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Incarcerating Indigenous people of the Wongatha lands in the Eastern Goldfields of Western Australia : Indigenous leaders' perspectives

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**Incarcerating Indigenous people of the Wongatha lands in the
Eastern Goldfields of Western Australia: Indigenous leaders'
perspectives**

Stephen J. Bedells

Bachelor of Social Science (Police)

**A thesis submitted for requirements of completion for the course of Master of
Criminal Justice, School of Law and Justice, Edith Cowan University, Western
Australia.**

December 2010

USE OF THESIS

The Use of Thesis statement is not included in this version of the thesis.

Statement of confidentiality

Any information or details given for this study are to be kept confidential and are only to be used for the purposes of this study. The participants are not to be identified in any written report or presentation of the results of this study.

Abstract

The Wongi¹ people are Indigenous to the Goldfields region and account for just 10 per cent of the population; yet they make up 90 per cent of the prisoners. With Indigenous incarceration rates above 8,000 per 100,000 adult male population in Western Australia, imprisonment is clearly a common experience for Indigenous men and women that profoundly affect the lives of their families. Gaols are meant to be used as a sentence of last resort when the severity of the offence requires severe punishment and prevention of further offences requires close confinement. For this research, Wongi leaders were interviewed about their perceptions of the incarceration system. They indicated that prison is being applied too frequently for minor offences, does little to prevent further offences and has a profound negative socio-economic impact on inmates' partners and children. The negative impact was also exacerbated when Wongi prisoners are transferred 600 kilometres out of their country to Perth because the local prison is overcrowded. The Wongi leaders who were interviewed believe that the criminal justice system lacks the moral authority to deal with their people fairly and punishes inmates' families more so than the offender. According to the Wongi leaders, the incarceration system could be improved by using the cultural practice of shaming and targeting training more effectively so that prisoner skill sets were identified and enhanced to improve employment chances and a reduction in recidivism. By using these strategies, the criminal justice system would increase the deterrent effect of incarceration, decrease the rate of recidivism, and improve the Wongi perception of the system.

¹ The Wongatha people of the Goldfields region of Western Australia refer to themselves as "Wongis" and this word will be used throughout this thesis. Alternate ways of spelling Wongis are "Wongies" and "Wonggis". The last syllable is pronounced "gi" as in "guy".

Declaration

I certify that this thesis does not, to the best of my knowledge and belief:

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I thank the participants, who remain unnamed here, but are well known and respected by me for their great courage in the face of adversity.

I thank my wife Janet, who will be no less relieved than I, that this is finished.

Table of Contents

Preface: The genesis and development of this research.....	1
Chapter 1: The loss of moral authority	5
The Philosophy of Incarceration	6
1. Incapacitation.....	7
2. Retribution	7
3. Deterrence.....	8
4. Rehabilitation.....	9
5. Restoration.....	9
Indigenous life prior to colonisation	10
Social control and traditional punishment	14
English administration 1826 - 1897	17
Social control of Indigenous people under the British legal system.....	19
Case Study: Incarceration of Indigenous prisoners at Rottnest Island.....	22
Western Australia administration 1897 - 1968	25
The 1905 <i>Aborigines Act</i> as an instrument of social control	26
Case Study: Moore River Native Settlement ‘Protection’	27
Indigenous life under Commonwealth legislation 1967 -	35
Contemporary Indigenous incarceration	37
Conclusion.....	41
Chapter Two: Research design.....	42
Participant selection	43
Data collection	44
Analysis.....	45
Ethics.....	46
Reliability.....	47
Validity.....	47
Chapter Three: Findings.....	48
Incapacitation	48

Employment	49
Housing	52
Cultural business	54
Social issues	55
Retribution.....	64
Deterrence	66
Rehabilitation	70
Restoration	75
Chapter 4: Discussion	79
Incapacitation: intended outcomes and unintended consequences	79
Retribution: intended outcomes and unintended consequences	84
Deterrence: intended outcomes and unintended consequences	86
Rehabilitation: intended outcomes and unintended consequences	87
Restoration: the future.....	89
Chapter 5: Conclusion.....	91
References	93
Appendix A – Interview with Andrew.....	100
Appendix B – Interview with Brendan	108
Appendix C – Interview with Christopher.....	116
Appendix D – Interview with Dorothy	126
Appendix E – Interview with Eileen.....	133
Appendix F – Information letter to participants.....	145
Appendix G – Consent document	147
Appendix H – Table of responses	148

Preface: The genesis and development of this research

I thought I grew up in a normal family, with both natural parents at home, the youngest of four siblings. My childhood was not characterised with any significant violence, substance abuse or financial stress. However, when I began my current occupation as a Police Officer, I learned that my upbringing was anything but normal because I was encountering people from families where violence, substance abuse and financial stress were common. With more experience in the Police Force, I encountered the complexity of difficult social issues and gained a greater appreciation of Indigenous disadvantage in Australia.

Prior to completing recruit training at the Police Academy in 1995, I enrolled at Edith Cowan University in the Associate Diploma of Social Science (Police Studies) with a minor in Addiction Studies. In 1999, the Western Australian Police transferred me to the small town of Coolgardie (40 kilometres from Kalgoorlie) for my first period of non-metropolitan policing. In the two years I spent at Coolgardie I developed many close friendships with the Indigenous Wongi people of the area. In the course of my police duties I found that some Wongi people were capable of serious criminal behaviour while intoxicated. From community involvement, particularly in the local church, I also found many Wongi people capable of self-sacrificing acts of high ethical and moral standard. After returning to Perth in 2001, I maintained close friendships with many Wongi people. When I returned to work in a specialist police unit in Kalgoorlie in 2006, I refreshed old acquaintances and came into close contact with many Wongi people.

The term *Wongatha* is the more formal name for the Indigenous people of Western Australia live in the Eastern Goldfields region. The term *Wongi* refers to a broader language group, made up of tribal and family groups using similar dialects land between Esperance in the south to Warburton in the north east (Goldfields Esperance Development Commission, 2007). *Wongi* literally means “to talk” (Hadfield & Hadfield, 2006). The Wongi, as an Indigenous Australian people group, display considerable cultural diversity yet remain distinguishable from other Indigenous Australian groups.

While completing the coursework components of the Masters of Criminal Justice degree in Kalgoorlie I met Dr Peter Milnes. I confess that it was only at this point that I learned from him that close to 90% of the prisoners at the Eastern Goldfields Regional Prison in Boulder were Indigenous even though they accounted for only 10% of the population in the region. I began looking into the veracity of these claims from several government employees within the criminal justice system in Kalgoorlie and found that the truth was even more startling. Because the local gaol was overcrowded, a large number of Wongi prisoners were transferred 600 kilometres to serve their sentences in prisons in Perth. As a Police Officer, I was playing an unwitting part of a system where Wongi people were being grossly overrepresented in the justice system. Shocked by this revelation, I discussed with Dr Milnes possible research projects that would give me a more accurate perspective of the effects such a high incarceration rate are having on the Wongi people. We decided that the Wongi community leaders, some of which I had forged relationships with over the previous seven years, could speak with authority and insight about the effects of Wongi incarceration in their community.

I also began to look at the over-representation of Indigenous people at every stage of the criminal justice system across both Western Australia and Australia. I have found that Western Australia imprisons nearly double the national average of Indigenous people proportionate to their population than any other State in Australia and more than thirteen times the rate of the mainstream population. These statistics are shown in Table 1.

Table 1: Imprisonment rate, per 100,000 adult population

As at December 2009	Western Australia	Australia
Indigenous Men	8 062.6	4 375.5
Indigenous Women	861.0	393.6
Indigenous Total	4 438.2	2 337.4
Mainstream Total	276.4	170.2

(Australian Bureau of Statistics, 2010a)

That eight percent of all Indigenous adult males in Western Australia are currently incarcerated was alarming, but the incarceration rate within the Wongi community is even higher. Since completing my last country posting in Coolgardie in 2001, the

number of inmates at the local prison in Boulder had grown dramatically. In a Parliament Question Time in 2009, the Attorney General, Hon. Christian Porter (2009), claimed that during the period 2001-2008 there was a 58.6% increase in the prison population of the Goldfields Region, and because of that increase, 180 Goldfields prisoners now have to be incarcerated in Perth (Porter, 2009). This dramatic rise in the number of Wongi prisoners means that nearly 16 per cent of Wongi adult males are currently incarcerated (Australian Bureau of Statistics, 2007a; Porter, 2009). I suspected that imprisonment was having a substantial impact on the life chances of a great proportion of Wongi people, a phenomenon worthy of urgent research.

I also found that the criminal justice system was incarcerating people faster than almost every other criminal justice jurisdiction. Chief Justice Wayne Martin claimed, “The judges of Western Australia send more people to prison, and for longer terms in prison than almost any other jurisdiction in the world... (in fact)... we’re the sixth highest in the world” (Fan, 2009). Furthermore, a reduction in number of parole applications being granted in the last two years (Department of Corrective Services, 2009a) has resulted in Wongi people being incarcerated for longer, contributing to a further greater prison populations. Increased incarceration rates in Western Australia costs the tax payers of Western Australia dearly. The average daily cost of incarcerating an adult prisoner is \$273.17 and \$610.79 for a juvenile (Department of Corrective Services, 2009a). Imprisoning the Wongi people was becoming increasingly common and increasingly expensive.

There are many academic articles debating *why* Indigenous people are over represented in prisons, and *why* Indigenous people commit so many criminal offences, but I am still questioning *what* is going on, and *what* effects this is having on Indigenous communities. If we can better understand the *what* questions we may be in a better position to answer the *why* questions in issue. From my previous Indigenous studies I knew that Indigenous problems required Indigenous solutions, or at least the involvement of Indigenous leaders in any resolution process. In all my literature research I did not find any reference to encouraging the participation of Indigenous community leaders to describe what they see happening to their communities. After discussions with Dr Milnes and my ECU supervisor Dr Ann-Claire Larsen, I decided

that interviewing Wongi leaders – many of whom I knew as friends – would yield valuable information about the actual outcomes of disproportionately high incarceration rates on the Wongi community.

Chapter 1: The loss of moral authority

Ever since a permanent European colony was established in Western Australia, the diverse Indigenous people groups have been subjected to a system of justice that is foreign to their traditional culture (Brooks & Shaw, 2003; Gale, Bailey-Harris, & Wundersitz, 1990; Thomas & Stewart, 1978). Indigenous Western Australians are now vastly overrepresented in all stages of the criminal justice system and are currently being incarcerated at a rate 13 times greater than the mainstream population (Australian Bureau of Statistics, 2008b; Graham, 2009; McGinty, 2006). The purpose of this literature review is to define the intended outcomes of incarceration in Western Australia and contrast them with the actual outcomes for Indigenous Western Australians.

Sentencing people to terms of imprisonment combines five main intended outcomes outlined by Spohn (2002): retribution, incapacitation, rehabilitation, deterrence and restoration. Other authorities refer to these same goals as: purposes (Hatzistergos, 2010; Horn, 2001), intentions (Weisberg & Miller, 2005) and justifications (Gur-Arye, 1991). Essentially all the authors are talking about the same objectives of the sentencing process. These *intended outcomes* of sentencing will be described so that a contrast is drawn with the *actual outcomes* of incarceration, which form the subject of this research.

The history of Indigenous Australian interaction with colonial Anglo-European authorities has been characterised by excessive imprisonment and this is a foundation for the modern phenomenon of over-representation. Indigenous Australians also understand their own history and continue traditions of story-telling to maintain sacred and important knowledge within their family groups (Edwards, 1988; Schmidt, 1990). Similarly, the *Bringing Them Home* report into the stolen generations² of Indigenous children found that the past has profound power in determining current and future events (Human Rights and Equal Opportunity Commission, 1997). To understand the effect incarceration has on the Wongi people, the principles of Indigenous social order prior to colonisation will be outlined, and the historical literature describing

² The “stolen generations” refer to the generations of Indigenous children who were often forcibly removed from their parents and institutionalised from colonial times until the practice was finally abandoned in the 1970s. On the 13 February 2008, Prime Minister Kevin Rudd formally apologised to the surviving members of the stolen generations.

incarceration of Indigenous Western Australians over successive government administrations will be reviewed. From each period of government administration *the intended outcomes* of incarceration will be contrasted with the *actual outcomes* observed and contrasted with the unintended and profoundly adverse outcomes.

The Philosophy of Incarceration

Sentencing an offender convicted of offences against the law is a difficult and complex issue. In Western Australia, sentences of incarceration are supposed to be imposed only as a last resort, being the ultimate condemnation allowable under the Sentencing Act ("Sentencing Act," 1995) that states in Section 6 (4),

A court must not impose a sentence of imprisonment on an offender unless it decides that-

- (a) the seriousness of the offence is such that only imprisonment can be justified; or
- (b) The protection of the community requires it.

There are two basic premises on which sentencing a prisoner is based: retribution for offences committed and prevention of offences in the future (Gur-Arye, 1991; Hatzistergos, 2010; Spohn, 2002). In a moral dimension retribution "... aims to express our condemnation for wrongdoing in order to confront the wrongdoer with the evil of his ways" (Gur-Arye, 1991, p. 452). Whereas in a practical dimension, Spohn (2002) explains, retribution as the public expectation that whatever advantage the offender has gained by breaking the law should accordingly be taken from them. The prevention of further offences involves a combination of many approaches: specific and general deterrence, incapacitation, rehabilitation and possibly restoration (Gur-Arye, 1991; Hatzistergos, 2010; Spohn, 2002). Sentencing should result in improved public safety, but as Hatzistergos (2010) correctly points out, almost all intended outcomes of sentencing require strong punishments, more akin to retribution. For both retribution and prevention, there is a natural tendency for society to demand stronger and stronger punishments to which governments tend to acquiesce (Hatzistergos, 2010). Given the marked and recent increase in prison population across Australia and especially in Western Australia (Australian Bureau of Statistics, 2008b, 2010a; Department of Corrective Services, 2009a), it would appear the moral disapproval of society is being expressed, but that the preventative value of prison is less certain.

1. Incapacitation

The concept of incapacitation as a form of punishment is focussed, not on punishing the offender, but on limiting the opportunities the criminal will have to continue their criminal behaviour in the future (Hatzistergos, 2010; Spohn, 2002). Preventing offences in this way is explained by Walker (1991, p. 38), “The longer a murderer, rapist, child-molester, or armed robber is detained the fewer the people he will victimise in the future.” Incapacitation through incarceration is very resource intensive (Department of Corrective Services, 2009a) and therefore can only be justified after other sentencing options have been considered.

Spohn (2002) categorises the justification for *incapacitation* through incarceration as: *collective incapacitation* and *selective incapacitation*. *Collective incapacitation* lists certain offences that are so serious, or dangerous to society that those convicted of them must be incapacitated to prevent, or limit, their opportunities to commit offences in the future. Spohn (2002) claims the offender is incarcerated because of the offence committed, with no regard to the attendant circumstances of the event. *Selective incarceration* considers the characteristics of the offender, not the offence, and applies imprisonment to those people most likely to commit offences in the future unless they are incapacitated (Hatzistergos, 2010). Spohn (2002) rightly points out that justifying incapacitation through incarceration with predictive judgements is inherently problematic because, despite our best efforts, predicting future repeated criminal behaviour is highly erroneous as demonstrated by high recidivism rates, (Australian Bureau of Statistics, 2007c, 2008b). Incapacitating people for the intended outcome of preventing crime is a balance between collective and selective incapacitation and is of dubious and short-term value at best.

2. Retribution

In a society where one is rewarded or penalised for their behaviour, punishment is justified as inflicting retribution on the offender on behalf of society (Spohn, 2002). The two perspectives on retribution outlined by Spohn (2002) and Guy-Arye (1991) are deserts based and society based respectively. Deserts based retribution is the embodiment of what the offending person fundamentally deserves to experience for their actions because “society has not just the right, but the duty, to punish the morally culpable offender” (Spohn, 2002, p. 8). Hatzistergos (2010)

concurr, claiming retribution is the expression of society's moral condemnation of criminal behaviour. Incarceration as a form of harsh treatment is favoured by some proponents of retributive sentencing as it may have more impact on the offender than mere words (Gur-Arye, 1991). Society based retribution seeks to restore the equilibrium disturbed when the law was broken. Spohn (2002) claims that the person who violates the social rules gains an unfair advantage over those who obey the law. Justice in both desert based and society based retribution removes the illicit gain and imposes a disadvantage.

Retributive considerations are retrospective and seek to impose a loss or disadvantage on an offender to denunciate past criminal behaviour, and / or restore justice within the society. Incarceration is supposed to be the ultimate punishment allowable by law in Western Australia ("Sentencing Act," 1995). Although in some circumstances incarceration may be a very appropriate way to denunciate criminal behaviour (Hatzistergos, 2010), it is doubtful whether either the removal of illicit gain or impost of disadvantage on the actual offender is always accomplished.

3. Deterrence

In contrast to the retrospectivity of retribution, deterrence is prospective. Deterrence can be divided into specific deterrence as it relates to the offender, and general deterrence as it relates to the society at large (Gur-Arye, 1991; Hatzistergos, 2010; Spohn, 2002). Specific deterrence intends that by personally experiencing punishment, a particular offender is dissuaded from breaching the law again (Hatzistergos, 2010). Deterrence aims to raise the costs side of the behaviour equation to a level of the offender, who, when calculating the risk of future criminal endeavours, will decide on the side of lawfulness for fear of further punishment. General deterrence is the public display of harsh treatment given to an individual offender, to dissuade potential offenders from criminal behaviour for fear of similar harsh treatment (Gur-Arye, 1991). In some circumstances specific and general deterrence may play a significant part in the mind of the potential offender; but, this is doubtful in some offences like those associated with intoxication and negligence. Where there is a very low likelihood of detection and apprehension, potential offenders are less likely to consider the deterrence effects of severe punishment such as incarceration. Alternately, where offenders are likely to experience social shaming

for their actions, they are more likely to be deterred (Braithwaite, 1989). Incarceration can be justified with the intended outcome of deterrence. However, in isolation from other factors such as detection, apprehension and disapproval, the threat of incarceration may not result in the desired outcomes.

4. Rehabilitation

Incarceration is justified by rehabilitation on the grounds that a 'good' can result from imposing a custodial sentence (Hatzistergos, 2010). Often there are many factors influencing the commission of a criminal offence and rehabilitation seeks to address the negative causes of these factors so the offender is more likely to live a law abiding life in the future (Gur-Arye, 1991). Mental illness, drug addiction and unemployment are but a few examples of factors that may lead to criminal behaviour. By providing specific and targeted assistance to the offender as part of the sentence imposed for an offence, it is hoped that they will not return to unlawful activity upon release. According to some critics, our ability to identify the factors causing criminality and design effective treatment programs is limited (Spohn, 2002). Further, Hatzistergos (2010) contends that studies as to the effectiveness of rehabilitation have found it delivers mixed results, even though he states that there is a future in well-designed programs delivering substantial improvements in public safety. Crime is a multifaceted issue and rehabilitation targeting some issues can reduce some forms of crime, but other environmental factors will retain a powerful and negative influence.

5. Restoration

Restorative justice is used to heal the offender, victim and community, and repair the harm and injury caused to the victim (Spohn, 2002) and some examples include: victim – offender mediation, community sentencing, and family group conferencing. In restorative justice, the victim is given the opportunity to confront the offender and express their loss, while the offender visualises the damage they have caused. Penalties imposed upon conviction in restorative justice programs need not differ from those under a punitive approach. However, involving the victim and community in the process reinforces the social denunciation of crime, the victim's rights and the offender's wrongs.

Restoration through the criminal justice system is not directly considered as a corrective intention in Western Australia (Department of Corrective Services, 2010d). Although limited support is provided to the victim, one of the Department of Corrective Services – Service Outcomes stated, “Eligible victims are notified of available services and supported to access them” (2010d, p. 2) and juvenile offenders can, in some limited circumstances meet victims in Juvenile Justice Team meetings (Department of Corrective Services, 2010a), there is no intention to support intentions of restoration between the victim, offender and community. The intended outcome of restorative justice is to allow both victim and offender to reconcile their differences and face the future from a positive perspective.

Incarceration is justified as a sentencing option by the courts for the five intended outcomes: punitive (retribution) and preventative (incapacitation, deterrence, rehabilitation and restoration). Society must punish offenders (retribution) to reinforce the social boundaries and thereby enabling people to live in peace. The advantage the offender has received from breaking the rules is removed and they are punished with an additional burden. Preventative approaches are prospective and intend punishment to lead to a safer society. Offenders can be confined, encouraged, assisted and potentially shamed into leading a law abiding life. Incarceration can, in certain circumstances, be seen to fulfil the five punitive and preventative intended outcomes in a homogenous society. Common law requires that all offenders be treated equally, but in a multicultural society the actual outcomes can be profoundly different on different ethnic groups. The Indigenous Australian experience of incarceration is far greater than mainstream Australia. The five intended outcomes of incarceration; that is, incapacitation, retribution, deterrence, rehabilitation and restoration, will now be discussed in four eras: Indigenous life prior to British colonisation up to 1829, British administration 1829-1897, Western Australian state administration 1897-1967 and Commonwealth administration 1967 to the present.

Indigenous life prior to colonisation

The lives of Indigenous Western Australians have changed in deeply significant ways since the first permanent European colony was established near Albany in 1826 (Berndt & Berndt, 1980; Haebich, 1988; Thomas & Stewart, 1978). Brooks & Shaw (2003) identify key features of this way of life as the hunter gatherer

economy and the autonomy of all people from the state. Prior to colonisation, the Indigenous people were deeply rooted to their country and were primarily concerned with religious matters, hunting and gathering food (Berndt & Berndt, 1980). Indigenous life prior to colonisation in Western Australia was simple; yet, it contained a cultural / legal structure that effectively ensured quality of life and life chance for everyone (Australian Law Reform Commission, 1980; Hiatt, 1984). Indigenous groups were locally-based with occasional contact, which was moderated by traditional Indigenous law and religion, with other clans.

The social expectations and legal framework in the Indigenous worldview prior to colonisation came from a common religious perspective. “No distinction was drawn between the physical and spiritual universes so that the whole of the Aboriginal world was under spiritual authority” (Australian Law Reform Commission, 1980, pp. 189-190). The law, therefore, based on “an unchallengeably sacred authority” (Stanner, 1956, p. 226), was revealed through the “Dreaming”. Although the law was both of common origin and supreme power, Hiatt (1984) claimed the moral authority of the law was not always explicit and unequivocal. Just as evil sometimes triumphs over good in life, the law derived from the Dreaming was also imperfect and did not ensure completely common standards or the total absence of conflict reflecting the complexity and uncertainty of life (Edwards, 1988). The common tribal laws and customs, however, provided a relatively stable social environment in which neighbouring local and tribal groups could live at peace with each other and interact positively, enabling trade and resource sharing for the benefit of all participants (Altman, 1984; Edwards, 1988; Myers, 1980). The law in pre-colonial Indigenous times held a moral authority and delivered positive outcomes to the whole community.

Prior to European settlement, the Indigenous people of Western Australia generally lived in intergenerational family units varying in size according to the resources of the land. In the Western Desert area of the Ngaanyatjarra lands, Brooks and Shaw (2003) identified smaller local groups, having between 12 and 20 members, whereas in more fertile areas, Stanner (1956) claims local groups were as large as 60. Tribal groups comprised numerous local groups that were related by ancestry, dialect, customs and territory (Berndt & Berndt, 1980; Brooks & Shaw, 2003; Elder, 2003; Morgan, 1986; South West Aboriginal Land and Sea Council, Host, & Owen, 2009). It

is generally accepted that the average size of distinct tribal groups in Australia was about 500 (Berndt & Berndt, 1996; Edwards, 1988; Stanner, 1956). Neighbouring tribal groups often had language and distinct cultural similarities (Edwards, 1988). For example, the Noongars of the South West of Western Australia are currently pursuing a single Native title claim over approximately 200, 000 square kilometres of Western Australia, even though they come from many distinct tribal and local groups (Berndt & Berndt, 1996; Federal Court of Australia, 2006; South West Aboriginal Land and Sea Council, 2009). On the other hand, the Ngaanyatjarra people came from eleven distinct tribal groups and themselves formed a subset of the Wongi (Brooks & Shaw, 2003; Shire of Ngaanyatjarra, 2009). The size of people groups was directly linked to the productivity and availability of natural resources (Chase & Sutton, 1981) and reflected an appreciation of environmental sustainability and limitations. The laws were reinforced by social interaction across large yet independent populations, thereby strengthening conservative values.

Indigenous Australians intended to live on the land in a way that did not disturb its natural regeneration. Indigenous people believed they were children of the land, rather than a deity reflecting their dependence on the natural environment (Stanner, 1956). Any change to the environment had the potential to result in profound changes to the way of life for the Indigenous people, as demonstrated in the collapse of Indigenous food supply and starvation of many, following increased kangaroo and possum hunting in the South-West (Haebich, 1988). Tribal laws and customs were central to maintaining a stable ecological environment for the Indigenous people (Brooks & Shaw, 2003; Chase & Sutton, 1981; South West Aboriginal Land and Sea Council et al., 2009). Any deviation from the established laws and customs, therefore, not only offended the local, tribe and language group spiritually (Stanner, 1956), but was also an offence against the land and threatened their sustainability and future (Chase & Sutton, 1981). Thus, the law served to sanction conformity in behaviour to deter offences against other people and groups; but furthermore, to protect the land and the spiritual authority of the law. The outcome of this way of the Indigenous Australian way of life was that the ecology and environment was sustainably maintained for future generations.

Indigenous people enjoyed a social cohesion that fostered peaceful relations with neighbouring groups. Indigenous peoples' lives were usually peaceful (Brooks & Shaw, 2003), reflecting the importance they placed on maintaining harmony with the spirit world, the natural environment and their neighbours (Chase & Sutton, 1981). Family or local groups would live an independent style hunting and gathering food together, interacting only occasionally with neighbouring groups, before reforming, often in slightly differing arrangements and returning to the local groups (Brooks & Shaw, 2003; Haebich, 1988; Plomley, 1993). Within these local groups the members were primarily concerned with religious matters and resource collection and management (Edwards, 1988). Local group members had certain exclusive rights, including responsibility for and control over defined territories of land and water and all the resources on and within them. Myers (1980) claimed that neighbouring local groups had to ask permission before encroaching onto another group's territory and accessing those resources. These rights were recognised through the laws and customs of the tribal and language groups (Federal Court of Australia, 2006). Overall, Indigenous life prior to sovereignty is described as ideal and peaceful (Berndt & Berndt, 1980). The legal obligations placed on each local group by the tribal and language group sought to observe the spiritual importance of their culture; but, in so doing provided a sustainable model of familiar interaction essential to managing their natural resources.

The Indigenous lifestyle prior to colonisation was dependent on both the environment and the neighbouring people (Biskup, 1973; Brooks & Shaw, 2003). Usually no one family group had all the natural resources they needed at the one time; thus, sharing and exchanging natural resources was necessary (Berndt & Berndt, 1980; Brooks & Shaw, 2003; Myers, 1980). Neighbouring groups would also need to ask permission before encroaching onto the land of a neighbouring group for hunting, water or ceremonial purposes (Myers, 1980). Marriage partners were also sought from neighbouring local and tribal groups, thereby bonding the groups more closely (D. Bell, 1970; Brooks & Shaw, 2003; Strehlow, 1970) and ensuring against genetic diseases (Campbell, Reece, & Mitchell, 2003). The cultural and legal hegemony across diverse regions and people groups served to provide the foundation for essential interaction to share natural resources and marriage partners, which developed the interdependent nature of life prior to sovereignty (Australian Law Reform

Commission, 1980). Positive interactions were the outcome of the sacred authority of the law observed, respected and revered by all.

Social control and traditional punishment

The way that Indigenous Australians dealt with breaches of social expectations and laws reflects the sacred authority on which their way of life was based. There were six general types of laws observed within Indigenous communities, according to Edwards (1988), covering areas of etiquette, property, personal insult or assault, suspicious (unexpected) human deaths, marriage and sacred knowledge. However, people could still offend each other while observing the law, since the spiritual ancestors revered in Indigenous culture, presented laws and examples for life that were neither explicit nor unequivocal (Hiatt, 1984). Edwards (1988) cites Berndt in claiming that there was no polarisation of good and evil in their beliefs, as this stark contrast does not exist in nature. In general, the laws sanctioned punishing those who breached the cultural standards, as well as restoring and reaffirming of accepted spiritual and social order.

Punishment in the Indigenous Australian way of life prior to colonisation had the intended outcomes of retribution and deterrence and, as a consequence, restoration. Punishment could include a verbal warning, a physical beating or spearing, the withdrawal of secret knowledge or rights, banishment from the local or tribal group, becoming the subject of sorcery or capital punishment (Berndt & Berndt, 1980; Brooks & Shaw, 2003). Edwards (1988) and Strehlow (1970) agree that capital punishment was rare, usually reserved for offences against marriage laws and sacred knowledge. Corporal punishment was commonly used to deal swiftly and publicly with those who broke the laws. When an offence was committed, the offender was expected to submit to some form of physical discipline. The person who detected the offence would draw attention to the incident by shouting and condemning the offender, while striking them with their hands, sticks or hunting weapons. Serious offences were punished by spearing: the offender would lie down before the group, offering their legs to be speared and a designated person would take a sharp spear and puncture the skin in the back of a thigh muscle. When they felt the offender had been punished enough, the physical discipline would stop; but, ashamed, humiliated and in pain, the offender would then have to face their tribal group, bearing the physical and

emotional consequences of their misbehaviour. The intended outcomes of the corporal punishment were that retribution be delivered as close to the event as possible, and that this would be a specific and general deterrent from repeated episodes of this crime, thereby restoring the spiritual and cultural harmony vital to the sustainability of their lifestyle.

Women held a central role in maintaining law and order within the local Indigenous groups prior to colonisation. The older women in particular were revered as the moral lookouts (Edwards, 1988). Brooks and Shaw (2003) detail how in Ngaanyatjarra communities in central Australia, the women were expected to raise the attention of the whole group to any offence detected, and then dispense swift and public punishment to the offender. This concurs with Bell's (1970) finding that the role of the women in Indigenous communities was to nurture the people, the land and the relationships, as well as resolve conflict and restore harmony. The role of women within the local groups had the intended outcome of maintaining standards, and in doing so, they restored relationships within the local groups.

There were strict limits on the use of corporal punishment within the local Indigenous groups prior to colonisation. In addition to the role of women in dispensing punishment, it could be delivered by an older man within the local group to anybody else, or by a husband to a wife (Edwards, 1988) but never by a younger person to an elder (Brooks & Shaw, 2003). In essence, local group members were obliged to help each other but also keep surveillance on the lawfulness of each other's actions and discipline them where appropriate (Hiatt, 1984). Resolving offences immediately and corporately was a powerful denunciation of the undesired behaviour, giving retribution for the offence, deterring the offender and others present from repeating the behaviour and restoring the spiritual harmony of the people and the land.

Men held responsibility for protecting the local Indigenous group, and for resolving issues and conflicts involving members of other local or tribal groups prior to colonisation. Whenever two local or tribal groups came into contact, the men would immediately have to resolve any outstanding offences between the groups, delivering the necessary retribution and restoring harmony with the land and the groups of people (Strehlow, 1970). Such conflicts could centre on breaches of marriage laws, sacred knowledge and rituals, as well as trespass and taking of resources without proper

acknowledgment and permission being sought (Strehlow, 1970). A selected man or men from each group would physically fight in full view of both groups (Edwards, 1988). Whereas the onlookers were permitted to intervene if they feared one man was being hurt too badly, such fights would occasionally lead to the death or serious injury of one opponent (Berndt & Berndt, 1980). If one group believed their selected man had been unfairly injured, other group members would immediately step in to repay the damage on behalf of the injured man. This process would continue until everybody was satisfied that enough hurt had been inflicted all round and all the disputes had been settled (Edwards, 1988). The intended outcome of inter-local group dispute resolution was to dispense retribution to the offending group, restoring harmonious relationships. By resolving disputes immediately local groups met, the remainder of their interaction was peaceful because no grudges were held.

In the Ngaanyatjarra area of the Wongi lands women held a central role in supporting men to resolve inter-local group conflicts. Brooks and Shaw (2003) claim that before the men would come to blows, there would be a period of loud accusations and arguing. As this reached a climax, women from each side would attempt to restrain their men, enabling the men to threaten each other with violence without delivering it. Resolving inter-group problems publicly gave both sides an opportunity to preserve their dignity in delivering retribution to the other side, deterred deviance from expected social norms within their own group and neighbouring groups and restored harmony to the groups and the land.

Indigenous Australian people lived a typically simple and peaceful life prior to sovereignty (Australian Law Reform Commission, 1980; Brooks & Shaw, 2003; Elder, 2003; Hiatt, 1984). The simple lifestyle enabled the adults to spend time on cultural requirements and ceremonies individually and corporately, which had the effect of reinforcing the common spiritual foundation of the laws across tribal and language groups (Edwards, 1988; Hiatt, 1984). The population and size of the local people groups were largely determined by the environmental ability to sustain that population and ensured independence and interdependence of the local, tribal and language groups (Brooks & Shaw, 2003; Hiatt, 1984; Plomley, 1993; South West Aboriginal Land and Sea Council, 2009). The six broad areas of law identified by Edwards (1988) held spiritual and supernatural authority for the Indigenous people

and were generally considered sacred. Observance of the laws not only held spiritual significance, but also provided a peaceful platform for life within the local, tribal and language groups, which was crucial given the interdependence of local and tribal groups for natural resources, marriage partners and cultural business (Brooks & Shaw, 2003; Edwards, 1988; Hiatt, 1984). Even when breaches of the law occurred within local groups or between groups and tribes, culturally it was perceived as an injury to the spirit world and the land, and required a public, swift and often violent resolution to restore justice physically and spiritually, and reinforce spiritual basis of the tribal laws and standards (D. Bell, 1970; Edwards, 1988; Hiatt, 1984). Overall, the Indigenous lifestyle prior to colonisation was steeped in religious observance and cultural ceremonies; but this served to enable a peaceful, politically and environmentally sustainable way of life for the local, tribal and language groups.

Public and social shaming was a powerful punishment used by Indigenous people on each other prior to colonisation. Whereas violent punishments affected offenders physically, shaming was intended to hurt them emotionally, emphasising the group's disapproval of the offensive behaviour (Berndt & Berndt, 1980). Like other traditional hunter gathering groups, such as the Cheyenne (Llewellyn & Hoebel, 1967), Australian Indigenous people used social sanctions such as shaming and ostracism. When a person was being shamed, the group would collectively ignore the person and exclude them from routine activities within the local group as well as more significant activities like cultural business. By emotionally and sometimes physically isolating a person, they became psychologically incapacitated which, given the very close personal bonds which existed within the local groups, was a very heavy penalty. The intended outcome of shaming was to deliver a non-physical form of punishment to offenders and to restore them to tribal life. Shaming and ostracism was also a powerful deterrent to others. The traditional law was held in high regard by Indigenous groups and strict observance ensured harmony and well-being to the members of the communities.

English administration 1826 - 1897

The lifestyle originally enjoyed by the Indigenous people of Australia was disrupted in 1788 by the arrival of the First Fleet in Botany Bay on the east coast of Australia (Elder, 2003), and 3000 kilometres away in Western Australia, by the

establishment of a British army base at the Albany in 1826 (Lockyer, 1827). In both cases, settlers held high hopes that inter-cultural relations would be peaceful and mutually beneficial (Elder, 2003; Lockyer, 1827; Milnes, 2005). Diary entries from Lockyer (1827) and Whatley (1830) record the peaceful sharing of food between the contrasting cultures in the west, while Elder (2003) acknowledges the good will through exchange of gifts in the eastern colony. In Western Australia, Lockyer (1827) claimed that one of the Albany garrison's core purposes was to help the Indigenous population by protecting them from European sealers whom he regarded as, "a complete band of pirates" (1827, p. 4) in their treatment of Indigenous people. Other Western Australian accounts demonstrate the extravagant assistance provided by the Indigenous people to the Europeans. In 1834, Migo and Molly Dobbin of the Noongar people near the Swan River participated in the search for a European child who became lost in the bush. Migo and Molly tracked the child for ten hours over 22 miles, finding him near death, and much to the delight of the Indigenous men, the child's father and accompanying officers (South West Aboriginal Land and Sea Council et al., 2009). The intended outcome of interaction between the early European settlers and Indigenous people alike, was to live at peace with each other, and this resulted in a, albeit short, period of friendship and positive interaction.

Unfortunately positive interaction between the two cultures did not last long as many of the European colonists had no knowledge of or respect for Indigenous family and tribal boundaries and were unwilling to share scarce natural resources. Competition soon turned to violence resulting in many deaths on both sides (Berndt & Berndt, 1996; Elder, 2003; Milnes, 2005; South West Aboriginal Land and Sea Council et al., 2009; Thomas & Stewart, 1978). The Indigenous population was further decimated by the introduction of exotic diseases carried by the Europeans (Elder, 2003; Milnes, 2005). While many European settlers had intended to live side by side with Indigenous Australians, the combined effects of competition, violence and disease caused the death of many Indigenous Australians and resulted in the loss of Indigenous control over large areas of resource rich and culturally significant land (South West Aboriginal Land and Sea Council et al., 2009). Despite positive intended outcomes, the actual outcomes of colonisation for the Indigenous Australians were: the death of many of their people, substantial damage to many family and tribal groups

and compromise of land rights, which together threatened the very existence of Indigenous Australians.

Social control of Indigenous people under the British legal system

In both the Botany Bay settlement and Western Australian settlements, punishment of Indigenous infractions of the law presented great problems for the settlers (Elder, 2003). In Botany Bay in the east, Governor Phillip insisted on treating all Indigenous people as innocent until proven guilty, and would often blame convicts when violence occurred involving Indigenous and European people (Elder, 2003). Tolerance gave way to vengeance in 1790 when an employee for Phillip's was allegedly murdered by Indigenous people (Elder, 2003). Phillip led a revenge attack on the local Indigenous people, but failed to kill or capture a single person, yet the colonial policy had changed. "By 1791 the policy of the governor was that Aboriginal people attacking whites had to be made an example of" (Elder, 2003, p. 10). In so doing, the outcome of this changed policy for Indigenous Australians was that the numbers of people killed by colonialists increased, decimating many Indigenous groups and with them the opportunity for peaceful relations between the two cultures.

In Western Australia, a similar early reluctance to deliver retribution to Indigenous people involved in skirmishes with European settlers, similarly gave way to punitive attacks on Indigenous people collectively (Elder, 2003; Stirling, 1838; Stratham, 2003). Stirling claimed in 1838 that local authorities had not avenged the deaths of four European settlers in the Peel region, and that if unchallenged, "There was danger, that their success in this species of warfare, might tempt other tribes, to pursue the same course, and eventually combine together for the extermination of the whites" (1838, p. 1). Believing punishment was most successful as a deterrent to rebellion if it was both quick and severe (Milnes, 2005; Thomas & Stewart, 1978), Stirling formed an expedition to find and punish those responsible for the Peel attacks (Elder, 2003). In the ensuing conflict Stirling claimed that about 15 Indigenous men were killed (Stirling, 1838), while two of his expedition also died (Stratham, 2003). Later estimates claim as many as 50 Indigenous men had been killed in an ambush (Milnes, 2005). Having killed an unknown number of Indigenous people and endangering the lives of the whole tribe (Stratham, 2003), Stirling threatened the very existence of Indigenous people generally, writing in his official despatch that he had

threatened the survivors that should they or any other tribe attack settlers again, “...not one would be allowed to remain alive this side of the mountains” (1838, p. 2). The outcome Stirling intended to achieve was the protection of the European colonists in the Peel district, but the actual outcome for Indigenous Australians was the loss of many Indigenous lives and their very existence being seriously threatened. By threatening to eliminate the Indigenous people of the area; Stirling was attempting to incapacitate them through fear, to prevent the loss of any further white lives.

The European colonialists wanted a common set of standards enforced across both the Indigenous and non-Indigenous communities in Western Australia, so long as they were consistent with the European standards they were used to (South West Aboriginal Land and Sea Council et al., 2009). The prevailing attitude was that the sooner the Indigenous people learnt their place under colonial authority and obeyed the European rules, the better off both races would be (South West Aboriginal Land and Sea Council et al., 2009). In exchange for their land, the Indigenous people would become British subjects with all the entitlements and protections that position afforded them (Milnes, 2005). This exchange became very one sided, with very few of the protections afforded Europeans being extended to the dispossessed Indigenous people (Milnes, 2005). Injustice led to a number of armed conflicts near the Swan river between 1836 and 1839, which were similarly one sided and the lives of Indigenous Australians in the South West of Western Australia went into decline (South West Aboriginal Land and Sea Council et al., 2009). Even so, Governor Hutt, known as a humanitarian towards the Indigenous people (Milnes, 2005) whole heartedly endorsed imposing European standards on the Indigenous people in their interactions with the settlers. In 1844 he wrote:

The Criminal Code of England can be best applied to meet the circumstances of a race so totally opposed to ourselves in every one of their customs, ideas and opinions, as are the Aborigines of Australia. (Thomas & Stewart, 1978, p. 125)

The European system of justice was imposed on the Indigenous people of Western Australia as a means of generating compliance to a common social standard, reinforced with severe punishment and retribution as a deterrent to generating positive cross cultural interaction (Biskup, 1973; Milnes, 2005; South West Aboriginal Land and Sea Council et al., 2009; Thomas & Stewart, 1978). Far from improving Indigenous people’s lives, becoming British subjects and experiencing the effects of

severe retribution, left the Indigenous people conquered and seemingly emasculated, devoid of any means of self determination or protection (South West Aboriginal Land and Sea Council et al., 2009) and completely demoralised (Elder, 2003). The outcomes for Indigenous Australians under the new administration sounded positive, but in reality were negative. Incarceration in this period was supposedly for deterrence and rehabilitation, but in practice it was for retribution for stealing which enabled the colonialists to seize control of land occupied by Indigenous people.

While the colonial powers in Western Australia were conquering the Noongar people in the mid 1800s (Elder, 2003), there was a rise in humanitarianism in England and greater interest was shown in the welfare of Indigenous people throughout the British empire (Biskup, 1973; Milnes, 2005). Governor Hutt was appointed in Western Australia in 1838 and set about advancing the interest of Indigenous people in four key areas: appointing Protectors of Indigenous people (Biskup, 1973), modifying the law as applied to Indigenous people so Indigenous people were not punished tribally and through the colonial authorities for the same offence, supporting Indigenous education and training with incentives, and encouraging mission institutions involved with Indigenous people (Milnes, 2005). In practice however, measures intended to protect were used to control Indigenous people. Protectors of Indigenous people were expected to take part in investigating, prosecuting and punishing Indigenous people suspected of committing offences against the settlers and eventually had their title changed from “Protector of Natives” to “Guardian of Natives and Protector of Settlers” (Milnes, 2005, p. 22). The outcome for Indigenous Australians of being *protected* in this way was that they were controlled and guarded for the benefit of the colonists, rather than their own.

Conflicts with Indigenous people were growing with the frontier of colonists’ interests, despite the government’s intended outcome of protection. Some landholders, although encouraged by the government to train and equip the Indigenous people for work, resorted to “powder and shot” to eliminate the Indigenous people from the area (A Traveller, 1836, p. 2) rather than pursuing peaceful co-existence (Biskup, 1973; Elder, 2003; South West Aboriginal Land and Sea Council et al., 2009). Furthermore, the Native Institutions were seen by colonists as a means, not of improving the lives of Indigenous people, but of strengthening the control colonial authorities had over them

(A Traveller, 1836; South West Aboriginal Land and Sea Council et al., 2009). If any settler questioned the way in which Indigenous people were treated by the authorities, they were subjected to public humiliation, rebuke and exclusion (Milnes, 2005; South West Aboriginal Land and Sea Council et al., 2009). Therefore, although the administration under Governor Hutt sought to improve the lives of Indigenous people in Western Australia, in practice the measures were subverted by local interests to control and dominate the lives of the Indigenous people for the settlers' benefit (Milnes, 2005). What was intended to protect and benefit, was used to the detriment of the Indigenous people of Western Australia during the early years of the colony from 1826 - 1897.

Case Study: Incarceration of Indigenous prisoners at Rottnest Island

The history of Rottnest Island is an interesting example of a humane initiative turning sour for the Indigenous people of Western Australia under British administration (Milnes, 2005). John Hutt was governor of Western Australia from 1839 – 1846 and was particularly concerned about the treatment of Indigenous people in colonial custody. Hutt wanted another method of dealing with Indigenous prisoners in the colony because he found standard practices, which included chaining them by their necks or locking them in cells, were inhumane and damaging to the prisoners' health (Biskup, 1973; Hutt, 1841; Thomas & Stewart, 1978). Furthermore, Indigenous prisoners were also skilled at escaping from colonial buildings and gifted at evading recapture (Thomas & Stewart, 1978). The solution Hutt favoured was to make Rottnest Island a prison for Indigenous people because it enabled, “a greater degree of personal liberty may be allowed consistently with their safe custody...” (Hutt, 1841, p. 1). Hutt hoped Indigenous prisoners on Rottnest Island could benefit from their confinement and be, “instructed in the useful knowledge and gradually trained in the habits of civilised life” (Hutt, 1841, p. 2). As a result, Rottnest Island was officially designated as a prison for Indigenous prisoners in 1841 (Haynes, Barrett, Brennan, & Brennan, 1974; Hutt, 1841) with the intended outcomes of safe, humane confinement and rehabilitation and the physical confinement of Indigenous Western Australians was formalised.

Rather than instructing and training as Hutt commissioned, the management of the Rottnest Island prison made it a place of terror and death for Indigenous people

(Milnes, 2005). Foundation, and long serving Superintendent of the prison, Henry Vincent, was investigated numerous times for violence and cruelty towards the inmates, publicly admitting pulling an ear off an inmate and ripping the hair from a prisoner's face. More serious allegations of murder were investigated and saw Vincent's son, himself a warden on the Island, committed to a term of imprisonment himself for manslaughter (Thomas & Stewart, 1978). Five Indigenous people were hanged on the island while it was a prison (Rottnest Island Authority, 2010). Record keeping was so poor in the prison that frequently prisoners would be mistaken for another and be released prematurely, and others detained longer than their sentence (Thomas & Stewart, 1978). Mr Carey MLC investigated the management of the prison in 1883 and delivered a condemning rebuke claiming, "...the present management was not at all satisfactory unless the establishment was intended to serve as a graveyard" (Thomas & Stewart, 1978, p. 136). When Darwin published his theory of evolution in 1859 and claimed Indigenous peoples were incapable of civilisation and destined to extinction, the brutal treatment of Indigenous prisoners appeared to be supported scientifically (Milnes, 2005). Despite reckless mismanagement and brutal conditions exposed by Mr Carey, the prison was kept in use as the colony still had nowhere to hold such prisoners (South West Aboriginal Land and Sea Council et al., 2009) and away from the eyes of the public, continued abuse could remain relatively undetected (Thomas & Stewart, 1978). More akin to the worst prison islands of the time in Europe (Elder, 2003; Thomas & Stewart, 1978), Rottnest Island failed to deliver the safe and humane confinement that Hutt intended. Instead, it was a place of torment deprivation and death.

Rottnest Island prison was further beset by prisoner welfare and logistical problems. The number of Indigenous prisoners increased after Governor Fitzgerald replaced Hutt and withdrew the colonial directive that Indigenous people be tried in colonial courts for offences involving other Indigenous people. Until this time they were left to local customary law to resolve, ensuring Indigenous people were not punished twice unnecessarily (Biskup, 1973). The majority of the Rottnest Island's prisoners were not even from the South West, with many coming from the farthest reaches of the state including the Kimberley and Central deserts (South West Aboriginal Land and Sea Council et al., 2009; Thomas & Stewart, 1978). In 1883 an outbreak of influenza swept through the prison. Insufficient food, clothing and

accommodation, saw nearly one third of the prison population die in one year. Dr Waylen, the Chief Colonial Surgeon, investigated the deaths and said, "...natives are brought from a warm climate... and placed in an overcrowded prison with a total change of diet, surroundings and occupations... It was not surprising they died in such large numbers" (Thomas & Stewart, 1978, p. 138). Instead of reducing prisoner numbers after Dr Waylen's report, Biskup (1973) claimed prisoner numbers on the island doubled in the year after, but fortunately the epidemic had passed its worst and the number of deaths reduced. The tragic deaths of so many Indigenous prisoners, due to the combined effects of disease and miserable conditions (Biskup, 1973), stands in stark contrast to the stated aims of the prison island given by Governor Hutt, to improve and instruct (Milnes, 2005). It was not until 1903 that the Indigenous prison was closed at Rottneest Island (Rottneest Island Authority, 2010) well after 1897 when responsibility for the administration of Indigenous affairs had been transferred from British Home Office, to the Western Australian government (Milnes, 2005). Rottneest Island prison had failed to achieve its intended outcomes of confining Indigenous offenders in a manner more accustomed to their lifestyle and precipitated the early deaths of many inmates.

The Rottneest Island prison contributed to the Indigenous perception of a legal system that was inhumane and lacked moral authority. Rottneest Island prison serves as a powerful example of life under the British colonial administration from 1826-1897, which initially was to be humane, but through negligence and indifference, became brutal and barbaric. The British system of incarceration was designed to remove the Indigenous Western Australians from their land, to incapacitate Indigenous resistance to colonisation and to deliver retribution to those who stole livestock. Many of the Indigenous prisoners were unaware of the actual nature of their "crimes" and so the deterrent effect of incarceration was not really considered. While the justification for incapacitating Indigenous prisoners on Rottneest Island was for 'training and rehabilitation', onerous retribution and incapacitation at the hands of the colonial authorities characterised incarceration under the British system. The prison system did nothing to restore prisoners to a useful and fulfilling life in the community.

Western Australia Administration 1897 - 1968

Allegations of local maltreatment of Indigenous people in Western Australia, were a source of constant conflict between the colonial authorities in Western Australia and the British government (Haebich, 1988; Milnes, 2005). John Forrest, as Western Australia's first Premier, countered these allegations with statements declaring the wanton waste of resources in caring for Indigenous people under the British based Aborigines Protection Board before 1897 (Haebich, 1988; Milnes, 2005). Once British control of the colony was removed in 1897 the government set about a series of legislative changes on Indigenous issues (Milnes, 2005). The *Aborigines Act 1897* was passed to; limit expenditure on Indigenous welfare to a maximum of £5,000, down from one percent of state revenue, which at that stage was about £30,000, segregate education for Indigenous and non-Indigenous children, and replace the Aborigines Protection Board with the Aborigines Department (Milnes, 2005). The legislation succeeded in proving Forrest's point that resolving issues involving Indigenous people could be achieved at a fraction of the cost incurred under British control by restricting expenditure (Haebich, 1988; Milnes, 2005). While local administration of Indigenous issues might have achieved its intended outcome – efficiency – for Indigenous Australians it resulted in worsening conditions and tightening controls.

Whereas the Aborigines Department concentrated on the conditions of Indigenous people in the south-west of Western Australia, the treatment of Indigenous people in the north of the state was the subject of a sustained anti-pastoralist campaign in the early 1900s (Haebich, 1988; Milnes, 2005). Local activism, combined with British pressure through the media, led to the establishment of the *Roth Royal Commission* in 1904, to defend the honour of the social elite in Western Australia (Haebich, 1988; Milnes, 2005). Roth focussed on the employment and conditions of Indigenous people in the north of the state and recommended strong, overarching legislation to protect Indigenous people, from exploitation due to weak administration, and their own sensual, uncivilised nature (Haebich, 1988; Milnes, 2005). Although the Aborigines Department was still intended to oversee the welfare of Indigenous people in the South West, the Roth's inquiries substantiated claims that Indigenous welfare in the north and east of the state was not being protected by the Aborigines Department.

The Aborigines Act 1905 as an instrument of social control

In response to *Roth Commission*, the *Aborigines Act 1905* was passed through the Western Australian parliament with the stated intentions of clarifying and consolidating legislation affecting Indigenous people, protecting Indigenous people generally, providing for Indigenous welfare, medical care and education, and preventing the extinction of Indigenous people in Western Australia (Haebich, 1988). The *Act* gave the Aborigines Department control over where Indigenous people lived, who they worked for, who they married, their access to firearms and alcohol, and medical and financial assistance (Biskup, 1973; Haebich, 1988; Milnes, 2005). The *Act* intended to protect Indigenous people from abuse by Australians of European origin and each other; but, in reality it eliminated the exercise of any self determination and made them extremely vulnerable to exploitation.

During the early 1900s, numerous Christian missions were operating across Western Australia, providing education, food, medical care and safety to Indigenous people who had been displaced by the expanding early settlers (Berndt & Berndt, 1980). The Aborigines Department valued the 'civilising' influence of the missions and provided financial assistance to many; yet they wanted greater financial efficiency and believed these services could be provided more cheaply if administered directly by the Department (Haebich, 1988). The *1905 Act* provided the legislation to enable the Aborigines Department to centralise service delivery and thereby reduce costs (Milnes, 2005). Indigenous settlements were established, Carrolup Native Settlement (1915) and Moore River Native Settlement (1918), to prove the Department could manage Indigenous Australians better than the missions (Haebich, 1988; Milnes, 2005). Indigenous settlements provided a place away from towns, where troublesome and displaced Indigenous people could be detained, along with Indigenous people of European and Indigenous (mixed) heritage, under the guise of training and welfare. With Carrolup and Moore River opened, the Department cut back and stopped financial support to many missions (Milnes, 2005) allocating less than one seventh per person for the care of Indigenous people as what was allocated for a prisoner at Fremantle Prison (Haebich, 1988). The intended outcome of reduced funding was a success; however, the outcome for Indigenous Australians was that their care was grossly underfunded and they suffered accordingly.

Many Western Australians protested unsuccessfully against the treatment of Indigenous people under the *1905 Aborigines Act* during the early 1900s (Haebich, 1988; Milnes, 2005; Morgan, 1986). On 9th March 1928, a delegation of Indigenous men from the South West addressed the state Premier, Phillip Collier. They claimed that under the *1905 Aborigines Act*, the Aborigines Department effectively owned all Indigenous people and specifically, they were being made prisoners in the Moore River settlement. Under the *1905 Act*, Indigenous people could not possibly improve their standards of living to approach those of white Australians. Sadly, the delegation's activities did not improve the treatment of Indigenous people in Western Australia (Biskup, 1973). Moore River Native Settlement, later known as Mogumber, demonstrated the harshest aspects of life faced by Indigenous Western Australians under the *1905 Act*.

Case Study: Moore River Native Settlement 'Protection'

The Aborigines Department settlement in Moore River was officially opened in April 1918 near the Mogumber railway siding, 11 kilometres west of Mogumber townsite (Haebich, 1988). The Aborigines Department opened the settlement with the stated intention of it being a school for young Indigenous people (Milnes, 2005). Ancient philosopher Epictetus claimed education brings freedom (Lewis, 2006); but right from the start, *education* at Moore River Native Settlement became synonymous with extremely poor living conditions, incarceration and complete absence of freedoms (Biskup, 1973; Haebich, 1988; Milnes, 2005; Morgan, 1986) as demonstrated by the first residents of Mogumber. A family living on the fringes of the Perth area in Beechboro, having declined voluntary relocation to Moore River Native Settlement, were arrested on Ministerial warrant, transported to the settlement and detained there to prevent their return to Perth. Their dogs - who provided companionship and invaluable help hunting kangaroos - were killed (Haebich, 1988). Far from bringing freedom through education, isolation at Moore River Native Settlement brought imprisonment without charge and the complete removal of freedom.

Moore River Native Settlement was anything but an educational institution. The Aborigines Department failed to establish a school for inmates at Moore River Native Settlement for the first two years (Haebich, 1988). When the school was

opened, "...one untrained teacher was responsible for instructing more than one hundred children of varying ages..." (Haebich, 1988, p. 208). The focus of the school was on civilising the pupils; but, under such conditions it represented little more than confined assimilation and by any educational standard, was a miserable failure (Milnes, 2005). Milnes claimed "...the education which Aboriginal children received was uniformly ineffective as an employment qualification except for menial tasks and servitude" (2005, p. 54). Influential evolutionary biologist Haeckel (1904) claimed that the Australian Aborigines were psychologically closer to dogs and apes than civilised Europeans, and called on their lives to be ascribed lesser value. Against this *scientific* evidence advocates for improved treatment of Indigenous people were labelled uneducated and were ridiculed (Milnes, 2005). Haebich (1988) details how adolescent boys were contracted out for labouring work while the adolescent girls were used for domestic help. Indigenous children were incapacitated at Moore River Native Settlement with the intended but misguided outcome of reforming them into the highest members of society. They became servants and labourers.

Schooling at Moore River Native Settlement was much harsher on the students than it needed to be. Play activities, nature walks and swimming after school were strongly discouraged by the Aborigines Department, corporal punishment was routinely used, and Haebich (1988) claimed staff forced the children to perform chores after school until 7.30pm when they were locked in their dormitories for the night. The treatment of Indigenous children at Moore River Native Settlement contrasts starkly with the loving, peaceful treatment of children in Indigenous family groups, where a complete absence of corporal punishment is widely acknowledged (Morgan, 1986; South West Aboriginal Land and Sea Council et al., 2009). Management at Moore River Native Settlement intended to prepare the children for a hard working life as a domestic servant or farm labourer; instead, it demonstrated the injustice of life under Western Australian authorities and Indigenous people's powerlessness to do anything about it.

The desire authorities had to send Indigenous children away to Moore River Native Settlement superseded the desire to see Indigenous children receive an education as demonstrated by the experience of many Indigenous children at Mount Margaret near Laverton in the North-Eastern Goldfields of Western Australia. Morgan

(1986) claimed that Police from Laverton would routinely patrol the community, seizing the fairer skinned Indigenous children, even though they were living with and near their families and attending a recognised school in the community, and incarcerating them at Moore River Native Settlement for the purpose of education. The intended education at Moore River Native Settlement in no way superior to that which they received at Mount Margaret (Heslop, 1985; Milnes, 2005; Morgan, 1986) and the trauma of arrest, removal and detention in a far away settlement with strangers scarred the lives of many children, as well as their families and communities (Human Rights and Equal Opportunity Commission, 1997). The constant threat of transportation and confinement at Moore River Native Settlement was an ever present reminder to the Indigenous Western Australians of the inequality they held under state law.

Even those who completed education at Moore River Native Settlement were not assured an opportunity at life independent from the Aborigines Department and in this way education was akin to institutionalisation according to Haebich (1988).

Most were trapped in a cycle of poverty characterised by long periods of unemployment, deplorable living conditions, malnutrition, disease and premature death. Their children were growing up without (effective) schooling or vocational training and they had very few prospects of breaking out of this cycle. (Haebich, 1988, p. 356)

Far from improving the lives of Indigenous people as intended, incarceration at Moore River Native Settlement destroyed the lives of many Indigenous people and reduced adults and children alike, to a dependency on the Aborigines Department.

The mistreatment of children in the name of education is the first of many examples of the degradation of Indigenous people at Moore River Native Settlement under the Aborigines Department (Haebich, 1988). Other examples include the food, clothing and living conditions provided for all Indigenous people at the settlement, to reduce the cost incurred by the Aborigines Department. Although the *1905 Act* provided for Aboriginal reserves to be declared so Indigenous people could live a traditional way of life and continue hunting and gathering naturally occurring plant food (Milnes, 2005), Moore River Native Settlement was nothing of the sort. The soil was sandy and little grew in it, the trees were sparse and small, and much of the native fauna had already been hunted and driven away. The site appeared to have been chosen because the land was unsuitable for farming (Haebich, 1988). The Department

achieved its aim of reducing costs (Haebich, 1988); but in doing so, detrimentally affected the lives of all the Indigenous children and families within the settlement, making it more akin to the most Spartan of gaols rather than a place of care and protection, and education.

The Aborigines Department was responsible for the care and protection of Indigenous people in Western Australia; yet, once confined within the settlement at Moore River Native Settlement and deprived of their ability to look after themselves, Indigenous people were not provided with adequate food, clothing or facilities to remain healthy, let alone prepare for work (Haebich, 1988; Human Rights and Equal Opportunity Commission, 1997; Milnes, 2005; South West Aboriginal Land and Sea Council et al., 2009). Irene Farrell, a former child resident of Moore River Native Settlement, claimed that the food and clothing were woefully inadequate. The children, Mrs Farrell recalls, were given only meagre rations of food, making her wonder how any of them survived; she was given only one denim skirt to wear all year, with no underwear, shoes or coats (Haebich, 1988). Unable to leave the settlement, the Indigenous inmates of Mogumber did not have their most basic needs met and suffered under the cost savings mentality of the Aborigines Department. Care and protection at Moore River Native Settlement resulted in confinement and maltreatment that reduced capable and self-reliant people to sick and feeble victims of institutionalisation.

Similar to the experience of Indigenous people in Rottnest Island prison 50 years before, as conditions deteriorated, so too did the health of the inmates and residents (Milnes, 2005; Thomas & Stewart, 1978). In 1933, there were over 500 residents at Moore River Native Settlement, one third of whom were children inside a separately enclosed compound (Haebich, 1988). In 1931, there were nine deaths at Moore River, rising to twenty including nine children in 1933 (Haebich, 1988).

During an inspection of the children in 1934 the State Psychologist, Dr E. T. Stoneman, found an alarming incidence of dwarfism, precocious and delayed puberty, endocrine imbalance, hypothyroidism, disorders of the alimentary system, skin disease, naso-pharyngeal disease and malnutrition. She claimed that these physical defects were preventable given a well-chosen diet, adequate

washing and toilet facilities, and training in personal hygiene. (Haebich, 1988, p. 311)

In 1934 the Moseley Commission found Moore River Native Settlement to be a woeful place. Milnes (2005) claims that Moseley said of the settlement, that the buildings were dilapidated and filled with vermin, and the children were poorly fed and treated barbarously. It is little wonder Haebich (1988) comments that almost no Indigenous people attended Mogumber voluntarily from elsewhere in the State. Once again the harsh conditions and captive students are hard to reconcile with anything other than a bad prison. Children and adults alike were suffering under the appalling conditions of life at Moore River Native Settlement. Provision of food, clothing, shelter and medical care at the settlement was clearly inadequate to reduce costs (Haebich, 1988). The Indigenous inhabitants of Moore River Native Settlement were victims of a cruel administration that valued the state economy over the health and happiness of the society's most vulnerable and disadvantaged.

Staff suffered at Moore River Native Settlement along with their inmates and residents (Haebich, 1988). They were exempt from minimum working conditions of the *Public Service Act*, poorly paid, worked long hours and were required to remain at the community on their days off. Even the sceptic Windschuttle acknowledged that they were given sufficient materials to carry out classes (Windschuttle, 2009). Many of the staff remained only because they felt compassion for the Indigenous children in their care (Haebich, 1988). The compassionate staff, despite their intentions to care for and educate the children at the Moore River Native Settlement, were unable to provide what was needed in the absence of resources (Windschuttle, 2009). As a result, there was a high turnover of staff that further reduced the level and quality of care and education of the children and their families (Haebich, 1988). The poor conditions forced on staff at the settlement reflected the lack of care the State had for all the inhabitants.

The exceptionally poor conditions at Moore River Native Settlement did not improve after Dr Stoneman's medical assessment. In 1947 Bateman, a Magistrate, inspected Moore River Native Settlement and said it was useless. He claimed that hygiene and sanitation were "words without meaning in government institutions" (Milnes, 2005, p. 71). In 1951, the Government finally gave up on Moore River Native

Settlement and handed it over to the Methodist Overseas Mission on a “walk out - walk in basis” (Biskup, 1973, p. 234). Morgan (1986) claims that only then did conditions in the settlement start to improve. The 33 year reign of the Aborigines Department at Moore River Native Settlement left Indigenous people in Western Australia with no doubt that the State Government through the Aborigines Department, while professing to care, protect and improve life for them, was in effect controlling, institutionalising and destroying the lives of every Indigenous person under its authority.

The experience of care and education at Moore River Native Settlement under the Aborigines Department for Indigenous Western Australians was akin to incarceration (Human Rights and Equal Opportunity Commission, 1997). Indigenous people experienced almost no freedom whatsoever, and were controlled as to where and how they lived, the relationships they formed, their employment and finances, and communication (Haebich, 1988). “In practice it was a prison, with its own punitive enclosure within the fenced compound” (Morgan, 1986, p. 22). Moore River Native Settlement was used as a dumping ground for any Indigenous person who caused problems, including current and former prisoners, people dependent on welfare, alcoholics, prostitutes as well as the sick and elderly, and children who had been orphaned or abandoned or were of mixed ethnicity (Haebich, 1988; Morgan, 1986). Haebich (1988) claimed that almost none of the residents, adults or children, were there voluntarily, with many being arrested for no crime and held there on Ministerial warrant. Care and education in the environment provided by the Aborigines Department at Moore River Native Settlement resulted in incarceration and deprivation for Indigenous Western Australians.

Moore River Native Settlement was divided into two sections for Indigenous residents: the compound for the children and the open area for the adults (Haebich, 1988). Escaping was difficult because there were locked buildings, fences and guards to be negotiated (Morgan, 1986). Furthermore, Indigenous people from the Kimberly were employed as trackers, to recapture absconders from the settlement. Trackers were notorious for inflicting corporal punishment on runaways who, upon returning to the settlement would be summarily sentenced to solitary confinement in a small iron clad cell called the boob, for periods of seven to fourteen days (Haebich, 1988). Education

and care at Moore River Native Settlement resembled a term of imprisonment for Indigenous Western Australians, whose only crime often seemed to be the colour of their skin.

One powerful example of the injustice suffered by Goldfields Indigenous people, that is still remembered, is the arrest, transportation, escape and return of fifteen Indigenous people from the Laverton area in 1921 (Morgan, 1986). On 15th August 1921, Police in Laverton arrested fifteen people without suspicion of committing an offence or Ministerial warrant and held them overnight in the lockup. The following day they were loaded into a cattle truck and driven straight to Moore River Native Settlement (Haebich, 1988). An eye witness claimed the truck had “15 NIGGERS FOR MOGUMBER” written on the side of it (Morgan, 1986, p. 21). Haebich (1988) and Morgan (1986) claimed, the police acted not only on their own initiative but also with the support of the local white community who saw the Indigenous inhabitants as troublemakers. For a time, all the Indigenous people of the area stayed well way from Laverton for fear of similar treatment; but after a miraculous escape from Moore River Native Settlement and return journey, in two weeks 13 of the 15 people removed, had returned (Morgan, 1986). Whatever the official intended outcomes for sending Indigenous people to Mogumber, the practice caused widespread fear within the entire Indigenous population as not one family within the State was unaffected (Human Rights and Equal Opportunity Commission, 1997). Indigenous Western Australians knew the State Government was incarcerating them and diminishing their rights.

Although the *1905 Act* gave the Aborigines Department control over other areas of life for Indigenous Western Australians, the residents of Moore River Native Settlement were the most controlled (Haebich, 1988). Work within the settlement was unpaid and not only did work placements need to be approved by the Department, earnings were mostly paid into trust accounts overseen by the Department (Milnes, 2005). Mail to and from residents was censored at the head office, effectively gagging the inmates and making them even more vulnerable to exploitation (Haebich, 1988). Even marriages involving Indigenous people were strictly controlled. Such marriages had to be approved by the Aborigines Department under the *1905 Act*, and where different ethnicities were involved, were usually refused (Haebich, 1988). The stated

aim of Mr A.O. Neville – the head of the Aborigines Department – was to breed out the black population through selected marriages (Biskup, 1973; Haebich, 1988; Milnes, 2005). Far from protecting Indigenous women from sexual exploitation, many intentionally got pregnant while on work placements, forcing the Department to approve their marriage, and giving them a chance of establishing a life for themselves away from Moore (Haebich, 1988). In reality, there was no area of life for the Indigenous people in Moore River Native Settlement that was not under the control of the Aborigines Department for their own care and protection. Far from helping the inmates, the removal of all freedoms resulted in institutionalisation, terror and increased risky behaviour.

In Moore River Native Settlement, Indigenous Western Australians suffered forced removal from their land, incarceration, horrendous conditions and deprivation of almost every liberty taken for granted in mainstream Australian society (Windschuttle, 2009). Ostensibly removed for education, care and protection, the Indigenous people were disenfranchised, dispossessed of their land and often confined to a small reserve, sometimes never to leave (Haebich, 1988). From this we see a very strong link between these people's offences, being Indigenous, and the consequence of incarceration (Milnes, 2005). As such, any initiative for Indigenous people that fails to recognise the injustice experienced at Moore River Native Settlement, ignores the historical experiences and the lessons learned, and is rightly to be viewed with scepticism (Steels & Goulding, 2009). The history of incarceration on government reserves and settlements has had a profound impact upon the Indigenous respect, or rather, disrespect for the Western Australian legal system. Denied the right to vote, they were trapped into these institutions by a legislative system that confined them there on the basis of their ethnicity.

Despite the negative findings of several inquiries and reviews over the years that the Moore River Native Settlement operated, things only improved for Indigenous Western Australians when the Aborigines Department left in 1954 (Haebich, 1988). After numerous public outcries the Department finally ceded control of the facility to the Methodist Church in 1951 on a walk-out...walk-in basis, and it was renamed Mogumber Native Mission (Haebich, 1988). Between the years 1918 – 1952 there were 346 deaths recorded at Moore River Native Settlement, almost half of which

were children between one and five years of age (Haebich, 1988). The Aborigines Department clearly failed to provide adequate care and protection for the Indigenous people in direct care, let alone to those living independently of the settlement (Haebich, 1988; Morgan, 1986). While the State Government claimed to be acting for the care and protection of Indigenous Western Australians, by their actions they demonstrated a wanton disregard for Indigenous people's welfare (Haebich, 1988). Rather than advancing the rights and interests of the Indigenous people, the Western Australian government undertook targeted measures to assimilate those it could while letting the others die out (Milnes, 2005). The draconian *1905 Aborigines Act* that enforced the social destruction and pauperisation of the Indigenous people of Western Australia has contributed to the loss of moral authority in the legal system. The legal system was used to incapacitate the Indigenous social order. Indigenous Western Australians were punished as retribution against their race. Under the guise of rehabilitation, Indigenous people were robbed of life chances. Whereas the intended outcomes of incarceration should be to deter, incapacitate, punish, rehabilitate and restore offenders, there is nothing in the Moore River experience to suggest that any of these outcomes were achieved.

Indigenous life under Commonwealth legislation 1967 -

Following the Second World War, seismic demographic changes were occurring in Australia, and with them came a growing awareness of the plight of Indigenous Australians. Griffiths (2006) claimed that the Referendum in 1967 was held in response to a widespread call for the Commonwealth government to respond to the needs of the Indigenous Australians on a national level. The Referendum was passed with 90.77 percent in favour, giving the Commonwealth power to pass legislation concerning Indigenous people, and allowing Indigenous people to be included in the census count of the nation (Australian Electoral Commission, 2010). Western Australia had the highest vote against the changes, 19.05 per cent (Parliament of Australia, 2008), and in the federal seat of Kalgoorlie 28 per cent voted against (Korff, n.d.). The growing awareness of the plight of Indigenous Australians was having an impact in larger metropolitan areas, but the strongest resistance to change came from rural areas where the plight of Indigenous people had been witnessed for years.

Since the overwhelming victory for Indigenous rights in 1967 however, there is scant evidence that any real progress has been made to improving the conditions of Indigenous Australians (Attwood, 2003; Griffiths, 2006; Human Rights and Equal Opportunity Commission, 1997; Milnes, 2005). While the equal rights of Indigenous Australians were being recognised regarding access to alcohol and Commonwealth social security, the people themselves descended into the most damaging period of their history (Milnes, 2005). The modest improvements in recognising *native title* land claims since Whitlam's historic agreement with the Gurundji on 16 August 1975 and increasing expenditure in Indigenous health and education, Griffiths (2006) claims, were limited by lengthy legal proceedings, the emergence of new health issues such as alcoholism and sniffing, and low teacher expectations. Although legislative responsibility has changed hands, the lives of many Indigenous Australians are still firmly rooted in the misery of the past and are developing in the disadvantage of the present.

In Australian today, Indigenous people suffer disadvantage in many areas of their life (Australian Human Rights Commission, 2008; Van Krieken et al., 2000), including:

- Health – Life expectancy is lower for Indigenous Australians than non-Indigenous by 11.5 years for men and 9.7 years for women (Australian Bureau of Statistics, 2010b). Indigenous infants are almost three times as likely to die before their first birthday as non-Indigenous infants (Australian Human Rights Commission, 2008).
- Housing – Indigenous Australians are more likely to be homeless than non-Indigenous people because they lack access to affordable secure housing. They also have to move from their homes more often to access government services and to observe cultural obligations (Australian Human Rights Commission, 2008).
- Employment – In the 2006 census only 24 and 17 percent of Indigenous Australian respondents reported being in full-time or part time employment respectively (Australian Bureau of Statistics, 2010c) compared to 39 and 18 per cent in the mainstream population (Australian Bureau of Statistics, 2007b).

- Education – The proportion of Indigenous students completing year 12 was 45% in 2009, compared to 77% for non-Indigenous students (Australian Bureau of Statistics, 2010e).
- Criminal Justice – Indigenous Australians are over-represented in all levels of the criminal justice system in all States. Once arrested they are less likely to receive bail and when convicted are more likely to receive a custodial sentence in gaol (Cunneen, 2005). At the time the Royal Commission into Aboriginal Deaths in Custody was held in 1991, Indigenous people made up 14% of the prison population. In 2008 this had risen to 24% (Australian Human Rights Commission, 2008).

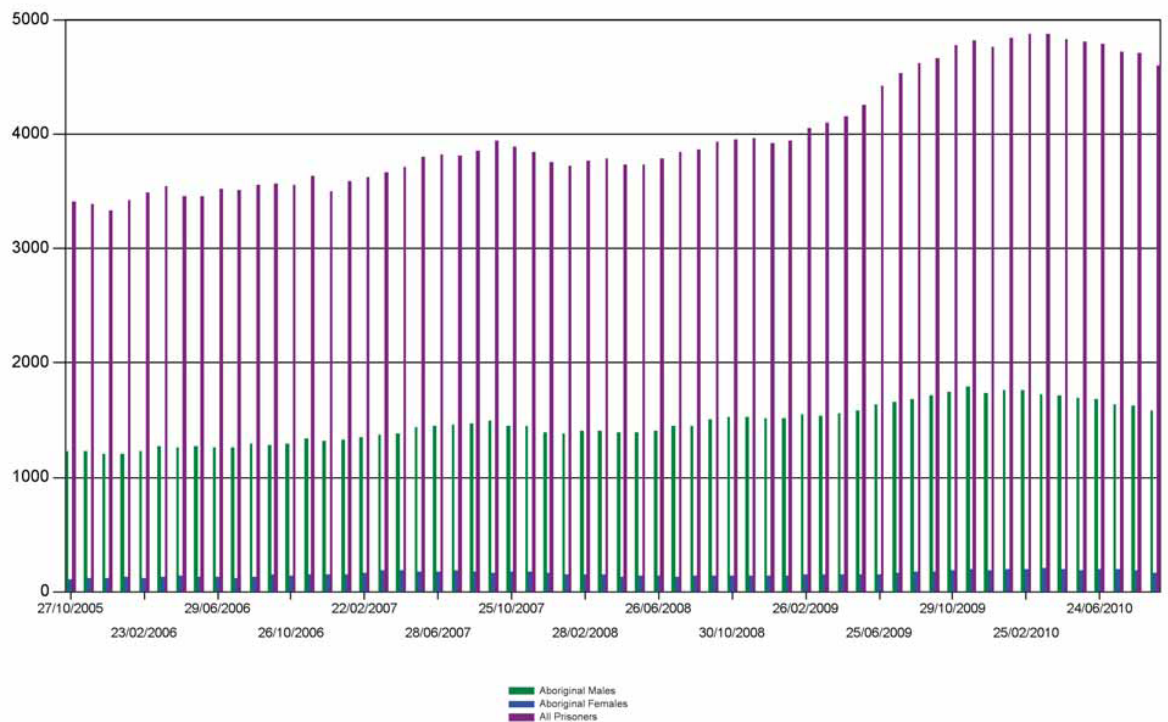
Clearly Indigenous Australians continue to suffer some of the same disadvantages under the Commonwealth government as they did in previous administrations.

Contemporary Indigenous incarceration

Indigenous Australians have made up a growing proportion of prisoners in Western Australia in the last five decades. In 1965 Indigenous Australians made up 25% of prisoners in this State, while in 1971 this number had risen to 32% (Broome, 2003). This number increased to 43% in 2007 and is currently about 38% (Department of Corrective Services, 2010b). Across Australia there has been a 23 per cent increase in total prison populations over the ten years from 1997 – 2007, and a 42 per cent increase in Western Australia (Australian Bureau of Statistics, 2007c). Added to this, there has also been a sharp rise of about 25 per cent in the total prison population in 2009, co-coinciding with reduced numbers of prisoners gaining parole (Department of Corrective Services, 2009a). The actual number of Indigenous prisoners in Western Australia increased by 52.3 per cent in the five years to June 2009, contrasting with a 22.7 per cent increase of non-Indigenous prisoners over the same period (Department of Corrective Services, 2009a). This over-representation of Indigenous people has increased rather than decreased under the Commonwealth government administration. Moreover, Western Australia now incarcerates more people per capita than any State or Territory in Australia, except the Northern Territory (Australian Bureau of Statistics, 2010a). Although the National average is 170.2 prisoners per 100, 000 people, Western Australia is currently imprisoning 276.4. However, this figure hides

the true rate of Indigenous incarceration in Western Australia. In the quarter year finishing in June 2010, Western Australia was incarcerating 7, 542.5 Indigenous men per 100, 000, 862.1 Indigenous women and a total of 4, 181.8 Indigenous people per 100, 000, far and away the most of any jurisdiction (Australian Bureau of Statistics, 2010a). This is demonstrated in the table below:

Table 2 - Total Prison Population, Western Australia



(Department of Corrective Services, 2010b, p. 6)

Incarceration is becoming statistically a more common experience for increasing numbers of Indigenous Western Australians; thus, more Indigenous families are affected by incarceration.

Of the total Western Australian prisoner population, approximately 55 per cent had previously been imprisoned, whereas nationally Indigenous prisoners were twice as likely to be re-incarcerated within ten years of release as non-Indigenous prisoners and 77 per cent have previously been imprisoned (Australian Bureau of Statistics, 2010d). Other research on recidivism in Western Australia by Ferrante, Loh & Maller (2009), that takes note of re-arrest as well as re-incarceration, found as many as 92%

of Indigenous prisoners will reoffend after release. Whereas a punitive approach seeks to punish more and more firmly to reduce reoffending, research in the United States of America claims there is no link between length of sentence and recidivism (Justice Policy Institute, 2010). High levels of recidivism indicate prison is not having the least deterrent effect on Indigenous Australians.

At a local level, the Eastern Goldfields Regional Prison (EGRP) is situated in the rural city of Kalgoorlie-Boulder in the heart of the Wongi lands of Western Australia. In the latest weekly offender statistics published by the Department of Corrective Services, there were 81 Indigenous people incarcerated in EGRP of a total population of 102 (Department of Corrective Services, 2010e). The proportion of Indigenous prisoners at EGRP is usually about 90 per cent (Department of Corrective Services, 2009b, 2010e), although they only form about 10 per cent or approximately 5,000 of the population in the region (Goldfields Esperance Development Commission, 2007). Even this figure is misleading, according to Hunt, who claimed there are as many Wongi prisoners in Perth waiting transfer to EGRP to be closer to their relatives but cannot be transferred because of the prison capacity. The Attorney General in Western Australia, Christian Porter, claims there are currently 180 extra prisoners in Perth gaols because the prison in Kalgoorlie-Boulder is full (Porter, 2009). Incarceration is an all too common experience for Wongi people and their families.

The causes of the high level of incarceration in the Wongi community run deep. Beresford & Omaji (1996) cite research conducted into the lives of the Wongi people by Gordon & Nunn (1992). They claim much of the problematic behaviour in the lives of Wongi people today is linked to alcoholism and mental health problems, and are the behavioural manifestation of forced removal from their parents as children. The Wongi people, therefore, become a suitable case study in the effects of incarceration on a community given such large numbers have been directly or indirectly affected by government policy and the criminal justice system over successive generations.

Using incarceration as the ultimate sanction against criminal behaviour, as is the case in Western Australia, can be counterproductive, according to Braithwaite (1989). Through the criminal justice system, those who violate the laws are labelled as deviant and ascribed a special role, such as prisoner, which fundamentally redefines

their place in society (Erickson, 1962). In Braithwaite's (1989) opinion, those who violate the law become alienated and can tend to build up associations with others who have been likewise labelled. This creates a subculture that rejects the moral authority of the law and the wider society that upholds it.

In their book *Rites of passage*, Beresford & Omaji (1996) detail the marginalisation of Indigenous youth in Western Australia through poor public perceptions, based on negative media portrayals. Incarceration is no longer feared in such a system they argue; rather, the criminal justice system is seen as the enemy to be defeated. Just as Braithwaite (1989) suggested, criminal associations form, strengthened by their shared cultural heritage, shared experience of the criminal justice system, and collective rejection by mainstream society. The Indigenous youth of Western Australia are at great danger of entrapment with negative shaming excising them from law-abiding Australian society.

In the Goldfields of Western Australia a sub-culture like Braithwaite (1989) predicts currently exists amongst the Wongi people of the Ngaanyatjarra lands, according to Brooks & Shaw (2003). Many young people within this community who have had contact with the criminal justice system have no shame whatsoever about crime or incarceration. In certain circumstances, criminal activity is seen as the natural progression in life, from childhood to adulthood to prison. Brooks & Shaw (2003) claim some mothers speak to their children about prison, not to frighten them but to enunciate the promise of good things to come. The social denunciation and shaming delivered by the criminal justice system to members of this community has been taken on by the community rather than targeting the offender, thereby creating a shift in the social division from law abiding verses non-law abiding people, to mainstream society verses Ngaanyatjarra society.

Social shaming is one effort currently used in the Wongi lands to try and reduce Indigenous offending. Guilliat (2010) claims shaming Indigenous offenders in community court sessions has failed to reduce recidivism everywhere they have been tried in Australia. In Kalgoorlie, a higher proportion of Indigenous people committed further offences after being sentenced by the community court than those not sentenced that way (Shelby Consulting, 2010). "Over 24 months there was an overall failure rate of 83 per cent in the Community Court compared to 70 per cent in the

mainstream courts” (Shelby Consulting, 2010, p. 1). Social shaming, in the manner in which it is delivered in Kalgoorlie, is also failing to deliver outcomes that see less Wongi people commit crimes and go to gaol.

The high rates of contemporary Indigenous incarceration in Western Australia indicate that imprisonment remains a feature of life for Indigenous families. The British legal system and the Western Australian *Aborigines Act 1905* have eroded the moral authority of the contemporary Australian legal system. Incarceration is continuing to incapacitate not only the offenders but their families as well. Although rehabilitation programs are part of prison life, the rates of recidivism indicate they are not succeeding. The numbers of Indigenous people who are incarcerated also mean that imprisonment has lost its deterrent value and there is no shame in going to gaol. Political law and order campaigns negatively impact the Indigenous community.

Conclusion

The pre-colonial Indigenous society exercised social control over its members over thousands of years. Using the punishment mechanisms of ostracism and shaming for the majority of transgressions, physical retribution for more serious offences and occasionally death as an ultimate sanction, the Indigenous community was able to develop a legal code that had strong moral authority. Colonisation overrode the traditional legal code with the adoption of the British system of justice that included sanctions of fines, incarceration, transportation and death. For Indigenous people, incarceration was used to remove them from their land to places such as Rottnest Island, to deliver retribution to those who stood in the way of colonists’ interests and to incapacitate Indigenous resistance to further land grabs and colonisation. Soon after the Western Australian government assumed control of Indigenous affairs in 1897, the *Aborigines Act 1905* was used to devastate Indigenous social structures, break bonds with traditional lands, incapacitate Indigenous leadership and pauperise families and individuals. While claiming to rehabilitate the lives of Indigenous people in places such as Moore River, inmates were robbed of their life chances. Whereas contemporary intended outcomes of incapacitation, retribution, deterrence, rehabilitation and restoration may inform incarceration, the unintended impact on Indigenous offenders, families and communities has resulted in the incapacitation of many aspects of social control.

Chapter Two: Research design

The aim of this research is to investigate Indigenous leaders' perceptions of the effects of incarceration on the Wongi Indigenous community. Because Indigenous Australians are incarcerated at a rate in excess of thirteen times their proportion within the total Australian population (Australian Bureau of Statistics, 2008b), the disadvantages experienced by Indigenous Australians within the criminal justice system are known to increase with their level of contact with that system (Gale et al., 1990). The Wongi people in the Eastern Goldfields region of Western Australia have a relatively small population and high incarceration rate. While Indigenous people account for approximately 40 per cent of prisoners in Western Australia overall, the Eastern Goldfields Regional Prison in the Wongi lands, nearly 90 per cent of prisoners are Indigenous (Department of Corrective Services, 2009b; Goldfields Esperance Development Commission, 2007). The effects of incarceration on the people imprisoned and their families and community is easily seen. The Wongi leaders have all seen the effects of incarceration on their community first-hand and are well-endowed with knowledge and insights on the topic.

Exploring the relationship between over-representation in the prison system and Indigenous community life centres on an understanding of a lived experience. For this reason, qualitative analysis – based on the depth of knowledge and lived experience of the participants – was chosen because it captures a stronger perspective of the phenomenon than a statistical quantitative study (Patton, 1990). Research orientated interviews vary according to the level of structure and formality, with the greater depth of information – and effort in analysing - existing with the unstructured interview (J. Bell, 2005). I therefore chose to use a semi-structured interview as my data collection tool, to enable both direction of the conversation to the specific topics under investigation, while retaining, as much as possible, the participants' free narrative.

Participant selection

To understand accurately the effects of incarceration on the wider Indigenous community, I chose leaders from within Indigenous communities who have an informed, valuable and unique perspective on issues affecting their communities. As they are participants within the disadvantaged people group under research (Matsuda, 1987), their authority within their community is unsurpassed (Australian Law Reform Commission, 1980). Furthermore, Indigenous community leaders hold the sole right to speak on behalf of their communities (Milnes, 2008), making them the ideal source of informed qualitative knowledge about their people group.

The Indigenous people making up the Wongatha originate from the coastal territory from Esperance to Eucla, up to the central desert area bordering the Northern Territory, and are therefore extremely geographically diverse (Hadfield & Hadfield, 2006; Strehlow, 1970). Fortunately, due to population shifts towards regional towns and centres (Haebich, 1988), a large proportion of the Indigenous population now live in Kalgoorlie-Boulder and the surrounding areas. In over five years residing in or near Kalgoorlie-Boulder, I have had many positive professional and personal interactions with leaders within the Wongatha community, generating relationships characterised by friendship, trust and professionalism. The people with whom I have these relationships are the basis of my pool of research participants.

I used a process of snowballing to identify potential participants in my research. Snowball sampling is a process where the researcher solicits referral from participants to locate other people who may wish to participate, thereby creating a seam of rich information to follow (Patton, 1990). To set 'snowballing' in motion I spoke to Indigenous friends who helped me identify community leaders who could speak with authority and were likely to agree to be interviewed. Once I had one or two participants, I returned to classical snowball sampling and asked the participants to identify other leaders who may be interested in being interviewed.

Identification of community leaders is not easy when you are not a member of that community. Prior to colonisation, Indigenous communities lacked a political hierarchy that colonial authorities could recognise (Edwards, 1988) and today, leaders within Indigenous communities tend to be those whom outside people call leaders

rather than those appointed from within (Milnes, 2008). However, the participants in this research were invited to be involved according to their reputation with other Indigenous people. This was supported by my own observations of their authority within their communities. Other criteria I used when determining the suitability of potential participants included: whether they were intimately involved within their community, held enduring concern for the criminal justice outcomes of their people, and were willing to engage with the researcher. All of the participants who took part also have close personal and professional links to incarcerated people and their families, and spoke with firsthand experience on the effects of incarceration.

The participants were aged 45 – 80 years and most were members of the *Stolen Generation*; that is, they were dislocated from their families as children and raised principally on missions and in government institutions (Human Rights and Equal Opportunity Commission, 1997). The experience of these people is significant because it has been long established that many victims of the stolen generation endured hardship that is rarely acknowledged (Milnes, 2008). Although experiencing forced removal from their families as a child was not a criterion for participation in this research and was not questioned in the interview, the basic antecedents of the participants are known to the researcher through personal relationships and are acknowledged as part of their life's narrative. Andrew is a married man of about 45 years of age with children and has lived in the Wongi lands all of his life. Brendan is also a married man about 70 years old with many children and grand children and also has lived in the Wongi lands all of his life. Christopher is a single man, about 45 years of age, with children under his care has lived in various areas of the state but is currently residing in the Wongi lands for employment. Dorothy is a married woman, about 45 years of age with no children. She has lived in various locations within Australia and overseas and is currently residing in the Wongi lands. Eileen is a widow, about 55 years of age with many children and grandchildren, and has lived in the Wongi lands all of her life.

Data collection

At the research proposal presentation in August 2007, it was recommended that sufficient data could be collected from a sample containing five to eight participants.

This number was supported by both my academic supervisors who emphasised the need to keep the research within the limits of a Masters thesis. After conducting qualitative interviews with five participants, I was advised to reinterview two of the sample – making seven interviews in total – and move on to data analysis.

Following selection of each participant I made an appointment to meet them and discuss their willingness to participate. At this meeting I went through the *Information Letter for Participants* (Appendix 1), as part of a general chat about the issues affecting each of the participant and the Wongatha people. When I thought it appropriate, I requested permission to conduct the recorded interview and requested the participant sign the *Informed Consent* document (Appendix 2). I have found that informal face-to-face communication is especially important to the Wongatha as it displays genuine interest in each party for the other, generating increased trust above that of a purely business orientated exchange. The presence of trust within the relationship in turn improves both the quantity and quality of the information volunteered.

After signing the *Informed Consent* document and agreeing to a recorded interview, I noted the time and began audio taping the conversation. To re-start the conversation for the recording I asked an open-ended question incorporating the research subject and invited the participant to provide any information they wished to volunteer. I wrote key points on a *Table of Responses* (Appendix 3) as they related to four key areas of social disadvantage experienced by Indigenous Australians being: health, housing, education and employment (Van Krieken et al., 2000). A fifth optional category of ‘Other effects’ was included so as to retain any voluntary responses outside the four key areas mentioned. Responses were also recorded within each area as to their application to the individual incarcerated and the family.

Analysis

I transcribed the seven interviews verbatim and rechecked the transcripts prior to destroying the audio tapes in accordance with the research protocols of Edith Cowan University (Edith Cowan University, 2007). I analysed the transcripts using a three step coding process whereby significant words and phrases were identified and grouped together with like words and phrases. These were then grouped into similar

themes which, in turn, were grouped into overall topics (Hauck, 2004). To enable me to code the transcripts while gaining the overall perspective I required, I assembled copies of the transcripts on a large wall in front of my desk and marked significant words and phrases with highlighters. I ascribed letters, numbers and symbols to the marked words and phrases according to their immediate similarity, before compiling a list of the symbols adjacent to the significant words and phrases identified. I grouped the significant words and phrases together forming similar themes, and similar themes into topics.

Ethics

All of the participants are aware that I am employed as a Constable with the Western Australia Police. Indeed this is how I met many of the people whom I spoke to. Participants were made aware through the *Information letter to Participants* that I did not want to know specific details of criminal activity at this time and that if such information was provided I would be obliged to pass it on other officers for further investigation. One participant took this opportunity to provide numerous pieces of information to me on current and historic offences, through several phone calls and chance meetings post-interview. I passed each piece of information on to colleagues at the Kalgoorlie Detectives Office and I followed up with the Detectives to ensure contact with my participant had been made.

All participants were over the age of 18 years and spoke and understood English to a high level. Consequently interpretive services were not required, although they were raised as a consideration at the research proposal presentation. I interviewed several participants in my own home and provided light refreshments. Other participants were interviewed in their own home or places of employment.

After recording the interview I stored the audio tapes in a locked filing cabinet at my home in Kalgoorlie, and later in Perth until I had fully transcribed the interviews electronically document and rechecked their accuracy with the audio tape. When I was satisfied the transcripts were correct, I destroyed the original tapes.

The participants engaged in the research under the promise of confidentiality. To maintain this I replaced their names on the transcripts with pseudonyms and furthermore omitted the names of places and people who would reveal their identity.

Having done this to comply with the research requirements of Edith Cowan University (Edith Cowan University, 2007), many of the participants have publicly reiterated similar statements to those made to me, in community meetings and in mainstream media. Indigenous community leaders have been treated as anonymous throughout their lives and are now anxious to stand against what has happened and what is happening to their people.

Reliability

In qualitative research, reliability is defined as the extent to which the same observational procedure in the same context yields the same information (Kirk & Miller, 1986, p. 80). Verifying the reliability of this research is difficult for three reasons: the phenomenon under investigation is extremely broad and touches every area of the participants' lives, the individual perspectives of the participants are diverse, and the information volunteered is a product of the relationship between the participant and researcher. While acknowledging these limitations, I am confident my research is reliable because most of what the participants said corroborated each other, and confirmed published literature and quantitative data. Investigating other areas of the lives of community members, including more participants and changing the relationship between the researcher and participant would certainly change the data superficially, but not the overall trends that emerged.

Validity

Validity is defined by Kirk & Miller (1986, p. 80) as "the quality of fit between an observation and the basis on which it is made". To ensure validity in this research I based my observations on the transcripts and have demonstrated this with use of direct quotations within the findings. Furthermore, the findings are supported by external resources such as academic journals and social research which are referred to extensively in the discussion. The edited transcripts are also included as attachments to the thesis and can be consulted to verify the veracity of the quotations and observations. Thus in three ways I have undertaken to maintain and demonstrate the validity of my research.

Chapter Three: Findings

Spohn (2002, pp. 6-7) identified five main intended outcomes of sentencing offenders: retribution, deterrence, incapacitation, rehabilitation and restoration. In presenting the findings of the interviews, these five main intended outcomes will be used as a framework, even though in almost every instance the information provided on one issue interlocked with others. Effects of incarceration are complex and multifaceted. Quotations from Wongi respondents: Andrew, Brendan, Christopher, Dorothy and Eileen demonstrate that they understood the judicial sentencing decisions are justified according to these principles. Their insights, however, reflect Wongi views.

Incapacitation in Wongi Lands

The intention of incapacitation in sentencing, according to Spohn (2002) is to physically isolate the offender from the community and thereby prevent their opportunity to commit further crimes. Incarceration and incapacitation are synonymous words to Wongi people as Christopher explained, "... all gaol does is remove people from society for a set period of time. The punishment is the actual removal from society". Removal was the single most talked about outcome of incarceration in my interviews with the participants, with almost everything being related back to removal. Incapacitation has unintended consequences in employment, housing, cultural business and social issues, which will be explored further. Specifically, the participants identified unintended financial and emotional effects as the main areas through which removal due to imprisonment negatively affects the Wongi individuals imprisoned, their families and community as well. Furthermore, these effects are experienced before, during and after any sentence is served, exacerbating an array of existing problems and creating some new ones too. Arguably the greatest negative impact incarceration has on the Wongi community is felt by the family of an inmate, rather than the person actually sentenced by the courts. In almost every instance, the participants believed, removal created more problems, and problems of greater severity across the family and community, than it solved.

Employment

All the participants readily acknowledged the detrimental effects incarceration has on the employment prospects of the sentenced prisoners and their families in far reaching ways. When a Wongi person comes before the courts and faces the threat of imprisonment, their motivation to actively go out and seek work is greatly diminished in the pre-sentence period. Unfortunately, this situation can go on for many months or even years, adversely affecting their work life before they have even been incarcerated. In their interview, Andrew and his wife confirmed this general malaise associated with a court appearance, sharing the personal experience of an adult son who has been in and out of gaol for more than ten years. "...eventually you are going to go to gaol, but in the mean time you can't do anything productive... you can't get a job... because you don't know if you're going to get picked up tomorrow, or in a year or in five years." Therefore, the threat of incarceration is seen by many Wongi leaders as adversely affecting Wongi people's employment, even before a sentence is imposed.

When a person is incarcerated their employment is terminated. According to Brendan, "You lose the job automatically when (you are incarcerated and) it goes to somebody else". Furthermore, almost all the participants acknowledged that the Wongi have a very limited understanding of the criminal court processes, procedures and prison sentences, exacerbating the number of people losing their jobs, beyond what it may need to be. For example, Brendan said "...they don't know what's happening, when he's coming back" and in cases of short period detention, such as warrants of commitment, or being held on remand awaiting a surety or a trial, losing their job to somebody else automatically is an added and unnecessary burden for the Wongi people. Losing their job due to imprisonment is therefore a particularly harsh effect of incarceration on the Wongi.

Dorothy details the psychologically debilitating effect incarceration has on the desire of Wongi prisoners to seek work once released. Almost all the participants identified prison life as relatively easy on the inmates, possibly as a result of the history of Wongi people and institutionalisation, "three square meals a day" being a common term used by the participants. Dorothy claimed there was a specific need for

hope of employment in the mainstream community for Wongi prisoners facing release. She said,

... they (the mining industry) would just welcome (Wongi people), whether they'd been in prison or not, and if they're willing to work they'd give them a fair go... but that same message needs to be taken into the prisons to give them some assurance that when they do come out they, there will be work for them...

However, Dorothy's optimism for post-incarceration employment contrasted with Brendan's and Christopher's perspectives. Brendan claimed that Police Clearance Certificates, a list of criminal court outcomes, were routinely used in the mining industry and inhibited released prisoners applying for work. Brendan said, "as soon as you say that you've come out of prison, straight away, they want to know why you've been in prison... they want to check you out properly...". Incarceration is therefore a powerful disincentive and obstacle to seeking work, both while in prison because their basic needs are met and after their release when they are forced to acknowledge and explain previous criminal conduct.

The negative impact of incarceration extends beyond the prison to prevent the family of Wongi inmates finding work, according to Eileen. Many mothers in her community could work, but the imprisonment of their spouse adds to their family responsibilities, making it impossible to get the time to go to work. Eileen said,

...what does she do, she's trying to do find a job, but how can she get a job, when her kids got to go to school? So the main thing they do is put their kids in school, and then they do that CDEP themselves.

Incarceration, according to the participants, therefore greatly diminishes the opportunities Wongi people have of both obtaining, maintaining and ever getting meaningful employment, both for the person imprisoned and their families.

Poverty experienced by Wongi families is another unintended outcome of incarceration. The effect incarceration has on Wongi people's employment is a strong factor in the widespread experience of poverty according to the participants. Even before a person is incarcerated, Eileen claims, financial problems are festering through the acquisition of joint debts between spouses. Speaking of families she has seen in her own community struggling with issues associated with incarceration, Eileen said, "And so she's got (to) pay all those bills he's made in the last must be couple of

weeks.” Other participants noted that once a person is incarcerated further financial problems are created when the income generated by the gaoled partner, be it wages or Centrelink benefits, is cut from the family budget. Christopher said,

...that then could drive the family further and further into poverty, and we know when the main breadwinner is gone that when you know the bills start rolling in, there’s no one to pay them, so people end up getting kicked out of houses and it’s a vicious circle then... they get taken off to (civil) court, goods get repossessed and all that sort of stuff. You know the kids aren’t fed...

The incarceration of a family member is an overwhelming financial burden on already impoverished Wongi families, exacerbating an array of fiscal issues they can ill afford at the best of times.

The negative impact of incarceration on one individual and his or her family will certainly flow on to the extended family networks in the Wongi community, according to most of the participants. When one family falls on hard times, they expect that other family members will step in to help. As Dorothy said, “... you’re relying on family support, extended family as far as food wise you know having to have meals and clothing and caring for the family...”. Furthermore, the obligation to help your extended family persists despite - as noted by some of the participants - the further pressures this will cause within the community. Having also expressed concern that public housing for Indigenous families is too small for their typically larger family size, Christopher stated, “...he’s gone to gaol and then the family (get) kicked out of the house and they move on to the cousins’ house so you have overcrowding.” From Christopher’s perspective, incarceration leads to overcrowding in the Wongi community and is strongly interrelated with numerous other areas of significant disadvantage and poverty.

Incarceration creates special financial hardship for the family of an inmate and can create significant debts for already struggling families, according to Dorothy and Eileen. The desire and obligation to visit the inmate in prison and preferably live nearby to enable more frequent visits, supersedes any financial limitations the family have. When incarceration leads to a family having to relocate, be it to another house or town, Dorothy notes that it will cost a lot of money. Even when an inmate is transferred to a prison in Perth and the family is bereft of cash, Eileen says, “So you have to borrow money to go down there (to visit)”. Not only therefore does the family

have to extend meagre financial resources to travel and stay in Perth, but this can drive them into debt, further burdening the family after the inmate is released.

The financial burden caused by incarceration can also cause hardship into the inmate's future in other circumstances outlined by Eileen. When a single person is incarcerated and the lease on their house is terminated, storage of their home contents and possessions becomes an issue. Often the property is given away, leaving the inmate with absolutely nothing in the way of physical property. Eileen explains,

And all their stuff, they say, 'can you mind it for me?' How are we going to mind all this rubbish? ... 'Oh well, never mind, give it to that cousin over there' you know. And so they got nothing to come back to, there's no house, nothing.

Incarceration, from the perspective of the participants, is an overwhelming financial burden on families already struggling to make ends meet. Expenses rise, debts are incurred and their few assets are lost when Wongi people are imprisoned, exacerbating many forms of disadvantage already present in their community.

Housing

The impact of incarceration on housing emerged from each participant's interview as one further issue in which Wongi people suffer significant disadvantage. As with the claims made in Andrew's interview about the dispiriting impact the threat of impending incarceration has on Wongi people, getting permanent accommodation is also affected. Why should a person about to go into prison attempt to purchase a house, or enter a lease agreement, when they could be taken away to prison at any time? Like employment, incarceration affects the Wongi people's access to housing even before a sentence is imposed.

During their incarceration, a Wongi person finds it very difficult to keep their house on the outside for a number of reasons. Although Eileen's community would try to support the family of an inmate, "...the wife can stay in that house and wait, like we got two here, they will just stay there and send their kids to school", their experience is the exception rather than the norm. Brendan identifies the high cost of housing in Kalgoorlie saying, "...the cost of rentals have gone through the roof... the current cost of about three to four hundred dollars a week..." which combined with the reduced

family income when one adult is incarcerated, "... so people end up getting kicked out of houses...". Single people can experience even bleaker prospects of keeping a home outside of prison as demonstrated by the example of Eileen's community: "If it's a single one, when there's only one person, we close that house down. They got no house...we put someone else in that house." Brendan agreed stating,

... In the community you still got your house. Because maybe you're family still in the house, but maybe the rent will be hard too because you know you at Centrelink you get payments for two persons instead of one... that money won't be able to go round and pay the rent and things like that in the community requires.

Generally the financial pressure of maintaining a house on one adult's income proves too much for many families of incarcerated Wongi, in the opinion of the participants.

Sometimes, Dorothy claims, incarcerated Wongi can have a friend or relative take over a house they have leased, to look after it while they are imprisoned. Such a situation may theoretically exist, but in reality she feels it would be very difficult to co-ordinate from inside a prison.

... if they had a house... they'd have to give (up) their house, or there's all these arrangements you'd have to do and it's not as easy task... you really need to have a good support system there to have someone to help you on the outside. 'Who can take over my house and pay the rent while I'm inside?' ... You've got to juggle things around to beat the system – have some family members in there. They'll say, 'I'll pay the rent' and continue doing that but ... (often) ... that doesn't work out either.

Dorothy believes that in the event a Wongi person has a rented house when they are incarcerated, they would certainly lose it without considerable support from their family and government authorities. Available support is rarely adequate to resolve the problem and keep the house available for them upon release and resulting in homelessness for any others currently residing there.

Incarceration affects a Wongi inmate's ability to get housing even after they have completed a term of imprisonment, according to both Dorothy and Christopher. Single male Wongi face the biggest challenge with Dorothy claiming they are subject to abject discrimination even amongst their own community. Dorothy knew of instances where due for release from prison, but "the Aboriginal hostel here itself

would not have anyone who had been in prison.” Dorothy’s claims are strongly supported by Christopher, who stated,

...the single men who go to gaol – there is no accommodation for single men. Certainly no public housing available for them, so they just drift from house to house, they stay in one house until their welcome wears out and then move along.

Not only is incarceration inhibiting the ability of Wongi inmates to keep their housing when in prison, according to the participants it leads to homelessness upon release as well.

Wongi prisoners who do not live in Kalgoorlie – Boulder experience additional housing problems when they are released from the Eastern Goldfields Regional Prison. According to Brendan and Christopher, prisoners from small communities are released with a bus ticket to their home, but no accommodation in the mean time. Christopher said,

...they’ve started up a program where they can return prisoners back to their communities when they are released, if it’s timed, if there is a bus running... (however)... if they’re released on a Sunday they’re left to fend for the own, so the first thing people going to do meet other people who are living on the streets.

Brendan supports Christopher’s perspective and sees the lack of accommodation between release and repatriation for Wongi living in smaller communities as a pressing issue brought on by their incarceration and removal from their home towns. In such circumstances the participants see recidivism as the norm rather than the exception.

Cultural business

Incarceration impacts on the functioning of cultural and spiritual activities within the Wongi community. Specifically, Brendan claimed that incarceration prevents the Wongi men from performing their cultural obligations for their lands. Brendan said,

They get locked up, placed in the cell, they effect that they have lost their cultural ties in the community you know, because most of them are men anyway, they what we call Wadi you know is a man. And they all their cultural activities

that they carry out on the land is not being done. They are not mixing with the people that they go out with, things like that.

From the perspective of young Wongi men, Christopher claimed incarceration may be seen as a preferable option to the Indigenous law business and initiation rites. Citing examples he has personally observed, Christopher said that committing crimes and receiving a sentence of imprisonment is a strategy used by some Wongi men to avoid cultural initiation and responsibilities. Christopher explained,

... particularly for young people, for young guys, in areas sometimes when there's law business on, people will deliberately, young guys will deliberately commit crimes to go to gaol so they have to get, so they don't go through that. I've seen that happen on a number of occasions.

Incarceration is seen by many Wongi leaders as destroying their cultural heritage by both interrupting cultural duties on the land and offering Wongi youth a refuge from undesirable initiations.

Social issues

Incapacitation through incarceration is, in Andrew's opinion, a means of warfare used by the dominant western culture against Indigenous Australians. By incarcerating so many Wongi men, Andrew believes the Australian governments are dividing and destroying the Indigenous Australian communities, thereby alleviating the government's responsibility to help Indigenous people. Andrew said,

That is what has been done, it's been done. What they're doing to Aboriginal people is warfare you incarcerate the man and you incarcerate the community by destroy the men... Do destroy the husbands the fathers and the men and you conquer the people... it's easier for the western world to not address the issue concerning Aboriginal people... They (governments) should be put in gaol for what they are doing; they are breaking their own laws. They aren't breaking break their own laws; they are breaking God's laws too.

Incarceration, rather than being a tool for maintaining law and order, is seen by many Wongi leaders as a weapon of cultural warfare destabilising Indigenous communities, leaving them weak and vulnerable to exploitation.

More important than the effects of unemployment, poverty and homelessness, the Wongi leaders claimed that the psychological issues affected the prisoners and

their families even more. While all the male participants claimed that incarceration negatively affects how Wongi men feel about themselves, Andrew gave the most chilling insight into the psychological effects, drawing a strong correlation with imprisonment and feelings of powerlessness, worthlessness and self harm. Andrew said,

See you go speak to those guys in prison and you dig up one of those graves where a man committed suicide and you talk to him, and you ask him, 'Why'd you kill yourself mate?' He'll tell you, 'Because I'm nothing'. If you go talk to these guys in prison and you ask them, "What you doing in prison here?" 'I'm nothing.'

The sense of powerlessness and psychological impotence is so debilitating to Wongi prisoners, it is seen as the reason why prisoners want to commit suicide.

Brendan took a more cautionary tone and identified the build up of stress in Wongi prisoners as a cause of poor health and deaths in custody. Brendan warned, "I know what stress does, you know, to people... they're stressed out, sure you get sick then, and you can die." Specifically Brendan felt that the stress caused by separation that occurs when a Wongi man is removed from his family and incarcerated ultimately leads to suicidal thoughts. Brendan claimed, "You're only separating them the family and things like that, and they're worrying out there. Aboriginal people want to commit suicide, hanging themselves, anything could happen." Prisoners worry about their families when incarcerated, leading to overwhelming stress and creating the circumstances in which suicide is most likely.

Christopher concurred with Andrew and Brendan and emphasises the effects removal from their normal life and imprisonment have on Wongi men psychologically. He said, "... being in prison again the social isolation thing and they question their sense of value as to who they are..." These effects are exacerbated when Wongi people are held in prisons on other parts of the State and can result in non-suicidal self harm. Speaking from his own experience in the prisons, Christopher explained, "...people tend to go downhill because they miss their country... they cut themselves, not with the intention to kill themselves, to commit suicide, but to release grief from not being around their people...". Christopher confirms the claims of Andrew and Brendan that incarceration leads to a build up of stress on Indigenous prisoners that results in self harm, closer monitoring and even greater stress.

Psychological regression in Wongi inmates is common when they are sentenced to a period of imprisonment, in the experience of Dorothy. From working within the prisons, Dorothy has seen inmates change from a powerful self-determinist perspective to a powerless childish one, doing as they are told to fit the program. Dorothy claims,

I'm speaking from what I know happens; your whole life is taken away from you, you come in through the going through the stages so you slip back into the childish child stage so you having to I don't know what it is, you're have to try to fit in a program, whatever's there, and some of the programs offered are really quite how do you say, like down putting?... You're doing little colouring in, those childish sort of things, and a lot of them have talents and try to find ways to express themselves...

The management of Wongi prisoners is therefore seen as demeaning, creating more psychological damage and trauma for the inmates to process.

There are additional prolonged negative psychological effects of incarceration in the opinion of Eileen. In her involvement with numerous people who have been in and out of prison on multiple occasions, she has observed a diminished desire to enjoy the benefits of freedom, or even effectively express themselves. Eileen said,

But when you can't sort of have a yarn, you know when you have a yarn? They lose that... they thinking, their mind is somewhere else. Because before, he, because he kept going in and out, before you could have a yarn to him, and he was getting the thing across. But then after five years of something, they come out and they're not really with it. They're not talking to you. They sort of saying yes and that but they not saying what they like or what they like to do... I found that a couple of blokes that come out here, they sort of lost their... (ability) to say what they liked or what they want to do. It's sort of like, well you tell me I'll just go along with it... They don't want, they don't know what they want to do because they been locked up all the time, they got no brains to think.

After being made to conform for so long in prison, Wongi prisoners are conditioned to fitting into prison life and have no thoughts of their own. Upon release they are unable to adjust to freedom.

Any perceived health benefits inmates experience from incarceration are lost on Eileen who claims that the mental health of inmates get worse each time they are imprisoned. Whereas some believe incarceration diminishes the likelihood of future offences and re-incarceration, Eileen links imprisonment with an institutionalised

mindset akin to a form of agoraphobia, which can only be resolved upon an inmate's release by further offending. Citing her own experience again, Eileen said,

I don't know their body health, I know their mind, their mental health gets worse... You know, (out here) there's too much space. There's not that lock on the doors and so I think when they come out now because from that last time I had looked they looked like that, "I don't want to be in this big space". And so they're worried that they need to do something to get back into that locked up state.

Prolonged incarceration, from Eileen's perspective, creates a psychological inversion of expected living arrangements in the minds of the inmates. Rather than longing for release from prison to be reunited with their families, Eileen claims some prisoners feel frightened and out of place in the mainstream community and crave re-incarceration. She said,

Frightened, too frightened to come out too. Because you have a look at their faces that, when they come out here... tell me what to do before I don't know what to do... And so by that next weekend they get that pay, they're gone. They're doing something, so they can get back. They only out here for a little break and they need to get back home. They think that's home there. Because they been in there that long.

Prolonged incarceration becomes so normalised to prisoners that they do not feel at rest unless they are incarcerated. This psychological alienation where incarceration feels like home demonstrates the depth of psychological damage experienced by long-term inmates.

Four of the five participants noted the detrimental psychological effects incarceration has on Wongi prisoners and their families, in particular when they are transferred out of the Goldfields, often to prisons in Perth. Christopher claims imprisonment itself is not particularly frightening to the Wongi people, though he did say,

... the biggest fear in the removing them from, if they're incarcerated in Kalgoorlie and then moving them to places like Caning Vale or Casuarina, which is completely out of their country, and it also makes it hard for them to see their own family... they miss their country, their people talking their language...

Although being transferred to a prison in Perth may be necessary for prison administrative reasons, the Wongi prisoners feel as though they are being forcibly deported to another land, with all the distress that this adds. For Wongi, being close to their traditional lands is vital for psychological and physical well being and so removal adds to the detrimental mental and spiritual impact of incarceration.

Brendan points out that much of the fear Wongi prisoners face when incarcerated is related to their family rather than themselves. Taking the perspective of a male Wongi prisoner Brendan says, "... he's really worried for his family... like his wife and children back there, how they getting on." There are numerous uncertainties identified by Brendan, that increase the stress Wongi prisoners suffer including, not knowing the length of the sentence - "they don't know what's happening, when he's coming back", fear of infidelity - "She could be going with somebody else there, you don't know what's going on in prison", and the lack of cultural observances - "And all their cultural activities that they carry out on the land is not being done". For Wongi men with families and cultural obligations, incarceration causes untold worry and grief for the inmate and his or her family alike.

When a Wongi inmate is incarcerated and transferred to Perth they experience great fear, stress and uncertainty as identified by the participants above. The female participants both highlighted the psychological effects that transferring a prisoner to Perth has on the family of the inmate. Dorothy claimed that Wongi women experience anxiety over what is happening to their imprisoned partner, "...they've got all the stress of worrying what's their husband doing inside..." Eileen concurs stating, "the poor kids, the kids all suffer too. Because you know mums gone off, mum doesn't know what she's up to..." Even before an inmate is transferred out of the Goldfields, the incarceration of a family member creates a stressful scenario for the family left behind. Eileen said,

And then they (the inmate's spouse) get really angry, so the kids are really angry all the time, why their families split. So I think it's more a mental thing for all that mob you know. They're always under this strain of thinking how I'm going to get there, how I'm going to go down there, how are these kids coming or where's my kids or will I leave them here, because they don't want to get in the car... they just run away from you.

Incarceration damages already brittle family relationships, placing even greater stress on the spouse of the inmate to maintain the family unit while fulfilling her obligation to visit prison.

Brendan sees no difference between what the inmates and their families experience in the way of fear and stress removal through incarceration causes. He said, “The problem that that young bloke in prison will have is the same effect the family out there will have...”. The participants display a strong correlation when they all claim that removing offenders to prisons has enormously detrimental psychological effects on the person incarcerated and their families.

Incarcerating a family member creates some new problems for Wongi people, according to the participants, while exacerbating many others mentioned previously. Visiting a family member in prison is especially important for incarcerated Wongi prisoners in the opinion of three of the participants, because their families are very close and each member wants to know where each other is and to know they are managing in each other’s absence. Eileen claimed that visiting is an obligation, “...she’s got to visit him, don’t care where he is”. From the perspective of the inmates, they are desperate to see their children. Dorothy describes how female prisoners feel saying,

If it’s a mother that (has been) incarcerated... she really needs to be in constant contact with her family for the care of her children because she does...(the) nurturing and the partner is sort of constantly wanting that person to be in constant contact with them as well.

Fathers want to see their children while in prison, regardless of the circumstances of their spouse, resulting is extreme social disharmony. Eileen described the common routine for many families in her community saying,

...the kids have got no father, and then they go to try and run into town to visit him on weekends, but then the kids get sick of going to Kalgoorlie, and so they stay away and the mothers thing and then when he gets back, if comes out of prison, then he comes back and bashes her for not bringing the kids in.

Children play such an important part in the lives of Wongi people. When inmates cannot see their children during visits, their stress can boil over into further criminal behaviour.

Dorothy cited her experience working in prisons and said, “they’re ringing up all the time, ringing back home to find out what’s going on”. The inmates want to see their families. Their worry and stress are aggravated when they cannot receive visitors as often as they desire. Dorothy said that prisoners, “...worry about all the things that are happening on the outside, but also worried that they cannot have that access more frequent like they should, especially in the initial stages, and until things settle down.” Likewise, Eileen said, “... cause I think them people who go to prison, they get mental. They do, they only got this little thing to look at (the next visit by their family) and so they focus around that, nothing else... They can’t get enough.” The fixation with the inmate’s next visit compounds the inmate’s anguish as well as the stress on the spouse.

Christopher, who has also worked in prisons, and previously has identified incapacitation and relocation to prison in Perth as the biggest fear associated with incarceration, concurred with Dorothy’s opinion and elaborated on the strategies employed for prisoners from remote areas, that could not receive visitors in Perth;

...if they’re incarcerated in Kalgoorlie and then moving them to places like Canning Vale or Casuarina (in Perth), which is completely out of their land out of their country, and it also makes it hard for them to see their own family....that sort of eased them a bit when they were able, when they were down south they were able to talk to their own people (on the telephone) in their own language, and they basically wanted to know what was happening in their communities.

In circumstances of incarceration far from their own lands, inmates are grateful for telephone calls, to maintain relationships with their community.

From the perspective of the family of an inmate, visiting presents numerous logistical challenges. Dorothy and Eileen both claimed that people have to find somebody to drive them to and from prison, as well as finding the money to pay them. Although some families might try and move closer to the prison to facilitate visiting, this is no easy thing according to Dorothy;

Question: There’s a displacement?

Answer: There’s everything, and a lot of costs involved travelling, having to pay someone else to drive you if they don’t have their licence, having to uproot the whole family and bring them to another situation where there’s accommodation when they get there and food and accommodation.

The challenges faced by the family multiply when a prisoner is transferred from Eastern Goldfields Regional Prison to a prison in Perth. Dorothy said, "...the yearning is a lot stronger because they're further away." Eileen elaborated saying,

...they need to get a job to get a car to do that you know to run up and down to prison. And then when that man gets sent down to Perth, then it's really bad. And they've got to start ringing up finding out who's down there that they can go down and see.

Furthermore, the stress incurred by the family of an inmate is considerable. Christopher claims that normal familiar relations are strained throughout the Wongi community when a person is incarcerated. Christopher said, "Well naturally with the mothers they you know, with the son, they tend to miss their sons and that when they go to Perth, if there's siblings they tend to miss their older siblings...". Reflecting the consequences of these damaged relationships Eileen describes the stress brought on by the threatening behaviour of the inmate saying,

And then they (the family of an inmate) go to prison and they come back feeling more, frightened or what because when they go to prison they get, "When I get out you're going to get this, I'm going to bash you" and all these things. So they come away from prison feeling, oh what did I go there for? And the kids who 15,14, 15, they don't go, they stay here. Because they hate prisons anyway. They got locked your father up. And then they get really angry, so the kids are really angry all the time, why their families split.

The suffering and distress endured by the family of an inmate when he is transferred to Perth is considerable and occurs, say the participants, at a time when they logistically have the least ability to respond.

Curiously, both Dorothy and Eileen linked families visiting Wongi prisoners with the continuation of domestic violence. Christopher, Dorothy and Eileen acknowledge that incarceration physically separates spouses involved in a violent domestic relationship, but any benefit is both temporary and overstated in the opinion of Eileen.

...black fellas they come back and bash their wife regardless if she been living with anybody else. You know?

Question: *Removal is only temporary?*

Answer: It's temporary, till you have a rest down there must be, then he comes back and does the same thing

Whereas Eileen acknowledged that incarceration physically separates the two spouses in a violent relationship, she does not believe it is a solution to the acrimony, "If he's removed he's only, his bodies over there, but he's still ringing up telling what he's going to do or, you know them threats them". Eileen's account closely resembles Dorothy's observations from her time working in the prisons, "yeah verbal abuse over the phone... it's still a constant family violence in that situation and it affects them mentally it affects them". Incapacitation as a response to domestic violence, therefore, offers little to no protection to the victim in the medium to long term, in the opinion of both female participants.

Verbal domestic violence is routinely used, according to Eileen, by inmates to control the behaviour of their spouses. Specifically Eileen notes the spouse is expected to drive to Perth if necessary to visit, bring the children with her when she visits regardless of the children's wishes and she must not be seen by others looking at another man. Any breach of these expectations will certainly result in the spouse being assaulted upon the inmates release from prison. When asked what happens to a family when they visit prison Eileen explained that they get threatened, "You wait 'til I get out, going to bash and that's because you running around with somebody', or 'some one's seen you over there', and it's not even true you know. They just like telling these stories."

Even though they may not be physically assaulted while their spouse is in prison, the constant threats and certain expectations of harm to come, create an emotional dread in the victim, heightening her stress and detracting from any real protection afforded her by the spouse's incarceration.

Violent domestic relationships are extremely difficult for Wongi women to escape according to Dorothy, even when a violent spouse is incarcerated. Although she also agrees that incarceration separates the fighting spouses, the community services required to help the spouse escape the violent relationship beyond the period of separation through incarceration, are inadequate.

looking at it from the women's point of view, she's having a bit of a rest from that situation, because it's very hard for her to leave that violent situation, you've got the kids to worry about, you've got women's refuges that you could go to but if you've got a child that's over twelve years old they're not allowed to go into a women's refuge.

Incarceration itself does not offer any solution to domestic violence or real protection from it; if anything, it makes it worse because incarcerated men have time on their hands to feel their powerlessness acutely.

Retribution in Wongi Lands

Four of the five participants spoke of prison as being a punishment and a form of retribution on Wongi offenders. Christopher offered a profound insight into the Indigenous perspective of incarceration as a means of punishment. He said, "all gaol does is removed people from society for a set period of time. The punishment is the actual removal from society", but this is just the start of the punishment for Wongi prisoners. Inmates who have offended the Wongi community are liable to receive traditional punishment in addition to incarceration. Furthermore, forced relocation to a prison in Perth becomes a third punishment for many according to Christopher. He claimed,

...it's sometimes a double whammy with them even a triple whammy in the case where they have to go back and face tribal punishment... The other removal I'm talking about is when you get a tribal person sorry from the lands and you put them in Perth in Casuarina or Canning Vale, which is a thousand kilometres away from there, a thousand kilometres plus away from their homelands. They're in a different country, a completely different country and that again is another form of punishment.

In punishing a person by removing them from society, Wongi prisoners can even face triple punishments when tribal punishment and forced relocation is added as well.

Brendan conceded that incarceration is a form of retribution saying, "Oh yeah, it worries them if they're going to prison, if they're separated from their family yeah", but questioned the outcome of incarceration. A good punishment should have a deterrent effect according to Brendan, and high recidivism rates are proof that prison is an ineffective form of retribution. From his own observations, Brendan opined,

If there's any other way, there's that may be one punishment you know the white people use on Aboriginal people or anybody you know that commit an offence. But with this one here it's not really a punishment because they back doing the same thing again.

If retribution is meant to discourage future offending, it is not effective on the Wongi prisoners, because it seems to have little or no positive effects.

Like Brendan, Eileen sees some retributive value of using prison as a punishment, but also questions the effectiveness of it. While Eileen acknowledges incarceration is a punishment on the inmate saying, "Sometimes I think yes (prison is a punishment), because it's keeping the person (inmate) away from the person (spouse)..." the pain incarceration causes is only temporary, "It hurts but then again they know they are coming back." The retribution is only short term and of only minor hindrance to the on-going dysfunctional lifestyle of the inmate.

Whether incarceration is seen by Wongi people as a punishment at all, in the opinion of Christopher, depends on whether they believe imprisonment is justified to start with. Christopher distinguishes between incarceration as a response to serious crimes, which is seen as appropriate, as compared to imprisonment for minor violations. Under the latter circumstances, gaol becomes another source of hardship under Australian legal system for Indigenous people. Christopher explained,

You know I think no society should tolerate child abuse or murder for that matter you know? And I think in that respect it's the punishment is you go to gaol. But for other offences, driving offences and more less serious offences, I don't think it acts as a punishment at all. I think it's another thing that people have to cope with in their lives.

The Wongi people are so used to living under disadvantage that incarceration, which they perceive as unwarranted, becomes just another source of injustice, rather than meaningful punishment.

The effectiveness of incarceration as a punishment is greatly reduced by the length of time between the criminal event and the enactment of the sentence, according to Andrew. Citing examples where members of his own family have been imprisoned, he claims the court process can delay the punishment for some years. Andrew's wife explained,

...you don't know if you're going to get picked up tomorrow, or in a year or in five years. Because it often takes that long. And so one problem in the system is that the punishments are too far away from the actual event, so you end up in gaol at 21 for things you did when you were 16...

Given the lengthy delays inherent with the criminal justice system, punishment is often so far removed from the offence that Wongi offenders have no understanding of what they have done wrong.

Deterrence in Wongi Lands

Every participant in this research spoke of deterrence in terms of specific deterrence, that is, to diminish the re-occurrence of the person in prison re-offending. Only one participant, Christopher addressed the general deterrent effect of incarceration, citing examples where it has increased the likelihood of criminal behaviour, not reduced it. In some Wongi families, incarceration for criminal offences is a source of pride rather than shame as Christopher explained, "...the fact that in some areas it's seen as a rite of passage, to go to gaol, particularly for young people, for young guys...". Prison can earn criminal pride in some Wongi families, far from being a deterrent.

Criticism of the value of gaol as a deterrent came in strong terms from almost all of the participants. Principally, deterrence fails because Wongi involved in criminal behaviour are often affected by alcohol and other drugs, according to four of the five participants. Two participants spoke about the cultural confusion incarceration presents in practise, whereas others claimed life in gaol presented Wongi prisoners with better life chances than living in the wider community.

Incarceration fails as a deterrent against crime for Wongi people, according to the participants, because most offences by Wongi people occur when they are under the influence of alcohol and other drugs. Christopher estimated 90% of offences by Indigenous offenders involved alcohol and other drugs, and explained why prison was no deterrent at all when he said emphatically,

No I think like I stated before, when you look at it, most crimes are committed when people are drunk, people have alcohol in them. And you've got to ask yourself, if they didn't have that alcohol would they commit that same crimes if they were sober? See so, and of course, once you commit it, there is no, you lose

inhibitions when you're drunk anyway, when people get excited, so spastic on it. They lose inhibitions, they don't care, so the thought of prison is the least, is least in their mind than anything else.

Alcohol abuse, according to almost all of the participants, is a major cause of crime within the Wongi community. Thus, incarceration, whatever the length of the sentence, will not deter criminal behaviour when an offender is intoxicated.

Dorothy explained the vicious cycle of incarceration, exposure to alcohol and other drugs and re-incarceration. Having worked in the prisons herself she has seen this on numerous occasions. Rather than diminishing problem behaviour involving alcohol and other drugs, prison plays a vital link in its progression, as Dorothy said,

...coming from a drug and alcohol abuse system they're going into that and going to a total dry out and then to go from that to when they're coming out going on to a binge situation they start to come out and can't wait for that liquor drink or alcohol, partying and it's not a, it's just a vicious cycle, you just continue going round.

Where there is such a strong link between intoxication and criminal behaviour as the participants have demonstrated, incarceration is not a deterrent.

From her experiences in a small Wongi community, Eileen shared her perspective on the value of incarceration as a deterrent, and the role of alcohol abuse and other drugs in diminishing any benefit incarceration may have. Although Eileen conceded gaol was a deterrent, with exposure to alcohol and other drugs, re-offending and re-incarceration, she claimed, were inevitable. She stated,

Yes (prison is a deterrent). But you get these same people they get caught in the thing and they can't do anything else... When they visit town, they seem to just can't get away from it. They just get caught up in that drug and alcohol thing... And so must be another couple of weeks after that then they're put back in to prison. It's sort of like the same lot of family that get into that, same over and over thing... Well it doesn't help (deter) them for the time that they're mad, you know? Drugged, or drunk.

Eileen demonstrates from her own experience that as most offences are committed while a person is influenced by alcohol or drugs, nothing will deter criminal behaviour, not even the threat of incarceration.

Brendan shares a very similar negative view to the value of incarceration as a deterrent and alcohol abuse as a catalyst in offending behaviour. The social environment and access to alcohol are far more predictive of future behaviour than previous incarceration, according to Brendan, who said,

I suppose you know when they come out they probably be thinking, “Oh I’m not coming back into prison again”, you know after being in prison and seeing all the other inmates and things but there’s no other alternative. You go back there and mixing with the same people again that’s actually on the grog and things like that. They always get into trouble and they back again... No, no I can’t see that (deterrence) happening myself. They seem to back into prison again you know? It don’t happen at all.

Where a prisoner is released to a social environment steeped with alcohol abuse, troublesome people and other vices, there appears to be no lasting deterrent value in incarcerating some Wongi people.

Cross cultural misunderstandings contribute to imprisonment having a low deterrence effect, according to two participants. Christopher claims Wongi people have never used incarceration as a means of resolving bad behaviour, making the very experience of incarceration a completely foreign event. Christopher said,

Prison as a deterrent, no I don’t think it doesn’t have. Because culturally we never had Aboriginal people never had prisons, culturally there was no such thing as prisons. It’s a whole different cultural concept that has been placed on Aboriginal people. So it’s not really a deterrent in that sense.

Furthermore Brendan claims that behaviour that might be seen as innocent joking by guards, is often offensive to Wongi people and may precipitate recidivism rather than deter. Brendan explained,

I know one young bloke who came out and told me once, he said, you not going to play up any more are you because I know you spent a few years in gaol. Then he come back to me, well do you know what happened (Brendan), as soon as I come out the gate at the prison, the wardens say to different ones, don’t forget to come back and see me you know. The wardens. They come back you know? They come back and see the wardens again. So you know, comments like that coming from the warden shouldn’t be allowed either you know. Don’t forget to come back again you know.

The lack of cultural applicability and sensitivity in prison, according to the participants, increases feelings of injustice held by Wongi prisoners and diminishes any positive deterrence.

Far from deterring, Andrew claimed incarceration advantages many young Wongi men. Listing the opportunities men in gaol have, he draws a strong contrast with the limited life chance for Wongi men in mainstream society. Andrew said,

If you go to prison you get three meals a day there, you live out here you get, there's no chance of getting a job... A lot of the them go there, go to gaol to finish their high school ... To get their grades, they don't even learn to read so when you at home, see if your starving, there's no bread on the table, education is the bread that served second, second (pause) thing on the mind. But when you're full, had your full, then you can do your education. So you know there are opportunities in prison, you know there's, that we just we don't get that opportunity out here.

Andrew is not alone in identifying the greater opportunities Wongi people have when they are in gaol. Christopher goes so far as to claim,

In some instances people are far better off, dare I say it, in gaol because they are receiving three meals a day, their life is regimented. There's an orderly aspect to their life. And of course there's alcohol, they're removed from alcohol which is the biggest the worst sort of drug around to do that to people you know.

In the opinion of many Wongi leaders, Indigenous people who are imprisoned benefit from being incarcerated. Where gaol is seen as a means to accessing opportunities and improving life chances that are lacking in the mainstream community, prison is not a deterrent at all.

Gaol is also a means of avoiding cultural responsibilities that are seen by young Wongi men as undesirable. Rather than deterring criminal behaviour, incarceration offers some protection against ritual obligations, deemed necessary by some others in the community. Christopher explains,

... for young guys, in areas sometimes when there's law business on, people will deliberately, young guys will deliberately commit crimes to go to gaol so they have to get, so they don't go through that. I've seen that happen on a number of occasions.

Many Wongi young men feel so disempowered in mainstream society that they choose to take refuge in gaol rather than either submitting to cultural obligations or offending their community by avoiding their obligations.

Christopher has worked in various capacities for the Western Australian criminal justice system. In his interview he volunteered a further three common scenarios where Indigenous people are incarcerated and it has almost no impact on curtailing future criminal behaviour. Firstly, Christopher believes that opportunistic crimes occur where the individual believes the chance and consequences of being caught are outweighed by the benefit, and incarceration is not so great a deterrent as to prevent opportunistic crimes. Secondly, many career criminals will manufacture their own opportunities to commit crimes, and to them incarceration is a moderate risk factor rather than a deterrent. Finally, domestic violence related murders are single incidents rather than a pattern of behaviour likely to affect future relationships, whether or not they are imprisoned as a result. Christopher said,

...for example domestic violence murders, those people who get sent to gaol for murdering their spouses, usually only do it the once in their life time and they never commit murder again... with a lot of crime by stealing and that, it's very opportunistic... with criminal behaviour in some people it's very addictive, where they have to do it all the time, because that's the only life they know. It's a matter of survival... And being in prison is just a hiccup in their trade. It's not much of a deterrent.

For some Wongi offenders incarceration is a calculated risk, and for such people there is no deterrent value in imprisonment at all.

The final word on incarceration as a deterrent to the Wongi people from the perspective of one leader is best left to Eileen. Quoting the sentiment of some people in her community, Eileen said “‘well I'm going to gaol to go and have Christmas.’ You know what a stupid thing to say.” The fact remains that although some Wongi people suffer so much disadvantage in mainstream society, prison is a preferable option, not a deterrent.

Rehabilitation in Wongi Lands

When speaking about rehabilitation in prison, the participants' responses fell into two distinct categories: alcohol and other drug rehabilitation, and educational

retraining. Whereas imprisonment had little effect on the alcohol and other drug taking behaviour of Wongi people imprisoned in the medium to long term, some spoke with hope of the benefits of incarceration to society in educating and skilling the inmates.

There is a strong link between alcohol and other drug use and the criminal behaviour of some Wongi people leading to incarceration, according to the participants. When people come from an environment heavily saturated with alcohol and other drugs and are placed in prison, they are officially at least, denied access to these substances. In Andrew's opinion their health often improves: Christopher claims they are better off in that environment.

Doubt was cast on the assertion that prison is an alcohol and other drug free environment by one of the female participants who, along with others, went on to claim there was no medium to long term benefit from this enforced abstinence. Eileen said,

While they are in prison they get drugs. You can't tell me they can't get they don't get drugs... I'm just talking about drugs because that's what they're on, why they go there, and drink you know, mixed up together... I've never seen anybody come out of there and do something great or at least keep off the grog or something... they stay away from the grog for must be three weeks, four weeks. When they hit Kalgoorlie, they just go off again.

Dorothy shared Eileen's bleak evaluation of the value of alcohol and other drug prohibition in prison. Rather than rehabilitating prisoners, Dorothy offered a different intention for prison management to prohibit alcohol and other drugs. She claimed,

...coming from a drug and alcohol abuse system they're going into that and going to a total dry out and then to go from that to when they're coming out going on to a binge situation they start to come out and can't wait for that liquor drink or alcohol, partying and it's not a, it's just a vicious cycle, you just continue going round... I only just see it for the benefit of the people looking after them. Because they're not going to be humbugging... mucking around...

Although incarceration offers alcoholic inmates a chance to "dry-out", the participants clearly disbelieve there are any medium to long term health benefits in imprisonment.

To paraphrase Dorothy, the provision of alcohol and other drug programs within prison is so restricted that they are not accessible to Wongi people as they should be. To do substance abuse based programs, inmates must be transferred to

Perth because the programs are not available in Kalgoorlie. Dorothy said, "...so for instance giving up drugs... they'll have to go through a drug and alcohol program... then you'll have to do down to Perth for that." Furthermore, she considers the lack of follow-up counselling and treatment post release from prison undermines any chance of genuine behaviour change within the new environment. She said, "... but the hard thing is there is no follow up, when they come out, even though they might have dried out in prison, but they're getting back into that same vicious cycle." Non-custodial follow-up and treatment are missing from a serious attempt to improve the prisoner's health, according to Dorothy.

Providing inmates with training while incarcerated is seen by one of the participants as perhaps the only real benefit to come from imprisonment. Eileen feels that if the basic literacy skills of the Wongi prisoners could be improved, the rehabilitation of the prisoners might gain some traction in the real world. Without expressing the guarded optimism of Eileen, Andrew emphasises the importance of education in the mainstream society from the Wongi leaders' perspectives when he says,

Education is important it is very important. My African (spiritual) brother from Africa he recon there is two types of black fellas in his country. Those who got western education and those who did what they did for thousands of years. When they got rid of the white people, those who got the western education they are the bosses today and those that did not, that's the western educated they the servants. So Western education is very important.

Andrew, like Eileen draws a direct correlation between the literacy of Wongi people and their likelihood to commit offences and be incarcerated. They believe that basic literacy education would assist the Wongi inmates get jobs upon release from prison and avoid re-offending. Andrew stressed the negative link between education and employment stating, "Well if you don't fix up education there's no employment full stop." Eileen extended this to recidivism,

... I find the mob that keep going to prison all the time, that's the mob that can't read and write... You see all this other mob that want to, that have jobs and that, they know how to read, write, use computers, so they get good jobs in Kalgoorlie... But when you have this other mob who party every night, what are they going to do?

The value of education and especially literacy is well understood by the Wongi leaders, but the training given to inmates while in prison seems to have no impact in the mainstream community.

The real problem with literacy training for Wongi people, in Andrew's opinion, is the way in which English education is delivered. Without restructuring the literacy training so it meets the needs of the people, Andrew feels it is doomed to fail. He said,

... English language is it's a mongrel language ... we speak words that we don't spell. Ok. Now education the only way the only way we can fix up education, is if we cater for the people. You have this English, even the white people don't learn it properly. There's nothing wrong with the language but the way they teach it.

Literacy training that is addressed to the way Wongi people learn is essential to improving the outcomes of prison based education.

Against this clear perception of the value and need of literacy education in prisons, the Wongi leaders did not speak highly of the actual training delivered. Three of the five participants knew of prisoners doing dot painting but the effects they saw of this varied. Brendan said, "... they try and occupy them some way in prison you know, the way of doing paintings and things like that. I think that the prison try to get them occupied so that they keep them away from worrying...". Dorothy found the art training condescending and that it exacerbated the psychological trauma inmates experienced. Dorothy said, "You're doing little colouring in, those childish sort of things, and a lot of them have talents and try to find ways to express themselves...". Meanwhile, Eileen claims the dot painting is of no value in mainstream society because it is "chucked out the window" when they return to their community.

The popularity of training programs in prison, according to the Wongi leaders, is related to the short and medium term desire of the inmates, rather than gaining new skills and abilities. Dorothy believes prisoners enrol in courses just to be allowed out of their cells for a certain amount of time. She said, "They'll... want to do something different from living in the cell." Both Dorothy and Christopher agreed that prisoners also want to do courses to have a better chance of parole. Christopher explained, "As far as rehabilitating or reforming people I my own view is that a lot of prisoners do

programs in prison just to get early release.” Far from improving the life chance of Wongi prisoners, participation in training is motivated by improved chances of parole and returning to a similar mainstream lifestyle as before.

Four of the five participants discussed the futility of prison rehabilitation and training. Christopher quickly pointed to the high recidivism rate as evidence of the failure of prison rehabilitation to reform inmates saying, “...it doesn’t reform because you look at the recidivism rate is so high so people were reformed they wouldn’t be coming back...”. Furthermore, Eileen said, “They’re doing something, so they can get back. They only out here for a little break and they need to get back home. They think that’s home there. Because they been in there that long.” Positive rehabilitation is a myth and some Wongi leaders even believe the prisoners become so negatively affected while in custody that they are incapable of living in mainstream society.

In a reversal of purpose, Dorothy claimed the training system was set up to meet the needs of the actual education providers in prison, not the inmates. Dorothy claimed,

I think Aboriginal people are the most trained people in Australia. They’ve done so much training through CDEP and everything else... I don’t believe that, they (the trainers) look at it seriously, they have their little control thing going on the education, its similar to TAFE or whatever they need bums on seats and so... it’s a competition, people are competing with other resource persons in the prison...

Training in prison is more about the appearance of rehabilitation and meeting service provision targets than it is about outcomes of the Wongi people in prison.

The final word on rehabilitation can best be left to Eileen who expresses the exasperation shared by all the participants. She said,

Well myself, I’ve never seen anyone who come out, stayed out. Can you show me someone cause I haven’t seen one... I’ve never, never seen someone come out of prison and change their life and got up and did something other than like stealing and whatever. That all goes with that. Maybe I’m living in the wrong community. Maybe there’s a good community somewhere that they do get out and do something great. But I’ve never seen it here.

The emotion expressed by so many participants reflects the hopelessness of a system that intends to do so much good through rehabilitation but so often releases inmates in a worse state than when they went in.

Restoration in Wongi Lands

In their own way, each participant spoke about how the current system is failing to restore inmates to the mainstream community and how they believe this can be advanced in the future. The levels on which restoration should be addressed varied by the participant, from immediate and practical, to historical, spiritual and symbolic. The overwhelming consensus was clear: change is needed to restore offenders.

On the most practical level, Eileen and Andrew believe restoration is unachievable for most inmates, no matter their level of regret, because they lack the basic skills required to live a law abiding lifestyle. The necessity of literacy was emphasised again and again by Eileen, who shared the frustration of her community whenever they have attempted to get teaching for their illiterate people. Eileen said, one adult literacy program was working well within her community, “but government changes those rules all the time, and so we got to keep up with the rules, and we got to learn different rules every time.” In Andrew’s interview, the issue of driving offences was similarly raised. Again the inability of former prisoners to attain the skills and qualifications needed to maintain a law abiding lifestyle inhibits restoration. Andrew’s wife claimed,

... One of the problems is driving without a licence. Well the stupid answer to that is, put him through a driving course, give him a licence and he won’t have those and there’s hundreds of people, Aboriginal people in that situation, so you get a fine ...

Whether or not, Wongi inmates are confronted with the social denunciation of their actions, without real world skills and qualifications necessary to survive in mainstream community, they seem incapable of behaving differently.

Dorothy and Eileen said that part release accommodation is needed to help inmates adjust from a completely regimented lifestyle in prison to the completely unstructured one in the community. Dorothy said of those prisoners with alcohol and other drug dependence issues, the clear lack of follow-up service provision coupled

with their inability to change their living environments in the mainstream community, contribute to the vicious circle of bingeing to incarceration to bingeing again. Eileen offered a practical solution in the form of her community. Rather than release people to the mainstream community proper, or even incarcerate them to begin with, she invited them to be sentenced to remaining on the community, where they can live with their families without being tempted by alcohol and other drugs. Eileen offered,

Sometimes I think that those blokes that in there, that get taken to court and do their whatever thing they got to do, but sometimes can they get them to say take out to (Name of Community) here and don't go to town. You come, anywhere you put your foot out of (Name of Community) then you get thrown in gaol then. I think they'd stay here.

By providing a positive environment within the mainstream society, but away from the negative influences like alcohol and unruly friends, reforming the offenders into law abiding people may not even require incarceration.

Similar to the half way accommodation mentioned by Dorothy and Eileen, Brendan and Christopher believe work camp style prison accommodation was more likely to help Wongi prisoners become restored to their own and the mainstream community. Explaining the benefits of putting Wongi prisoners in work camps Brendan said,

Well something like that boot camp out there, near Mount Morgans you know? Yeah that's good because they're in their own environment, they're allowed out outside their yard, they can go and cook kangaroo meat in the ashes, they sort of with their own mob. They're doing all the things that they've been doing all the time anyway. That's the best way, the boot camp.

Christopher added to Brendan's enthusiasm for work camp style prison accommodation, claiming it offered the opportunity for prisoners to repay their debts to society. Christopher explained, "I think work camps are a great idea, making people go back to their community while they're confined to a work camp, make them sort of, do some sort of repatriation to the community I think is the way." By making prisoners work in their communities to repay their social debt, communal standards are visibly reinforced and important social associations maintained.

Closely related to the work camps within Wongi communities idea, said Christopher, is the concept of shaming. Within Wongi culture being shamed is far more of a deterrent than being incarcerated. When there is a visible demonstration of

remorse by an offender to the victim, be it a person or community, there is a communal rejection of the offender and the criminal action. Christopher said,

And there needs to be a meeting of, if there are victims and, in Aboriginal society there is a concept of shame. Where you've done something you need to be shamed, and that's really where the, it's actually worse than being in prison. People just tend to cut you off too. And that's really, really, worse than being in prison and nobody wants that because it touches, being ashamed from you're community or by your community touches this you in a spiritual sense. Whereas a prison is more of a physical thing...

Social shaming is therefore a much more powerful deterrent and influence for positive change in Wongi communities and the Wongi leaders believe it should be the focus of punishments in a restorative environment.

Eileen also claimed a spiritual challenge is necessary for people to change their lifestyles for the better. From interactions with people in her predominately Christian community, Eileen believes, "Some people love to change. You know if you go and have a prayer with them, tell them about the Lord Jesus, they change. So that's what I always try and have a yarn with these mob." Offenders who are willing to connect with their community leaders on a spiritual level have a much better chance of developing positive behaviours.

Andrew presented a far deeper analysis of the need for restoration, linking the over representation of Indigenous people in prison with the unequal representation of Indigenous people within Australian authorities. He stated,

... Aboriginal people should be equal as the government. Not under, that's the only way you can, that's the only way you going to fix this. Because there's no others way, otherwise, you will always have 90% of your prisons fill with Aboriginal people... Ok it's still the curse, if I curse you, and went away 20 years time and came back that curse will still affect you true? Well the curse is *terra nullius*... And where does that curse come from? 207 220 years ago, one Captain Cook raised the union jack and declared this place for England and then he spoke the curse that he declared this place *terra nullius*, meaning there is nobody occupying this land. Someone needs to repent. Someone needs to renounce.

Given that Wongi leaders feel their land, with all the material, cultural and spiritual value they ascribe to it, has been stolen from them, with what moral authority does mainstream society now demand Wongi people to obey the law? Wongi people see

this is a case of double standards and hypocrisy in a justice system that still denies them what they feel is rightfully theirs.

Restoration through tribal Wongi punishment is explained by Christopher, “The way that tribal punishment for instance, is done is once it’s carried out its done, once it’s carried out that’s the end of the matter. The thing is forgotten about and people can heal and move on.” All the participants agreed that the current system of incarceration for criminal offences inhibits prisoner restoration, the opposite effect of their tribal punishments. Brendan offered in conclusion,

Sending them to prison is no good Steve... Yeah definitely no good, we have to find another way of dealing with Aboriginal people if they commit an offence you know? Don’t go to prison. You’re only separating them the family and things like that, and they’re worrying out there. Aboriginal people want to commit suicide, hanging themselves, anything could happen. Prison not the way to go.

The Wongi community is profoundly affected by incarceration with all the leaders spoken to having very close association with some current and former prisoners. Incarceration, while not too physically hard for inmates and providing opportunities they wouldn’t have in the mainstream community, creates much more damage and harm for the families of prisoners than it solves. The families of prisoners are innocent victims in the system of punishing by incarceration. Incapacitation results in unemployment, poverty and housing crises for the inmate and family alike, while simultaneously inflicting profound psychological and social damage to all involved. Retribution through incarceration is only accepted as such in cases of serious crime; in cases of minor offences it is just another form of discrimination Wongi people have to deal with in mainstream society. There is almost no evidence that prison acts as a specific or general deterrent in the Wongi community and attempts to rehabilitate prisoners while they are incarcerated is of extremely limited value. Even though all these intended outcomes of incarceration are failing the Wongi community, their leaders have some good ideas targeting restorative justice. By assisting prisoners to gain real world skills and qualifications while in custody, by keeping positive social and cultural bonds in place while incarcerated and by connecting with inmates on a spiritual level, real change is possible in the lives of Wongi offenders and restoration to their community and mainstream society is achievable.

Chapter 4: Discussion

The participants spoke freely and openly about the effects incarceration is having on their Wongi community. The perspective of the participants, being Wongi leaders, is probably the most holistic and valid on the experience of Wongi Indigenous Australians in particular. In speaking about the incarceration of their community members, the participants gave numerous personal examples where they had witnessed changes taking place in individuals, families and communities when imprisonment had been applied to those convicted of various offences. The purpose of this chapter is to outline the correlation, or divergence, of the Wongi experience of incarceration as compared with the experience of other communities. As with *Chapter 4 – Findings*, the topics raised by the participants will be framed in line with Spohn's (2002) five intentions of sentencing: incapacitation, retribution, deterrence, rehabilitation and restoration.

Incapacitation: intended outcomes and unintended consequences

Incapacitation through incarceration is intended to limit the opportunities the criminal will have to continue their criminal behaviour (Hatzistergos, 2010; Spohn, 2002). From the perspective of the Wongi leaders spoken to, Christopher expressed it best when he said, "... all gaol does is remove people from society for a set period of time." On one level this is correct and the criminal justice system in Western Australia, specifically the Department of Corrective Services, is achieving the desired outcome listed in their *Strategic Plan 2008-2011* "Offenders are managed safely, securely and humanely" (Department of Corrective Services, 2010d). However, on a deeper level, incapacitation is known to have a profound and unintended impact on the family and other associates of the incarcerated person (Graham, 2009; Kinner, Alati, Najman, & Williams, 2007; Krieg, 2006). It is these unintended outcomes that are the most alarming in reviewing the impact high incarceration rates have on the Wongi people.

When the participants spoke of incarceration, many associated it primarily with forced removal and relocation. While some of Wongi prisoners are able to be held in the Eastern Goldfields Regional Prison in Boulder, currently about 85 (Department of Corrective Services, 2010e), many more have to be imprisoned in Perth (Porter, 2009).

The Attorney General for Western Australia, the Honourable Christian Porter, estimated during parliamentary debate that over the years preceding 2008 the number of prisoners from the Wongi lands increased by sixty per cent. This increase coupled with inadequate prison facilities in the main centre of Kalgoorlie-Boulder resulted in 180 prisoners being held in prisons in Perth. Wongi prisoners are currently more than twice as likely to be incarcerated in a prison in Perth as they are to remain in their own lands for the length of their sentence. Incarceration is synonymous with forced removal and relocation.

Incarceration has a clear and detrimental effect on the employment of the Wongi people. The participants all claimed that imprisonment was an impediment to their people getting a job, before, during and after they are incarcerated. Walker claims that in every study, local and international, “serious problems of violence and petty crime go hand in hand with serious social problems, particularly unemployment and income inequalities” (1994, p. 14). Unemployment before incarceration is particularly prevalent in Indigenous communities in Australia. In 1992, 70% of prisoners across Australia were employed when imprisoned, but Indigenous prisoners were more likely to be unemployed at 78% (J. Walker & Salloom, 1993). Although it is unclear whether an impending prison sentence causes unemployment, or whether unemployment is a symptom of criminal behaviour, the statistics support the claims that unemployment is by far the norm before incarceration than is regular work.

Illiteracy is a major factor in the ability of Wongi people to gain meaningful employment. There is a substantial gap between the employment rate of Indigenous Australians who have completed secondary education and those who have not. Fifty-eight per cent of Indigenous people who finished school were employed in 2008 compared to 24 per cent who had not (Australian Bureau of Statistics, 2010b). Government service providers estimate that 20 per cent of Indigenous Western Australians have trouble accessing support for lack of literacy skills, with the highest proportion of these in the rural areas, including the Wongi lands (Equal Opportunity Commission, 2010). Education is a strong predictor of employment, with average literacy measures showing labour force participants having vastly superior prose, document, numeracy and problem solving skills than those who were unemployed (Australian Bureau of Statistics, 2008a). The significance of completing secondary

education is seen in the comparable rates of incarceration by education level and Indigenous status. In 1992, Indigenous people who had not completed secondary education were 127 times more likely to be imprisoned than the mainstream population, whereas non-Indigenous people without secondary education were just 10 times more likely. Furthermore, Indigenous people who had completed secondary education were only 9.4 times as likely to be incarcerated than the mainstream population (J. Walker & Salloom, 1993). The participants' concerns about illiterate and unemployed people going to prison seem to be validated by the rates at which Indigenous people are over-represented in all negative life chance indicators.

The impact incarceration has on housing was identified as a major negative outcome by the participants. More than two thirds of Indigenous people in Western Australia live in rented accommodation, far in excess of the mainstream community in which 70 per cent own or are purchasing their own home (Equal Opportunity Commission, 2009). High rental rates mean that when the nominated tenant is incarcerated, they default on the rental agreement and the house is let to another. The loss of a home in such circumstances causes substantial lifestyle changes and damages stability and has been linked to prison suicides (Department of Health and Aged Care, 1999). Indigenous people looking to rent a home also face potential discrimination (Equal Opportunity Commission, 2009). This means that single inmates often find themselves homeless when released, a finding that corroborates the participants' observations.

Incarceration also has an adverse and unintended outcome on the housing of the families of Wongi prisoners. Sercombe (2005) details the important kinship obligations practiced by Wongi families, which often result in multiple family groups living in a single dwelling, creating overcrowding. As a result, incarceration of the listed tenant can cause all those living at that dwelling become homeless as well, and may well move on to live with other relatives creating further overcrowding. Overcrowding is known to have an adverse impact on the health, education and relationships in the family and contribute to some forms of criminal behaviour (Department of Health and Aged Care, 1999). It is estimated that overcrowding affects about 25 per cent of Indigenous adults in Australia (Australian Bureau of Statistics, 2010b). This information correlates closely with that provided by the participants, as

that which they observe within their communities and demonstrates how interrelated the unintended outcomes of incarceration are.

Going to prison creates psychological problems for the inmates and exacerbates those pre-existing. Poor mental health is known to contribute to people committing offences leading to incarceration (Royal Commission into Aboriginal Deaths in Custody, 1990). Furthermore, once in prison environmental factors are known to increase the level of stress in the prisoners, often resulting in outbursts of anger at visitors, prisoners and prison staff (Nurse, Woodcock, & Ormsby, 2003). In Western Australia, the Australian Medical Association has warned that the environmental factors in gaol are so extreme, and the provision of mental health services so poor that local prisons are like time bombs waiting to explode with the inmates suffering extreme stress and anxiety (2010). Upon release, Indigenous people often display an inability to make free choices resulting from institutionalisation in prison (Royal Commission into Aboriginal Deaths in Custody, 1990). Data confirm what the participants claimed, that “it (prison) seems to be a bad place for making mad people even madder”.

The stress Wongi men face while in prison can lead to suicide. The male participants claimed that Wongi men can become so upset in prison that they will carry out acts of self harm and even attempt suicide to ease the pain incarceration causes. Indigenous people committing suicide in prison has been researched at length (Royal Commission into Aboriginal Deaths in Custody, 1990); yet, such events are still occurring (AAP, 2010). The research clearly supports the claims made by the participants and proves this is a continuing problem for Indigenous people in Western Australia.

The link between poor mental health in prison and continuing domestic violence was not anticipated. Although some research suggests imprisoning male domestic violence offenders is of limited value (Lucashenko, 1996), no mention is made of the escalating influence incarceration has on the violence within the relationship. Lashing out in prison is seen as a consequence of the negative environmental factors impacting on the lives of the inmates (Nurse et al., 2003), and a prisoner’s family can become victims. Verbal threats made while a person is in prison are commonplace, according to the female participants and constitute continuing

domestic violence (Western Australia Police, 2010). The negligible influence of incarceration to prevent domestic violence in the Wongi community is an emerging fact that requires further research.

Forced removal for imprisonment was identified by the participants as an unfair punishment, in addition to the confinement already imposed on them and the possibility of tribal punishment upon release. Prisoners are routinely transferred from Eastern Goldfields Regional Prison to Perth because the prison in Kalgoorlie is overcrowded (Porter, 2009). The effect of moving prisoners so far away, according to the participants, is that they experience increased levels of stress and anxiety while in custody. Unfortunately there appears to be little research into the effects of incarceration in what to Wongi people is effectively another country.

The transfer of a prisoner to Perth is a trigger for many additional issues for the family of an inmate. According to the female participants, partners of prisoners are obliged to travel to Perth with their children to visit them regardless of their circumstances. Economic and physical difficulties suffered by the families of inmates are neither well understood nor are there allowances made for them in mainstream society (Cunningham, 2001). The disruption identified by the participants fits closely with the accounts of Cunningham (2001) who notes the need to move towns, change schools, and build new support networks as obstacles encountered by the family of an inmate moved away for the term of their imprisonment.

Children grieve for their incarcerated parent and lash out with anti-social behaviour. The participants spoke of the damaged family relationships they saw in their community as a result of incarcerating a family member and the consequent changes in the children. Children of prisoners are known to display behavioural and emotional problems from fear and sadness to physical manifestations of distress such as sleeplessness, bed-wetting and increased general sickness (Wright & Seymour, 2000). Moving house or even town to be near their incarcerated parent creates even more trauma for the children as they have to enrol in new schools with all the associated issues that brings (Cunningham, 2001). Children are often the forgotten victims in parental incarceration and this research confirms the observations of the participants that the children at times develop aggressive and offending behaviour.

Incapacitation is intended to limit the opportunity the prisoner has to commit further crimes. But, Wongi prisoners suffer considerable stress and anxiety, and may simply adapt their offending behaviour to their circumstances. The families of these prisoners incur worse, with stress and anxiety of their own, in addition to the economic and logistical problems resulting from the imprisonment and frequent transfer to prison in Perth. The impact of incapacitation through incarceration often has the hardest impact on the children of prisoners, manifesting behavioural and emotional problems. Incapacitating Wongi men to prevent them committing further offences is counterproductive and results in unintended outcomes, including the collateral damage done to their families and community.

Retribution: intended outcomes and unintended consequences

Prison was not a very effective punishment, in the combined perspective of the Wongi leaders who participated in this research. The goal of retributive punishment, according to Hatzistergos (2010), is to impose a penalty equal to the crime, and in so doing express the society's moral denunciation of the criminal act. In some circumstances, Wongi leaders accepted that prison has good retributive outcomes for the individual and society. In many other cases however, it does not and incarceration is seen as just another form of disadvantage suffered by Indigenous Australians.

Where Wongi people are incarcerated for a serious offence such as child abuse or murder, prison is seen by the participants as an appropriate form of retribution. However, the Wongi respondents do not consider driving offences to be so serious as to justify incarceration. In Western Australia the vast majority of Indigenous inmates are not serving sentences for serious offences. For example, managers at the Roebourne Regional Prison claim that at least 97 per cent of their inmates are Indigenous and that 60 per cent of these are serving time for driving without a licence, 10 per cent for driving under the influence, 20 per cent for violent offences while intoxicated and just the remaining 10 per cent for serious offences like murder (Perpitch, 2010). Under sentencing legislation, prison is imposed as a last resort ("Sentencing Act," 1995), when the seriousness of the offence necessitates the highest form of retribution allowable by law (Fan, 2009; Hatzistergos, 2010).

The Wongi people suffer significant disadvantage in mainstream society. Research confirms that Indigenous Australians cannot exercise their life chances like people in mainstream society are able and that the rural Indigenous people like the Wongi often suffer more than others (Equal Opportunity Commission, 2009; Van Krieken et al., 2000). The participants detailed numerous areas in the lives of their community in which they are treated less fairly than others in mainstream society. Incarcerating Wongi people with the intention of punishing them, when the offence is not considered serious enough to justify imprisonment, becomes another form of social suffering the Wongi face on a daily basis. This reinforces the moral bankruptcy of the prison system in the eyes of the Wongi.

The delay between arrest and sentencing further confuses the retributive purpose of incarceration in the eyes of Wongi people. Significant effort has been made to reduce the delays in the criminal court system in Western Australia; yet, even so in 2008 there were more than 120 criminal cases that had been before the courts for over 12 months (District Court of Western Australia, 2009). By comparison, in tradition Indigenous culture, retribution is delivered as closely to the point of offence as possible (Brooks & Shaw, 2003). The effect of this is, as the participants claimed, that Wongi men are being incarcerated as retribution for offences they committed sometimes years previously, which they may have no memory of. Incarceration as a means of delivering retribution to Wongi prisoners is often so far away from the offence that it is not perceived as a legitimate punishment at all.

Retribution is an intended outcome of incarceration in the eyes of the law. When a person commits a serious criminal offence and is sentenced to a period of imprisonment, the moral authority of the law is reinforced and the person is punished. When a person does not commit a serious offence, yet is still incarcerated, the prisoner, their family and their community, may have some justification in being aggrieved with the sentence and questioning the moral authority of the law. This is definitely the case with the Wongi people where minor offences, from the participants' perspective, receive the same type of retributive sentence as serious offences. Incarceration is overused and now devalued as a means of delivering retribution to the Wongi people who break the law.

Deterrence: intended outcomes and unintended consequences

Another intended outcome of sentencing and incarceration is deterrence, both specific deterrence for the offender sentenced and general deterrence for the community (Hatzistergos, 2010; Spohn, 2002). The Wongi leaders who participated in this research believe incarceration deters neither previous prisoners nor their community from committing offences. Three general reasons emerged as to why they thought incarceration was not a deterrent: alcohol and drugs are involved in most offences, prison provides some prisoners with opportunities they do not get in the mainstream society, and incarceration is known in some circumstances to be a source of pride and admiration.

Intoxication is widely acknowledged within the Wongi community as being a major cause of criminal behaviour leading to arrest and incarceration. One participant claimed 90 per cent of Indigenous prisoners in one regional Western Australian prison were there as result of alcohol related behaviour. Research by Snowball, Weatherburn and Hunter (2008) supports this claim; that alcohol abuse is the strongest predictor of imprisonment amongst Indigenous men. Alcohol reduces inhibitions and increases the likelihood of problematic behaviour in some people (Gossop, 2007). The participants' claims that prison is no deterrent to intoxicated people are amply supported by the research.

Prisoners in Western Australia are cared for under the Department of Corrective Services, Strategic Plan 2008-2011, which states "offenders are managed safely, securely and humanely", and the offender's rehabilitation needs are met in the areas of qualifications, skills and employment (Department of Corrective Services, 2010d, p. 1; Department of Health and Aged Care, 1999). Given that regional Indigenous people like the Wongi suffer greater disadvantage than urban Indigenous people (Australian Bureau of Statistics, 2010b, 2010c; Equal Opportunity Commission, 2009), it seems logical though counter-intuitive, that Wongi men might desire incarceration so as to access opportunities in life that would otherwise be unattainable to them, just as one of the participants claimed. Prison is seen by the participants as an undesirable place, but compared to life in mainstream society, prison is not seen as a deterrent but a desirable destination.

Perhaps the most remarkable findings of this research were the claims that Wongi men would commit offences so as to be incarcerated when the elders were looking for young men to initiate in tribal culture. Initiation is unpleasant for the candidates at the time; yet, when this is completed they carry increased authority and respect amongst their community (Berndt & Berndt, 1980). As initiation ceremonies cannot be conducted in prison, unwilling candidates can take refuge there, avoiding their cultural expectations and possibly saving face within their community. Prison is far from a deterrent when it is the only place Wongi men can protect themselves from unwanted traditional education and testing.

Incarceration holds little if any deterrent value for the Wongi people. Research, both local and overseas, confirms the intended outcome of specific and general deterrence, are not achieved in circumstances like those facing the Wongi people, where substance abuse and lack of opportunity are bigger factors in criminal behaviour than fear of punishment.

Rehabilitation: intended outcomes and unintended consequences

Incarceration is used to facilitate the preventative intended outcome of rehabilitating the prisoner, so they are less likely to commit offences again in the future (Hatzistergos, 2010; Spohn, 2002). The participants spoke of two types of rehabilitation: alcohol and drug rehabilitation, and up skilling the inmates for employment when released. None of the participants believed rehabilitation programs worked; thereby, challenging the justification of incarceration on rehabilitative grounds.

Prisoners in Western Australia are not permitted to consume alcohol or any illicit drugs while in custody (Department of Corrective Services, 2010c); theoretically terms of imprisonment are periods of total drying out. The participants and the prison authorities acknowledge, however, that some alcohol and drugs do get into gaols and are consumed by the prisoners (Department of Corrective Services, 2010c). In any case, when prisoners are released from prison, the environmental factors associated with their drinking and drug taking behaviour often result in immediate re-incarceration. The environmental factors in Indigenous communities, like the Wongi

people, are known to be predictive of problematic substance abuse and criminal behaviour (Gossop, 2007).

The moment a prisoner is released is the most crucial in determining the success or failure of the rehabilitation of the person (Lyles-Chockley, 2009). The participants claimed as soon as prisoners are released everything they have learned is forgotten and they return to their drinking companions in short order. Re-entry programs are crucially important, a point recognised by the Department of Corrective Services (Department of Corrective Services, 2010c). These programs are very poorly planned and implemented and yield very few positive results (Community Development and Justice Standing Committee - Western Australian Parliament, 2010). This correlates with the participants' claims that rehabilitation programs in prison are inaccessible and ineffective, and that without follow up and support in the mainstream community recidivism seems inevitable for Wongi people. Efforts undertaken by the Department to address these issues, particularly in the regional areas like the goldfields, are commendable and long overdue.

There is a high number of Indigenous prisoners in Western Australia who are incarcerated because they were caught driving without a licence (Australian Bureau of Statistics, 2008b; Perpetch, 2010). Rehabilitating these people would mean helping them to get a driver's licence; thereby, reducing the chance they will recommit this offence again in the future. Likewise, language and literacy skills have been identified as significant predictors of employability and recidivism (Community Development and Justice Standing Committee - Western Australian Parliament, 2010; Royal Commission into Aboriginal Deaths in Custody, 1990). Rehabilitating offenders with literacy problems by giving them English classes tailored at their level of ability would similarly increase their opportunity to find work in the future and stay out of gaol. In regards to both examples, the participants and researchers agree that rehabilitation in prisons is not providing the life skills and qualifications prisoners need.

Restoration: the future

The Wongi participants believed that the current system is failing to restore inmates to either their own community or the mainstream community. Restoration is a large part of traditional justice; that is, a person is punished and then restored as soon as possible after the offence. The participants failed to see any level of restoration in the current justice system. The overwhelming consensus was that change is needed in the justice system to restore Wongi offenders. For example, Andrew's wife was troubled by the prospect of prisoners being incarcerated for not having a driver's licence, and yet leaving gaol without the skills and qualifications needed to drive a car. To her, the justice merely punished the prisoner but did not restore.

Lyles-Chockley (2009) argued that the socioeconomic conditions that accompany the moment of release from prison determine their success in transitioning into their community and the likelihood of recidivism. Most of participants believed that the re-entry of Wongi prisoners was not well handled and recidivism rather than restoration was the norm. As Eileen claims, she has never seen a single person released from prison whose lives were improved. In other words, the traditional cultural goal of restoration through punishment was not occurring. The participants held more hope for the work camp accommodation and staged release programs as better preparation for re-entry. In fact one participant believes some restoration could be achieved by returning to the community and making prisoners work to repay their social debt, reinforce community standards and reinstate important relationships. For the participants, restoration was an important feature of punishment that was neglected in the incarceration system.

Within traditional Wongi culture the threat of being shamed is far more of a deterrent than incarceration. A visible demonstration of remorse towards the victims and compliance to accepted social standards of behaviour is the goal of the traditional process of shaming. The idea is to restore the person to the society rather than continue punishment. For many of the participants a return to Christianity was seen as essential in producing lasting positive change. In their experience, a spiritual transformation was often a precursor to restoring prisoners to a useful and productive membership in the Wongi community. The present justice system does not include the aspect of

shaming in its process, but it continues to punish long after the sentence has been completed, and does not contribute to offenders feeling remorse or changing their attitude. Social shaming is a much more powerful deterrent and vehicle for restoration in Wongi communities. Wongi leaders believe that restoration should be the focus of punishment. As Brendan said, we have to “find another way of dealing with Wongi offenders” – “Prison, not the way to go.”

Chapter 5: Conclusion

The Wongi community is profoundly affected by incarceration. All of the leaders interviewed had very close association with current and former prisoners. While not overly physically arduous for inmates and providing opportunities in mainstream community, incarceration creates much more damage and harm for the families of prisoners than it solves. The families of prisoners are innocent victims in the system of punishment by incarceration. Incapacitation through incarceration results in unemployment, poverty and housing crises for the inmate and family alike, and simultaneously inflicts profound psychological and social damage to all involved.

Retribution through incarceration was justified by the Wongi leaders only in cases of serious crime and they saw incarceration for minor offences as just another form of discrimination that the Wongi people have to deal with in mainstream society. They believed that there was almost no evidence that prison acts as a specific or general deterrent in the Wongi community. Their views on the rehabilitative effects of incarceration were that it was of extremely limited value.

Although all the intended outcomes of incarceration – incapacitation, retribution, deterrence and rehabilitation - are failing the Wongi community, their leaders believe that restorative justice programs where prisoners are assisted to gain real work skills and qualifications while in custody, the ability to create and maintain positive social and cultural bonds while incarcerated and making spiritual connections, real and restorative change is possible in the lives of Wongi offenders. By emphasizing restoration to their families, community and mainstream society, they can be brought to a place of making a positive rather than negative impact upon their society. Without restoration, these offenders will continue to offend and their families as well as the wider society will lose whatever positive contribution they could make. The Wongi leaders believe that restoration is achievable if there is a change to the system.

This study included the perspectives of five Wongi leaders around Kalgoorlie – as such the sample is limited and localised. Their insights, although valuable, cannot

be extrapolated too far. Further research is required with far greater sample sizes and including more geographical and socio-cultural diversity. The issues raised in the Wongi lands cannot be applied without qualification to other Indigenous people groups. To improve the criminal justice system, practical and symbolic efforts must be made to raise the moral authority of sentencing and incarceration. Leaders within the Indigenous communities must be consulted to gain their perceptions on a range of issues including:

- How do they believe the justice system can improve their society?
- How do they believe incarceration can be used in a better way?
- How do they believe sentences can be made more fitting to the crimes?
- How do they believe offenders can be restored and reintegrated into their society as fully functioning and positive members?
- How do they believe the justice system can be adapted to suit local needs, real people and provide real solutions?
- How can the moral authority of the justice system be strengthened?
- How can the family unit and community be supported during times of incarceration of their members?
- How can effectiveness and efficiency be balanced within the criminal justice system?

These questions would provide a basis for planning, implementation and action. More importantly, positive actions in response to these questions could lead to a greater respect for the legal system, active Indigenous community support for the legal system and a far more effective use of taxpayer money which appears to be presently wasted by increasing the levels of Wongi incarceration.

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Appendix A – Interview with Andrew

Interview by Stephen Bedells

Participant: Andrew

Date: 11/06/2008

If you're happy to, you tell me what, what's, what effect does putting all these people in prison, what effect does it have?

Yeah no, one of the thing I can see I think that um, If you have, if you want control, of anything like if you want to like, I believe we're where the Aboriginal people are at the present time, they don't ought to be there, they ought to be let's say that um the level of, the level of society here (indicates high), Aboriginals down here (indicates low). I believe the Aboriginal people should be here. Equal.

Yeah

Ok?

Yeah

You know the houses in, the houses in Mandurah along the river front there?

Yeah

I believe that Aboriginal people should own about half of those houses, like even you take that one house, that's worth about three, it might be worth about eight hundred thousand dollars, and Aboriginal people should own about 40% or it or 50% of it. Why? Because the ground. Everything comes from the ground. And the ground belongs to the Aboriginal people. You got them skyscrapers in Perth? Aboriginal people should own half of that. So this western law that we operate in, do not care for Aboriginal people. Do you understand that?

Can you explain that?

Well Ok, this law that we operate in Western Australia, this Federal no not Federal this common law

Yeah

Crown law, all that stuff, do not cater for Aboriginal people in the beginning Aboriginal people were, were, um, classed as flora and fauna, terra nullius what you call it and they were meant to die out like the dinosaurs. But we're still here. Do you understand that? And they can't, see if they if they destroyed the only way you can destroy people if you control the people. And what you do you divide and conquer you, you empower, see the protocol of this land is man OK the protocol in the law is man so in warfare to conquer and defeat someone well you empower the woman you give her authority and rule the nest. That is what has been done, it's been done. What they're doing to Aboriginal people is warfare you incarcerate the you incarcerate the community by destroy the men. You know the pride who that man is. Do destroy the husbands the fathers and the men and you conquer the people. You don't fix up the issue concerning health and housing you know because you can't afford it. This government cannot afford to fix up the issue concerning Aboriginal people. Because we own everything, so it's easier for the western world to not address the issue concerning Aboriginal people. Ok sorry.

No, no, that's fine, so you see the affect of incarceration as being the government controlling the Aboriginal people by locking up the men.

Yeah we do, you see you um, you know, you know you look at John Howard he's a very crafty man. He had internal problems he had all these problems that um, that um, Kevin Rudd is looking after looking at now. But ruddy was cunning rat he got our eyes and focussed on our outside problems. Iraq, boat people, he has few problems in the last 30 about 13 years. High price

You say fuel problems?

Yeah fuel, you know, when you talk about the fuel. We had that problem 13 years ago, we had that 20 years ago, but the government, the government, John Howard he didn't, he took away our focus from inside, from inside issues and made us look out there Iraq, and over at other things. He just loved, he just loved you know we could look at Aboriginal issues today the government should be shocked for what they done. They should be put in gaol for what they are doing; they are breaking their own laws. They aren't breaking break their own laws; they are breaking God's laws too. You know, the bible in the, go back go back to the bible Romans 13, submit to authority of the land, what authority, is it the western authority? Or the authority of the Aboriginal authority, because the Bible also says that you submit to the authority that God established. And because we are human beings you know there was a culture there was a law, there was a, the Aboriginal people had had rules ok. So you breaking the law that God has given every man. And you submit to the authority of this land, not the authority that came from England but the authority from this land, 1000 years.

Sure

And we as Aboriginal people should be at the table. On level ground, not under you know, it's like what I've being saying to Christine, the only way this Aboriginal issue and non-Aboriginal, like the government and white fella issue and Aboriginal issue, the only way to come to come to what you call it, is marry, husband and wife, a husband and wife, they share equally in the house the children the animals and all the things that they own. Now the Aboriginal people here and the western government here, ok not under. Not the western government, you know you've got the communities, you got the queen, and then you've got what the other one

Governor General?

Governor General and then you've got the prime minister. You hear about did you hear about the Queen, on the throne of Australia, Aboriginals should be equal with the Queen. If you get rid of the queen, the Aboriginal people should be equal with the Governor General. And if you get rid of that, Aboriginal people should be equal as the government. Not under, that's the only way you can, that's the only way you going to

fix this. Because there's no other way, otherwise, you will always have 90% of your prisons fill with Aboriginal people. Because 217, 220 years ago there was no law, no law concerning Aboriginal people, so what the non-Aboriginal people do, they locked up themselves ok?

What about, let me let me just come back a little bit. What about the actual people themselves personally that get locked up in prison?

They need to be free. Ok it's still the curse, if I curse you, and went away 20 years time and came back that curse will still affect you true? Well the curse is terra nullius. See you go speak to those guys in prison and you dig up one of those graves where a man committed suicide and you talk to him, and you ask him, "Why'd you kill yourself mate?" He'll tell you, "Because I'm nothing." If you go talk to these guys in prison and you ask them "What you doing in prison here?" "I'm nothing." And where does that curse come from? 207 220 years ago, one Captain Cook raised the union jack and declared this place for England and then he spoke the curse that he declared this place terra nullius, meaning there is nobody occupying this land. Someone needs to repent. Someone needs to renounce. I hope you do a Christian survey. Because this is where,

Both. Well not all Aboriginal people are Christian.

Yeah I know, but the thing is this here, you go, you know someone need to, this is time hard time now that this society this land Australia, need to go back to, need to go back to where the white man come to this land, Botany bay or whatever you call it, and renounce that curse and ask God to forgive them. For what they have done in this last 220 years.

So the people that get locked up there at prison, they feel

They are powerless. They are nothing

They are nothing that's why they are there?

I've heard that when they're in prison, their health gets better? Because they get looked after, they've got doctors and nurses and stuff there

Yeah. Is that true, is that fair to say?

Well yeah I think it is. If you go to prison you get three meals a day there, you live out here you get, there's no chance of getting a job. You there, the Aboriginal people we have been negotiating for years for equal rights for our mining people, but because the system is against us

Do you think there are problems with employment?

Yes

Because of the incarceration?

Yeah including (pause) including (pause) Did you ever see the picture, blue eyes and brown eyes? Have you ever heard of it?

Sorry

(Andrew's wife)! Can you help find that blue eyes and brown eyes please?

It's not on the shelf?

I don't know. I reckon you should see this for five, ten minutes. This is, this picture will help you.

(Finish this one first?)

Yeah

Have a quick look at it later That's ok?

Yeah. What about education?

Education,

They get taught things out there?

Look, nothing concerning English, the only way I can talk about the English language is it's a mongrel language the reason why I call it a mongrel language is that we speak words that we don't spell. Ok. Now education the only way the only way we can fix up education, is if we cater for the people. You have this English, even the white people don't learn it properly. There's nothing wrong with the language but the way they teach it. So education is a big problem.

Does incarceration, does education for the people in prison, does that help, or not much?

Education is important it is very important. My African brother from Africa he recon there is two types of black fellas in his country. Those who got western education and those who did what they did for thousands of years. When they got rid of the white people, those who got the western education they are the bosses today and those that did not, that's the western educated they the servants. So Western education is very important.

Ok

Does that answer your question?

Yeah sort of, sort of.

I don't know where it is, but you can find it on the internet

Can you see it on there

Yeah keep going, what other questions

What about employment?

Well if you don't fix up education there's no employment full stop

What about the people who get locked up, do they?

A lot of them go there, go to gaol to finish their high school.

Is that fair?

That's true. Some of them go to high school, sorry go to prison. To get their grades, they don't even learn to read so when you at home, see if your starving, there's no bread on the table, education is the bread that served second, second (pause) thing on the mind. But when you're full, had your full, then you can do your education. So you know there are opportunities in prison, you know there's, that we just we don't get that opportunity out here.

We've spoken generally about the community, the Aboriginal community being controlled by incarceration. What about specifically, for an Indigenous family, when one of their members gets locked up.

You see one of the things one of the things that I talked about is that um, we need to own this country, for us to compete in this country we need ownership. When we own, when we own our own communities and our own, own, own destiny and stuff that goes with that., when it becomes mine, I have a bit of a better fighting chance. See in John 10 is says, if any man enters the sheep pen but by the gate, he is a thief and a robber. See my forefathers they never invited anybody into this country, so you just remember that the law need to be fixed.

(Andrew's wife) Though with that question its interesting like, that with one of our boys, we've got a whole range of issues and charges, but he because he's got that that constant threat of going to gaol and waiting for the next sentencing to go to gaol and that kind of thing, he could never get a job. But because, and that's being going on

basically, like (Andrew's son)'s 20 25, from the time he was 16 when he started getting, into things that weren't really criminal in the first place, a lot of the charges were not, and he but they spend all this time trying to avoid getting picked up being doing more things that are anti-social because you can't get a job, you get a life, because you can't go get a police clearance, because if you go to the police station the warrant will be, is already activated, and if you give them your name then you're going to get picked up straight away. So you go, and even if you decide you want to go like we took (Andrew's son) he decided he wanted to get all these outstanding things sorted out and he went but they wouldn't take him, he had to wait for his next court date, and he got another fine and another sentence and it got held over and you've got all these things that are just building up and building up and you know eventually you are going to go to gaol but in the mean time you can't do anything productive, you can't get a house, you can't get a job, there's no point having a permanent relationship because you don't know if you're going to get picked up tomorrow, or in a year or in five years. Because it often takes that long. And so one problem in the system is that the punishments are too far away from the actual event, so you end up in gaol at 21 for things you did when you were 16, that you didn't do in the first place

(Andrew) *Can we leave it?*

(Andrew's wife) So you didn't pay the fine or didn't do the community service and you've been forced into this life of basically being on the run and you can't be productive, you can't, they've all, (Andrew's son) has got all of these outstanding things, and one of the problems is driving without a licence. Well the stupid answer to that is, put him through a driving course, give him a licence and he won't have those and there's hundreds of people, Aboriginal people in that situation, so you get a fine

Is that fair Andrew?

(Andrew) Yeah

Appendix B – Interview with Brendan

Interview by Stephen Bedells

Date : 21st July 2008

Participant: Brendan

Ok Brendan, thanks for being willing to talk to me about this, which ones the microphone, thanks for being willing to talk to me about this. Can you tell me what you think the effects of incarceration is just to start with just for the person who actually goes to prison what effect, what effects do you think incarceration has on them?

Incarceration, what will is having on those people who get locked away in prison, is firstly they are being separated from their family you know. They are being apprehended from their family and the day one when they get locked up place in the prison, they got no more contact with their family anymore you know, and it's causing a problem between the family and that young bloke because they don't know what's happening, when he's coming back. You get that effect straight away.

And so that affects not just the person but their family

Their family as well back there in wherever...

Would that have much effect on their community, their broader family?

Yeah well you know most of the young blokes who get locked up, say we're talking about the Desert people, out in that Warburton area, Wingelina wherever, when they come into the town, Kalgoorlie or Laverton and they get locked up, placed in the cell, they effect that they have lost their cultural ties in the community you know, because most of them are men anyway, they what we call Wadi you know is a man. And they all their cultural activities that they carry out on the land is not being done. They are not mixing with the people that they go out with, things like that. That person who is

actually in prison, who's looking after the family of that person? So while he's in prison he's really worried for his family his close family like his wife and children back there, how they getting on. So while they're in prison that's affecting him every day there.

For the people who actually go, the people who go to prison, do you think going to prison affects their health.

Yeah well do you know I know if you're stressed out, you're stressed in prison. I know what stress if you're in prison. I know what stress does, you know, to people. And if they sit down and they're stressed out, sure you get sick then, and you can die.

What about the doctors and nurses though, when they're in prison, don't they get looked after?

I don't what's the arrangement with doctors and nurses and everything at the prison, I don't know you know, what really happens up there in the prison but you know, I don't know even if they're being cared for at the hospital and at the prison and things like that, you still got the worry thing going on and on continuously you know? Even if you are visited by doctor and nurses, you still got that worrying feeling at night, during the day and all that. You worried about you family back home you know.

What about their family, would their family be, would they have the same sort of stress?

The problem that that young bloke in prison will have is the same effect the family out there will have, you know?

Ok, I suppose for housing, when people go to prison, do they automatically lose their house or would there be, does going to prison mean that you lose your house?

No because in the community you still got your house. Because maybe you're family still in the house, but maybe the rent will be hard too because you know you at Centrelink you get payments for two persons instead of one you know. By having one

payment going to the wife or something like that, that money won't be able to go round and to pay the rent and things like that in the community requires.

Ok so they get less, less social security

Less social security

Education, training or anything like that

No that's not a major problem that because you know, at the community, I'm talking about in the desert, they're still out there you know school kids still go to school, you know.

What about for the people that go to prison, do they, do they get, does it help or does it damage their education or does it affect their education at all?

No I can't see how their education can be effected because in the prison the actually get, they try and occupy them some way in prison you know, the way of doing paintings and things like that. I think that the prison try to get them occupied so that they keep them away from worrying and things like that you know?

So you heard of some training?

I've heard that they do painting a lot in prison, but I don't know about trades?

What about their families, I think you've already answered this but, a man or a woman gets taken from their family and put in prison, would that effect the education of the children or the family left behind?

No I don't think so.

No?

No, because sometimes as you say a woman gets locked up too in prison and the man's out there, well he'd be really concerned about her, in prison. She could be going with somebody else there; you don't know what's going on in prison. So that's a concern to that man inside too you know.

Employment? Does putting people in prison affect their chances of getting a job?

Oh yeah, cause one thing once you're in prison, they can't be able to pick up the same job they had before you know. You lose the job automatically, when it goes to somebody else. You have to start all over again you know.

What about when you come out of prison, would you have problems getting a job if I've just come out prison?

As soon as you say that you've come out of prison, straight away, why you've been in prison, you know, so they want to check your background especially in the mining industry, because you must have a police clearance before you get a job in the mines you know and you have to have your Marksta they probably want you to sign a thing to say you've been in prison they want to check you out properly you know. So that really affects you after you come out and say that you've been in gaol.

What about the family?

The family automatically suffers you know because the person will not be able to get pick up the job that he used to have before. He won't have that anymore.

What about somebody who's spouse goes to prison, would they have less chance of getting a job?

By all means, because they are able to look after the children for a start you know, automatically stops them.

Ok is there any other effects of incarceration that you can think of, just anything else?

Being when you get locked up in prison, like in Boulder prison, the other effect that our people have going back home you know? They find it very difficult to where they come from in the desert. As soon as they come out they're just let out into the street, they stuck here and they could be back in gaol again because straight away they're just come out and thrown in amongst the alcoholics walking round in town, drink with them and probably get picked up by the police and then they're locked up again. Straight back into gaol again. I don't think some of the prison warders to out there at the prison you know, I know one young bloke who came out and told me once, he said, you not going to play up any more are you because I know you spent a few years in gaol. Then he come back to me, well do you know what happened Brendon, as soon as I come out the gate at the prison, the warders say to different ones, don't forget to come back and see me you know. The warders. They come back you know? They come back and see the warders again. So you know, comments like that coming from the warder shouldn't be allowed either you know. Don't forget to come back again you know. So you get these sorts of comments coming from people who work there.

It's not helpful

It's not helpful. What they should be saying to the thing, I hope you go out there now and better your life and get a good job and settle down you know. Make them sort of comments instead of saying come back.

Ok thank you very much for your time Brendan, if that's it?

That's it yeah.

Thank you very much.

Interview continued 5th August 2008

Ok Brendan, we've talked about incarceration. And of the things of incarceration is that there is removal. The person gets removed from their family. Does that help them, or does that effect them do you think?

Not really because once they're removed they're actually in there worrying about their family because of the punishment they got. But it really won't affect them you know.

Does it affect the family much?

Yeah well the family suffers that too, because maybe the man is locked away somewhere in prison, and she have to suffer with looking after the kids on her own.

What about punishment. Do you think it's a punishment for people to go to prison?

If there's any other way, there's that may be one punishment you know the white people use on Aboriginal people or anybody you know that commit an offence. But with this one here it's not really a punishment because they back doing the same thing again.

Does it hurt them to be sent to prison?

Oh yeah, it worries them if the going to prison, if they're separated from their family yeah.

So it does punish them?

It does punish them in a way I suppose.

Ok what about reformed, do they come out changed, like better that they won't do it again perhaps?

I suppose you know when they come out they probably be thinking oh I'm not coming back into prison again, you know after being in prison and seeing all the other inmates and things but there's no other alternative. You go back there and mixing with the same people again that's actually on the grog and things like that. They always get into trouble and they back again.

So they might be a bit reformed when they come out,

Come out but that's only for a little period of time because they actually mix back with their own mob again.

And as soon as they get back with their old mob,

Yeah

Yeah, ok what about deterrent, do you think the threat of having to go to prison, do you think that helps them not do crime?

No, no I can't see that happening myself. They seem to back into prison again you know? It don't happen at all.

So it doesn't really deter them from doing crime?

No, if there's other alternatives out there, where people can go to without being in prison it would be the best thing you know? But there's no other alternative but to going to prison.

What kind of alternative do you think?

Well something like that boot camp out there, near Mount Morgans you know? Yeah that's good because they're in their own environment, they're allowed out outside their yard, they can go and cook kangaroo meat in the ashes, they sort of with their own mob. They're doing all the things that they've been doing all the time anyway. That's the best way, the boot camp.

Excellent - Thank you very much.

Good, Steve

So Brendan, what good is sending people to prison?

Sending them to prison is no good Steve.

Really

Yeah definitely no good, we have to find another way of dealing with Aboriginal people if they commit an offence you know? Don't go to prison. You're only separating them the family and things like that, and they're worrying out there. Aboriginal people want to commit suicide, hanging themselves, anything could happen. Prison not the way to go.

Appendix C – Interview with Christopher

Interview by Stephen Bedells

Participant : Christopher

Date : 23rd June 2008

Alright mate, thanks for being willing to talk to me. So what I want to talk about is today in 2008, for the people that are incarcerated be in Boulder prison, or you know in the goldfields, what effect does incarceration have on them, just generally in your own words, but specifically I want to cover the areas of health housing education employment and anything else you think is relevant to incarceration.

There's a couple of things, how I see it is that you have re-offenders that are coming in all the time that really prison is having no effect on. In some instances people are far better off, dare I say it, in gaol because they are receiving three meals a day, their life is regimented. There's an orderly aspect to their life. And of course there's alcohol, they're removed from alcohol which is the biggest the worst sort of drug around to do that to people you know. And in my life I also didn't tell you, I worked for the Aboriginal Legal Service at one stage too and up in Broome and 90% of offences involved alcohol, you know, under the influence of alcohol. Yeah so that's a big issue, and really all gaol does is removed people from society for a set period of time. The punishment is the actual removal from society. So you don't punish people who are already in gaol because they've already been punished by being there, so it's a double whammy thing you know. So it's just removing people and the fact that in some areas its seen as a rite of passage, to go to gaol, particularly for young people, for young guys, in areas sometimes when there's law business on, people will deliberately, young guys will deliberately commit crimes to go to gaol so they have to get, so they don't go through that. I've seen that happen on a number of occasions. Yeah so there's no real fear I think you know once you in gaol people are allowed to have contact with their communities, that is through phone calls of visits the biggest fear in the removing

them from, if they're incarcerated in Kalgoorlie and then moving them to places like Canning Vale or Casuarina, which is completely out of their land out of their country, and it also makes it hard for them to see their own family. And certainly in the prisons I do know when I was working in Canning Vale we had people in Warburton in gaol as well and we would allow them phone calls and the thing was with those people in was the thing of talking right mob in the right language. You know, that was really important. I mean they're not going to escape or anything like that, pretty hard to get out of Canning Vale, but that sort of eased them a bit when they were able, when they were down south they were able to talk to their own people in their own language, and they basically wanted to know what was happening in their communities. A lot of the other things, the education levels are not understanding, I mean the way I see it at the moment there's a real clash between traditional culture and western culture. In the traditional cultures it's more of a sharing, things aren't looked at and when I say things like cassette players, dvd players, TV's, they look at a bit different to the western culture you know. In the western culture you know, in the western culture they're valued I worked hard I bought this, this is what, in the traditional culture it's more like we bought this and if it breaks, oh well so what we'll get another one. In terms of values it's very different in regards to material possessions. Because going back to the early days of course, Aboriginal people had very little material possessions. The other thing is in some communities they are socially isolated from the rest of the world, they're not in contact with, and they only contact that the young kids do have these days, certainly these days in communities, is MTV the I call Coke Cola culture, and have their baseball caps turned backwards. And of course on TV there's a lot of, particularly on the music channels it's very, very sexualised at some points and these are the messages that are getting sent to young Aboriginal kids. You know, never been to Perth or never been to Sydney places anything like that. So they're getting all these mixed messages which are creating a lot of confusion in those communities. And the people don't really know how they stand or who they are. Culture is very strong in those communities still. And that's a good thing. A lot of cases happen as I said before when alcohol is involved is when the bad stuff happens. And that's a real killer of our society I think.

Ok You've mentioned the link between alcohol use and why they get put in prison, so their removal from alcohol, that would probably be a pretty good effect on their health. Does being put in prison have any other effects on the people's health?

I think what it does is it makes people question themselves as who they are as a person, being so, being in prison again the social isolation thing, and they question their sense of value as to who they are. In the prisons you know you're just called by your surname and you're watched all the time there's no privacy so, you know I think some people just seem to tend to give up and say, this is it, this is my life you know, rather than seeing a different way, a different step you know, another way of doing things.

Would you say that incarcerating somebody would have any effects on their family?

Yes definitely.

How do you see that affecting the family?

Well naturally with the mothers they you know, with the son, they tend to miss their sons and that when they go to Perth, if there's siblings they tend to miss they're older siblings, or you may have where the younger siblings try to emulate their older siblings, this is the path I'm going to take you know. And the other secret to it is all is what I firmly believe in is that in education you know, we must, we must get kids, start producing kids who are able to read and write. You know that's how we are going to tackle these issues.

How does incarceration affect education?

Well they miss out on it. They miss out on schooling, even though they can go to school in the prisons, it's not the same because you're all in the same boat; you all go to the same class. Whereas in society you're mixing with people from, kids from all different backgrounds who have got all different experiences, and that's really where kids learn to relate to begin to relate to society as a whole when they first start going to school that's where things are a bit...

Socialisation

Yeah all those sort, and then they pick up the social skills all that sort of stuff.

What about the family left behind, does that effect their education?

If the person the person going to gaol was the main bread winner that would certainly I mean, that then could drive the family further and further into poverty, and we know when the main breadwinner is gone that when you know the bills start rolling in there's no one to pay them, so people end up getting kicked out of houses and it's a vicious circle then, and again the system steps in if they owe credit, you know to a credit society and there's no payments coming in so they get taken off to court, goods get repossessed and all that sort of stuff. You know the kids aren't fed; they don't have proper role models,

Ok you've mentioned the housing there what about the person who actually gets put in gaol, they don't need housing while they're there, but what about when they come out would being in gaol affect their chances of getting housing when they come out?

Yes, certainly today because as we know the cost of rentals have gone through the roof so you can't just come out of gaol and expect to rent a house you know. Currently you know with the current cost of about three to four hundred dollars a week for a three bedroom house, that really is, but it's also something that effects, I believe, not only Aboriginal people but all young people in society today are really finding it difficult to afford to buy a house and that you know, it's almost beyond the reach of most young people so yeah I feel sorry for the in that respect. The housing generally when they are released, they've started up a program where they can return prisoners back to their communities, when they released, if it's timed, if there is a bus running. They can do that, but the majority of times if they're released on a Sunday they're left to fend for the own, so the first thing people going to do meet other people who are living on the streets and they mix up and get drunk and the whole cycle begins again. But if we can find some way of getting them back quicker to their communities, we may be able to stop or at least slow down the recidivism rate.

Employment?

Very difficult for people who have been in gaol because one of the things they want is a criminal record check. I don't know it's probably a bit difficult a lot difficult in the mining industry and you know being in surrounded by mines and a major source of employment are the industries and with the criminal checks of course the levels of English if people can't read and write when they come out of gaol, there's no chance they're going to work in the mining, safety reasons they can't read safety signs and things like that so it's never going to happen.

What about their family?

Again their family would still be in that poverty trap. Still trapped in that, it's important for people to have meaningful employment, I think because it gives you a sense of pride knowing you can achieve something you know and it also gives you a chance to socialise with other like minded people socially. You know whether it's down the street or at a football game or something it does all that, it improves health of course if you able to, if you have a job you can afford to buy your children you know proper foods, healthy foods, that sort of stuff.

Well that's a good point about the health of the family and the rest of the community, if they go to prison, what happens to their family?

The families generally struggle. Generally struggle and of course we know that the cycle of poverty you might have one family living in a house, the main breadwinner leaves, he's gone to gaol and then the family kicked out of the house and they move on to the cousins house so you have overcrowding which occurs and I think we have my own feeling is we have government talks about closing the gap, but I think the first way we, we will never be able to close that gap until we give people adequate safe secure housing. And to get away from overcrowding, because we don't it's the normal on the communities three bedroom one bathroom toilet sort of housing whereas Aboriginal families tend to be a lot bigger. And the other side we don't really look at, is the single people, the men the single men who go to gaol there is no accommodation

for single men. Certainly no public housing available for them so they just drift from house to house, they stay in one house until their welcome wears out and then move along sort of thing. So they're never ever going to, things like employment is doesn't even enter their mind when every day is a battle for survival for them.

Well that's about it unless you've got a few closing remarks or anything else you've thought of?

One thing I did find was what we did under heritage grants here in the early, when I first came to Kalgoorlie, we had my department people were able to access heritage grants and reconciliation grants so what's is convinced me was if we could train people like in terms of fencing I was up in the communities, one of the communities was worried about camels killing the water holes, so I thought let's get, try and get a grant and fence off these water holes, and of course every waterhole has a story in traditional culture and there's a song to it and cultures very important and the reason I say this is because when we talk about employment there doesn't seem to be any recognition of their culture. But we do we ran a fencing program, what happened was is, because it had to do with culture we had more guys turn up to do the program than if we had just run a normal fencing program. Because people were interested in protecting their culture and in Aboriginal culture you have to be seen to be doing that, you have to be seen to be doing that culture. Other people, it's like witness, people witness what you do, which is very important you know, and so somehow we need to, a good way if we can find employment that touches on aspects of culture, I think we'll get more and more people along to work. Particularly on communities where there is no work. And that culture that thing could be like cultural tourism taking tourist out and show them sights that people are allowed to come and visit and telling those stories for that place. People are very proud of doing that, very proud of telling those stories. It not only gives them pride it's a continuing of the culture. We need to keep it going.

So I guess incarceration

It just isolates them from their culture.

Yeah

Yeah just totally isolates

Which removes any possibility of a link between culture and employment be it what they're doing in prison or what they get when they get out of prison, if they get referred into a program, it's not related to their culture,

No, it's totally alien, it's an alien concept to them. Because most people on the communities have got very little education, most particularly older people and maybe we need to tie the schooling system how we teach can be tied in and worked in with culture as well. You know getting old people involved in school to teach the young kids about stories about sites and things like that from an early age and somehow mix, bridge the gap between the western culture and the Aboriginal culture. Like I said earlier on there is a real head on clash at the moment between western and Aboriginal culture.

Alright I might stop this here so thank you very much for your time.

That's alright

Interview continued Wednesday 6th August 2008

Alright thanks Chris, just a couple more questions. As far as incarceration goes, do you see any benefits or any impacts that removal has?

Well with removal particularly with tribal Aboriginals it's sometimes a double whammy with them even a triple whammy in the case where they have to go back and face tribal punishment. By that I mean they removed, they go gaol for a certain amount of period then they come out then they got to go back to their community and face tribal punishment. The way that tribal punishment for instance, is done is once it's carried out its done, once it's carried out that's the end of the matter. The things are forgotten about and people can heal and move on. The other removal I'm talking about is when you get a tribal person sorry from the lands and you put them in Perth in

Casuarina or Canning Vale, which is a thousand kilometres away from there, a thousand kilometres plus away from their homelands. They're in a different country, a completely different country and that again is another form of punishment, to me that is another form of punishment, that's placed on people. Whereas if you could house, well not house but if you could gaol people closer to their communities they wouldn't have to go through these certain stages. I did mention there that the punishment, generally if it's an offence committed between tribal people, there is as I stated earlier, tribal punishment that is carried out. Either spearing or it could be a beating as well. Again there is the double whammy of going to prison and coming out and facing that. Prison as a deterrent, no I don't think it doesn't have. Because culturally we never had Aboriginal people never had prisons, culturally there was no such thing as prisons. It's a whole different cultural concept that has been placed on Aboriginal people. So it's not really a deterrent in that sense. And I mean, in fact some of the time people don't mind coming, because going to prison because they know that the way they'll be housed, fed three meals a day, able to see a doctor dentist, and what have you. So it's, culturally a different thing, and that is viewed when you look at the way Sweden views its prisons and the processes they have in prisons compared to how Australia does it. Again, they're both culturally different. And we've, in the Westminster system, we've grown up in the early days with in the early days of flogging people, people used to get flogged and things like that and whipped. As far as rehabilitating or reforming people I my own view is that a lot of prisoners do programs in prison just to get early release. I don't know, I mean if you look at, to me it doesn't reform because you look at the recidivism rate is so high so people were reformed they wouldn't be coming back, you know what I'm saying? Yeah so that's,

So the removal is an additional punishment to the isolation of incarceration, which can be much greater for Indigenous people from the lands.

And that's what happens, you find in prisons that people will, particularly those from the lands who do feel in the end, you see after a term of imprisonment after a couple of years imprisonment, people tend to go downhill because they miss their country, their people talking their language. And so what happens then, there is self harming that may also occur. Where they cut themselves, not with the intent to kill themselves, to commit suicide, but to release grief from not being around their people and of course

the society looks at self harm, and certainly the prisons, once you start self harming, you placed as a suicide risk. Not, they don't understand that people do this just to relief, release grief and they have no intention of killing themselves. So then again there's another label that's put on them while they're in there. Yeah

Ok so, does prison work as a punishment? Is it a good punishment for people who have broken the law?

It is good in the sense that, to me there are only two types of prisoners in the world, and that is those who want to change and those who don't want to change. And I say that usually for example domestic violence murders, those people who get sent to gaol for murdering their spouses, usually only do it the once in their life time and they never commit murder again you know? As a deterrent, or as a punishment you were saying,

Is it effective as a punishment?

Depends on the crime, on the severity of the crime, what is the crime. You know I think no society should tolerate child abuse or murder for that matter you know? And I think in that respect it's the punishment is you go to gaol. But for other offences, driving offences and more les serious offences, I don't think it acts as a punishment at all. I think it's another thing that people have to cope with in their lives.

So we've spoken about deterrent. Do people not break the law for fear of going to prison?

No I think like I stated before, when you look at it, most crimes are committed when people are drunk, people have alcohol in them. And you've got to ask yourself, if they didn't have that alcohol would they commit those same crimes if they were sober? See so, and of course, once you commit it, there is no, you lose inhibitions when you're drunk anyway, when people get excited, so spastic on it. They lose inhibitions, they don't care, so the thought of prison is the least, is least in their mind than anything else. Its, and the other thing is too with a lot of crime by stealing and that, it's very opportunistic. And a lot of people will say, as an ex-prison officer, a lot of prisoners

would tell me that they got away with it. They were put in for, they were framed and stuff like that. And I think well hang on, you sort of, if you that good at what you do, why you in gaol sort of thing? So and it does, with criminal behaviour in some people it's very addictive, where they have to do it all the time, because that's the only life they know. It's a matter of survival. And that's the only life they know. And being in prison is just a hiccup in their trade. It's not much of a deterrent.

Well me ask you just a general final question, what good is sending people to prison?

The only good thing about sending people to prison is that you are removing them from society for a certain amount of time. I think what we really need to do is look at, I think work camps are a great idea, making people go back to their community while they're confined to a work camp, make them sort of, do some sort of repatriation to the community I think is the way. And there needs to be a meeting of, if there are victims and, in Aboriginal society there is a concept of shame. Where you've done something you need to be shamed, and that's really where the, it's actually worse than being in prison. People just tend to cut you off too. And that's really, really worse than being in prison and nobody wants that because it touches, being ashamed from you're community or by your community touches this you in a spiritual sense. Whereas a prison is more of a physical thing, and I think we need to look at those type of things, you know?

Ok, thank you very much Chris.

Appendix D – Interview with Dorothy

Interview by Stephen Bedells

Participant: Dorothy

Date: 25/07/2008

Ok Dorothy, thanks for agreeing to talk to me, I suppose in your own words if you could tell what you think are the effects of incarceration in both the people who go to prison, but also the families and the communities left behind

Yeah I think it has a great impact on family life with a lot of Indigenous families they are very, live closely, close knit family and the effect that is has can be quite dramatic. For instance whether it's male or female you've got the situation of what's happening behind, left behind in the camp or home or family situation. So for instance if it's a mother that incarcerated or the concerns are that she really needs to be in constant contact with her family for the care of her children because she does demand nurturing and the partner is sort of constantly wanting that person to be in constant contact with them as well. On the other side of having worked in prison as a women's support officer and listening to some of the men and their issues there, they're ringing up all the time ringing back home to find out what's going on, I think there's a form of jealousy that what's going to happen will somebody take my man or vice versa and so that it's never I'm going to go in do my time and its going to be get and done with, you have the constant worry, what's going on what's happening behind. It effects your health, their health is effected with worry and not knowing, the unknown, the looking at say for instance if they had a house, that and if they're in prison for a long time their house would be, they'd have to give their house or there's all these arrangements you'd have to do and it's not an easy task and while you're inside your hands are really tied so you really need to have a good support system there to have someone to help you on the outside. Who can take over my house and pay the rent while I'm inside? And where will my children go, hopefully the family will take on them the family don't get that support from DCP, the family take that on well that's sort of left

in your hands, whereas if it was a DCP case, they would be some support financially as well.

So there is some support for them to try and keep their house even if they go to prison?

Well it's a hard task, you got to work on it, can't just go it and forget about it you're got to really, and it's a time sort of frame you've got to be working on it, you've got to really be in contact with all the agencies outside and being on the inside a lot of the women aren't allowed to have phone calls. You're only allowed so many phone calls and that we've got to set the priorities, setting priorities is not looking at what to, whose priority is it? So ...

I suppose it's not just their house, it would be their family's house. They wouldn't be living on their own?

Sometimes they would here in the local area, if the women are in over 6 months of more well I think it's up to three months you have the chance of losing your house, if you're on a ministry of housing house. So you either get, you've got to juggle things around to beat the system have some family members in there, they'll say I'll pay the rent and continue on doing that but and that is that doesn't work out either. You've still got the issues of drugs and alcohol and you know domestic violence its

While they're in prison there still can be domestic violence going on?

Yeah, on yeah verbal abuse over the phone. Having that demand, that control, ring me where have you been? And I rung there you weren't there where you are type of thing. So it's still a constant family violence in that situation and it affects them mentally it affects them.

You've mentioned worrying and not knowing as a health effect

It does because it's a silent one, its inside you either get it external get it out and express yourself or hold it within, but not only that you're dealing with in the prison, I'm speaking from what I know happens, your whole life is taken away from you, you

come in through the going through the stages so you slip back into the childish child stage so you having to I don't know what it is, you're have to try to fit in a program, whatever's there, and some of the programs offered are really quite how do you say, like down putting?

Demeaning?

Yeah demeaning that's it. You're doing little colouring in, those childish sort of things, and a lot of them have talents and try to find ways to express themselves but whenever there is a, so they're having to deal with that on the inside and worry about all the things that are happening on the outside, but also worried that they cannot have that access more frequent like they should, especially in the initial stages, and until things settle down, but it really does affect everyone. The kids lose one of their parents, and also I think, well coming from a drug and alcohol abuse system they're going into that and going to a total dry out and then to go from that to when they're coming out going on to a binge situation they start to come out and can't wait for that liquor drink or alcohol, partying and it's not a, it's just a vicious cycle, you just continue going round. So it's not as if you're going to make a change, and really the only way to make a change is to were you and your family pick you up and go elsewhere to another environment

You mentioned the total dry out when they go into custody. Would it be fair to say that that would have a positive effect on their health?

It can but there is no follow up with it that only just to me I only just see it for the benefit of the people looking after them. Because they're not going to be humbugging.

Humbugging?

Yeah well mucking around or being, mucking up going through the withdrawal sort of thing. Yeah I don't know.

Sure let me ask you about the health of the family and the community left behind.

Would a person going to gaol have any effect on the family's health?

Yeah it would because you're looking at you're relying on family support, extended family as far as food wise you know having to have meals and clothing and caring for the family, you'll only have that one income and you're having to put yourself in the situation, it would be similar going away in a hospital and you have to remove yourself from where you're living to go be closer or make time to go closer to go closer for the visiting. Some people (undecipherable) once a week unless they're short term.

There's a displacement.

There's everything, and a lot of costs involved travelling, having to pay someone else to drive you if they don't have their licence, having to uproot the whole family and bring them to another situation where there's accommodation when they get there and food and accommodation.

You've mentioned housing in the same point as health, they require different housing arrangements

Yeah when they, like if they were to move from where they at someone like if they're in a community or whatever,

Move to be closer to ...

Yeah well they come down here to visit and then if they are sent off to Perth well when they come back, they are driven further away so they're having to that way there, the yearning is a lot stronger because they're further away. And I think they on some of the positive sort of things, when they're in there they're with they're other family members and they sort of getting comfort and support. Who you know there.

Let me ask you about education, does putting somebody in prison have any effect on their education or their skills level

I think Aboriginal people are the most trained people in Australia. They've done so much training through CDEP and everything else, that with the education from what I know is in there I don't believe that, they look at it seriously, they have their little control thing going on the education, its similar to TAFE or whatever they need bums on seats and so, it's not a like if, and it's a competition, people are competing with other resource persons in the prison so like I mentioned before they doing some of them staying along there for their education for some maybe for some escape from their cells. They doing, they do some of their art; they do have people come and do their art, but a lot of the stuff you do, like as you mentioned, demeaning. So they, it's another outlet. That they'll control to do something different from living in the cell. But I don't, there are programs there but you have a person who goes through the prison system, and there are so many programs they need to have gone through, so for instance giving up drugs, so (undecipherable) they'll have to go through a drug and alcohol program that they've been doing, then you'll have to do down to Perth for that. You do an anger management and that's only limited to so many numbers, and by the time the next course comes up, the other person may have missed out on it. But it doesn't really for the short term I don't think, I don't believe it's workable. But that's my opinion.

Of course, how about the family left behind, the children and the community with removing a member of the family and incarcerating, would that have an effect on the family left behind and the education of the education, or the education of the family left behind?

Yeah I think so; it would because it's like a death I guess in one sense. He's gone, there's really nothing you can do about it, you cannot bring them back until they do their time back and the only comfort would be is by visiting, so that's where you'd be imposing on another family members or friends to bring them to, make, them available to take you there.

So there would be a sense of grief of loss.

Yeah Yeah it would be like that, and in some cases with the person inside if they're in a domestic violence situation it's like (undecipherable good thing) looking at it from

the women's point of view, she's having a bit of a rest from that situation, because it's very hard for her to leave that violent situation, you've got the kids to worry about, you've got women's refuges that you could go to but if you've got a child that's over twelve years old they're not allowed to go into a women's refuge. In Perth (undecipherable) so they the mothers have to take (undecipherable) or some of them have a lot of kids. School age kids, they have to take so many and pass them on to family to look after and then they've got that stress of worrying what's their husband doing inside and the child left behind and impacting on their, also with their income being limited but you can only buy from day to day, you cannot buy in bulk you know like you never know when you're going to be up and gone. Walkabout

Yeah, does incarcerating people have any impact on their employment, or their prospects of employment?

I think, it would, not if they're in their own community. They'd go back and be welcomed back, but it depends of what sort of employment they were wanting to look at. If it is right in mainstream, that would be difficult, but I've been to a reconciliation forum, meeting some of the guys in the mining industry. And they've just, you feel like they would just welcome, whether they've been in prison or not, and if they're willing to work they'd give them a fair go, and they take on not just one, look at a buddy system. So, but that same message needs to be taken into the prisons to give them some assurance that when they do come out they, there will be work for them, but the hard thing is there is no follow up, when they come out, even though they might have dried out in prison, but they're getting back into that same vicious cycle. So there needs to be that middle, in between prison and going home so they can settle back into society but still under care without having to be totally locked up.

Sure what about the family and the community. If a member of the family is incarcerated, would that affect the employment prospects of the family, the others?

I don't think so, having lived in a community (undecipherable) in the Kimberley and they had people go in and it's not, I think if anything they'd be more, looked after by community members and family. Yeah, you're not ostracised. Going back to the housing problem, I remember the ones were wanting to come out and I was looking at

some sort of accommodation in between, for them to go, and the only, the Aboriginal hostel here itself would not have anyone who had been in prison. So I mean,

Trilby Coopers?

I don't know with new management now but one manager asked if they'd been in prison. So you've got to work out ways of, you know they could have only gone there for drivers license. You know but nup you've been in prison then you're not coming home to here. Yeah you can take it up further but they (undecipherable). But there are a lot of support networks on the outside coming in but then you have that competitiveness I guess on the inside that happens with the education, you have someone from the education, but they are really looking after their role so they need to, they cannot allow too many things to happen that would impinge on their role in the prison.

Ok thank you very much for your time Dorothy. That's it, unless there's anything else you've thought of that might be relevant

Yeah nah that's about all I can think of.

Sure no worries look thank you very much for your time.

Appendix E – Interview with Eileen

Interview by Stephen Bedells

Participant: Eileen

Date: 29/07/2008

Ok Eileen thanks for agreeing to talk to me. I suppose if you could just tell me in your own words what you think are the effects of incarceration on Indigenous people, both the people who go to prison, but also the families left behind, from your perspective.

Well I think, from this community we like families to come here, mother, father and children, they go to school here, children go to school here. Fathers usually work on CDEP, because they not educated enough to get other jobs. And plus they have a hassle with most probably alcohol and drug, so the only other job in CDEP see. But sometimes these fellas out here sit down and they probably good for a month you know but then I don't know what happens, they have arguments or whatever, but they go to town usually after that they go to town they start getting on their drugs and drink. Then after must be two weeks or something, they just running in and out of town. They don't even come to work anymore.

So they visit town

Yeah

So they're still staying here, but they go and visit.

When they visit town, they seem to just can't get away from it. They just get caught up in that drug and alcohol thing. So then they come out here and they don't even come to work then you know. They don't come to work. And then when you go and try to find them when they do come home, must be to have a wash or something, they're they've really lost it then you know? And so must be another couple of weeks after that then

they're put back in to prison. It's sort of like the same lot of family that get into that, same over and over thing. And then you have the mother with the children and so she's got to start again getting all her bills paid, and they only get Centrelink payments, and their own family payments if they're got that four children. And so she's got pay all those bills he's made in that last must be couple of weeks he's been there making all these things running into town all the time, you know? Need money for all these drugs and alcohol. Because that's what the thing they get mixed up in is that. And so, then what does she do, she's trying to do find a job, but how can she get a job, when her kids got to go to school? So the main thing they do is put their kids in school, and then they do that CDEP themselves. And then the kids have got no father, and then they go to try and run into town to visit him on weekends, but then the kids get sick of going to Kalgoorlie, and so they stay away and the mothers thing and then when he gets back, if comes out of prison, then he comes back and bashes here for not bringing the kids in.

Not visiting?

Yeah you know.

So you've touched on employment. If the mum, if dad's in prison, and the kids are in school, the only job mum can get CDEP

It's CDEP. So she can't, she can't get a job in Kalgoorlie, because she's got to be here to put the kids in school and bring them home at the end. Sometimes you know when you go to town, even though it sounds good, that Mission will get you a job. They won't get you a job.

No?

We have lots of problems with Mission.

Mission Australia?

Yeah you know? When you get on CDEP you have to ring up and let them know who you're going to see. And they say, well (Name of Community), you go and see Mission. And then they, when some of the young girls that there, that well why are you pregnant? That's got nothing to do with it. That's what we ring up and tell them, who are you? And then when you're trying to go get a job, well you only stay therefore a couple of weeks because what you think white people like you there? That's a racist thing too, and I'll tell you Kalgoorlie and Boulder is the most racist place out. I'm sitting here and from watching our mob go in there and try and get a job. Not all this mob know how to read and write. There's only some you know, and I find the mob that keep going to prison all the time, that's the mob that can't read and write.

So there's a link between poor education and going to prison

Yeah I think so. You see all this other mob that want to, that have jobs and that, they know how to read, write, use computers, so they get good jobs in Kalgoorlie, they come home and they just do normal things like work, come home and rest I suppose and go out on the weekend. But when you have this other mob who party every night, what are they going to do? Where are they going to get a good job from and good money from? So, a lot of my mob, all on mines. Some haven't got licence, but at least they can get there, read the things to what they doing like mills and all that. But for that mob that can't, I can't. I mean when they're on CDEP we try and help them to do that literacy thing. Try and read? But you know, you have to go to Kalgoorlie to do that what you call it, Curtin? You have to go there to sit. Whereas before those people were coming here, and everybody was going to when they sitting on, that community you know. Because then you have, you don't have a thing to get on the bus with everybody, or try and find a feed at lunch time, all these different things, so if you're here and that lady comes out, well they all go to her, and run home and have their feed and come back, and so that was working good, but government changes those rules all the time, and so we got to keep up with the rules, and we got to learn different rules every time.

What about the people who actually go to prison? Does being put in prison have any effect on their education, or their training?

Well I know in prison sometimes they say do I know they do art, they do a bit of computers and I think the prison thing is you locked up and you get to be you know, come out and socialise with people properly. Like they come out and he goes good and he works, they can work, and I think this is really good come on and you come and do this, and you talking to them all the time you know, and I tell them you know I like that. But when you can't sort of have a yarn, you know when you have a yarn? They lose that.

They can't concentrate?

Yeah, or they thinking, their mind is somewhere else. Because before, he, because he kept going in and out, before you could have a yarn to him, and he was getting the thing across. But then after five years of something, they come out and they're not really with it. They're not talking to you. They sort of saying yes and that but they not saying what they like or what they like to do. Because they've had this thing of you're locked up and you do what you're told. Whereas before they had a thing of I don't like that, you know I want to go and do this. But well when I found that a couple of blokes that come out here, they sort of lost their,

Initiative?

Yeah, to say what they liked or what they want to do. It's sort of like, well you tell me I'll just go along with it. Well that's just what I found with couple of blokes, ten twelve years whatever they been here. Because they spend must be three years, one spent about three years come back, the other one had two years there you know. And you know the kids, well everything is sort of like don't like police, don't like the prisons, anybody who's in authority, they don't sort of like that.

The children of the people who go to prison?

Yeah they get that off their father if he comes back and their mother you know, and so they're not, those kids are not they hard to discipline you know. They just want to, no one's going to be the boss of me you know? That's that thing that they have, like you

can sort of see it when you say, oh come here can you go and pick up that rubbish? They just walk the other way. And they look at you for a while and think, I just say, well don't worry about it. And they walk off there.

What about housing? If an Aboriginal person is incarcerated and go to prison

If it's a single one, when there's only one person, we close that house down. They got no house.

And it's given to someone else?

Yeah, we put someone else in that house. And all their stuff, they say, can you mind it for me? How are we going to mind all this rubbish? I said, what are you going to do with it? Oh well, never mind, give it to that cousin over there you know. And so they got nothing to come back to. there's no house, nothing. They got to start all over again, you've got to put your name down, you got to fill in the forms and. But if it's the husband that went off, well the wife can stay in that house. And wait like we got two here, they will just stay there and send their kids to school and try to pay all the bills what he made for them.

What about for the family that's been left here. Does his going to prison effect their housing situation?

These couple of people here, they sort of like just get on with life and they know that he's, they know that he's in a place where they know where he is. And they just get on with life, sort of like come to work and

Ok what about health, d the people when they go to prison, does their health get better or worse or what do you recon?

Outside health, like their body health?

Yeah

I don't know their body health, I know their mind, their mental health gets worse.

Mental health gets worse.

Because they only think prison then, they only think yeah they only got this little thing then that they looking at, just this prison life. And the thing is I, the other person, the other couple, I think because they come out of prison, they went back, and they come out, and they went back and now it's time for the to come out again, and I signed all these forms to say yes, come out here and we'll try and help you. Their thing is they look like, now that they're coming again, What. You know, there's too much space. There's not that lock on the doors and so I think when they come out now because from that last time I had looked they looked like that, I don't want to be in this big space. And so they're worried that they need to do something to get back into that locked up state.

So they're institutionalised?

Really, yes. Really stuck in that thing. Frightened, too frightened to come out to. Because you have a look at their faces that, when they come out here, when they come to work that next day and then they start going you know, tell me what to do before I don't know what to do. You can just see it in their face. And so by that next weekend they get that pay, they're gone. They're doing something, so they can get back. They only out here for a little break and they need to get back home. They think that's home there. Because they been in there that long. See I can only tell you what I see with these people in this little community.

Sure, no your perspective is perhaps the most valid

Yeah cause that's what I see you know and when black fellows when you look at their face you know their face tell the story.

Ok what about the health of the family. Not the health of the family, but the health of the people in the family. If one of them goes to prison, is that effected.

Yeah they get to that stage where, like this mob here, they lonely, where their kids are going you know, they know that their kids go to school, and that's great, because everybody here sends their kids to school. But then on the weekends, family day, they look like their lost too. And then they go to prison and they come back feeling more, frightened or what because when they go to prison they get, when I get out you're going to get this, I'm going to bash you and all these things. So they come away from prison feeling, oh what did I go there for?

Oh so when the family visits prison, they get threatened

From the person in the prison you know. You wait til I get out, going to bash and that's because you running around with somebody, or some ones seen you over there, and it's not even true you know. They just like telling these stories. Cause I think them people who go to prison, they get mental. They do, they only got this little thing to look at and so they focus around that, nothing else. I think its al this mental pressure, you know? They can't enough. And they need to get a job to get a car to do that you know to run up and down to prison. And then when that man gets sent down to Perth, then it's really bad. And they've got to start ringing up finding out who's down there that they can go down and see. And so it's all this pressure on them

To stay in Perth

Yeah, so they got to drive all the way down there, to go and visit. Cause if they don't go and visit they get bashed anyway or abused and whatever over the phone. So I think it's more mental pressure than anything else.

So if they moved to Perth, the whole family has to go.

That whole family got to go to them and visit.

Not just mum

She got to take her kids with her, because they only little kids you know. And the kids who 15,14 15, they don't go, they stay here. Because they hate prisons anyway. They

got locked your father up. And then they get really angry, so the kids are really angry all the time, why their families split. So I think it's more a mental thing for all that mob you know. They're always under this strain of thinking how I'm going to get there, how I'm going to go down there, how are these kids coming or where's my kids or will I leave them here, because they don't want to get in the car. And kids now, 14, 15 they're the boss of themselves. You know they just run away from you.

Yeah, that's great Eileen, is there anything else that you can think of just generally

Sometimes I think that those blokes that in there, that get taken to court and do their whatever thing they got to do, but sometimes can they get them to say take out to (Name of Community) here and don't go to town. You come, anywhere you put your foot out of (Name of Community) then you get thrown in gaol then. I think they'd stay here. But they do you know, it's just that stupid friends they get. Who cart them to town and leave them there. Yeah because I think why live a life that's just surrounded by bars and just all men and you, well of course people are going to be mental.

Sure, you're removed from your family, you're loved ones.

Yeah and you're surrounded by all this

It's a completely unnatural environment.

That's it you know. If you got your wife there, and your kids there, well at least they sort of like, but I find that all these people who go in and out of gaol there. The more they go in and out, the more tapped, or more mental they are. And then they, even if this person, if the wife looks over there, then she gets slapped for looking at somebody you know. Buts it's just that their changing their brains themselves. And then the poor kids, the kids all suffer too. Because you know mums gone off, mum don't know what she's up to, dad's always in prison and police always coming to our house. So you know then they get this hatred of this police you know, and so they go and do break-ins and whatever else round the place. Just to get into that same what is this, this little cycle of dad does it, so mum getting mad, so we'll get mad and it goes round and round.

Yeah

Some people love to change. You know if you go and have a prayer with them, tell them about the Lord Jesus, they change. So that's what I always try and have a yarn with these mob, even them blokes and that, ask them what they want to do. They don't want, they don't know what they want to do because they've been locked up all the time, they got no brains to think. Well that's my thing of it anyway.

Sure. Thank you very much Eileen.

Subsequent interview 5th August 2008

Alright thanks Eileen, as we were saying, removal, do you think removing people to prison do you think that helps at all or there's anything good about it?

Removal. Well it doesn't help them for the time that they're mad, you know? Drugged, or drunk. If you remove them then, that's, yeah you can go to gaol well, they still making threats over the phone, black fellas they come back and bash their wife regardless if she been living with anybody else. You know?

Removal is only temporary

Its temporary, till you have a rest down there must be, then he comes back and does the same thing

Until, so the family has a rest from him,

They must have a little bit of rest, he has a rest, and then he comes back the same thing happen.

So it's ok, it's good while he's removed, but then he comes back?

Yeah not really but. If he's removed he's only, his bodies over there, but he's still ringing up telling what he's going to do or, you know them threats them

What about the effects of removal on the family

Well like I say, the wife she be here she works, regardless if he's here, she's still doing the same thing working, taking the kids to school and that, if he's taken out of, out of the community, he's taken over there to prison, he just away for a little while, a year must be. They keep in touch all the time, then he comes back.

What about visiting? Is that a problem?

Oh yeah. No she's got to visit him, don't care where he is. Like from here, she's got to go all the way to Perth. So you to borrow money so you can go down there, you stay with families family, and then you come all the way back.

Ok, that's difficult. What about punishment? Do you think prison works as a punishment?

Sometimes I think yes, because it's keeping the person away from the person.

Does it hurt them to go to prison?

Yeah I think it does. It hurts but then again they know they are coming back.

Ok what about rehabilitation?

What does that mean? My thing is, what does it mean? So what, you go over there and what do you do? You can go jump on a computer or you can go and paint dots or something. When you come back that's all chucked out the window. While they are in prison they get drugs. You can't tell me they can't get they don't get drugs.

So it's not really drug rehabilitation?

I'm just talking about drugs because that's what they're on, why they go there, and drink you know, mixed up together. But,

So it doesn't really change them? Going to prison doesn't reform them or teach them to be better.

To be better at what, I've never seen anybody come out of there and do something great or at least keep off the grog or something.

What about a deterrent. When people come out do they not commit a crime for fear of maybe they go back to prison. Does that work on some of them?

Well myself, I've never seen anyone who come out, stayed out. Can you show me someone cause I haven't seen one. I mean my mob, they seem to do, when they come out the have a, they stay away from the thing out here, I mean at (Name of Community) they stay away from the grog for must be three weeks, four weeks. When they hit Kalgoorlie, they just go off again. So I've never, never seen someone come out of prison and change their life and got up and did something other than like stealing and whatever. That all goes with that. Maybe I'm living in the wrong community. Maybe there's a good community somewhere that they do get out and do something great. But I've never seen it here.

So from your perspective Eileen, what's the point of sending people to prison?

(laughing) That's what I think, cause they can get their drugs in there, they can I don't know, and when they come out. I mean they can go there and do there dot painting and they can run their, do computer and and if they learn how to read and write, if they have that there. Maybe, if they really got into it and they really had to learn how to read and write. I don't know, prison seems to be a good place, but then it seems to be a bad place for making mad people even madder.

It's a good place in what sense?

Because it's there and you know you're not allowed to do wrong, it's a good place that it's there that that's what it means. You're not allowed to do wrong and you'll go here if you do.

So that's like deterrent. It stops some people from doing crime because they know that if they do they'll go to prison. Any they don't want to go to prison.

Yes. But you get these same people they get caught in the thing and they can't do anything else.

So they don't mind going to prison again?

Well I'm going to gaol to go and have Christmas. You know what a stupid thing to say.

Thank you Eileen.

Appendix F – Information letter to participants

What are the effects of incarceration on Wongatha Indigenous communities?

You are invited to participate in this project, which is being conducted as part of the requirements on a course of study. Details about the course are given below:

Course name: Masters of Criminal Justice by Research

Principal supervisor: Dr Ann-Claire Larsen

School of law and justice, Edith Cowan University.

Contact details: 08 6304 5597

Associate supervisor: Dr Peter Milnes, Kalgoorlie.

The purpose of this project is to gain an understanding of the effects of disproportionately high incarceration rates on Wongi communities.

If you choose to participate in this project you will be asked to participate in an audio recorded interview. The interview should take about thirty minutes and will take place privately. You will be given an opportunity to review the transcription and if you find a part or parts of the transcriptions have distorted your position in any way, that part or parts will be erased. After transcribing the conversation, the tape will be erased and transcriptions will be retained in a locked filing cabinet in my residence in Kalgoorlie. Once the transcriptions are analysed, they will be stored in Ann-Claire Larsen's office at ECU Jo 2.410 for the required five years. The transcriptions will be shredded after five years.

The information will be used to identify the common and notable experiences of the phenomenon, and gain an accurate understanding of the topic mentioned above. Only the researcher and my supervisors will have access to the information before completion.

The researcher is a service WA Police Officer, and obliged to act on reports of offences. If you have any specific information of an offence which you would like to refer to the interviewed, you may either make non-specific references to the incident, or make an official report, in which case your information will be passed on to a Police investigator who may take matters further. However, if you wish to discuss an offence that has been reported, investigated and resolved, you may do so.

Confidentiality Any information or details given for this study will be kept confidential and will only be used for the purposes of this study. You will not be identified in any written report or presentation of the results of this study.

Participation in this project is voluntary. If you choose to participate, you are free to withdraw from further participation at any time without giving a reason and with no negative consequences. You are free to ask for any information which may identify you to be withdrawn from the study.

This research has been approved by ECU's Human Research Ethics Committee as it conforms to the required standards. If you have any questions or require further information about the research project, please contact me or my supervisors listed above.

If you wish to talk to an independent person, you may contact:

Research Ethics Officer
Human Research Ethics Committee
Edith Cowan University
100 Joondalup Drive
JOONDALUP WA 6027
Phone: (08) 6304 2170
Email: research.ethics@ecu.edu.au

The final report of the research will be available to you. I will make available to you a report of the findings and am willing to discuss the results.

Thank you for considering participating in this research.

Stephen Bedells

21 Campbell Street,
Kalgoorlie WA 6430

0428 966 584

Appendix G – Consent document

CONSENT DOCUMENT

What are the effects of incarceration on Wongi people?

I have been provided with a copy of the Information Letter, explaining the research.

I have been given the opportunity to ask questions and any questions have been answered to my satisfaction.

I understand that participating in the research project will involve being interviewed and the interview will be recorded on tape recorder. However, should I decide that I do not want the interview recorded, I may ask the researcher to take notes. The interview will last about thirty minutes, and will take place privately. I understand that I will be given an opportunity to review the transcriptions and if I find a part or parts of the transcription have distorted my position in any way, that part or parts will be erased. After transcribing the conversation, the tape will be erased and transcriptions will be retained in a locked filing cabinet in Steve Bedells' residence in Kalgoorlie. Once the transcriptions are analysed, they will be stored in Ann-Claire Larsen's office at ECU Jo 2.410 for the required five years. The transcriptions will be shredded after 5 years.

I understand that the information provided will be kept strictly confidential, with the exception of legal compulsion. The information I provided will only be used for the purposes of this project and I will not be identified in any written report or presentation of the results of this project. I understand that I am free to withdraw from further participation at any time, without explanation or penalty and can review the information I provided by contacting the researcher.

I freely agree to participate in the project

Name _____

Signature _____

Date _____

Contact phone number _____

Appendix H – Table of responses

	Effects on Incarcerated Person	Effects on the rest of the community
Health		
Housing		
Education		
Employment		
Other		