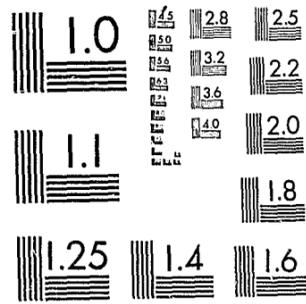


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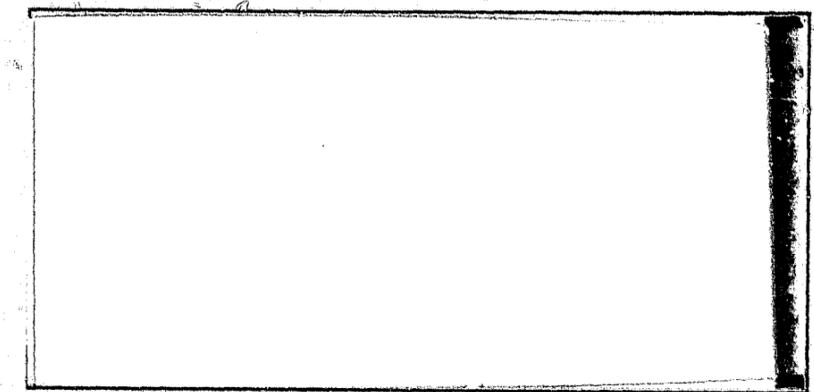
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IMPRIISONMENT OF ABORIGINES IN NORTH WESTERN

AUSTRALIA

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Although this paper was written as a project of the Western Australian Department of Corrections, the views expressed are solely those of the authors.

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ACQUISITIONS

IMPRISONMENT OF ABORIGINES IN NORTH WESTERN AUSTRALIA.A. INTRODUCTION

The present study is the third paper to be prepared on this particular topic for the Conference of Ministers in charge of Prisons, Probation and Parole. As such, it seems an appropriate point at which to assess what outcome might be expected from this series of studies. Implicit in the title is the expectation that a study of Aboriginal attitudes to imprisonment might lead to some change and that a problem exists in this area and with Aboriginal prisoners in general.

It is widely known that Aborigines are disproportionately represented in the Western Australian prison system. A recent analysis based on daily average musters in the prisons for 1979-80, showed an Aboriginal imprisonment rate in W.A. of 1476 per hundred thousand. This is eighteen times the rate for non-Aboriginal prisoners in W.A. (80) and more than twelve times the total state imprisonment rate of 120 per hundred thousand. Nevertheless, one should not lose sight of the fact that this problem, albeit extreme in the Western Australian situation, is common in countries with an indigenous population which were subsequently settled and dominated by Europeans - examples are, New Zealand (Maoris), U.S.A. (Indians) and Canada (Indians).

It should be borne in mind that imprisonment represents the culmination of a long line of events and constitutes more than anything else a reflection of problems which previously existed elsewhere in the make up of the society at large. It is thus inappropriate to look at prisons as being the point where all society's ills are to be remedied, particularly when one considers that prisoners are to be released into the same circumstances in which they offended. Barring a considerable impact of the deterrent aspects of imprisonment, (the effectiveness of which seem to be questionable),¹ it seems unlikely that action on the part of the prison system will have much effect. The only possibility would seem to be in the area of rehabilitative programmes, but even here, assuming a high degree of relevance and good quality, the effect would not be great.²

The literature on the subject of Aborigines and imprisonment is conspicuous by its virtual absence and therefore provides no ready source of testable hypotheses or propositions. Apart from the numerous comments that Aborigines are vastly over-represented in the prison system, there appears to have been few systematic or detailed studies of the reasons for, or effects of this phenomenon.

At the outset it was hoped that the significance of this study would be twofold.

Firstly, it might help to shed light on the meaning and significance of imprisonment for the Northern Aboriginal population. From a theoretical standpoint, it was also hoped that the study might suggest factors which account for Aboriginal attitudes to and experience of imprisonment, i.e. it might allow the formulation of hypotheses relevant to both anthropological and criminological theory.

Secondly, from a practical viewpoint it might point to vocational, educational or leisure activities which are of particular relevance to the Aboriginal population in Northern prisons. The rationale for providing such programmes is that while imprisonment is unlikely to rehabilitate, prisoners should be released into the community at least no worse than before their term of imprisonment.

B. AIMS

The aims of the research were as follows:-

- 1) To evaluate within the research population, the extent to which the following aims of imprisonment are achieved:
 - a) specific deterrence;
 - b) general deterrence;
 - c) punishment.

Rehabilitation was not examined as by definition it entails the prevention of re-offending by taking part in training or education programmes, few of which exist in the North West.
- 2) To gain some knowledge of the effect imprisonment is having on the structure of traditionally oriented Aboriginal communities.
- 3) To gain information as to whether any vocational, occupational or leisure activities would be particularly popular or feasible in those Northern institutions.

C. METHODOLOGY

The methodology of this research represents what was possible within the major constraints of time and money, rather than what was seen as the most desirable approach.

The major research tools used were:-

- 1) Interviews;
- 2) Statistical data on the prisoner population.

Interviews

The interview schedule was semi-structured, with both open-ended and forced choice type questions. Care was taken to construct clear questions, bearing in mind that for many respondents English may be a second language which is grammatically and syntactically very different from Aboriginal languages. The schedule was pre-tested at Fremantle Prison on 13 North Western Aborigines and substantially amended as a result.

It was decided to interview the prisoners in groups of four. There were two interviewers for each group, one to ask questions and one to record. Apart from the time saving factor, it was believed that the respondents would feel less shy or apprehensive in small groups than they would in an individual situation. Support was gained for this view during the pre-test phase. Overall, this approach worked well at all prisons during the research.

Statistical Data

Computerized prisoner records provided relevant demographic data on the interview population. One advantage of this was that the interview schedules did not need to carry lengthy questions relating to this type of material. An S.P.S.S. programme was used in the analysis of the data. The research population consisted of all Aboriginal prisoners at Roebourne, Broome and Wyndham prisons who were willing to be interviewed.

D. RESULTS

For the sake of clarity, no tables are included in this section, but limited demographic, offence and sentence information is provided in Appendix B. (Raw data is available from the Planning and Research Section of the W.A. Department of Corrections.) However, a description of the population and findings of significance is given below.

In all, 96 people were interviewed, 45 at Broome, 31 at Roebourne and 20 at Wyndham. Of these 5 were females.

Characteristics of Population

Speaking of the population as a whole, 64% were 25 and under, 78% had been in prison twice or more, 70% had no educational qualifications, and 72% were serving less than six months to their E.E.D. or E.D.R³. Seventyone percent were single and 70% traditionally oriented i.e. they said that they "follow the law".⁴ Forty percent said they were employed at the time of arrest, most commonly as labourers and stockmen.

Differences between prisons on most of the data were not great. However, the following may be of interest: Wyndham had a rather higher percentage of prisoners who follow Aboriginal law, 80% compared with 68% and 69% at Roebourne and Broome respectively, and a higher percentage of first-timers, 55% compared with 22% at Broome and only 3% at Roebourne. It should be noted that only 20 prisoners were interviewed at Wyndham with eleven declining to be seen. Therefore, these differences, perhaps need to be interpreted with caution. By contrast all Aboriginal prisoners were interviewed at Broome and Roebourne.

The Broome population, for its part, was better qualified educationally than the others. Thirty eight percent of the Broome population had basic educational qualifications to Achievement Certificate or better compared with 19% and 15% at Roebourne and Wyndham respectively. Furthermore, a substantially higher percentage of the Broome population (42%) reported having employment at the time of arrest, compared with Roebourne (29%) and Wyndham (20%). This may reflect a greater number of educational or mission establishments in the Broome area. The relatively high employment rate could reflect seasonal factors, i.e. more employment is available in the dry season.

Residence when arrested

Although only 40% reported town areas as the usual place of residence (excluding town reserves), 77% said that they were in towns when arrested. This indicates that conflict with the law typically occurred in European areas as opposed to Aboriginal living areas.

Specific Deterrence

In response to a question aimed at determining whether the experience of imprisonment acted as a deterrent to future offending, 31% said that it did, 52% said it did not and 7% said that they didn't know. In 9% of the cases, no meaningful answer was given.

General deterrence

While the vast majority (85%) said that they were aware they were committing an offence at the time, 44% said that the thought of going to prison worried them, with 44% saying that it did not concern them. It thus seems that ignorance of the law (at least in terms of what behaviour constitutes an offence), is not as prevalent as is often supposed in the case of Aborigines.

Drunkenness

Drunkenness may well be inversely related to concern about the possibility of going to prison as 74% classified themselves as being really drunk at the time of the offence. A further 18% said that they had been drinking, but were not drunk, whereas only 8% said that they were sober.

Purpose of imprisonment

The answers to the question "Why do we have prisons?" were not included in the formal quantitative analysis due to the extreme variability of responses. However, it was noted that a third of the prisoners could see no apparent purpose in imprisonment. Generally, the responses elicited from the remainder required a great deal of coaxing and prompting and usually resembled cliches which often seemed to have their origin in the court jargon, e.g. "To teach you a lesson", "For your own good."

It was notable that any concept of rehabilitation or reformation was absent from the responses, with incapacitation and punishment being the major features mentioned. The main impression gained was that Aboriginal prisoners themselves had rarely given thought to this, but rather accepted imprisonment as an inevitable fact of life.

Attitude to Imprisonment

Questions aimed at determining to what extent Aborigines either enjoy or dislike being in prison were answered as follows. Two percent said that they liked being in prison, 50% said that they disliked being in prison and 47% said that they put up with it. These findings are in stark contradiction to the widely held view that Aboriginal prisoners actually enjoy being in prison.

Questions aimed at ascertaining what factors might lead to liking or disliking imprisonment received the following answers.

- a) "Easy - hard" Fifty four percent said 'doing time' was easy, whereas 46% said that it was hard.
- b) Miss relatives and friends: Eighty three percent said that they missed outside contact (relatives and friends), 17% said that they did not.
- c) Loneliness: Forty one percent of the population said that they experienced loneliness in prison whereas 58% said that they did not.

Missing relatives, much more than the other two factors appears to be associated with a negative attitude to imprisonment. Loneliness was not mentioned to a corresponding degree (as might have been expected), this seeming to be determined by whether or not a given prisoner and friends/acquaintances in prison with him.

Questions relating to the good and bad aspects of imprisonment failed to produce much usable material. However, negative factors mentioned included boredom, lack of work, lack of sporting activities (Wyndham only) and the occasional complaint about the attitudes of prison officers. Positive factors mentioned included food and sporting activities.

Effect on Family

Prisoners were asked the reactions of their family to their being in prison. Responses for those prisoners for whom this question was pertinent were as follows -

Thirty two percent said that their family was angry with them, 61% said that the family was either saddened or worried by their being in prison, while 17% said that the imprisonment did not concern the family. Note that 11% of prisoners said that their family was both angry with them and saddened - hence the total of more than 100%.

Tribal Law

As mentioned earlier, 71% of prisoners stated that they followed tribal law. The following question revealed that while 80% of the total population had either been completely or partly through the law, or were expecting/expected to do so, 9% (who had in fact been through the law) no longer followed it. Thus, of the total population, 20% could be considered 'non'tribal' in that they had never had contact with the important ceremonials or rituals of Aboriginal life.

Of the population who reported following the law, 68% said that they had missed out on ceremonies whilst in prison, whilst 31% said that they had not, and would not miss out on ceremonies or other law business.

The answers to questions concerning the degree to which missing ceremonial events worried the prisoners and their relatives were inconsistent. However it appears in the case of the prisoners themselves, that approximately half of those involved would have been negatively affected, i.e. imprisonment was having a disruptive effect on ceremonial life.

It appears that a much greater degree of concern was expressed by relatives. Sixty one percent of prisoners thought that their relatives were unhappy about their missing ceremonies and other aspects of Law Business.

Six prisoners (6% of population) said that the offence they had committed was also against Aboriginal law. Of these six prisoners, two said they had or would be punished by other Aborigines and three said that they were not certain as to what would happen. No comment is recorded in the remaining case. The frequency with which offences came under both sets of law was very low.

Prisoners were also asked, on a purely hypothetical basis, what law they would rather have deal with them if they had committed an offence punishable under both. The answers were not included in the formal quantitative analysis, because given the reality that there are very few acts which are offences under both sets of laws, the real focus of interest was their perceptions of the equity and relevance of the two systems. Most of the qualitative data is dealt with in the discussion, but it is of interest to note that of those who follow the law, 63% said that they preferred Aboriginal law, 15% said it would depend on the offence and 22% said they would prefer to be dealt with by white law. However, it was of considerable interest that 23% of Aborigines who did not follow tribal law said that they would prefer to be punished under tribal law rather than white law.

Imprisonment vs the payment of fines

Under this rubric were two questions concerned with ascertaining the relative personal cost of imprisonment compared with payment of a fine. The answer as to which was preferred depended to a very large extent on whether they had employment at the time.

In the case of a \$20 fine (or a 4 day prison sentence) 54% said they would unconditionally opt for the fine, 8% said they would opt for prison unconditionally, while 38% said they would pay the fine if they were employed. In the case of a \$500 fine (or a three month sentence) 42% opted for the fine unconditionally, 9% for prison and 48% for the fine if employed. Note that all these questions were based on the assumption (and prisoners were instructed accordingly) that the prisoner had on his person at the time, sufficient money to pay the fine and also that there was no time to pay.

What the questions did reveal above all, was that a far greater value was placed on having employment than was previously thought. Furthermore, the data once again gives the lie to the assumption that Aborigines are unconcerned by the prospect of imprisonment. However, it was not possible to determine at what rate Aborigines do pay fines and this is an area which merits further investigation.

Interest in programmes

Interest in programmes, taken here as being bona-fide and without any reference to the practicability of undertaking course, given sentence lengths, was as follows:

a) General Education

Basic Literacy 15% (14) Improving Literacy 60% (58)
Basic Maths 40% (38) Improving Maths 6% (6)

b) Trade Courses

Motor Mechanics 75% (72)
Welding 67% (64)
Bricklaying 41% (39)
Saddlery 38 (36)
Carpentry 27% (26)
Plumbing 22% (21)

When prisoners were asked to rank order their preference in the trade courses listed above, Motor Mechanics emerged as a clear favourite with 45% (43) opting for this ahead of the other choices.

c) Driving qualifications

Seventy three percent of prisoners (70) had never had a Driving Licence, 17% (16) had possessed one but had lost it and only 8% (8) still held a valid licence. Of the 96 prisoners, 29% (28) had been disqualified from driving regardless of whether they had ever held a licence. Of those eligible to obtain a driving licence 98% (57) wished to obtain one if this were possible in a prison setting.

Recreational Activities

Questions relating to recreational activities (other than sport for which there was a high demand in all prisons), produced the following demands:

Leatherwork 75% (72) guitar playing 73% (70)
carving 28% (27) art 25% (24) musical instrument
other than guitar 10% (10).

It is thus clear that leatherwork and guitar playing are the most sought after recreational activities.

While there was a demand for Aboriginal books (e.g. Djawal-Idi, Identity), film preferences generally favoured Westerns over Aboriginal films.

E. DISCUSSION

1. Methodology

The present study is based primarily on interview/survey techniques. It thus shares all the problems common to surveys e.g. respondents giving answers they think the interviewer may want to hear.

In addition, it should be noted that Aboriginal prisoners present special problems which have to be taken into account for those more used to interviewing respondents from their own cultural background. For example, English is for many respondents a second language and even for those who have English as a first language, the English spoken by the interviewers is certainly not of the type they commonly use and understand. Furthermore, some of the concepts incorporated in the questionnaire were quite alien to the respondents and hence had to be translated into more concrete terms. For instance, the concept of specific deterrence seemed to be particularly difficult to grasp (even when expressed in concrete terms) as was indeed the notion that imprisonment might have specific purposes.

The prison context also poses problems in that respondents were uncertain as to the precise role of the interviewers and the purpose of the survey (despite introductions and explanations). For instance, there was reluctance to express any negative feelings about a given prison and, when this was done, it was in a very hesitant and guarded manner.

While the group situation was beneficial in encouraging the more reticent to speak, there was also some degree of "donkey-voting", where some of the quieter members agreed too readily with the views of the dominant speaker. Efforts were made in such cases to ascertain the true feelings of the less loquacious respondents by, for example, putting questions to quieter members first. In addition the standard technique of including check questions was used in some cases in this survey.

With specific reference to the questions aimed at ascertaining demand for programmes, there is the ever-present possibility that respondents would readily claim interest in new activities while, in reality, they may not participate to the same extent.

The interviewers were aware of these problems at the outset and thus remedial action was taken where necessary. For instance, many Aborigines in this group are very shy, speak very softly and often require a lengthy period before they can formulate an answer. An extreme example was a woman in Broome who was able to answer a question only after a full five minutes' silent thought. As another example, hypothetical questions and either/or questions were routinely rephrased.

In order to counter possible interviewer bias, all combinations of interviewers were made, with each person acting sometimes as main interviewer and sometimes as recorder. The order in which respondents in a group were interviewed was also varied to ensure that one person in a group did not give leads for the others to follow.

Despite the problems mentioned above, it is felt that the data obtained is of an acceptable level of accuracy.

2. General

Arrest

It became apparent both from answers to questionnaire items and from general comments that Aborigines are at greater risk of being imprisoned in two circumstances.

Firstly this is more likely to occur when an Aborigine moves out of his usual (Aboriginal) residential area into a white area such as a town. One explanation offered for this was that the police rarely visit Aboriginal settlements other than to make arrests for offences committed elsewhere or where a major offence has been committed, e.g. murder.

Moreover, an offence such as street drinking or drunkenness attracts notice only when committed in a public (i.e. European) place. A further point is that visits to town are often for the purchase (and consumption) of alcohol, which correlates very highly with being arrested.

Secondly, there seemed to be a tendency for those away from their usual tribal area to be particularly liable to arrest. Respondents reported that local police soon became aware that a "stranger" was in town and were perhaps less inclined to overlook minor infringements of the law. A further factor evident from statistical records is that "strangers" may often be travelling in a stolen vehicle or driving without a licence. Yet another point is that "strangers" who incur a fine may be less able to pay it than a local who can muster family or kinship support. 5

A view expressed by a large number of respondents was that the police were particularly alert to transgressions of the law (compared with Europeans) with special emphasis on drunkenness.

Alcohol is without doubt a major factor in the high Aboriginal imprisonment rate. What did emerge, however, was an unexpected link between alcohol, employment and imprisonment. The view was expressed that while drunkenness alone might not ensure arrest, the combination of drunkenness and the status of being unemployed was much more likely to do so - one possible explanation is that the unemployed get drunk at different times of the day so that a person drunk at mid-morning would be particularly at risk. Another possibility is the interesting enforcement of the Protestant work ethic by the police i.e. a man working is a valued man. This latter statement has some support in the commonly expressed attitude in the North West that an Aborigine who works is socially acceptable.

Fines

As a matter of interest, employment proved to be a major factor in determining preferences when faced with the choice of paying a fine or serving a prison sentence in default. Having a job generally seemed highly valued so that imprisonment became something to be avoided. Conversely when a person was unemployed, a short prison sentence did not seem greatly offputting when it was a question of either paying a fine or having "tucker" money.

The concept of the payment of a fine as a personal punishment would seem particularly questionable in the case of Aborigines.⁶ Given that Aborigines as a group do not have strong concepts of personal property and cash changes hands freely, fines are probably often imposed on a family or community rather than on the individual committing an offence. It could in fact even be that the group is exercising a social control function in that its decision as to whether a fine should be paid for a given individual could determine whether he is imprisoned. If the group does exercise discretion in this manner, it is thus itself using imprisonment as punishment in the form of ostracism.

Generalising from this, it is possibly much more useful conceptually, to think in terms of what power of discretion Aborigines have (in an admittedly limited sense) when confronted by the European Justice system, rather than portraying them, as many do, as a totally powerless group.

Aborigines, fines and the Aboriginal economy: speculating beyond the data.

It should be noted that the questions relating to the option between payment of a fine versus serving a prison sentence in default, were posed on the condition that the person had the necessary amount and that he was given no time to pay. It was thus a hypothetical situation where an immediate decision was required.

In reality, there is usually a period allowed in which a person is given the time necessary to find the money to pay his fine. The point is that while a large number of prisoners in the study expressed a strong preference for paying the fine (especially if employed), the usual situation seems to be (although reliable statistics are not available to support this) that when the time allotted expires, Aborigines often do not have the money.

It might be interesting to consider this difference between stated preferences and reality in light of the Aboriginal economy. As Sansom points out,⁷ both welfare and earned income tend to be farmed out immediately on receipt, often in the form of what he calls a "futures" market i.e. cash is either spent immediately on consumables, used to repay outstanding debts or "invested" in other persons who will reciprocate in times of need. Little cash is kept as a personal reserve as pressures from others would soon use it up without the benefit of any reciprocal obligation.

In essence, the Aboriginal economy resembles a futures market on the stock exchange and indebtedness is the rule rather than the exception.

Coupled with this is the Aboriginal ethos that the onus is not on the debtor to pay his debt when he can, but on the creditor to collect his debts if he can manage to. This is apparently carried out to the extent where the creditor is content to discount debts i.e. receipt of \$10 in payment of a \$20 debt will often be accepted by the creditor as full settlement.

If these general attitudes are transferred to the fine situation, it could then well be that there is little likelihood of payment of a fine before the "creditor" (the State) asks for this. The chances that the person will then have sufficient ready cash at the time are thus likely to be slim.

At this stage the above line of reasoning must be considered hypothetical but in the light of present knowledge does seem to warrant further investigation.

During the 1979/80 financial year, 37% of all prison receivables were for default of fine only.⁸ On any given day, about 5% of the prison population is serving a sentence purely in default of payment of a fine. It is thus obvious that both a considerable amount of imprisonment results from non-payment of fines and that the loss of revenue incurred is exacerbated by the cost of imprisoning defaulters.

This is thus an area which deserves a good deal of closer attention.

Feelings about prison

The results of this research reveal, as did a previous study,⁹ that contrary to a popular assertion, Aborigines do not "like" imprisonment. The fact that such a high percentage (45%) report 'putting up' with it, reflects perhaps that they are able to devise ways of accommodating the inevitable. The major factor which helps adjustment to prison life is the co-presence of others from the home area. Thus, for example, in Broome prison those from Fitzroy Crossing or the 'Derby boys' stick together to form fairly distinct friendship groups. By contrast one prisoner in Broome who was from Wiluna, 950 kilometres away, was reported by prison staff as being very much out on a limb, though some local prisoners had made efforts to include him in their group.

Nevertheless, though the presence of other Aborigines from the home area is something of an antidote to loneliness, there were many comments, particularly from prisoners at Roebourne and Wyndham, on the intense boredom of having 'nothing to do'. There is certainly a dearth of activities in the Northern prisons. Furthermore, a commonly held argument, that it is not worth developing work activities because Aborigines attract very short sentences are not there for long enough, does not stand up to examination. The present study shows that 51% of the prisoners interviewed had sentences of three months or more to the EED/EDR.

Although three months may be too short a duration for some job training courses (though nowadays there are numerous short term courses of three months or less) there are forms of work or prison industry which even short-term prisoners could do, were enough priority given to their development.¹⁰

It must be added here, that all three prisons do engage in some forms of community work such as street cleaning, rubbish collection and keeping public places such as cemeteries tidy. In Roebourne, some prisoners also volunteered to aid with restoration work at nearby Cossack, one of the Pilbara's historic ghost towns.

Aboriginal perceptions of the purpose of imprisonment

At the beginning of this paper one of the stated aims was to evaluate within the research population the extent to which the following aims of imprisonment are achieved
a) specific deterrence b) general deterrence, c) punishment.

Specific Deterrence

With regard to specific deterrence, the population itself did not appear to place much faith in the theory that the experience of imprisonment will deter them from returning to prison. As mentioned earlier, only 31% were willing to suggest that the experience of imprisonment would stop them from getting into trouble again. Bearing in mind that in this situation this would have been the obvious answer to give, one can only assume that the deterrent effect of imprisonment is even less than that stated. In a similar question approximately the same number (34%) felt that they would not be coming back to prison, whereas 55% were unable to commit themselves to such statements of certainty, preferring instead a more cautious 'maybe'. Further evidence against the effectiveness of specific deterrence is also reflected in the composition of the interview population, 78% of whom were in prison for at least the second time.

However, the difference between recidivists and first timers is somewhat interesting. Whereas 54% of 'first-timers' thought that the experience of prison would deter them from future encounters with the law, only 21% of people for whom this was their second time in, and 25% of those who had been in prison three or more times, indicated that imprisonment would deter them from future offending.

From the many statements made by prisoners, one gains the impression that specific deterrence is perhaps an irrelevant concept, in that the return to prison in Aboriginal eyes is due much more to policing and sentencing methods, than it is to fading memories of the unpleasantness of prison. For example in answer to the question "Why do you think there are so many Aborigines in prison?" 39% mentioned Police discrimination with a further 9% mentioning limited access to assistance in Court and a limited understanding of court procedure. Discrimination was vocalized primarily in two forms. Firstly, there is the alleged failure of police to arrest whites guilty of similar drinking or drunken behaviour i.e. in streets and pubs, and secondly there is the use of imprisonment for an offence which they see as trivial (e.g. "All I did was.....").

It seems then, that as far as Aborigines in the North West are concerned, although the principles of specific deterrence might make logical sense to some, during the relative unreality of an intellectual discussion on a prison lawn, it is much less an explanation of one's absence from, or return to prison, than the zealous, watchful and discriminatory apparatus of white social control.

General Deterrence

Just as the personal experience of imprisonment was not seen as a strong or relevant factor associated with future offending patterns, neither was the general threat of imprisonment that is associated with lawlessness (general deterrence). Most prisoners were aware that what they were doing was against the law (with the exception of those claiming wrongful arrest), though some reported being in too advanced a state of intoxication to be aware of anything beyond their own drunkenness, which in some cases was the offence. Furthermore, equal numbers of prisoners were and were not worried about the prospects of possible imprisonment.

Punishment

Of the three aims of imprisonment which the research set out to examine, only punishment seems to have been achieved

to some degree. As has been stated earlier, prison is disliked by a majority of Aborigines and 'put up with' by most of the remainder. Moreover, a major reason for the dislike seems to be that most prisoners (83%) miss their relatives and friends and their home 'country'. Thus, prison is punishing in so far as it separates people from family and home but is not seen as particularly harsh in its day to day routine. Furthermore, if punishment is also meant to be something which is seen as logically fitting the crime, or which is causally linked to more acceptable or lawful behaviour, then imprisonment does not meet these criteria. There is therefore little indication either in this study or in general statistics relating to Aboriginal imprisonment, to suggest that imprisonment 'successfully' deters people. Nor did the present population always regard it as either logical or appropriate.

In answer to the question "why do we have prison?" the most common response was "Don't know" (30%), often prefaced by remarks like "That's a hard one" or "That's what I'd like to know". However, following that, incapacitation i.e. "To keep people out of trouble," and "To dry out, keep you off the grog" were the most commonly volunteered rationales for the existence of prisons. A detailed table of responses to this question is shown in Appendix B.

What prison achieves

What prison does achieve is a measure of incapacitation. For example a dangerous driver is removed from the roads for a short period. It also serves a "welfare" function by default, in that it offers a temporary period of recovery and provides basic first aid for some individuals suffering the effects of alcohol, injuries, malnutrition and sickness. It is highly questionable whether these symptoms of a severely depressed lifestyle should be dealt with by the prison system.

Imprisonment and Tribal Life

The effect of imprisonment on tribal life is a subject of much speculation but little research, both in the anthropological and criminological literature. The usual speculative assumption is that prison has a destructive and generally negative effect on the maintenance of a vibrant traditional culture. Less often voiced is the alternative possibility that prisons may act as centres for the reinforcement and dissemination of traditional beliefs and

ritual, perhaps encouraging the spread of cults¹¹ or rituals over very large areas because of the wide catchment of Northern prison populations (e.g. in Wyndham there were some Walbiri men from Yuendumu near Alice Springs, and in Broome there was a man from Wiluna). Time limitations prevented gaining any insight into the dynamics of such possible information exchange, or properly assessing the function of the prison vis a vis traditional life. The results do show that the population was predominantly traditionally oriented and that 66% of those who said they followed the law had missed or would miss some law business, i.e. ceremonial or ritual events pertinent to them as a member of a tribal group. However, only about half (51%) of those prisoners who were missing out on law business claimed that this bothered them. One reason given was that in most cases someone else, particularly 'brothers' or 'cousins', could act in their place in whatever ritual or ceremonial event was being staged. Nevertheless, there were cases where prison was having a serious effect, as for example, in the case of a Roebourne man who was in and out of prison so often that there was never time to 'put him through' the law.¹²

Actually, in the case of Roebourne the data is interesting, or rather, puzzling to some extent. In comparison with the population at Broome and Wyndham, a fairly strong impression was gained by the interviewers that attitudes to 'the law' (i.e. Aboriginal law) and to missing law business was far more casual or matter-of-fact than at the other two prisons. The quantitative data in fact shows that a much higher percentage of traditional Roebourne respondents were 'bothered' about missing law business than was the case at either Broome or Wyndham. This is obviously an area which warrants further investigation.

A strong impression held by all the interviewers was that the traditionally oriented were very much the 'in group' with the non traditionals being the out group. At Wyndham in particular, one gained the impression that the non-traditionals were outsiders looking in with some envy or wistfulness. Many of the respondents exhibited considerable pride in their traditional Aboriginality. One young man from La Grange spoke critically of white law as being markedly inferior to Aboriginal methods of social control from the point of view of both morality and justice. He went on to say how his ambition was to gain more and more knowledge of the law (Aboriginal) like his grandfather. Certainly, according to Akerman¹³ traditionalism (albeit of a modified kind) is growing stronger in the Kimberleys, with more young men than ever coming forward for initiation in many different areas. Akerman also stated (personal communication) that

in some cases cicatrization is as much a general 'macho' symbol of male tribal pride as it is mark of particular ritual significance.

However, despite the allegiance to Aboriginal law exemplified by the young man described above and the general preference for that system expressed by a majority of the population, it should be noted that there are few events which would constitute offences under both codes. Notably, in traditional Aboriginal cultures, there are very few property offences in the European sense and little notion of general 'disorderly' behaviour being a crime. Thus one can steal a wife, or steal ritual or religious knowledge,¹⁴ but the concept of theft in relation to most objects would be absent.¹⁵ High on the list of serious crimes for traditional Aborigines are unjustifiable homicide, sacrilege and unauthorized sorcery. A more detailed list of traditional crime and punishment, taken from Meggitt M.J. "Desert People" 1975, is shown in the Appendices. A noticeable feature of that list is the required and acceptable use of physical violence as a means of punishment, actions which often leads Aborigines to be punished by European law.

Turning now to the possibility that traditionally oriented prisoners may experience and perceive prison very differently from the non traditionally oriented, the data reveals that there are few differences between the two groups.

More non-traditional, than traditionally oriented prisoners report prison as easy and a higher percentage of traditionally oriented report that they miss the company of their relatives. In addition, fewer traditionally oriented people could volunteer a reason for having prisons. These differences apart, the two sub-populations did not differ greatly over other responses.

Prison Programmes

There is, without doubt, a paucity of learning opportunities throughout North Western communities compared with the South, particularly, in the domain of trade training and specialized, e.g. remedial education. This reflects primarily the difficulties associated with the remoteness and sparsely populated nature of the region rather than a lack of educational ideas or talent in the State. Nevertheless, the fact remains that for the Northern population as a whole, the opportunity to acquire new or further employment enhancing skills are few. For Aborigines, there is Pundelmurra College at South Hedland, which is doing excellent work but can only reach a

small population. Apart from that institution, there are a few mobile, short-term courses mounted by Aboriginal Adult Education and, as elsewhere in W.A., there are correspondence courses available from the Technical Extension Service or the West Australian Correspondence School. However, where illiteracy levels are higher than average and where standard English may be rarely used, the option of correspondence education is barely practical even if the topic appeals. Furthermore, from discussion with Adult Aboriginal Educators and Aborigines themselves, learning from books by means of written exercises is not popular. In the present study respondents expressed a marked preference for learning by doing and by observation.

For these reasons, it might seem logical to establish good practical courses in prison. However, care would need to be taken that certain undesirable consequences did not follow. In making available some vocational and educational courses to prisoners, it should be made clear that no attempt is being made to resurrect the ailing spectre of rehabilitation in the sense that the Department of Corrections assumes responsibility for reforming the prisoner. There is no good evidence yet to suggest that this philosophy ever achieved its goal to any real degree.¹⁶ Instead the aim is the more modest one of enabling prisoners who so desire, to acquire some new skill which may enhance their employment prospects, or their capacity to survive for longer in the outside world. This distinction is important, particularly with regard to sentencing policy.

It would be inappropriate for Magistrates or Justices of the Peace to send people to prison so that they will be taught a trade skill, in the belief that this will automatically benefit and alter that person. The desire to learn and the decision to do so must come from the person rather than from a legal edict. Moreover, educational opportunities should be reaching more and more outback Australians without the nullifying precondition that they first break the law and spend time in a penal institution. In other words it would be highly undesirable if the Department of Corrections became by default, a principal agent of education in the remoter areas. First and foremost the North needs bona fide educational institutions and personnel.

As pointed out in the introduction, it would be wrong to expect the prison system to provide a solution to the disproportionate number of Aborigines serving terms of imprisonment. It is not for the prison to make up for deficiencies in a crucial area like education, the quality of which may be so important in determining the individual's life chances.

It makes sense, nevertheless, in terms of the Departmental policy of prisoner self-determination, to introduce relevant vocational and educational courses in the Northern prisons.

Relevant Programmes

Almost every prisoner (90%) expressed an interest in the possibility of obtaining a valid Motor Driver's Licence whilst in prison, and motor maintenance was clearly the most popular trade subject. It is not difficult to see the reasons for this. In the North West, cars are both a valued and essential commodity, particularly for Aborigines who may wish to travel hundreds of miles for employment, law business or the maintenance of social ties. The ability to maintain vehicles is therefore prized and important skill. With regard to obtaining a valid Motor Driver's Licence the results of the present survey speak for themselves. Only 8 out of 96 (8%) possessed a valid licence. Moreover, this does not deter large numbers from driving cars, with the result that frequent fines and periods of imprisonment are extremely likely.

Annual Report statistics show a clear trend over the last ten years towards motor offences becoming a bigger area of Aboriginal crime. For example, in 1969-70 offences against the Traffic Act constituted 9% of Aboriginal commitments to prison. In 1977-78 the figure was 19% and in 1979-80 24%. Particularly pertinent is that in 1979-80 11% of all Aboriginal commitments to prison were for licence infringements.

It would therefore seem both practical and highly desirable that driving instruction with a view to obtaining a valid licence be made an educational priority together with a short practical motor maintenance course.

It is apparent that disqualified drivers are a particular problem in that they are highly likely to drive regardless of the disqualification. Furthermore they will generally do so in a very dangerous manner.¹⁷ The legal ramifications of disqualification prevent inclusion of these drivers in Departmental programmes and thus bar the possibility of remedial action. It may therefore be appropriate for the concept of disqualification to be re-examined. For example, in certain areas it might be more to the point to require the passing of a very stringent driving test, rather than disqualification for a given period.

Numeracy and literacy were also in popular demand - an English course was in fact being taught at Broome prison at the time of the survey. Most prisoners claimed some basic knowledge in these areas, though due to the limitations of time no formal testing was carried out which would have enabled an accurate assessment of literacy levels. However, an earlier study¹⁸ of predominantly South Western Aboriginal prisoners revealed an illiteracy rate of 18% with only 26% considered fully literate and 56% functionally literate. It would seem likely that the percentage of fully literate people in the North West might be somewhat lower than this, in view of there being fewer schools greater distances and less urbanizing and European influences compared with the South West.

Given the high level of demand, and the nature of literacy/numeracy as survival tools in areas dominated by European culture, it would also seem appropriate to make these subjects a priority in Northern prisoner education.

With other subjects (whether trade, recreational or academic) perhaps the best approach is to remain sensitive to real demand and implement courses where and when possible. This may depend on the availability of teachers and material as well as student interest. There are possibly a number of recreational areas such as painting or carving which can be carried out with a minimum of supervision or organization. The three most pressing areas which could constitute viable projects are Driving Instruction, Motor Maintenance and Literacy/Numeracy.

CONCLUSIONS

It is possible to draw the following general conclusions from the present study on Aboriginal attitudes:-

1. Imprisonment does not achieve the aim of general deterrence.
2. Imprisonment does not achieve the aim of specific deterrence.
3. Imprisonment partially achieves the aim of punishment, the major factor being separation from family and home area.
4. Imprisonment does achieve the aim of incapacitation in a few cases, although sentences typically served by Aborigines are so short as to discount incapacitation as a function of imprisonment.

5. Imprisonment does serve a "welfare" function (by default) in that it acts as a recuperating station for those suffering the effects of alcohol, injuries, sickness and malnutrition - whether this is a valid function for a prison system is very much open to question.
6. Conflict with the law typically occurs in non-Aboriginal areas i.e. in European town areas and mostly away from the usual place of residence.
7. Alcohol (as expected) is a major factor associated with imprisonment.
8. Aborigines are, by and large, aware what actions constitute offences under European law.
9. This study provided further support against the notion that Aborigines actually like going to prison and showed rather that imprisonment was accepted as an inevitable fact of life.
10. The experience of imprisonment, on the other hand, is not generally received as being hard to cope with.
11. The majority of Aboriginal prisoners follow traditional law. In some areas this is in fact expanding and to some extent countering the effects of increasing urbanization, which would tend to undermine traditional law.
12. Imprisonment does disrupt traditional law ceremonies and this gives rise to concern. On the other hand, it is possible that imprisonment is paradoxically responsible for disseminating law practices from different areas and thus keeps traditional law alive by acting as a locus of information exchange.
13. There was strong support for the Aboriginal way of administering justice (compared with the European) in terms of equity, intelligibility, relevance and finality. It was also perceived as a group process concerned with the individual belonging to the group rather than an arbitrary impersonal process. This could have implications for the Court process and would also support the experimental syncretic Aboriginal legal systems currently being developed in the North West.

14. Employment was accorded an unexpectedly high status in Aboriginal values and could have considerable importance with regard to the imposition of fines and serving default' sentences.
15. Viable potential prison programmes seem to be basic literacy and numeracy, obtaining a motor driver's licence, practical mechanical courses, leatherwork and instrument playing (particularly guitar). There are strong reasons for implementing a package centring around motor vehicle maintenance, basic literacy and numeracy and obtaining a motor driver's licence.
16. The study highlighted important areas in which knowledge is lacking. To cite a few, the general situation regarding payment of fines (why and why not fines are paid and by whom) Aboriginal concepts of personal property, Aboriginal economic systems, Aboriginal methods of social control, the place of legitimate violence in Aboriginal life, Aboriginal attitudes to alcohol, etc.

Generally, imprisonment of Aborigines in the North West seems to achieve little of value with the major achievement being the performance of a rather questionable welfare function.

RECOMMENDATIONS ARISING FROM THE STUDY

1. Fines

Given the important contribution defaulters make to the imprisonment rate, the following is recommended with regard to Aborigines, for further investigation and possible implementation on an experimental basis:-

- a) In the case of the unemployed, fines should be a nominal amount (other than where a specified fine is mandatory). In the event of the person not having the required amount available, he/she should be directed to immediately fulfil a Community Service Order (perhaps for the rest of that day). These measures would seem a more rational and economical solution than imprisonment in default;

- b) In the case of the employed, time to pay should be set until the next pay period, with perhaps the alternative of a smaller amount if payment can be made immediately.

2. Drunkenness

Drink-related disorderly, abusive or aggressive behaviour, together with straight drunkenness contribute enormously to the prison populations of the North West. It is therefore recommended that:-

- a) In the event of public drunkenness, wherever possible offenders should be removed to their place of residence rather than to the police lock-up, as this would seem to achieve the desired effect of "street cleaning". Only in the case of recalcitrance or return in a drunken state to public areas, would arrest be justified. (Note that this is in line with the Dutch model of policing which has as a concomitant a very low imprisonment rate, (24 per 100,000) 19 i.e. problems are solved where possible, informally by police without recourse to legal processes.)

3. Aboriginal Law

There appears to be considerable respect for Aboriginal law because it is seen as eternal, just and understandable with sanctions that are appropriate and often immediate. Since May 1979, following the passing of the Aboriginal Communities Act, a system of justice administration has been operating at La Grange and One Arm Point which, whilst essentially conforming to a general Australian legal framework, is administered by local Aboriginal J.P's and includes elements of traditional law. It is therefore recommended that:-

- a) A formal evaluation be carried out on the system of Justice Administration using Aboriginal J.P's currently operating successfully at La Grange and One Arm Point.

4. Understanding Legal Procedures

In the Court setting (and in contrast to Aboriginal administration of justice) it would seem that many Aboriginals do not understand the proceedings and make little connection between the offence, the verdict (with particular reference to the notion of guilt) and the sentence. If this is the case, the whole procedure loses any meaning and the sequence of events is unlikely to have any effect on future behaviour patterns. It is therefore recommended that:-

- a) Sentencing authorities be advised of the necessity of providing explanations in understandable terms.

(N.B. Magistrate T. Syddall has done a great deal of work in this area.)

5. Training Courses in Prison

Based on the present data it is recommended that:-

- a) Priority in any training courses should be given to Literacy and Numeracy, Motor Maintenance and Driving Instruction as these three areas are not only in high demand but also to some extent form a package aimed at the major growth area in Aboriginal offending, whilst providing possible job skills.

6. Recreation

It is recommended that:-

- a) Active recreation be provided for in the form of some sort of court game, e.g. basketball, volleyball, tennis as this consumes surplus energy and aids efficient management;
- b) More passive recreation would seem best catered for in terms of musical instruments with some tuition where possible (particularly guitars).

Further research

It seems that this paper marks the endpoint of relatively quick, one-off studies of this type (requiring a minimal amount of staff time and expenditure) after which the law of diminishing returns must apply. However, there are enormous areas in which there is no knowledge and which warrant further study. Areas which should receive priority include alcohol, fines, concepts of property, Aboriginal economic systems, illegal and sanctioned violence, Aboriginal methods of social control, evaluation of justice systems administered by Aboriginals and alternatives to imprisonment. It is therefore recommended that:-

- a) Any further study be of a long-term nature with research staff being located on a semi-permanent basis in the area of study.

(It should be noted that the W.A. Department of Corrections is currently formulating a proposal along these lines to seek assistance from the Criminology Research Council.)

NOTES AND REFERENCES

1. See for example D. Nagin's paper "Estimating the Effects of Criminal Sanctions on Crime Rates" in Blumstein et al (edtr) Deterrence and Incapacitation, National Academy of Sciences, Washington D.C. 1978. Nagin says (page 135)

"The past decade has witnessed a burgeoning of analyses directed at testing the deterrence hypothesis for non-capital sanctions. In this critique of 20 published analyses are cited, and even this list is less than exhaustive. Yet, despite the intensity of the research effort, the empirical evidence is still not sufficient for providing a rigorous confirmation of the existence of a deterrent effect. Perhaps more important, the evidence is woefully inadequate for providing a good estimate of the magnitude of whatever effect may exist."
2. Hawkins G. In an article entitled "The Prison" in Killinger et al (Edt) Penology: The Evolution of Corrections in America West Publishing Company, 1979 (pages 14-18) reviews rehabilitation and finds no real evidence of its success.
3. E.D.R. refers to the expected date of release in the case of finite sentences. E.E.D. is the earliest eligibility date on which a person with a parole sentence may be released on parole.
4. Aborigines who "follow the law" are those who substantially follow traditional tribal religious beliefs and practices. The 'law' is essentially and before all else religious in character but it also refers to how one relates to other people, and defines right and wrong and crime and punishment in Aboriginal Society.
5. In discussions with Mr. Dennis Gray who did field-work on a Carnarvon reserve, (See Gray D, "Traditional Medicine on the Carnarvon Reserve" In Berndt R.M. and C.H. (Edtrs) Aborigines of the West: Their Past and their Present, U.W.A. Pres, 1979, ability to pay fines is very much dependent on local economic factors, such as number of kin who can contribute. In his example, 'strangers' from Gascoyne Junction with few kin were therefore more vulnerable to serving defaults than locals.

6. B. Sansom in his study of a Darwin fringe camp ("The Camp at Wallaby Cross", Australian Institute of Aboriginal Studies, 1980) gives examples to show that fine paying is usually a group concern. In one example (p.210) a \$750 fine is seen by the 'mob' as too much to raise. In another example (p.127) a mission community pays the \$200 fine of one of its ex-members, but then demands the \$200 in turn from the fringe camp where the young man now lives.
7. Op. Cit. Chapters 11 and 12.
8. Extracted from Departmental Computer Records.
9. Duckworth A. and Hartz-Karp J. "Aboriginal Attitudes to Imprisonment: A Preliminary Appraisal of Issues." W.A. Department of Corrections, Internal Research Paper 54.
10. For example, at Roebourne next door to the prison was a large factory type steel shed recently vacated by a power generating company. If the Department were to negotiate for this, it would make an ideal location for a suitable prison industry.
11. See for example Akerman's discussion of the way cults move over great distances in "The Renascence of Aboriginal Law in the Kimberleys" in Aborigines of the West: Their Past and their Present, Berndt, R.M. and C.H. (eds), University of W.A. Press, 1979.
12. i.e. complete initiation ceremonies. Although traditionally many years ago, initiation would have taken place at a younger age than this adult prisoner, Akerman (Op. Cit.) reports a revival in traditionalism which includes the initiation of several older people who missed this important ceremony when they were younger.
13. Akerman's paper (see footnote 11) is most informative in tracing and describing the origins and spread of this modified traditionalism. In essence, ritual and ceremonial is becoming more generalised rather than highly localized as it used to be. Some of the strongly localistic traditionalists, e.g. Aborigines of Dampier Land, refer to this pan-tribal traditionalism contemptuously as 'the travelling law'. Many of the myth cults in this new traditionalism originate from the desert regions.

14. For example in Berndt R.N. and Berndt C.H. "The World of the First Australians" Ure Smith, Sydney, 1977, p. 256 "...there is the persistent claim which appears in various parts of Aboriginal Australia to the effect that in the beginning, until they were stolen by men, women owned most of the sacred sites and the emblems which are used in them." For further discussion of mythological references to the theft of sacred knowledge, particularly by men from women see also Berndt, C.H. "Digging Sticks and Spears, or, the two-sex model, in Hale F. (ed), Women's Role in Aboriginal Society A.I.A.S. Canberra, 1974.
15. Sansom (Op. Cit. p.111) in discussing the layout of the fringe camp which he studied, makes some comments on goods and property. These include a notion of 'very private' items, presumably stealable, thus:-
- Iron Bedsteads, tables, a few iron chairs and the four gallon drums that serve as seats, are items for use that circulate through accommodation, usually the accommodation of one centre. Things reserved to 'very private' use are kept as part of swags. Rifles, radios, taperecorders, axes, knives and steels are among the items of 'very private' reservations. In the use of other belongings, clothes are swapped around but utensils belong to hearths and are not willingly lent to outsiders"
16. See Hawkins, G. Op. Cit. p.p. 14-18
17. In the experience of the Departmental Driving Instructor.
18. Foley-Jones, C.R. and Broadhurst, R.G. "Prisoner Work and Education Preferences" Unpublished Research, W.A. Department of Corrections.
19. See for example Smith, P.D's article "It can Happen Here: Reflections of the Dutch System", The Prison Journal Vol. Vlll (2), 1978.

APPENDIX A

THE QUESTIONNAIRE.

QUESTIONNAIRE

We would like to find out where you usually live and where you were living just before you were arrested. The reason for this is to find out if Aborigines are more likely to get into trouble when they are in some places or when they are away from home.

1. Where do you live most of the time:

(Type of place: Reserve, Mission, Aboriginal Station, European Station, Fringe, Town)

2. Where were you living just before you came to prison?
(Type of Place: Reserve, Mission, Aboriginal Station, European Station, Fringe, Town)

One of the things we want to find out is what you think about prison?

3. Is this the first time you have been in prison?

4. Do you think you will come back to prison after this time?
why?

5. Did you know that you might go to prison for what you did?

6. Did it worry you that you might go to prison?

7. Were you drunk when you committed the offence?

8. Why do you think we have prisons?

9. Prison is supposed to be a punishment. Do you think this time in prison will stop you from getting into trouble again? Why?

10. What do you think about being in prison?

Like. Dislike. Put up with it Easy. Hard. Miss home, Not Miss home
Lonely Not Lonely Relatives. Relatives

11. What are some of the bad things about being in prison?

31.

12. What are some of the good things about being in prison?

13. What does your family think about you being in prison?

Angry With Sad Other
you.

We would like to find out if tribal law is still important to you.

14. Do you follow tribal law?

15. Have you been initiated? (been through the law?)
Is it all finished now?

16.a Have you missed any law business since you have been in prison?

Will you miss any while you are in prison?

16.b Does it worry you? Does it worry your relatives?

17. We are interested in finding out if Aboriginal people get punished twice - once under Aboriginal law and once under white law - and if this worries you.

Is what you did against Tribal law as well as white law?

18. Have you been punished by Tribal law for this offence?

Will you be punished?

19. If you did something wrong in Tribal Law and white law would you want to be punished by Aboriginal law? white law? Why?

20. If you had done a small offence, would you rather pay a \$20 fine (if you had \$20) or go to prison for 4 days? Why?

If you had done a bigger offence, would you rather pay a \$500 fine (if you had \$500) or go to prison for 3 months? Why?

21. Why do you think there are so many Aborigines here in prison and only a few white prisoners?

We are interested in finding out whether Aborigines who are here in prison for longer than one month would like to learn a trade, skill, or school subject.

32.

23. Is there anything you would like to learn while you are in here in prison? If yes, What? If no, why not?

(Note particularly sentence length).

24. Can you read and write (more than your name)?

25. Would you like to learn any of these things?

Learn to Read. Learn to Write. Improve reading & writing.

Basic Maths. Repairing Cars. Welding.

Plumbing. Brick laying. Carpentry.

Saddle Other Trade Courses.

Repairs.

26. Which trade would you like to learn most?

27. Driver's licence. Have you -

Ever had. Still got. Are you dis- Want - A driver's
qualified now. licence.

28. Would you like to do -

Art. Leatherwork. Carving. Other Crafts. Music

29. Learn more about Aboriginal Culture (Language, Books, Dancing, Instruments).

It would be possible to generate an almost infinite number of cross-tabulations on the data. However, for the sake of simplicity and clarity only two tables are included. These are intended to give the reader a brief but clear picture of the research population.

TABLE ONE.

AGE BY FIRST TIME/RECIDIVIST BY PRISON

		20		21-15		26-30		31-40		40+	
		1st time	Rec.								
Broome	N	5	8	4	14	0	6	1	4	0	1
	%	5.5	8.8	4.4	15.4	0	6.6	1.1	4.4	0	1.1
Roebourne	N	1	8	0	9	0	4	0	5	0	2
	%	1.1	8.8	0	9.9	0	4.4	0	5.5	0	2.2
Wyndham	N	5	1	3	3	1	2	2	2	0	0
	%	5.5	1.1	3.3	3.3	1.1	2.2	2.2	2.2	0	0
Total	%	12.1	18.7	7.7	28.6	1.1	13.2	3.3	12.1	0	3.3
	%	30.8		36.3		14.3		15.4		3.3	

Missing Cases = 5

APPENDIX BDEMOGRAPHIC CHARACTERISTICS OF THE SAMPLE

TABLE TWO: TYPE OF OFFENCE BY LENGTH OF SENTENCE BY PRISON

PRISON	PERSON			PROPERTY			SEX			JUSTICE			VEHICLES			GOOD ORDER			
	TO 3M	3-12	12+	TO 3M	3-12	12+	TO 3M	3-12	12+	TO 3M	3-12	12+	TO 3M	3-12	12+	TO 3M	3-12	12+	
BROOME	N %	3 3.1	2 2.1	2 2.1	8 8.3	1 1	3 3.1	0 0	1 1	3 3.1	0 0	2 2.1	1 1	7 7.3	4 4.2	0 0	5 5.2	2 2.1	0 0
ROEBOURNE	N %	1 1	3 3.1	0 0	0 0	0 0	1 1	0 0	1 1	2 2.1	0 0	1 1	0 0	3 3.1	10 10.4	0 0	7 7.3	0 0	0 0
WYNDHAM	N %	0 0	0 0	0 0	3 3.1	1 1	0 0	0 0	0 0	1 1	0 0	0 0	1 1	2 2.1	6 6.3	0 0	4 4.2	1 1	0 0
TOTAL	N %	4 4.2	5 5.2	2 2.1	11 11.5	2 2.1	4 4.2	0 0	2 2.1	6 6.3	0 0	3 3.1	2 2.1	12 12.5	20 20.8	0 0	16 16.6	3 3.1	0 0
TOTAL	%	11.5			17.8			8.4			5.2			33.3			19.7		

TABLE THREE

Why do we have prisons?

<u>Reasons</u>	<u>Times Mentioned</u>	<u>% of times mentioned</u>
1) No reason given, don't know	38	38.7%
2) To keep people out of trouble	17	17.3%
3) To dry out, keep off the grog	7	7.1%
4) To teach you a lesson, to help you	5	5.1%
5) For people with bad records	4	4.1%
6) Punishment, make it hard	4	4.1%
7) For bad people	2	2.1%
Other misc. reasons	14	14.3%
	<u>98</u>	<u>99.9%</u>

APPENDIX CCRIME AND PUNISHMENT IN TRADITIONAL ABORIGINAL SOCIETY.

CRIME AND PUNISHMENT IN TRADITIONAL ABORIGINAL SOCIETY

The following table of major offences and the punishments which they attract is taken from "Desert People" by Meggitt M.J. (Angus & Robertson, Sydney 1962 pages 256-258 and applies specifically to the Walbiri people of the Central and Northern parts of the Northern Territory and the North East part of W.A. However, literature covering other traditional Aboriginal Societies (e.g. "The World of the First Australians: Berndt R.M. and Berndt C.H. 1979) indicates that the following table would be fairly typical of most traditional Aboriginal Societies:-

OFFENCESOFFENCES RECOGNISED BY THE WALBIRIA. Offences of commission

1. Unauthorised homicide (that is, not decreed as a punishment for another offence).
2. Sacrilege (that is, the unauthorised possession of sacred knowledge and objects and the unauthorised observation of sacred rituals).
3. Unauthorised sorcery (1 and 3 are not easily distinguished).
4. Incest (copulation with actual kin of certain categories).
5. Cohabitation with certain kin (usually classificatory relatives in the categories associated with 4.).
6. Abduction or enticement of women.
7. Adultery with certain kin (usually classificatory relatives in the categories associated with 5.).
8. Adultery with potential spouses (7 and 8 in effect cover all cases of fornication).
9. Unauthorised physical assault, not intended to be fatal.
10. Usurpation of ritual privileges or duties.
11. Theft and intentional destruction of another's property (exclusive of 2.).
12. Insult (including swearing, exposure of the genitals).

B. Offences of omission

1. Physical neglect of certain relatives.
2. Refusal to make gifts to certain relatives.
3. Refusal to educate certain relatives.

PUNISHMENTS APPLYING

The penalties faced by Walbiri law-breakers

1. Death - a. caused by a non-human agency (A2).
b. Caused by human sorcery (A1, possibly A3).
c. caused by physical attack (A1, A2,
possibly A3).
2. Insanity - caused by a non-human agency (A2).
3. Illness - caused by human sorcery (A1, A2, A3, A5, A6,
A7, A8; B1, B2).
4. Wounding - attack with a spear or knife, intended
to draw blood (A5, A6, A7, A8, A9, A10, A11).
5. Battery - attack with a club or boomerang (A6, A7,
A8, A9, A10, A11, A12; B1, B2, B3).
6. Oral abuse - this accompanies all human punishments.
7. Ridicule - this is directed mainly at offences of
omission.

END