



FREMANTLE PRISON

AUSTRALIAN HISTORY CURRICULUM

LINKS FOR YEAR 10

THE MODERN WORLD AND AUSTRALIA – RIGHTS AND FREEDOMS



WARNING

Offensive Language

This document includes direct quotes from oral histories and interviews with Aboriginal prisoners at Fremantle Prison which includes language that will be offensive to some readers as well as language that could be deemed racist in certain contexts. These quotes have been reproduced here with their offensive content unedited and intact so as to maintain an accurate representation of the prisoners' voices.

Images

This document contains images of Aboriginal people who are deceased. There are also images of Aboriginal prisoners wearing neck chains.

Some of these images may be distressing to some people.

Subject Matter

The subject matter covered in this document includes deeply emotive subjects such as crime, punishment, death, as well as racial discrimination against Aboriginal people. The document includes information about Aboriginal people in prison and discussion of deaths in custody. This information, while on the public record, may be distressing to the families of those people involved. Please use this information sensitively and with respect for the Aboriginal families and others involved.

CONTENTS

Fremantle Prison	4
Curriculum Links	5
Historical Inquiry	7
Planning a School Excursion	9
Suggested Pre-Visit Activity	12
Suggested Post-Visit Activity	16
Historical Overview	20

FREMANTLE PRISON

In 2010 Fremantle Prison, along with 10 other historic convict sites around Australia, was placed on the World Heritage Register for places of universal significance. Collectively known as the Australian Convict Sites these places tell the story of the colonisation of Australia and the building of a nation.

Fremantle Prison is Western Australia's most important historical site. As a World Heritage Site, Fremantle Prison is recognised as having the same level of cultural significance as other iconic sites such as the Pyramids of Egypt, the Great Wall of China, or the Historic Centre of Rome.

For 136 years between 1855 and 1991 Fremantle Prison was continuously occupied by prisoners. Convicts built the Prison between 1851 and 1859. Initially called the Convict Establishment, Fremantle Prison held male prisoners of the British Government transported to Western Australia. After 1886 Fremantle Prison became the colony's main place of incarceration for men, women and juveniles. Fremantle Prison itself was finally decommissioned in November 1991 when its male prisoners were transferred to the new maximum security prison at Casuarina.

Fremantle Prison was a brutal place of violent punishments such as floggings and hangings. Conditions were primitive - freezing in winter and scorching in summer, infested with cockroaches and rats, the site was lonely and cruel. It housed thousands of prisoners, each with a fascinating story to tell. It was the site of numerous daring escapes and prisoner riots.

Throughout its operational history, Fremantle Prison held thousands of Aboriginal men, women and children. Numerous Royal Commissions and inquiries investigated the conditions of incarceration of Aboriginal people at Fremantle Prison. The Prison is a key place of inquiry for students investigating issues of social justice and Aboriginal people in Western Australia.



CURRICULUM LINKS

YEAR 10 – THE MODERN WORLD AND AUSTRALIA

The Year 10 curriculum provides a study of the history of the modern world and Australia from 1918 to the present, with an emphasis on Australia in its global context. The twentieth century became a critical period in Australia's social, cultural, economic and political development. Australia's development has been critically influenced by the race relations between indigenous Australians and white Australians, and this clash of cultures has influences all streams of Australian life.

Fremantle Prison was a major site of Aboriginal incarceration and offers a unique insight into race relations in Western Australia.

DEPTH STUDIES

2 Rights and Freedoms

Background to the struggle of Aboriginal and Torres Strait Islander peoples for rights and freedoms before 1965.

- Students can investigate the experiences of Aboriginal prisoners at Fremantle Prison against the backdrop of race relations in the wider community.
- The history of incarceration of Aboriginal prisoners at Fremantle Prison and Rottnest Island was closely linked to social policies to do with Aboriginal people including processes of segregation, assimilation, the development of missions and reserves for Aboriginal people.

The significance of the following for the civil rights of Aboriginal and Torres Strait Islander peoples: 1962 right to vote federally; 1967 Referendum; Reconciliation; Mabo decision; Bringing Them Home Report (the Stolen Generations); the Apology.

- Events at Fremantle Prison were influenced by these significant national events, including the 1973 *Royal Commission into Various Allegations of Assaults on or Brutality to Prisoners in Fremantle Prison and of Discrimination against Aboriginal or part-Aboriginal Prisoners therein*, as well as the 1987 – 1991 *Royal Commission Into Aboriginal Deaths In Custody*.

HISTORICAL CONCEPTS

Evidence and Significance

Fremantle Prison exhibits an extraordinary power of place. Because it remained operational as a prison until 1991, the site is remarkably intact and authentic. Students visiting the Prison can see first hand what life was like for modern prisoners as well as for convicts 150 years ago. Seeing the original heritage fabric allows students to identify the heritage significance of the site.

Historical Inquiry

Our tour guides encourage students to ask questions while on tour. In this way are tours focus on an exchange of information rather than a one-way lecture on the Prison's history.

Continuity and Change

On a tour of the Prison students can identify what aspects of the prison system changed over the years and what stayed the same.

Cause and Effect

Our display cells provide a visual example of how changes to cells over the Prison's history were driven by cause and effect.

Perspective

People in the past may have had different points of view about a particular event, depending on their age, gender, social position, beliefs and values etc. In particular, while day to day life for Aboriginal prisoners was much the same as it was for other prisoners, the overall 'experience' of being an Aboriginal inside Fremantle Prison was very different than the experience of other prisoners. Our tour guides tell stories about historical individuals and provide an insight into their differing perspectives.

Empathy

A visit to Fremantle prison offers a unique opportunity to develop an understanding of the past from the point of view of a particular individual or group, including an appreciation of the circumstances they faced, and the motivations, values and attitudes behind their actions. Students on tour see the real conditions of incarceration and punishment which helps them to empathise with prisoners' experiences.

Contestability

Occurs when particular interpretations about the past are open to debate, for example, as a result of a lack of evidence or different perspectives. Fremantle Prison offers a unique view of contestable history as a natural outcome of differing perspectives and power relationships within the Prison between prisoners and prison officers. The true experience of Aboriginal people in Fremantle Prison is an area of major debate and was specifically addressed by the 1973 *Royal Commission into Various Allegations of Assaults on or Brutality to Prisoners in Fremantle Prison and of Discrimination against Aboriginal or part-Aboriginal Prisoners therein*, and the 1987 – 1991 *Royal Commission Into Aboriginal Deaths In Custody*.

THEMES

Treatment of Aboriginal prisoners

Aboriginal people had a different set of histories, laws, values, norms and behaviours to white Australians. With the arrival of the first settlers their behaviour was measured against white law and they were judged and punished accordingly.

1. Should British laws have been applicable to Aboriginal people?
2. Were Rottnest Island and Fremantle Prison, with their associated methods of incarceration, punishment and reform, appropriate places to send Aboriginal prisoners?

Segregation versus assimilation

During the 1800s Aboriginal prisoners were segregated from the community on Rottnest Island. From 1904 to 1965 Aboriginal prisoners in Fremantle Prison were segregated from white prisoners and kept in 2 Division. After 1965 they were assimilated into the rest of the Prison. This change was reflected by a broader change in policy towards Aboriginal people in the wider community.

HISTORICAL INQUIRY

Fremantle Prison is a site of active historical inquiry. Historical research to inform the content of our tours and exhibitions is ongoing. Curators research and manage the Prison's collection which includes convict artefacts, prison clothing, documents, photographs and artworks. Prison historians research the intangible heritage of the site which includes stories of prison life, escapes, riots and punishments. Heritage specialists manage and conserve the Prison's buildings and structures, ensuring that they are preserved for generations to come. Fremantle Prison has two visitor centres which provide visitors to the site with an introduction to the history of Fremantle Prison and the themes of incarceration.

REFORM

"There is nothing so completely futile in this world as a prison sentence, if the person undergoing it has idled the time away and goes out no better than when he came in."

Fremantle Prison Welfare Officer, 1960s



Prisons have two main roles – they punish criminals and they attempt to reform the criminal character. These disparate aims are achieved by discouraging disobedience and rewarding positive behaviour. Although life at Fremantle Prison was unpleasant and strict, opportunities existed through work and education for prisoners to gain skills and improve themselves.

DAILY ROUTINE

Routine dominated daily life. In the 1960s prisoners woke at 6:45am and were released from their cells at 7am. Mornings were occupied with work. From midday to 1pm prisoners ate lunch in the yards. After working through the afternoon they were back in their cells by 4:15pm for dinner. Lights were extinguished at 11:45pm. If they needed to go to the toilet during the night they used a bucket in their cell.

WORK

Employment programs operated from the east and west workshops, the kitchens and the prison gardens. Working prisoners earned a small wage, but the real value of their labour was thought to lie in character building and acquiring a work ethic. Prisoners learnt trades such as wood and metal work, automotive mechanics, tailoring, shoe making, sign writing, painting and printing in preparation for their eventual release back into society.

EDUCATION

Fremantle Prison was one of the first maximum-security prisons in the world to offer prisoners free reading material. Its library held over 10 000 books. In the Education Centre many prisoners completed high school certificates. Others enrolled in tertiary degrees and doctorates. Art classes were available giving prisoners the chance to be creative. The Fremantle Prison Collection contains unique prisoner paintings and artworks left behind after the Prison closed. Many of the paintings were of landscapes and wide open spaces.





Fremantle Prison has an ongoing program of developing exhibitions in house. Our exhibitions focus on particular stories to do with the history of Fremantle Prison. For example our 2013 temporary exhibition *Wadjemup to Walyalup* tells the history of Aboriginal incarceration in Western Australia.



SUGGESTED PRE-VISIT ACTIVITY

Fremantle Prison is a site rich in contestable history. Because of the nature of prisoners / prison officer relations, many events in the Prison's history had two or more contested versions. The death of Aboriginal prisoner Robert Walker in 1984 is an example of a contested history.

After your students have engaged with the following information, ask them the following focus questions:

1. Could Robert Walker's death have been avoided?
2. Was Robert Walker's race a factor in his death? For example, would he have been treated the same if he was white?
3. Why did all the investigations and inquiries produce such different findings?
4. Who do you think would have been the more reliable witnesses, the prisoners or prison officers?
5. Which parts of the event and which findings from the various investigations do you consider fact and which are open to debate?

THE DEATH OF ROBERT WALKER 1984

A significant event in the Prison's modern history occurred on 28 August 1984 when an Aboriginal prisoner, Robert Walker, died of asphyxiation while being transferred by prison warders from 1 Division to the Prison hospital.

Robert Walker was a 26 year old Aboriginal man, charged with rape and sentenced to six years at Fremantle Prison. His cell was in 1 Division. Reportedly he was a well behaved prisoner until the night of 27 August 1984 when he began yelling out and playing his guitar loudly through the night. When a guard checked his cell at 4am it was discovered he had cut his wrists with a razor blade.

Three prison staff attempted to transfer Walker to the hospital to treat his wounds. He became agitated as he was removed from his cell. On the 2 division stairs he kicked the hospital officer who fell down the stairs. The warders moved Walker through the 2 division doors into the Parade Ground. Outside an altercation occurred which ended with Walker being pinned to the ground on the grass outside 2 division. More officers arrived to help control the prisoner. It is alleged that at this time Walker was subjected to a 'beating' by the guards. The actual severity of the prison officers' actions was a highly contestable part of the report with versions ranging from a violent beating with batons to what was considered necessary force. The inquiry found that his death was asphyxiation caused by rough treatment and mismanagement of the situation by the supervising officer.

While Walker was pinned to the ground the medical officer ran to the hospital to retrieve a dose of the sedative *Largactil*. Walker was injected with the sedative. Before it could take effect Walker stopped struggling. He was carried to an observation cell in New Division where he later stopped breathing and was pronounced dead.

This event is contentious for a number of reasons:

- It involved the death of an Aboriginal prisoner and as such was part of the 1991 Royal Commission into Aboriginal Deaths in Custody
- Witness statements regarding the particular events surrounding the death differed greatly between Prison staff and prisoners
- Regardless of the various versions of the event, the death of Robert Walker was violent and probably avoidable

- The particulars of Robert Walker's death were misreported by the media at the time, his death being attributed in different news stories to suicide, asphyxiation, death by misadventure, 'a mysterious illness'.
- The Aboriginal community at the time were, and to an extent still are, tremendously upset by the circumstances surrounding the incident, particularly because the coronial inquest was partly held in the Anglican Chapel at Fremantle Prison, and that four of the five Prison staff involved were not called to give evidence.



The 1987 Royal Commission into Aboriginal Deaths in Custody - Report of the Inquiry into the Death of Robert Joseph Walker by Commissioner LF Wyvill made the following comments regarding the shortcomings of the various investigations that took place into Robert Walker's death:

Post-Mortem Examinations

Two post-mortem examinations were conducted on Walker's body. Both failed to correctly identify the cause of death.

The first examination, which was conducted on the day of Walker's death by Dr Derek Alan Pocock, a pathologist employed in the forensic section of the State Health Laboratory, was deficient.

Police Investigation

The police investigation into Walker's death was incomplete and marred by inefficiency.

Had there been a thorough police investigation of the incident on the lawn outside the Division, the pathologists would have had information that was essential for them to have if they were to be of assistance to the Coroner in his task of ascertaining how Walker came to die of asphyxia.

The Coronial Inquiry

The Coroner's inquiry was frustrated to a considerable extent by the inadequacies of the police inquiry, the fact that the pathologists were not given sufficient information about the nature and circumstances in which force was applied to Walker, and the fact that the three prison officers who were pressing down on Walker as he lay on the grass and their chief officer who was with them did not give evidence at the inquest. In the result, while the Coroner had no difficulty in identifying the cause of death as asphyxia, he, like the pathologists, was left to speculate as to the mechanism by which asphyxia was caused.

Until this Commission investigated Walker's death, no inquirer considered the possibility that his death was caused, not by the compression of his neck, but by the great weight the prison officers brought to bear on him as he lay face down on the grass.

Because the pathologists thought at the time that the asphyxia was caused by the compression of Walker's neck by a very small amount of force (as there was no evidence of a severe application of force and no other explanation for the asphyxia was proffered) the Coroner, quite understandably, concluded that there had been no brutal application of force.

Investigation by Prison Authorities

No investigation was conducted by the Prisons Department into Walker's death or the *actions* of its officers who were in contact with Walker immediately before his death. The department left the entire investigation to the police and the Coroner.

Even when the Coroner announced his finding, which was that Walker had probably died because his neck had been compressed at the time the injection was administered by Hanna, there was no internal departmental inquiry into who had compressed Walker's neck and why. There was, however, a staff bulletin issued in the name of the Director of the department which applauded the officers involved.

Summary

Walker's death was caused by asphyxia which was the result of the compression of his chest to the extent that he could not breathe. That was caused by the great weight the prison officers brought to bear on him as they pinned him to the ground.

Underlying the mechanical and pathological causes of his death are the poor training, lack of leadership and misguided use of force by the prison officers.

SUGGESTED PRE-VISIT ACTIVITY

Alternatively the Robert Walker discussion could be structured using the Q&A format discussed below.

Following the format of the ABCs Q&A program, students debate the issue of Robert Walker's death from the perspective of contemporary participants.



Roles for students could include:

- 1 * moderator
- 6 * panel members – (each panel member has 3 or 4 helpers during research phase)
- Audience – develop questions

Students allocated roles as panel members could role play historical figures such as:

- The commissioner investigating the death
- A prisoner who witnessed the event from his cell window
- A prison warder present during the event
- A friend of Robert Walker in prison
- A pathologist involved in the post-mortem examination
- The Coroner

Alternatively, panel members could be themselves, answering from their own beliefs and POV.

Students who are audience members are responsible for developing questions which can be directed at one or all of the panel members. The moderator determines which questions are asked and controls discussion.

Sample questions:

1. Could Robert Walker's death have been avoided?
2. Was Robert Walker's race a factor in his death? For example, would he have been treated the same if he was white?
3. Why did all the investigations and inquiries produce such different findings?

SUGGESTED POST-VISIT ACTIVITY

The following murals were painted by Aboriginal prisoners inside Fremantle Prison. Analyse each image and try to identify what you think each artist's intention was in the creation of their work.

1. What is the subject matter of each image?
2. What does the image say, if anything, about the artist's experience of prison life?



Detail of mosaic, 4 Division yard, 1991

NOTES ON 4 DIVISION YARD MURAL

Towards the end of 1990, prisoners involved in art classes were given the freedom to paint murals on the walls of the exercise yards.

Fremantle Prison had a large contingent of Aboriginal prisoners. This over-representation left behind a significant number of Aboriginal artworks as well as artworks that mix aboriginal and European imagery.¹ One of the best examples of mixed imagery is the 4 Division yard mural – a spectacular composite work signed by three prisoners, Peter Cameron, Erik Merritt, and Shane Finn.

This mural was intended to commemorate Aboriginal culture in Fremantle Prison. The mural maps a journey across Aboriginal Australia from the east coast to the west, with animals and spirits of the air, earth and water suspended across the aqueous surface. At the bottom the Wagyl travels the length of the continent beneath the earth burying its head somewhere near Esperance.²

The mural consists of Aboriginal graphical imagery from at least three different areas including the south-west and the east Kimberley. This type of inter group composite work is relatively unique which makes it a very important part of the Prison's art collection.

It is ironic that a mural that heavily depicts the influence of water on the formation of the landscape is slowly being destroyed by water seeping through from the east bank behind.

Wondjina

Dreamtime stories tell of the great spirits and totems during creation, which in animal and human form moulded the barren and featureless earth. The Wandjina in the top left of the mural represent the creator spirit (in the form of a cloud or rain spirit) for the Aboriginal people of the east Kimberley region. During the Dream time the Wandjina created the landscape and its inhabitants.

Wondjina faces are mouthless and feature enormous black eyes flanking a beak-like nose; they are all-seeing and all-knowing and have no need for speech. Wandjinas are usually portrayed with a halo-like ring around their head, depicting lightning, clouds or rain.

The Kimberley groups believed that the Wandjinas were responsible for bringing the annual rains and storms to the region. The images were refreshed annually to maintain the power of the Wandjinas and ensure the return of the rains and renewal of fertility to the area. The image of the Wandjina is reminiscent of the enormous storm-cloud formations which bring rain to the Kimberley each Wet season.

Rainbow Serpent

The **Rainbow Serpent** is a common motif in the art and mythology of Aboriginal Australia. The Rainbow Serpent came from beneath the ground and created huge ridges, mountains and gorges as it pushed upward.

The Wagyl is the local manifestation of the Rainbow Serpent for the Noongar people of South West Australia. According to Noongar culture, the Wagyl was a snakelike dreamtime creature responsible for the creation of the Swan and Canning Rivers and other waterways and landforms around present day Perth and the south-west.

¹ Kerr 1991

² Josephine Wilson, *Behind Closed Doors*, Fremantle Arts Review, 1992?



Mosaic, 2 Division yard, 1991

NOTES ON 2 DIVISION YARD MURAL

This mural is an example of a style of landscape art influenced by the Carrolup School art program.

The government settlement known as Carrolup initially operated from 1915 to 1922. When it closed in 1922 its residents were transferred to the Moore River Native Settlement. Carrolup reopened from 1940 to 1952 as a farm training school for Aboriginal boys. From 1952 to December 1988 it became known as Marribank.

During the period from 1940 to 1952, an extraordinary flowering of creativity arose at Carrolup. The headmaster, Noel White, took his students on walks through the bush, and encouraged them to draw what they saw. Done in their school exercise books, they drew beautiful landscapes in pastels, and later on they used watercolours and oils.

Most of the artists were boys between the ages of 7 and 13. Florence Rutter, an Englishwoman, became fascinated with the unusual style of art. She went to Carrolup, took their artworks and exhibited them to raise money for the children. As well as arranging exhibitions of the Carrolup work in England and on the Continent, Rutter wrote a book with Mary Durack-Miller called *Child Artists of the Australian Bush*.³

The children got enormous adulation and press coverage at the time. People were surprised as it was believed by many that Aboriginals of mixed descent could not hold strong aesthetic values.

The success and international attention was not welcomed by the Department of Native Welfare. The boys were supposed to be training as labourers. White recorded in his diary occasions when he was made to release the boys from school to do trivial and meaningless tasks, such as digging holes and filling them up again.

In 1951, government policy switched to favour assimilation, and Carrolup was closed. Boys older than 14 were given a new set of clothes and shoes and left to their own devices. Many of these boys ended up at Fremantle Prison bringing the Carrolup style of art with them.

Many of the murals and works of art in the Fremantle Prison Collection demonstrate this style of painting, depicting bush scenes and landscapes, often in silhouette with the sun setting behind. The Carrolup influenced paintings in Fremantle Prison are not direct observations from Nature, but instead reflect memories and experiences from the outside. These paintings have a dream-like imaginative quality, evoking the artist's love or longing for their country.

³ Courier Mail, Carrolup exhibition shows children's view of the world, 9 May 2009

HISTORICAL OVERVIEW

This section contains language that may be offensive to some readers and that will be perceived as racist in some contexts. This section also contains images of Aboriginal people who are deceased. It also contains images of Aboriginal prisoners wearing neck chains. These images may be distressing to some people.

CULTURAL SIGNIFICANCE OF FREMANTLE PRISON SITE

Prior to European settlement the area now known as Fremantle was relatively well-populated. A number of freshwater swamps existed in the area along with a freshwater spring at the eastern base of the rocky knoll at Arthur Head. According to early colonial records there was no permanent camp at Arthur Head, but that Aboriginal people visited the area regularly, particularly in summer.⁴

A number of nearby sites have been identified as sites of some significance to Aboriginal people, such as Cantonment Hill, Anglesea Point, Swan River, and Fremantle Manjaree (south bank of Swan River mouth). Fremantle Prison itself is not identified in the Register of Aboriginal Sites of the Culture and Heritage Division of the department of Indigenous Affairs as an Aboriginal Site.

Fremantle Prison is informally regarded as a place of social significance for Aboriginal people due to the number of Aboriginal people who spent time here during the twentieth century. It is recognised as an Aboriginal Deaths in Custody place and as a place of suffering for Aboriginal people.⁵



Bush scene by Revel Cooper – inmate at Fremantle Prison, c1970s
Fremantle Prison Collection

⁴ *Report on Fremantle Prison: Significance to Aboriginal People*, The Centre for Aboriginal Studies, Curtin University of technology, 1994, p. 10

⁵ *Section 18 Notice for the Proposed Works Programme at Fremantle Prison*, City of Fremantle WA from the Minister for Works, June 2007

EARLY INCARCERATION

British settlers landed on Noongar land in 1829 and established the Swan River Colony. For the first two years there was little competition for resources. Relations between settlers and Noongar were generally cordial. However, as the settlers fenced off land and denied Noongar people access to their hunting land and sacred sites, relations deteriorated.

Noongar people began raiding settlers' farms for food. The settlers regarded this as stealing and defended their property, killing a number of Aboriginal people. Once an Aboriginal person was killed their law called for a 'payback' killing. Noongar payback could be carried out on any member of the opposing 'tribe'. This was incomprehensible and terrifying to the settlers.

Conflict and reprisal killings escalated. The conflict culminated in October 1834 when a troop of soldiers led by Governor Stirling killed between 20 and 300 Pindjarep men, women and children on the banks of the Murray River.⁶ Noongar resistance quickly petered out after the Pinjarra Massacre.

During the 1830s Aboriginal prisoners were held at the Perth Gaol, a six cell lockup opposite Government House, and the Fremantle Round House. These prisoners spent the days 'chain-labouring' on road gangs and public works.⁷ Prisoners were publically flogged for small offences.

A small number of Aboriginal prisoners were exiled to Carnac Island, 10 kilometres offshore from Fremantle. Yagan, who with his father Midgegooroo, led the first significant resistance of the Whadjuk Noongar people to European settlement, was captured with two companions in 1832 and sentenced to death. Settler Robert Lyon argued that Yagan was defending his land from invasion and as such should be treated as a prisoner of war. The argument was successful and the three men were transferred to the Round House in Fremantle and then exiled to Carnac Island. The captives escaped the island a month later.

The chuckling style in which Yagan gives us to understand the manner in which they effected their escape from Carnac, is highly amusing; but a short time ago, he walked up to the door of the Jail at Fremantle, and after exchanging civilities with his late Keeper marched off pointing significantly at the Jail, and then Carnac.⁸

Midgegooroo was captured in 1833 and publically executed at the Perth Gaol by firing squad. Yagan was later killed by two teenagers on the Upper Swan, his head removed as a trophy.

ROTTNEST ISLAND (WADJEMUP)

Rottnest Island was first used as a prison in 1838 when a soldier Corporal Welsh transferred ten Aboriginal prisoners to the island to set up a colony. In 1841 an act was passed in the Legislative Assembly to 'constitute the Island of Rottnest a Legal Prison'⁹ for Aboriginal prisoners.

Apart from a hiatus between 1849 and 1855 Rottnest Island operated as a prison for Aboriginal people for the next 60 years. After 1888 a small number of Aboriginal prisoners on remand or on short stays were incarcerated at Fremantle Prison. However, most medium to long term prisoners were sent to Rottnest Island.

⁶ Accounts of this event vary widely depending on the historical source.

⁷ *Report on Fremantle Prison: Significance to Aboriginal People*, The Centre for Aboriginal Studies, Curtin University of technology, 1994

⁸ *The Perth Gazette and Western Australian Journal*, 2 March 1833, page 34

⁹ *Ibid*, p. 202



Aboriginal Prisoners, Rottnest Island, 1893
State Library of Western Australia

Large numbers of Aboriginal prisoners died from flu epidemics and measles on Rottnest. In 1883, 60 out of 170 prisoners died from influenza, more than one third of the population. In 1884 the Forest Report, commissioned to inquire into the treatment of Aboriginal prisoners in the colony, concluded that overall the treatment of prisoners on Rottnest Island was 'kind and humane'.¹⁰ At this time the majority of prisoners on the island had measles.

Following the 1899, Royal Commission the island was finally closed as a prison for Aboriginal people in 1903. Despite its official closure, in May 1903, 21 prisoners still remained on the island.

The following year a portion of Rottnest Island came under management of Fremantle Prison's Comptroller-General. On 4 January the island was officially declared a penal station.

In January 1904 twelve white prisoners from Fremantle Prison arrived on the island. By June 1904 white prisoners numbered 26 and Aboriginal prisoners numbered 12. On 25 June 1904 the Western Mail reported on the development of the new prison:

¹⁰ Ibid, p. 137.

During the time of their black occupants, the cells had rarely, if ever, been subjected to anything like a systematic cleaning process, and when the time came for them to be given over to the white prisoners, the finer nature of the latter caused them to shudder at the thought of sleeping in such foul apartments. Convicts though they might be, their manners and customs were very different from those of the aboriginals ... Meanwhile the few black convicts remaining on the island who are discontented with too much civilization are allowed to sleep in apartments which have not been so extensively improved.¹¹

Prisoners were periodically sent to Rottnest Island from Fremantle Prison to work in the salt works and on tourism developments. Over the following years up to 40 prisoners worked on Rottnest at any one time, about 10% of these being Aboriginal. On 27 August 1915 the daily occurrence book recorded 19 Aboriginal prisoners and 44 European prisoners on the island.

During the war the Aboriginal prisoners were assigned the tasks of cutting firewood, washing clothes, emptying latrines, cleaning staff quarters and minding animals. The white prisoners worked as cooks, kitchen hands, clerks, stablemen, blacksmiths, general handymen and carters. By 1918 Aboriginal and European prisoners shared the duties. In 1919 the Aboriginal prisoners were transferred to a newly constructed set of buildings beside the salt works, otherwise known as the Salt House Prison.

Finally in 1931 the prison on Rottnest Island was closed and prisoner labour on the island discontinued. During its history as an Aboriginal prison, it is estimated that between 3700 and 6000 Aboriginal men and boys were held on the island. Of these 373 died while on the island, mostly of influenza and measles.

REGIONAL IMPRISONMENT AND NECK CHAINS

I was shown a place of detention commonly called "the boob," and I disliked its appearance very much. A small detached "room" made of posts driven into the ground, floor of white sand, scarcely a gleam of light, and little ventilation, and I was told that inmates have been incarcerated in this place for as long as 14 days. It is barbarous treatment, and the place should be pulled down.¹²

With the expansion of the Swan River Colony new prisons were established on the frontiers. The vast majority of Aboriginal men and boys imprisoned in the north of the state. Regional prisons contained 'native cells' and segregated Aboriginal from other prisoners.¹³ These prisons were linked with the prison on Rottnest Island. Aboriginal prisoners were transferred on the long journey to Wadjemup in neck and/or leg chains. On their release from Wadjemup they had to find their own way home, often through hostile tribal lands.

As the colony spread into the north-west in the 1870s, resistance by Aboriginal people was fierce. Prison populations were large. The prison at Roebourne was the second largest in the colony.

Neck chains were the standard method of restraining Aboriginal prisoners from the beginning of European settlement up until the 1940s. Neck chains were used to restrain Aboriginal prisoners on work parties and while being transported between prison sites, for example between the Roundhouse and Rottnest Island. In sites such as Roebourne it was reported that Aboriginal prisoners sometimes wore neck chains all day and night, for up to two or three years at a time.¹⁴ Aboriginal people,

¹¹ *Western Mail*, Saturday 25 June 1904, p. 32

¹² Roth, *Report of the Royal Commission on the Condition of the Natives*, 1904

¹³ Blaze Kwaymullina and Alexander Hay, *Historical Encyclopedia of Western Australia* (Ed. Jenny Gregory and Jan Gothard), University of WA Press, 2009, p. 35

¹⁴ Thomas, J.E. and Stewart, A. *Imprisonment in Western Australia*, University of Western Australia Press 1978, p. 141

including women, transported to regional centres to act as witnesses in criminal proceedings were also forced to wear neck chains.

Apart from an instruction from the Comptroller-General of Prisons that neck chains could be used on Aboriginal prisoners, there was no legal authority of legislation to support this practice. Neck chains and leg irons continued to be used in the Kimberley region into the 1940s, long after they had been abolished for non-indigenous prisoners. There is no record of neck chains in use at Fremantle Prison.



Aboriginal prisoners outside Roebourne Gaol, 1896
Battye Library, 303666PD

LEGISLATION AFFECTING IMPRISONMENT OF ABORIGINAL PEOPLE

After the official closure of the Aboriginal Prison on Rottnest Island in 1903, Aboriginal prisoners requiring 'maximum security'¹⁵ were sent to Fremantle Prison. In 1905 the *Aborigines Act* widened the definition of Aboriginality which had the effect of increasing the chance of Aboriginal people being charged with certain offences. The act also allowed for the summary trial of Aboriginal people, that is, trial before a magistrate without a jury present. As a result of the *1905 Aborigines Act* the proportion of Aboriginal prisoners in Fremantle Prison to non-Aboriginal prisoners increased.

Aboriginal prisoners were also spending more time in prison than non-Aboriginal prisoners for similar crimes. In 1906, roughly 33% of prisoners were of Aboriginal descent. However, Aboriginals only

¹⁵ *Report on Fremantle Prison: Significance to Aboriginal People*, The Centre for Aboriginal Studies, Curtin University of technology, 1994

accounted for 10% of all convictions. This means that Aboriginal people were spending on average longer sentences than non-Aboriginal prisoners.

A number of legislative acts in the late nineteenth and early twentieth centuries impacted the crimes by which Aboriginal people could be charged and the length of sentencing they received, as opposed to non-Aboriginal people.

- 1841 – **An Act to Constitute the Island of Rottnest a Legal Prison** (repealed 1903)
- 1849 – **Aboriginal Native Offenders Act** allowed whipping and imprisonment for summary offences
- 1874 – **The Aboriginal Native Offenders Act** allowed for two Justices of the Peace (JPs) to impose a maximum of six months imprisonment for summary offences
- 1875 – **Capital Punishment (Amendment Act)** condemned Aboriginal people liable to public execution
- 1880 – **The Wines, Beer and Spirit Sale Act** prohibited the sale, supply to or possession of alcohol by Aboriginal people except as wages by a publican
- 1883 – **Aboriginal Offenders Act** included mixed descent in definition of ‘Aborigine’
- 1892 – **Aborigines Offenders Act (Amendment Act)** allowed whipping of Aboriginal prisoners instead of or in addition to prison
- 1893 – **Aboriginal Offenders Act (Amendment Act)** increased the maximum sentencing allowed by JPs
- 1905 – **Aborigines Act** – this comprehensive act widened the definition of ‘aboriginality’, allowed for summary trials, created the position of Chief Protector, established reserves, disallowed the movements of Aboriginal people from designated missions or reserves, and governed sexual liaisons
- 1911 – **Licensing Act** prohibited the supply of alcohol to full or mixed descent Aboriginal people. This was repealed in 1970
- 1936 - **Native Administration Act** changed the title of Chief Protector to Commissioner of Native Affairs. The expansive definition given to ‘native’ extended the reach of the Commissioner’s powers. Commissioner of Native Affairs made the legal guardian of all legitimate and illegitimate ‘native’ children to the age of 21 ‘notwithstanding that the child has a parent or other relative living’
- 1941 - **Native Administration Act (Amendment Act)** restricted the right of Aboriginal people to move from north to south of the State across the 20th parallel of south latitude
- 1944 - **The Natives (Citizenship Rights) Act** gave limited rights to Aboriginal people who could prove, among other things that they had adopted a ‘civilised life’ and did not associate with Aborigines.

ABORIGINAL RESERVES AND ASSIMILATION

In the early 1900s the government established Aboriginal reserves or ‘native camps’ on the outskirts of many towns throughout the state. Curfews were established whereby Aboriginal people had to leave the towns and return to their reserves by 6pm or face arrest.

As an example, the Moore River Native Settlement was set up in 1918, initially as a self-supporting farming community for Aboriginal people. In the 1920s its purpose changed as Aboriginal people,

including children, were forcibly interned at Moore River as the camp attempted to fulfill the broader functions of orphanage, crèche, relief depot and home for old persons, unmarried mothers, and the unwell.

By 1933 the Aboriginal population at the Moore River Native Settlement had risen to over 500, leading to the deterioration in the conditions experienced by the inmates. Between 1918 and 1952, 346 deaths were recorded at Moore River institution, 42% of which were children age 1–5.¹⁶

In 1944 the Native Citizen Rights Act was passed. This legislation enabled Aboriginal people to become citizens of Australia, however in order to do so they must have 'dissolved tribal and native associations' for a period of two years and have shown they had 'adopted the manners and habits of a civilised life'.

This paradoxical interplay between policies of assimilation and segregation throughout the first half of the twentieth century resulted in the dislocation of Aboriginal people from their ancestral lands, their communities and their own families. These social forces saw the rates of Aboriginal committals to Fremantle Prison rise dramatically.



Aboriginal children and staff at the Moore River Native Settlement c1930, State Library of Western Australia

Prior to 1952, committal rates for Aboriginal men and women were relatively low as compared to modern rates. For example, in 1906, 10% of prisoners committed to prison in WA were of Aboriginal descent. After 1952 the committal rates of Aboriginal people at Fremantle Prison increased dramatically. From the early 1950s to the modern day, Aboriginal men have accounted for between 30 to 40% of the prison population.

¹⁶ *Sort of a Place Like Home: Remembering the Moore River Native Settlement*. Maushart, Susan 2003, Fremantle Arts Centre Press.

The repealing of these legislative acts specific to Aboriginal people, the closure of the missions and reserves, and the integration of Aboriginal people into mainstream society throughout the second half of the twentieth century did not see a corresponding fall in the number of committals. Instead the proportion of Aboriginal prisoners to non-Aboriginal prisoners continued to hover between 30% and 40% of the prison population. The proportion of Aboriginal women compared to non-Aboriginal women prisoners increased dramatically.

Assimilation brought dramatic and often sudden social change for Aboriginal people. The closure of departmental institutions such as native settlements and reserves was followed by resettlement of families and the associated social and personal stress. In the north this was exacerbated by government programs to develop vast areas of land and the reduction of employment opportunities there following the introduction of equal pay in the pastoral industry.¹⁷

Similarly, while the gradual repeal of prohibition laws for alcohol possession and consumption for Aboriginal people during the 1960s and 1970s came to symbolise their new right to equality, alcohol related offences subsequently became the main reason for incarcerating Aboriginal people.

Incarceration rates for Aboriginal people today have not changed. In 2010 a review of prisons saw Aboriginal people making up 39% of Western Australia's adult prison population. Aboriginal children in juvenile detention made up 65% of the juvenile custodial population. Peter Collins, the Director of Legal Services with the Aboriginal Legal Service of WA stated that:

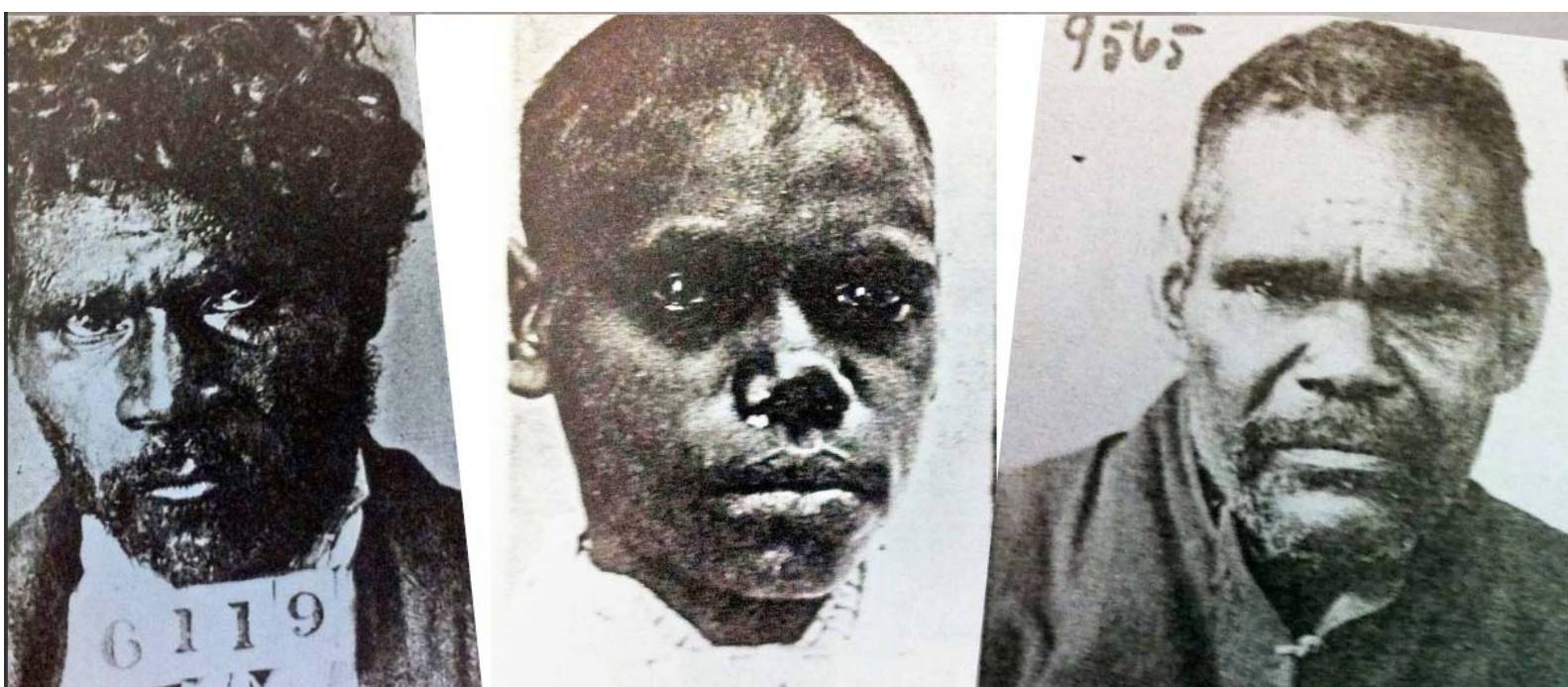
... the Aboriginal rate of imprisonment is 26 times the rate for non-Aboriginal imprisonment, and tonight, that means one in every 12.5 Aboriginal men in this state will spend the night in Prison.¹⁸

FREMANTLE PRISON

It is not known when the first Aboriginal prisoner spent time at Fremantle Prison or how many were incarcerated there between 1855 and 1903. It is reasonable to assume that Aboriginal men were present at Fremantle Prison in small numbers throughout most of its early history. During the period between 1858 and 1876 when the colonial and convict systems were temporarily merged and colonial prisoners sent to Fremantle Prison, it can be assumed that a number of these men were of Aboriginal descent. In 1895 the Superintendent of Fremantle Prison forwarded an estimate of accommodation for 40 Aboriginal prisoners to the Sheriff.

¹⁷ *Report on Fremantle Prison: Significance to Aboriginal People*, The Centre for Aboriginal Studies, Curtin University of technology, 1994, p.23

¹⁸ *Indigenous Incarceration in WA*, Law report – ABC Radio National, broadcast 10 August 2010, 8:35am.



Early 1900s mugshots of Aboriginal prisoner from Fremantle Prison, State Records Office of WA

A description of the exercise yards at Fremantle Prison in the 5 October 1889 edition of the *Western Mail* states that; 'the fourth in order is, the debtors' yard, and in this yard aboriginal prisoners are also exercised.'¹⁹ The yard identified here is what is now known at 2 Division yard.

The following table shows the returns of prisoners in Fremantle Prison from 31 December 1893, identifying three male Aboriginal prisoners in the Prison.

RETURN OF PRISONERS IN CONFINEMENT - FREMANTLE PRISON 31 DECEMBER 1893²⁰	
PRISONERS	NUMBER
Undergoing Penal Servitude	35
Undergoing Hard Labour	85
Paupers (ex-convicts) under medical treatment at hospital	5
Ticket-of-Leave Holders out of Employment	3
Juvenile Male Prisoners	2
Debtors	1
Aboriginal Male Prisoners	3
Female Prisoners Undergoing Hard Labour	12
TOTAL	146

On the 31st December 1905, out of 682 prisoners spending the night in the State's prison system, 217 or 32% were Aboriginal.²¹ The total commitments in 1905 of all kinds were 3738²². Of these 371 or

¹⁹ The Western Mail, 5 October 1889, p. 5.

²⁰ *The West Australian*, 26 September 1906, p. 36.

²¹ *Ibid*, page 5

10% were Western Australian Aboriginal people, and 13 were Aboriginal people from interstate. Eight of these Aboriginal prisoners were classed as juveniles.



Screen capture – End of the Road, 1980s
Fremantle Prison

ABORIGINAL PRISONERS AND THE DEATH PENALTY

Of the 154 people legally executed in Western Australia, 61 were Aboriginal, 23 were Asians and 70 were of European descent. 5 Aboriginal men were executed on Rottnest Island. No Aboriginal prisoners were executed at Fremantle Prison.

In 1888 the Gallows were constructed at Fremantle Prison and from this time the majority of state executions were carried out on this site. However, between 1886 and 1900, 12 Aboriginal men were executed, all in the regions including one at Rottnest Island. During this same period, 11 non-Aboriginal prisoners were hanged at Fremantle Prison.

²² The term commitment refers to the number of offences for which prisoners were committed to Fremantle Prison rather than the number of prisoners. For example, a single prisoner may have been sentenced for more than one crime leading to their incarceration.

Mullabudden and Nooluillinah were the last Aboriginal prisoners executed in Western Australia, hanged in Derby in 1900 for the murder of John Dobot.²³

Non-Aboriginal men convicted for crimes in the regions, for example, Long Jimmy in Roebourne in 1889, and Harry Press in Halls Creek in 1889, were sentenced in the regions then sent to Fremantle Prison for execution. Aboriginal people who offended were covered by the Aboriginal Native Offenders Act 1849, separate to the acts which covered crimes committed by non-Aboriginal people.

Although public execution was abolished in 1869, the *Capital Punishment Amendment Act 1871*, (amended in 1875), exempted Aboriginal people, allowing for them to be executed publically.²⁴

SEGREGATION AT FREMANTLE PRISON – 2 DIVISION TO 1965

Dividing the Main Cell Block into four divisions in the early 1900s allowed the Prison administration to classify prisoners according to the length of their sentences and place them accordingly in the divisions. As a general rule, the longer a prisoner's sentence the further north they were placed in the Main Cell Block, ie. towards 4 Division. Prisoners sentenced to less than a year were placed in 2 Division. Because the vast majority of Aboriginal men were sentenced to less than a year for crimes such as possessing alcohol or being drunk and disorderly, they were placed in 2 Division.

Over time 2 Division became known as the Nyungar Division²⁵. And throughout the fifties and up to 1965 it was inhabited almost exclusively by Aboriginal prisoners. John McGivern who was Superintendent in 1950s, stated that while there was no official prison policy of segregation, most Aboriginal men were held in 2 Division. The segregation of Aboriginal prisoners was not an official policy of the government or of the Prison Department but an unofficial administrative practice at Fremantle Prison.

*Until about eight years ago there had been a system in Fremantle Prison of almost complete segregation of aboriginal prisoners from white prisoners. The aborigines lived in their own Division, had their own yard, and were completely segregated from the non-aboriginal prisoners in all respects except their work. Even at work they tended to be given the more unpleasant and the more menial tasks. There was quite a large party engaged in general cleaning up around the prison precincts, and this party was composed exclusively of Aborigines. It was known as the 'native party'. In 1965 that system was abolished. From that time on no distinction whatever has been made between aborigine and non-aborigine prisoners.*²⁶

Not all Aboriginal prisoners were unhappy about being segregated in 2 Division:

*Narrator: I think my best medicine when I got there was to know there was an Aboriginal yard and Aboriginal people, because it was a strange thing and a truthful thing, that the Aborigines as you know, make up the biggest populations of prisons, therefore they're the biggest strength. I mean they can dictate terms to other prisoners because if you fight one Aboriginal, you fight the whole lot, and they know that. So we had some sort of authority, and I had some sort of security ...*²⁷

And;

²³ *Legal Executions In Western Australia*, Brian Purdue, Foundation Press, 1993

²⁴ Letter from Fitzgerald, R Director of Strategic Services, Department of Corrective Services WA, to Turner, D. 13 April, 1989.

²⁵ *Fremantle prison: The Experiences of an Aboriginal Prisoner*, Oral History, Battye Library, 1991

²⁶ *Report of the Royal Commission into Fremantle Prison 1973*, State of Western Australia, Royal Commissions Act, 1968, Robert Jones, Commissioner, 1973

²⁷ *Fremantle Prison: The Experiences of an Aboriginal Prisoner*, Oral History, Battye Library, 1991, p. 22.

Narrator: As I say, when I was there, there was an Aboriginal yard and that was safety for us. Might be called 'boongs' and 'niggers' and that, but we were safe.

Interviewer: About that Aboriginal yard. Was there any traditional culture in there? Can you give us a sense of the Aboriginality of the place? What was so special about it in an Aboriginal sense?

Narrator: First it was safety. First was identity. First was relationship, identity. There was safety and then, the one that could tell the biggest load of bullshit. I mean it was. We used to tell some yarns ... And we always had a sort of performer. That was Willis at the time, half negro and half Aboriginal, and he use to have a beautiful voice ... and I think mostly the stories, we'd all sit back and we'd listen to him talking about jennuks and nyameris. It's funny but even in prison they still kept the culture of storytelling alive.²⁸

Discrimination against Aboriginal prisoners worked on more subtle levels, for example, they did not get the good jobs. They did not get work in the kitchens handling food. During the 1960s a group of Aboriginal prisoners made a formal request to the Superintendent that they be allowed to work in the kitchens. Their request was denied.

ABORIGINAL PRISONERS IN FREMANTLE WOMEN'S PRISON

From the opening of the Women's Prison in 1888 until 1915 there were very few commitments of Aboriginal women to Fremantle Prison – rates were significantly less than for non-Aboriginal women.²⁹ In 1895 the total number of commitments of Aboriginal women was 9 as compared to 114 for non-Aboriginal women. Twenty years later in 1915 the total number of commitments of Aboriginal women was 5 as compared to 376 for non-Aboriginal women.

Forty years later, with the passing of the Native Welfare Act 1954, closure of native settlements and the policy of assimilation, commitment numbers for Aboriginal women increased dramatically. By 1968 Aboriginal women comprised 81% of female prisoners in the State compared to 21.6% in 1951 and 8% in 1895. In 1954 there were 20 Aboriginal women and 5 non-Aboriginal women prisoners at Fremantle. By 1963 there were 63 Aboriginal women prisoners in Fremantle.

Most Aboriginal women were aged between 20 and 40 and were repeat offenders, sentenced to short terms of imprisonment for minor crimes such as alcohol related offences and disorderly conduct. Alex Stewart argues that the large numbers of Aboriginal women offenders after 1954 was linked with the 'propensity of many of the Aboriginal population for alcohol. This linked to high visibility to the police, makes them especially vulnerable to arrest.'³⁰ In her oral history Pauline Iles states:

I haven't mentioned the question of alcohol but I mean, that clearly was the biggest headache for the Aboriginal people.³¹

Alternatively the 1994 *Report on Fremantle Prison: Significance to Aboriginal People* argues that the increase in rates of incarceration was more due to the social challenges around the policies of assimilation during the 1950s and 1960s.

Margaret Walker, Fremantle Women's Prison Assistant Matron from 1967 to 1970, describes what it was like for Aboriginal women sent to Fremantle Prison from the regions:

²⁸ Ibid, p. 41.

²⁹ *Report on Fremantle Prison: Significance to Aboriginal People*, The Centre for Aboriginal Studies, Curtin University of technology, 1994, p21

³⁰ *Imprisonment in Western Australia*, Stewart, Alex and Thomas JE. University of Western Australia Press, 1978, p. 147.

³¹ Pauline Iles, Oral History, Battye Library, 1996, p. 15.

Interviewer: ... were most of the Aboriginal prisoners from around the city, Margaret, or had they been brought down?

Walker: No, we used to get them from everywhere – Kimberley, Goldfields and the desert. What they do, they wander into the towns and then they get into trouble and then they send them down to us, which was very sad because they'd never had clothes on their back a lot of them. They'd never had shoes on their feet. They'd send them down to Fremantle; they put shoes on their feet, clothes on their back, they don't know what to do. They can't walk in their shoes. It was very sad. There were two or three that nobody knew the language they talked, not of all the inmates in the Fremantle Prison or all the Aborigines around. They tried very hard to get somebody who could speak the language. This poor old biddy, she wouldn't sit at the table ... she wouldn't eat and she'd sit in the corner. You couldn't get her to do anything because she just didn't know what you were talking about. She was so frightened. She'd sit on the floor. She'd tip her dinner off her plate on to a piece of newspaper and eat it with her hands. It took her nearly three months to get her to sit at the table and eat with a spoon. What's the point of sending a person like that? Why don't they just send her back to where she came from?³²

³² Margaret Walker, Fremantle Women's Prison Assistant Matron, Oral History, Battye Library, 1995, p. 18

BREAK FROM GAOL

Woman Believed To Have Scaled Wall

A 24-year-old aboriginal woman is believed to have scaled the wall of the Fremantle Gaol shortly before lunchtime yesterday and made her escape. She is Mary Teresa Indich, who was born in Toodyay.

When the roll-call was made in the gaol about lunchtime



MARY T. INDICH.

Indich was not present and a search of the gaol for her was unsuccessful. Prison authorities believe that she may have made her escape while in the exercising yard as the walls around the women's quarters are not as high as in the male section of the gaol.

Indich was sent to prison for having escaped from the Moore River native settlement. She was due to have been sent back to the settlement tomorrow.

Her description is: 5ft. 5in. tall, thin build, black hair and

brown eyes. At the time of her escape she was wearing a striped grey and white prison dress.

RACE RELATIONS

*"... trouble was brewing between the white and coloured inmates."*³⁴

When asked about race relations inside Fremantle Prison, a former Aboriginal inmate who had spent time in Fremantle Prison during the 1960s and 1970s stated:

I think the Aboriginal people really controlled prisons because they weren't to be discarded. They were always in with power, as you know. There's 42 per cent. Even the big heavies with guns and everything else, knives, they still got respect for the Aboriginal, because once you fight one, you fight the lot of us, so it was always like that; and there's always the hate between white and black. So it mostly pays for them to get on with each other and they do.

Interviewer: What about divisions between different groups of Aboriginal people?

Narrator: Ah that's the disappointing thing about it. The disappointing thing about it is probably the Nyungars fighting the Wonggais and the Yamidji fighting Wonggais and Nyungars, and you know, the most despicable thing, I think, is these people who have got vendettas against each other to the point of shooting each other, are first cousins, they're first cousins. They're so close in relationship and they've got this vendetta that's been going on for about 67 years, and it still does, and they're not very kind to each other either. That's incredible.

*Now if you see a white man step in and a black man being injured, well they seem to just join forces to get rid of that element then back to the same old vendetta.*³⁵

In general, fights in the division yards seemed to occur equally between Aboriginal and Aboriginal; Aboriginal and non-Aboriginal; and non-Aboriginal and non-Aboriginal. However, the early 1970s saw a spike in incidents between Aboriginal and non-Aboriginal prisoners, as well as complaints of violence by prison officers against Aboriginal prisoners. So much so that in 1973 a Royal Commission was called to investigate claims by Aboriginal prisoners of systemic discrimination and violence against Aboriginal prisoners by prison officers and white prisoners.

The *Report of the Royal Commission upon Various Allegations of Assaults on or Brutality to Prisoners in Fremantle Prison and of Discrimination against Aboriginal or part-Aboriginal Prisoners therein, 1973*, had four terms of reference, to inquire into and report upon:

1. Allegations of assaults on or brutality to prisoners in Fremantle Prison by prison staff,
2. Allegations of other assaults on prisoners within 12 months of the date of the enquiry,
3. Allegations of discrimination against Aboriginal prisoners or part-Aboriginal prisoners in Fremantle Prison, and,
4. Any remedial or punitive action recommended.

Commissioner Robert Jones was tasked with investigating the rise in inter-racial tension evident in Fremantle Prison at this time and a number of specific complaints by Aboriginal prisoners of discrimination against them by prison officers.

THE UMBULGARRIE INCIDENT 1972

The first term of reference of the above Royal Commission dealt solely with a specific complaint from an Aboriginal prisoner named Henry Umbulgarrie who was allegedly assaulted by a number of white

³⁴ *Report of the Royal Commission upon Various Allegations of Assaults on or Brutality to Prisoners in Fremantle Prison and of Discrimination against Aboriginal or part-Aboriginal Prisoners therein, 1973*, State of Western Australia Royal Commissions Act, 1968, p. 22.

³⁵ *Fremantle Prison: The Experiences of an Aboriginal Prisoner*, Oral History, Batty Library, 1991, pp. 60-61.

prisoners at the instigation of one or more prison officers. This incident provided an insight into what life was like 'in the yard' for prisoners and also how Aboriginal prisoners engaged with the prison system.

In his evidence to the Royal Commission, Umbulgarrie stated that on the afternoon of Saturday 29 April 1972, in the 2 Division exercise yard, a white inmate 'called out' Umbulgarrie from the tennis court, lured him to a concealed spot at the back of the yard, and there assaulted him. A larger group of white prisoners joined in the assault on Umbulgarrie, and then went on to assault two other Aboriginal prisoners. It was alleged that officers on duty who were observing the fight deliberately refused to stop it or offer assistance to the men being assaulted.

Commissioner Robert Jones in his report to the Royal Commission stated that

Henry Umbulgarrie is a full blood aborigine from the Kimberley district, of a very primitive type. ... Much the same could be said of the other complainant Roy Linton, also a full blood Kimberley aborigine, although not quite so primitive a type as Umbulgarrie. I had the strong impression from both of these witnesses that at no time could one be sure that anything they said was related to fact. They seemed to be quite incapable of dealing with a question-and-answer interrogation. They appeared to be willing to say anything at all simply to get out of a situation (i.e. the interrogation situation) which was intolerable to them. I do not think they were being deliberately untruthful or trying to mislead; it seemed rather that they were simply not capable of thinking or communicating along lines intelligible to the ordinary educated man. As a result, it was impossible to place any reliance on what they said at all.³⁶

Jones found that while Umbulgarrie was assaulted by Rowe, he believed that Umbulgarrie had started the fight, and that only two other white prisoners had joined the fight. The commission also found that the prison officers did not refuse to help Umbulgarrie, rather they did not see the incident take place. Umbulgarrie also alleged that prison officers had admitted white prisoners from the kitchen into the yard for the purpose of assaulting Umbulgarrie. The commission found this was not the case.

Of the seven or eight other allegations of abuse or discrimination by white prisoners or prison officers against Aboriginal prisoners that were investigated by the commission, all were found as per the Umbulgarrie incident, ie. against the Aboriginal complainants.

³⁶ *Report of the Royal Commission upon Various Allegations of Assaults on or Brutality to Prisoners in Fremantle Prison and of Discrimination against Aboriginal or part-Aboriginal Prisoners therein, 1973*, State of Western Australia Royal Commissions Act, 1968, p. 16.



Screen capture – End of the Road, 1980s
Fremantle Prison

FINDINGS OF THE 1973 ROYAL COMMISSION

It was not just the evidence of Aboriginal prisoners that was rejected by the commission. The third term of reference of the Royal Commission referred to a number of complaints from white prisoners of alleged discrimination against Aboriginal prisoners, stating that prison officers had encouraged them to ‘work-over’ Aboriginal prisoners. For example, in one incident a white prisoner Nightingale alleged that the prison officer in charge of the Print Shop where Nightingale worked, suggested to Nightingale that if he ‘worked-over’ a particular Aboriginal prisoner in the toilets, he and the other officers would look the other way. Nightingale alleged that the prison officers did not like to have ‘blackfellows’ in their shop. Nightingale in his evidence stated that he had no problem with Aboriginal prisoners and that he refused to do what the prison officer asked. (Nightingale shared a cell with an Aboriginal prisoner and was very ‘happy with the arrangement’.)³⁷

³⁷ Ibid, p. 159.

As he did with a number of similar complaints by white prisoners, the commissioner found no evidence to substantiate Nightingale's claims.

In terms of generalised alleged discrimination against Aboriginal prisoners by the prison system, despite the number of incidents examined in evidence, the Royal Commission found no evidence to support the case. The report stated that while inter-racial flare-ups did occur from time to time, they were simply a reflection of the racial problems that existed in the broader Western Australian community at the time.

*There is no blinking the fact that we have in Western Australia ... a king-sized problem in this respect. Until the community solves that problem it is useless to expect that it will not be reflected in an institution such as Fremantle Prison. But as far as conscious, deliberate discrimination against aborigines in the prison is concerned, either by officers or inmates, I find that it occurs so infrequently as to be a matter for congratulation of the prison authorities and the policy they have pursued.*³⁸

The Royal Commission concluded by recommending that the post 1965 policy of integrating Aboriginal and non-Aboriginal prisoners throughout the divisions, yards and work areas should be continued. It also stated that race relations between Aboriginal and non-Aboriginal people inside were in general much more positive than they were in the wider community outside prison.

THE DEATH OF ROBERT WALKER 1984

A significant event in the Prison's modern history occurred on 28 August 1984 when an Aboriginal prisoner, Robert Walker, died of asphyxiation while being transferred by prison warders from 1 Division to the Prison hospital.

Robert Walker was a 26 year old Aboriginal man, charged with rape and sentenced to six years at Fremantle Prison. His cell was in 1 Division. Reportedly he was a well behaved prisoner until the night of 27 August 1984 when he began yelling out and playing his guitar loudly through the night. When a guard checked his cell at 4am it was discovered he had cut his wrists with a razor blade.

Three prison staff attempted to transfer Walker to the hospital to treat his wounds. He became agitated as he was removed from his cell. On the 2 division stairs he kicked the hospital officer who fell down the stairs. The warders moved Walker through the 2 division doors into the Parade Ground. Outside an altercation occurred which ended with Walker being pinned to the ground on the grass outside 2 division. More officers arrived to help control the prisoner. It is alleged that at this time Walker was subjected to a 'beating' by the guards. The actual severity of the prison officers' actions was a highly contestable part of the report with versions ranging from a violent beating with batons to what was considered necessary force. The inquiry found that his death was asphyxiation caused by rough treatment and mismanagement of the situation by the supervising officer.

While Walker was pinned to the ground the medical officer ran to the hospital to retrieve a dose of the sedative *Largactil*. Walker was injected with the sedative. Before it could take effect Walker stopped struggling. He was carried to an observation cell in New Division where he later stopped breathing and was pronounced dead.

This event is contentious for a number of reasons:

- It involved the death of an Aboriginal prisoner and as such was part of the 1991 Royal Commission into Aboriginal Deaths in Custody
- Witness statements regarding the particular events surrounding the death differed greatly

³⁸ Ibid, pp. 160-161.

between Prison staff and prisoners

- Regardless of the various versions of the event, the death of Robert Walker was violent and probably avoidable
- The particulars of Robert Walker's death were misreported by the media at the time, his death being attributed in different news stories to suicide, asphyxiation, death by misadventure, 'a mysterious illness'.
- The Aboriginal community at the time were, and to an extent still are, tremendously upset by the circumstances surrounding the incident, particularly because the coronial inquest was partly held in the Anglican Chapel at Fremantle Prison, and that four of the five Prison staff involved were not called to give evidence.

ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY 1987 TO 1991

On 10 August 1987 Prime Minister Hawke announced the formation of a Royal Commission to investigate the causes of deaths of Aboriginal people while held in State and Territory gaols. The Royal Commission was established in response to a growing public concern that deaths in custody of Aboriginal people were too common and poorly explained. The Commission examined all deaths in custody in each State and Territory which occurred between 1 January 1980 and 31 May 1989, and the actions taken in respect of each death. The Commission's terms of reference enabled it to take account of social, cultural and legal factors which may have had a bearing on the deaths under investigation.

Thirty three Aboriginal deaths in custody were investigated in Western Australia which accounted for a third of the total number of Aboriginal deaths in custody investigated throughout Australia. Nineteen people died of natural or medical causes. Nine people died as a result of a self-inflicted injury, seven by hanging, one by strangulation and one by cutting his throat. Four people died as a result of violent circumstances. Most Aboriginal deaths in custody occurred in regional prisons and police lockups. One Aboriginal prisoner died at Fremantle Prison during the period covered by the terms of reference of the Royal Commission.

The Commission made 339 recommendations, a very small minority of which are listed below:

- That steps be taken to reduce the rate of Aboriginal juveniles involved in welfare and the criminal justice system
- That governments which have not already done so should legislate to enforce the principle that imprisonment should be utilised only as a sanction of last resort
- That, in jurisdictions where drunkenness has not been decriminalised, governments should legislate to abolish the offence of public drunkenness
- That Corrective Services effect the placement and transfer of Aboriginal prisoners according to the principle that, where possible, an Aboriginal prisoner should be placed in an institution as close as possible to the place of residence of his or her family
- That the use of offensive language in circumstances of interventions initiated by police should not normally be occasion for arrest or charge, and
- That all political leaders and their parties recognise that reconciliation between the Aboriginal and non-Aboriginal communities in Australia must be achieved if community division, discord and injustice to Aboriginal people are to be avoided.

LIFE IN PRISON: 1980s TO CLOSURE

Aboriginal prisoners faced a set of problems and challenges not necessarily faced by white prisoners, eg. poor literacy levels, language difficulties, behavioural expectations, high committal rates and long sentences. For many Aboriginal people with alcohol related problems, Fremantle Prison was a revolving door where people came to dry out.

... part of my problem, without any hesitation, was alcohol. I used to drink a lot. I used to like to fight. ... I really did. It's crazy, but I was young and stupid and drunk. Well, mostly those are the things I came in for. Drunk, unlawful conduct, oh you know idle and disorderly ... As I say I stole a car, when I first went to Prison, but I wasn't really a thief, just an alcoholic.³⁹



Screen Capture, Fremantle Prison June 1991, New Division yard

Because many Aboriginal prisoners were illiterate, they could not communicate via mail with family members. Aboriginal prisoners whose families resided in the regions very often had no visits from wives or family. A common theme for Aboriginal people in prison is the sense of isolation and loneliness.

³⁹ *Fremantle Prison: The Experiences of an Aboriginal Prisoner*, Oral History, Battye Library, 1991, pp. 36-37.

In a 1980s documentary *End of the Road*, made by the Department for Aboriginal Affairs to discourage young Aboriginal offenders from entering the prison system, a Fremantle Prison Aboriginal prisoner talks about his experiences inside:

My name is Michael. I've been in for a year and a half, and um, this is no place to be. I'm only nineteen, just turned twenty actually. In a year and a half I've been here I've seen a lot of bad things happening, and a lot of bad things have happened to me. And when things happen and happen to yourself, it's hard to relate to it. You've got no family to talk to about it, and you don't know who to talk to about it, 'cause you think they'll laugh. And you think they will think you are weak bastard or whatever.

It's really different to what you think it is here ... when I got here, I knew I was in a place where I would never want to return. You're locked up sixteen hours, you lay back and mainly you're by yourself and you have no TV, no radio, and you're thinking, what's going on? What are they doing, what am I doing, what's going to happen? And then you think, ahh I'm going to be like this the rest of my life.

*And like I said there's been bad things, stabbings, other blokes rooting each other, and junkies. You don't know what's going to happen to you. You can be stabbed, some bloke might walk up, you don't mind me, I'm f***ing you, you don't know what's going to happen. That's what I thought was going to happen to me. Young, looking like a bit of fresh meat, and I thought 'shit! No c***s going to come over and stand over me.'*

But it didn't happen like that. I was lucky. I was met with a handshake, I thought this is going to be good, and then it got bad. Real bad. There is a lot of hatred in here, between each other. But then there's been a lot of good friendships made in here. But you don't want friends that going to keep coming back to gaol, that's going to drag you back to gaol. It sounds alright, but its not, and if you come here you're a fool. A bigger fool than what you are now. That's all I've got to say.⁴⁰

In his oral history an Aboriginal ex-prisoner talks about the isolation of prison:

They didn't have to be cruel by beating us or anything else, it's just the isolation. I think that was the pain. The pain was the isolation and what you had. ... I can see prison as more of a mental strain than anything else. More mentally. It sort of broke people. ... You know you see some of those tough fellows, they'd be in control, very much in control, and then some unguarded moment bang! They'd twist. They fall in half, they're committing suicide. They're cutting up their wrists, really gorging into their arms ... They can go right through it and then "Oh, can't take it no more! Can't take it no more!"⁴¹

This prisoner goes on to describe his defence against the hardships of prison life:

... I developed a defence. I was always smiling. I could dream. ... I could stand there and you'd be talking to me and I'd be ... where would I go? I'd go where I wanted to go in my mind, and I was there and this bloke called Ian, he says, "Look, you're a bastard!" I said, "What for? I'm not doing nothing to you." "You're smiling. Do you realise you're smiling, and we're doing time. What do you do, Billy? What do you do? Are you mad or what?" Of sometimes I think ... no, I dream off. I dream about standing up there like playing a guitar or some beautiful woman. I'd see all that. I touched them.⁴²

⁴⁰ *End of the Road*, c1980s documentary. Department of Aboriginal Affairs.

⁴¹ *Fremantle Prison: The Experiences of an Aboriginal Prisoner*, Oral History, Batty Library, 1991, pp. 46-47.

⁴² *Ibid.*, p. 46.

AUSTRALIAN HISTORY CURRICULUM @ FREMANTLE PRISON
LINKS FOR YEAR 10

