

Build Communities, Not Prisons

*The effects of the over-representation of Indigenous people in
the criminal justice system*

Allison Wong

Organisation - ANTaR

Supervisor – Natalia Vukolova

Effects

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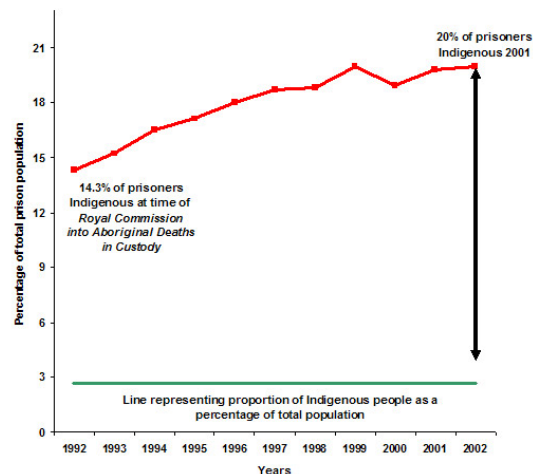
“Our young people return from gaol to the very same conditions of daily existence that create the patterns of offending in the first place. The whirl of the revolving door is never far away” – Mick Dodson, Social Justice Commissioner, 1996

1. Factsheet

Indigenous people are over-represented in Australia’s criminal justice system, which has extensive effects on individuals, families and communities. In 2007, Indigenous Australians made up 24% of the total prisoner population whilst comprising only 2.4% of the national population (ABS 2007, p.6).

The following factors can all be seen to play a role as causes of crime, and are all further exacerbated as effects of crime in families and communities;

- Alcoholism and substance abuse,
- Violence,
- Poor health and stress,
- Issues with employment,
- Low education outcomes,
- Low expectations and
- Recidivism.



Since this issue was first highlighted, the over-representation of Indigenous people has only continued to increase.

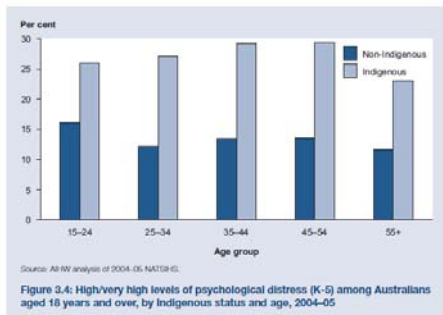
The effects of this issue are extensive. For victims, they include physical, emotional and financial strain, whilst for the perpetrator can lead to unemployment, substance abuse, mental health issues and recidivism (ABS 2005). For the community it can lead to the creation of low expectations and there is evidence to suggest that crime can often have an intergenerational effect.

The effect of prison on the Indigenous individual includes exacerbating already existing health issues. Prisoners in general, have lower levels of health than the general population due to health risk factors such as

“The relative socioeconomic disadvantage experienced by Indigenous Australians compared with other Australians may place them at greater risk of ill health, which in turn can exacerbate their already disadvantaged socioeconomic positions” – Loxley, Toumbourou and Stockwell

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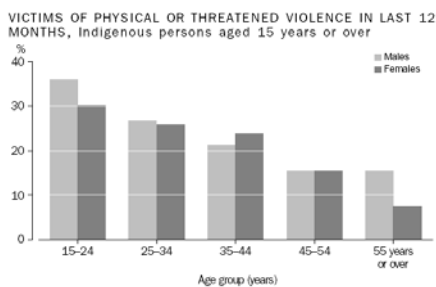
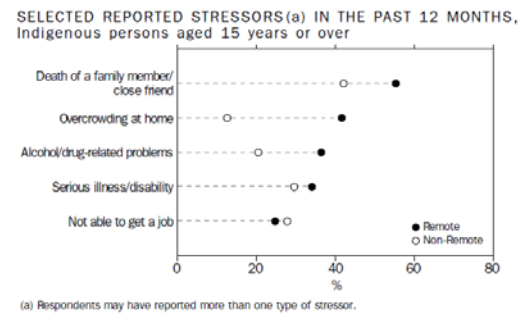
smoking, alcohol dependence, substance abuse and violence (PHAA 2006). Risk factors for drug users include family disruption, poor school performance, social dislocation, cycles of addiction and mental health issues (Lloyd in SCRGSP 2007, 8.1). Alcohol and substance abuse are strongly linked to cycles of crime and socioeconomic disadvantage, and are commonly cited as serious social problems for Indigenous people and one of the most important factors in their arrest. Minimizing these habits can significantly reduce the level of assaults and homicides whilst improving the health of the population.



Comparing mental illness between Indigenous and non-Indigenous prisoners, studies have found that Indigenous offenders were more likely to be hospitalised for ‘mental and behavioural disorders’. Aboriginal women proved to be the most vulnerable group of prisoners in terms of the demand for mental health services and were more likely to display psychological distress than their non-

Indigenous counterparts. Indigenous men also displayed higher levels of depression than non-Indigenous men (Butler et al. 2007, p. 429). This is important considering such high rates of Indigenous imprisonment.

Stress has also proven to play a role, as a report analysing ‘stressors’ in the lives of Indigenous people discovered that 82% of Indigenous respondents had experienced at least one stressor in the last twelve months (HREOC 2005). This is significant as the relationship between stress and violence is clear as Indigenous people are over-represented as victims and offenders in all forms of violent crime in Australia (SCRGSP 2007, p.21). Approximately 42% of all people imprisoned for ‘acts intended to cause injury’ in 2006 were Indigenous (ABS 2006). Indigenous homicide and assault is seen to be



associated with substance abuse, alcohol use and socioeconomic conditions such as unemployment, low income and overcrowded housing which are all seen as causes of violence. Violence has a debilitating effect on communities, as in 2002 Indigenous people who were victims of physical or threatened violence were more likely to

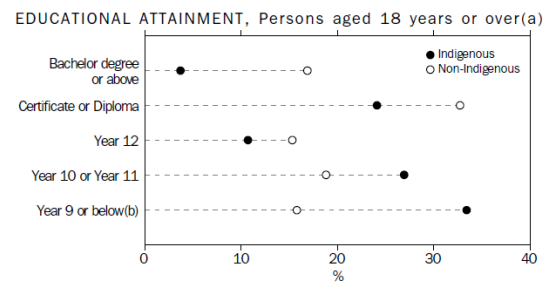
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be unemployed than those who did not report victimisation (21% compared to 11%) (ABS 2005). Violence also normalises aggressive behaviour within children (SCRGSP 2007, p.21).

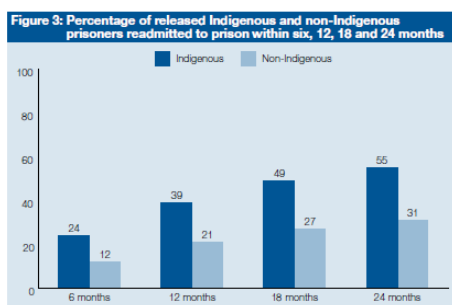
Another effect of the over-representation of Indigenous people in the criminal justice system is unemployment, which often correlates directly with crime, as contact with the law reflects and leads to social and economic disadvantage. The unemployment rate of Indigenous people is three times that of non-Indigenous people (ABS 2004, p.30), and half of all Indigenous male youths are arrested before entering the labour force, making them less employable and more likely to reoffend. Furthermore, having a criminal record can lead to diminished employment opportunities, which can further perpetuate recidivism in ex-prisoners. From a community perspective, high levels of unemployment in a community can cause long-term harm to the educational, employment and social futures of children (Hunter 2000, p.1).

Low levels of education remain a key part of the ongoing cycle that leads to the over-representation of Indigenous people in Australian prisons. Low rates of school completion affect a persons' economic and social livelihood, can lead to poor

health outcomes as well as lower employment prospects and therefore a greater likelihood of criminal offending (SCRGSP 2007, p.20).



(a) Based on 2002 NATSIS and 2002 GSS data.
(b) Includes people who never attended school.



Recidivism proves to have a substantial effect on families and communities. In 2004, almost 77% of Indigenous prisoners had prior convictions in comparison to 53% of non-Indigenous prisoners (ABS 2005). This highlights that the more contact the individual has with the criminal justice system, the higher the likelihood of that

contact continuing. The implications of this are extensive. Indigenous children are more likely at any time to have at least one parent imprisoned than their non-Indigenous counterparts, an issue that is of particular importance when looking at research which reveals that children of prisoners often commit crimes resulting in their own imprisonment (NSW Standing Committee on Law and Justice 1999 in SCRGSP 2007, 9.2).

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Effects can be mitigated in varying ways, and is made clear by the way in which states and territories are faring differently in tackling this issue. Points of interest include;

- Some states perform relative to their implementation of the recommendations of the Report into the Royal Commission into Aboriginal Deaths in Custody. Those states and territories faring the worst, have failed to implement many necessary recommendations (South Australian Aboriginal Legal Rights Movement Inc and The Aboriginal Justice Advocacy Committee 1994; Aboriginal Legal Service of Western Australia 1996; Sansbury 2001; Drabsch 2004, p.39).
- The effect mandatory sentencing has on prison rates (NT and WA only) and the creation of recidivism and cycles of crime.
- Community-based services as a means for reintegration, as Victoria's system of reintegration centres and support programs translate into their lower incarceration rates (The Productivity Commission 2008, 8.31).
- The role played by strong communities in preventing crime or at least recidivism (Lawrence 2007).
- Independent community groups preventing crime and recidivism; family violence centres, men's support programs, night patrols, and alternative sentencing such as Murray, Koori and Nunga Courts (Willis & Moore 2008, p.52; HREOC 2007).

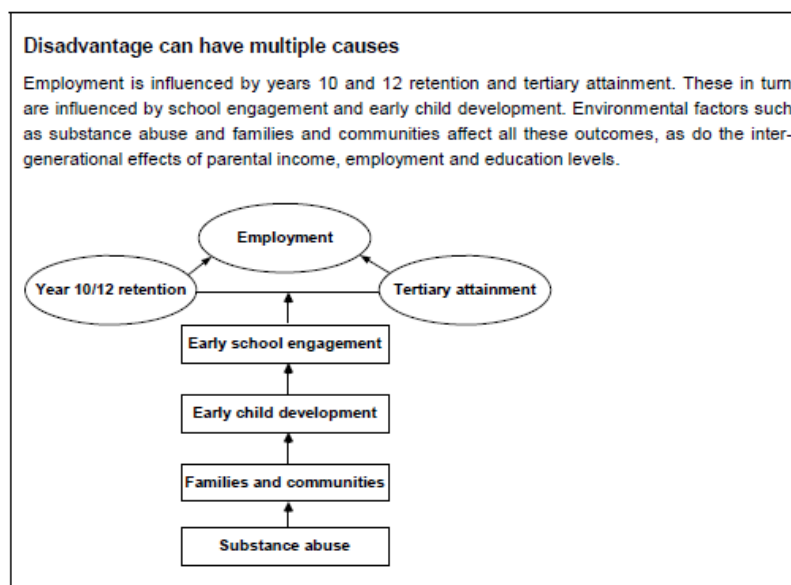
2. Introduction to the Issue

Indigenous people are over-represented at every stage of Australia's criminal justice system (Wijesekere 2001; PHAA 2006; AIC 2004; Cuneen 2006), making up 24% of the total prisoner population in 2007 whilst comprising only 2.4% of the total population (ABS 2007b, p.6) These statistics reflect that Indigenous Australians are twelve times more likely to be incarcerated than non-Indigenous Australians. The effects of these high prison rates are extensive, as imprisonment and victimisation have proven to have long-term implications for the victims, the offender and the community (ABS 2005). These issues include;

- alcoholism and substance abuse,
- violence,
- poor health and stress,
- issues with employment,
- low education outcomes,
- low expectations and
- recidivism (SCRGSP 2007, p.121).

These individual issues can be seen to coalesce to produce this over-representation of Indigenous people in the criminal justice system, and can also be further exacerbated as a result of imprisonment. Whilst some believe certain factors have a higher role to play, such as Pearson and Weatherburns' emphasis on alcohol as a key determinant in Indigenous crime (Weatherburn 2008), the interaction of several of these factors at once is known to produce a context of which crime is a by-product. Without implementing measures to counter the effects such high prison rates have, these issues often have a profound impact on individuals, families and communities. Because of this complex relationship, the effect that high levels of imprisonment have on the individual and the community cannot be analysed in isolation from

the causes of crime, or in isolation from each other, as the relationship is seen to be cyclical and intergenerational.



(SCRGSP 2007, 8)

Such an over-representation of Indigenous people in Australian prisons has a profound effect on individuals, families and communities. For victims of crime, the effects can often be long-term and include physical, emotional and financial strain (ABS 2005), whilst for the offender, data from the 2002 National Aboriginal and Torres Strait Islander Social Survey (NATSISS) shows that Indigenous people who had been incarcerated suffered greater rates of recidivism, unemployment, substance abuse and mental health issues than the rest of the Indigenous community. For communities, the effects of Indigenous over-representation in the criminal justice system can be framed in the context of ‘social capital’, imprisonment being one source which greatly reduces the social capital of Indigenous communities (Hagan & Dinovitzer in Edney 2001, p.7). The ongoing interaction between Indigenous people and the criminal justice system has a collective and cumulative effect on these communities (Edney 2001, p.8) and can often cause complex reactions such as low expectations, where communities and families feel defeated. A report by the Productivity Commission references the creation of these low expectations, as there is evidence of cycles of intergenerational offending, as children of prisoners commit offences that often result in

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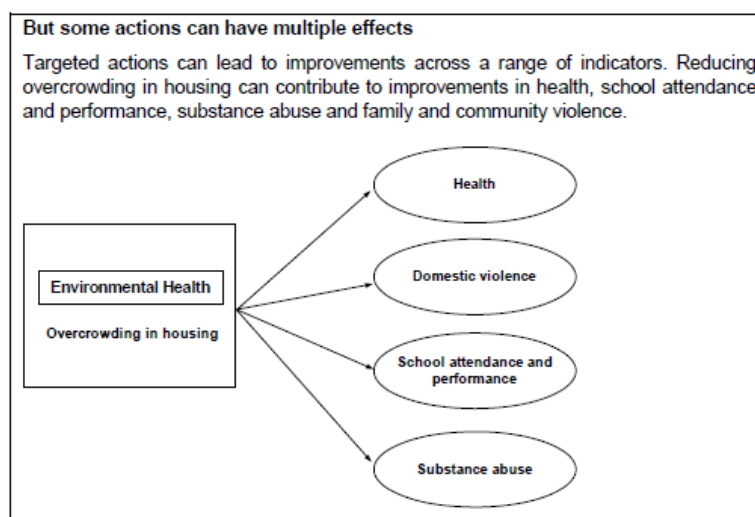
their own imprisonment (2007, p.45). This point is further stressed by figures which reveal that in 2001 the age groups 20-24 and 30-34 years accounted for approximately 70% of the Indigenous population in prisons nation-wide (Wijesekere 2001, p.10). These age groupings represent a large section of the Indigenous community that should have the highest social capital, and the impact of this on children and families is understandably extensive.

The context produced by these difference factors coalescing, blurs the boundaries between 'causes' and 'effects' of crime. This reflects how imprisonment only further fuels cycles of disadvantage, reflecting how Indigenous communities would benefit greatly from better outcomes such as rehabilitation. High rates of imprisonment and recidivism lead to the erosion of strong communities, yet the emphasis remains on incarceration, rather than early intervention and rehabilitation (Willis & Moore 2008, p.2-3).

The issue of the over-representation of Indigenous Australians in the criminal justice system effects communities and states on different levels. Whilst the issue is a particularly pertinent and urgent one, states and territories appear to be handling the issue with vastly varying outcomes. Whilst in all states and territories Indigenous people are over-represented in prisons, state-based responses have proven to mitigate the effects of Indigenous imprisonment and thus working examples on a state level must be investigated.

3. The Effects

There are several key effects of the over-representation of Indigenous people in the criminal justice system upon families, individuals and communities including; alcoholism and substance abuse, violence, poor health and stress, issues with employment, low levels of education, low expectations and recidivism. These effects are part of a complex cycle in which the causes and effects of crime are entangled and are often factors impacting on many Indigenous communities Australia-wide. Mitigating these factors would work to reduce the causes and effects of Indigenous crime.



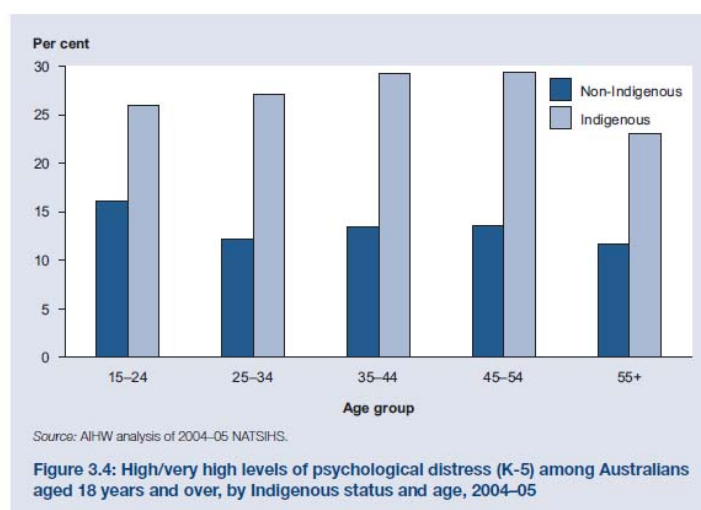
(SCRGSP, 2007, 9)

Firstly, Indigenous Australians suffer significant physical and mental health issues compared to the general population due to factors such as employment, education, and access to health care and environmental factors such as sanitation (Willis & Moore 2008, p.36). The effects of prison on the Indigenous individual exacerbate already existing health issues, and prisoners already tend to have lower levels of health due to factors such as smoking, alcohol misuse and dependence, illicit drug use, violence and abuse, levels of which are higher than for the general Indigenous population (PHAA 2006). These health risk behaviours are strongly associated with many aspects of socioeconomic disadvantage (SCRGSP 2007, 8.1).

Risk factors for drug users include family disruption, poor school performance, social dislocation, cycles of addiction and mental health issues (Lloyd in SCRGSP 2007, 8.1). It is best summarised by Loxley, Toumbourou and Stockwell who state, “the relative socioeconomic disadvantage experienced by Indigenous Australians compared with other Australians may place them at greater risk of ill health, which in turn can exacerbate their already disadvantaged socioeconomic positions” (SCRGSP 2007, 8.1). Alcohol and substance abuse are strongly linked to cycles of crime and socioeconomic disadvantage, and are commonly cited as serious social problems for Indigenous people and one of the most important factors in their arrest. Minimizing these habits can significantly reduce the level of assaults and homicides whilst improving the health of the population (SCRGSP 2007, p.123). The impact of alcohol and substance abuse can then be linked to issues in the workplace, child abuse and neglect, poverty, family breakdown, domestic violence and crime (World Health Organisation in SCRGSP 2007, 8.5).

It is important to note however that alcohol and substance misuse is common to both Indigenous and non-Indigenous prisoners at the point of incarceration. However whilst Indigenous Australians consume less alcohol on average than non-Indigenous Australians, they are more likely to engage in high-risk binge drinking and to drink in a public place (Willis & Moore 2008, p.32). Furthermore there exist a much higher proportion of Indigenous male offenders using alcohol immediately prior to arrest, reflecting a correlation between crime and alcohol (Putt, Payne & Milner 2005, p.6). This correlation between alcohol abuse and crime is also evident in a survey of female offenders revealing that 60% of Indigenous women reported having been under the influence of alcohol at the time of their arrest, compared with 16% of non-Indigenous women (Willis & Moore 2008, p.32). In the same survey, 54% of Indigenous female offenders also admitted to being alcohol dependent compared with 17% of non-Indigenous women (Willis & Moore 2008, p.32). These cycles of addiction continue after release from prison, as a study in Queensland suggests, revealing that within 34 days of leaving prison, 64% of males reported using drugs (Kinner in Willis & Moore 2008, p.33).

The poor health of Indigenous Australians has been attributed to illnesses arising from factors such as dispossession, disadvantage, forced separation of children from parents and communities, and discriminatory legislation. Butler et al suggest that Indigenous Australians are more likely to be hospitalized for ‘mental and behavioural disorders’ than non-Indigenous Australians (2007, p.429). Comparing mental illness between Indigenous and non-Indigenous prisoners in NSW, Butler et al found that the demand for mental health services in prisons is considerable; with Aboriginal women one of the most vulnerable groups (Butler et al. 2007, p.429). Generally no differences were detected in rates of mental illness between Aboriginal and non-Aboriginal men, however Aboriginal men experienced higher rates of depression, and with such high rates of imprisonment, mental illness becomes a considerable issue for the community. Aboriginal women were more likely than non-Aboriginal women to demonstrate symptoms of psychosis in the prior 12 months and also demonstrated higher psychological distress (Butler et al. 2007, p.429).



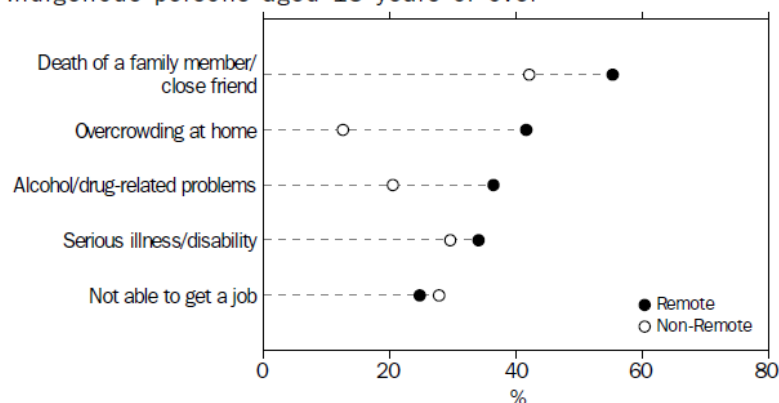
(AIHW, 2008)

This is only further exacerbated as many Aboriginal people return from prison to isolated and outlying geographic areas with limited access to psychiatric services, demonstrating how alternatives to incarceration are necessary, as are culturally sensitive approaches to treatment (Butler et al. 2007, p.433).

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Stress has proven to play an important role in mental health issues in Indigenous communities, and can often result in increasing levels of anger and violence. According to research done by the Human Rights and Equal Opportunities Commission (HREOC) analysing ‘stressors’ in the lives of Indigenous people, 82% of respondents had experienced at least one stressor in the last twelve months. The stressors most highly identified were the death of a family member or close friend (46%), serious illness or disability (31%) and the inability to get a job (27%), with overcrowded housing proving to be a significant stressor in remote areas (HREOC 2006). In comparison with non-Indigenous responses to these stressors, the Indigenous experience reflected a 26% higher likelihood of one of these occurring (HREOC 2006).

SELECTED REPORTED STRESSORS (a) IN THE PAST 12 MONTHS, Indigenous persons aged 15 years or over



(a) Respondents may have reported more than one type of stressor.

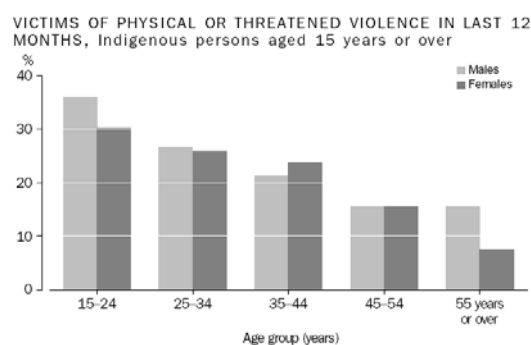
(ABS, 2004, 6)

Analysing these stressors is of particular importance in an analysis of Indigenous crime, as the relationship between stress and violence is clear as Indigenous people are over-represented as victims and offenders in all forms of violent crime in Australia (SCRGSP 2007, p.21). This is reflected by the Australian Bureau of Statistics which highlights that approximately 42% of all people imprisoned for ‘acts intended to cause injury’ in 2006 were Indigenous (ABS 2006). Indigenous homicide and assault is seen to be associated with substance abuse, alcohol use and socioeconomic conditions such as unemployment, low income and overcrowded housing which are all seen as causes of violence (SCRGSP 2007,

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p.21). Higher levels of violence in Aboriginal communities normalise aggressive behaviour and has a damaging effect on the emotional, behavioural and cognitive development of children (SCRGSP 2007, p.21). This is reflected in research which suggests that recidivism amongst Indigenous Australian's has also proven to be higher (Willis & Moore 2008), reflecting the need to break the cycle of imprisonment and the pressure on Indigenous communities caused by violent crime.

Violence is also considered an important element of the poorer physical and mental health of Indigenous peoples when compared to the non-Indigenous population. As stated by a report from the Australian Institute of Criminology “the compounding effects of social disadvantage can interact with cultural factors to increase offending behaviour within Indigenous communities” (Willis & Moore 2008, p.34). A lack of employment was seen as one contributor to violent behaviour, as well as family trauma, intervention by family service bodies, historical grievances, and the normalisation of violence (Willis & Moore 2008, p.36). For victims of crime, violence can be extremely debilitating, as of 2002 Indigenous people who were victims of physical or threatened violence were more likely to be unemployed than those who did not report victimisation (21% compared to 11%) (ABS 2005). A report produced by the Attorney-General's Department *Violence in Indigenous Communities* has noted the adverse intergenerational effect that violence has on children and communities. By witnessing violence at a young age, children can become desensitised to violence and this can create a predisposition for violence in their own relationships at a later age (SCRGSP 2007, 8.13). This proliferation of violence effects families and communities greatly, as in 2002, 21% of Indigenous Australians aged 15 years and over reported that family violence was a common problem in their neighbourhood or community (ABS 2005).



(ABS, 2004)

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Another effect of the over-representation of Indigenous people in the criminal justice system is unemployment, which often correlates directly with crime, as contact with the law reflects and leads to social and economic disadvantage. Labour force participation is less (52%) for Indigenous Australians than for non-Indigenous (67%), while the unemployment rate of Indigenous people is three times that of non-Indigenous people (ABS, 2004, 30).

5 CHARACTERISTICS OF INDIGENOUS AND NON-INDIGENOUS PERSONS (a)—Age-standardised rates—2002

	INDIGENOUS			Non-Indigenous
	Remote	Non-Remote	Total	
	%	%	%	%
Health and disability				
Self-assessed health status				
Excellent/very good	(b) 34.9	(b) 35.4	35.2	58.9
Good	35.6	30.5	31.9	25.0
Fair/poor	29.0	34.1	32.7	16.1
Has a disability or long-term health condition(c)	. .	56.6	. .	40.1
Employment				
Labour force status				
Employed				
Full-time	18.9	25.3	23.6	45.2
Part-time	28.8	15.4	(d) 19.0	(d) 18.3
Total employed	47.9	40.8	42.7	63.5
Unemployed	4.4	11.3	9.4	3.7
Not in the labour force	(b) 47.8	(b) 47.9	47.9	32.8
Law and justice				
Victim of physical or threatened violence in last 12 months	(b) 19.8	(b) 19.3	19.5	8.9
Information technology				
Used computer at home in last 12 months	25.0	50.5	43.5	67.6
Accessed Internet at home in last 12 months	14.0	36.6	30.4	57.9
Persons aged 18 years or over	100.0	100.0	100.0	100.0

- .. not applicable
- (a) The content of this table is restricted to those items that require age-standardisation and are comparable between the NATSISS and GSS.
- (b) Difference between remote and non-remote data is not statistically significant.
- (c) The disability criteria used in the GSS are only comparable with those used in non-remote areas in the NATSISS. See paragraphs 46–47 in Explanatory Notes.
- (d) Difference between NATSISS and GSS data is not statistically significant.

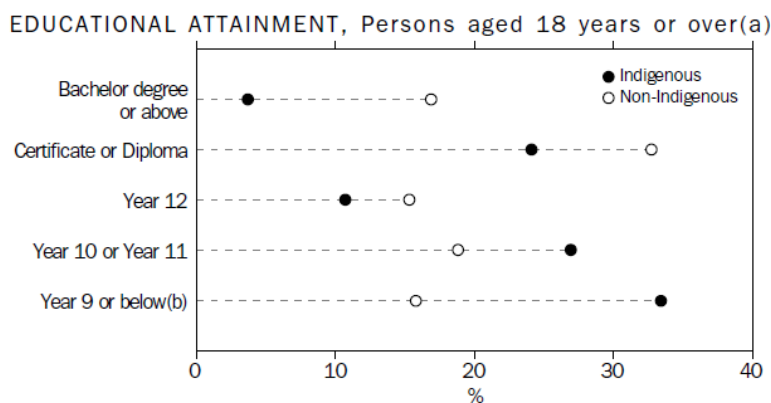
(ABS, 2004, 30)

Crime and unemployment are interrelated as almost one half of all Indigenous male youths are arrested before entering the labour force, making them less employable and more likely to reoffend (Hunter 2000, vi). This employability factor is important to note, as studies have shown that unemployed ex-prisoners face lower employment opportunities, and suffer a greater likelihood of reoffending than those in employment (Willis & Moore 2008, p.33). Having a criminal record can lead to diminished employment opportunities, which can further perpetuate recidivism in ex-prisoners. From a community perspective, high levels of

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unemployment in a community can cause long-term harm to the educational, employment and social futures of children, thus the correlation between crime and unemployment can have a generational effect (Hunter 2000, p.1).

In much the same way, the combination of factors in a community such as low education levels, joblessness and incarceration often reduces the expectations and impetus for children to gain a higher education (Hunter 2000, p.8), and these low levels of education remain a key part of the ongoing cycle that leads to the over-representation of Indigenous people in Australian prisons. The advantages of finishing high school are evident, as Long suggests the fewer years of schooling completed often leads to a greater likelihood of being “less than fully engaged” in a community and society (Long in SCRGSP 2007, p.20). When schooling is no longer compulsory (after Year 10), the proportion of Indigenous children attending school is lower than for non-Indigenous children (SCRGSP 2007, p.20), with Indigenous students in 2006 half as likely as non-Indigenous students to continue to Year 12 (SCRGSP 2007, p.20).



(a) Based on 2002 NATSIS and 2002 GSS data.
(b) Includes people who never attended school.

(ABS, 2004, 9)

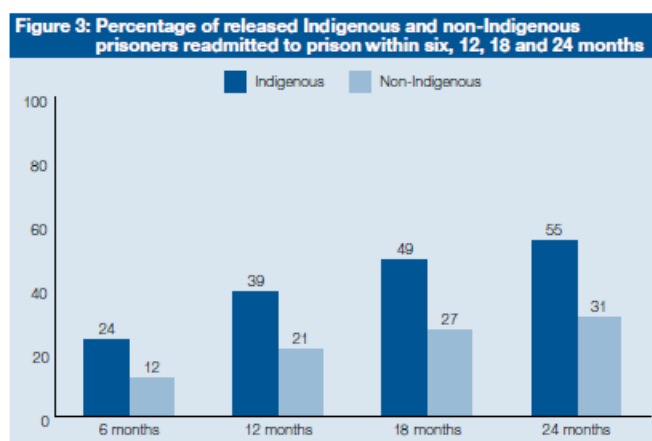
This has long-running implications, as previous research has highlighted the role education plays in reducing the long-term disadvantage of Indigenous people. Low rates of school completion affect a persons’ economic and social livelihood, can lead to poor health outcomes as well as lower employment prospects (SCRGSP 2007, p.20) and therefore a greater likelihood of criminal offending (Willis & Moore 2008, p.34).

This is only further reflected in research which reveals that limited formal education such as low literacy skills have been found in high proportions of prisoners (Willis & Moore 2008, p.34). This is best illustrated by the following statistics suggesting that non-indigenous people who did not complete secondary school are 10 times more likely to be imprisoned than their counterparts with higher educational outcomes (Willis & Moore 2008, p.34). Considering that Indigenous people are for various other reasons, more likely to be in prison than non-Indigenous people regardless of education, people who are both Indigenous and have low educational outcomes are 130 times more likely to be in prisons than those with opposite characteristics (Walker & MacDonald in Willis & Moore 2008, p.34). This issue is particularly pertinent when investigating juvenile crime, as there has been a proven link that improving school performance and retention rates reduced the involvement of juveniles in crime (SCRGSP 2007, p.23).

Finally, one of the more lasting effects of contact with the criminal justice system is recidivism, as the effect this has on families and communities is a significant issue (SCRGSP 2007, 9.2). High levels of contact with the criminal justice system are heavily impacting on many Indigenous people, their families and their community. The nature of the relationship between Indigenous offenders and the criminal justice system is one of short sentences and regular imprisonment, in contrast to longer and less regular sentences of non-Indigenous Australians. In 2004, the median expected time to serve for Indigenous prisoners was 15 months, compared with 25 months for non-Indigenous prisoners. Almost 77% of Indigenous prisoners had prior convictions in comparison to 53% of non-Indigenous prisoners (ABS 2005). It is unclear why this relationship exists although policing and different sentencing procedures in each jurisdiction could be said to play a role (Wijesekere 2001, p.7).

There is also extensive statistical data which suggests that juvenile offenders have a higher likelihood of reoffending when older. A study in Queensland tracked young offenders who first appeared in the juvenile justice system from 1994-5 until 2002 (HREOC 2006, 9.c). The study revealed that in Queensland, 89% of Indigenous male juveniles on supervised orders had progressed to the adult system, with 71% having served at least one term of

imprisonment (HREOC 2006, 9.c). These statistics highlight the way in which contact with the criminal justice system creates a cycle of crime, and that currently there are not enough reintegration and rehabilitative programs to break this cycle.



(Willis & Moore, 2008, 23)

Considering that it is estimated that in 2002-03, Indigenous young people aged 10 to 17 years were detained at ten times the rate of all young people in Australia (HREOC 2006, 9.c), mitigating rates of recidivism is essential in reducing the effect of high rates of Indigenous representation in the criminal justice system. The study also revealed a strong link between juveniles who had been the subject of a care and protection order and their imprisonment in adulthood, with 91% of such juveniles having some contact with the adult system. This highlights that the more contact the individual has with the criminal justice system, the higher the likelihood of that contact continuing (Lawrence 2007; Weatherburn, Cush & Saunders 2007, p.7).

These trends within Indigenous juvenile crime directly relates to intergenerational cycles of offending. The NSW Standing Committee on Law and Justice (1999 in SCRGSP 2007, 9.2) found that incarcerating one generation of a group has profound repercussions on later generations through the breakdown of family structures. Reducing the likelihood of

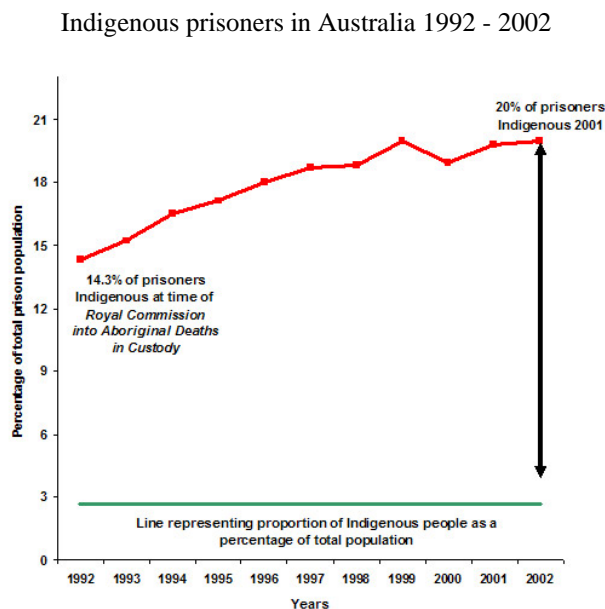
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rehabilitation of the individual can lead to reduced employment prospects and affect the capacity of families to function (SCRGSP 2007, 9.2). Indigenous children are more likely at

any time to have at least one parent imprisoned than their non-Indigenous counterparts, an issue that is of particular importance when looking at research which reveals that children of prisoners often commit crimes resulting in their own imprisonment (NSW Standing Committee on Law and Justice 1999 in SCRGSP 2007, 9.2). This suggests that contact with the criminal justice system for a family can normalise this behaviour for children, and perpetuates the cycle of incarceration. Considering the extent of Indigenous imprisonment, it is crucial that individuals are rehabilitated in order to break the intergenerational cycle of crime, and the impact this has on communities (SCRGSP 2007, 9.2).

4. Notable Variations on a State basis

The varying effect that the over-representation of Indigenous people in the criminal justice system has on a state-basis depends largely on different mitigating factors within each state. This largely includes the State government responses to Indigenous crime, their performance in fulfilling recommendations of the Royal Commission into Aboriginal Deaths and Custody (RCIADIC), as well as other factors such as the size of the Indigenous population in that state, and policies of mandatory detention (relevant only in Western Australia and the Northern Territory). At the time the RCIADIC Report was released in 1991, Aboriginal people comprised 14% of the total prison population, being 15 times more likely to be imprisoned than non-Indigenous Australians (HREOC 2006). By 2007, Indigenous prisoners represented 24% of the total prison population (ABS 2007b, p.6), an inexcusable growth considering 16 years earlier the issue had been outlined and recommendations made.



(HREOC 2006)

As a national average however, this figure does not represent the way in which the issue fluctuates greatly between states, highlighting the way in which some states have been performing better than others in reference to RCIADIC recommendations. As of 2007, the highest ratio of imprisonment for Indigenous people was recorded in Western Australia, with

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Indigenous people 21 times more likely to be imprisoned than their non-Indigenous counterparts. Following Western Australia was South Australia (15 times more likely), the Northern Territory (14 times), New South Wales (12 times), Queensland (11 times), Victoria (10 times), the Australian Capital Territory (7 times) and finally Tasmania (4 times) (ABS, 2007b, 6). These figures are disproportionate to the size of Indigenous populations in each state and territory, reflecting how some states have handled the issue more effectively than others.

	Location of Indigenous peoples - by State and Territory	
	Percentage of the total Indigenous population living in a State or Territory	Percentage of the State or Territory's total population that is Indigenous
NSW	29.4	2.1
Vic	6.1	0.6
Qld	27.5	3.5
SA	5.6	1.7
WA	14.4	3.5
Tas	3.8	3.7
NT	12.4	28.8
ACT	0.9	1.2

(HREOC, 2006)

It is widely accepted that the aforementioned effects of the over-representation of Indigenous people in Australia's criminal justice system are present in each state and territory. They are issues afflicting many communities Australia-wide. By mitigating these issues, the effects felt by offender, victim and community can be reduced, and offenders can be reintegrated into society, halting the cycles of offending that currently exist.

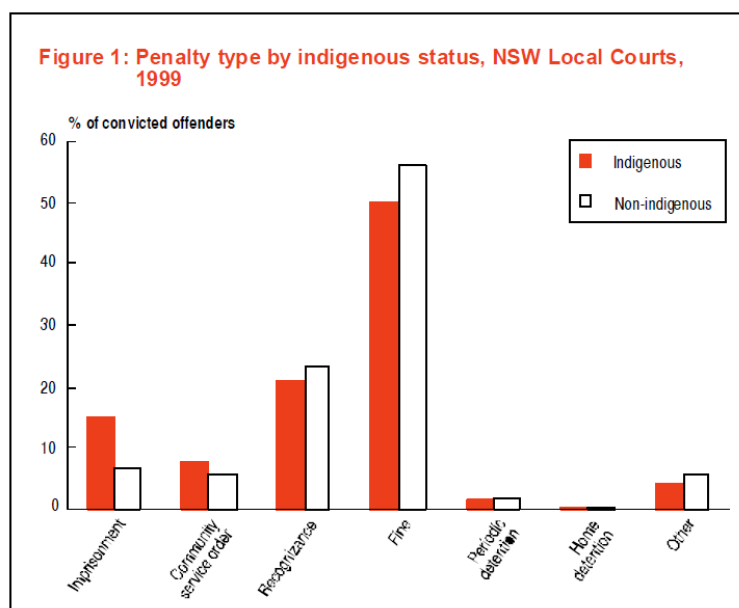
One such way in which the effects of imprisonment on the Indigenous community and individual have been reduced relates to State-responses to the recommendations of RCIADIC. In analysing different state government responses to RCIADIC, the general response has been to provide annual progress reports on the implementation of the reports' recommendations. However both Western Australia and South Australia have been criticised for the false implementation status of some recommendations, suggesting their performances have been inadequate and falsely reported (South Australian Aboriginal Legal Rights Movement Inc and The Aboriginal Justice Advocacy Committee 1994; Aboriginal Legal

Service of Western Australia 1996). Sansbury has criticised the South Australian government for being unable to deal with the high levels of Indigenous incarceration by failing to introduce culturally appropriate diversionary methods and for not setting annual benchmarks for implementing recommendations (Sansbury 2001). South Australia has suffered the largest proportional increase in Indigenous imprisonment rates from 2007-08 (a 16% increase) (ABS 2008, p.5).

Higher than national averages of Indigenous imprisonment in New South Wales have also been attributable to the governments failure to fully implement all of the recommendations made by RCIADIC (Drabsch 2004, p.39). The Aboriginal Justice Advisory Council noted that of the 339 recommendations made by the Report, 229 applied to New South Wales. An assessment of the governments performance against these recommendations in 2000 concluded that half of them had not been implemented (Drabsch 2004, p.39). However Cuneen and MacDonald argue there is still room to reduce imprisonment rates through effective implementation of the recommendations, as Baker states “they suggest that changes made to the way police, the courts and the prisons operate would all have a significant impact on Indigenous imprisonment rates” (Baker 2001, p.2).

Looking at New South Wales, Baker highlights the very different experiences between Indigenous and non-Indigenous Australians in the criminal justice system. Baker looks at reasons for why Indigenous Australians are over-represented at every stage of the process, looking at arrest, sentencing and imprisonment (Baker 2001). Looking at the Local Courts, Indigenous Australians experienced higher imprisonment rates and using the example of theft reflects this, as 30% of convicted Indigenous Australians were imprisoned, as opposed to 18% of non-Indigenous Australians (Baker 2001, p.6). This is because of the nature of their crimes being generally violent, and because Aboriginal offenders were more likely to have prior convictions (81% with at least one, compared with 59% of non-Indigenous people) (Baker 2001, p.7).

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(Baker 2001, p.4)

Other reasons however include differences in policing activity, in police discretion and in prosecution (Baker 2001, p.4), and such differences between Indigenous and non-Indigenous crimes reflect the need for two very different strategies.

The importance of government response to the issue is only further supported by evidence of the Victorian government's success in providing community-based services and has translated into figures which highlight that Victoria has the lowest overall imprisonment and corrections rate in the country (The Productivity Commission 2008, 8.31). Having reported no escapes from prison custody in 2006-7, no unnatural deaths and the highest rate of prisoner employment, the Victorian system is a useful example of the impact that state-based responses can have on Indigenous imprisonment (The Productivity Commission 2008, 8.31). The Victorian corrections system incorporates reintegration centres, learning places and support programs, with more emphasis on community based services than other states and territories (The Productivity Commission 2008, 8.31).

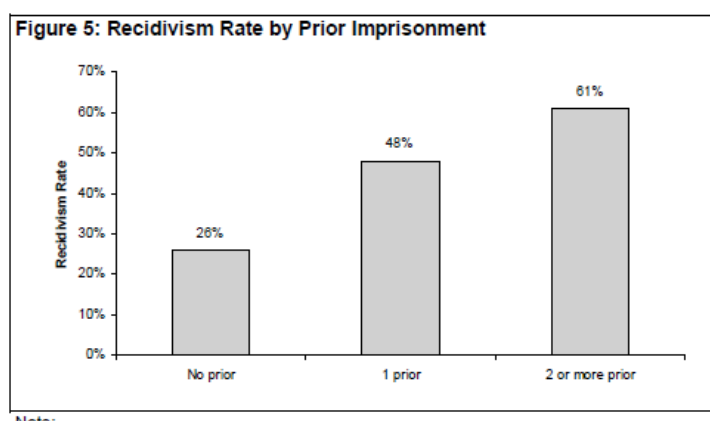
In most states, there is currently a system in place that could legitimately assess and improve the success of newly introduced measures from each state and territory. Following the reform process set in motion by RCIADIC, many jurisdictions established Indigenous

Justice Agreements (IJA's), aimed at tackling the issues outlined in the report (Cuneen 2007), creating Aboriginal Justice Advisory Councils to provide the state with advice on issues affecting Indigenous Australians (NSW AJAC 2008). As they stand, there is very little information regarding the effectiveness of the agreements as very few are evaluated against their criteria. Although according to Cuneen, IJA's have been very useful in establishing a framework for improvements especially in regard to relations between police and Indigenous communities. However in much the same way, "RCIADIC showed that governments can say a great deal about what they are doing in regard to implementing recommendations, while at the same time achieving very little in tangible outcomes" (Cuneen 2007, p.21). Cuneen suggests that independent evaluations of IJA projects are necessary in ensuring that IJA's become effective tools (Cuneen 2007).

One government policy which can be seen to influence the way in which effects of high rates of Indigenous imprisonment are felt within the community includes mandatory sentencing, a policy carried out only in the Northern Territory and Western Australia. Mandatory sentencing laws were enacted in Western Australia in 1996 and the Northern Territory in 1997 (HREOC 2001). In Western Australia this 'three strikes' policy means that after the third offence a minimum one year sentence must be imposed (HREOC 2001). In the Northern Territory, after the first offence a mandatory sentence of 14 days imprisonment occurs, for the second offence a 90 day sentence and for the third offence a minimum one year sentence occurs (HREOC 2001). The greatest criticisms of mandatory sentencing are that it often leads to disproportionate sentencing in relation to the severity of the crime. Whilst mandatory sentencing is directly indiscriminate based on race and age, it targets crimes that are generally committed by 'types' of people, of a low socio-economic standing (HREOC 2001). For example white collar crimes are not included however theft, unlawful entry, assault with intent to steal and criminal damage are, also keeping in mind there are 'alcohol-free zones' in parts of both states (HREOC 2001).

The impact that high rates of Indigenous incarceration have is especially pertinent in the Northern Territory, given the large Indigenous population. Given that statistics prove

recidivism rates to be high amongst the Indigenous population, prior convictions tend to lead to a cycle of imprisonment that can be difficult to break. As mandatory sentencing means more individuals are in frequent contact with the criminal justice system, this policy can in part explain the high levels of incarceration in the Northern Territory (Wijesekere 2001, p.7). This is supported by research on recidivism in the Northern Territory highlighting how the recidivism rate for Indigenous prisoners is three times the recidivism rate for non-Indigenous prisoners (NTOCP 2005, p.2). Furthermore, prisoners with previous sentences returned at higher rates (48% for one prior and 61% for two) than those without prior imprisonment (26%) (NTOCP 2005, p.2).



(NTOCP, 2005, 5)

In relation to the Northern Territory intervention there is currently no literature regarding the impact these policies have had on levels of crime. It could however be worthwhile to note that the abolition of the Community Development Employment Projects (CDEP) scheme creates unemployment which can in turn lead to crime. As CDEP participation qualifies as labour force participation, removing this scheme under the NT Intervention sends the message that “they can participate in the mainstream ‘real’ economy or be welfare recipients” (Altman 2007).

In mitigating the effects of high imprisonment in Indigenous communities, Lawrence highlights correlations between strong communities and low numbers of re-offending. Strong communities are seen to play a central role in controlling crime by supervising teenagers and

creating strong social networks (Lawrence 2007). In regional areas, high levels of community participation have proven to have an impact on declining crime levels and therefore the state of Indigenous community networks proves to be a significant factor in reintegration and prevention of crime. It is apparent that on a community level “there are many examples of correctional services, local communities and community agencies working together to put the principles and goals of reintegration into practice” and fostering more local responses is one such way that the effects of high levels of Indigenous imprisonment can be mitigated (Willis & Moore 2008, p.52). Managing and improving effects on individuals, families and communities such as alcohol and substance abuse, violence, poor health and stress, issues with employment, low levels of education, low expectations and importantly preventing recidivism can all lead to better outcomes for Indigenous individuals, their communities and the wider society. Various local responses to high rates of incarceration include the creation of Aboriginal courts in Victoria (Koori Courts), South Australia (Nunga Courts), Queensland (Murri Courts), night patrols in New South Wales and Victoria, family violence safe houses such as Yuendumu Safe House in the Northern Territory, and men’s community groups such as Yerki Birko in South Australia (HREOC 2007). These are just some examples of the way in which effects of crime in Indigenous communities can be mitigated on a state and community level. The HREOC ‘Social Justice Report 2007’ and a report by the Australian Institute of Criminology ‘Reintegration of Indigenous Prisoners’ both provide good examples of working community projects (HREOC 2007; Willis & Moore 2008).

It is important to note that any program designed for Indigenous communities must be culturally appropriate, meaning it must reflect the traditions and values of the local community. A program that is very successful for non-Indigenous communities is not necessarily appropriate for Indigenous communities. Furthermore, Indigenous communities are not all the same. While it is important to learn about what works in other communities, programs must be carefully adapted to suit the needs of individual communities (AIC 2004). Community involvement and ownership of programs is essential for ensuring their success, and the local community must be involved in the running of programs (AIC 2004). This can be done through careful consultation with and involvement of the local community at all stages. This requires the early establishment of cooperative partnerships between community

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members and government or other agencies intending to implement such programs. Community members should be encouraged to identify problems and come up with strategies themselves (AIC 2004).

5. Conclusion

In the years since RCIADIC highlighted the issue of Indigenous over-representation in the criminal justice system, Indigenous imprisonment has increased and the causes and effects have not been mitigated significantly. The issue is a complex one whereby factors such as alcoholism and substance abuse, violence, poor health and stress, issues with employment, low education outcomes, low expectations and recidivism result in an overall Indigenous disadvantage. Mick Dodson speaking in 1996 as Social Justice Commissioner stated “our young people return from gaol to the very same conditions of daily existence that create the patterns of offending in the first place. The whirl of the revolving door is never far away” (Krieg 2006) highlighting the way in which the cycle of reoffending continues as little is done in the way of rehabilitation.

Each state and territory has control of prison administration and community corrections, operating independently and under their own legislative and policy frameworks (Willis & Moore 2008, p.54). This has led to a wide variation in sentencing, programs and services, and state-best practice is something which should be researched further, as the inconsistency in approaches to rehabilitation have impeded the development of a national approach (Willis & Moore 2008, p.54). However, community responses have proven to be effective gap-fillers to state provisions and highlight the way in which community needs vary greatly. Community responses such as alternative sentencing procedures, family violence groups such as Yerki Birko in Adelaide, and Yuendumu Safe House in the Northern Territory are effective community responses to the issue (HREOC 2007). Various reports stress the need for programs and services targeting the needs and different experiences of Indigenous offenders (Willis & Moore 2008; HREOC 2007) as “research consistently demonstrates that effective correctional programming which targets criminogenic factors has a considerable impact on the likelihood of further offending and readmission” (Willis & Moore 2008, p.42). Mitigating the causes and effects of high rates of Indigenous imprisonment can be achieved by addressing unemployment, low education levels, recidivism, stress, alcohol and drug use and violence in Indigenous communities holistically while recognising the specific needs and experiences of Indigenous Australians.

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