote without a valid reason	89	\$10,346.35	3%
Seat belt and child restraint offences	85	\$15,995.00	3%
Various charges	55	\$67,425.70	2%
Street drinking/park or reserve drinking	51	\$6,834.50	2%
Driving and alcohol-related offences (DUI, excess .02,.05,.08)	44	\$33,454.25	2%
Contravene a red traffic control signal	41	\$9,426.20	1%
Cannabis-related offences	39	\$13,210.18	1%
Top offences	2296	\$529,853.68	80%
Grand total offences	2868	\$696,095.94	100%

Top offences Southern region	Outstanding		
	Total	amounts	% of all
Driver's licence offences (never held, expired MDL, not valid MDL, disqualified)	2975	\$653,720.75	24%
Speeding offences	2211	\$409,075.44	18%
Failing to return number plates	1934	\$358,614.16	15%
Travelling without a valid ticket	1233	\$169,705.51	10%
Failing to transfer vehicle licence	963	\$274,525.70	8%
Bicycle helmet not securely fastened	531	\$70,651.30	4%
Failure to vote without a valid reason	434	\$49,940.35	3%
Seat belt and child restraint offences	314	\$71,994.88	3%
Driving and alcohol-related offences (DUI, excess .02, .05, .08)	299	\$183,401.77	2%
Street drinking/park or reserve drinking	256	\$42,699.35	2%
Cannabis-related offences	223	\$88,607.10	2%
Failing to display P Plates	135	\$23,602.80	1%
Top offences	11508	\$2,396,539.11	92%
Grand total offences	12481	\$2,897,821.09	100%

Conclusion:

Fines issued for failure to return number plates form a significant number of the offences for which people are defaulting on in all regions. Failure to travel with valid ticket offences are relatively high in regions where there are no public transport services. As data is collected by the postcode of the offender's address, it is likely that either individuals are travelling to or now residing in metropolitan areas, or that false addresses are being used. This, however, warrants further investigation.

8. Conclusions and recommendations

As part of the detailed review by the Committee, extensive consultations have occurred with a range of stakeholders including Aboriginal communities and organisations within Western Australia, and various licensing and fine default authorities in Queensland.

The recommendations listed are aligned with the expressed aspirations of Aboriginal people for the wellbeing and future prosperity of their communities through enabling individuals to carry out day-to-day business and access employment opportunities. In addition to this, resolving the complex issues around obtaining and maintaining a driver's licence and expanding road safety education should reduce the likelihood of imprisonment and serious injury and death on our roads.

The consultation process revealed an overwhelming response from people in regional and remote communities that the issues around fine default and licensing be resolved to ensure a fair and equitable system be established so as not to further marginalise Aboriginal people.

There is strong evidence to suggest that implementing the measures contained in this report will provide considerable savings to the state.

Although the recommendations put forward have resource implications, the Committee believes them all to be achievable and that they will provide a whole-of-Government solution to the issues surrounding licensing and driving laws for remote communities. Moreover, the resources necessary to implement these recommendations would be offset many times over when the high costs of imprisonment and family and social dislocation are factored in.

The Committee also found that there was significant community and corporate interest in helping Indigenous people to remain licensed and out of prison.

A major concern for many of the remote communities in Western Australia is the extra burden and complications arising from the possible introduction of the 120 hours supervised driving. This will become a significant barrier to remote learner drivers obtaining their licences.

A. Licensing recommendations

Addressing access and participation issues for Indigenous Western Australians in the licensing system requires a range of primary, secondary and tertiary interventions across a number of government agencies. A significant impact can be made through non-legislative and practical measures to:

- A) Increase the number of Aboriginal people gaining and maintaining their motor vehicle driver's licence, particularly in regional and remote communities.
- B) Reduce the incidence of road trauma related to drink driving in Aboriginal communities.
- C) Reduce the number of Aboriginal people convicted of unlicensed driving.

1. Education

1. Review current licensing education materials and develop education resource kits that are both culturally and environmentally appropriate and aimed at users with low literacy levels. Kits should be available to organisations assisting individuals and groups to obtain learner's permits.

2. Develop Indigenous specific community education and awareness programs to build awareness of the licensing process.
3. Extend the *'Keys for Life'* learner driver education program currently available, with the view to providing more culturally and environmentally appropriate programs for students with low literacy in regional and remote communities.
4. Develop specific Community Based Orders and Work and Development Orders for offenders with licensing and drink driving related offences, similar to the 'Under the Limit' program in Queensland.

2. Delivery of licensing services

5. Establish Remote Outreach Licensing Units staffed by officers who have an understanding of Indigenous cultural issues to deliver licensing education and testing in regional and remote communities.
6. Expand licensing programs and supervised driver training in prisons.
7. Coordinate the delivery of government services to remote communities. Ideally the model would see a single point of contact for the provision of all services relating to licensing including the ability to enter into time-to-pay arrangements.
8. Contract Aboriginal corporations to receive and process government payments, including fines and licence payments, in communities where appropriate infrastructure is available.
9. Remove the requirement for individuals over the age of 25 years to obtain 25 hours of supervised driving.
10. Provide flexible and culturally appropriate licence assessment and practical testing.

3. Mechanisms to maintain a driver's licence

11. Provide support for a comprehensive ongoing Indigenous community education process to provide information and education about licensing and road safety issues, particularly drink driving.

4. Creating Indigenous employment

12. Provide education, training and employment opportunities for Indigenous people in driver education and testing.
13. Devise strategies to build capacity within Community Development Employment Programs (CDEP), Structured Training and Employment Project (STEP) providers and other community based organisations to provide driver licence training.
14. Support Indigenous enterprises to develop driver education and instruction programs.
15. Amend regulations to enable the Director General of DPI to exercise his discretion for issuing conditional driver's licences that allow persons who do not meet the mandatory waiting periods for the issue of a 'heavy rigid' vehicle licence to drive on mine sites.

5. Other

16. Support initiatives that create alternative and community based transport in regional and remote communities.
17. Investigate strategies that will assist remote communities to meet supervised driving requirements should 120 hours of supervised driving be introduced. Consideration should be given to the optimum number of hours of supervised driving required to achieve maximum benefit in regional and remote areas.
18. Include driver education and training and drink driving programs in Work and Development Order and Community Based Order programs.
19. Community programs aligned with Shared Responsibility Agreements, Aboriginal Justice Agreements and Regional Partnership Agreements to encourage changes in social norms and attitudes to driving behaviours.

B. Fine default recommendations

While there are advantages to the State in maximising revenue from fines, there are significant costs to individuals, families, communities and the State in enforcing the full range of fine default sanctions, including licence suspension and imprisonment.

The following recommendations incorporate a number of preventative measures:

- Reduce the number of Aboriginal people receiving fines.
- Reduce the number of Aboriginal people defaulting on fines.
- Increase the number of Aboriginal people entering into time to pay arrangements.
- Reduce the number of Aboriginal people in prison for fine default.
- Increase the range of sanctions available to expiate fines rather than through imprisonment.

1. Legislation and policy

20. Utilise imprisonment only where all other alternative sanctions have been exhausted for fine defaulters.
21. Review investigation and consultation into licence suspension as a sanction for fine default, including that it only be considered with respect to driving related offences.
22. Explore alternatives to reducing imprisonment for fine default, including:
 - Fines being served concurrently with other fines, and concurrently with other sentences of imprisonment.
 - Explore the legislative parameters for sentenced prisoners to be able expiate the fines and infringements while in prison by way of Work and Development Orders.
23. Impose Good Behaviour Orders to provide offenders with limited means to pay the opportunity to waive all outstanding fines with a period of good behaviour.
24. Impose Work and Development Orders, with an increased emphasis on development, to enable offenders to undertake specific training and education. Where possible, such programs should be linked to the original offence, for example drink driving programs for drink drivers.

25. Identify strategies to enhance assessment of an offender's ability to pay a fine, for example under the *Sentencing Act*, which requires judicial officers to consider an offender's ability to pay a fine before a fine is imposed as a penalty. Amend the *Sentencing Act* to authorise court officers to assess the offender's ability to pay to assist the court prior to sentencing.
26. Consider discounting of fines for early payment.
27. Give specific and formal consideration to the impact on Indigenous drivers when making legislative changes to road traffic or licensing laws so that they do not have a disproportionate impact on Indigenous communities.
28. The periods of disqualification for permanent suspensions are replaced with a finite period and amend *Section 49 of the Road Traffic Act* to remove the requirement that periods of disqualification be cumulative.

2. Administrative

29. Require prosecuting agencies to take a more proactive approach to their collections through:
 - Exploring mechanisms for government agencies to accept payments for outstanding fines and that appropriate computer interfaces be established for immediate removal of licence suspension.
 - Training government authorities to process and accept payments for fines in regional and remote communities where no point-of-payment service is available.
 - Contracting community organisations to provide a "payment point" for all Government-provided services in regional and remote communities.
30. Consider more options to support collection of fines at the earliest point possible, such as procedures for early contact with offenders following the imposition of a fine, primarily at the time the fine is imposed.
31. Train all Aboriginal Court Liaison Officers to accept and process payments as part of their function in assisting Indigenous people in court.
32. Support initiatives that address the issues for which people receive fines.
33. Place greater emphasis on community awareness of fines enforcement, including specialist promotions aimed at Indigenous people.
34. Upon acceptance of all or any of the recommendations of this report, established a committee to monitor and progress the recommendations and prepare detailed implementation plans and business cases, including legal opinion of suggested measures. These actions to be undertaken by the relevant Cabinet Ministers on acceptance of the recommendations.
35. Implement the recommendations held in this report as part of budget process or through the Expenditure Review Committee for the May 2008 Budget.