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Between The Rock And Another Hard Place:

Aborigines and the Criminal Justice System in the East Kimberley  
Region of Western Australia.



by

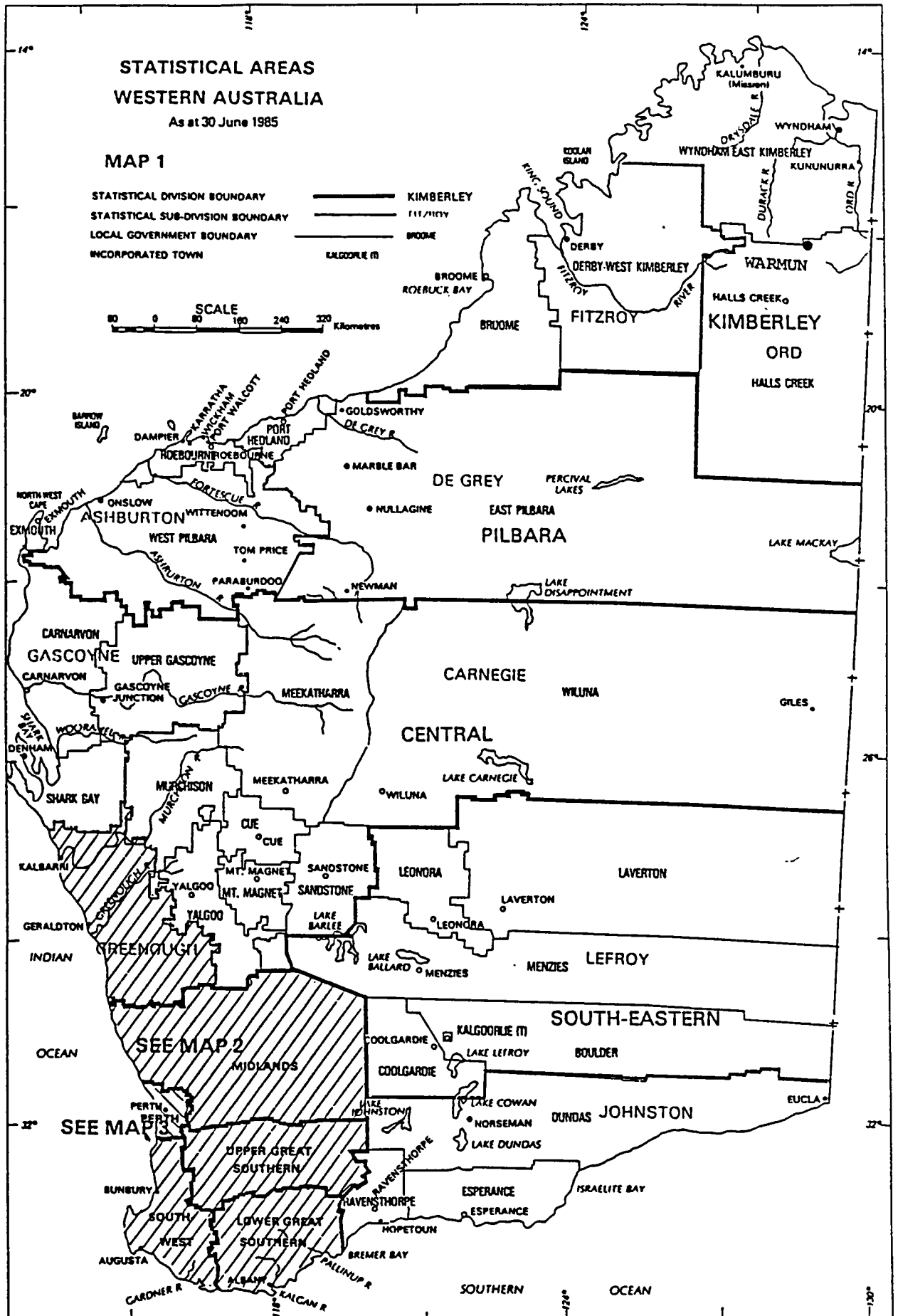
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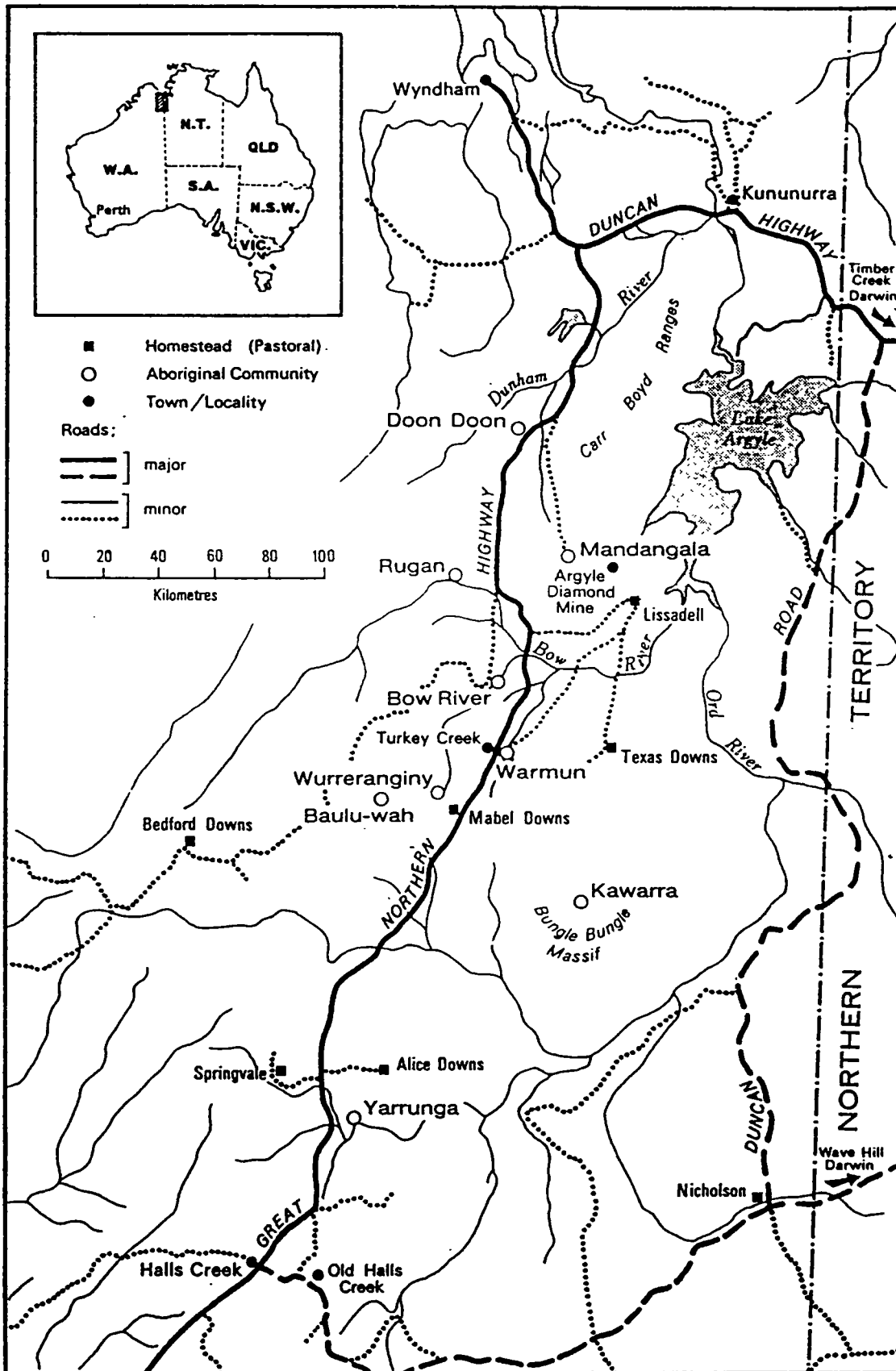
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## TABLE OF CONTENTS

	<u>Page</u>
Maps	ii
List of Tables	iv
Preface	1
Acknowledgements	10
The Study Contextualized	13
Aims and Objectives	31
Methodology	34
Research Instruments	38
Background to the Region Under Study - The East Kimberley: An Historical Overview	43
Change and Response	48
Social Impact, Social Control	53
Demography and Economies in the East Kimberley	56
Outwest: Outlawed - Halls Creek and Kununurra Courts of Petty Sessions	69
Juvenile Crime: Children's Courts - Halls Creek and Kununurra	120
Aboriginal Crime, Race Relations and the Media: A Case Study	139
The East Kimberley: In Summary and Conclusion	150
Bibliography	154





MAP 2: THE EAST KIMBERLEY REGION.

## LIST OF TABLES

<u>TABLE</u>	<u>PAGE</u>
1. Country Areas - Western Australia Total Population: 1981 Census, 1986 Census	56
2. Country Regions - Western Australia	57
3. Aboriginal Communities - Kimberley Region	59
4. Populations X Local Government Area 1986 Census Shire Wyndham/East Kimberley (Males)	60
5. Population X Local Government Area 1986 Census Shire Wyndham/East Kimberley (Females X Age)	61
6. Population X Local Government Area 1986 Census Shire Halls Creek (Males X Age)	62
7. Population X Local Government Area 1986 Census Shire Halls Creek (Females X Age)	63
8. Age Distribution of East Kimberley Aboriginal, Total Aboriginal and Total Australian Populations, 1981 Census	64
9. Kimberley Region - Western Australia 1986 Census: Local Government X Age Group As Percentage of Total Population	65
10. Total Population (W. A.) Year Ended 30 June 1981	70
11. Total Number of Charges (W.A.) Year Ended 30 June 1984	71
12. Charge Rate per '000 (W.A.) Year Ended 30 June 1984	72
13. Western Australia Magisterial Districts X Charges X Population 1983-84 Broome/Derby, Pt. Hedland, Carnarvon, Kalgoorlie: Population	73

14.	Magisterial District X Charges X Population Broome/Derby, Pt. Hedland, Carnarvon, Kalgoorlie: Charges	74
15.	Magisterial District X Charges X Population Broome/Derby, Pt. Hedland, Carnarvon, Kalgoorlie: Charge Rate per '000	75
16.	Magisterial District X Charges X Population North West and Goldfields, South and South West, Metro and Other Courts: Population	76
17.	Magisterial District X Charges X Population North West and Goldfields, South and South West Metro and Other Courts: Charges	77
18.	Magisterial District X Charges X Population North West and Goldfields, South and South West, Metro and Other Courts: Charge Rate per '000	78
19.	Magisterial District X Charges X Population Albany, Bunbury, Geraldton, Narrogin, Northam: Population	79
20.	Magisterial District X Charges x Population Albany, Bunbury, Geraldton, Narrogin, Northam: Charges	80
21.	Magisterial District X Charges X Population Albany, Bunbury, Geraldton, Narrogin, Northam: Charge Rate per '000	81
22.	Magisterial District X Charges X Population Central Law Courts, Children's Perth, All Other Courts: Population	82
23.	Magisterial District X Charges X Population Central Law Courts, Children's Perth, All Other Courts: Charges	83
24.	Magisterial District X Charges X Population Central Law Courts, Children's Perth, All Other Courts: Charge Rage per '000	84

25.	Total Receipts X Offence Group Halls Creek 1979-1987: Traffic Offences	87
26.	Total Receipts X Offence Group Halls Creek 1979-1987: Good Order Offences.	88
27.	Total Receipts X Offence Group Halls Creek 1979-1987: Offences Against the Person	89
28.	Total Receipts X Offence Group Halls Creek 1979-1987: Property Offences	90
29.	Total Receipts X Offence Group Halls Creek 1979-1987: Justice Offences	91
30.	Total Receipts X Offence Group Halls Creek 1979:1987: Licensing Act Offences	92
31.	Receipts X Offence Group Kununurra 1979-1987: Traffic Offences	95
32.	Receipts x Offence Group Kununurra 1979-1987: Good Order Offences	96
33.	Receipts X Offence Group Kununurra 1979-1987: Offences Against the Person	97
34.	Receipts X Offence Group Kununurra 1979-1987: Property Offences	98
35.	Receipts X Offence Group Kununurra 1979-1987: Justice Offences	99
36.	Receipts X Offence Group Kununurra 1979-1987: Licensing Act Offences	100

37.	Receivals X Offence Group Halls Creek 1979-1987: Warrants of Commitment	101
38.	Receivals X Offence Group Kununurra 1979-1987: Warrants of Commitment	102
39.	All Receivals X Race X Sex Halls Creek, 1979-1987: Aboriginal Males	105
40.	All Receivals X Race X Sex Halls Creek 1979-1987: Non-Aboriginal Males	106
41.	All Receivals X Race X Sex Halls Creek 1979-1987: Aboriginal Females	107
42.	All Receivals X Race X Sex Kununurra 1979-1987: Aboriginal Males	108
43.	All Receivals X Race X Sex Kununurra 1979-1987: Non-Aboriginal Males	109
44.	All Receivals X Race X Sex Kununurra 1979-1987: Aboriginal Females	110
45.	All Receivals X Race X Sex Kununurra 1979-1987: Non-Aboriginal Females	111
46.	Receivals X Age 1979-1987: Halls Creek	112
47.	Receivals X Age 1979-1987: Kununurra	113
48.	Total Number of Offences Per Year Halls Creek, 1979-1987	114
49.	Total Number of Offences Per Year Kununurra 1979-1987	115
50.	Total Number of Offences Per Year Halls Creek + Kununurra 1979-1987	116



51.	Petty Sessions Data Kununurra 1977-1986	118
52.	Petty Sessions Data Halls Creek 1986-1987	119
53.	Juvenile Offending Halls Creek Jan. 1986 - Aug. 1987	129
54.	Juvenile Offenders X Class of Offence Halls Creek: Offence Type	131
55.	Juvenile Offenders X Age Group Halls Creek	132
56.	Halls Creek Children's Court 1984-1987	133
57.	Juvenile Offending Kununurra Jan. 1986 - Aug. 1987	134
58.	Juvenile Offenders X Class of Offence Kununurra: Offence Type	135
59.	Juvenile Offenders X Age Group Kununurra	136
60.	Kununurra Children's Court 1977-1986.	138

## PREFACE

In May 1987 a conference was held in Kununurra, East Kimberley, to discuss the effects of mining, tourism and development on Aboriginal people of the region.

As part of that conference, Ruby Thoorrybilyn, a Miriwoong (Miriwung) traditional owner, told the story of the coming of white people to the East Kimberley. It is reproduced here in the form in which it appeared in the June 1987 edition of Land Rights News (1987:24). Spelling throughout the text, a mixture of Kriol and Miriwoong, has been altered to English by Frances Kofod.

In the telling, Ruby Thoorrybilyn's oral history provides the genesis of this study.

I am Ruby Thoorrybilyn talking to you for land.

Before in early day, long ago, early day people bin living here in this country.

They never know *gardiya*<sup>1</sup> before. Only black and black used to be mate up one another from everyside.

All the blackfella bin round here. Well the *gardiya* bin come in now - got a big boat all abat reckon.

When that big boat bin come - la Wyndham, well all the blackfella bin there, *Gajirrawoong*, *Jaminjoong-boorru*, *Bayimbarr*, *Woonambangari*, *Worlajawoo*. mixed you know. People bin dancing corroboree there longa *Woonoomoolowe-Galamanda* (Twelve Mile). Wasn't house there - nothing; - bush wild, big mangrove.

They reckon they bin find em all the *gardiya* bin coming up. And they bin see em *gardiya* coming up. They bin looking out - "Oh! This one, big one coming up!"

And they bin call em one another you know - "Ah! People coming!" (whispered).

---

1. 'gardiya' - white people.

They bin look this kind white one you know. They bin run back. Behind la mangroves they bin plant up. This lot *gardiya* bin come in now and all bin run away. They bin run away frighten longa all the *gardiya*.

And this lot *gardiya* bin calling them - "Wait! Wait! Wait! They bin telling them.

And this lot *gardiya* bin round em up them behind. Well can't help - must be *gardiya* bin take em for animal I think. They bin take em for monkey. You know frighten they bin run away. Can't help - they bin have to shoot 'em them.

From frighten you know - they never know *gardiya*.. They bin run away, look back, look back - all the way. And some of them bin climb up longa one tree. They bin climb up on top la tree; big mob man, woman and children. And all the *gardiya* bin just jump off from boat. They bin walk up.

"Come down!" they bin tell em them. "Come down!" Just shoot'em them like a flying fox. Come down from that tree.

After that they bin grab em tie up with a chain. Some of them bin die and some of them live. Prison they bin take 'em.

And after that they bin tell em them "Alright!" They bin start learning one another now. *Gardiya* bin ask em with the English and this lot bin talk gotta language.

"Hey!" All you blackfellas! You bloke going to show all the people? Where all the people?"

"*Thenang? Thenang? Gaboobe ninanan woorlang?*" (What? What? What are you saying?)

"*Thenang? Thenang? Gaboobe ngelang-ninggi?*" (What? What? What should I do for you?)

No! You got to show me place!" *gardiya* ask em.

"*Nyengoo - ngembiga-ngoowoong jeerri?*" (You, I should take you, show you?)

Alright - they bin stop now.

They bin make em work now. All the early people bin working there. You know police bin there watching them. They bin have em chain tied up other one.

Well, they bin follow the track from *gardiya* now. *Gaadaj* (knead damper) - make em tucker - cook em and boil *naliya* (tea).

"Come on! Come for tucker! Come on!" he tell em. People used to come sit down now right around.

Alright, this lot *jawaleng* (Aboriginal people); they bin all day sit down now. *Gardiya* bin all day put em *ngarin-bang* (with meat) - you know *ngundengeeng maying* (good non-meat food).

Allabat bin kitch em out for *gardiya* looking that way - smoking, looking that way; look around country. Well this lot Aborigine people they used to dig em ground. Just top side em that *mangari* (food). They never eat; just top side long a ground cover-em up. They bin all day pour em tea longa ground cover em up. They never drink. They bin frighten for *mawiya* - poison.

From Wyndham they (i.e. the white men) bin come in here longa Ivanhoe, Newry, - longa Ningbingi - Argyle; Wyndham the first. All the *gardiya* bin keep coming in longa Wyndham - got a boat.

They bin come down now la river. They bin look. "Oh too many black fellow there!"

Finish! *Gardiya* bin chase em them. Some of them bin run away - some of them bin get shot.

They bin climb up there. Some of them bin kill. He got bone still there at *Boolgoomiri* (House Roof Hill) - on top. All the *gardiya* bin climb up that *Boolgoomiri* kill em bat them there all the way. Right up they bin go la Carlton killembat there, chase em them from there. All bin go way this lot Aborigine people - bin go longa Ningbingi now.

But *gardiya* bin behind them all they way - chase em them - right up to Ningbingi. Kill em bat them.

Finish now, big mob *gardiya* come now; bin chase em them - like a dog. And they reckon - children, they used to grab em them by the leg and this pound em them longa rock - smash em up them. That's the story from old people who are dead and gone.

All the *gardiya* bin coming from Auvergne side, Timber Creek - they bin coming in again; mate up from this side Western Australia and from Northern Territory side. They bin mate up all the *gardiya*..

*They (i.e. the Aboriginal people) bin think about only this mob gardiya (from Wyndham).* They never know that all the *gardiya* bin

coming from Northern Territory side again. They bin meet em bullet there again - true!

All the early day *gardiya* you know - they bin chasing them killing bat them.

After that - when they bin shooting them now - finish. And after that they bin friend together now. They bin settle down.

They bin tell em them. "Bush blackfella bin live yet, some fella longa mountain country". He bin tell em them.

Ah! This what bin there longa *gardiya*, this other mob, they bin grab em prison, they bin tell em them - 'You fella go. Pick em up them. Bring em down. We can't fight no more. We 'pologise now.'

Everyone bin come down now. They bin go - Newry, Argyle, all round longa there *Nganyjoowarr* - Dunham River - here Ivanhoe, Carlton, Ningbingi.

They bin learning one another. 'They bin 'pologise.

And all the Aborigine woman they bin have em boyfriend *gardiya* and they bin find em half-caste kid. Half caste children they bin have em bela *gardiya*. And that children they never bin have em here. They bin take away to big place. They bin take em for school and never



come back that lot. They bin take away look out for good. Never come back.

They bin learning one other work now. They bin learning them to ride horses ... to mustering cattle ... to branding cattle ... learning them to anything you know; for make em yard; for make em paddock; they bin make em bat now.

They bin know everything now (i.e. about station work). They bin drovin' cattle and all that. They never have money. They bin workin' for shirt and trousers. They used to get em free tucker longa Wyndham.

They used to drovin' cattle from everyside. They bin know very well now, all the Aborigine people. They bin take them *gardiya* show em every place. Well there - and after that - when we bin born lately people; I bin born.

Lately people; good way we bin working in the station. I bin pull out from Ivanhoe ... go to Mabel Downs station.

We bin working all over the place, every station you know; three plants - like three lots you know; in station people used to work. (House work, mustering/droving, branding/horse-breaking).

From three; well this Mabel Downs manager he bin come down to reserve and he bin say "Well every station going to track (give the sack) because long us owner; owner belonging to station manager; they never have no money for Aborigine people - for tucker and money. They never have pay.

They bin say - "You fella better find a job in farm; anywhere longa Kununurra or Wyndham. Only eight woman and eight man can stay in station work. That's the word manager bin say.

People bin say "Alright". They bin this roll their swag; put em on in the motor car. All bin load up, they bin track.

## ACKNOWLEDGEMENTS

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- . Ms Elaine McLeod, from the Australian Bureau of Statistics (Western Australia), provided statistical data which conformed to the many cross-variables I had requested.
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- . Without the co-operation of Aboriginal participants in Kununurra and Halls Creek the project would have remained within the realms of quantitative data analysis. There was no occasion on which Aboriginal people refused permission to tape record interviews and, by reliving what were at times painful memories, and recounting the experiences of others they have given to the project a human dimension.
- . To Beryl Hogan, who patiently typed the manuscript and to Tony Brown who expertly turned a myriad of statistics into graph form, my sincere appreciation.
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### THE STUDY CONTEXTUALIZED

*In this present age the resources for creating free life, for ending the repressions of civilization, are greater than they have ever been. But the affluence of these resources blunts the perceptions of ordinary men; there is not merely the repression necessary for life in society, there is surplus repression not needed except to support a power structure. That power structure is all the stronger because it is unperceived, unselfconscious and pervasive; and the forces set against it are very weak.*

(McKenzie, 1978:70)

Interaction between Aborigines and the criminal justice system has been well documented. It is now more than two decades since Eggleston undertook her seminal research into the gross over-representation of Aborigines in the Australian justice system as it operated in three states (1970:1976). Throughout 1970-72 Parker examined the reasons for the discrepancies evident when comparing the proportion of Aborigines in the general population of Western Australia with the proportion of Aboriginal prisoners in West Australian jails (1977:332-353). McCorquodale has recently published a volume of Australia-wide case law material derived from his own research (1987). And the Australian Institute of Criminology, through the numerous contributions of Hazlehurst, Clifford, Harding, Swanton, Wilson and others, has assumed a high profile in leading the field of research into Aboriginal 'crime' together with Aboriginal/Criminal Justice relations.

In order to more accurately define the problem and to determine both its historical and contemporary dimensions, it becomes necessary to furnish the reader with quantitative data which spans more than two decades. In 1965, while constituting only 2.5% of Western Australia's population, Aborigines represented 24% of that state's prison population (Eggleston, 1976:15). By 1973 the Criminal Law and Penal Methods Reform Committee of South Australia found it necessary to draw attention to the over-representation of Aborigines in prisons in that state (1973-203). The pattern was shown to be repeated in the Northern Territory (Hawkins and Misner, 1974). As for the situation in Tasmania, in its 1980 Report on Aboriginal Legal Aid the House of Representatives Standing Committee on Aboriginal Affairs noted that:

*[t]he unsatisfactory nature of relations between police and Aborigines has contributed significantly to the disadvantages and injustices suffered by Aborigines in their conduct with the law and the legal process ...*

(cited by Mansell, 1984:113)

And in 1982 the New South Wales Anti-Discrimination Board Study of Street Offences by Aborigines showed that Aborigines were up to thirty-two times more likely to be arrested and detained on charges of using 'unseemly words' and of causing 'serious alarm and serious affront' to a 'reasonable' person (ADB Study, 1982:127-130).

In 1982 (then) Director of the Institute of Criminology, William Clifford, sounded a warning note:

*Even the most dedicated geneticist cannot believe the massive disproportion of Aboriginals before our courts and in our prisons denotes a different kind or special degree of criminality. When behaviour so widespread as to be practically normal amongst Aboriginals is labelled criminal by our law, there is a need for rethinking the law. When imprisonment does not deter but is shouldered by the Aboriginal as an inevitable yoke to be carried as a consequence of his residence in a white society, we would be moronic to go on using it punitively and ineffectively.*

(Clifford 1982:11)

But go on using it, we did. So often, so punitively and so ineffectively did we continue to use it that in a series of articles recently commissioned for and published by the **Sydney Morning Herald**, on the current social, political and legal status of Aborigines, one writer was led to conclude:

*Under-represented in our institutions of learning, Aborigines are drastically over-represented at the other end of society's scale: the prisons... In short, an Aborigine is much more likely than a white in Australia to be in one or more of the following states: sick, unemployed, uneducated, poor, imprisoned or dead.*

(S.M.H. 7.11.87:4)



The history of Aboriginal/white relations in Australia is, to say the least, an inglorious one. During the two hundred years since colonisation Aborigines have been subjected to - and in turn many have become the products of - a plethora of policies and practices aimed at 'solving' the 'Aboriginal problem'.

Alienated from their land by the colonising forces, attempts have since been made to exterminate, control, protect, segregate, assimilate and integrate Aborigines. So 'successful' were these policies that today, irrespective of the fact that the Federal Government policy is one of self-management, the majority of Aboriginal people in this country have been rendered powerless in socio-economic, political and legal terms.

In a paper delivered to the Fourth Women and Labour Conference in 1984, Lin Morrow argues that Australia today, while politically and legally an ex-colony, continues the blatant exercise of a colonial mentality:

*...[t]he Australia in which we live today is as colonial as at any time in the past 200 years, in terms of our relationship to the land and to Aboriginal people. In this dimension of the colonial relationship, the colonizers impose on a territory and its people both a foreign philosophy of life, and the institutions which exemplify it, beginning with claiming title to the land, and imposing the legal and political apparatus of the colonizing power.*

(Morrow, 1984:324)

Similar arguments have been advanced by black American sociologist, Robert Staples, to explain the disproportionately high rates of crime among North American blacks and indigenous Indians:

*A number of factors are cited to explain the causes of crime in urban, industrialized societies. They range from the biological to the sociological. However, if one considers the societies with the highest rate of imprisonment, the one factor that is consistent among them is their status as a white settler country dominated by the ideology of white supremacy. [These societies] were founded upon the displacement and subordination of non-white Aborigines.*

(1984:62)

Likewise, they have also been used by Paul Havemann in his discussion of the relationship between Inuit and Meti people and the Canadian model:

*If the subject matter of 'justice' is evaluating criteria to be used for distributing burdens and benefits, we must conclude that the imposed system of social control ... has distributed benefits to the ... colonists and the burdens of 'pacification', of being a subordinated people, upon the indigenous nations.*

(Havemann, 1985:121)

Such pacification, by force, is what Havemann argues has resulted in the 'immiseration' of Canada's indigenous people (1985:129). The

same argument holds true when we consider the imprinting of patterns of colonisation in Australia.

The purpose of this project is to focus on the North East corner of Western Australia, for, as elsewhere throughout this country, the contemporary manifestations of the debilitating effects of historical precedent may be catalogued for the East Kimberley Region. For many East Kimberley Aborigines, both young and old, men and women, the process of immiseration is complete and its consequence is played out in regular encounters with the various agents of the criminal justice system.

The history of Aborigines, settlers and police in the Kimberleys, together with an account of crime and early criminal records in Western Australia, have been adequately dealt with elsewhere (see Gill, 1977 and Fall, 1978). Suffice it to say, when Gill writes that the situation which obtained in the Kimberleys in 1887 (1975:5) was one whereby 'the social composition of the population in the Kimberleys and the expectations of the white minority were equally important as an influence on the work of the police', he might just as easily have been discussing the situation as it is today - exactly one century on.

In a published version of his 1985 report to the Western Australian Minister for Minerals and Energy<sup>1</sup>, Consultant Sociologist, Frank Donovan cautions that current demographic data for the East Kimberley region is 'infamously sketchy' and 'under-numerated (especially regarding Aborigines)' (1986:18). He does, however, cite a joint Kimberley Land Council/Aboriginal Development Commission assessment (1984) which reports the Aboriginal population to be in the majority - in this instance fifty five per cent. But Donovan goes on to say:

*Prior to the earliest European exploratory activities of the 1860s ... Aborigines comprised 100 per cent of the known regional population. Only in the last twenty years, and then only in one major settlement,<sup>2</sup> has this demographic balance changed.*

(1986:18)

- 
1. The report was prepared for the Minister as part of the assessment of the social impact of Argyle Diamond Mines on the East Kimberley region, with special reference to the Aboriginal people of the region. At the time of its release the report received widespread publicity, including a somewhat hostile reception from the local newspaper in Kununurra (see **Kimberley Echo** 15/8/85:7).
  2. Donovan refers here to the establishment of the township of Kununurra (1976:200).

Thus it may be seen that the insurgence of white 'settlement' in the East Kimberley is a relatively recent phenomenon. And as a result many Aboriginal people have been subjected to rapid and traumatic social and cultural change.

Let us return briefly to our initial discussion of colonisation. As may be seen from Donovan's comments, colonialism came late to the East Kimberleys. But its effects on the indigenous inhabitants of the area were no less devastating. In this respect, Fanon's now classic work on Third World politics, has encapsulated the mood of oppressed indigenes:

*When the native is confronted with the colonial order of things, he finds he is in a state of permanent tension. The settler's world is a hostile world, which spurns the native, but at the same time it is a world of which he is envious.*

Further, says Fanon:

*Because it is a systematic negation of the other person and a furious determination to deny the other person all attributes of humanity, colonialism forces the people it dominates to ask themselves the question constantly , "in reality, who am I?"*

States of permanent tension, white cultural ascendancy and black economic dependency, and the extent to which they influence patterns of criminal behaviour among Kimberley Aborigines: it is to these factors we now turn, to address them within the framework of 'environmental stress'.

None of the preceding discussion should be interpreted as a blanket indictment of the agents and agencies of criminal justice. Nor should it be assumed that Aborigines in the East Kimberley do not commit offences against law and order. Many do, and even the most cursory glance at court records reveals the extent to which they are summarily punished for such offences. All these things considered, the question remains: Why do Aborigines commit so much crime?

American criminologist, Gwyn Nettler, reminds us that outlines of the 'causes of crime' are always artificial; that they can never do more than point to conditions whose impact is subject to 'everything else that is happening'. This said, he then goes on to describe what he calls 'crime-generating conditions' (1978:339). Of these the following aspects are seen to be directly relevant to this particular study area.

If cultures require 'transmission, indoctrination and room within which to operate', as Nettler postulates, then it is reasonable

to assume, as he does, that the flow of carriers of diverse cultures will weaken the process by which a culture is nurtured. Thus, says Nettler, 'when people of diverse cultures meet in large numbers and attempt to live together, each culture is threatened'. The physical re-location of large numbers of people thus represents a criminogenic condition (1978:339).

The applicability of Nettler's hypothesis to the study area is given support by Donovan whose analysis of structural change in the region is telling enough to warrant lengthy inclusion:

*After 1880 a new socio-economic system interposed in the region. European pastoralism was a quite different economy demanding not only different productive practices and methods but also much of the best land resources available. In the subsequent century, therefore, a new simplified organisational and cultural super-structure was imposed on the original inhabitants radically transforming both their [Aborigines] ancient economy and their socio-cultural practice. At a macro level what the region witnessed ... was the interdiction of one new set of social and economic dynamics and one ancient set; as two oppositional interest groups confronted each other over the same economic resources .*

(Donovan 1986:18)

If, as Nettler suggests, the re-location of large numbers of people creates a criminogenic condition, why then is the physical re-location of large numbers of white people not reflected in crime statistics for the region? Are we to conclude that Aborigines are

innately 'bad'? Or do we see reflected in Aboriginal/criminal justice interaction the differentials in power - the surplus repression which is needed to support an existing power structure?

It is submitted that what lurks just beneath the surface, while at the same time providing a support structure for the prevailing socio-economic and politico-legal system which is operative in the East Kimberley, may here be termed 'structural violence'.

Structural violence, as defined by Eckermann and Dowd (1986:2) is violence which is inherent in the social order. It may be expressed as 'physical violence which is indicated in patterns of life expectancy across groups and time: it may underly psychological violence, indicated in patterns of alienation or it may be expressed as systemic frustration'. And systemic frustration is 'engendered when aspirations are thwarted within the predominant social order by an inability to access the prerequisites necessary to effectively manipulate a system developed and controlled by powerful interest groups'.

Following Russell's analysis of power differentials (1981:67), Eckermann and Dowd conclude that Aboriginal people in Australia are subject to all facets of structural violence which are manifested in endemic poverty, gross unemployment, under-education, reduced life expectancy, patterns of substance



abuse and incidences of mutilation (1986:2). To this extensive catalogue of violences which are built in to the very fabric of the dominant society, may be added the systematic frustration which reveals itself in Aboriginal crime statistics. In itself this represents an expression of structural violence.

This brings us to the second of Nettler's propositions: that there is a common belief that '... inequalities in economic condition, in prestige and in power are jointly and separately sufficient to stimulate the resentful sense of unjust deprivation' (1978:340).

If we examine Russell's (1981) definition of power we find that:

*Power derives from imbalances in the social exchange, ... one interactant achieves power through the inability of the other to reciprocate. The latter is in a position of dependence: satisfaction of need is contingent on compliance.*

(Russell, cited in Eckermann and Dowd, 1986:2)

When applied to the power relationships which exist between Aborigines and whites in the East Kimberleys, it becomes both possible and plausible to employ the conceptions of French sociologist Durkheim (1951) in so far as many Aborigines experience and exhibit the debilitating effects of powerlessness. That is,

normlessness, alienation and anomie. If we press these concepts further, to include Merton's (1957) application of Durkheim's hypothesis in his explanation of deviant behaviour in modern societies, it could well be argued that for many East Kimberley Aborigines:

*... a state of anomie is produced whenever there is a discrepancy between the goals of human action and the societally structured legitimate means of achieving them ...*  
(adapted from Nettler, 1978:227)

'Crime', says Merton, 'breeds in the gaps between aspirations and possibilities.' (Merton cited in Nettler, 1978:227).

In an attempt to answer the question posed above - that is, why do Aborigines dominate court calendars in the East Kimberley? - we have come full circle. The wholesale importation and ascendancy of white social, economic and cultural values has been addressed, as have the issues surrounding the emergence of Aboriginal economic dependency. The resultant differentials in power relationships have, in a theoretical sense, been exposed. What remains, before proceeding to apply this background information to the two townships under study, is to return to Fanon's (1976) premise, that when confronted with the colonial order of society (as described above) indigenous people find themselves in a state of permanent tension.

Perhaps the most definitive work on stress and tension among Aboriginal people, who are or have been subjected to rapid social and cultural dislocation, was produced in 1974 by Sydney based Psychiatrist, Professor John Cawte. Following his extensive field-work among Aboriginal people living in remote communities throughout Australia Cawte wrote:

*Few whites have ever perceived the range of Aboriginal psychological adjustments to cultural change, including pathological manifestations. Few have seen the enervating anxiety that pervades Aborigines ... For medical validity the concept of anxiety must be broader than the mere idea of manifest or visible anxiety. Its definition and measurement should include three aspects: the characteristic unpleasant subjective feeling; the bodily signs and symptoms; and the behavioural manifestations associated with it.*

(Cawte, 1974:174-175)

In arriving at his diagnosis of Aboriginal response to the collapse of social institutions in the form of environmental stress, Cawte finds support in and in turn builds upon the works of Leighton (1959), Eitinger (1964) and Brody (1966). So that these works may be seen to have relevance to this study, a brief summary of each is provided.

Leighton's (1959) investigations centre on the concept of interference with vital strivings. In short, he argues that

individuals strive towards achieving certain goals which are vital or fundamental to the personality process. These include such things as a quest for physical security and the profound need for a strong sense of identity. When the individual is frustrated in his/her quest, most often by systemic or structural means, serious personality disorders may develop (Cawte, 1974:193).

Brody (1966) concentrates on the psychological responses to cultural exclusion in that he refers to 'a state of uncomfortable equilibrium reached when a disadvantaged and subordinate ... group exists in a wider community' (Cawte, 1974:193). In doing so he focuses on the exclusion of a sector of the population from complete participation in the dominant social, economic, political and cultural structure.

Of the three supporting theories, Eitinger's (1964) investigation of gross stress is considered most analogous to the East Kimberley Aboriginal situation and, for that reason, deserves attention in greater detail.

As Cawte (1974:192) describes, Eitinger studied the sequelae of painful and unrelieved trauma in concentration camps and arrived at the conclusion that individuals responded to this environment in keeping with four overlapping phases:

- i) an anticipatory or threat phase which may last for hours, or persist for years;

- ii) an impact phase which may be as brief as a few minutes or hours;
- iii) a recoil phase which may last for days or weeks;  
and
- iv) a post-traumatic phase which, if severe, may endure for life.

Further, Eitinger's study identified two common outcomes to trauma. The first was successful, incorporating spontaneous recovery and eventual integration within the group. The second was unsuccessful and resulted in chronic anxiety states or syndromes among which he (Eitinger) identified catastrophic behaviour, personality change and hostility and aggression which was in turn expressed against authority figures.

In applying this last outcome to his own field of study, Cawte adds an alarmingly accurate addendum:

*The situation in Aboriginal communities is often adverse enough to suggest that gross stress is an appropriate model. Because of the chronicity, the refugee camp comes to mind rather than the concentration camp ...*

(Cawte, 1974:192)

Cawte's reference to the refugee camp befits the living condition of the majority of Aborigines in the East Kimberleys.

Similar arguments have been advanced by American psychiatrist Thomas Parham to explain high levels of stress and alienation among Black Americans. Paraphrasing Parham, Staples writes:

*... while all [people] have some degree of stress in their lives, environmental stress is higher for Black people. The reason for the stress differential ... is that Blacks still have to function in a white-dominated, white-oriented society. How successful they can be in life is contingent on how well Blacks can 'assimilate' into what the white culture suggests is the norm. The fact that there is often a discrepancy between the societal norm of equal opportunity and its treatment of Blacks serves to fuel their feelings of alienation ...*  
(Staples, 1984:66)

Apart from the pertinent fact that colonisation came later to the East Kimberley, the experiences of many Aboriginal people of that region is little different from those of Aborigines in other parts of the country.

East Kimberley Aboriginal people have been told they are 'equal'. They have been led to expect, and then been denied, change in their socio-economic and politico-legal condition. They have, through the decades, had land taken away, been promised land rights, and had more and more land taken away. They have negotiated with mining companies and governments over the desecration of traditional sites, only to watch as the might of mining machinery bulldozed their country. They have been relocated in large numbers,

at times many kilometres distant from their homes. They have watched first the pastoralists and then the giant conglomerates - the spurious national and multi-national organisations - grow fat on the wealth of Kimberley cattle, gold and diamonds. And they have suffered in the process of traumatic social, economic and cultural change.

Donovan puts it this way:

*... the Europeanisation of the East Kimberley rendered Aborigines powerless and dependent. They were alienated not only from their own means of production and social structures but also from those of the new system ... Fight and flight responses to change ... are not only typical of fear and powerlessness, they are also typical responses to 'accelerated change' imposed by others ... Social alienation from dominant European social structures and practices will continue to exacerbate racial tension and conflict. Whilst a buffer exists for remote communities ... no such device exists in Kununurra ... In town Aborigines are confronted daily with their exclusion and marginal existence.*

(Donovan, 1986:34-37)

Seldom are Aboriginal people confronted with their status marginality in such a forceful and protracted way as happens in their encounters with the agents and agencies of the criminal law. The ongoing effects of dispossession, dependency and alienation are contained in the study which follows.

## AIMS AND OBJECTIVES

When the project was first proposed to and funded by the Criminology Research Council, it was as an independent component of the East Kimberley Impact Assessment Project (E.K.I.A.P.) being jointly undertaken by the Centre for Resource and Environmental Studies (A.N.U.), the University of Western Australia and the Australian Institute of Aboriginal Studies.

Unfortunately, my own prolonged illness meant that the research could not be conducted and the report prepared within the time frame allocated by E.K.I.A.P.

Because of its intended association with E.K.I.A.P. the research proposal was designed to:

- . Gather both quantitative and qualitative data which might reveal trends to allow for the interpretation of the impact of resource development (principally, the Argyle Diamond Mining (A.D.M.) venture) on crime patterns exhibited by Aborigines in the East Kimberley region. Further, it was proposed that a change in the nature and frequency of Aboriginal crime may have been symptomatic of changes in lifestyle such as those created by the influx of development.
- . In addition, the project aimed to elicit and to analyse the perceptions held by Aborigines, criminal justice personnel and white community members with reference to situations which have involved both co-operation and conflict.



The aims of the project were:

- . to focus on area crime statistics over a period of at least ten years;
- . to use these figures as a baseline of information for the purpose of future monitoring;
- . to display trends which would permit the interpretation of the influence or otherwise of resource development on the crime pattern; and
- . to elicit and to analyse the perceptions held by Aborigines, criminal justice agents and white community members as to the causes of /reasons for:
  - conflict situations
  - conflict resolution

The objectives of the project were:

- . to inform Aboriginal people of both the historical and contemporary statistics in order to encourage and enable them to develop their own strategies for dealing within their own communities; and
- . to furnish Aboriginal people with the information necessary when dealing with criminal justice issues within the existing framework.

In large part those aims and objectives remain, even though the focus of the project moved outside the more specific frame of reference necessitated by research into the impact of the A.D.M. Due

to the fact that E.K.I.A.P. had previously entered into an undertaking with the Community Adviser at Turkey Creek settlement, that 'all research in that area would be cleared through him' (pers. comm., E.K.I.A.P., 6 July 1987) it was not possible to include that community in the study.

In itself, this was unfortunate. Turkey Creek is geographically situated between the two towns which were studied - Kununurra and Halls Creek. Further, the Warmun (Turkey Creek) community is in receipt of monies from the A.D.M. As a semi-autonomous Aboriginal community, it would have added a further comparative dimension to the project.

Nonetheless, in the limited time available to this researcher (approximately ten weeks), the collection of available data from sources in Kununurra, Halls Creek and Perth, proved a major undertaking.

## METHODOLOGY

*If we concentrate solely on methodology we find nothing of significance about any aspect of social life since in science, as in love, a concentration on technique is quite likely to lead to impotence.*

(Berger, cited by Tomasic, 1978:365)

The research took place in two stages: the first in July - August 1987 over a period of eight weeks; and the second in September - October 1987 for a period of two weeks.

Prior contact was made, by letter, with Federal, State and Local government departments. These included:

- . W. A. Police Department
- . W. A. Prisons Department
- . W. A. Crown Law Department
- . Department of Community Services  
(Perth, Kununurra and Halls Creek)
- . East Kimberley Aboriginal Medical Service
- . Aboriginal Legal Service  
(Perth, Kununurra and Halls Creek)
- . Aboriginal Affairs Planning Authority
- . Juvenile Justice Policy Unit, Children's Court, Perth
- . Mr. Ernie Bridge, M.L.A. Member for the Kimberley and  
Minister for Aboriginal Affairs (W.A.)
- . Aboriginal, Police and Community Relations Special  
Cabinet Committee
- . Aboriginal Development Commission
- . Department of Aboriginal Affairs
- . Kimberley Land Council

This communication took the form of an initial introduction to the proposed study; its aims and objectives; details of funding and support; an introduction to the researcher, and the time frame envisaged.

Responses varied. Some departments requested additional information, which was supplied. Others acknowledged that research of this nature, which focused on the East Kimberley region, was long overdue. From many there were offers of unqualified assistance and positive encouragement to proceed.

Gaining entrée to the W. A. Police Department proved the most difficult exercise. By the time initial fieldwork was scheduled , the only response from that department was acknowledgement of the receipt of my correspondence together with the information that it had been 'passed on' to the relevant authority. Irrespective of numerous follow-up telephone calls, the necessary permission to interview police officers stationed in the two towns under study was not given.

Rather than abandon this aspect of the project, I travelled to Perth where a meeting with senior police personnel was arranged. The project was discussed in detail with the result that the Acting

Chief Superintendent (Country) requested a further letter seeking permission to speak with the officers concerned. Stressing that this procedure was a 'formality', he offered an assurance that there would be no further difficulties.

The request was made. There was no response. Two days before the second field trip was scheduled I was notified that the department had no record of my correspondence. An exchange of facsimile documents took place and permission was finally granted on the eve of my departure.

Tacit obstructionism on the part of police departments is not new. Nor is it confined to the precincts of one state or territory. Throughout the 60s Tatz encountered similar 'guardedness' on the part of Northern Territory and Queensland police officers. Parker (1977:332) describes her experiences in gathering empirical data for a thesis which had the support of the (then) Department of Native Welfare in Western Australia.

*The whole situation was extremely delicate, for policemen are very suspicious of social scientists. Wherever possible I accompanied policemen on their patrols in the country. This proved less easy to arrange than it had been in the metropolitan area, despite my letter of introduction from the Deputy Commissioner of Police.*

(emphasis added)

And in my own work in the North West of New South Wales during the early 80s precisely the same reticence on the part of police hierarchy prevailed.

In a 1981 publication, British police sociologist, Norman J. Greenhill explored the value of sociology in policing: 'It is a moot point', he wrote, 'whether sociologists know more about police than police of sociologists ... police officers rarely cheer at the mention of sociology ...' (Greenhill, 1981:91)

There is little doubt that those in the hierarchy of the West Australian Police Department reacted to the proposed study with overt caution if not covert obstructionism. And if we accept Greenhill's dictum, such a response is to be expected. Certainly, an equally low level of co-operation was obtained from the Officer in Charge at Kununurra. His counterpart at Halls Creek was more helpful, however both officers indicated that 'their men' would have nothing about which to comment. They were just 'doing their job'.

However, it is considered that non-compliance on the part of police departments around this country goes beyond merely 'suspicion of social scientists' or an inability to 'cheer at the mention of sociologists'.

In 1982 following my 'difficulty' in gaining permission to interview police officers in north-west New South Wales I was moved to write:

*... There is strong evidence to suggest that the 'brotherhood syndrome' among police is not confined to one precinct, town, region or state. It is not unfair to suggest that the findings of Mr. Barry Beach Q. C., during his investigations into allegations of misconduct by members of the Victorian Police Department, have relevance and applicability here.*<sup>1</sup>

(McIlvanie, 1982: 99-100)

Added to this is the fact that, along with Queensland, Western Australia has the dubious distinction of holding the record for one of the highest rates of Aboriginal deaths in custody - now the subject of the Muirhead Royal Commission. Even the most dedicated of social scientists would be foolish indeed not to recognise that this would require the 'team' to 'stick together'.

## **RESEARCH INSTRUMENTS**

During the first fieldtrip a system of 'networking' was operative in both Kununurra and Halls Creek. Interviews were unstructured and open-ended and, on all but one occasion (that of a white respondent), tape recorded. Participants included both Aboriginal and white people, the intention being to cover as broad a spectrum of socio-economic levels as possible. Those who were

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1 The findings and recommendations of the Beach Inquiry (1974) contained, among other things, evidence of a 'brotherhood syndrome' and 'ghetto mentality'. The phenomenon of 'it's them against us' and the idea that 'the team must stick together' pervaded certain groups, at all levels, within the Victorian Police Department. (See also P. Sallmann, 'The Beach Report Resurrected: reason for hope or despair?', in Basten et. al., 1982:249-271).

willing would be interviewed, would suggest someone else to whom we should speak; those interviews would take place, and so on. Much of this empirical data has been used to add 'flesh' to the 'bones' of statistical data.

As mentioned above, it was necessary to travel to Perth for the purpose of clarifying the project to some departmental personnel, to conduct further interviews with criminal justice practitioners and to obtain certain quantitative data.

In keeping with the latter aim, the West Australian Prisons Department proved to be of exceptional assistance as did the Crown Law Department in granting permission to access court records in both towns.

Throughout the second field trip, interviews were few and, because of the difficulties outlined above, largely confined to Department of Community Services employees in both Kununurra and Halls Creek. In addition, the Court of Petty Sessions and Children's Court records were made available in both places.

Kununurra has a Court House which is separate from the Police Station, with a resident Clerk of Courts. At Halls Creek the Police Station and Court House are combined.



In Kununurra it was possible to document charge sheets spanning a period of ten years (1976-1986) whereas in Halls Creek documents covering only the previous two years (1985-1986) were made available. In addition, it was possible to view all charge sheets for 1987 compiled up until the date the figures were taken.

In 1984, Martin and Newby produced a preliminary report on a regional study of Aborigines in Summary Courts in Western Australia (1984:295-305). Included in the court records analysed were those of Kununurra and Halls Creek. The research setting for both courts is tabled as follows:

<u>Region or Town</u>	<u>Justice Administration</u>	<u>Court Location and Administration</u>
<u>North West</u>		
Kununurra	JPs. Magistrate visits once per fortnight	Separate Courthouse Clerk of Courts
Halls Creek	JPs. Magistrate visits once per fortnight	Court house attached to Police Station Police Administered

#### Legal Representation

Kununurra A.L.S. (Aboriginal Legal Service), F.O. (Field Officer).  
Halls Creek A.L.S., F.O. visiting.

Of the seven courts surveyed, the research revealed that the two courts most readily identifiable as having the greatest disproportion of Aborigines in charging patterns were the two police run courts, where legal representation was not always available and

the court adjudicator was likely to be a Justice of the Peace. One of these courts was located at Halls Creek.

Unlike the situation in 1981 when the present study began, Kununurra had not had a resident A.L.S. solicitor for seven months. A permanent solicitor took up duties in the town in September. Halls Creek now has a resident A.L.S. Field Officer. However, there is still no permanent solicitor.

In addition to viewing court records it was possible to attend Court of Petty Sessions sittings conducted by the visiting Magistrate on four occasions during the fieldwork period. Thus, participant observation of courtroom interaction was possible, together with the recording of proceedings in the form of notes which were taken at the time. Children's Court hearings were, of course, closed.

Methodology of this kind is bound to raise criticism. It may even attract the label of eclecticism. Van den Berghe has written of the dangers inherent in an approach to the study of race relations which is other than an uncontroversial 'rehash' of prevailing theories and findings. In his 1967 and 1978 critiques of the 'dominant trends', he noted the 'antiquarian zeal' with which anthropologists reconstructed indigenous society; the ethnocentric-cum-racist approach adopted by historians; and the functionalist,

consensus-based view of the sociologists. The result, he concluded, was a field of research which had come to resemble 'a theoretical no-mans land' (Van den Berghe, 1978:1-6). Lacking coherence and consistency, he concluded that the heuristic value of the work was diminished by rigorous adherence to individual disciplines.

The study of race relations from a criminological perspective is fraught with the same disciplinary boundaries and epistemological inadequacies. Yet at the same time it challenges Van den Berghe's prime objection. Criminological theory is, in many ways, 'a-theoretical' in that one must come to it from another discipline. Thus the 'strict adherence to disciplinary boundaries' problem is overcome.

Whether this study adheres to the putative canons and conventions of 'true' scientific analysis, whether it is rational, objective and neutral is, in the end result, for the subjects themselves and for the reader to judge.

## BACKGROUND TO THE REGION UNDER STUDY

### THE EAST KIMBERLEY - AN HISTORICAL OVERVIEW

*Suffering which falls to our lot in the course of nature, or by chance, or fate, does not seem so painful as suffering which is inflicted on us by the arbitrary will of another ...*  
(Schopenhauer cited in Allport, 1979:142)

It is not the purpose of this report to include a complete history of the East Kimberley region. Through the work of Shaw (1980; 1983) and his thorough recording of Aboriginal oral histories, much of that work has been done. However, in order to place the present study of Aboriginal/Criminal Justice interaction in perspective, it is necessary to furnish the reader with at least an overview of structural (i.e. social and economic) change in the area.

As discussed above, by comparison with most other parts of Australia, the incursion of whites into the East Kimberley region is a recent phenomenon. Donovan sets the time of 'earnest' colonial settlement to have been after 1880. By 1886 Wyndham had been established as an administrative, cattle and trading port which serviced the Halls Creek gold industry (1986:31). Both Shaw (1980:263) and Elkin (1980:287) have identified this period of East Kimberley history as one of 'pacification by force' - a period during which 'violence and localised genocide' (Shaw, 1980) were practised with impunity against Aborigines who were seen to be blocking the path of frontier expansion.

By the end of this pacification period those Aborigines who had not died from introduced diseases had been either rounded up and imprisoned, or moved to areas distant from their own lands (see also Ruby Thoorrybiliny, this volume).

Protectionism followed: an era which Donovan states 'provided the social superstructure of Aboriginal life and race relations for the next seventy years' (i.e. until the early 1970s). 'Home' was the station or mission that subsequent generations were born on. 'Identity' was in the pastoral and mission figures after whom off-spring were named ...' (1986:34).

In the late 1960s, economic downturn in the pastoral industry, together with the fixing of an award wage, marked the beginning of a new era in the lives of Kimberley Aborigines (Shaw, 1983:19). Turned off pastoral properties in vast numbers, Aborigines were accorded a 'dependent' status as they increasingly became recipients of the 'welfare industry' which burgeoned Australia-wide in the 1970s. Forced onto reserves and into town camps, they provided the 'necessary "consumer force" for a rapid expansion of much of the public affairs economy' (Donovan 1986:25) which is an inevitable concomitant of the economically and socially powerful/powerless dichotomy.

The township of Kununurra was established as a service centre in the late 1960s when the decision was taken to commence work on the giant Ord River Irrigation Area project. Once again, Donovan writes:

*It appears the Europeans were the major beneficiaries and Aborigines were the losers ... For Aborigines there were no economic gains ... There was, however, the experience of witnessing the irretrievable flooding of one of their most important economic and cultral resources.<sup>1</sup> Again, a major resource was allocated away from the Aboriginal population and to European residents'.*

(1986:22). (See also Shaw 1983:19,20)

The next major economic development in the region was heralded by the discovery of a rich diamondiferous province on Lissadel station in 1979. This discovery followed closely the dispute between Aborigines and mining companies on Noonkanbah Station (see Roberts, 1978:135-149). Initial Aboriginal resistance to further mining resulted in what Lippmann has called 'the first

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1. Here Donovan is referring to the building of both the diversion dam (on the outskirts of Kununurra) and the harnessing of the Ord to create the giant edifice of Lake Argyle. In keeping with the general irreverance for Aboriginal sites, which were flooded, but fired by the insistence on preservation of European history, the entire Durack homestead was dismantled, moved to higher ground, and reassembled prior to the flooding of the dam. It stands today as a tourist attraction and as a monument to white insensitivity.

flexing' of East Kimberley 'political muscle' (1981:178) and led to the formation of the Kimberley Land Council. However, in the end result, Aboriginal groups involved at Argyle failed to halt the project - a scenario which Howitt has described as 'probably inevitable given the immense value of the resource' (1986:347).

Once again, Aborigines were confronted with the politics of power. And once again they experienced the massive in-migration of European labour-power. Few jobs in the mining sector have fallen to Aborigines save for those at the bottom of the employment status scale. This situation bears all the negative hallmarks of Aboriginal 'participation' in uranium exploration in the Northern Territory (see Tatz, 1982:148). Of his Kimberley experience, Donovan writes:

*Aboriginal labour [is] effectively minimal since they ... have to compete on the same basis as external recruits for most jobs. The criteria for hiring are rigorous, competition is ... high and substantial numbers of successful Aboriginal applicants are not expected. There are however several openings for local Aborigines in other ... fields such as **ground maintenance, environmental rehabilitation ... and so on ...***

(Donovan, 1986:46, emphasis added)

Not only had East Kimberley Aborigines lost the battle to stop the mining which has since desecrated their Barramundi Dreaming Place (Roberts, 1978; Howitt, 1986), they were to be rendered even further powerless by non-participation in the labour force associated with it. Howitt puts it this way:

*This new corporate invasion of Aboriginal land in the Kimberley threatens Aboriginal attempts to develop independence and self-reliance because it threatens the very foundations of their cultural revival - the land itself ... At Argyle the sheer value of the resource has confronted Aborigines with a corporate determination which tolerates few delays.*

(1986:323)

The economic rewards associated with mining, and reaped by white employees, have only served to heighten the disparity between living conditions experienced by Aborigines and whites. There are two economies in the East Kimberley: one for the dispossessed who are the recipients of government handouts (in addition to being held to ransom at the whim of mining company benefaction); the other economy is for whites.<sup>1</sup> Welfare dependency has the effect of reinforcing the political, social and legal impotence of those whom it ensnares, while at the same time perpetuating the already entrenched stereotypes whites hold of 'unemployed' and 'unemployable' Aborigines.

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1. Placing this point within the context of separate development, Roberts mounts a persuasive argument that, as a result of official policy and mining company actions, the Kimberleys continues to 'develop' in the South African direction (1978:150).



### CHANGE AND RESPONSE

Large scale in-migration of white labour has an important concomitant: an increase in private property. More private property requires increased protection. And increased protection involves strengthening the numbers of police stationed in the area. At this point, and in the context of the present study, two things must be noted. The first is, as Havemann reminds us, police are both the 'gate-keepers of the criminal justice system' and the 'social hygienists' of the community (1985:129). Secondly, and equally important, is an understanding and appreciation of what Donovan has termed 'inter-generational socialisation processes' (1986:32) among Aboriginal people. By this he refers to:

*... the oral tradition of Aboriginal society and culture [which has] lent itself well to the transmission of values and experiences, acquired during the pacification period, to present generations of Aborigines ... indeed, subsequent events, as far apart from each other as the 1926 Oombulgurri Forrest River massacre and the 1983 death of John Pat at Roebourne, do much to reinforce and ensure the continued survival of the colonial-Aboriginal acculturation. They also ensure an on-going experience of alienation, the basis of most social problems today.*

(1986:32)

The historical legacies of Aboriginal/police interaction have resulted in a situation whereby feelings of mutual suspicion held by both parties are far from nascent. Should such feelings remain at

the level of 'suspicion', one could well argue that they bear no relation to the alarmingly disproportionate level of Aboriginal crime evidenced in this study.

However, a counter argument may be put and it is one which involves employing the 'deviancy amplification spiral' model which sees police as the amplifiers of certain crimes.

Working from the premise that the one objective measure of police efficiency is the rate at which they are seen to 'clear-up' crime it may be argued that such 'efficiency' succeeds in exacerbating the crime rate. In a study published in 1978 Hall et. al. argued that:

*This [the clear-up rate] plus the problems of manpower and resources, makes it logical for the police to concentrate on crimes with high detection potential ... But this logical practice is also a structuring one; it amplifies the volume of these selected crimes, since the more resources are concentrated, the greater the number recorded. The paradox is that the selectivity of police reaction to selected crimes almost certainly serves to **increase** their number.*

(1978:38-39)

In like manner, Tobin asserts that '[P]olice are particularly active in areas where Aborigines are present ...' Further, he notes the 'types' of 'crime' with which Aborigines are most commonly charged and concludes that the class and social bias of the law, together with the nature and function of its enforcement, results in

the high proportion of arrests, detentions, charges and convictions. 'Who', he asks, 'are the vagrants, who are most likely to get drunk, and who are most likely to be in a street or public place while drunk?' (Tobin, 1973:74).

In his capacity as Royal Commissioner into Aboriginal Affairs in Western Australia in 1974, His Honour Judge Furnell employed the following rationale in an attempt to explain the high incidence of Aboriginal imprisonment in that state:

*An Aboriginal affected by liquor and likely to merit charges of that nature is entirely without discretion. Boisterous bravado becomes his guiding force and in the public street he is disappointed if his irregular behaviour does not attract attention. Many white drinkers of course behave in the same way, but it is doubtful if they are so numerous. Indeed, a warning to a European drinker is far more effective than a similar warning to an Aboriginal in the same condition.*

(cited in Dauntan-Fear, 1977:186)

In the same report, Judge Furnell offered the following factors which were to be kept in mind when interpreting the high preponderance of Aborigines in prison statistics:

1. the same offender often repeatedly returns to prison;
2. one in a state of drunkenness more readily commits further offences;
3. among the Aborigines, there is a far greater proportion of young people than non-Aborigines, and this difference increases yearly. It is this young age group more than any other that seems to combine drunkenness and other behaviour; and

4. the occupational status of Aborigines is relatively lower in Western Australia and this, coupled with a high rate of unemployment, leaves greater opportunity for idleness and mischief.

(Dauntan-Fear, 1977:186)

Initial reaction to His Honour's conclusions might well be that they are more than faintly reminiscent of William Ryan's **Blaming The Victim** scenario (1976). That is Aboriginal crime has everything to do with grog, youth, poverty, heathenness and idleness, and absolutely nothing to do with the state and its agents.

However, if we 'overlay' the points raised above, an explanation of the quantitative data which follows becomes possible. That is, Aborigines and police, as a result of quite real historical precedent, do hold each other to be positionally known antagonists. Secondly, by focusing on certain crimes and attempting to elevate the rate of 'clear-up', police and Aborigines conjoin and create a deviancy amplification spiral. Finally, Aborigines do commit offences for which the law dictates they must be approached and punished.

The effectivity of that law as an instrument of social control, especially in its dealings with Aborigines is, as Tobin states, 'in a logical and practical dilemma' (1973:76). In Kununurra and in Halls Creek it may well be argued that the law is little other

than a mechanism by which the sensibilities and sensitivities of the socio-economic and politically powerful - the Europeans - are protected.

At worst, says Tobin, the law is simply the formalisation of the historical status quo in country towns, and its practice forms a system of control replacing the earlier more explicit forms of colonial practice (1973:76).

### SOCIAL IMPACT, SOCIAL CONTROL

*The last 125 years of European occupation and Aboriginal sub-ordination in the East Kimberley have radically transformed the economic conditions of social life ... That is why dependency was not only an imposition but also an Aboriginal adaptive response consistent with their history. That is why their alienation was both historically predictable and contextually inevitable.*  
(Donovan 1986:58)

In a 1984 report to the Kimberley Land Council and the National Aboriginal Conference - which examined some of the effects of the Argyle Diamond mine on Aboriginal communities in the region - Dixon et. al. concluded, with special reference to Kununurra:

*As the population, including itinerants, increases police officers have less time to be involved within the community. It is significant in this context that attempts by the police and courts to involve the Aboriginal community in education about law and in self-regulation have now effectively ceased.*  
(Dixon et. al., 1984:28)

The same year the Argyle Environmental Review and Impact Program (E.R.I.P.) foreshadowed the likelihood of increased alienation due to rapid social change:

*Aborigines in Kununurra are already aware of their numerically decreased status due to the influx of Europeans. For those already having trouble with the town environment, this is an added diffuse source of anxiety. In this context, an increase in town amenities from mining and town expansion and from which benefits the Aboriginal town youth feel essentially excluded would be fraught with long-term community problems for Kununurra.*  
(Ashton Joint Venture, cited in Dixon, et. al. 1984:28)

In 1986 Donovan's insightful report to the West Australian Minister for Minerals and Energy documented many of the problems arising from the primary impacts of Argyle Diamond Mines. In doing so, he predicted that:

- . Aboriginal self-provisioning by bargaining power, exchange and development would be reduced;
- . external dependency and internal tension would be increased for Aboriginal communities;
- . present living standards were likely to be reduced as purchasing power was eroded;
- . poor health may deteriorate further;
- . alcohol consumption and related behavioural problems (having already risen) were likely to increase;
- . the incidences of violence, injury and disease (having already risen) were likely to increase;
- . disputation between Aboriginal groups was likely to increase;
- . conflict, rivalry and hostilities already evident between helping agencies of the government and non-government sectors, was most likely to increase;
- . inter-agency competition for public and private funds and resources would intensify; and
- . the underlying problem-causing conditions of resourcelessness, dependency and alienation were unlikely to change significantly in the short term.

(1986:8-9)

Any, or all of the above, he stressed, were social consequences which could '... be expected to arise from either 'no change' to levels of dispossession, dependency and alienation, and/or from 'aspiration-retardive' impacts ...' (1986:50).

Two independent reports and A.D.M.'s own review warned of impending social and economic problems. But to date little, if any, preventative action has been taken.

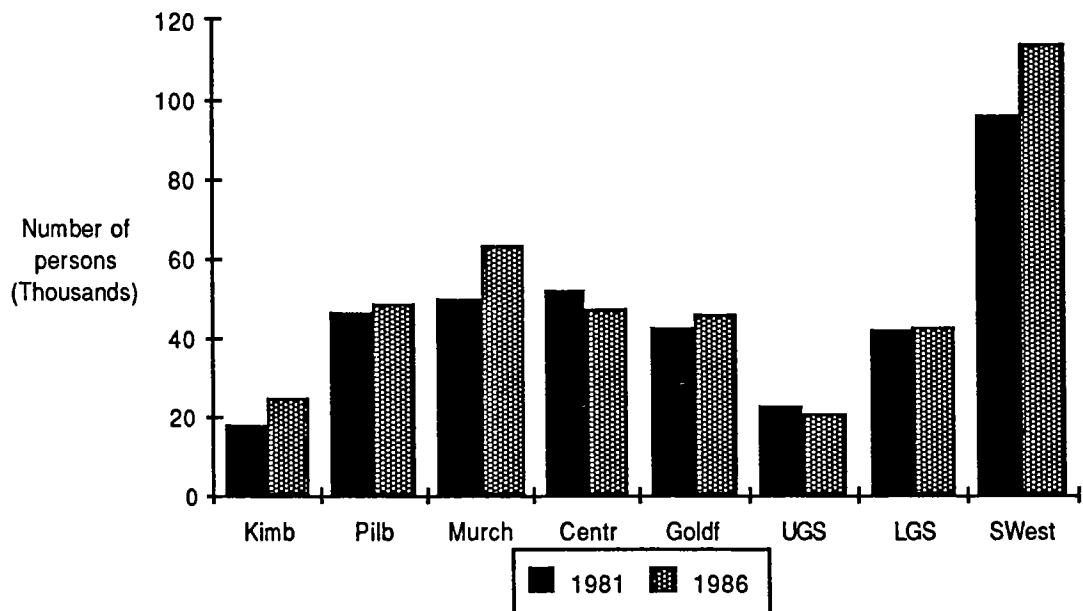
The majority of Aborigines in Kununurra and Halls Creek are locked into a downward socio-economic and politico-legal spiral. In Kununurra their social and economic status has been marginalised by large-scale in-migration of Europeans. In both towns dependency on welfare has increased, social alienation has intensified and the 'behavioural problems' which were foreshadowed have manifested themselves and are reflected in rising crime rates - particularly those committed by juveniles. 'Envious crime', says Shoeck, is 'a concept which embraces most juvenile crime and vandalism. [It] will occur chiefly in those societies whose official credo, constantly recited in school, on the political platform and from the pulpit, is universal equality' (Shoeck cited in Nettler, 1978:238).



**DEMOGRAPHY AND ECONOMIES IN THE EAST KIMBERLEY:**

As discussed in the preceding section, demographic data for the East Kimberley region is difficult to obtain and often unreliable since it depends largely on which areas are included in population surveys. Altman (1987:4) reports that in the 1981 Census 7,800 persons were found residing in a region demarcated by the boundaries of the Wyndham- East Kimberley and Halls Creek Shires. However, by 30 June 1985 the number is estimated to have increased to 8,340.

**Table 1**  
**Country Areas - Western Australia**  
**Total Population: 1981 Census, 1986 Census**

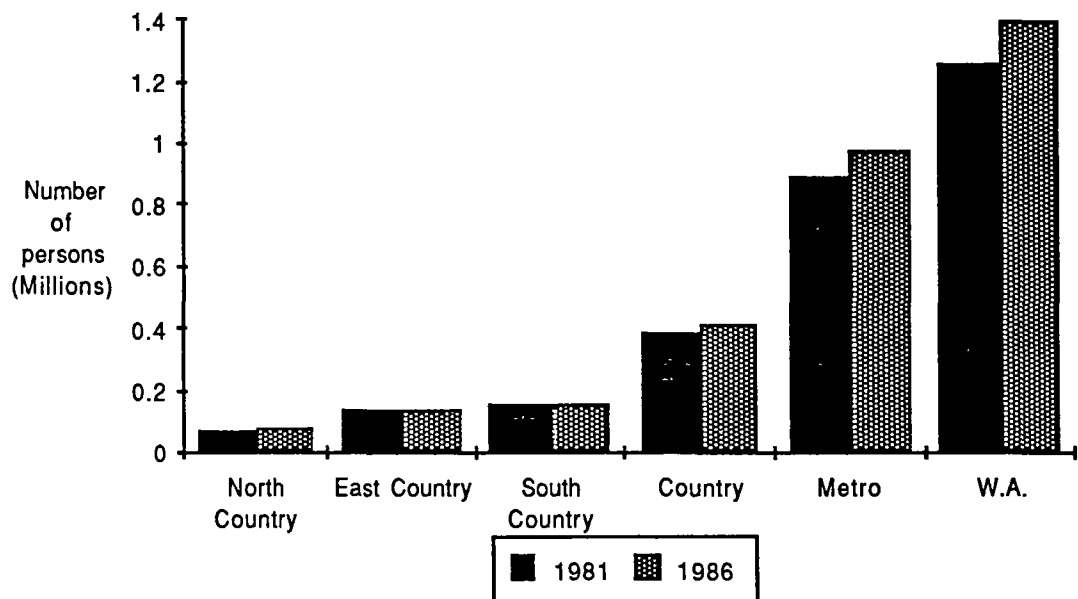


**Source: Department of Community Services Kununurra**

Table 1 shows a comparison between 1981 and 1986 census figures.

Whereas the 1984 (KLC/NAC) report placed the proportion of Aboriginal population in the region at 55 per cent, Altman's estimate is a more conservative 42 per cent. He does add, however, that 'there is a marked difference between the two local government areas - 67 per cent of Halls Creek shire is Aboriginal as against 28 per cent for Wyndham-East Kimberley' (1987-4).

**Table 2**  
**Country Regions - State DCS**  
**Total Population: 1981 Census, 1986 Census**



**Source: Department of Corrective Services Kununurra**

Table 2 concerns populations in country areas of Western Australia as a proportion of the total population of Western Australia. The East Kimberley forms part of the north country region.

While cautioning that the figures supplied (circa 1981) are an 'under-enumeration' of the Aboriginal population, the 1986 Annual Report of the Aboriginal Affairs Planning Authority and Aboriginal Lands Trust (W.A.) lists 232 Males and 268 Females resident in Halls Creek and 204 Males and 232 Females resident in Kununurra (1986:29).

In 1986 the East Kimberley Aboriginal Medical Service (E.K.A.M.S.) visited Aboriginal communities in the region while conducting a health review. Table 3 shows their record of the distribution of people across communities, together with the approximate distance of each community from the nearest town.

**Table 3**  
**Community X Population X Distance from Nearest Town**

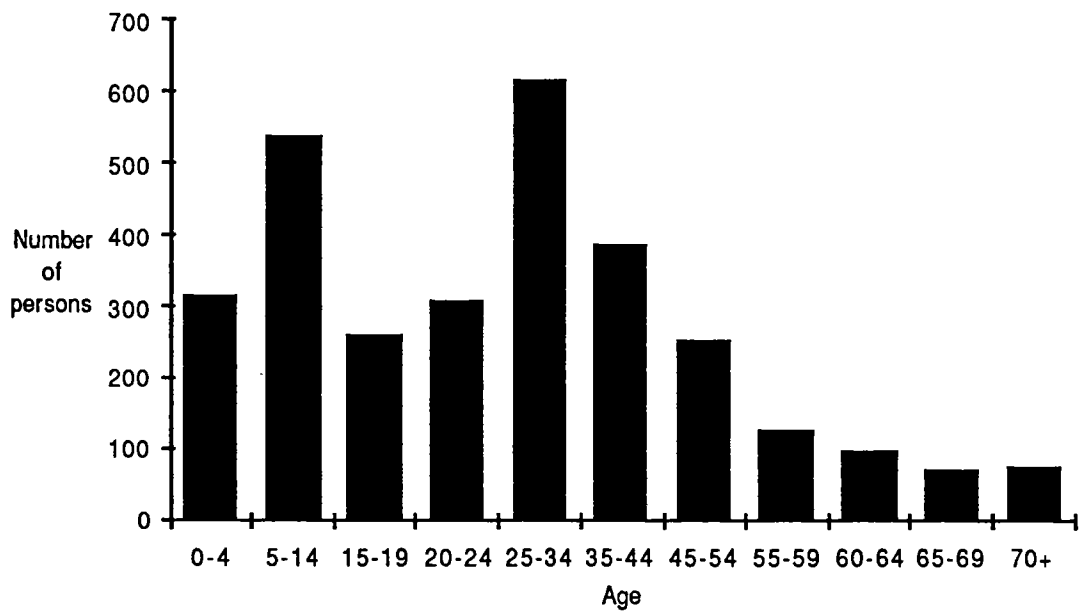
COMMUNITY	ABORIGINAL	APPROXIMATE DISTANCE FROM TOWN (KMS)	
Balgo	541	230	Halls Creek
Bayula Wah (Violet Valley)	37	150	Halls Creek
Bethel Kununurra	23	1	Kununurra
Blueberry Hill	42	0	Halls Creek
DCW Reserve Kununurra	115	3	Kununurra
DCW Reserve Halls Creek	152	0	Halls Creek
DCW Reserve Wyndham	25	2	Wyndham
Dingo Springs	16	50	Kununurra
Emu Creek	25	5	Kununurra
Flora Valley Station	6	120	Halls Creek
Fork Creek (DCW Reserve)	12	20	Wyndham
Gibb River	27	220	Wyndham
Guda Guda	38	14	Wyndham
Kalumburu	(Adults) 58	210 (by air)	Wyndham
Karunje Station	"	9	160
Kundat Djaru (Ringers Soak)	"	22	160
Lambo Station	"	11	50
Lundja (Redhill)	"	20	10
Mandangala (Glen Hill)	"	31	190
Margaret River Station	"	12	105
Mindibungu (Billibuna Station)	"	39	160
Moongong Darwung	"	16	1
Mt. Elizabeth Station	"	10	240
Mulan (Lake Gregory Station)	"	33	342
Muliarker (Home Valley)	"	11	70
Nicholson Station	"	11	170
Nullywar/Miriwung Camp	"	7	1
Oombulgurri	"	100	30 (by air)
Rugan (Crocodile Hole)	"	13	125
Sturt Creek Station	"	9	170
Warmun (Turkey Creek)	225	160	Kununurra
Woolah (Doon Doon Station)	33	110	Kununurra
Yarrunga (Chinamen's Garden)	27	70	Halls Creek

**Source: East Kimberley Aboriginal Medical Service,  
Kununurra**

Tables 4 to 7 provide a breakdown of 1986 population figures by local government area in the shires of Wyndham/East Kimberley and Halls Creek in which the numbers of people identifying as Aborigines together with age groupings are provided.

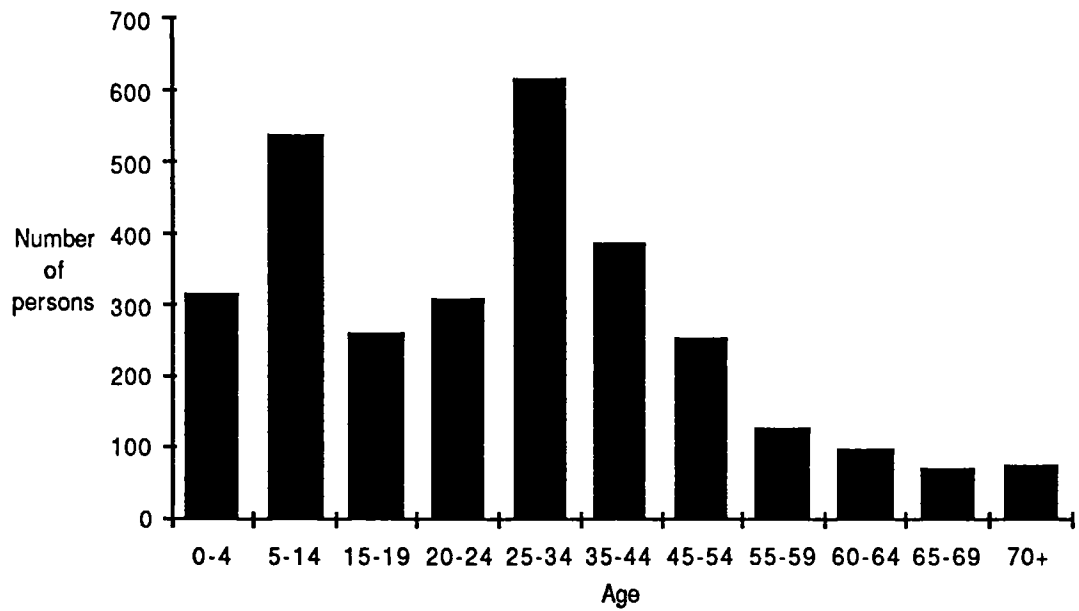
**Table 4**  
**Census Data - 1986**  
**Population by Local Government Area**  
**Shire Wyndham/East Kimberley**

**Males**



**Source: Department of Community Services, Kununurra**

Table 5

Females

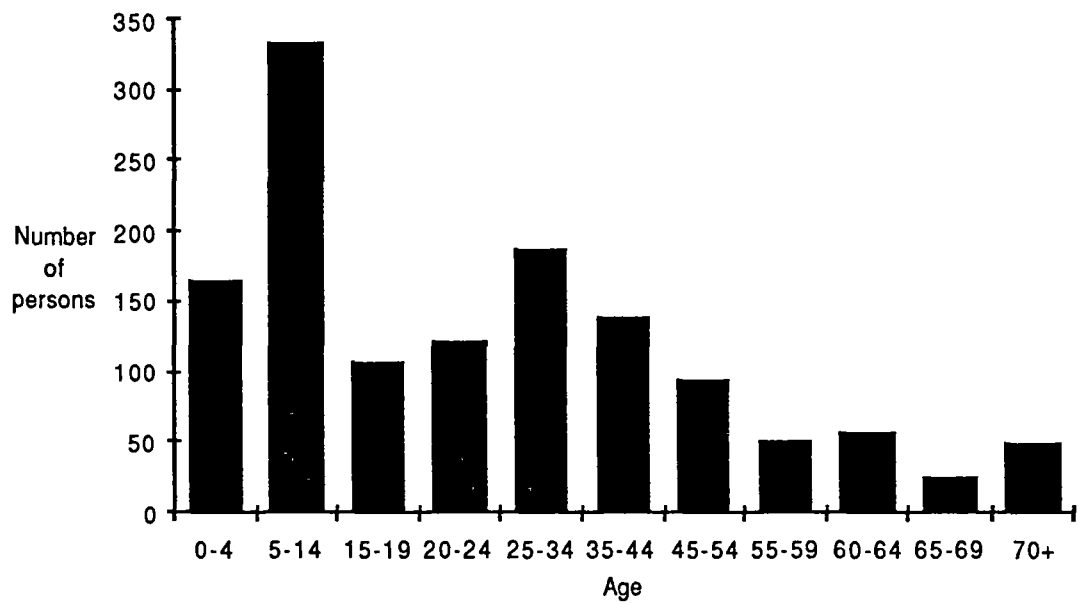
Aboriginal Males - 1033 (26%)

Aboriginal Females - 967 (315)

**Source: Department of Community Services, Kununurra**

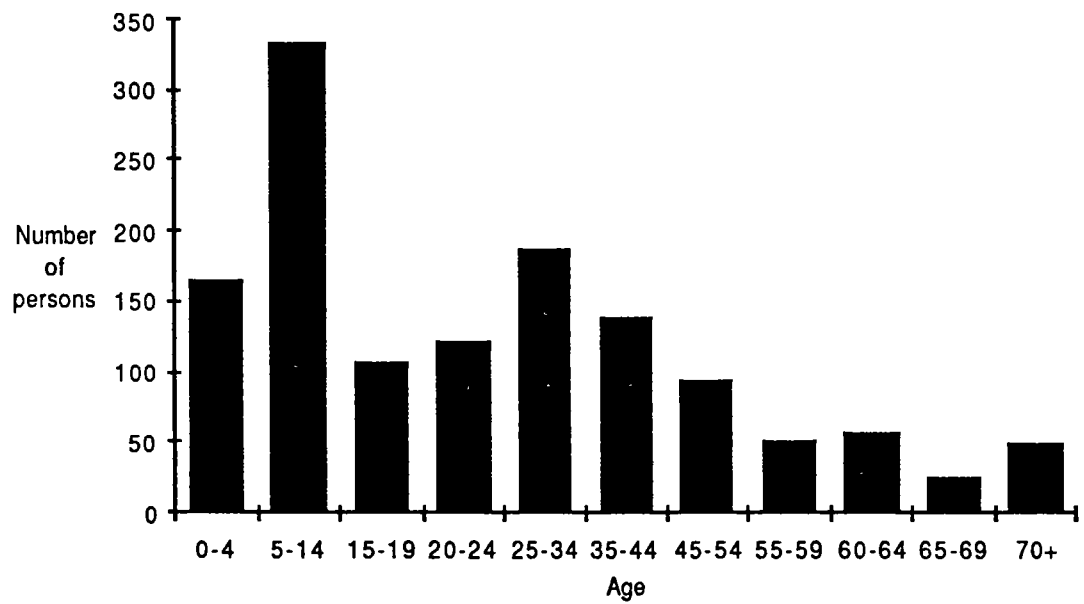
**Table 6**  
**Shire Halls Creek**

**Males**



**Source: Department of Community Services, Kununurra**

Table 7

Females

Aboriginal Males - 1067 (69%)

Aboriginal Females - 1013 (76%)

**Source: Department of Community Services, Kununurra**



Altman (1987:18) shows that in 1981, by comparison with the general Aboriginal population, the East Kimberley Aboriginal population was young with a high dependency ratio (Table 8).

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TABLE 8: AGE DISTRIBUTION OF EAST KIMBERLEY ABORIGINAL, TOTAL ABORIGINAL AND TOTAL AUSTRALIAN POPULATIONS, 1981 CENSUS.

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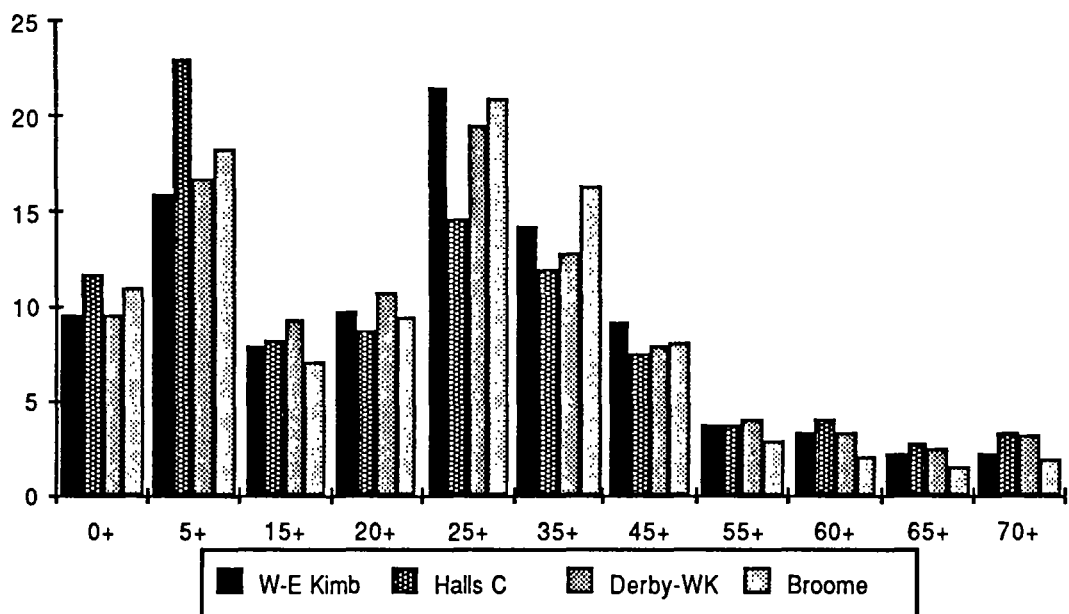
Age Bracket	East Kimberley Aborigines*		Aboriginal population	Australian population
	Number	Per cent	Per cent	Per cent
0 - 14	1309	41.0	42.6	25.1
15 - 64	1669	52.3	54.2	65.1
65 +	214	6.7	2.8	9.8

---

\*Source: Australian Bureau of Statistics (1981 Census) in Altman, 1987:18.

At the time 1986 Census data were taken the East Kimberley, Aboriginal population exhibited similar characteristics (see Table 9)

**Table 9**  
**Kimberly Region - Western Australia**  
**1986 Census: Local Govt. X Age Group**  
**As percentage of total population**



**Source: Department of Community Services, Kununurra**

By December 1985, reports Altman, 992 Aborigines (over 60 per cent) in the region were estimated by the Commonwealth Employment Service to be unemployed (1987:4). Alone, this situation exacerbates an already marginal economic existence.

In conjunction with the knowledge that very often a large number of dependents are reliant on parental income, is the pertinent fact that the Consumer Price Index (CPI) for the East Kimberley is as much as 30 per cent higher than in southern areas of Western Australia (Donovan, 1986:47).

The 'fixed' income which is associated with Welfare dependency (i.e. unemployment benefit, family allowances, pensions, etc.) makes few concessions for the elevated cost of living in remote areas.

Although somewhat dated, Altman provides data which shows that in 1981 the median annual income for East Kimberley Aborigines was both lower than that for all Australians as well as being lower than for all Aborigines (1987:19).

Regrettably, more recent data is not available. However, when taking into account the low level of Aboriginal participation in the mining industry - the major employment development since the last figures were taken - there would appear to be little reason to anticipate change in the economic differentials evidenced in 1981.

It is true to say that by far the majority of Aborigines have always been located at the bottom of the socio-economic ladder and, therefore, outside the productive process. Equally true is the fact that Aborigines do now receive the welfare payments denied to them for so long.<sup>1</sup> What is more significant in the East Kimberley is that, although Aboriginal poverty may not be increasing, Aborigines are not sharing equally in the economic growth of the region. Consequently, their relative inequality is increasing.<sup>2</sup>

Based on the socio-economic indices discussed above, Altman argues:

*... the call for urgent action at remote Aboriginal communities is usually based on such assessments of poverty and levels of unemployment. If poverty, unemployment and dependence on the public sector are shown to be excessive and this is accepted as a sufficient condition for massive public intervention, then the East Kimberley is a prime target for such intervention.*  
(1987:1)

To Altman's list of social and economic woes which require intervention may be added the inordinate frequency with which Aborigines in the East Kimberley are found to be in breach of Australia's *corpus juris*.

- 
1. Irrespective of the results of the 1967 referendum, Aborigines in the Pilbara and Kimberley regions were not granted citizenship rights until 1971 (see Shaw, 1983:20).
  2. For a similar line of reasoning, see Cawte, 1974:196.

**East Kimberley  
Halls Creek and Kununurra  
Courts of Petty Sessions  
and  
Children's Courts.**

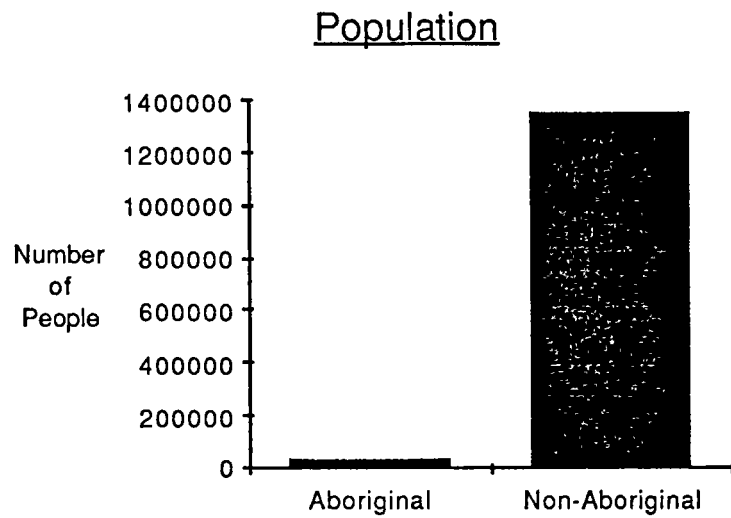
**OUTWEST: OUTLAWED**

The significance of the impact of Aboriginal defendants in Courts of Summary Jurisdiction in Western Australia is reflected in the data which follow. Interpretation of the statistics must take account of the fact that in Western Australia identification of Aborigines is based on the observation of either police officers or court officials and not on self identification. For this reason, the number of charges laid against, and appearances in court by, Aborigines may well be an understatement rather than an accurate reflection of the actual situation (pers. comm., W. A. Prisons Department).

The state wide figures listed below are based on 1981 census statistics of population in Western Australia and from information for the year ended 30 June, 1984, supplied by the Corrective Services Department in that state.

Table 10 reveals that in 1981 the total population for Western Australia was 1,383,660. Of these, 2.26% were persons identifying as Aborigines.

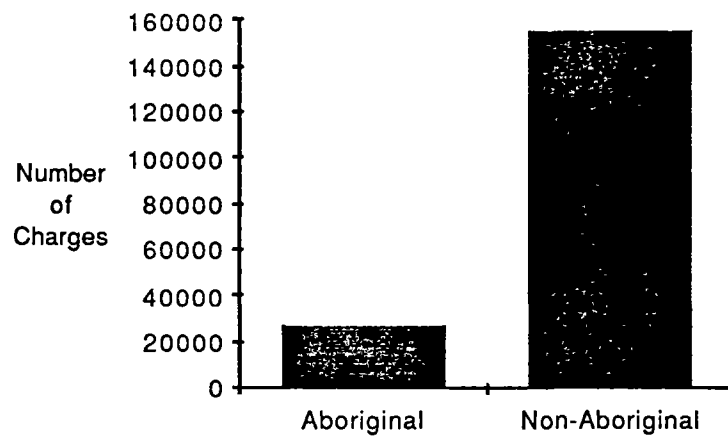
**Table 10**  
**Total Population (W.A.) Year Ended 30 June 1981**



**Source: Australian Bureau of Statistics**

For the year ended 30 June 1984, a total of 181,595 charges were laid in Courts of Summary Jurisdiction in Western Australia. Table 11 shows that of these 154,844 (17.3%) applied to non-Aborigines and 26,751(82.7%) to Aborigines.

**Table 11**  
**Total Number of Charges (W.A.) Year Ended 30 June 1984**  
**Charges**



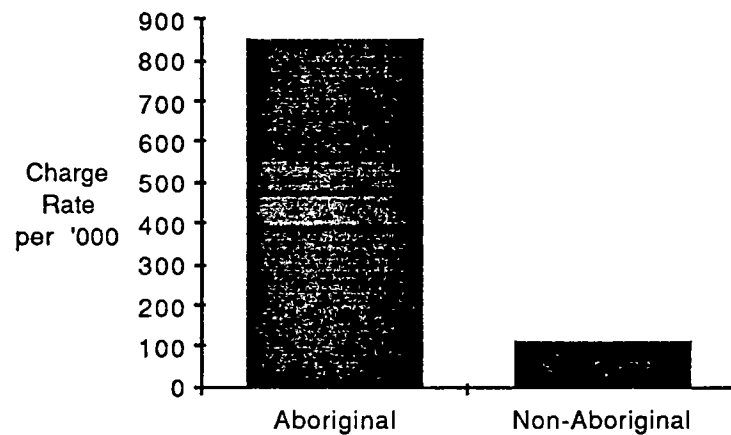
**Source: W. A. Department of Corrective Services**



From the above information it may be seen that the state total Aboriginal charge rate for the year 1983-1984 was 853.1 (86.5%) for each one thousand Aboriginal persons. For the same number of non-Aborigines the charge rate was 114.5 (13.5%) (see Table 12).

**Table 12**  
**Charge Rate per '000 (W.A.) Year Ended 30 June 1984**

**Charge Rate per '000**



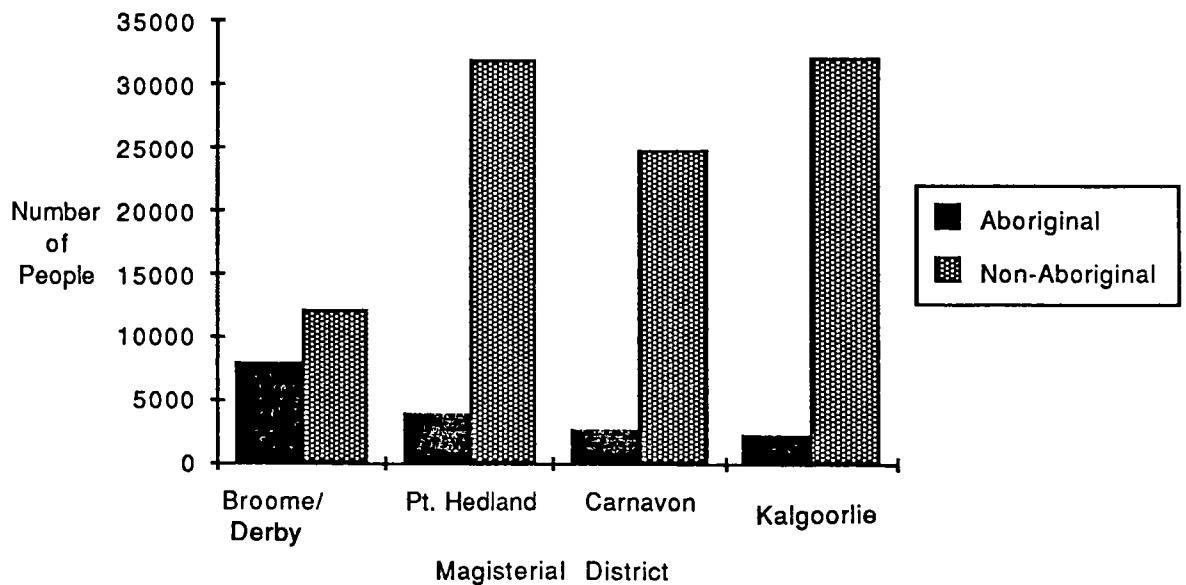
**Source: W. A. Department of Corrective Services**

Western Australia is divided into four magisterial districts. So that Kimberley-specific data may be seen in the context of state charging patterns, information is supplied for each district.

**Table 13**  
**Western Australia**  
**Magisterial Districts X Charges X Population**  
**1983-84**

**1. Broome/Derby, Pt. Hedland, Carnarvon, Kalgoorlie**

**Population**

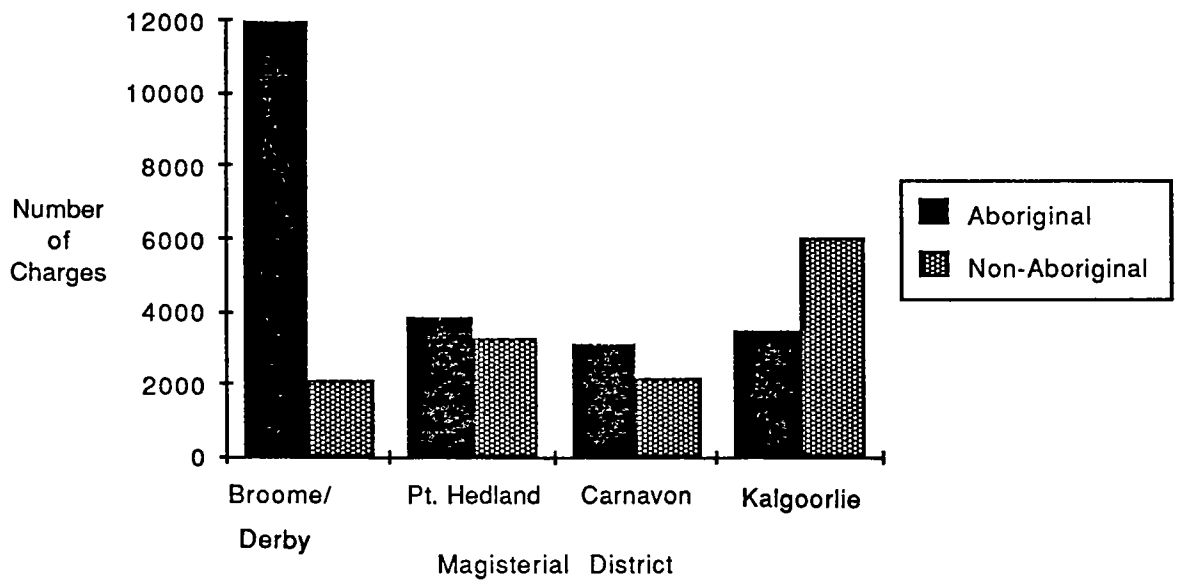


**Source: W. A. Department of Corrective Services**

Table 13 indicates that the total population of this magisterial district is 118,430. Of these, 101,404 are non-Aborigines and 17,026 are Aborigines.

In the year ended 30 June 1984 a total of 36,026 charges were laid: 22,445 against Aborigines (62.3%) and 13,581 (37.7%) against non-Aborigines (see Table 14).

**Table 14**  
**Magisterial Districts X Charges X Population**  
**1983-84**  
**Charges**

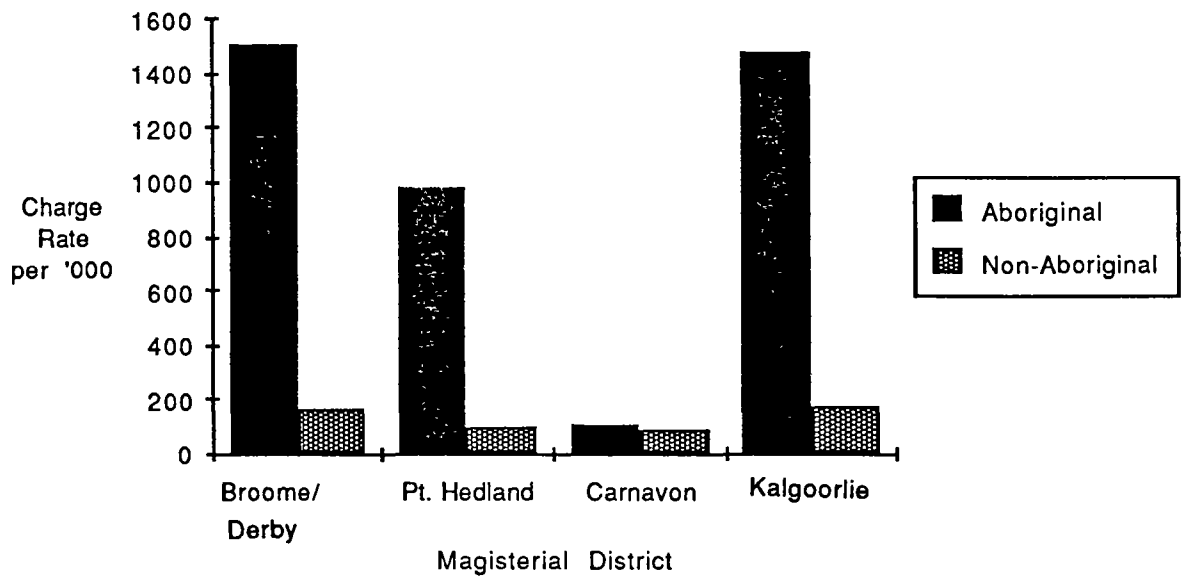


**Source: W. A. Department of Corrective Services**

Table 15 reveals an average charge rate against Aborigines in this magisterial district of 1318.2 (89.8%) per one thousand persons. For non-Aborigines in the same district the average is 133.9 (10.2%) per thousand.

**Table 15**  
**Magisterial District X Charges X Population**  
**1983-84**

**Charge Rate per '000**



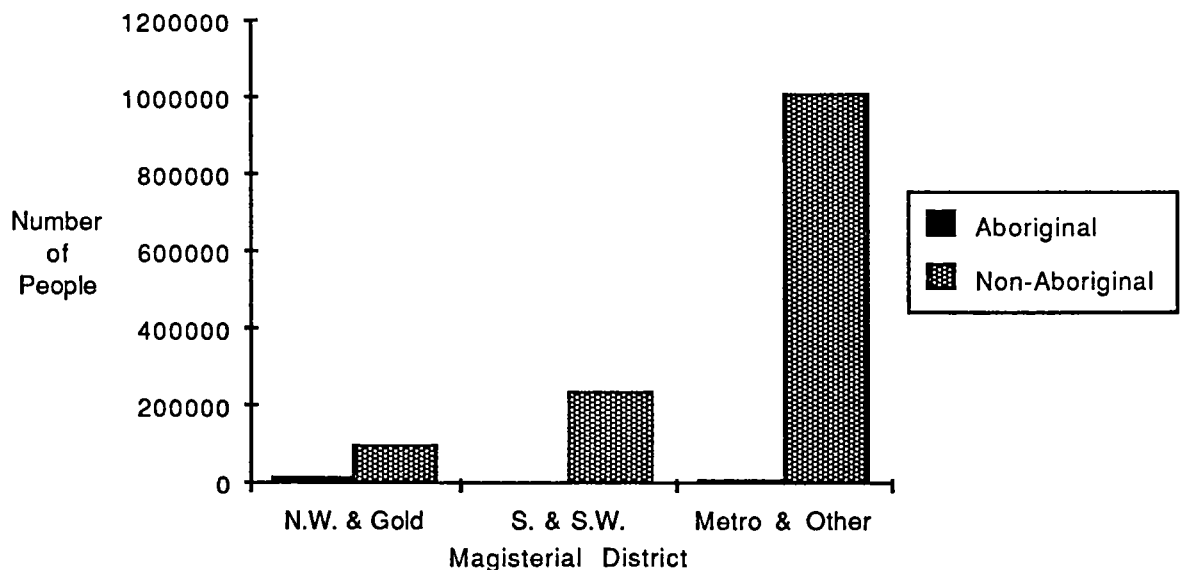
**Source: W. A. Department of Corrective Services**

Within this district alone, charge rates varied between towns. In Broome/Derby, where the Aboriginal population numbers 7,928, there were 11,986 (82.4%) charges laid. Against the non-Aboriginal population of 12,212 there were 2,108 (17.6%) charges. Clearly the charging rates were substantially higher for Broome/Derby Aborigines (i.e. Aborigines: 1511.8 per 1,000; non-Aborigines: 172.6 per 1,000) than, for example, those residing in Port Hedland (i.e. Aborigines: 988.2 per 1,000; non-Aborigines: 102.3 per 1,000) where the population ratio is Aborigines, 3,913 and non-Aborigines 32,087.

The same pattern is repeated in the North West and Goldfields and South and South West Magisterial districts.

**Table 16**  
**Magisterial Districts X Charges X Population**  
**1983-84**  
**2. North West & Goldfields, South and South West**  
**Metro & Other Courts**

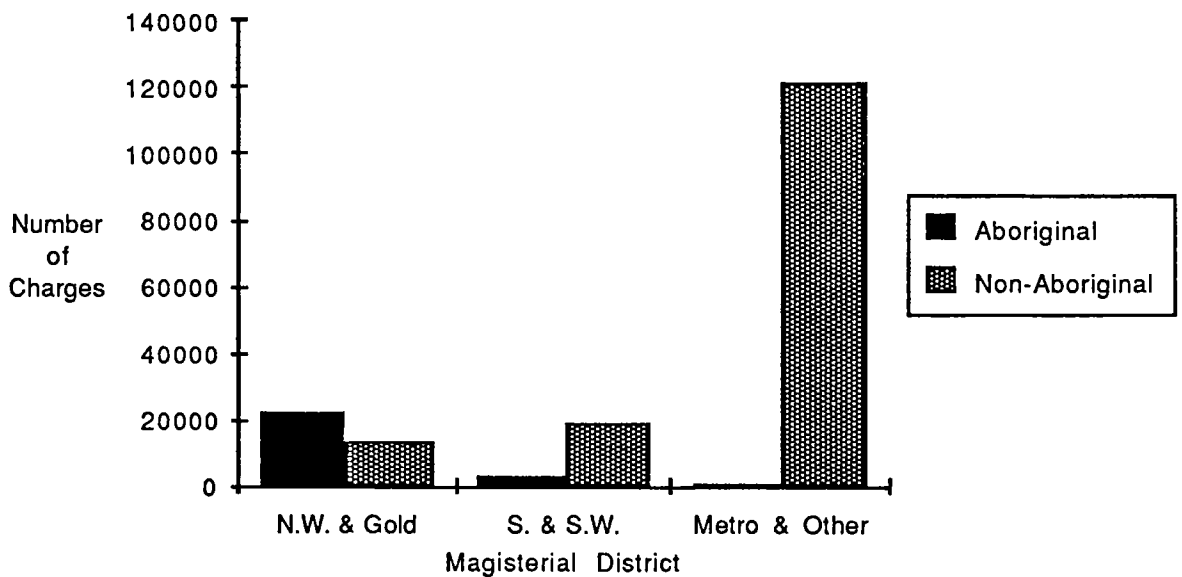
**Population**



**Source: W. A. Department of Corrective Services**

The Aboriginal population in the North West and Goldfields Magisterial Districts numbers 17,026. In the same area there were 22,445 charges against Aborigines. This results in a charge rate of 1,318 charges for each one thousand Aboriginal persons. The rate for non-Aborigines in the same area is 134 per one thousand (see Tables 17 and 18).

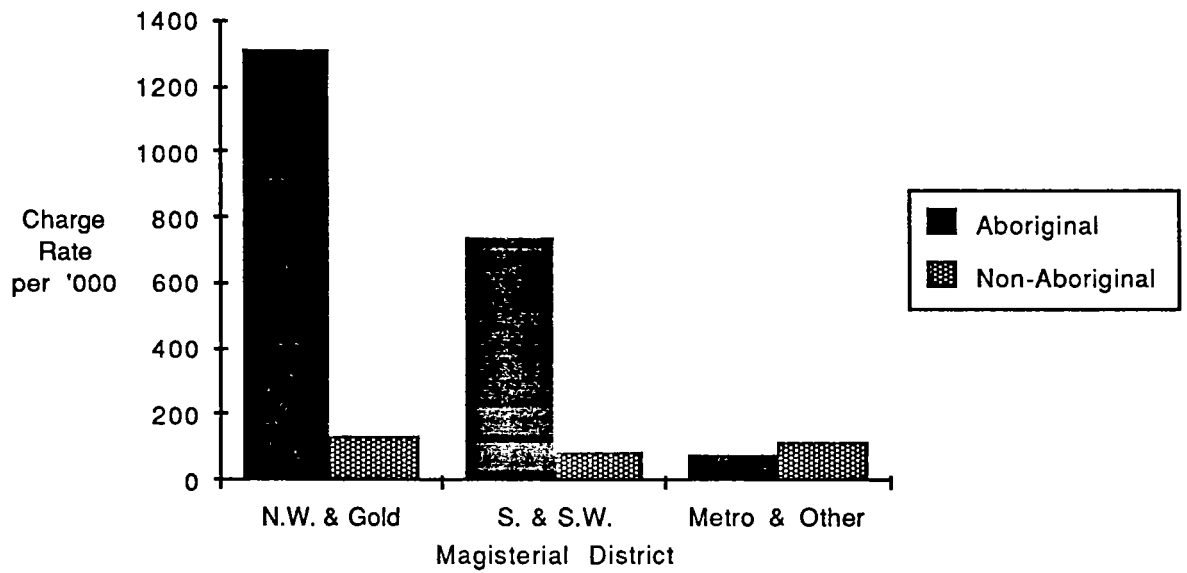
**Table 17**  
**Magisterial Districts X Charges X Population**  
**1983-84**  
**CHARGES**



**Source: W. A. Department of Corrective Services**

**Table 18**  
**Magisterial Districts X Charges X Population**  
**1983-84**

**Charge Rate per '000**

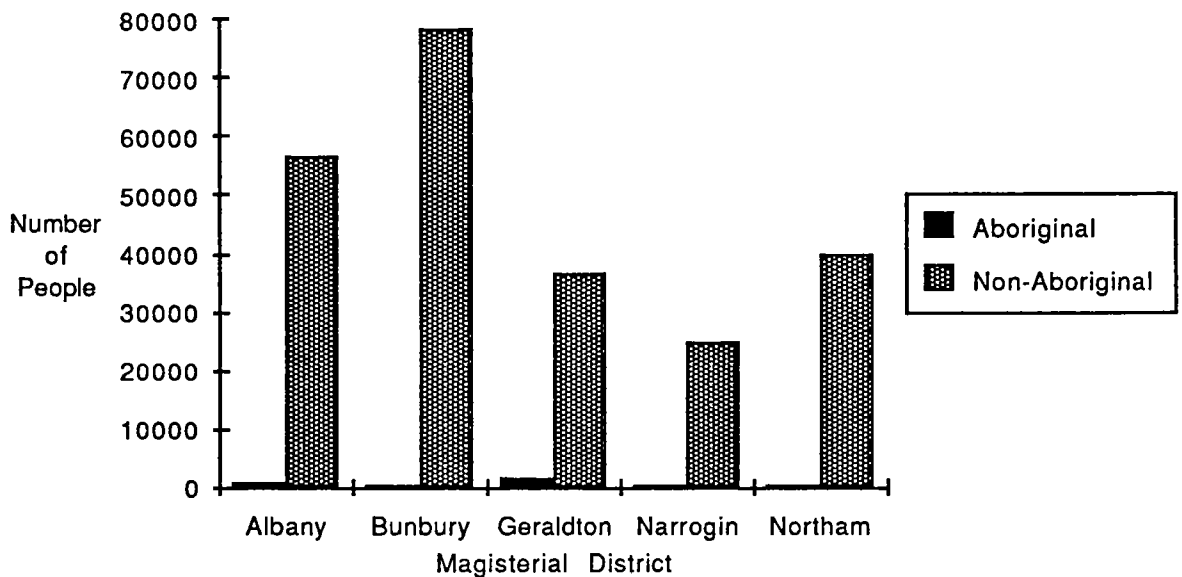


**Source: W. A. Department of Corrective Services**

The magisterial district which covers Albany, Bunbury, Geraldton, Narrogin and Northam exhibits similar patterns. Table 19 shows that non-Aborigines account for the majority of the population. Of 241,640 persons, 236,818 are non-Aborigines and 4,822 are Aborigines.

**Table 19**  
**Magisterial Districts X Charges X Population**  
**1983-84**  
**3. Albany, Bunbury, Geraldton, Narrogin, Northam**

**Population**



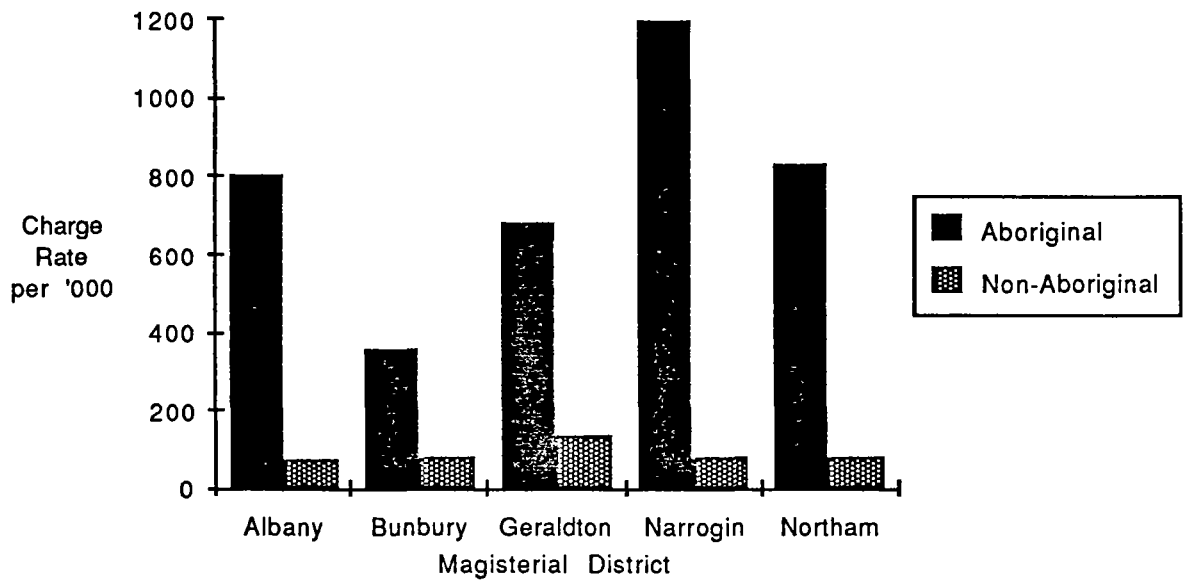
**Source: W. A. Department of Corrective Services**



The average charge rate for Aborigines in this district is 737.0 per 1,000 persons. However, in Narrogin the figure escalates to 1198.9 per 1,000 persons. For non-Aborigines in the same area the charge rate is 82.0 per 1,000 persons (see Table 21).

**Table 21**  
**Magisterial Districts X Charges x Population**  
**1983-84**

**Charge Rate per '000**



**Source: W. A. Department of Corrective Services**

At the Central Law Courts in Perth, separate statistics are not kept for Aboriginal people. What is known is that approximately 9,507 Aborigines would be covered by this magisterial district. At the same time 1,014,083 non-Aborigines reside in the area. Figures are, however, available for both the Children's Court and all other courts in Perth (see Tables 22 and 23).

**Table 22**

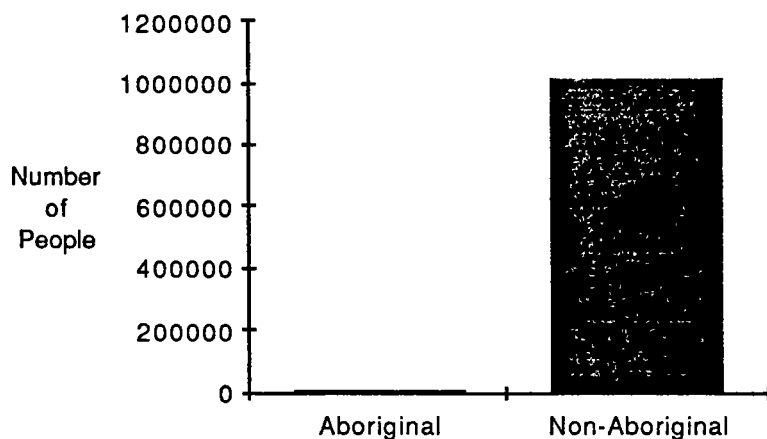
**Magisterial Districts x Charges x Population**

**1983-84**

**4. Central Law Courts, Children's Perth, All Other Courts**

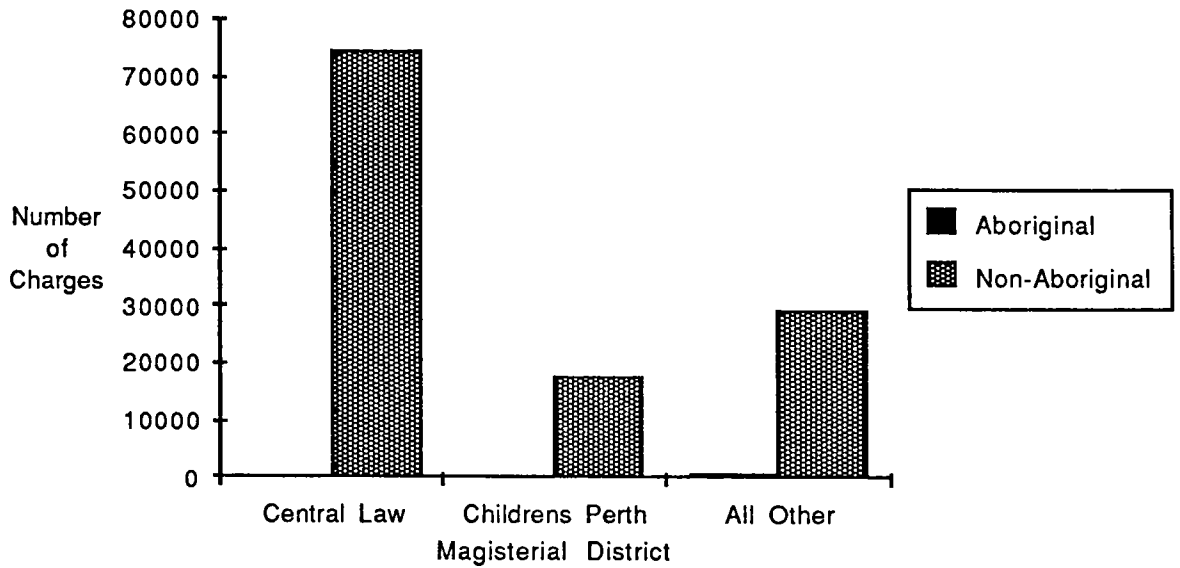
**Population**

All Courts



**Source: W. A. Department of Corrective Services**

**Table 23**  
**Magisterial Districts X Charges X Population**  
**1983-84**  
**Charges**



**Source: W. A. Department of Corrective Services**

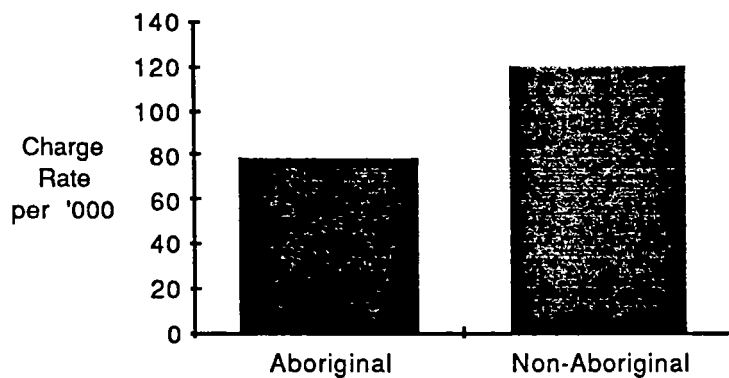
NOTE: The number of Aboriginal people charged at the Central Law Courts is not known

Of the charges shown in Table 24, 183 apply to Aboriginal children and 569 apply to Aborigines appearing in all other courts.

**Table 24**  
**Magisterial Districts X Charges X Population**  
**1983-84**

**Charge Rate per '000**

All Courts



**Source: W. A. Department of Corrective Services**

Table 24 indicates that even without figures for Aborigines appearing in the Central Law Courts in Perth, Aboriginal people residing in this Magisterial District still have a charge rate per thousand of 79.1. The charge rate for non-Aborigines - including those appearing in Central Law Courts - is 120.1 per thousand persons.

NOTE: The above figures are based on the following criteria:

1. "Charges" include Courts of Petty Sessions and Children's Court charges.
2. Figures for Courts of Petty Sessions charges are from ABS Cat. 4502.5 (years 1983-4). Tables 1 and 13.
3. Figures for Children's Court charges are based on ABS Cat. 4503.5 (year 1983-4). Tables 1 and 13.
4. There is no breakdown to Aboriginal/Non-Aboriginal charges in Perth; therefore the Metro and Other Courts figure for Aboriginal is grossly understated - as is the State Total.
5. The Aboriginal population figures are based on 1981 Census data.
6. Total population figures are based on ABS Cat. 3203.5 being Estimated Resident Population for 1984.
7. The Aboriginal population is the difference between 4 and 5.
8. Aborigines account for 2.26% of Western Australia's population.
9. Aborigines account for 82.7% of the charges laid in Courts of Summary Jurisdiction in Western Australia.

**EAST KIMBERLEY - HALLS CREEK AND KUNUNURRA COURTS OF  
PETTY SESSIONS**

Explanatory Notes:

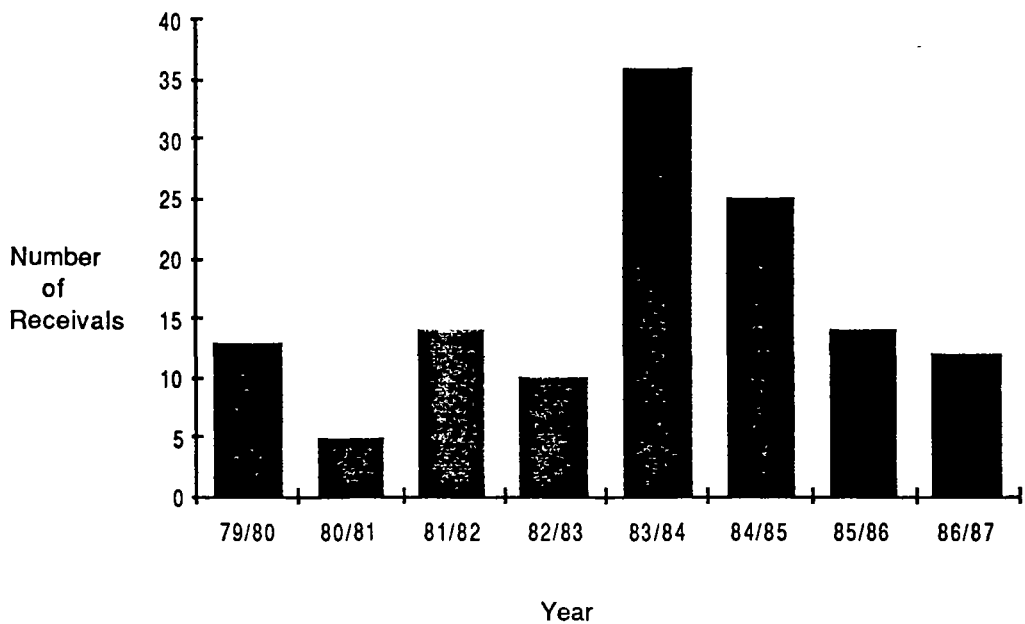
1. The data which follow relate to sentenced prisoners received into police lockups.
2. Only selected lockups within the Kimberley region were reported (i.e. Halls Creek and Kununurra).
3. All data relates to receivals, not to individuals. If a person was received more than once, each receival is counted.
4. Age relates to the offender's age at the date of receival.
5. Offence relates to the major-offence of the offender. In cases of multiple offences the offence attracting the longest head sentence has been selected.
6. Offence grouping:
  - . Unlawful use of motor vehicle is classified as 'property' not 'traffic'.
  - . Good order offences include - drunkenness, disorderly conduct, unlawfully on premises.
  - . Offences against the person include homicides, sex offences, assaults (minor and serious) and robbery.
  - . Offences against justice include breaches of parole, probation and recognisance, escaping legal custody, hindering police etc.
  - . Licensing offences include all offences under the W. A. Liquor Licensing Act (e.g. fail to leave licensed premises etc.)

- . The data spans the period for the year ending 30 June, 1979 to year ending 30 June, 1987 inclusive, and was supplied by the W. A. Department of Corrective Services.
- . Data relates to cross-variables which indicate all receivals by offence group; all receivals by race and sex; and all receivals by age grouping.

**Table 25**

**Table 25: Total Receivals by Offence Group  
Halls Creek 1979-1987**

Traffic Offences - Halls Creek 79/86



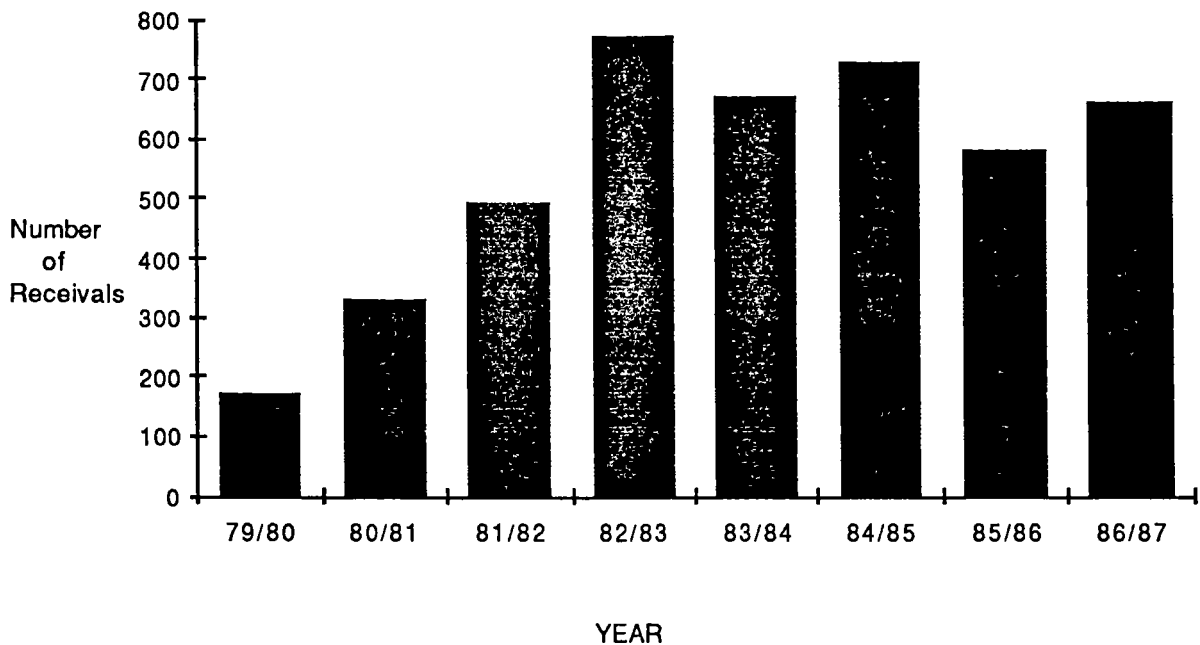
**Source: W. A. Department of Corrective Services**

Table 25 indicates a pattern of traffic offences in Halls Creek which, apart from peaking in the period 1983-1984, may be seen to have remained relatively constant. In 1979-1980 thirteen receivals resulted, and in 1986-1987 the figure was twelve.

Conversely, the number of good order offences rose sharply during the same period. From a low of 174 receivals in 1979-1980, the figure reached a staggering 772 in 1982-1983. The current rate of receivals in this offence group is 663 (1986-1987). (See Table 26).

**Table 26**  
**Total Receivals x Offence Group**  
**Halls Creek 1979-1987**

Good Order Offences - Halls Creek 79/87



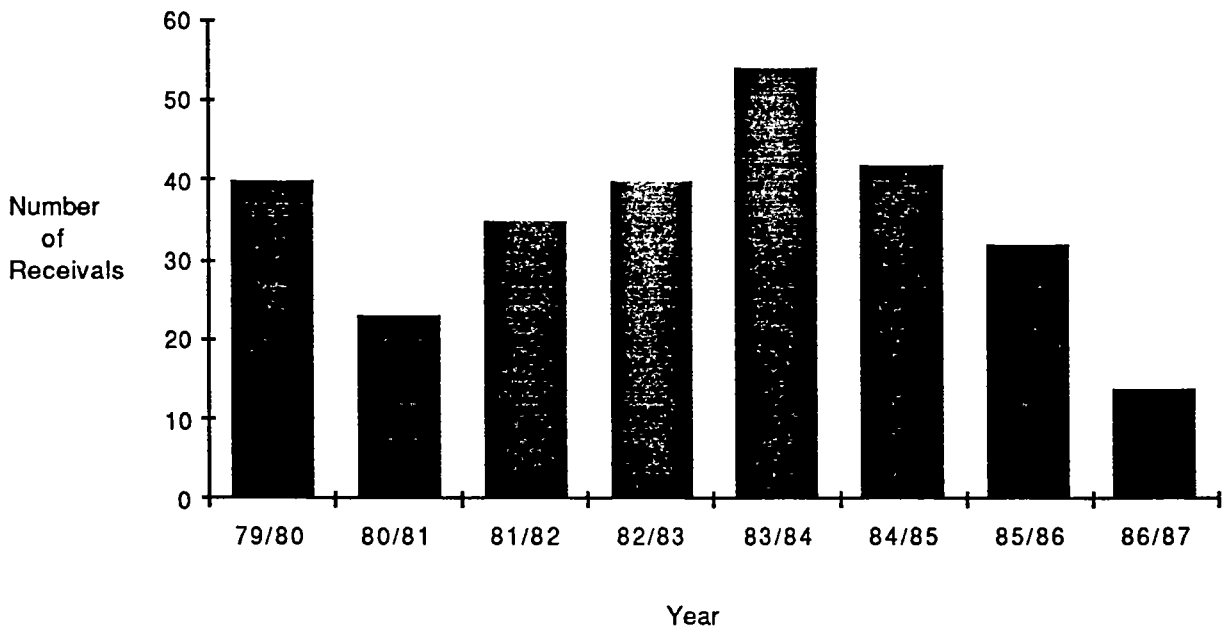
Source : W. A. Department of Corrective Services



Similarly, offences against the person reached a peak of fifty four in the period 1983-1984. Since that time there has been a significant downturn in this category of offence, to a point where, in 1986-1987, offences numbered only fourteen (see Table 27).

**Table 27**  
**Total Receivals X Offence Group**  
**Halls Creek 1979-1987**

Offences Against the Person - Halls Creek 79/87

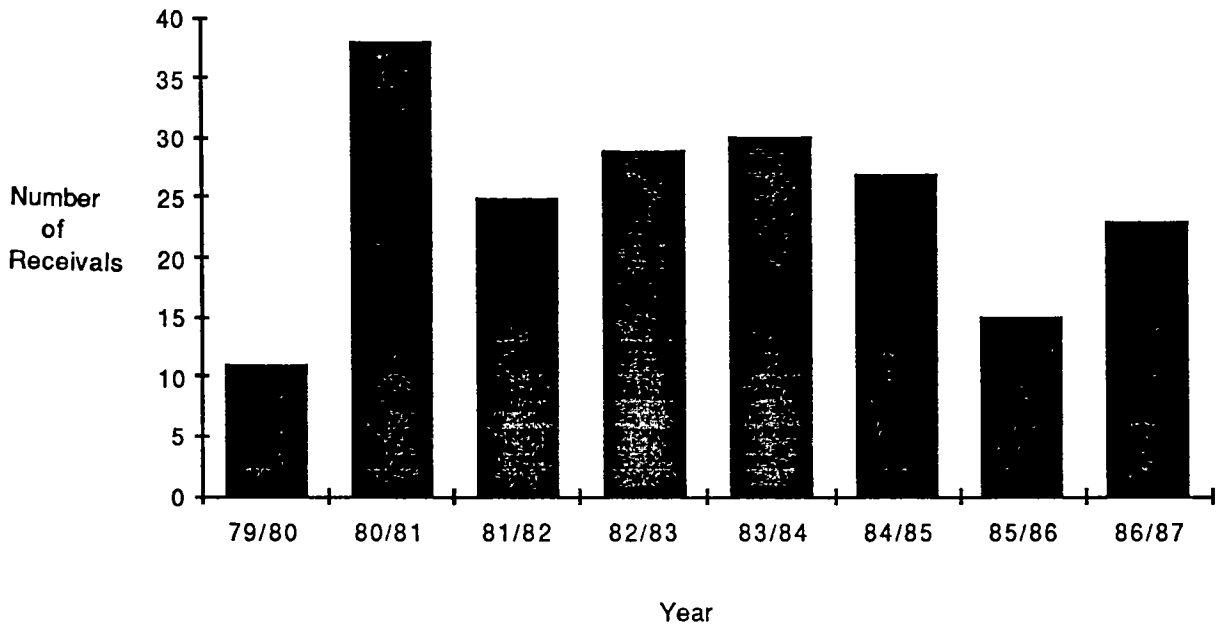


**Source: W. A. Department of Corrective Services**

Table 28 refers to property offences and includes unlawful use of a motor vehicle. Reaching a high of thirty-eight in the twelve month period 1980-1981, property offences declined throughout 1985-1986, only to rise again throughout 1986-1987.

**Table 28**  
**Total Receivals X Offence Group**  
**Halls Creek 1979-1987**

Property Offences - Halls Creek 79/87

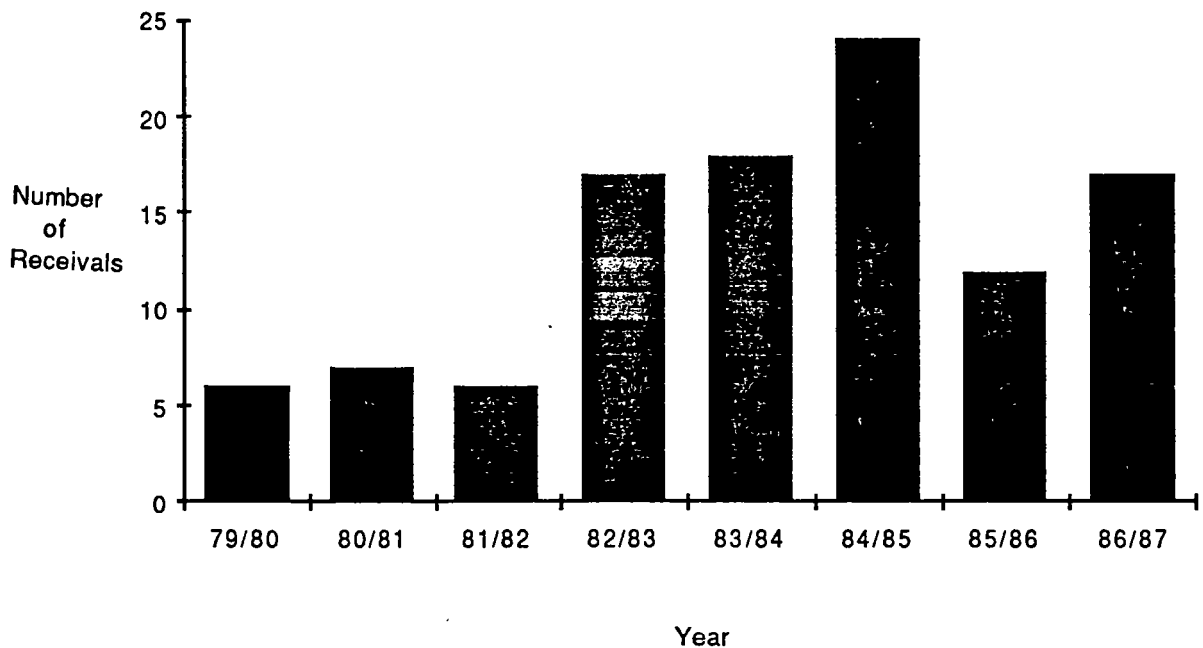


**Source: W. A. Department of Corrective Services**

Offences against justice, including breaches of parole, probation and recognisance, escaping legal custody and hindering police reveal an overall increase. In 1979-1980 only six such receivals occurred. A peak of twenty-four is recorded for 1984-1985 and seventeen receivals took place throughout 1986-1987 (see Table 29).

**Table 29**  
**Total Receivals X Offence Group**  
**Halls Creek 1979-1987**

Justice Offences - Halls Creek 79/87

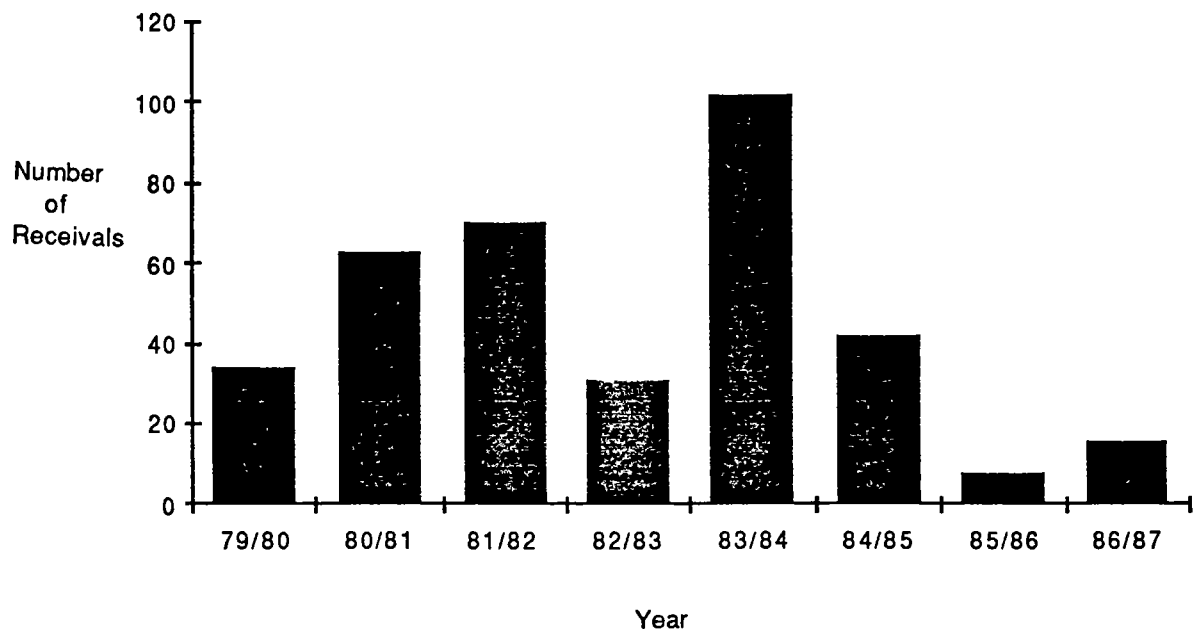


**Source: W. A. Department of Corrective Services**

Table 30 reveals an overall decline in offences relating to the W. A. Liquor Licensing Act. Although 102 offences are recorded for the period 1983-1984 the number has since fallen to 16 throughout 1986-1987 which is just under half the figure for 1979-1980.

**Table 30**  
**Total Receivals X Offence Group**  
**Halls Creek 1979-1987**

Licensing Act Offences - Halls Creek 79/87



Source: W. A. Department of Corrective Services

## Summary of Findings

The above data clearly demonstrates the types of offences for which people in Halls Creek are most frequently apprehended. While patterns for some offence groupings have either remained constant or fallen, those offences associated with 'good order' (i.e. drunkenness, disorderly conduct and unlawfully on premises) have markedly increased.

In each offence category there is revealed an increase during the years 1983-1985, and one is left to speculate on why this should be so. Certainly any increase in population must be taken into account, as should any resultant increase in police strength.

Similarly, the marked decline in offences which relate to the W. A. Liquor Licensing Act, particularly in latter years, might well be explained by the fact that many Aboriginal people now purchase their liquor from a liquor outlet situated in the main street of Halls Creek, preferring to take it away in order to drink. Secondly, the Halls Creek hotel now has two separate bars and, while there is no stipulation about who drinks where, the majority of Aboriginal people are restricted to the front bar (or 'the cage' as it is known) either by dress code or by a better brick wall which demarcates the 'lounge bar' and whites from the majority of black drinkers.

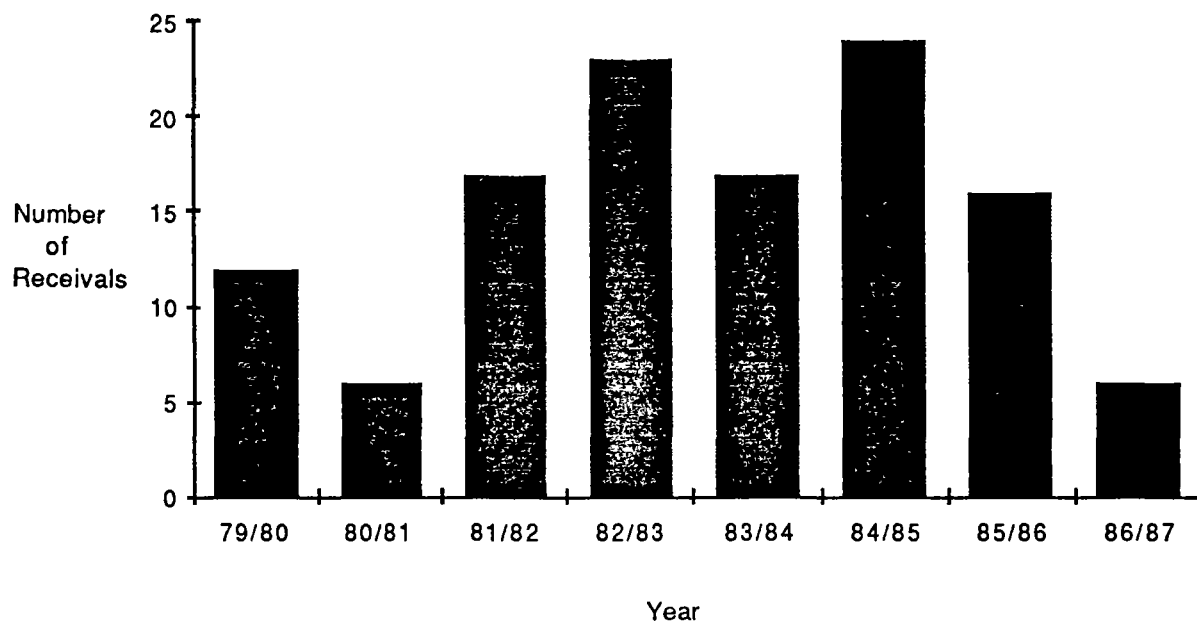
During the first fieldwork period, former National Aboriginal Conference representative for the Kimberley, Mr. Frank Chulung, sought my opinion as to the legality of the dividing wall. Did it, he inquired, constitute evidence of discrimination against Aboriginal patrons?

Together we visited the hotel, speaking with many Aboriginal drinkers. When asked why they did not enter the lounge bar and chose instead to drink either in 'the cage' or outside the hotel, where police were constantly on patrol, there was an almost universal response: they could go in there if they wanted to, but liked it better out the front.

The result of this quasi-segregation is twofold. Firstly, black drinkers no longer offend the sensibilities of local white patrons and tourists. Providing their behaviour is deemed 'acceptable' to the management, police are not called on to intervene and evict them from the premises. Hence the number of offences in this category is reduced. The second consequence is not so favourable. To be drunk in public remains an offence in Western Australia. Therefore, many Aborigines who choose to drink to excess outside the bar and on the curtilage are immediately more visible, and vulnerable to arrest, than if they were inside. The number of good order offences is consequently elevated.

**KUNUNURRA****Table 31****Receivals by Offence Group****Kununurra****1979-1987**

Traffic Offences - 79/87

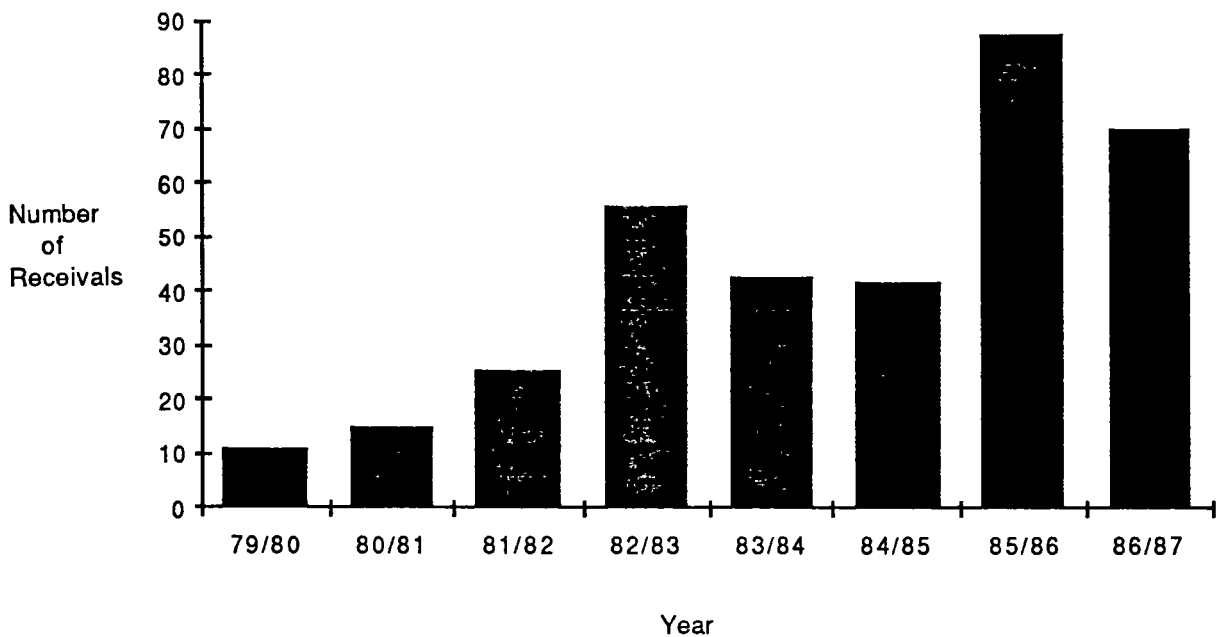
**Source: W. A. Department of Corrective Services**

The pattern for traffic offences in Kununurra is similar to that in Halls Creek. During the nine year period under review, traffic offences rose to peak throughout 1984-1985 followed by a decline until 1987. Traffic offences are now fewer than those recorded for the period 1979-1980 (see Table 31).

Just as is the case in Halls Creek, in Kununurra good order offences show a massive increase. In 1979-1980, only eleven receivals were recorded. By 1985-1986, eighty-eight such cases are revealed (see Table 32).

**Table 32**  
**Receivals X Offence Group**  
**Kununurra 1979-1987**

Good Order Offences - Kununurra 79/87



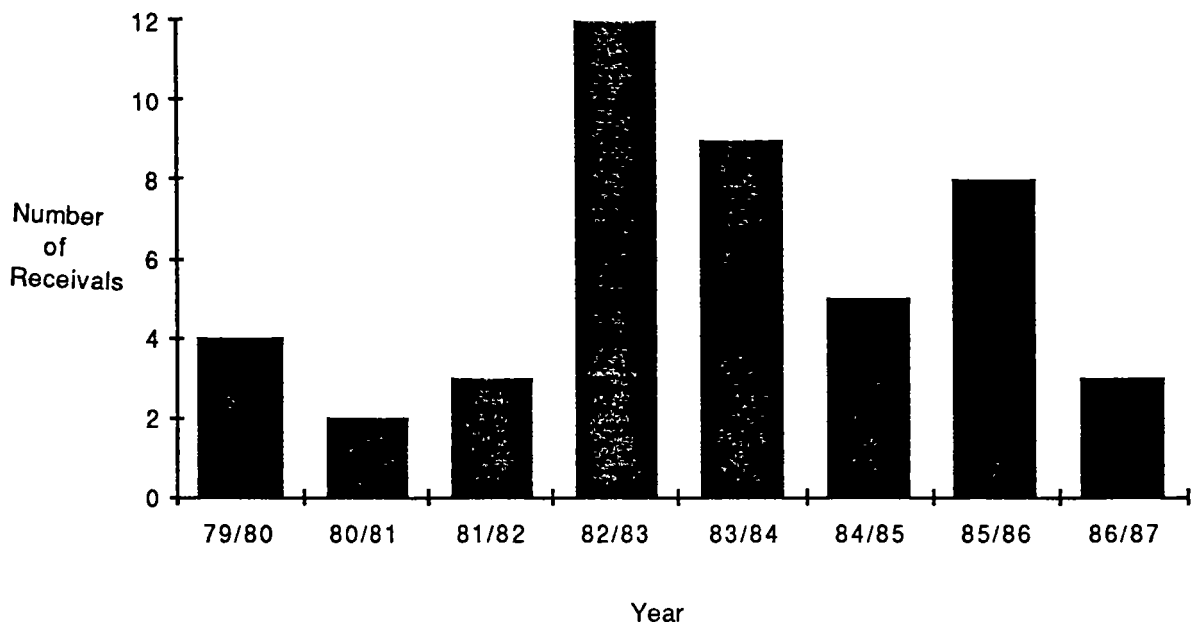
**Source: W. A. Department of Corrective Services**



Table 33 again indicates a decrease in the record of offences against the person. Unlike Halls Creek where this offence category peaked in 1983-1984, Kununurra data shows a marked increase throughout 1982-1983.

**Table 33**  
**Receivals X Offence Group**  
**Kununurra 1979-1987**

Offences Against the Person - Kununurra 79/87

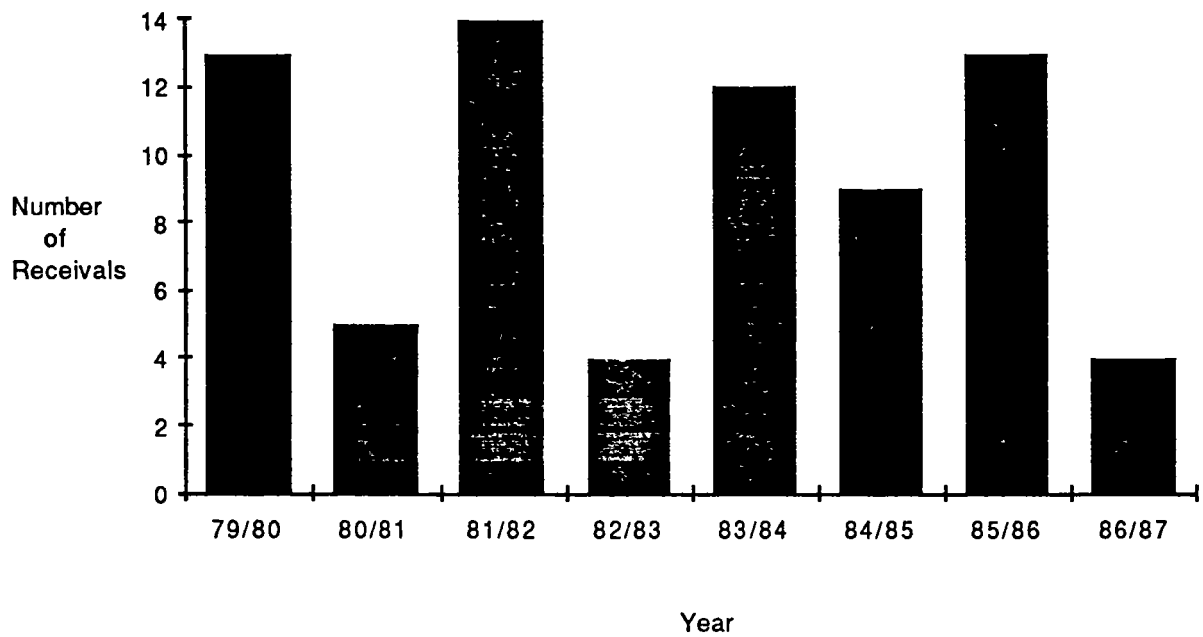


**Source: W. A. Department of Corrective Services**

Likewise, the incidences of offences against property have declined for the period 1986-1987, when only four such cases were reported (see Table 34).

**Table 34**  
**Receivals X Offence Group**  
**Kununurra**

Property Offences - Kununurra 79/87

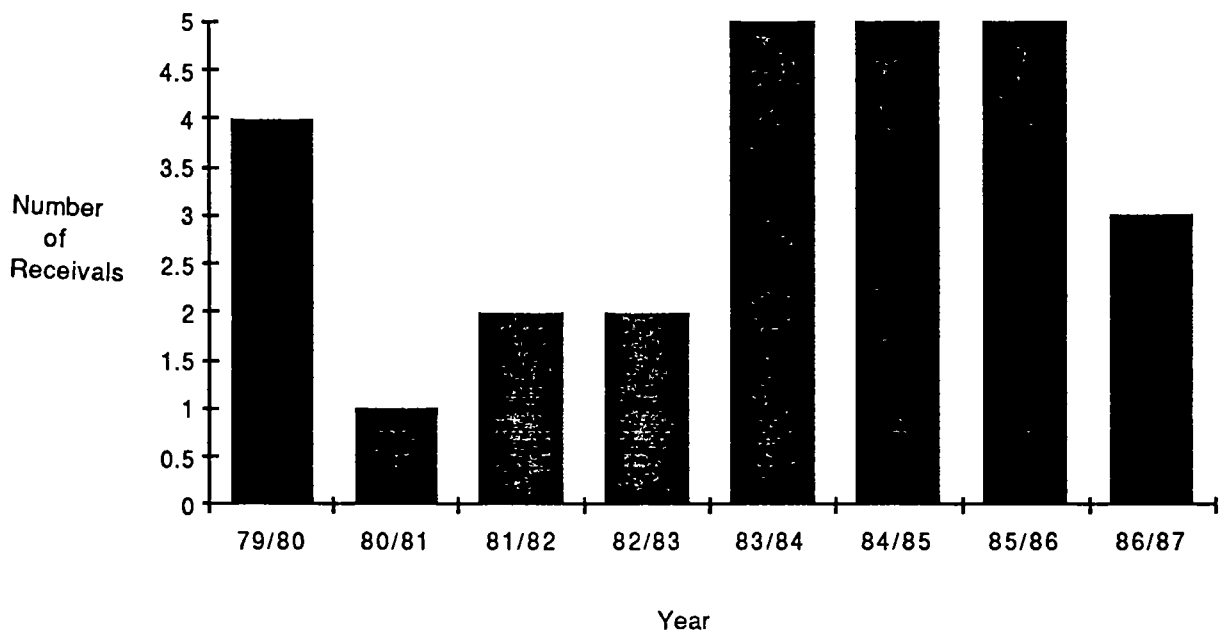


Source: W. A. Department of Corrective Services

Throughout the period 1983-1986 offences against justice remained static, but fell during 1986-1987 (see Table 35).

**Table 35**  
**Receivals X Offence Group**  
**Kununurra 1979-1987**

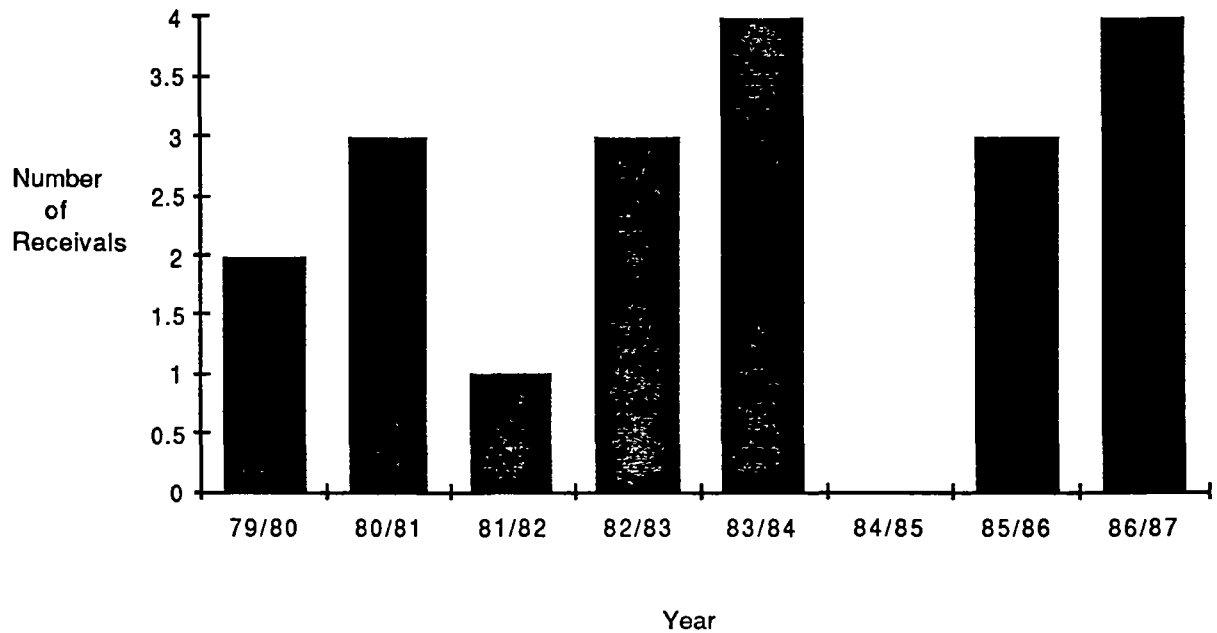
Justice Offences - Kununurra 79/87



**Source: Department of Corrective Services**

**Table 36**  
**Receivals X Offence Group**  
**Kununurra**

Licensing Act Offences - Kununurra 79/87

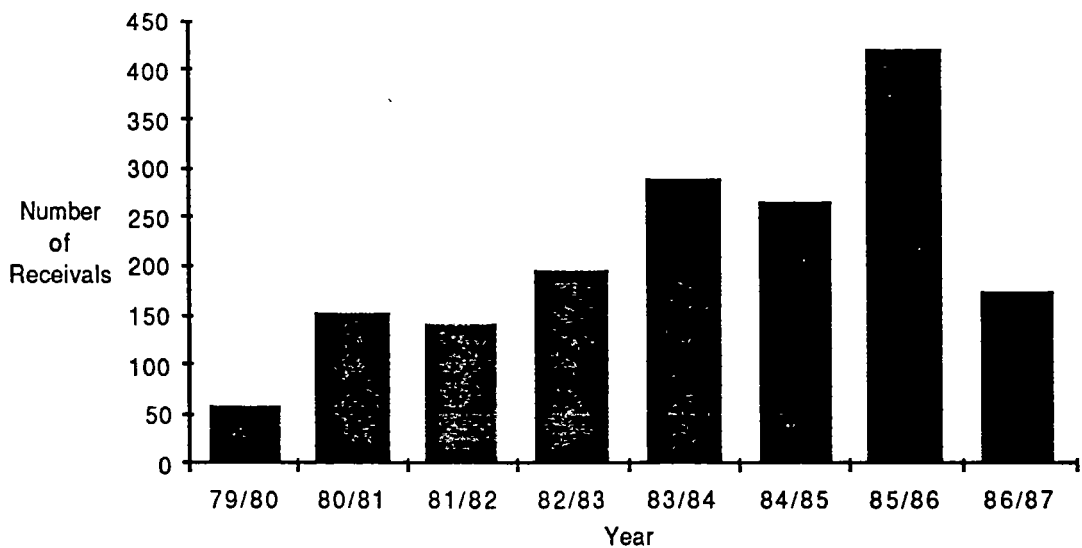


**Source: W. A. Department of Corrective Services**

Table 36 indicates an overall increase in offences which contravene the W.A. Liquor Licensing Act. Considering the difference in population between Halls Creek and Kununurra, however, the number is comparatively low. No figure is available for the period 1984-85.

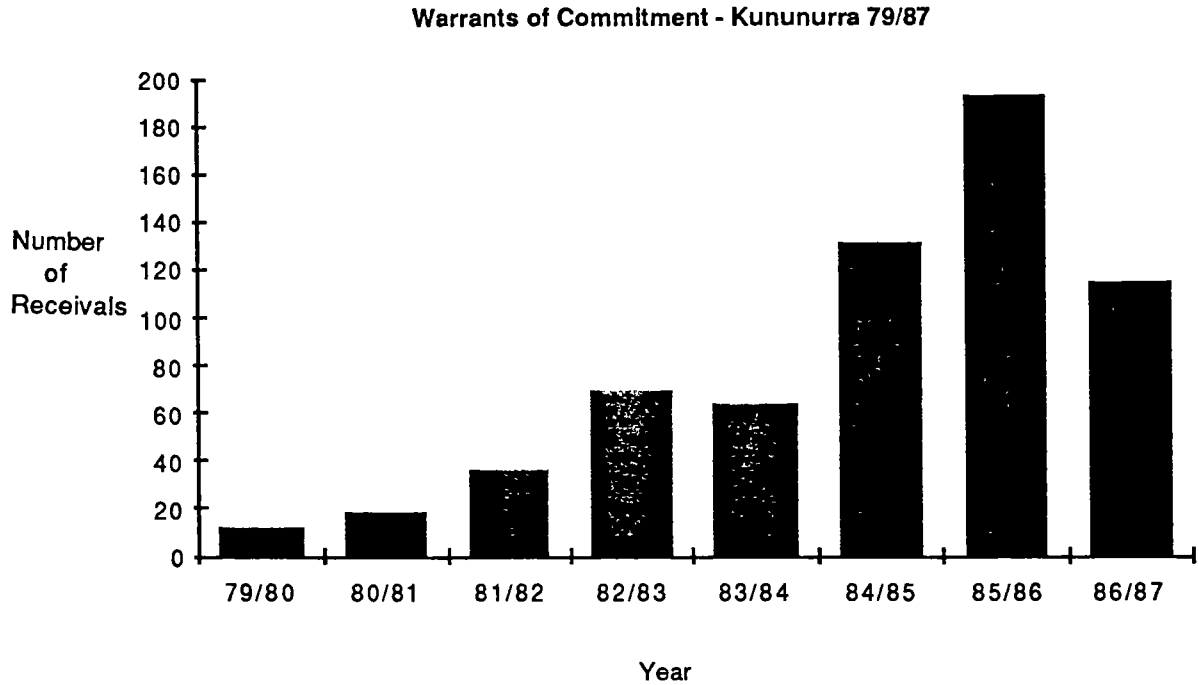
By far the greatest number of receivals in both towns occurs as a result of the issue of warrants of commitment, the reason for which is always non-payment of fines. Tables 37 and 38 show the extent to which people in both towns are in breach of the fines imposed upon them.

**Table 37**  
**Receivals X Offence Group**  
**Halls Creek 1979-1987**  
**Warrants of Commitment - Halls Creek 79/87**



**Source: W.A. Department of Corrective Services**

**Table 38**  
**Receivals X Offence Group**  
**Kununurra 1979-1987**



**Source: W. A. Department of Corrective Services**

### Summary of Findings

The practical dilemma in which the law finds itself in its dealings with Aborigines in towns such as Halls Creek and Kununurra is reflected most in the frequency with which warrants of commitment are issued.

Throughout the fieldwork period, attendance in Courts of Petty Sessions provided evidence of a growing reticence on the part of Police prosecutors and Magistrates to imprison Aborigines. On one occasion the following exchange took place:

- Police Prosecutor: *Your honour, this is the eighth time this month that this defendant has come before the court. She's a habitual drunk and keeps coming around to the cells to talk to the men. She wants to get arrested.*
- Magistrate to Defendant: *Well ... what are we going to do with you? I think we'll have to lock you up for a while and let you dry out; give you some decent food, eh.*
- Police Prosecutor to Magistrate: *With respect, your honour ... it seems a bit strange to punish someone by locking them up when that's exactly what they want to happen.*
- Magistrate to Police Prosecutor: *A case of arrest by appointment is it?*
- Police Prosecutor to Magistrate: *You could say that. The problem is she's old and sick as well, and with all these deaths in custody the last thing we need is for her to die on us.*
- Magistrate to Defendant: *Well in that case I'll just fine you \$40 plus costs and fourteen days to pay.*

The fines were not paid and at the next sitting of the court a warrant was issued. Two weeks later the defendant appeared in court for numerous other good order offences as well as for non-payment of the fine.

On this occasion the magistrate had no choice but to order her to serve a period in detention.

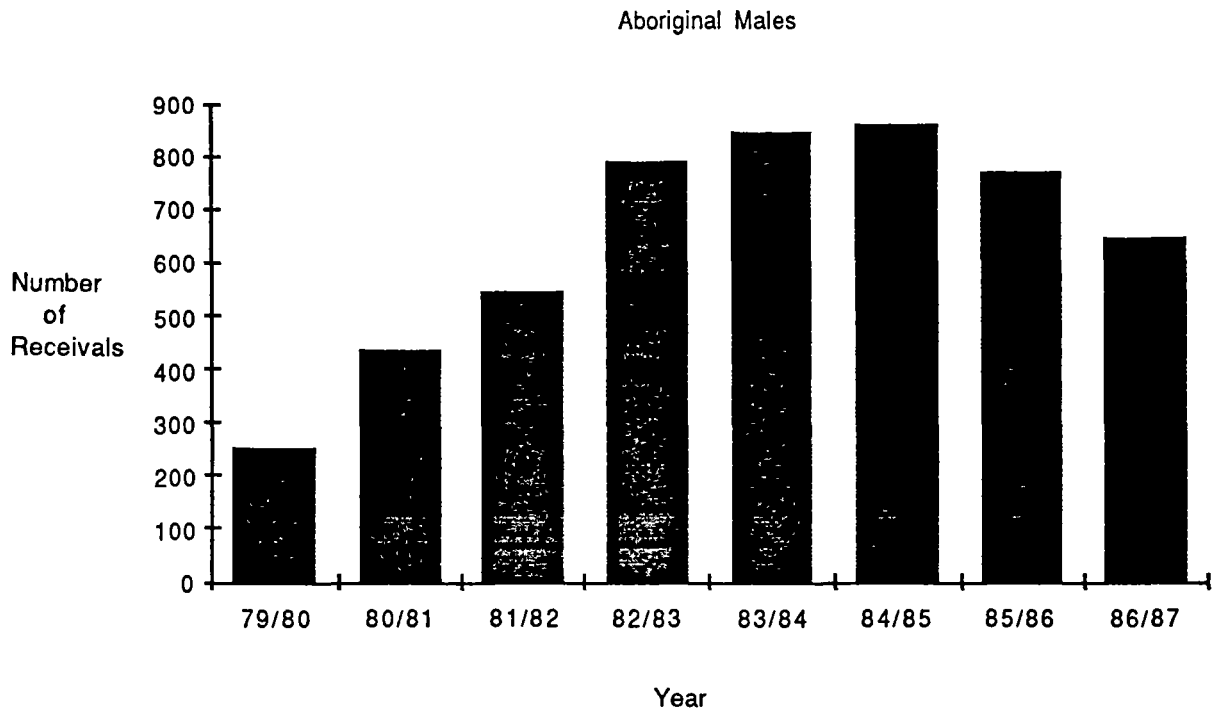
In addition to the problems created by Aborigines who are old and sick, there were two occasions when Aboriginal youths, appearing before the court on numerous charges of drunkenness and traffic offences warned the magistrate that, should he lock them up, they might hang themselves. Both were fined; neither paid the fine and warrants were issued. The youths were subsequently imprisoned for non-payment of fines (fieldwork notes).



**All Receivals by Race and Sex  
Halls Creek  
1979-1987**

The disparity which exists between charge rates for Aborigines and those for non-Aborigines is documented by the data which follow:

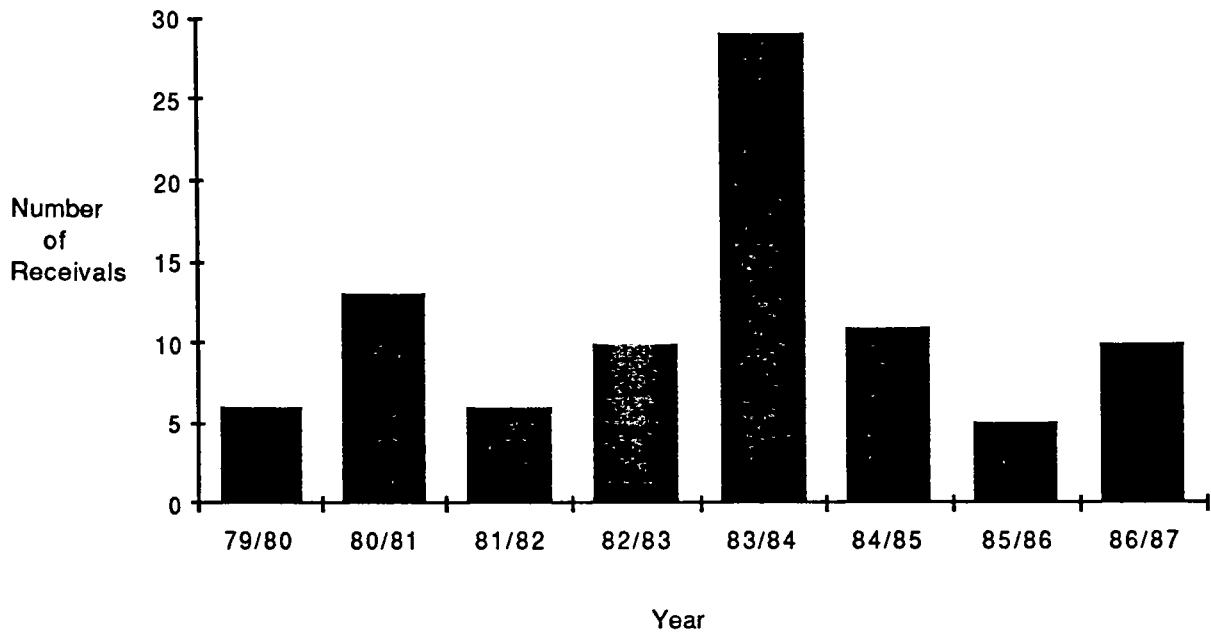
**Table 39  
All Receivals X Race and Sex  
Halls Creek 1979-1987**



**Source: W. A. Department of Corrective Services**

**Table 40**  
**All Receivals X Race and Sex**  
**Halls Creek 1979-1987**

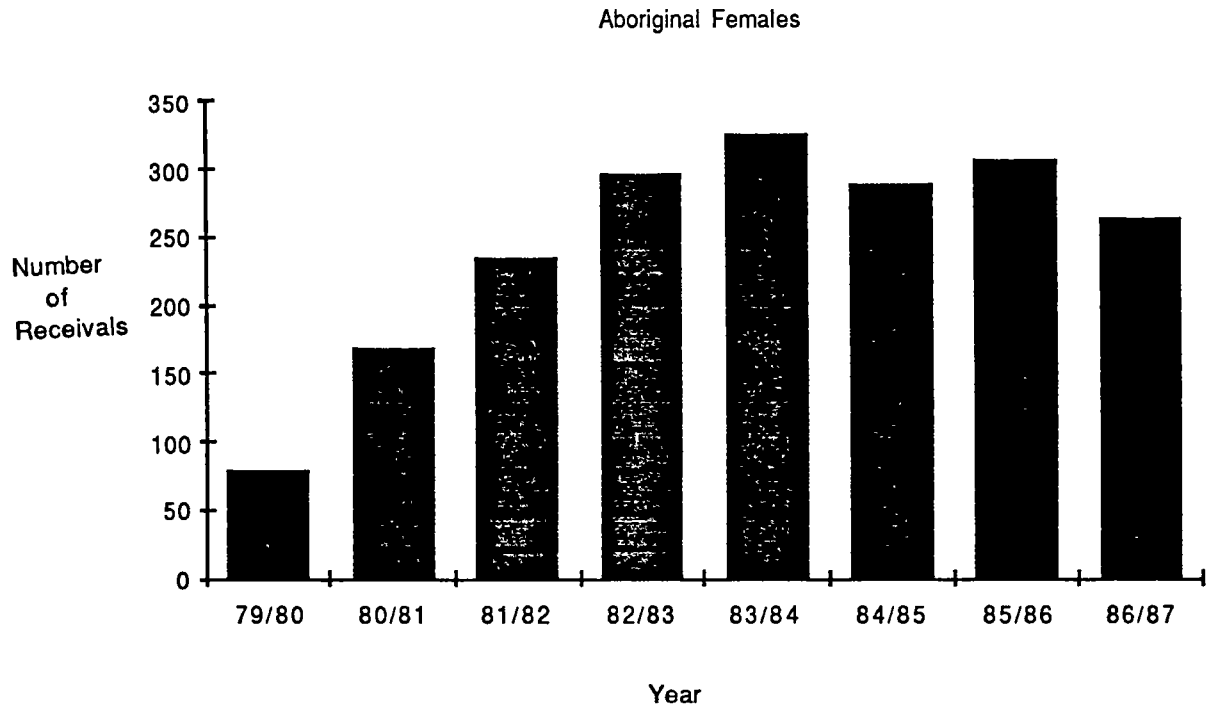
Non-Aboriginal Males



**Source: W. A. Department of Corrective Services**

In 1979-1980, 252 Aboriginal males were received into the police lockup at Halls Creek. During the same period six non-Aboriginal males were detained. By 1986-1987, the imbalance in the ratio is even more evident with 645 Aboriginal males and ten non-Aboriginal males received into the police lockup.

**Table 41**  
**All Receivals X Race and Sex**  
**Halls Creek 1979-1987**



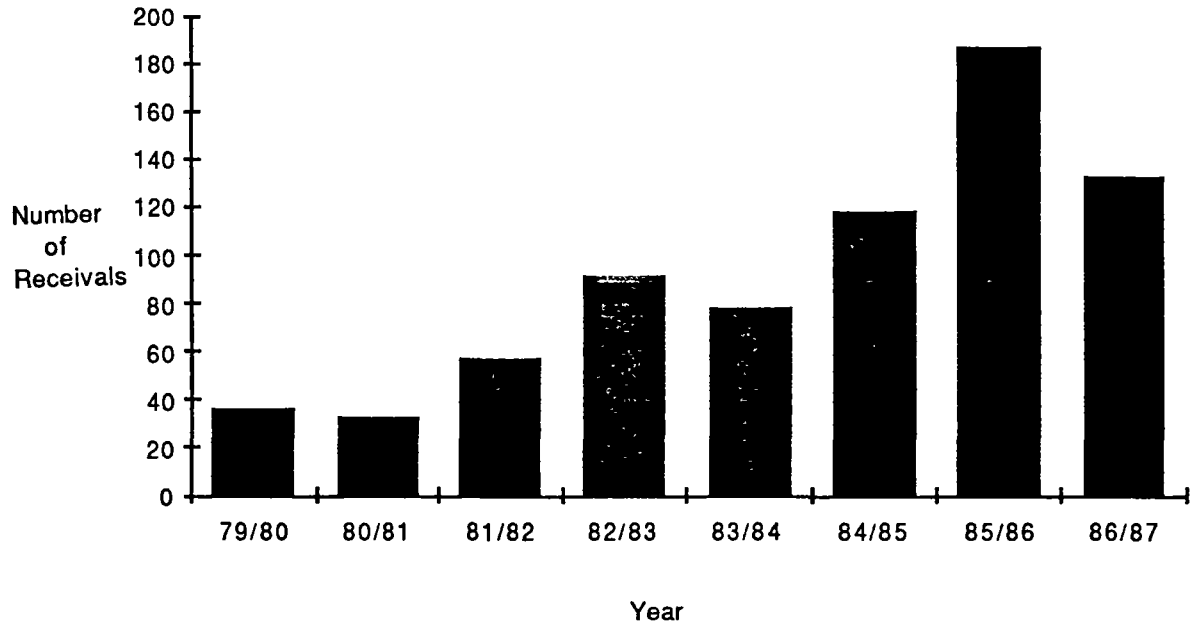
**Source: W. A. Department of Corrective Services**

Table 41 indicates that Aboriginal women fared no better than their male counterparts. They, in fact, comprise 100 percent of the receivals into police lockups during the period under review.

In Halls Creek, where the Aboriginal population is said to number between 40-45 per cent and 60 per cent (subject to seasonal variation), Aboriginal women account for 100 per cent of the women in police lockups and Aboriginal men account for more than 90 per cent.

**Table 42**  
**All Receivals by Race and Sex**  
**Kununurra**  
**1979-1987**

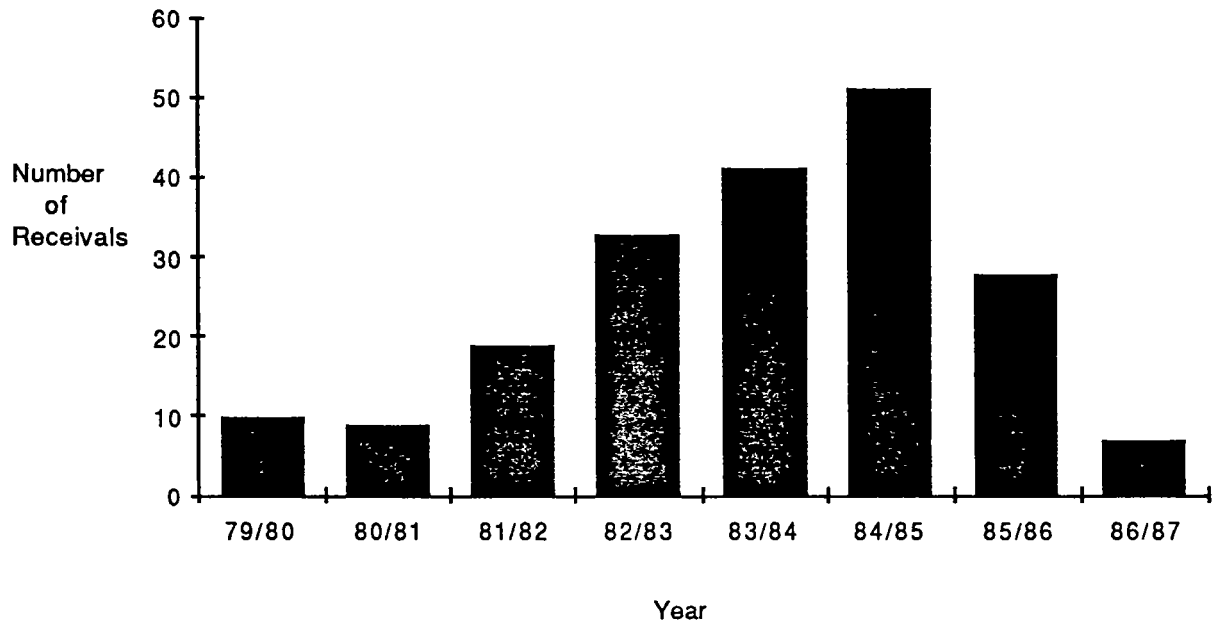
Aboriginal Males



**Source: W. A. Department of Corrective Services**

**Table 43**  
**All Receivals X Race and Sex**  
**Kununurra 1979-1987**

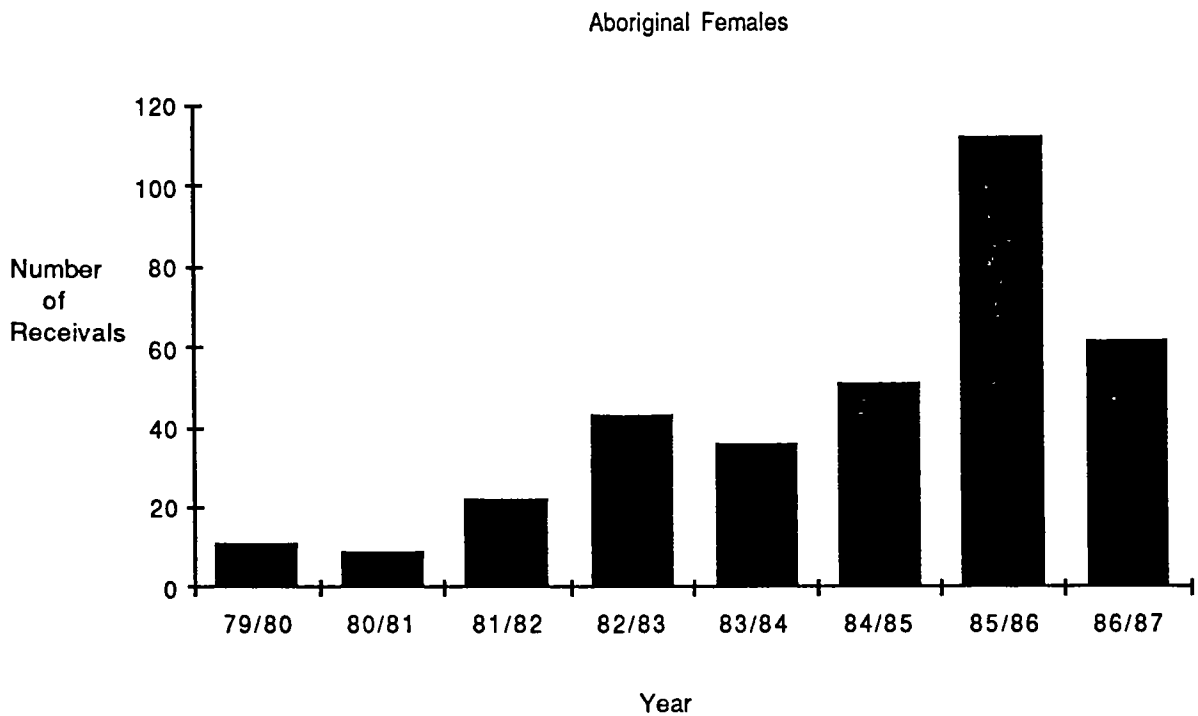
Non-Aboriginal Males



**Source: W. A. Department of Corrective Services**

The situation in Kununurra is little different. In 1979-1980, thirty-six Aboriginal males and ten non-Aboriginal males were received into the police lockup. By 1986-1987 this had risen to 133 and seven respectively (see Tables 42 and 43).

**Table 44**  
**All Receivals X Race and Sex**  
**Kununurra 1979-1987**

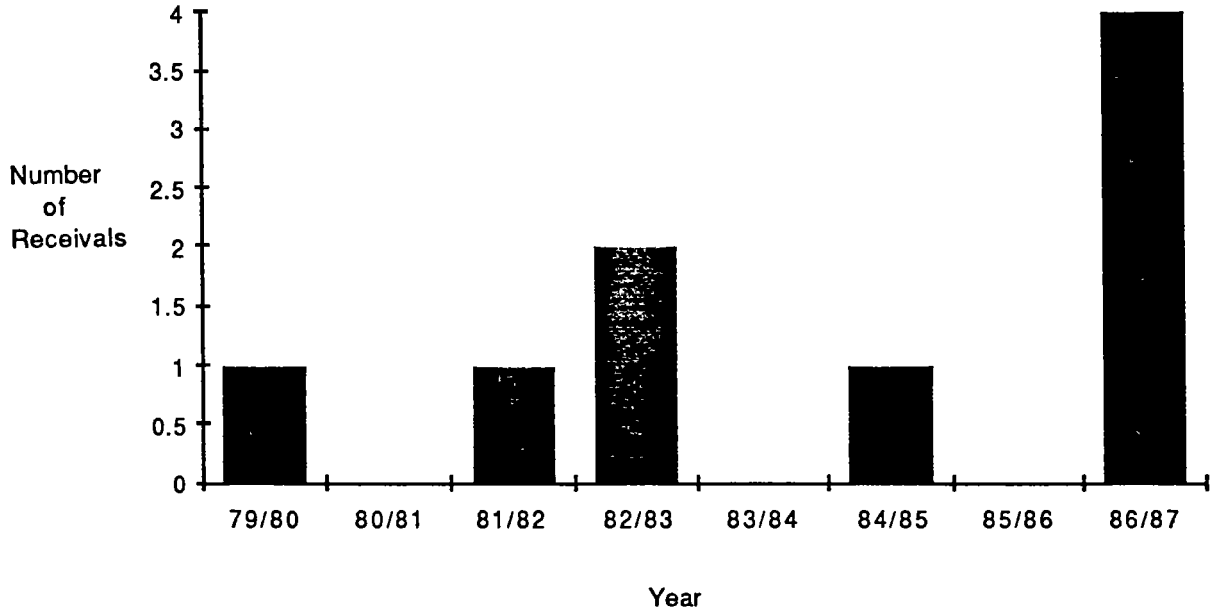


**Source: W. A. Department of Corrective Services**

Throughout the period 1979-1980, eleven Aboriginal women were received into the Kununurra police lockup. By 1985-1986, the number had risen dramatically to peak at 112 (see Table 44).

**Table 45**  
**All Receivals X Race and Sex**  
**Kununurra 1979-1987**

Non-Aboriginal Females

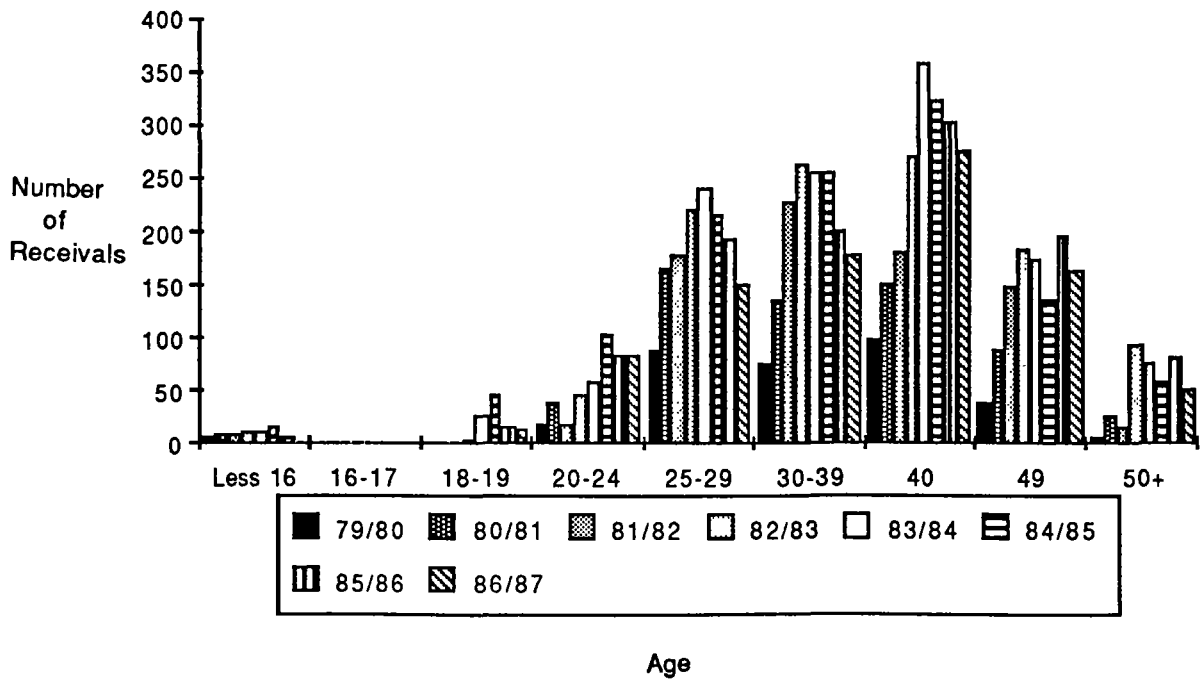


**Source: W. A. Department of Corrective Services**

Aboriginal women not only dominate the figures for Kununurra. There are some years (i.e. 80/81; 83/84; 85/86) when not one non-Aboriginal woman was detained. On every occasion Aboriginal women far outnumber white women. (See Tables 44 and 45).

Tables 46 and 47 indicate that during the period under review, the majority of adult offences in both Halls Creek and Kununurra were committed by those within the age groupings 25-40 years.

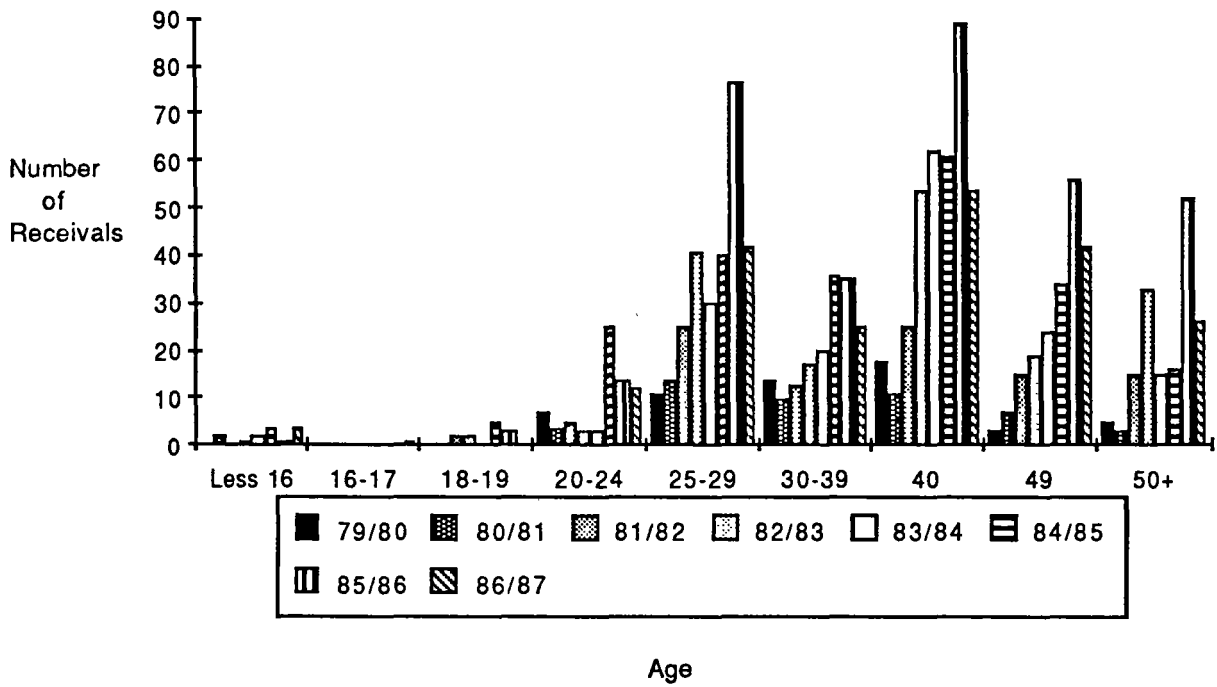
**Table 46**  
**Receivals X Age**  
**1979-87**  
**Halls Creek**



**Source: W. A. Department of Corrective Services**



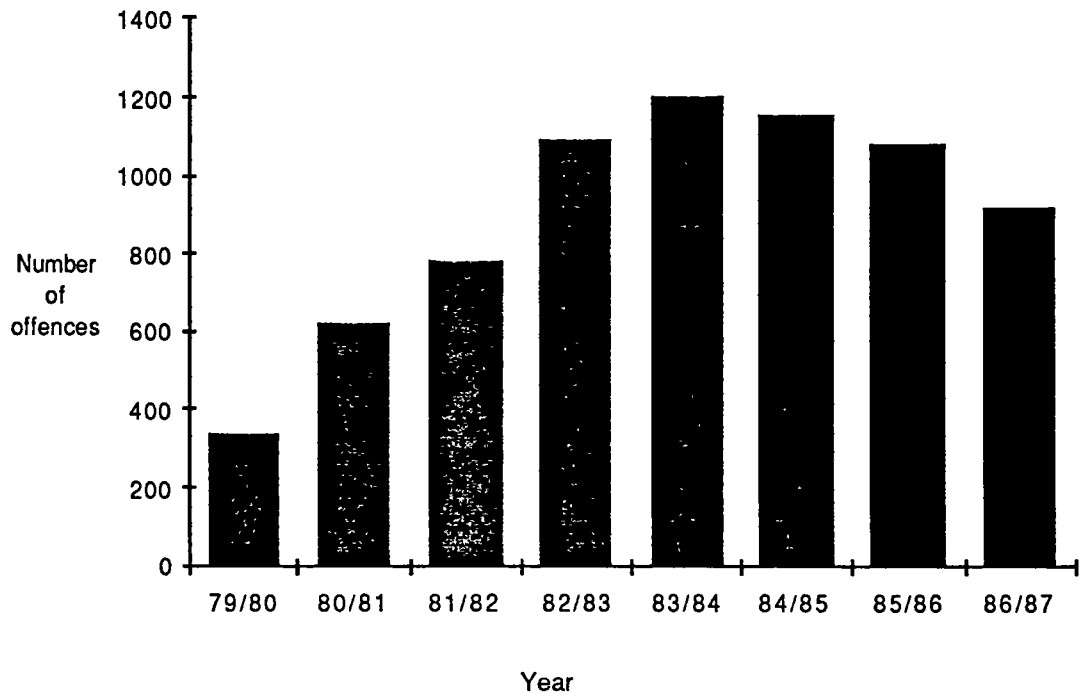
**Table 47**  
**Receivals X Age**  
**1979-87**  
**Kununurra**



**Source: W. A. Department of Corrective Services**

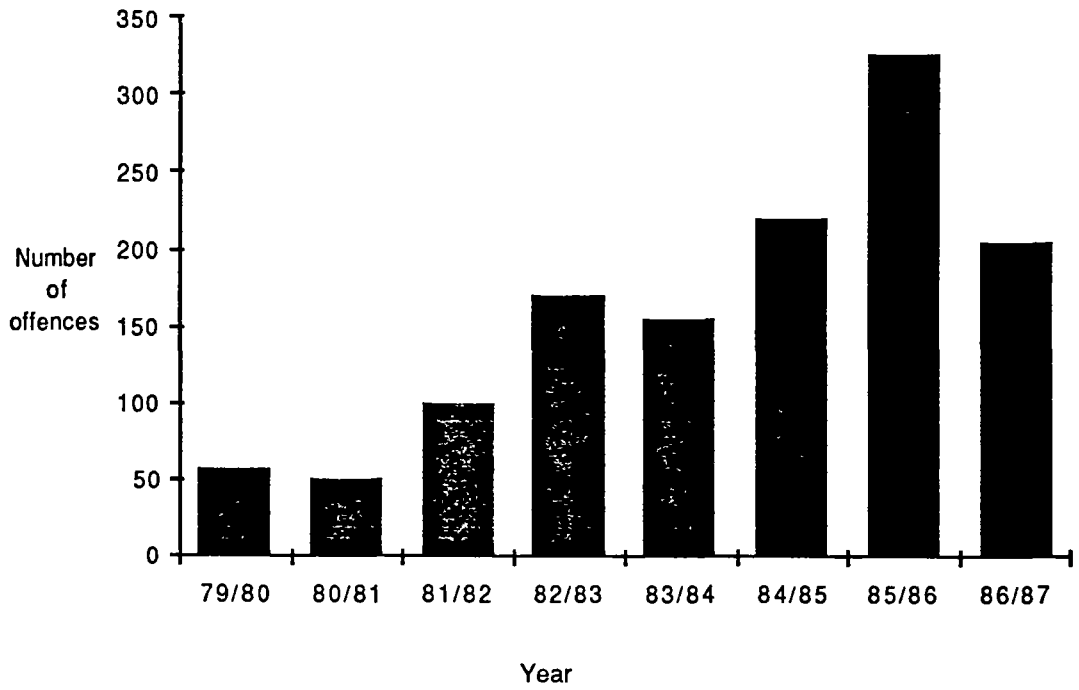
Tables 48 and 49 reveal the total number of offences in both Halls Creek and Kununurra Courts of Petty Sessions for the period 30 June 1979 to 30 June 1987.

**Table 48**  
**Total Number of Offences Per Year**  
**Halls Creek**  
**1979-1987**



**Source: W. A. Department of Corrective Services**

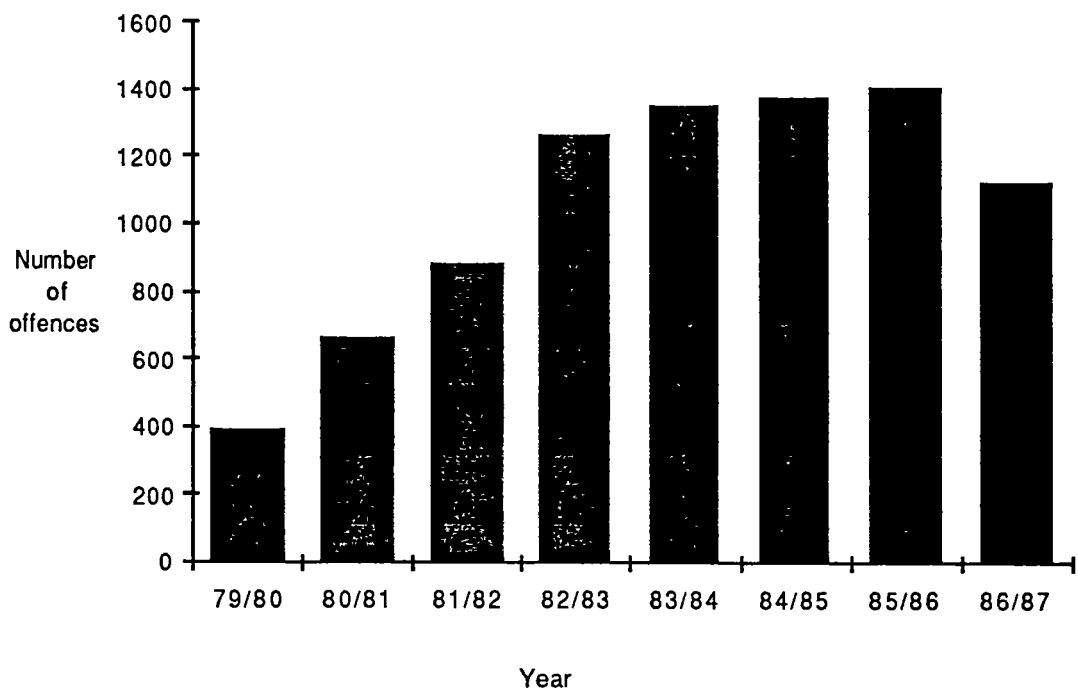
**Table 49**  
**Total Number of Offences Per Year**  
**Kununurra**  
**1979-1987**



**Source: W. A. Department of Corrective Services**

Table 50 amalgamates the figures for the two courts, indicating an overall escalation in offence patterns from 1979 to 1986, together with a decline in 1987.

**Table 50**  
**Total Number of Offences Per Year**  
**Halls Creek + Kununurra**  
**1979-1987**



**Source: W. A. Department of Corrective Services**

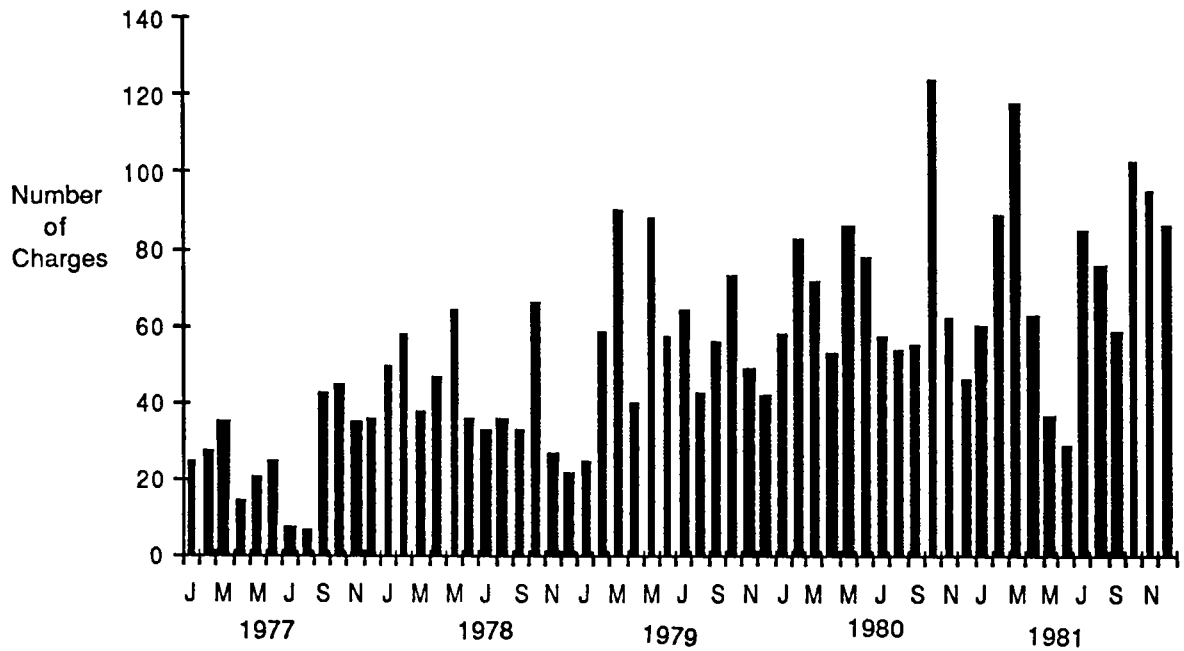
Tables 51 and 52 reveal the over all escalation in crime rates for both Kununurra and Halls Creek.

In Kununurra, yearly offence figures have risen from 323 charges in 1977 to 1635 charges in 1986 representing a massive increase of five hundred per cent in ten years. Even allowing for population increases during that period, it might well be concluded that crime in that town has become an 'industry'.

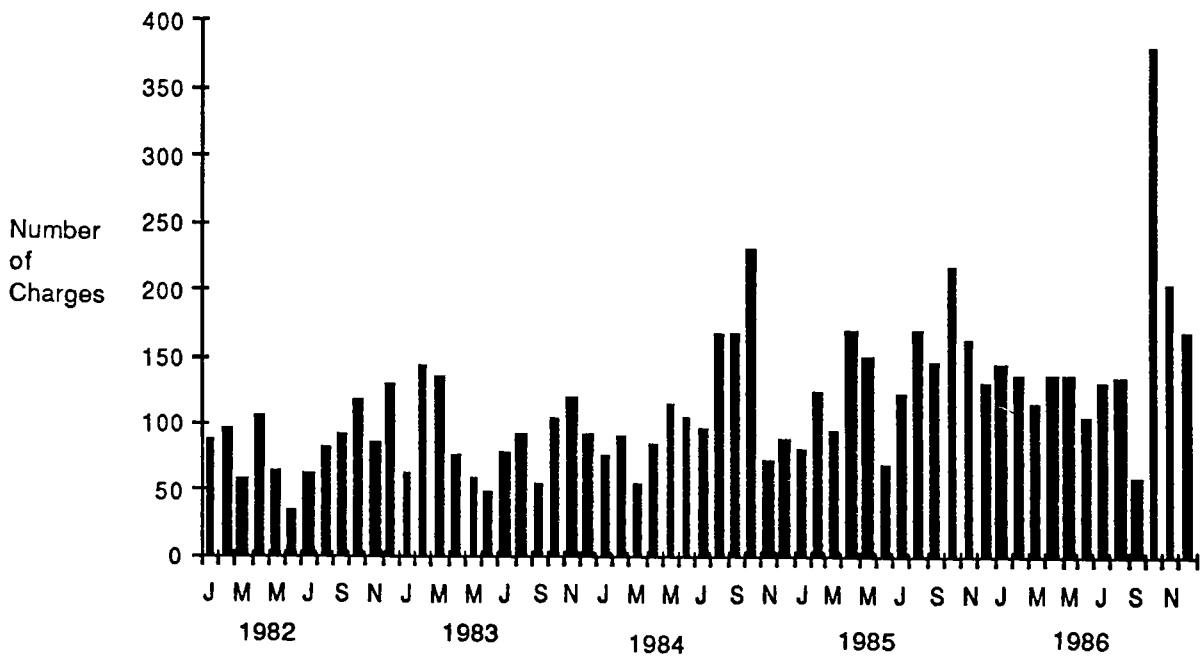
The only charge sheets made available by police in Halls Creek were those for 1986-1987. Even so, it is possible to see an increase in charging patterns. The number of charges recorded for the month of August is particularly notable and it is considered that this is attributable to the fact that both the local show and rodeo are held during this time.

**Table 51**  
**Petty Sessions Data**  
**Kununurra**  
**1. 1977-81**

Petty sessions data for the years 1977-1981 has been calculated on a scale of 0-140. Records for the Years 1983-87 have been calculated on a scale of 0-400.



**2. 1982-86**

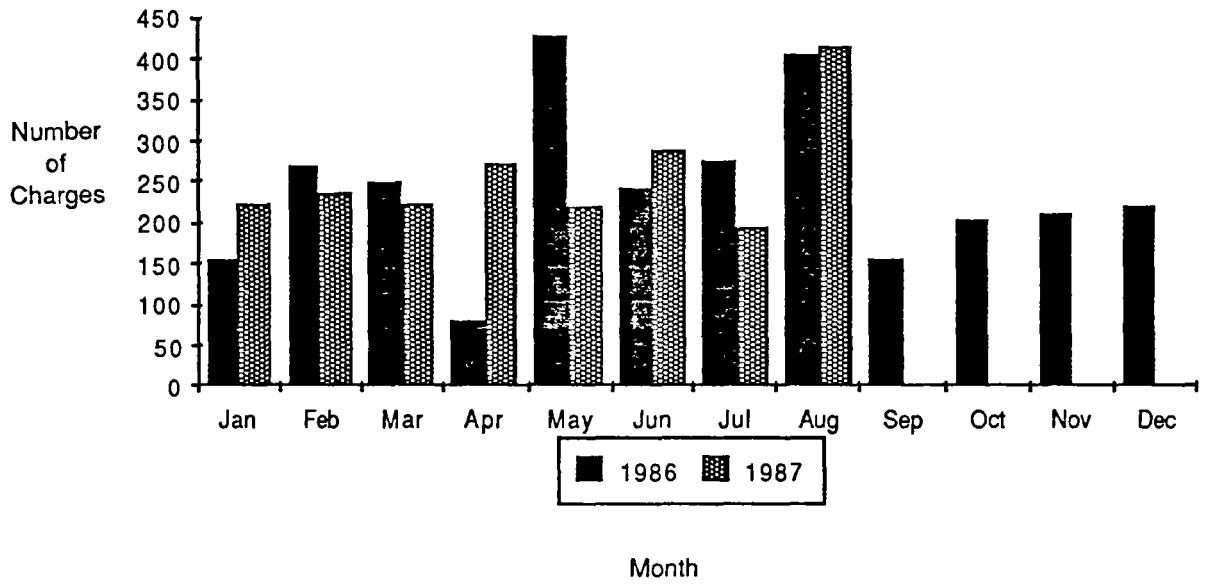


Source: Records held at Court House, Kununurra

Table 52

Petty Sessions Data  
Halls Creek - 1986-1987

Halls Creek - Court of Petty Sessions



Source: Records Held at Halls Creek Police Station

**JUVENILE CRIME: CHILDREN'S COURTS - HALLS CREEK  
AND KUNUNURRA**

In 1978 Gunter toured Central Australia and the Kimberley region on behalf of the Australian Law Reform Commission in order to assess the relevance of Customary Law to the Aboriginal people of the regions and to discuss aspects of policing in certain areas. Included in his itinerary were the townships of Halls Creek and Kununurra.

Five years later, in a paper delivered to an Institute of Criminology seminar, Gunter described the situation in the East Kimberley with particular reference to juvenile crime:

*Perhaps the most painful problem in all the communities was the delinquency of the juveniles. Painful because it disturbed the order of the communities but also the hopes of the senior members of the communities about the continued existence or cohesion of the communities.*

(Gunter, 1984:95)

Almost a decade on, Gunter's conclusion that the situation of Aboriginal juveniles was serious (1948:104) is equally evident. Just as was the case in 1978, in 1987 juvenile crime appears most severe in those communities which are part of white townships.



It is possible to argue that the impact of rapid socio-cultural change in Halls Creek and Kununurra has directly resulted in the many social, cultural and emotional problems experienced by Aboriginal juveniles in both towns. And these problems are most often manifested in patterns of juvenile offending.

To Gunter, in 1978, East Kimberley Aboriginal communities expressed concern about the extent of juvenile involvement in offences relating to motor vehicles, alcohol, stealing, assault and property damage. In addition, many complained of juvenile sexual misconduct - liaisons which produced children who were often not cared for by young mothers and who subsequently were left in the care of an elder relative, usually the infant's grandmother (1984:102).

Gunter's findings are still applicable. In 1987 on the outskirts of Kununurra, the small 'dry area' community of Emu Creek is comprised entirely of older people and young children. When visited during the fieldwork period, community members told of the practice of young mothers, either affected by alcohol or sentenced to institutions or prison, leaving their young children to be raised by them (pers. comm.). 'This way we can teach them the old ways', explained one community member (fieldwork notes).

But for those children who either don't have or don't want the 'old ways'; for those who experience the ongoing effects of social, cultural and emotional upheaval; for those who envy what they don't have and can't get by legitimate means, recourse to juvenile crime leads them to tread a well-worn path to the courts.

By accessing records of children's court proceedings in both Halls Creek and Kununurra, it became possible to 'plot the course' taken by many Aboriginal children, to see them enter the court register, appear and reappear in the records and then disappear - only to emerge again in the records of courts of petty sessions. Many have 'graduated' to now be detained in southern jails. Others have spent prolonged periods in juvenile detention centres in Perth.

One social worker in Halls Creek recalled that of all the cases she had dealt with - and they numbered thousands - she had seen only two 'success stories' where the children concerned 'got off the treadmill' and 'did something with and for themselves' (pers. comm.)

Writing in the **Sydney Morning Herald**, Rosemary O'Grady describes the situation in which many juvenile offenders find themselves.

*If you are a Kununurra kid who has been involved in a serious offence, you are sent away from home a distance equivalent to that from Melbourne to Perth ... There will*

*be no family visits ... the Kimberley kid on his way to Longmore in Perth, is facing a period of acute loneliness. It is harsh punishment ...*

(S.M.H., 16/11/87:13)

O'Grady's summation was part of a call to utilise the former leprosarium at Derby as a detention centre for juvenile offenders, thereby keeping them closer to home, and allowing for the possibility of family contact: a call which the West Australian government continues to ignore:

*Penal servitude, even for children, is not and never was meant to be harsh or unusual. That is cruelty, not justice. But who can believe it is not cruel to send children more than 2,000 kilometres from home to be kept in custody? To treat them so harshly will not make them good ... All it requires is a little political will - exercised in favour of those who have little political power ...*

(S.M.H., 16/11/87:13)

One Kununurra resident who does not believe the incarceration of children in Longmore or Nyandi to be either cruel or effective writes, in the local newspaper:

*Car theft and general vandalism by young native children has Kununurra residents talking of forming vigilante groups ... Something has to be done. This trash has been raping the area for too long ... The police do their job but the dual justice system then takes over and the 'naughty boy' and 'don't do it again' and 'he is underprivileged*

*because he is black' excuses become the order of the day ... How do you think these people feel when they see those responsible - with hundreds of convictions for the same thing - get off with a trip to a holiday home in Perth ... as their only punishment? Especially as the criminals and their parents are all kept by the taxpayer in or out of any institution ...*

(Kimberley Echo, 2/2/85:85)

The same man, when interviewed by this writer, reiterated his previous opinion and 'defended' his position:

*We don't have much trouble with our white kids ... It's not because the coppers choose to turn away, the kids are just not like that. They see so much crime amongst the blacks that it turns them off and with the result that the only major crime here is 99% of the Aboriginal kids ... There are a lot of do-gooders running around this country trying to brainwash these children into believing they're better than anyone else ... that it's their country and they can do what they like with it ... That's my feelings on it and that's the reason when they go to the courts they needn't worry because they get a holiday in Perth which they love, you know ... I've photographed them coming out of that court house there with grins a mile wide on their face after being sentenced, so they're not the least bit worried about it ...*

(Transcription of recorded interview 10/8/87)

Writer and lawyer O'Grady sees it differently when she describes the reaction of one young offender:

*I have seen an adolescent, immature young man, previously cocky, reduced to terror at the realisation that he was sentenced to another six months at Longmore ...*

(S.M.H., 16/11/87:13)

Certainly those young offenders interviewed in the course of this study lent support to O'Grady's observations. When asked why they committed offences many said it was 'for something to do'. Others, when questioned about repeated break and enter offences at the local school in Halls Creek said they didn't like school or the teachers; that they (the teachers) were 'apart' (pers. comm.). However, when asked for their opinions on being sent away to either Longmore or Nyandi the reaction was, without exception, that they didn't want to go (fieldwork notes). Those who had been, did not want to be sent away again.

Among those most closely associated with juvenile offenders - the staff employed by the Department of Community Services in both Halls Creek and Kununurra - opinions vary as to the reasons for the extremely high proportion of Aboriginal offenders. Some argue that the children concerned are seeking attention - an explanation which is seen to be particularly relevant to those who have been left in the care of elderly relatives. These children, it is argued, are no longer subject to the strict controls once exercised by elders. Others posit the belief that the children are 'passive recipients of what is happening to them'; or that they may tolerate for years the social and cultural dislocation evidenced by their parents only to ultimately emulate the same behaviour patterns (pers. comm. D.C.S. Halls Creek). Still others speak of selective policing practices and overt police harrassment of young blacks.

In both townships the present education system is seen by welfare authorities and Aborigines alike to be irrelevant to Aboriginal children's needs. Truancy levels are extremely high, and in Halls Creek the social workers firmly believe there is a need for Technical and Further Education level courses so that education might be made relevant. Such courses would equip Aboriginal youth with skills required in an already highly competitive employment market.

But in Halls Creek there is no industry, little other work for Aborigines and a high degree of unbridled racism. In Kununurra the in-migration of mining personnel and their families has resulted in school curricula being structured more and more towards the wants and needs of white children. Education authorities are at pains to 'lift the standard' of education in order to cater to the white populace. Thus, lacking any power which might accrue through access to education, Aboriginal children are marginalised both within the school and without.

Whether the high rate of Aboriginal juvenile offending in Halls Creek and Kununurra is the result of boredom, attention-seeking, envy or malice is a question which bedevils welfare authorities and many concerned Aborigines alike.

In a move to stem the rate of offences a great deal of initiative has been shown. The opening of the Warringarri drop-in centre in Kununurra, and its use by Aboriginal youth, saw a decline in the offence rate. However the centre was forced to close when the building was sold. In November 1986 the Kununurra Youth Centre was opened. The centre was built as a response to the high offending rate by juveniles in the town and funded by a grant of \$10,000 from the Department of Community Services. The money was used to purchase a demountable building which is now situated on land leased from the Wyndham/East Kimberley shire.

The youth centre is designed to be a place where young people feel welcome; where they can meet with friends and talk with court officers and youth workers, in an effort to build trust (pers. comm.).

Aboriginal youth workers have also attempted interventionist practices in that juveniles who repeatedly offend, or who have been placed on Community Service Orders by the court, are taken out of town to spend periods on Aboriginal owned pastoral leases. In doing so the children are removed from an environment which induces criminal behaviour.

For a time the program worked. However one Aboriginal youth worker, frustrated by more recent attempts which have failed, indicated some of the difficulties:

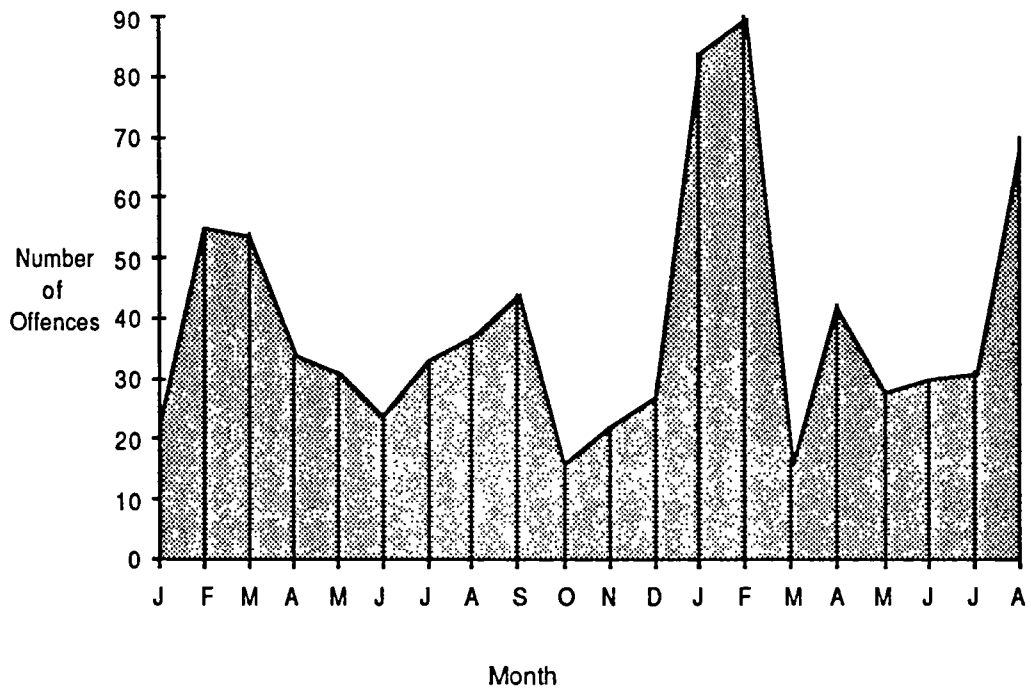
*... while they're out there (on the stations) its O.K. ...  
Mostly no grog places ... but then the old people come into  
town for food and things ... kids come in too and they stay  
in. Next thing, more trouble.*

(Transcription of recorded interview, 7/8/87)

Unfortunately in Halls Creek all attempts to develop a support service similar to the youth centre in Kununurra have been frustrated by the local shire. Juveniles in that town continue to have nowhere to go and nothing to do (pers. comm.) The consequences of this, for both towns, is reflected in the court figures which follow.



**Table 53**  
**Juvenile Offending**  
**Halls Creek**  
**Jan 1986 - Aug 1987**

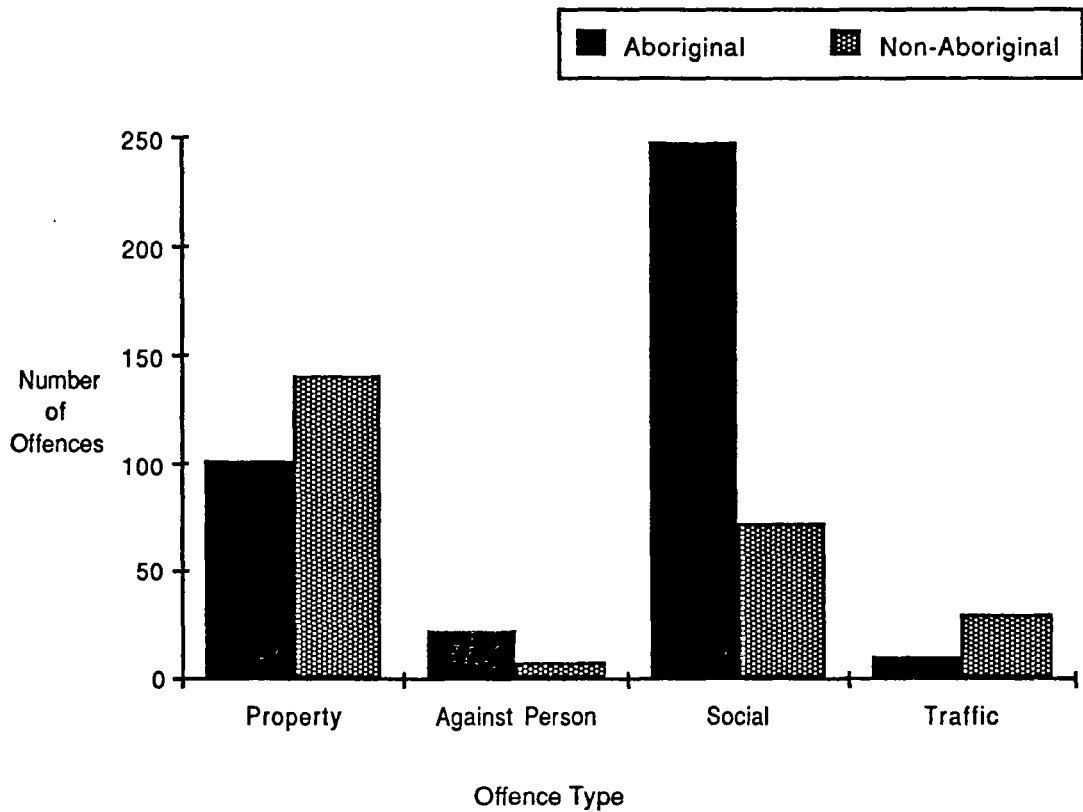


**Source: Department of Community Services, Kununurra**

Table 53 indicates significant trends in the pattern of offending by juveniles in Halls Creek. Firstly, the period 1986-1987 shows an overall rise in the number of offences committed. Secondly, there are quite distinct seasonal variations to the pattern. Both the wet season and school holidays bring steep increases to the offence rate.

The class of offences with which Halls Creek juveniles are charged have been divided into four categories: i) those which involve property; ii) offences against the person; iii) social offences and iv) traffic offences. Table 54 shows that whereas in 1986 social offences accounted for most crime (i.e. drunkenness, illegally on licenced premises, disorderly conduct, obscene language etc.), in 1987 property offences were the prime concern.

**Table 54**  
**Juvenile Offenders**  
**Halls Creek**  
**By Class of Offence**  
**Jan 1986 - Aug 1987**  
**1987 Figures are to 31/07/87**



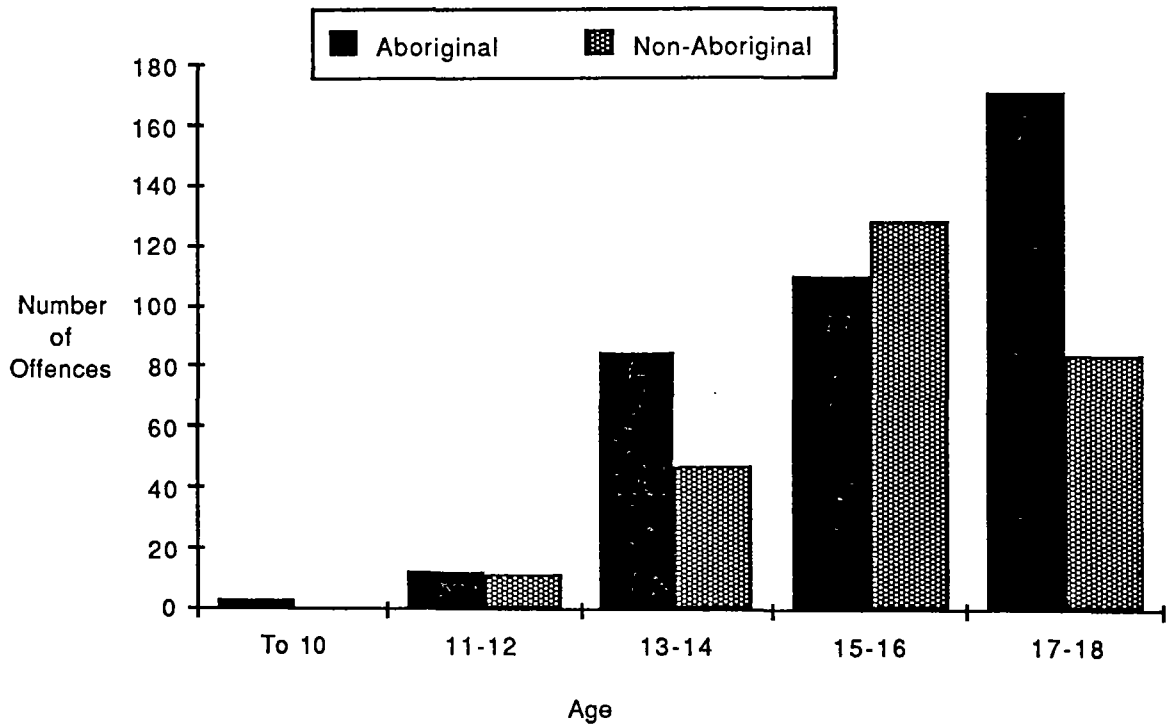
**Source: Department of Community Services, Halls Creek**

Although the figures for 1987 do not involve the whole year, further contact with the Department of Community Services revealed this trend to have continued.

**Table 55**  
**Juvenile Offenders**  
**Halls Creek**  
**By Age Group**

**1987 Figures to 31/07/87**

Total Number of Offences	- 1986	382
	- Aboriginal	375
	- Non-Aboriginal	7
Total Number of Offences	- at 31/07/87	251
	- Aboriginal	247
	- Non-Aboriginal	4



**Source: Department of Community Services, Kununurra**

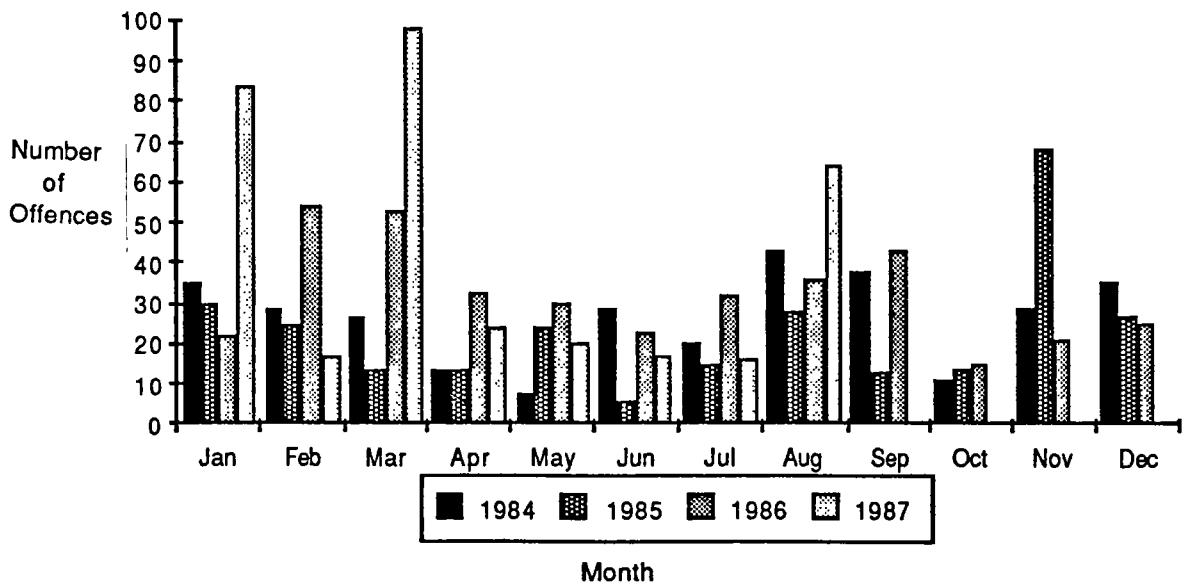
Two factors become evident by reference to Table 55. The first is that the majority of offences are committed by juveniles

between the ages of thirteen and seventeen. Secondly, during the nineteen month period under review, of a total 633 recorded offences, 622 were attributed to Aboriginal juveniles.

Court records held at Halls Creek police station indicate the racial origin of all offenders. In accessing these records it was possible to compile the following table which indicates the chronicity of the offending pattern over a period of three years and eight months. Throughout 1984 and 1985 all offenders were identified as 'A' for Aboriginal. In 1986 seven offenders were identified as 'E' for European. By the time the records were taken (5.10.87), September figures had not been entered. However, to the end of August 1987, four offenders had been identified as European. All others were Aboriginal Juveniles.

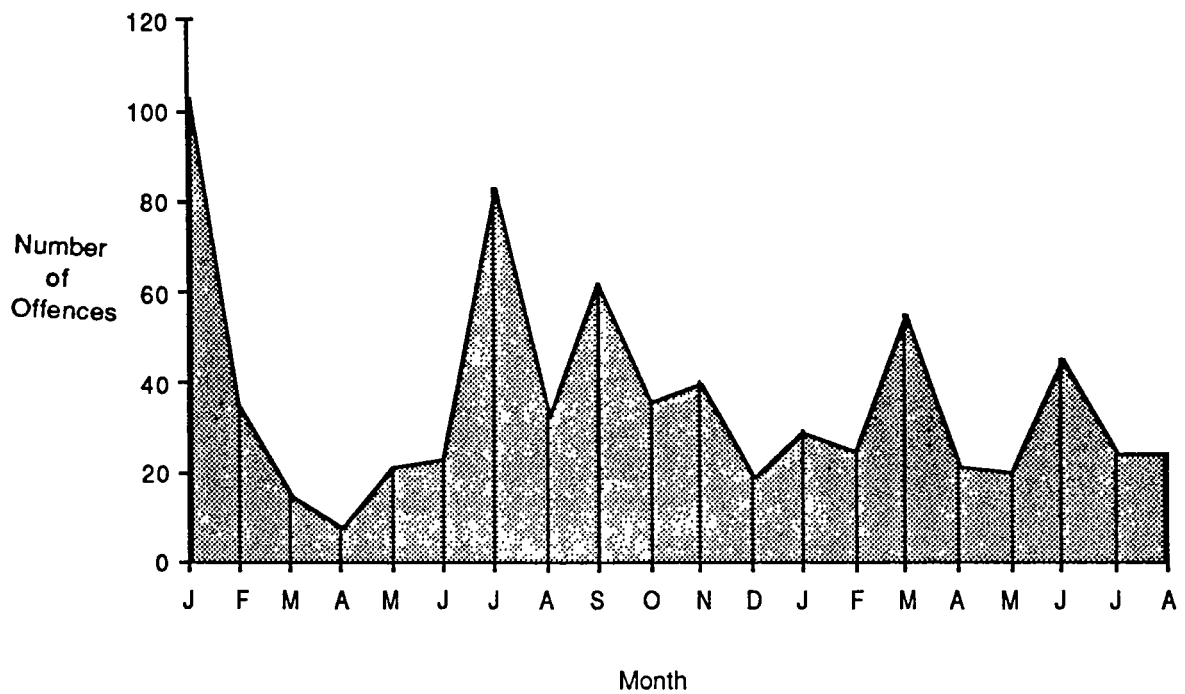
**Table 56**

Halls Creek - Children's Court



**Source: Records held at Halls Creek Police Station**

**Table 57**  
**All Offences**  
**Juvenile Offending**  
**Kununurra**  
**Jan 1986 - Aug 1987**



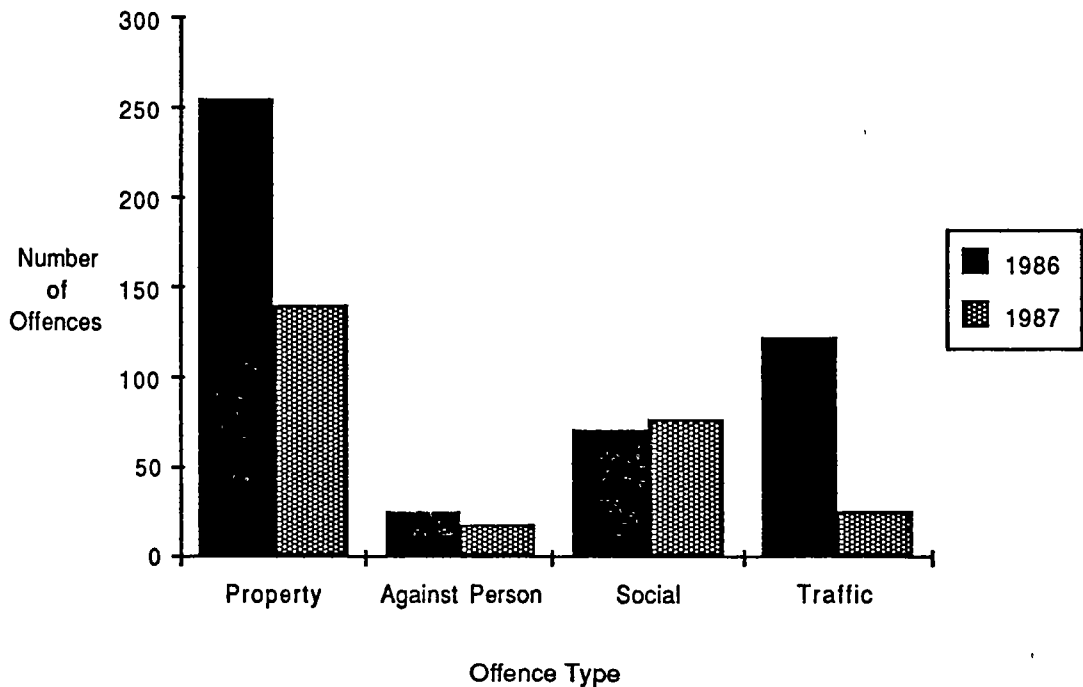
**Source: Department of Community Services, Kununurra**

The pattern in Kununurra is somewhat more positive. While it might well be argued that the level of juvenile offending is still far too high, Table 57 does indicate an overall decline during the period under review. School holidays and the influence of the wet season are still evident, however to a lesser extent than obtained in

Halls Creek. It must also be noted that not all cases come before the court in the same month in which the offence/s take place. This is particularly the situation in Halls Creek where children's court sittings are dependent upon the arrival of the magistrate.

When considering the pattern in Kununurra by class of offence, there is seen to have been a decline in the number of property offences between 1986 and August 1987. Social offences, on the other hand, increased. By the time these figures were taken there had already been more social offences in eight months of 1987 than for the whole of 1986 (see Table 58).

**Table 58**  
**Juvenile Offenders**  
**Kununurra**  
**By Class of Offence**  
**1987 Figures are to 13/8/87**

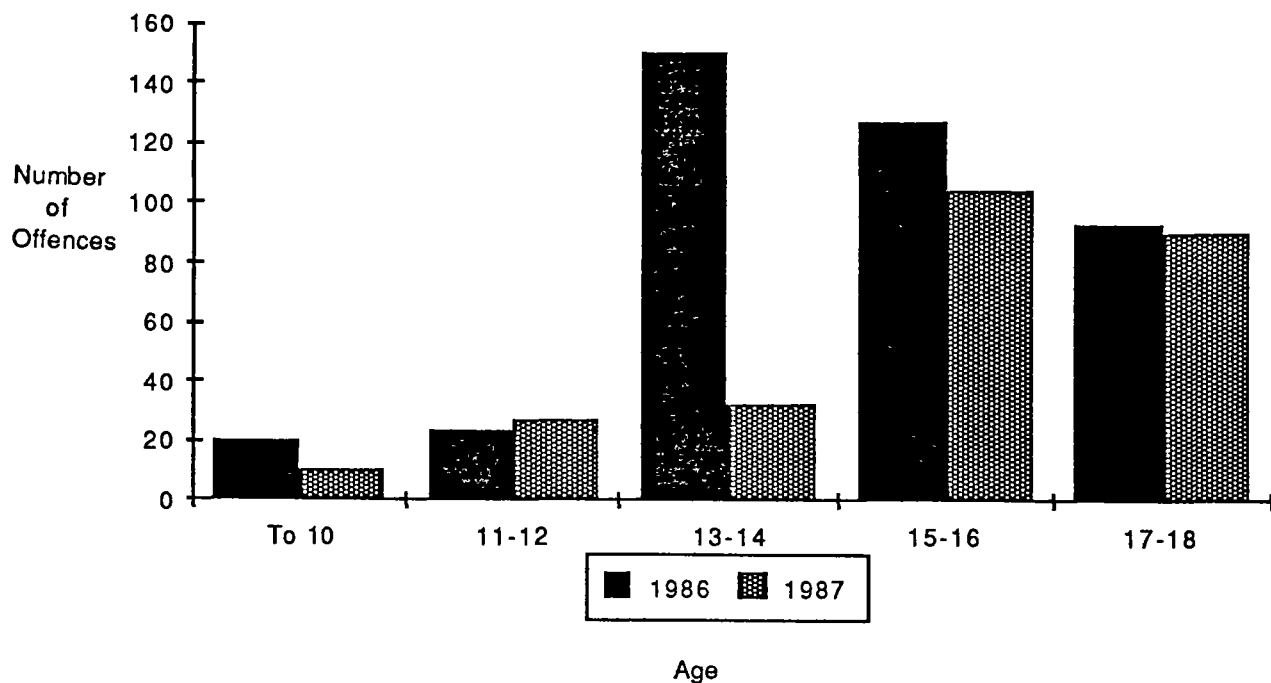


**Source: Department of Community Services, Kununurra**

**Table 59**  
**Juvenile Offenders**  
**Kununurra**  
**By Age Group**  
**1986-1987**

**1987 Figures to 13/08/87**

Total Number of Offences	- 1986	443
	- Aboriginal	392
	- Non-Aboriginal	51
Total Number of Offences	- at 13/08/87	261
	- Aboriginal	246
	- Non-Aboriginal	15



While the overall age of offenders in Kununurra is similar to that of Halls Creek, it is also apparent that there is a greater



percentage of offenders among the very young, particularly those in the under ten and up to thirteen years age bracket. Again, Aboriginal offenders far outnumber non-Aboriginal juvenile offenders. Of the 694 offences recorded, 629 were recorded against Aboriginal children (see Table 59).

Kununurra has a separate Court House with a resident Clerk of Courts, and unlike the method of recording in Halls Creek, the racial origin of offenders is not registered.

When initial contact was made with the Clerk of Courts in Kununurra my intention to enlist the help of a local Aboriginal man in order to identify the surnames of Aboriginal offenders was made clear. The suggestion, however, was not favourable to the Clerk of Courts. I was told that the man concerned was a 'trouble maker', 'could not keep his mouth shut' and, because of the confidential nature of the records, it would be 'better to do it yourself'.

Even though, after a relatively short fieldwork period it was possible to identify many surnames as those belonging to Aboriginal people, for the purpose of accuracy a total record of charges has been recorded.

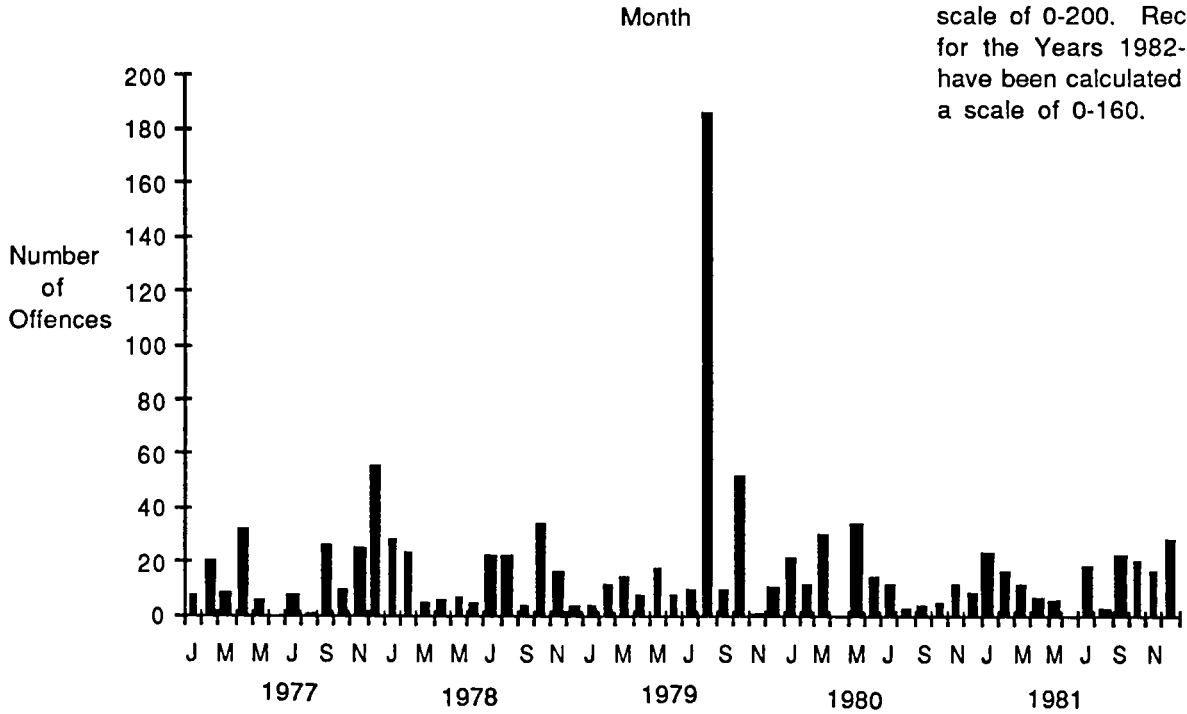
Table 60 shows the juvenile offending pattern in Kununurra for the period 1976-1987 and should be read in conjunction with Table 59 (for the period 1986-1987) where a breakdown of Aboriginal and non-Aboriginal offenders has been provided.

**Table 60**  
**Children's Court Data**

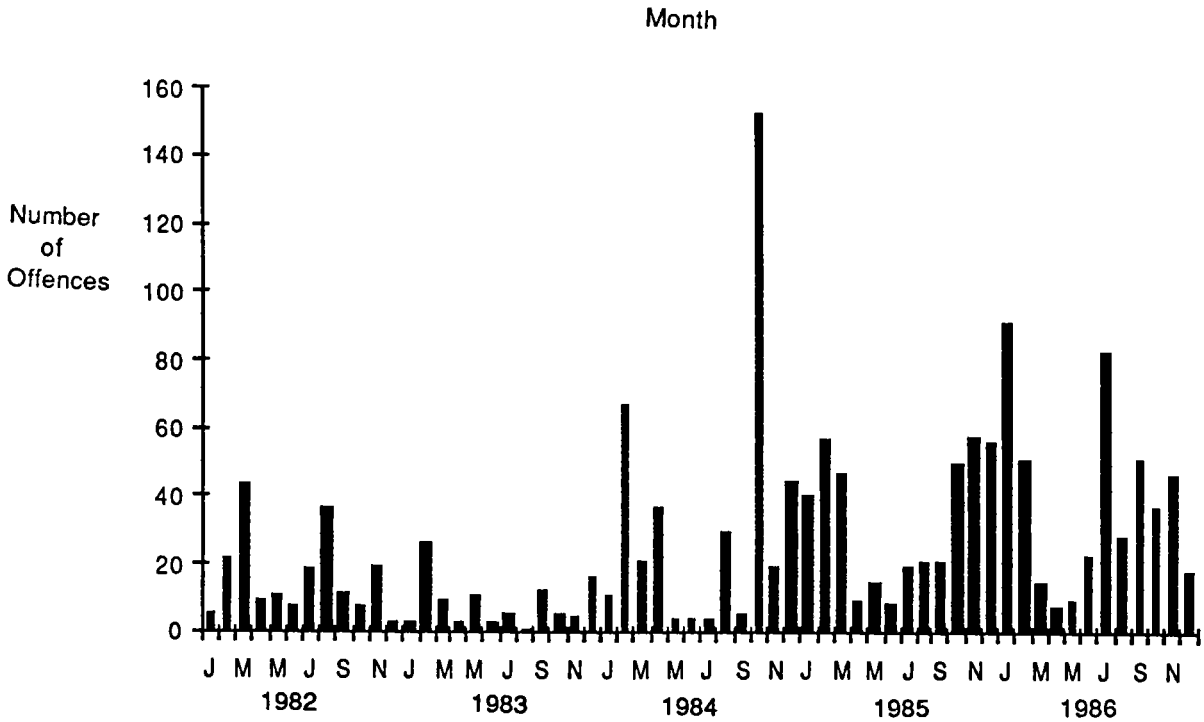
**1. 1977-81**

**Kununurra**

Children's Court data for the Years 1971-81 has been calculated on a scale of 0-200. Records for the Years 1982-86 have been calculated on a scale of 0-160.



**2. 1982-86**



**Source: Records held at Kununurra Court House**

**ABORIGINAL CRIME, RACE RELATIONS AND THE MEDIA: A  
CASE STUDY**

*'I am not prejudiced, but ...'*

The concept of 'well-deserved reputation' has been thoroughly explored by Allport (1979) in his classic work on the nature of prejudice. In doing so, he has described the process by which those who are prejudiced justify and rationalise their negative opinions by reference to the 'others' objectionable difference (1979:87). Thus, the average person with prejudice, when asked the grounds upon which his/her negative attitude rests, will respond: 'just *look* at them' and 'I am not prejudiced, but ...'. In this way the 'out-group' is defined, maligned and rejected, and as members of the out-group are ascribed all the immutable characteristics associated with negative stereotypes. Anti-location of the out-group becomes a powerful means by which to perpetuate their 'well-deserved reputation' (1979:49).

It is in this context that the role of the media becomes central to any discussion of race relations in the East Kimberley. Through "Letters to the Editor" readers are able to express their views on a range of topics. And, as a result of 'editorial licence', and the power to 'manage the news', editors are ultimately responsible for what people read in their newspapers.

In 1982 the Kununurra based **Kimberley Echo** and its owner/editor were the subjects of an ABC 'Nationwide' program which focused on race relations in the town. Among other things, the program challenged the prejudiced nature of the language used in the paper. It drew responses from both viewers and the editor concerned:

*In a recent Nationwide programme on the Echo the commentator referred to people being sickened by this paper's reference to ... natives or blackfellas ... When some obscure intellectual came up with the word "Aboriginal" the old blackfellas could not pronounce it, let alone know what it meant. This paper is produced for all people to read ... and simple terminologies are used to make it easier for those who have not had the benefit of higher education like the psuedo [sic] intellectuals of the self appointed marxist dominated groups that appear out of nowhere to become the saviours of the so called underprivileged blacks ... If one was to be sickened at all it would be when one sees the booze shattered image of a native ...*

(Kimberley Echo Editorial, 2/8/84:2)

In letters to the editor, appearing in the same edition of the newspaper the editor's opinions received resounding support from like-minded viewers:

- i) *This evening I saw and heard on the ABC television programme, Nationwide, of the efforts you are making to stem the insurgence of what passes for aboriginal rights in the Kimberley, and though I have no financial interests in the region I am extremely glad to hear of the stand you are taking and wish you every success ...*
- ii) *Having seen Nationwide last night I was just so pleased and appreciative of your honest and forthcoming comments on this native problem ...*

- iii) *I have lived in Malaysia (North) for over 3 years, and have been employed on outstations in the New Guinea Islands Region for 7 years, but I cannot compare the varied coloured races I have met and with whom I made many friends in those areas with the Australian aboriginal ...*
- iv) *Reckon after your appearance on Nationwide (ABC) last night every do-gooder North of the Rabbit Proof Fence will be writing you a little lecture!! ... Keep up the paper its all most interesting ...*

In similar 'no holds barred' style, Aborigines have been criticized by the editor for remaining unemployed:

*Wages now [are] pretty good but the hours are long and hard. It [is] difficult to get the natives on the job now because of the amount of morons who were employed by the taxpayer to go around and tell the natives that the world owed them a living ... the unemployment problem [is] indeed a sick bloody joke.*

(Kimberley Echo, 1/7/84:10)

Three years on, the same editor evinced similar sentiments when interviewed by this writer:

*... It's no good kidding ourselves. Aborigines are not made to ... you know, they're not bred to work like we're bred to work. They're only bred to go and find enough to keep themselves alive. Now it's gonna take many, many years to get that out of their system. Alright, the odd one does but you'll generally find that he's only a half-caste or a quarter-caste anyway. But when you get back to the full-blood tribal Aboriginal, he's got a problem ... I don't equate them with animals, don't get me wrong, but they have animal instincts because they grew up with animals and they learned from the animal and they've got instincts just like he has ... But anyway, getting back to the work thing, it's very hard to get tribal blacks out of that syndrome where they only need to do enough work to live on. Because in our society where they're given everything they don't want to do any work ... Whites are brought up into an area where you've got pride and that makes you go and get work. But old blackfella doesn't care. If he can get a feed and a drink, well that's all he has to do.*

(Transcription of recorded interview, Kununurra, 12.8.87)

Academics, Aborigines, Aboriginal Legal Service solicitors, missionaries, land rights and governments - all have, at some time, come under the caustic editorial scrutiny of the **Kimberley Echo**.

### **LEGAL SERVICE LAWYER LEAVES KUNUNURRA**

*Mr John Irwin and his family left Kununurra recently for Perth. John was the local Aboriginal Legal service solicitor.*

*His appointment surprised many people when they got to know him as he did not seem to have the normal requirements for an A.L.S. solicitor. It could have been lack of these requirements that caused John's early retirement from the service.*

(**Kimberley Echo**, 1.11.84:3)

### **MORE NATIVES IN COURT SINCE INTRODUCTION OF LEGAL SERVICE**

*Since the introduction of the public-funded Aboriginal Legal Service in 1973, charges against natives, both adults and children, have increased by approximately 8,000.*

*... The service should be abolished in favour of a system that uses solicitors from private practices on a rotational basis. This alternative ... would undoubtedly save money and allay fears that the existing service is attracting persons of particular ideologies and over-zealous attitudes to the defence of their clients ...*

*The point here is that if a second class citizen who has to pay for his own defence had any doubts about winning a case he would not proceed with that defence.*

(**Kimberley Echo**, 1/11/84:3)

A regular feature of this widely circulated fortnightly newspaper is a section titled 'Police News' where selected cases are provided to the editor by the Officers-in-Charge at Kununurra, Halls

Creek, Wyndham and Fitzroy Crossing police stations. In each respect a description of the offence, together with fines imposed and/or jail sentences, is provided. The name of the defendant also appears. Details are also provided for cases other than those involving Aborigines.

While this practice may not be unique to Kununurra it could well be argued that, considering the number of occasions on which Aboriginal defendants comprise 100 per cent of any one court sitting, the publication of such 'facts' does little to reduce tension or diminish already firmly entrenched beliefs about the innate criminality of Aborigines.

A sample of cases taken from editions published during the fieldwork period appears below. However, in order to avoid further embarrassment to the people concerned, names of those appearing in court have been deleted. In each case the defendant is an Aboriginal person.<sup>1</sup>

### Kununurra

*..., appeared in court on July 2, on a break and enter with intent charge, but has been remanded to the Magistrates Court on July 16.*

*..., appeared in court on July 7, on two assault charges and has been remanded till July 16.*

*..., charged with disorderly conduct and fined \$20.*

*... 19 people were also charged and fined for street and park drinking and several for disorderly conduct.*  
(Kimberely Echo, 15/7/87:16)

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1. Identification was possible owing to the researcher's presence in court at the time the charges were heard.

..., for giving a false name and address was fined \$50 for not knowing who he was and for a breach of recognisance, had \$50 bail forfeited. He was also charged with disorderly conduct and fined \$40.

..., charged with stealing and receiving and attempted false pretences, received a good behaviour bond of \$100 for one year on each charge, while ... also attempting false pretences, was given a 40 hour community service order.

Just as well there aren't any other 'falsies' bobbing around the town, the resultant fines for forgetting who you were seemed to be diminishing as the list went on.

The next person may have been issued with a name tag, courtesy of the courts.

Disorderly conducted rated 50-50.

... was fined \$25 and ... \$25, while ... equalled ...'s \$40.

... (again!) pleaded not guilty to the charge of consuming liquor and resisting arrest, was never-the-less convicted and fined \$25 and \$70 respectively.

(Kimberley Echo, 1/10/87:13).

### Halls Creek

Sgt. John Hatton reports that apart from the usual drunk and disorderly charges ...

(Kimberley Echo, 15/7/87:16).

'Halls Creek police are the most diligent and brilliant force in the Kimberley', said a modest Sgt. John Hatton.

The reason for this self accolade (and rightly so), is that John and his men apprehended convicted murderer, ..., a full-blood aboriginal, at the Creek recently ... he was located hiding under a mattress in a house ...'

(Kimberley Echo, 1/10/87:13)



### Fitzroy Crossing

*Sgt. John Shipley said that things have been very quite ... except for the usual disorderly conduct on pension week amongst the aboriginal population.*

*He reports that Fitzroy Crossing, Halls Creek and Derby hotels all closed their bars on Wednesday ... because of the disturbances.*

(Kimberley Echo, 15/2/87:15)

It is not suggested that the editorial art of structuring the news - of 'headlining' contentious topics and 'burying' others is the sole province of the **Kimberley Echo**. However, front-page, bold type, lead stories such as 'No Work - No Pay' (30.5.87) and 'Natives Riot At Halls Creek' (26.11.84) are prime examples of this practice. The latter headline was accompanied by the following story:

*A large group of Balgo natives rioted at Halls Creek on the 8th of November when police tried to arrest them.*

*The trouble started at the Halls Creek Hotel when a local part native ... became involved in a fight with a Balgo native. When ... was hit on the head with a wheel brace the publican called the Police. When they arrived at the Hotel several blacks were involved in fights and as a result six were arrested.*

*Police continued a patrol of the area and saw more of the trouble makers near the Caravan Park. They were arrested and when Police tried to put them in the van the other six broke out. The two constables who were heavily outnumbered were met by a barrage of rocks, bottles and anything that the natives could throw.*

*They then radioed for help and the other three officers that were off duty came to help. Eventually all the trouble makers were arrested but at some cost to local Police ...*

A sample of editions of the **Kimberley Echo** over a period of three years (1984:1987) revealed that few positive or constructive 'good news' articles about Aborigines had found their way onto the front pages of the paper. Rather, items which reflected Aboriginal initiative were regularly positioned towards the back of the paper.

As a result, the white reader is constantly confronted with a negative image of Aborigines - of savagery, drunkenness, idleness and heathenness. At the same time, any Aborigine who reads the paper is constantly reminded of the social malaise which exists in the region.

Alerted to the biased nature of reporting in the paper, Ansett Airlines (W.A.) have recently refused to continue providing passengers with copies. The **Kimberley Echo** is now placed on the counter at Kununurra air terminal rather than distributed during flights.

Perhaps the final word should go to the editor himself. In response to my question, 'Do you consider mining to have had an impact on Aborigines in this region?', his response was:

*... I won't accept that, no. There's so many people like old Nugget Coombs<sup>1</sup> trying to blame, you know, progress. It*

- 
1. Dr. Coombs has an executive role in the East Kimberley Impact Assessment Project, working from the 'Centre for Resource and Environmental Studies, Australian National University, Canberra.

*happened a long time before the progress started. You can blame it fairly and squarely on the money that's thrown to these people. It has kept them in town. They will not do anything ... Some of them are getting two or three or four doles and they're living like, well I wouldn't say like kings, but I mean they've got plenty of money to spend. They've got houses they never pay rent for ... It's [the impact of change] bloody rubbish. It's an excuse to rip out more land and more money for the blacks, that's all.*

*They've got tons of land here now and they're not living on it. They got millions of acres and about one hundred and fifty blacks on the lot ... They're not using it. That's silly.*  
(Transcription of recorded interview, Kununurra, 8.87)

In a perverse way, the 'well-deserved reputation' theory fits well this brief analysis of the role of the media in 'cementing' prevailing ideologies held by many whites in the East Kimberley. Thus, it becomes part of the local idiom to preface responses to questions with: 'just look at them ... I am not prejudiced, but ...'

Many examples of this practice were recorded throughout the field work period. One such example will suffice.

During a conversation with two Kununurra residents the following exchange took place.

Manageress: *We had a bad experience here earlier this year. There was this big meeting, a conference or something,<sup>1</sup> and we took telephone bookings for*

- 
1. This was the May 1987 conference organised by Dr Coombs on behalf of the East Kimberley Impact Assessment Project.

*accommodation. The whole town was booked out by some people from Canberra. We didn't have one room spare. Then, all these blacks turned up and some whites too ... Well, we didn't know what to do. Fancy having blacks staying at your place. It's not that I'm prejudiced or anything but you just never know what to expect from them do you?*

*Owner: Actually, they were quite well behaved. I thought they'd be drunk and bringing gins and all home but they didn't. Anyway there was nothing we could do, so I thought, well I'll just have to wash the curtains and bedspreads when they're gone and disinfect the place.*

*Manageress: The worst part was that we had other guests here as well, tourists I mean. And we didn't know what they would think. They were a bit taken back.*

*Owner: And worst of all, you know what happened? There were even blacks and whites sharing rooms .... Fancy sleeping with a blackfella. I just couldn't believe it. I'm not prejudiced, but that's a bit much!*

Manageress: *The only problem we had was chicken bones ... lots of chicken bones. They'd eat all this chicken in their rooms and leave the bones all around.*

Owner: *Yeah. But we washed the bedspreads and the curtains when they left. It wasn't too bad but we won't get caught like that again. I mean, we'll ask next time.*

---

**Source:** Transcription of interview.

### THE EAST KIMBERLEY: IN SUMMARY AND CONCLUSION

The description which has gone before, together with hard evidence of the high incidence of both Aboriginal adult and juvenile crime, is not unique to the East Kimberley region in general. Nor within that region is it specific to Halls Creek and Kununurra. A review of the statistics for Wyndham and Fitzroy Crossing reveal similar problems.

Ligertwood (1984) has documented similar patterns in South Australian courts sitting in Amata, Ernabella and Indulkana. Of juvenile crime in particular, he concludes that '... the problem ... is a manifestation of a breakdown in community authority ...' (1984:193). 'The young,' he writes, 'are no longer in awe of the old and any reversion to force leads to family repercussions ...' (1984:193).

In small part Ligertwood's opinion holds true for Halls Creek and Kununurra. But the position of Aboriginal people before the law is more than a question of 'community breakdown' and 'rejection of traditional values' both of which are couched within the 'victim blaming' mode.

What of the state and the agents of that state who have imposed their political and legal wills on the lives of so many in order to render and to keep them powerless? What of a political system which purports equality and, in the process of facile

attempts at 'equalisation' succeeds in creating a society of unequals? What of a system of ongoing colonisation which results in a world cut in two and guarded by the watchdogs of 'justice'?

Romanticised notions of a 'Dreamtime gone wrong' such as those described by Ligertwood (1984:193), or of a return to the pristine state of pre-Europeanisation, lead nowhere. For Aboriginal people, in the East Kimberley and elsewhere, there is no going back. But, should their socio-economic and politico-legal condition remain as it is, nor is there much purpose in going on.

Donovan (1986:63) recalls Von Sturmer's (1982) demand for research principals and goals which would open a broad field of further study:

*Researchers will need to formulate a theory and history of (European-Aboriginal) contact which goes beyond the frothings of oppression, exploitation and colonialism, which accounts for current realities and which is explicable to all Australians.*

(Von Sturmer cited in Donovan)

For many East Kimberley Aborigines, the 'frothings' of oppression, exploitation and colonialism are not only an historical fact but also a contemporary reality. In Havemann's (1986) words, they have been forcibly 'pacified' and are 'immiserised'. In the East Kimberley, where white incursion came late, history is in the making.

In his description of the 'settler-native' relationship, Fanon describes a mass relationship wherein he (the settler) '... is an exhibitionist. [Where] his preoccupation with security makes him remind the native out-loud that there he alone is master'. In doing so '... the settler keeps alive in the native an anger which he deprives of outlet [and] the native is trapped in the tight links of the chains of colonialism' (Fanon, 1976:42).

The theoretical framework discussed at the outset of this study has heuristic value. Many Aborigines, as a result of both initial and ongoing dispossession and dependency, do experience powerlessness, alienation, frustration and anger. Many have been, and are, subjected to systemic violence which manifests itself in behavioural disorders.

To drink oneself into a state of oblivion as a means of escaping from, as well as coping with, the realities of one's existence; to covet what someone else has and to know full well that it will never be yours, except by illegitimate means; to engage in patterns of violent behaviour against self and others - all are part of the day to day living experiences of many Aborigines in both Halls Creek and Kununurra. And all such behaviours attract the disapprobation and censure of the 'settlers'.



In their role as 'gate-keepers' of the criminal justice system and in performing the task of 'social hygiene', police codify their actions and reactions. Aborigines dominating the court calendars, are further suppressed, repressed and, consequently, depressed.

What then of the future? It is firmly believed that there is no panacea which will fix what it is ails the East Kimberley. Attitude change, on the part of both Aborigines and whites, would go part way towards providing some remediation as would putting an end to dependency. But in prioritising these two things I am mindful of Myrdal's analysis of the cycle of poverty. Amelioration of one condition without cognisance of all other conditions leads only to a tightening of the spiral.

Both Donovan (1986) and Von Sturmer (1983) suggest that the only intelligent policy which can be adopted is an effective execution of the policy of self-management within the prevailing economic bases and social superstructure of the region. Such a policy would require from Aborigines and whites alike a total and ongoing commitment to Aboriginal repossession (of available resources), independence (to the extent available in contemporary society) and participation in the process of self-management itself. (Donovan 1986:59).

Just how such policy might be actualised, and the effect it would have on Aboriginal/criminal justice interaction remains within the realm of the hypothetical and perhaps, the subject of yet another research project.

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