

**Professor Tracey McIntosh**

**Brief of Evidence for Contextual Hearing**

**Royal Commission of Inquiry**

**Abuse in Care and Faith Based Institutions**

### **Introduction**

1. My name is Tracey McIntosh.
2. I have tribal affiliations to Ngāi Tūhoe.
3. I am a Professor of Indigenous Studies and the Co-Head of Wānanga o Waipapa (The School of Māori Studies and Pacific Studies) at the University of Auckland. I am the former Co-Director of Ngā Pae o te Māramatanga (NPM) New Zealand's Māori Centre of Research Excellence hosted by the University of Auckland. NPM is one of 10 Centres of Research Excellence (CoREs) funded through a contestable process by the Tertiary Education Commission.
4. I am a sociologist by training and have been a former Head of the Sociology Department at the University of Auckland. I was also Deputy Pro Vice-Chancellor (Equity) and Associate Dean (Equity).
5. I teach largely in the area of critical and contemporary Māori and Indigenous issues. I have taught extensively in the areas of the sociology of incarceration; the interface of Indigenous peoples in settler states with the Criminal Justice System; Māori and public policy; poverty and marginalisation as well as the sociology of death and dying and the sociology of religion.
6. My personal research programme focusses on social harm reduction; Māori and incarceration; state institutions and Māori, wāhine Māori and incarceration; gang associated whānau; Indigenous peoples and the Criminal Justice System and family violence prevention.
7. In 2018-2019 I was member of the independent Welfare Expert Advisory Group (WEAG) that was established by the Minister of Social Development to undertake a broad-ranging review of the welfare system and advise the Government on the future of New Zealand's welfare system. The report *Whakamana Tangata: Restoring Dignity to Social Security in New Zealand* was publicly released in May 2019. This report outlined the rationale for the 42 recommendations of the WEAG needed to support the transformation of our current system to ensure that the social security system serve its most fundamental functions as well as providing greater levels of societal participation and flourishing. WEAG took a participatory and independent approach and prioritised the experience of people who interact with the welfare system. This included hui and forums throughout the country. This report notes the interface for a small but significant group of people between the welfare system and the criminal justice system.

8. In 2018-2019 I was also a member of the ropū Te Uepū Hāpai i te Ora – the Safe and Effective Justice Advisory Group established by the Minister of Justice to consider the purpose of a Criminal Justice System for New Zealand. We were tasked to undertake a public conversation about what people wanted from their criminal justice system and canvass a range of ideas and recommend proposals about how the criminal justice system could be transformed. We were to identify principles to guide the future development that were sensitive and responsive to mātauranga Māori as well as identify the type of changes needed. Our first report *He Waka Roimata* was publicly released in June 2019 and a second report with high level recommendations has been submitted to the Minister of Justice and will be released publicly in due course. The work of Te Uepū Hāpai i te Ora included hui and forums throughout the country.
9. I sit on a number of Advisory groups and Boards related to reducing offending and social harm including Te Ira; Family Violence Clearinghouse Academic Advisory Group; Peter McKenzie Project Committee. I have also been on the boards of JustSpeak; Rethinking Crime and Punishment and the Waka Moemoea Trust. I sit on a number of advisory boards and committees including Corrections Academic Advisory Group, Corrections Women’s Estate Practice Steering Group; Justice Sector’s High Impact Innovation Advisory Group. I also sit or have sat on a range of academic advisory and assessment panels.
10. In 2016, I gave expert evidence to the Waitangi Tribunal in regard to the Wai 2540 Department of Corrections and Reoffending Prisoners claim.
11. For over a decade I have volunteered on a weekly basis at the Auckland Region Women’s Correction Facility providing an education support programme and a creative writing programme.
12. My qualifications are as follows: PhD in Sociology; MA (Hons) and BA in Sociology. I have significant experience in working with prisoners, ex-prisoners and the whānau of prisoners.

### **Summary of my evidence**

13. In this brief, I will discuss the inter-related issues of Māori mass incarceration, gangs, women in prisons, and marginalisation. The focus of this brief will to highlight the role and impact that the State Care system broadly and the abuse in care specifically has had on those issues. I will draw on my research, my work with prisoners and my work with those who have or have had gang affiliations or gang whānau associations, to provide context.
14. My research and the research of others demonstrates that the placement and treatment of babies, children and young people in State Care can have significant downstream impacts on the lives of those people, their whānau, hapū, iwi communities and more broadly, the Nation.
15. The outline of this brief of evidence is as follows:
  - a. Colonisation and the construction of the marginal Māori;
  - b. Māori mass incarceration - an overview;
  - c. Stan Coster’s Story;
  - d. Wāhine toa: State Care in the lives of women prisoners I have worked with.

- e. Looking forward, solutions, hopes for Royal Commission.

### **Colonisation and the construction of the marginal Māori**

16. As Stuart Hall has said:

... the language of law and order is sustained by moralisms. It is where the great syntax of “good” versus “evil”, of civilised and uncivilised standards, of the choice between anarchy and order constantly divides the world up and classifies it into its appointed stations (Hall 1979: 19).

17. Histories of confinement are not just histories of incarceration and internment. Māori and other Indigenous peoples have experienced other types of confinement in colonial and neo-colonial settings. Luana Ross, a Native American scholar, in writing on the experience of Native Americans noted that:

From the time of European contact to the present day these people have been imprisoned in a variety of ways. They were confined in forts, boarding schools, orphanages, jails and prisons and on reservations. Historically, Native people formed free, sovereign nations with distinct cultures and social and political institutions reflecting their philosophies. Today Native people are not free; they are colonized people seeking to decolonize themselves (Ross 1998:3).

18. Drawing on the work of Robert Blauner (1972) Ross recognises that one of the characteristics of colonialism is the restriction of movement of colonised people and attempts to negate their culture and their family settings. One of the characteristics of colonisation within the settler state is attempted control of Indigenous peoples and denial of their culture. She believes this is evidenced by the number of Indigenous peoples who are incarcerated and their long histories of different forms of confinement including state care facilities. As I have written elsewhere (McIntosh, 2005, 2006, 2011, 2015, 2017) this phenomenon speaks to lives of restriction and constraint. Restricted lives are characterised by restricted opportunities and the normalisation of negative life course outcomes.

19. As tangata whenua, Māori continue to experience marginalisation that shapes both lives and identity. Marginality can be expressed in a number of ways. Some are able to draw on the marginal experience as a site of resistance and use that location to challenge the status quo and to transform the marginal experience. This is usually a highly politicised identity where proponents are able to draw on significant cultural capital and an in-depth knowledge of both Māori and western traditions. Others may acknowledge a marginal status but seek to redefine it under their own terms to allow them to develop a dynamic, distinctive and authentic fusion identity. For others, marginalisation creates a forced identity. This is characterised by a marked and stigmatised marginalisation where deprivation due to social, economic and political factors is entrenched and far-reaching. This last identity is particularly associated with the activities of the State and the intervention of the State into the lives of individuals and whānau. Being placed in State care and in many cases alienated from one’s culture and deprived of access and knowledge of one’s whakapapa can create the conditions from which alternative forms of collectivity and identity can emerge. The possibility of gang formation is increased where the opportunities and aspirations of individuals is blunted and marginalised

by the State and its policies, and, where oppression is expressed and lived through political, economic, cultural and social inequality and differential power relations. Abuse in State care amplifies and exacerbates the impact of marginalisation.

20. Since the British Crown annexed Aotearoa/New Zealand in 1840, Māori as tangata whenua have always resisted the pressures of colonial, post-colonial and Settler-state policies and have sought to demonstrate and give a fully independent voice to their own social, political, economic and cultural viewpoints. This has been particularly evident in countering European attempts to assimilate Māori into Pākehā policies and European ways of seeing, knowing, doing and being in the world.
21. One stark reality of the ethnocentric British and their annexation of Aotearoa/New Zealand was the establishment of the unilateral doctrine of state sovereignty in which Māori were controlled through the law and the legal process, which included the powers of punishment (Sharp 1990). While legislation and Court decisions underpin the Aotearoa/ New Zealand coloniser's concept of sovereignty, sovereignty is not just confined to the coloniser. It is also part of the fabric of the Māori response to colonisation, and is reflected in their distinct and unique philosophies, values, social and political institutions. The Māori way and the Māori world collided with and resisted the position of cultural superiority as expressed by the British.
22. The Māori concepts of tikanga (law, correct and proper practices), of tino rangatiratanga (absolute authority and power) and the significance of collective ownership of land by Maori were virtually ignored by the British and were in conflict with the coercive British legal code. Notes Asad: "Western legal discourse participates in processes of power by creating modern realities of a special kind...The realities are special in part because they define social relationships...in terms of legal "rights" and "duties" within the modern state" (1991, 321). The colonial/coloniser's power to take control of land and resources repeatedly brought Indigenous people, Māori included, into confrontation with the British legal and judicial process.
23. For Moana Jackson, Māori understandings of sovereignty have been made subservient to the sanction and control of the settler legal system. Māori notions of sovereignty are informed by the ideals of authority and rangatiratanga. He asserts:

The tangata whenua status of the Māori is synonymous with what the 18<sup>th</sup> and early 19<sup>th</sup> century called Aboriginal Rights, and which many jurisdictions and the United Nations now refer to as Indigenous Rights. In a general sense those rights are the traditional rights exercised by Indigenous peoples prior to European contact: they are the inherent ancestral rights which they employed to preserve social harmony and to maintain balance with the natural and supernatural worlds. In the exercise of those rights, such societies developed social, cultural, religious, and legal philosophies which were applied through a network of interdependent kin relationships (Jackson [1988:270] in McIntosh 2018: 295).

24. The settler states have sought to control Indigenous lives and to dispossess them of their resources in what Cunneen and Porter have called a process of 'immiseration' (2017:669).

25. Sherene Razack notes that settler states 'must always forget the source of their state's existence, the dispossession of sovereign nations... forgetting requires the disappearance of the Native, since the settler never leaves' (Razack 2015: 52). Moana Jackson claims that even the term settler is problematic as it misrepresents the reality of dispossession. Places of Māori confinement (state homes, borstals, prisons) are sites of both forgetting and the legitimisation of the rights of the settler state. Jackson states that colonisation is 'in fact the history that never left us' (Jackson 2008: 3).
26. The colonial past has informed, and continues to inform, the post-colonial present and the blossoming of Indigenous renaissances, articulated daily in social relations, in identity and in discourse. The dominant ideologies and approaches of the mainstream focus on those with less power. The strong arm of the state, made manifest in the law, the police, the courts, state institutions, youth detention and prisons, seek to coerce Indigenous and subaltern populations into consenting to the ruling class' activities and aspirations. Such organisational methodologies corral and perpetuate the existence and the isolation of the marginalised (and demonised) 'other', and in turn, reveal and amplify that those on the fringes resist and construct cultures and lives in which hope, possibility, identities and life pathways are informed, shaped and pursued.
27. The dominant paradigm of the Aotearoa/New Zealand state's Pākehā majority still gives rise to different types and forms of abuse and marginalisation. This in turn leads to the development and construction of differing and varied behavioural patterns and ways of being in the world as employed by the marginalised 'other.' There are well-documented examples of this legacy of the state-sponsored subjugation of Indigenous people through the suppression and eradication of their culture, for example, the Tohunga Suppression Act (1907). According to Māmari Stephens (2001), the Act was positioned as a benevolent measure passed to improve Māori health; in reality it was a political weapon used to allay Pākehā fears that Maori would try and reclaim political power and voice lost through colonisation. And, more recently, Māori were subject to heavy-handed, orchestrated, over-policing measures following the Bastion Point land occupation of 1977–1978 and the Urewera 'terror' raids of 2007 (Keenan, 2008). Both incidents reflect not only the blatant exercise of state power but also can be situated within the deployment of violence as a key of the control-pacify-subsume strategy of the postcolonial settler state.
28. The other agencies that administer the settler state today— the health, education, welfare and employment sectors—are also complicit actors in managing Indigenous people 'differently' (Tauri 2014, 24). The wide parameters of the criminal justice system, in particular, are "a key colonial project within the armoury of the settler colonial state" (Tauri 2014, 25) and, as structural and institutional violence, reflect the on-going processes of settler state colonization—writ large through policies, policing and practices. Part of this project of state crime was removing young Māori from their whānau, and therefore their culture, and housing them in prison-style institutions like the Eponi Boys' Home, where the administration of settler-state discipline, cultural suppression and compliance was paramount.
29. The state (which includes the government and the Crown) in Aotearoa/New Zealand might be considered as the most pure application of the country's mainstream ideologies and administrations in the crime and justice sectors in that it is central in the "political acts of defining 'crime' and responding to those identified as 'criminals' or 'victims'" (Stanley and

McCulloch 2013, 1). The state amplifies and consolidates its powers of control and domination over the individual through an array of systems, policies, judgements and processes. As the powerful and most central institution in Aotearoa/New Zealand, the state has been, and continues to be, involved in regulating and changing the lives and activities, and hence life pathways of the collective and thus the individual.

30. As such, identities are constructed and shaped at both the personal and at the shared level by the state's ministrations, which underscore the need for control, order, discipline, authority and repression. These are reflected, for the purposes of this brief, in an array of care and control facilities (foster homes and foster carers), the court system, and in the manifestations of a burgeoning carceral system—from the former periodic detention centres and borstals to the current regime of low, medium and high security prisons (See Cohen 2011; Jackson, 1988; Maxwell and Morris 1993; Pratt, 1992; Quince 2007; Tauri 1996). For example, the doctrine of *parens patriae* or 'the state as parent', had been employed in the country's state-run foster homes and foster care regimes, particularly from the 1950s to the 1990s, and in which a devastating legacy of physical and sexual abuse was created (Cohen 2011, 60).
31. State sanctioned behaviour in Aotearoa/New Zealand from the 1950s to the 1990s saw in excess of 100,000 young people, many of whom were Māori, being deemed to be in need of incarceration by government departmental policy (Cohen 2011, 22). The legacy of this abuse continues to blossom—the offspring of these children are also found in the statistics of the criminal justice system today.

#### **Māori and mass incarceration - an overview**

32. Against that backdrop of state sanctioned incarceration of young people (many Māori) from the 1950s to 1990s, it comes as no surprise that the ongoing legacy of that social exclusion is borne out in our prison system. In order to understand the relationship between State care, abuse in care and the prison system for Māori, it is important to look at the issues which converge for those confined in this space.
33. It is recognised that there are criminal justice pipelines into the prison. There is often reference to soft and hard pipelines. Poverty, marginalisation and racism make up elements of the soft pipeline with the poor and marginalised being grossly over-represented in our prison statistics. The majority of Māori contribute strongly to their whānau and communities even under conditions of considerable constraint. However, a small but over-represented sector of Māori has an early and ongoing interface with the criminal justice system. While the majority of people living in poverty lead law-abiding lives poverty does create the conditions that are conducive to becoming involved with offending behaviour. Poverty statistics map onto crime statistics.
34. Given that incarceration is disproportionately concentrated among certain groups in society Foster and Hagan (2007) argue that prison serves as a mechanism of social exclusion. Patterns of ethnic and social class disparities are likely to be further reproduced by the inter-generational exclusion of children of incarcerated parents from other major public institutions such as health, housing, education and political participation. As commentators have noted 'getting tough on crime' has often meant getting tough on children (Phillips & Bloom, 1998).

35. The hard pipeline to prison includes those that have been in state care and those who have been excluded from the compulsory education system. In New Zealand, most (87%) young offenders aged 14 to 16 years old in 2016/17 had had prior reports of care and-protection concerns made to Oranga Tamariki (86% males, 92% females). Offending patterns among youth with a history of out-of-home-care are more likely to be chronic and persistent into adulthood (Gluckman 2018:17).
36. As of 31 December 2018, nearly 52% of the total prison population or 4996 people identified as Māori. Among the prison population there were 1, 674 Māori remanded in custody. There were 13,406 Māori with community sentences and of these 1,053 Māori were on parole. If we disaggregate the data from this snapshot analysis (that is who was in prison on the 31<sup>st</sup> of December) approximately 52% of the male prison population was Māori, 57% of the female prison population was Māori and 67% of the under 20 population was Māori (Corrections, *Hōkai Rangī* 2019; 8).
37. It must be remembered that most prison statistics refer to a prison population on a certain day. Every day people come into a prison and are released from it. Many people pass through a prison in a year and around 16,000 people are released from prison in New Zealand each year (Corrections 2018: 13). This speaks to a far greater number of people touched by the prison system than what static snapshot prison populations figures convey.
38. The Māori prison population is characterised by what has been termed ‘imported vulnerabilities’. A report on the effects of imprisonment on the health and inmates and whānau health noted:<sup>1</sup>

Although there have been changes in the constitution of the prison population, those who are incarcerated continue to represent the most marginalised, culturally censored, socio-economically disadvantaged and ‘powerless’ of society. The majority of prisoners of any country, including New Zealand, are those that come from a context already shaped by social exclusion. Among other things, they are likely to be from an ethnic minority, have limited education and a history of instability, unemployment or underemployment, substandard diet and housing conditions, and inferior medical access. Their health reflects this disadvantage and like them, tends to be poor.

39. More recently, the Prime Minister’s Chief Science Advisor, discussed the interacting risk factors often present in those before the criminal justice system.<sup>2</sup> Those involved in the criminal-justice system have faced multiple risk factors and vulnerabilities, such as:<sup>3</sup>
- (a) 77% have been victims of violence;
  - (b) 53% of women and 15% of men have experienced sexual abuse;

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<sup>1</sup> National Health Committee Review of research on the effects of imprisonment on the health of inmates and their families (Ministry of Health, Wellington, 2008).

<sup>2</sup> Peter Gluckman *Using evidence to build a better justice system: The challenge of rising prison costs*, (29 March 2018) [the Gluckman Report].

<sup>3</sup> Ibid at [54]–[56].

- (c) 52% of women and 40% of men have a lifetime diagnosis of post-traumatic stress disorder (PTSD);
  - (d) Individuals who have experiences such as abuse and trauma face neurophysiological differences that make it harder to regulate their emotions, as well as tending to act more aggressively;
  - (e) Socio-economic disadvantage has been linked to criminal justice outcomes across the life course;
40. Mass incarceration in New Zealand is *Māori* incarceration. Mass incarceration is said to occur when there are high rates of incarceration that impacts on certain sectors of society with similar ethnic and socio-economic characteristics coming from areas of concentrated disadvantage. Mass incarceration impacts not only those who are behind the wire but also the whānau and communities that they emerge from. The noted American criminologist Elliot Currie asserts that “Short of major wars, mass incarceration has been the most thoroughly implemented government social programme of our time”.<sup>4</sup>
41. It is important to also recognise that the *Māori* experience of prison is also gendered. Following global trends we have seen the number of women incarcerated in New Zealand increase dramatically. The trend of *Māori* over-representation in the criminal justice system is particularly pronounced for *Māori* women who are even more over-represented than *Māori* men in apprehensions, convictions and imprisonment.<sup>5</sup>
42. The number of women in Corrections’ care or management has grown significantly faster than the number of men. As at 30 June 2018, there were 774 women in prison – over 40 percent more than at the same time in 2014 (Corrections 2018: 16).
43. *Māori* women’s over-criminalisation, over-incarceration and high rates of victimisation are at least partly a product of their poor socio-economic status. *Māori* women are also vulnerable to victimisation, and young *Māori* women in particular are the most likely to be repeat victims of domestic violence and sexual victimisation.<sup>6</sup>
44. Young *Māori* women in prison are a socially submerged population as they are both marginalised and socially invisible by virtue of their age, their gender and by their incarcerated status.<sup>7</sup>
45. When considering the inter-generational reach of prison gender is particularly important. While many imprisoned men may not be actively parenting at the time that they are sentenced to prison, many women who are mothers have day to day care of their children at the time of arrest. The impact on children is immediate and devastating and in too many cases

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<sup>4</sup> E Currie, cited in A Davis *Are Prisons Obsolete?* (Steven Stories Press, New York, 2003) at p. 11.

<sup>5</sup> K Quince ‘*Māori* and the Criminal Justice System in New Zealand’ in W Brookbanks and J Tolmie (eds.) *Criminal Justice in New Zealand* (LexisNexis, Wellington, 2007) at p. 16.

<sup>6</sup> A Morris and James A Reilly *The 2001 New Zealand National Survey of Crime Victims* (Ministry of Justice, Wellington (2003)).

<sup>7</sup> T McIntosh and L Radojkovic ‘Exploring the nature of the intergenerational transfer of inequalities experienced by young *Māori* in the Criminal Justice System’ in D Brown (ed.) *Indigenising Knowledge for Current and Future Generations* (Ngā Pae o te Māramatanga, Auckland 2012) at p. 40.



will see them put into state care themselves. It is thought that over 20,000 children have a parent in prison.<sup>8</sup> Given the disproportionality of our prison population we can be assured that the majority of these children are Māori.

46. This aspect of the prison system is one that appears to have been largely overlooked. The impact of incarceration is not purely limited to the individual who is imprisoned. Rather, there are collateral effects and consequences which spread from the individual outwards, reverberating along the radiating threads of social relationships and connections. There is also evidence to suggest that once set in motion, these reverberations can persist through time, increasing in resonance, generating long lasting and potentially intergenerational effects. One of the clearest examples of this is the impact of imprisonment on families.
47. Individual incarceration is a collective experience. Prisoners come from whānau, and their imprisonment has a marked impact upon their whānau. In recent years there has been increasing attention given to the children and whānau of prisoners with much of the literature framing themes as the collateral and “invisible” or “forgotten” victims of crime.<sup>9</sup>
48. The impacts of *Maori* incarceration on whānau were summarised by the Health in Justice report of the National Health Committee, 2010, which observed:<sup>10</sup>

Imprisonment affects communities as well as families... [T]he most vulnerable communities are more susceptible to the cycle of imprisonment. High imprisonment rates can erode the stability and cohesion of the whole community. The large proportion of Māori in New Zealand prisons means the impacts of imprisonment fall disproportionately on Māori whānau and communities, and result in many living on the verge of crisis.

49. In 2011, Te Puni Kōkiri (TPK) reviewed the Māori data of a two year study into the children of prisoners.<sup>11</sup> As part of the analysis, TPK asked David Fergusson of the Christchurch Health and Disability Study (CDHS), a longitudinal study, to compare the children of prisoners against the whole sample on a range of outcomes. Whilst the sample size within the CDHS was small – only 3%, and the results were indicative only, the associations between parental history of imprisonment (prior to age 15) and young adult outcomes by age 25 in that cohort showed that children of prisoners were far more likely to: be imprisoned; to be nicotine dependent; to be diagnosed with a personality disorder and have no educational qualifications. As well, they are somewhat more likely to have a drug dependence, to have attempted suicide, to be a young parent, an unemployed and welfare dependent.<sup>12</sup>

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<sup>8</sup> L Gordon *Invisible children: The Children of Prisoners* (Pillars, Christchurch, 2009).

<sup>9</sup> T McIntosh ‘Marginalisation: A Case Study: Confinement’ in T McIntosh and M Mulholland (eds.) *Māori and Social Issues* (Huia, Wellington, 2011) at p.273 [“McIntosh 2011”].

<sup>10</sup> National Health Committee “Health in Justice Report: Kia Piki te Ora, Kia Tika!” (July 2010) Ministry of Health at 112.

<sup>11</sup> Te Puni Kōkiri *A study of the children of prisoners, Findings from Māori data June 2011* (December 2011). See also L Gordon *Causes of and solutions to the inter-generational crime: the final report of the study of the children of prisoners* (September 2011) at 27–29. See also, L Gordon *Invisible children, first year research report ‘a study of the children of prisoners* (November 2009).

<sup>12</sup> Te Puni Kōkiri *A study of the children of prisoners, Findings from Māori data June 2011* (December 2011) at 47–48.

50. In a report on improving outcomes for children with a parent in prison it notes that: New Zealand has a high rate of imprisonment and most prisoners are parents. Children with a parent in prison tend to come from families with multiple existing risk factors. Children with a parent in prison experience a wide range of negative impacts, including long-term poor health, educational and social outcomes and are at high risk of future imprisonment themselves. Māori children are much more likely to have a parent in prison compared to non-Māori.<sup>13</sup>
51. This intensification of marginalized status does not allow prison associated Māori whānau to fully participate and contribute to their communities or the broader society. Moreover, it significantly increases the risk that children of prisoners will enter the prison themselves.
52. A 2016 Treasury report focussed on children aged between 0-14 at higher risk of adverse outcomes. The four indicators named were:<sup>14</sup>
- a. Having a CYFs finding of abuse or neglect.
  - b. Being mostly supported by benefits from birth.
  - c. Having a parent with a prison or a community based sentence.
  - d. Having a mother with no formal qualifications.
53. Children who have these indications are more likely to leave school with no qualifications, spent time on a benefit, and receive a prison or community-based sentence. Given what we know about the profile of risk factors commonly present in those that enter the criminal justice system and ultimately the prison system, it is easy to understand the gravity of the impact the State care and abuse in care experience has had on our prison system.
54. At a broad societal level there are competing narrative flows that on one hand profess knowledge of the over-representation of Māori in prison (which I would argue is the most widely known social statistic in New Zealand) and on the other hand continues to disavow the damage that high incarceration incurs on our whānau and communities. This ability to simultaneously reveal and conceal the nature of the experience of prison in Māori life-worlds show the power of a societal narrative that renders the prison a natural part of the social environment for Māori.<sup>15</sup> The normalisation and naturalisation of state care where abuse has occurred predates the normalisation and naturalisation of youth and adult detention and incarceration.
55. More widely, the same flow of societal narratives can be said to explain the other societal indicators in which historically as a nation we have been content with ignoring in respect to Māori: health, education, household income, criminal justice generally, deprivation indexes, and relevant to this inquiry State Care involvement, treatment, and outcomes.<sup>16</sup>

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<sup>13</sup> Superu 'Improving Outcomes for Children with a Parent in Prison' in what Works Series (Superu, Wellington, 2015).

<sup>14</sup> Treasury 'Characteristics of children at risk' (2016) accessed from: <<http://www.treasury.govt.nz/publications/research-policy/ap/2016/16-01/ap16-01-infographic.pdf>>

<sup>15</sup> T McIntosh 'Dissent or Descent?'

<sup>16</sup> See for example: Easton, B *Heke Tangata Māori in Markets and Cities*, Oratia Books 2018.

56. Over-representation, while descriptively correct, is a less than useful designation because it is monolith in concept and practice. It tends to depict the prefix as unproblematic (hence naturalising it) and most importantly cloaks the social structures and mechanisms that engender it. Over-representation becomes another tool of confinement in that it speaks to and confirms the existing situation of not only those who are currently incarcerated but also to the enduring cycle of incarceration. In some ways it describes the systemic churn that ensures that, for too many, the prison may be perceived as one's destiny. Is prison a matter of descent: related to some form of genealogical inheritance, or is it related to dissent: an act of resistance against mainstream societal norms that have largely ensured the 'systemic frustration of aspirations' of Māori?<sup>17</sup> The points made here are significant in reflecting on state care and the abuse that too many suffered. There is a tendency when looking at the alarming figures of state care for Māori to normalise and naturalise them and to see the gross disproportionality as something that is unremarked and normal to Māori.
57. Prisons are receptacles of confined experience. They are institutions of stone, concrete and wire but most importantly they are holders of flesh and blood. They are holders of whakapapa. They are peopled. In this country they are largely holders of Māori flesh and blood and going even deeper than that, they are holders of particular veins of Māori society.
58. If it was simply a Māori issue, then we would expect to see Māori prisoners coming from all socio-economic categories and reflecting the wider Māori population. Yet the Māori prison population overwhelmingly comes from communities that live under conditions of scarcity and deprivation.
59. It is difficult to not recognise the significance of gang membership in terms of prison population. While gang members do not comprise the majority of the prison population, gang members, particularly Māori gang members, are disproportionately present in prison environments. Almost half of all young prisoners (20 and under) are gang members and most have had a care and protection history (Gluckman 2018:26).

### **Stan's Story**

60. Stan Coster and I have worked together for over six years. I am his elder by two months so we have common contemporary references and we are able to demonstrate how state policy and intervention can so clearly shape a life. His story and insights, that he gives as a koha to the Royal Commission, are drawn from his personal experience and state documentation held on him that was obtained under the Official Information Act. Stan is not a research participant but a full research collaborator. His ongoing engagement with a state-funded university researcher is part of his talking back to the state. This section of my brief is based on published work I have produced together with Stan and Dominic Andrae.<sup>18</sup>

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<sup>17</sup> T McIntosh 'Dissent or Descent?'

<sup>18</sup> Andrae, D., McIntosh, T., Coster, S., *Marginalised: An Insider's View of the State, State Policies in New Zealand and Gang Formation*. 16 April 2016; McIntosh T., Coster, S., *Indigenous Insider Knowledge and Prison Identity*, 2017. Andrae, D., McIntosh, T., Coster, S., "You can't take my face": A personal narrative of self-modification through tattooing in the Aotearoa / New Zealand prison system.

61. Stan Coster's (Ngāti Kahungunu) life narrative demonstrates the centrality of state institutions in his life. Well before his birth his family had come to the attention of Child Welfare and other agencies. Since becoming a ward of the state at nine, the state took on the role of parent prior to taking on the role of prison warden in subsequent years. Though he has been out of the prison for over 18 years the state still continues to play a significant role. Agents of the state remain a feature of his life, and as Stan remarks 'The State has written my life and made me the person I am'. His story is not a redemptive one that speaks to a 'life turned around', rather it is a story of resistance to the ongoing barriers he faces. It is a bare life but it is also a considered life. Like many others, years of institutionalisation have given him insight to the system that has shaped and continues to inform his life. He recognises that things could have been different for him if opportunity rather than deprivation had characterised his early years. Stan's confinement in children and youth facilities and later adult incarceration consistently marked a narrowing of prospects, and the further embedding of a marginalised status. While crisis has been a feature of his personal life the ongoing crisis of mass incarceration of Māori is a part of our collective life.
62. Colonisation and the suppression and submersion of an Indigenous cultural identity are causal factors in Maori over-representation in the Aotearoa/New Zealand criminal justice system (Quince 2007, 335). Khylee Quince notes that colonisation "has, in fact, directly shaped the socio-economic position of Maori to such an extent that offending produced by poverty and other related demographics, and the sentences that such offending attracts, are connected to ethnic identity" (2007, 335. Emphasis in original). Indigenous Native American scholar Luana Ross notes that critical features of colonisation include the regulation of Indigenous (colonised) peoples' movements and the erosion, alteration and modification of their culture, including the loss of sovereignty. The coloniser "attempts to destroy the culture of the colonised" and thus culture itself becomes a method of control (Ross 1998, 4). The effects of colonisation and the centrality and dominance of state institutions and being a recipient of its processes emerge as common threads throughout Stan's narrative.
63. As David Cohen notes, the confinement of children is largely an invisible part of the story of Aotearoa/New Zealand. While it has been employed since the early days of contact and settlement, from the 1950s through to around 1990 child and youth confinement in a variety of residential institutions was significantly extended in response to government policy.<sup>19</sup> In this period the New Zealand Government 'incarcerated not just the worst criminal offenders, who never numbered all that many, but also more than 100,000 children and young people, mostly Māori, who were believed to be in need of getting locked away'. Elizabeth Stanley's work centres on the accounts of New Zealanders who as children 'experienced the brutal failings of mass institutionalisation'. Her discussion on institutional cultures speaks to the power of state violence to imprint a sense of shame and stigma on children who, like Stan, were incarcerated in state institutions. She notes that for Māori and Pasifika children racism further intensified the processes of denigration to which children were subject. Many of those children that were held in these youth residences and training facilities during this period continue to churn through the prisons today. Moreover, the children of these children are also to be found disproportionately in the contemporary prison system.

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<sup>19</sup> David Cohen, *Little Criminals: The Story of a New Zealand Boys' Home*, Auckland 2011.

64. Stan was one of these earlier children. In 1969, after the death of his mother, Stan, alongside his siblings, was placed by Child Welfare on preventive supervision with a local family. Shortly after the children were removed on warrant as being indigent and made wards of the state. For Stan the loss of his mother translated into the loss of his world, but it was not the first hardship that he had experienced. His early life was marred by intense deprivation. Prior to her death, Stan's mother had suffered a long illness that meant that she struggled with the day-to-day responsibilities of bringing up a young family under conditions of considerable scarcity. He remembers her as a loving mother who had little support and who had entered into relationships with men that were often damaging to her and her children. She was regularly hospitalised due to her illness and the children had periods of having little or no adult supervision. During this period, social welfare reports document concerns raised that the children were being inadequately parented. The school they were attending noted that while the children were well behaved they often arrived at school unkempt and seemingly undernourished.<sup>20</sup>
65. In the years immediately prior to her death, Stan's mother entered into a relationship with another man and violence became a regular feature of Stan's life, both as a victim and as an observer. The violence that was learned here would be further developed under conditions of state care.
66. The trauma of the death of his mother was exacerbated by the nearly continual movement from foster home to foster home. While in the period immediately after his mother's death attempts were made to keep the children together, or at least in pairs, this proved too difficult to sustain and was quickly abandoned by the authorities.
67. Official welfare reports of the time testify to his frequent movements of homes and schools. In less than one year he had been moved five times, between three different regions. There was a pattern in his placements: early reports often indicated that after initial difficulties he was settling well and that the foster parents were confident that he would adapt to his new circumstances. Yet often only weeks later the Department of Social Welfare officers would be reporting that Stan was uncommunicative and disruptive to the routine of the foster family.
68. For Stan, these families were strange and he was often suspicious of their intentions and too often these suspicions turned out to be warranted. He was mostly placed in Pākehā families and in one case, while the foster family no longer wanted to keep him, they were reluctant for him to be placed with a Māori family as they felt that this would reflect poorly on them. They thought it would indicate that they could not manage a Māori child. The social worker was sympathetic to their concerns and said that if he was placed with a Māori family it would be in another region.
69. He was placed both in private foster care as well as in children's homes. His memories of this time are bleak and he saw and suffered abuse and felt that he was in a constant state of rejection. Psychological reports from this time saw him as a traumatised child who was vulnerable to bullying, shy yet impulsive, but showing real promise as a rugby player. These reports also noted the first clear indications that he could resort to violence if frustrated or

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<sup>20</sup> Stan Coster, 'The state as parent and warden: Stan's story', in Max Rashbrooke, ed., *Inequality: A New Zealand Crisis*, Wellington 2013, p. 132.

angry. Given that he had been subjected to past violence and that he remained a target of violence from both adults and his peers, his violence could be understood as a form of resistance to ongoing victimisation.

70. This approach to resistance was a central characteristic that was to shape his later life outcomes. For Stan violence became a rational response to his environment. He says that as he got older, he realized spontaneous acts of violence or disproportionate reactions to incidents built a reputation for himself that meant he was less likely to be bullied or targeted.<sup>21</sup>
71. Until he was 15 this movement within the foster and collective care system continued. Increasingly, however, Stan was getting into trouble. He was picked up for successive minor infractions: petty theft, truancy, running away, and drinking, all of which were noted in Department of Social Welfare reports. Days after turning 15, after a series of minor incidents and having been a ward of the state for six years, Stan was sent to Epuni Boy's Home. His admittance to Epuni reinforced an emerging criminalised identity. At Epuni Stan's education of things criminal expanded significantly, and fighting became a much greater part of the way he engaged with the world.<sup>22</sup>
72. If Stan's introduction to the police was formalised through petty theft, being a resident in Epuni brought the state, particularly the police, even more into Stan's life in a specific, non-negotiable and institutionally-laden way: the state had the power to order that the names of boys' home residents be gazetted by the police so that their life trajectories, work-related and otherwise, could be monitored in adulthood at the whim of the state. Being a resident in a boys' home for a minor infraction became a lifetime penalty. Stan was now under the permanent and ineradicable gaze of the state.
73. Stan recalls that his arrival at Epuni was marked by being painted in a thick lotion from head to toe to kill head and body lice and then three days in a secure block to learn to mellow out and to suck up to the system. Erving Goffman talks about these induction rituals being rituals of the mortification of the self where detainees are subjected to degrading and humiliating treatments designed (as they are a result of deliberate policy on the part of the institution's staff) to remove any trace of individual identity. Personal clothing and personal belongings are confiscated, individuals are subject to strip searches, hair may be cut or even shaved and they may be issued identification numbers. These treatments are to mark a clear separation between former identity and the new institutionalised identity. Individuals are under constant surveillance and suffer loss of privacy and personal autonomy. Behaviour is closely watched, assessed and if deemed necessary, sanctioned.<sup>23</sup> One's identity kit is removed. Stan's response to his induction to Epuni:

“I didn't talk...at all. In the third week I bashed the kingpin, a fat kid who thought he controlled the place, and I took over. I had figured everything out in three weeks. It was easy. I was already institutionalised. I didn't have to think, to worry, do anything. I had no feelings about Epuni and me being there...no, nothing.”

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<sup>21</sup> Ibid., p. 132.

<sup>22</sup> Ibid., p. 132.

<sup>23</sup> Erving Goffman, *Asylums [Total Institutions]*, Middlesex 1961, pp. 27-51.

74. The themes of confinement, institutionalisation, the use of violence, the creation of an insider/inmate identity, resistance to all forms of legitimate authority and the ongoing erosion of the possibility of a future of hope and opportunity were all established elements of his narrative by 15. In a year where institutionalisation was no longer within a care and protection frame but more unambiguously within a punishment frame, Stan was sent to Waikēria Prison's Hillary House for first offenders for two years for what he calls "petty crime"... "you know, shoplifting, theft of my cousin's car, crashing the car...stuff like that". He was released after one year but was recalled to finish his two-year term following another shoplifting conviction. "You know," he said, "I wanted to join the army when I was 15 but I had my first conviction so goodbye army...I found the poor man's army...jail".
75. David Cohen's history of Epuni is important. He was himself at 13 a resident of Epuni and he weaves insider experience, archival research, policy, narrative, and participant accounts to interrogate the design, implementation and outcomes of the residential training school experience.
76. The year that Stan entered Epuni Boy's Home (in the mid-1970s) was the year that David Cohen used to exemplify the role that Epuni played in the government's policy on containing 'problem' children. Cohen notes that the residence was charged in 1975 with 'assessing and classifying the estimated 350 children aged between seven and 16 who at [that] historical point [were] pushed through its doors before passing out again, usually to some other form of state-sponsored residence or foster situation'.<sup>24</sup>
77. The different ages of children and the various reasons they were sent (some for care and protection, others for criminal or status offending) created the conditions for endemic violence. This was certainly not an exclusive characteristic of Epuni Boy's Home. For example, a report commissioned by the Ministry of Social Development on another of these institutions, the Kohitere Boy's Training Centre, looked at the experiences of residents and staff over the period from 1950 to 1985 in response to historical claims about mistreatment at the centre.<sup>25</sup>
78. Many residents in homes like Epuni and Kohitere had already been in other Boy's homes and had already learnt and complied with a strict code of silence. They were unlikely to inform on other residents or staff due to fear of reprisal and the stigma of breaking the code. The power relations amongst residents were highly hierarchical and bullying was pervasive. The difference in age of residents meant that there was considerable disparity in terms of experience and size. In simple terms this meant that smaller residents were more vulnerable to larger residents and practices to protect smaller and younger residents were largely unsuccessful. Experience was another significant factor with more serious offenders often being housed with less serious offenders.
79. Like Stan, some came from backgrounds where they had been maltreated by family members, caregivers, or staff at other boy's homes and so harboured a deep mistrust of adults. Others were wary and fearful, and found the conditions present in residential homes anxiety producing. Others, again like Stan, had become accustomed to being locked up on their own

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<sup>24</sup> David Cohen, *Little Criminals: The Story of a New Zealand Boys' Home*, Auckland 2011, p 39.

<sup>25</sup> Ministry of Social Development, *Summary of Understanding Kohitere*, Wellington 2010.

at previous institutions and had come to prefer this to being exposed to other residents. Thus, they were not always well motivated to keep out of the secure unit at Kohitere (or other secure units at the other residences) and even purposely contravened regulations so that they would be placed in the unit.

80. Stan's release from Epuni was not a liberation. Though he had been a ward of the state for nearly half of his life, state parenting had not been able to provide him with stability, security or safety. He had had training, but it was largely in the norms and values of a group of young people which had been marginalised and stigmatised. The institution had taught Stan much that would carry him through the next 25 years; it would allow him to survive incarceration but provided few other benefits. Shortly after his release he appeared before the court on a number of occasions for car conversion and related charges. In 1976, after been convicted on some of these charges, he was sent to Waikeria Borstal and simultaneously discharged from Social Welfare care. The role of the state as parent had concluded and was replaced by the role of prison warden. The state had provided ample opportunity for his prison identity to be developed and nurtured and had also been critical in supporting gang formation and sustaining gang identity.

81. Stan has amassed 109 convictions ranging from the petty to a serious act of sexual violence. They encompass : theft of a motor vehicle, obscene language, theft, assault, attempted false pretences, burglary, possession of cannabis, carrying offensive weapons, resisting police, escaping from jail, shoplifting, threatening behaviour, driving offences, escaping from police custody, wilful damage, trespass, robbery, assault on a prison office, male assaults female, armed robbery and rape.

82. Stan has been incarcerated in the following Aotearoa/New Zealand prisons: Waikēria, Paparoa, Mt Eden, Mt Crawford, Kaitoke, Paremoremo and Mangaroa. He has spent more than 25 years behind bars and of these, nine were spent in isolation, segregation and in being 'off privileges' (OP). When not in jail, he was still under the gaze of the state. He said:

“When I was young I was being arrested around three times a week for nothing and then released around 3am the next day. Several years later I knew the system. The cops...how they worked. I could always get free lodgings and breakfast at the cop shop”.

83. While Stan is no longer a patched member of the Mongrel Mob, his earlier gang affiliations remain an important element of his identity: ‘the Mongrel Mob was always a part of my life, family members were in the Mob so it has never been a gang in my eyes; it is just whānau’.<sup>26</sup> Stan said that he first heard about the Mongrel Mob when he was 15, in the latter days of his stay at Epuni Boys' Home. He recalled:

“A pioneer Mongrel Mob leader was whānau (Ngāti Kahungunu). He said to me ‘boy, how old are you?’ I said 15. He said ‘it's time to join.’ Join what? Mongrel Mob...the jail system...”

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<sup>26</sup> Coster, 'The state as parent and warden', p. 132.



84. In many ways his gang membership, though not always an easy association, like his relationship with the State, is the most enduring and sustained relationship he has ever had. His understanding of gang formation as a response to the alienation of Māori from our land and our culture is apparent as he states:<sup>27</sup>

I don't know the Māori ways. There were two world wars. They took the old people ... no-one left to teach us. Our own people fucked us over 'cos they sold out and gave away to the Pākehā . Our land went, so did our heritage. We are now second class citizens in our own country. How do you learn about being Māori? ... The only system I know, the old way, the hori (poor Māori) way, was to do whatever we wanted when we wanted. There has been a migration from Māori to colonialism. New cultures have been created. Mongrel Mob and Mongrelism is one of these. I never recognised the Pākehā system ... never been part of it. Why listen to the white man? All he does is steal and lie. By accepting the white man's regime, we have accepted the bringing of colonialism into our world. Mongrel Mob rejects the British and their colonialism.

85. Others who spent time in the residential homes in the 1960s and 1970s speak to how it impacted on their later lives and in many cases encouraged gang formation. Gary Gerbes, a Pākehā founding member of the Mongrel Mob demonstrates the link:<sup>28</sup>

A lot of these guys (early Mongrels) went through the same place —Levin Training Centre and Epuni Boys' Home .... It was pretty sad and pretty demoralising—there was sexual abuse by the people that ran the place [and] absolutely shocking violence. I was just a kid and I ran away once. I was made to stand on a square at strict attention and talk to myself. If I stopped saying "legs, legs why did you run away" I would be beaten and thrown in a shed—locked in a shed .... Those places destroyed our fuckin' heads, man. [So we said] fuck the system. If that is the way they are going to treat us, then we will treat them the same way. We are going to give them what they gave us—and [via the Mongrel Mob] they got it alright

86. For Stan the 20 years that followed his time at Waikeria Borstal was largely spent in prison. The years spent prior to prison in state care and the abuse that he suffered socialised and normalised him to the prison condition. Confinement and violence was what he knew and adapted to and even became comfortable with. Stan is from a group of men that have largely been brought up in male environments with particular ways of expressing their masculinity; what is commonly referred to as hyper-masculinity. While Stan recognises that he was thoroughly institutionalised and that he has an intimate understanding of the workings of the prison system, he remained a challenging prisoner. His marginality is further inscribed by both gang and jailhouse tattoos covering his face and entire body. These tattoos, only ever done under conditions of confinement and in state institutions, are an integral part of his identity and his self-proclaimed marginality. His marginality is inscribed and embodied. He is a marginal man. He has been damaged by the state. Stan has never had redress from the state for the harm he has suffered and the way that his life trajectory was so severely constrained.
87. As an insider of foster care, gang and jail, Stan has privileged knowledge. Stan is an expert about those institutions and related processes that have been so culturally and socially dominant in his world and that have shaped his world view. He believes that this experience can inform Indigenous interventions that have at their centre others with expertise like

<sup>27</sup> Andrae, McIntosh & Coster, 'Marginalised: An insider's view of the state'.

<sup>28</sup> Quoted in Jarrod Gilbert, *Patched: The History of Gangs in New Zealand*, Auckland 2013, p. 42

himself. He sees this experience as being able to be used to generate new knowledge at the same time as providing an evidence base to counter the ongoing damage of much of state policy.

88. The settler state and its policies has played a major role in the development of Stan's social and culturally identity and has embedded systems and constellations of exclusion, disengagement, disenfranchisement, stigmatisation, rejection and submersion. His narrative starkly reflects monumental dissatisfaction and anger: a poor Māori identity is indeed a marginal identity in Aotearoa/New Zealand and his marginalisation has been reinforced in the collective consciousness through his visual appearance, prison status and gang membership.

**Wāhine toa: state Care in the lives of women I have worked with in prison.**

89. The international evidence strongly suggests that a distinguishing feature of incarcerated women is their common histories of victimisation and trauma (Kruttschnitt and Gartner 2003). The research also notes that incarcerated women have likely been in in state care and suffered abuse within that environment.
90. In this section I will draw on my experience working with women in prison, in order to illustrate what the literature has confirmed over the past thirty years. I will do so with particular reference to the role of State care, and abuse in care.
91. For over a decade I have gone into Auckland Regional Women's Correction Facility (ARWCF) at Wiri on a weekly basis and delivered a creative writing programme as well as educational support. This is done on a voluntary basis and I have developed strong relationships with women in prison as well as with the staff. Some of the young women were 16 when I first met them and are now well into their twenties.
92. My research and practice are modelled on life course research where the commitment to life course development is critical. While I work with women from all backgrounds, the fact that the majority of women prisoners are Māori and that this is even more marked amongst young prisoners, means that the vast majority of women I work with are Māori.
93. With very few exceptions all the young women who I have met over the last decade have been excluded from the compulsory education system by 13. Their education experiences prior to exclusion were overall very poor. All young women who I have worked with have experienced high levels of social harm and had lives that were characterised by violence, including sexual violence.
94. The vast majority of them have been in state care for long periods of their childhood and adolescence. The 'care to custody pipeline' is evident in their life stories. They have disclosed the abuse they suffered in state care, everyday humiliations (for example, kai cupboards in homes locked) and a strong sense that they have no intrinsic value.
95. For some there had been state placements in foster homes where they felt they had been cared for. However, due to the fact that they were often moved around they had also experienced abusive placements. One young woman said that by the age of 10 she had been

abused in care so many times that whether she was placed in a good home or a bad home it meant little to her. By that stage, her behaviour and ability to maintain relationships was so embedded that she rejected the placement regardless of the standard of care. It was impossible for her to have trust in the world given her experiences.

96. This theme of a diminished trust in the world and the behaviour that aligns with this mistrust is something that has been demonstrated frequently in my work. The damage of abuse in institutionalised and state settings means the ability to trust those in positions of authority and power is severely compromised. It also shapes the responses to the outside world in ways that are perceived as anti-social but are often used as a form of protection from the world. Just as Stan started to use violence at an early age as an attempt to avoid further victimisation, the behaviour of some of the women speaks to a similar rationale.
97. In reflecting on the significance of young wāhine Māori being imprisoned it is important to understand the social context of their confinement. These young women come out of communities (often small town and rural communities). They are members of whānau, they have iwi connections and have intimate and complex ties that link them to places, histories and to people. Often from a young age these ties have been disrupted by familial dysfunctions and state intervention. Too many of them also have lives that have been marked by violence, including sexual violence and suffering. Their experience and knowledge of confinement and incarceration usually significantly predates their own confinement. As one young incarcerated woman said to me in reflecting on having being uplifted from her whānau at 3 years old “ I understand that I was in a home where there was too much drugs, alcohol and violence. What I don’t understand is why I was taken and then placed in foster environments where too often there was too much drugs, alcohol and violence”. Being placed in care and protection did not care and protect her and by 13 she was in youth detention facilities and was still a teenager when she started her first prison sentence. Since she was 13 she has spent only a few months in the outside world. She is 27.
98. The women I work with who have been in state care express a high sense of betrayal by those that were charged with their care. This in turn shapes their behaviour in all of their relationships.
99. For some of the women who experienced abuse in state care as children the fact that their own children are now in state care due to their incarceration gives them great anxiety. They are very aware of what can happen to their own children. Over the last decade this fear of their own children being subject to abuse in state care has been mentioned to me frequently.
100. Many of the women have parents and either grandparents who had been placed in state care. Here the inter-generational reach of the damage done is clear. A few have spoken of their grandparent having been at Lake Alice in the 1970s as young children and adolescents.
101. Many have grown up in gang associated whānau where their fathers and sometimes mothers had been in state care. As noted in the earlier points made, the state, through its state care institutions, has had a significant role in early gang formation.
102. It is noticeable among the women that I work with that their knowledge of their paternal whakapapa has often been disrupted. In some cases this is because their father has

not been present in their lives, in others it is because their fathers were placed in state care and were disconnected from their whakapapa and in others it is because the women themselves had been put in state care and whakapapa knowledge was lost. This became apparent to me as many of the women carry names which I can identify link them to their whakapapa, but when asked about their names they were unable to tell me the provenance of their names. Like others, I recognise that whakapapa is never lost but for some people it has yet to be revealed. This disconnection from their whakapapa for some is a source of real mamae and loss.

103. These are just some examples of the kōrero about State care and abuse in care that I have had the privilege of hearing from the women I have worked with in prisons over the last decade. Sadly, the kōrero simply confirms what the national literature over three decades has noted that female prisoners are likely to have histories of abuse and trauma (Roper report 1989; Kingi 1999; Goldingay 2007; Quince 2008; McIntosh 2011; McIntosh & Radojkovich 2012; Bentley 2014; George et al 2014; Wirihana & Smith 2014; Bevan & Wehipeihana 2015; Stanley 2016; McIntosh and Workman 2017; McIntosh & Goldmann 2017; McIntosh 2018). For incarcerated wāhine Māori this victimisation is likely to have occurred in a range of settings including state settings.

#### **Looking forward – hopes for Royal Commission work in context of Criminal Justice**

104. I believe the work of the Royal Commission of Inquiry into Abuse in Care is of critical importance in acknowledging the harm that was done to children and the inter-generational reach of that harm. Recognition of that harm and the validation of the lives of those that experienced it is needed as is determining the appropriate redress. Restoration of mana of the people who have been harmed through emotional, physical, psychological, sexual, verbal, institutional and cultural harm is crucial.
105. While the Royal Commission of Inquiry into Abuse in Care has a specific timespan many of the young women in prison who have experienced abuse in care sit outside this time period. There needs to be recognition of the damage caused. As noted elsewhere in this brief in too many cases those who experience state care follow in the footsteps of their parents and even their grandparents.
106. In order to ensure that harm is not repeated, we need to be honest with ourselves and understand the critical role that colonialism and racism have played in establishing systems which in turn have allowed abuse in state care settings to continue.
107. In listening to and understanding the voice of survivors and their whānau there must be a development of strategies and implementation that safeguards the rights and mana of the child; that recognises how valuable they are; that cherishes and upholds the concept of mokopunatanga; that ensures that connections to whakapapa are revealed and nurtured; that understands whānau in hapū settings and works towards collective security and flourishing of all whānau.
108. The abuse of our children in state care is one of our darkest chapters, in bringing it to light and not turning away from the devastation that was caused we can seek to restore those lives and ensure that future generations thrive. Whether a child is in the care of their

immediate whānau or is in the care of others that child should benefit from the knowledge that they are loved, wanted and vital for our collective future as a nation.