



RI Research Paper
AB100 Aboriginal People & AB500 The Silent History



Student Name: JANE RAMSAY

Topic: JUSTICE SYSTEM

Aspect Assessed	Demonstrated		Not Demonstrated	
Correct word limit.	✓			
References: Correct format and accurate.	✓			
Variety of sources used.	✓			
Accurate grammar used.	✓			
Spelling meets academic standards.	✓			
Aspect Assessed	Excellent	Good	Satisfactory	Limited/ Unsatisfactory
Content:		✓		
<i>Introduction:</i> Identifies purpose of paper		✓		
Identifies topics to be covered in the paper		✓		
Personal insights supported by clear and concise evidence.		✓		
Evidence of depth and breadth of understanding.		✓		
Information is relevant and purposeful		✓		
Well planned and organised		✓		
<i>Conclusion:</i> Summarises information given.		✓		
Closing statement given.		✓		

General Comments:

Signed: Catherine Wohlan

Grade: 70% DISTINCTION

YOUR ESSAY FINISHES VERY WELL JANE, JUSTICE IS A BROAD AREA TO COVER & YOU ATTEMPTED TO REPORT THE ISSUES WELL.

Assignment no 2 : AB100

Criminal Justice System: High rates of Indigenous imprisonment.

“There are clear disparities between Indigenous and non-Indigenous people in Australia across all indicators of quality of life. Indigenous peoples generally experience lower standards of health, education, employment and housing. [Indigenous Australians] are over-represented in the criminal justice system and the care and protection systems nationally compared to non-Indigenous people” (Australian Human Rights Commission, 2008, p. 4).”

You are required to conduct your research in ONE of the following broad areas of disadvantage:

Health, Education, Employment, Housing, Criminal justice system, Child Abuse

You are required to research and write a research paper reporting on:

- The extent of this disadvantage;
- The historical factors that have led to this disadvantage;
- The impacts of inter-generational trauma; and
- The success stories in terms of overcoming this disadvantage.

Referencing must be correct. Please check the School of Arts & Sciences referencing guide for accuracy (see link under Referencing Style below).

Broad area of disadvantage in the criminal justice system: High rates of Indigenous imprisonment in Australia

Introduction:

Indigenous people are clearly disadvantaged in Australian society in comparison to non-Indigenous people, both male and female. The areas of disadvantage include health, education, housing, employment and the criminal justice system. However, the disadvantage in the criminal justice system is by far the greatest. There have been some minor improvements in health and education, albeit very small and disappointing compared to the amount of money that has been spent in these areas. "This is definitely not the case with criminal justice where the gap has actually widened" (Fitzgerald & Metherell, 2011). This research paper examines the extent of this disadvantage, the historical factors that have led to this disadvantage, the impacts of inter-generational trauma and the success stories in terms of overcoming this disadvantage. Weatherburn & Holmes, (2010), contribute high rates of Indigenous imprisonment to economic and social disadvantage. Rob Riley reveals the incubation of this disadvantage and its direct relationship to colonisation, dispossession of the Aboriginal people and racism (Beresford, 2006). Collins and Barson (2011) highlight the ineffectiveness of policies to reduce Indigenous high rates of imprisonment due to their inherent racism.

CLEAR
INTRODUCTION

Extent of this disadvantage:

Aboriginal and Torres Strait Islander Australians are “over represented in Australian Prisons” (Healey, 2007, p.1). As far back as 1979, the rising imprisonment rate in Western Australia was formally recognised and this prompted an inquiry. The Aboriginal population in WA was only 3%, yet it “constituted 32 per cent of the daily prison muster” (Beresford, 2006, p. 98). “After taking into account the age differences between the Indigenous and non-Indigenous populations in 2004, Indigenous persons were 11 times more likely to be in prison compared to non-Indigenous persons” (Australian Bureau of Statistics [ABS], 2005, para 10). “The rate of imprisonment for Aboriginal and Torres Strait islander prisoners was 14 times higher than the rate for non-Indigenous prisoners at 30 June 2010” (ABS, 2010, para 3). Today in the Northern Territory, Aboriginal people comprise 30 per cent of the population yet constitute a disproportionate amount of the prison population i.e., 82 per cent. (Collins & Barson, 2011). What is evidenced from the above statistics is that the rate of imprisonment for Indigenous people is increasing. The “disparity between Indigenous and non-Indigenous imprisonment rates is now wider than it has ever been” (Weatherburn & Holmes, 2010, p. 559).

The historical factors that have led to this disadvantage:

1. Stolen Generation & Life under Government Control

Trauma and racism were rife during the period when children were “stolen” by the government and sent to live in foster homes and reserves. This was part of a social engineering exercise to weed out the black blood. (Beresford, 2006) One example of the many traumas of Rib Riley’s life, which was representative of many Aboriginal children living in “homes” as State wards, was “the beatings that he received for simply asking about his parents” (Beresford, 2007, p. 70). Even today excessive government interference causes

inequality. Clark (2006, July 3) warns that the Federal politician Mal Brough's plan to abolish Aboriginal customary law could lead to a new kind of inequality.

2. Exploitation by the Pastoral Industry:

Aboriginal people were clearly "exploited by the pastoral Industry, their working conditions were appalling and their wages a mere token" (Rickard, 1998, p. 237). With the introduction of minimum wages many found themselves out of work with no viable means of living. Hence, the establishment of a spiralling pathway into the poverty cycle. Rickard (1998), described the escalation of resentment towards white-man as being both "inevitable and understandable" (p.237). ✓

3. Direct Discrimination:

In 1967 the Aborigines became recognised as part of the Commonwealth but this didn't improve matters as this now meant that the Government had the right to legislate over them (Rickard, 1998, p. 238). A classic example of the insidious type of discrimination that existed can be seen in the following example. Albert Namatjira became a national figure due to his success as a painter. This not only had him brought to Canberra to meet the Queen in 1954 but gained him citizenship. However, with this came the usual unfair cruel twist. His family had to remain wards whilst he was "allowed the illusion of autonomy" (Rickard, 1998, p. 237). He was also jailed for giving his family grog. He was sentenced to 6 months hard labour, later reduced. Shortly after he was released he died of a heart attack. Namatjira had "been a victim of injustice" (Rickard, 1998, p. 237). ✓

The above situation gathered empathetic support from certain lobby groups, predominately labour supporters, however by the time labour was re-elected during the 80's the influential control was changing. The growing face of the Mining Industry was rearing its ugly head. ✓

Rickard (1998) describes the growing disillusionment amongst the Indigenous, as the promise of land rights was clearly “being eroded” (p. 247), mainly due to the increased interest in land by the mining exploration companies.



4. Inadequate services – counselling, housing, education, finance and health.

In relation to the current high rates of imprisonment, not only do the early historical factors that were responsible for creating the inequality in the first place, bear a strong influence, but current ongoing historical factors such as the inadequate provision of services also plays a major role; for example lack of support or inadequate support for Indigenous people after their release. “Indigenous people who had been arrested in the last five years were more likely to report not having access to support from someone outside their household in a time of crisis, 15% compared with 9%” (Healey, 2007, p. 3).

Substance abuse, failures to complete year 12, unemployment, financial stress and over crowded housing are all factors that increase the chance of being charged with an offence (NSW Bureau of Crime Statistics and Research [BOCSAR], 2006). Despite the fact that the Aboriginal Legal Service (ALS) requested the government to increase the provision of finance for housing, education and other facilities, it was clearly not achieved as the Royal Commission into Deaths in Custody felt the need to do the same ten years later (Beresford, 2006, p. 98).

5. Welfare dependence and unemployment:

The analyses suggest that factors like economic stress, welfare dependence and unemployment are strongly correlated with:

- (i) Whether or not an **Indigenous** person is arrested, and
- (ii) With the number of times an **Indigenous** person has been arrested in the past 5 years.

6. Police practices and corruption:

Beresford (2006) makes particular reference to the police practice of “overuse of arrest rather than summons and the corrupt practice of paying police additional money to provide prisoners’ with meals, without any accountability” (p. 98). The ALS was very concerned about the above practices and the significant effect that they had on the high rates of Indigenous incarceration (Beresford, 2006, p. 98). Court cases, hearings and evidence was often biased or contrived based upon intimidation practices by police (Beresford, 2006, p. 171). Deaths in custody, high levels of imprisonment and repeat offending were embedded within a culture of “police intimidation and violence” (Beresford, 2006, p. 220).

The impacts of inter-generational trauma:

Beresford (2006) highlights how the effects of colonisation have led to a sense of hopelessness, alienation and dispossession. These impacts of inter-generational trauma have led to a high consumption of alcohol and drugs, which has had a compounding effect resulting in Indigenous people being involved in much higher levels than white people in dealings with the criminal justice system. “Drug and alcohol abuse is the leading cause of Indigenous over representation in the justice system” (BOCSAR, 2006, para 1.). Weatherburn & Holmes (2008, p. 307), also note alcohol as being the strongest correlate of Indigenous arrest. Refer, Appendix 1, Figure 1: Variables that contribute to Indigenous arrest.

Trauma, tends to lead to failure to complete year 12, further contributing to the likelihood of being unemployed. Both of these factors contribute to an increased risk of being charged in the criminal justice system. Therefore lack of education and limited employment opportunities, compound their already fragile existence and perpetuate the poverty cycle from generation to generation. Additional factors that contribute to trauma are issues associated

with being a member of the Stolen Generation, lack of adequate finances and living in overcrowded conditions (Weatherburn, Snowball & Hunter, 2006).

IMPORTANT
DATA

Large-scale removal of Indigenous children from their families as part of what has become known as stolen generations is seen “as a major contributor to the experience of trauma” (Healey, 2007, p. 28). Trauma results in dysfunction and becomes generational if not dealt with in a sensitive and appropriate manner. A number of Indigenous spokespersons believe that unresolved grief associated with multiple layers of trauma – often spanning many generations – become internalised within the family. This expresses itself in destructive behaviours such as family violence, alcohol and drug abuse, depression and suicide (Healey, 2007, p. 28).

The impacts of inter generational trauma are reflected in the long-term social conditions on individuals, families and infrastructure. “Intergenerational drug abuse, absence of police and poor housing security create new types of perpetrators or opportunities” (Healey, 2007, p. 23). The overall “oppression, dispossession, and enforcement of protection and assimilation policies up until the 1970’s has fragmented many Indigenous families” (Healey, 2007, p. 28). Inter generational racism is yet another problem that has been perpetuated. Evidence of this is the treatment of Aboriginals in custody, including the prejudice shown to their visiting relatives by prison guards. An example of this is the “Aboriginal elder who died enroute from Leonora to Kalgoorlie due to heat exhaustion in a van unsuitable to transportation over such hot country. The prison officers and their employer failed to show due care” (Wynne, 2011). Syron makes reference to a situation where a spat of suicides in Narogin, W.A. in 2009, were attributable to racism and discrimination. These factors “can have a negative impact on people’s mental and physical health” (Syron, (n.d.), para 17).

WHAT HAPPEN
TO THE
PRISON
GUARDS?

Beresford (2006, p. 251) notes that Rob Riley was acutely aware of the intergenerational impact and damaging effects of living on reserves. The removal of children from their families, an education system that did not provide opportunities for the generations of young Aborigines, subsequent unemployment, lack of cultural connections and no adult role models, were clearly the precursors to a generation of angry aggressive young urban Aborigines with an identity crisis.

The success stories in terms of overcoming this disadvantage

In order to make the justice system more culturally appropriate, initiatives have been taken to change the process to suit the context. Marchetti & Daly (2004) provide insight into the means by which Indigenous people are now more involved in the justice system. As a result of this involvement, they are able to assist with the provision of critical information, which provides valuable insight into the personal characteristics of those involved and the context surrounding the offence. The establishment of these Aboriginal courts throughout Australia helps address the needs of Indigenous people due to the varied practices of urban, country and remote communities. The result is a "more open and trustworthy process and procedure when dealing with victim-offender relationships" (Healey, 2007, p. 8). In addition to these initiatives, there is a strong International movement amongst Indigenous people and also amongst current magistrates to "empower Indigenous elders and community members" (Healey, 2007, p.8)

Collins & Barson, have recently (2011) reviewed the "New Era in Corrections" (p. 23) package announced by the NT Government to further address the appalling high rates of Indigenous imprisonment in the NT. Colin & Barson (2011), have given credit to the positive outcomes put forward by this initiative to focus on rehabilitation, education and reintegration in addition to "more community based sentencing options" (p. 24). However, they do note a

serious flaw in the planning process. This flaw is the lack of consultation with Indigenous people. The failure to include Aboriginal people in discussions of a revamped correctional system potentially ignores the fundamental principle of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC). This principle emphasised the necessity to have collaboration between the Aboriginal people and the Government. Without this collaboration, a meaningful response cannot be arrived at (Collins & Barson, 2011).

EXCELLENT SECTION!

Conclusion

In conclusion there is a gross disparity between the rate of imprisonment of Indigenous and non-Indigenous Australians. The root cause is systemic having evolved from racist issues both past and present. The issues surrounding Indigenous people and the justice system are numerous, cumulative and complex. There are the immediate issues such as alcohol and drug abuse, which stem from lack of education, poor health, limited finance, inadequate housing, mental illness and depression. These factors have evolved from the ingrained history of racism and dispossession. Clearly there is a link between Aboriginal crime and the consequences of social inequality, economic stress and disrupted parenting bonds. Customary Law may need to be reformed but its inclusion is important to reducing Indigenous rate of imprisonment. To a certain extent this is being achieved through the use Aboriginal courts throughout Australia. However, on a national level, there is still some distance to travel. Collins and Barson (2011) express their opinion that enough is still not being done to address the high rate of imprisonment due to the failure of Government to recognise the principles put forward in RCIADIC. The interplay of race, racism and power still needs to be further balanced to reduce the disparity that exists within the justice system.

STRONG CONCLUSION

Appendix (i)

Results of Probit Model With Arrest as Dependent Variable

	Parameter estimate (with standard error)	p value
Intercept	-2.11 (0.08)	< .0001
Aged under 25	0.24 (0.04)	< .0001
Male	0.73 (0.04)	< .0001
One parent	0.22 (0.05)	< .0001
Urban	-0.31 (0.07)	< .0001
Regional	-0.30 (0.05)	< .0001
Community or neighbourhood problems	0.12 (0.04)	.005
Social involvement	-0.11 (0.05)	.0492
Welfare	0.42 (0.05)	< .0001
Unemployed	0.36 (0.05)	< .0001
CDEP	0.19 (0.05)	.0002
Stolen generation	0.19 (0.04)	< .0001
Alcohol abuse	0.64 (0.06)	< .0001
Drug abuse	0.59 (0.05)	< .0001
Drug abuse missing	0.27 (0.09)	.0046
Financial stress	0.36 (0.04)	< .0001
Year 12 completion	-0.26 (0.06)	< .0001

Note: log likelihood = -3175.38
 Pearson chi sq = 2192.10 (df = 2119) p val = .1313'

Figure 1 Variables that contribute to Indigenous arrest.

Alcohol abuse 0.64

NSW Bureau of Crime Statistics and Research, *Australian & New Zealand Journal of Criminology*, August 2008, 41(2), 316. [Table]. Sydney, NSW: Australian Academic press.

The above table includes several indicators of arrest. Alcohol is the highest indicator for predicting arrest amongst Indigenous Australians.

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