

Case Study 2

A 13 year old Aboriginal boy who lives in a discrete Aboriginal community has recently started sniffing petrol. It is a community rule that no one is allowed to use inhalants. The community has also recently become part of a scheme to use alternative fuels and therefore there is no petrol available at the community.

Four members of the community justice group have been appointed as authorised officers under the *Protective Custody Act*. The boy is seen by a member of the community justice group sniffing petrol behind a community shed. The community justice group member immediately takes the petrol away from the boy and tells him that he has to go and speak with the community justice group that afternoon.

At the meeting, members of the community justice group ask the boy where he got the petrol from. They also asked him why he was sniffing. They discovered that he had been given the petrol from an adult in the nearest town. The community justice group members had been worried for a while that this adult had been offering money, alcohol and other substances to children if they committed certain crimes (such as stealing) on his behalf. The boy told the community justice group that this was the first time the adult had given him petrol and that he had not yet done anything for the petrol.

The young boy agreed at the meeting that he would stop speaking to this man and would not sniff petrol again. He also agreed to attend an Aboriginal-run education program about the dangers of sniffing petrol or other substances. The boy was particularly influenced by the presence of his uncle who is an Elder in the community and one of the members of the community justice group.

The community justice group also contacted the police and told them about the man who had given the boy the petrol. After the police spoke to other children in the town and the community this man was charged with offences of supplying petrol to a number a young people.

Law Reform Commission
of Western Australia

ABORIGINAL CUSTOMARY LAWS PROJECT

Alcohol and Substance Abuse

Have your say ...

The Law Reform Commission of Western Australia wants to hear your opinion about the proposals discussed in this document.

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Aboriginal people said to the Commission that they were very worried about alcohol and substance abuse. Many Aboriginal communities have made by-laws banning the use of alcohol and inhalants such as petrol to try to deal with this problem. But by-laws have not been very successful in controlling substance abuse in Aboriginal communities. Therefore, the Commission has made other suggestions to deal with alcohol and substance abuse in discrete Aboriginal communities. The Commission uses the term 'discrete Aboriginal community' to describe Aboriginal communities that have specific physical boundaries.

The Commission has proposed that Aboriginal communities should be able to set up community justice groups to deal with social and justice issues in their own way. If Aboriginal communities wish to, they could ban or restrict the use of alcohol as part of their community rules. A community is free to decide its own rules and what should happen if someone breaks those rules as long as the rules or penalties do not breach Australian law.

In addition, the Commission has proposed that the Minister for Indigenous Affairs can apply on behalf of a community for regulations banning or restricting the use of alcohol under the *Liquor Licensing Regulations*. The benefit of this approach is that Aboriginal communities will be able to rely on Australian law where necessary as well as relying on the expertise of people who work for the liquor licensing authorities. All people

(including non-Aboriginal people) will commit an offence if they breach the regulations. The police will deal with anyone who breaks the regulations.

Case Study 1 explains how community-based processes and the Australian law can interact to deal with alcohol abuse.

Many Aboriginal communities also have by-laws which state that a person must not use inhalants or other drugs on the community lands. The Commission is aware that petrol sniffing is a major problem for many young Aboriginal people. Australian law regulates the use of inhalants in two ways. The *Criminal Code* makes it an offence to supply another person with a substance for sniffing (inhalants) if the supplier knew (or should have reasonably known) that the person would use that substance to 'get high'. In addition, police and other authorised people have the power to take away inhalants from a young person in a public place under the *Protective Custody Act 2000*. The Commission has proposed that the definition of a public place should include certain discrete Aboriginal communities. It has also suggested that members of a community justice group could be appointed as authorised officers. This would allow these community members to take an inhalant away from a young person who was sniffing. The Commission does not think that it should be a criminal offence to use inhalants. Young Aboriginal people need support and assistance to deal with this problem and the Commission does not want to add to the high number of Aboriginal children who are caught up in the criminal justice system.

Case Study 2 shows how these proposals might work in practice.

Case Study 1

A discrete Aboriginal community has set up a community justice group. The community rules say that no one is allowed to drink alcohol on the community lands. There are also regulations which make it an offence under Australian law for a person to drink alcohol on the community.

A member of the community is caught drinking alcohol with a friend who was visiting the community (but who is not a member of the community). The community justice group has a meeting to discuss what to do because the community member has been caught drinking and causing trouble before. The community justice group speak with the community member and tell him that he must stop drinking or they will refer him to the police to be charged with breaching the regulations. The community justice group also refer him to a local Aboriginal-run alcohol counselling service.

The community justice group also speak with the friend. They explain to him that while he is at the community he is not allowed to drink alcohol at all. This person yells at the members of the community justice group and says to them 'you can't tell me what to do'. Because this person will not agree to comply with the community rules, the community justice group recommends to the council that he should be asked to leave. He is asked to leave but refuses to go. A representative of the community council telephones the closest police station. The police arrive a few hours later and remove the person from the community. He is also charged with breaching the *Liquor Licensing Regulations*.