

WHEN WILL THEY EVER LEARN?

An End of Decade View of the Royal Commission Recommendations into Aboriginal Deaths in Custody. April 1991/April 2001 | 24 MAY 2001

RAY JACKSON | President/ Public Officer, Indigenous Social Justice Organisation

The following article will be placed into FRAMED, the Journal of JUSTICE ACTION, an activist group working on gaol and police issues. The article will appear in some form in the a PRISON ACTIVISTS HANDBOOK. The article will also appear in the Associations' newsletter, DJADI DUGERANG that has been issued since October, 1997.

In late 1987 the Hawke Government finally relented and called for Royal Commission into Aboriginal Deaths in Custody. 124 deaths were presented to the Commissioners but they, in their wisdom, accepted only 99. These deaths needed to have occurred between 010180 and 310589. Not one police, custodial or jail officer was found guilty of any wrongdoing. Except perhaps for using the wrong form or for being found to be totally ignorant of their own supposed Rules and Regulations.

During April 1991, the Commissioners handed down their collective wisdom in the form of 339 Recommendations. Roughly half of these dealt with the so-called justice system for Indigenous people. These Recommendations were to bring about change relative to the involvement of Aborigines and Torres Strait Islanders with the police, courts and gaols. With what success?

Tragically, none at all. Indigenous involvement with the white justice system has led to an increase in all areas - alarmingly so, and sadly, one can also say, racially so. Black incarceration has increased dramatically. Not only for our males and females, but also for our youths it has grown, and continues to grow, alarmingly. Deaths in custody, whether IN lock-up, gaol or juvenile centre has more than doubled since May '89. So what happened to the Recommendations?

Government at all levels, whether Liberal all Labor, continued on with their frantic posturings for Law and Order, each pushing the bidding higher and higher in their futile attempts to obtain a crime-free society. Unfortunately, they did not address, and they continue to refuse to address the real issues of poverty, homelessness, the legislation and legalisation of all drugs, unemployment, etc., etc. Social Justice has only ever been given lip service with no real workable policies being put into place Australia-wide.

The NSW police have been given greater and greater powers, especially during the Games, to 'clean the streets' of what they, the police, saw as the civil undesirables. Indigenous peoples, of course, were a fair wack of those. The draconian Games laws are still with us.

It is widely known, and accepted, that the police use their powers very arbitrarily and very, very racially. It must be remembered that all the police

forces of this country have been required to enforce Laws on Aborigines that denied us any basic Human Rights and civil protection. There is much evidence that there are laws that are, generally, more exclusively used against Aborigines; the Summary Offences Act, entailing the 'trifecta' - offensive behaviour, resist police and assault police, is but one example.

Added to these was the introduction of the Street Laws, the continued Rambo assaults on Redfern and other Communities, a greater acceptance and use by police for Zero Tolerance policing allegedly aimed at ethnic gangs and other groups, including Indigenous, and on their complete failure in the Drug Wars sweeping across Australia. Early this month Premier Carr was pushing that it be an offence to be seen to enter or leave a police- identified 'drug house.' The police are the final arbiters and YOU must prove your innocence. Guilt is assumed and you will be arrested regardless of the reason you had a need to visit this place. It could even be your own home!

Any wonder the gaols are full!

Let's look at some numbers, and I don't mean those 'pretty good numbers' that some politicians continue to rave about. I have taken these statistics from several sources and they include the Human Rights and Equal Opportunity Commission, CRC Justice Support Newsletter, (thank you Zanny), April/May 2001, Conflict, Politics and Crime: Aboriginal Communities and the Police, a new book by Chris Cunneen that I recommend highly, the Australian Institute of Criminology, ACT, the NSW Bureau of Crime Statistics and Research and the ABS as well as several media reports.

On Nov. 1 last year the HREOC stated that on a daily basis some 20,000 inmates, men and women, 'lived' in the country's gaols. Some 3300 odd are in private gaols whilst some 4000 inmates are Indigenous. The Commission believed, correctly, that not enough attention was being given to the operational conditions of the gaols. Conditions such as the impacts of continued lock-downs or lock-ins; segregation issues; GOD (Good Order, Discipline) transfers; health care; the treatment of 'special status' inmates; the total lack of real rehabilitation programs that work and the absolute dearth of properly funded pre- and post-release programmes.

This is more than ably proved by the recidivism rates of between 50% to 60% that are common throughout Australia.

From 1988/1998 Australia's inmate numbers overall increased some 62% from 12 321 to 19 906. This is now increased to 20,769 average per day for the October/December quarter, 2000. Somewhat better than the USA numbers of 2 000 000 plus. The increase in New South Wales gaols rose by 15 percent between 1996 and 2000. Current NSW gaol figures, as of mid-MAY, were 7754. This includes at least 516 women. Roughly 1400 of these inmates would be Aboriginal or Torres Strait Islanders. An Indigenous person is at least 15 times more likely to be gaoled than a non-Indigenous person. Nationally, according to the ABS, as of December 1, 2000, there were 4003 Indigenous inmates, some 19% of the gaols populations. We are about 3.4%

of the national population. In the Northern Territory Indigenous inmates account for 63% of all inmates whilst in Western Australia approximately some 3% of that State's Aboriginal population are in gaol. This is the highest rate in Australia. The highest ratios of Indigenous to non-Indigenous incarceration rates are for Western Australia and South Australia with rates of 20 and 17 times respectively.

71% of inmates in New South Wales gaols are Australian born, 16% are born overseas in a NESB country, whilst 6% come from English speaking countries. About 85% of males and 90% of females are gaoled for an alcohol or drug related crime, and at least one third of males and two thirds of females in gaol proved to be Hep C positive.

Mental illness for inmates is becoming a major problem within the New South Wales gaol system and the gaol systems are not geared up to replace the mental hospitals that have been closed by previous and current New South Wales Governments. It is believed about one-third of males and at least half of all female inmates are, or have been, suffering from some form of mental illness, while about 13 percent of all inmates are identified as having some form of mental disability.

Most studies show that, generally, Government welfare payments, of whatever type, are the sole income of the majority of inmates prior to conviction. 50% of those charged with assaults stated that welfare payments are their sole source of income. 80% of women were unemployed at their time of arrest. Poverty, unemployment, homelessness, among other Social Justice issues, allow for higher and higher gaoling rates. And of course, racism.

Social economists have recently produced Reports that deal with those questions and statistically show that we are in a time of deep social crises, caused by the social and economic psychopaths that are currently running the Governments of this country, whatever their political base. As explained above, a critical platform of all these Governments is their push for Law and Order and Zero Tolerance that is then exacerbated by the historically racist attitudes of police in general.

Whilst the police and their Masters in Governments claim that they are not complying with Zero Policing and that they are not racist, the figures speak differently. As Chris Cunneen, Director, Sydney University's Institute of Criminology has shown, the police are going to do what they do best, and that is to arrest people. I would add that they also tend to 'overly-chastise' people. The 3 Year Plan to reduce lock-up rates was absolutely undermined by the use of offensive language and behaviour charges, along the with an increased use of 'intimidate police' and also by the continued harsh treatment of Aboriginal juveniles.

Search and remove powers were maximally distorted in those areas of high Aboriginal populations. In Bourke, with a high Aboriginal population, police used their powers at a rate 492 times the State average. Aborigines were searched at 30 times the State rate. In the police areas of Walgett, Moree and

Broken Hill, police use their 'move on' powers 321 times, 173 times, and 145 times the State rate respectively. We do not need to ask at whom this over-policing is directed at.

Complaints against police by Aborigines of assault, abuse and racist remarks, in conjunction with a greater use of inappropriate and unprofessional behaviour when dealing with Aborigines whilst in custody or during arrest by police, has increased substantially. Complaints include illegal use of capsicum spray, handcuffs and the drawing of their pistols to intimidate Aborigines, especially Aboriginal youth. Whilst Police Commander Doug Graham believes that things had improved; again the statistics belie this.

In 10 Police Local Area Commands with high Indigenous populations, Aboriginal males were refused bail at a rate of 12 times higher than non-Aborigines. Aboriginal females were locked up at a rate 40 times greater than non-Aboriginal females for intoxication. Detention for outstanding warrants was 14.4 times greater for Aboriginal males and 16.5 times greater for Aboriginal females than non-Aboriginal males and females, and only 1 in 10 Aboriginal juveniles searched was found with a weapon. Yeah, right Doug.

During April 2001 the NSW Bureau of Crime Statistics and Research revealed that by eliminating gaol terms of six months or less, (a Carr pre-election promise at a previous election), would reduce the Indigenous inmate population by a staggering 54%, and the general gaol population by 46%.

This would negate the building of any new gaols, especially the 250-300 bed Women's gaol at Windsor. A gaol that was recommended by the Parliamentary Enquiry that it should not be built. This would save at least \$42 million that could be far better spent on introducing gaol programmes that really work. Current costs of gaoling people are, for Australia, \$1.065 billion in 1997-98. This would have risen since due to the over-the-top enthusiasms of Governments everywhere to build more and more gaols. This has cost each adult Australian, at that time, about \$76 per annum. For NSW, for the same period, the cost was \$84.45 per annum.

Whilst it can be clearly and factually shown that all Governments have totally and criminally ignored the Recommendations of the Aboriginal Deaths in Custody Royal Commission, they all, without exception, attempt to apologize their collective failures away. NSW Attorney General Bob Debus acknowledges that the number of Indigenous inmates is 'unacceptably high' and his Government believed 'new approaches' were needed. One new approach was to legislate in April last year that Judges/Magistrates would have to give written reasons why when handing down sentences of six months or more.

But the legislation has not been active long enough to assess its outcomes, but anecdotally it has been argued that the Courts are handing down a greater level of sentences of 6-1/2 months or more. Lets face it, the Courts are busy and so is everyone attached to them. We firstly must await the statistics, and the victims of this attempt to lower gaol numbers.

The number of people killed in police operations has risen dramatically during the year 2000. NSW State Coroner, John Abernathy, criticized the Government for failing to implement the Recommendations of the Royal Commission, and the other relevant and related Recommendations, to prevent deaths in custody, and especially those who are killed in police high-speed car chases. In 2000, 19 people died in police, (Category 1 police deaths), or gaol custody. Another 20 died as a result of high-speed car chases or by being shot by, sometimes, alcohol or drug affected police officers. (these are Category 2 police deaths)..

The relevant gaol and police Recommendations were all accepted and allegedly implemented in 1993. Why then the ongoing concern of Coroners and many others to the increasing number of hanging deaths? The NSW Coroners during 2000 investigated the following death in Custody cases: Fourteen inmates/ detainees hung themselves; four were found to have died of drug overdoses; two were murdered in jail whilst two were shot by police; three died of so-called natural causes; one from a self-inflicted gunshot wound; one whom took poison; whilst an unbelievable nine died from injuries received in high speed car chases. How many now live as cripples is apparently not counted?

For Indigenous youth the situation is very bad and is further deteriorating.

67% of the Indigenous deaths that occurred during police operations involved people under the age of 20, compared with 11% for non-Indigenous deaths. The last Census showed that some 60% of Indigenous people were under the age of 25; some 50% were 18 and under. This Country, and we Indigenous people, are sitting on a juvenile time bomb that will explode in all our faces, unless some sensible measures are taken, rather than the continuation of the police harassment and the racism of the total white justice system that is the daily fare of Indigenous youth.

Indigenous youth, nationally, are 14 times more likely to be held in a Juvenile Justice Centre than non-Indigenous youths, in W.A. the statistic is 30 times more, whilst in Qld. the statistic is 20 times the rate. I do not have the NSW rate but I believe it would be somewhere around the national figure, if not slightly higher,

In the ACT there's been a call made for urgent action on 'black crime.' What about white, brown, yellow, or whatever coloured crime? Labor leader John Stanhope bemoaned that Canberra's Indigenous offender rate was the highest in the nation. A Report stated that the Indigenous offender rate in '99/2000 was 3 876 per 100,000 adults. 62% of the ACT Juvenile Justice Centre, Quamby, were identified as being Indigenous. I would argue that this statistic would be fairly representational throughout Australia.

Their answer? More and bigger and better and harder Laws for the police. More Maximum Security gaols for inmates to serve longer and longer sentences with no chance of rehabilitation. Still more treading of the Cowards

Path, much loved by the Politicians, the Right Fundamentalists, the Verbal
Vomit, among others.

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