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Wallis, A. (2019). The disorderly female: Alcohol, prostitution and moral insanity in 19<sup>th</sup>-century Fremantle. *Journal of Australian Studies, Online First*. doi: 10.1080/14443058.2019.1638815

## **The Disorderly Female: Alcohol, Prostitution and Moral Insanity in Nineteenth Century Fremantle**

**Alexandra Wallis**

Mary Jane Hayes was admitted, via prison, to the Fremantle Lunatic Asylum for the first time on 16 February 1881, a 32-year-old “drunken and violent woman” whose mind was “affected by drink”.<sup>1</sup> Upon admission she was so violent she was placed in a padded room; she tore the padding off the walls and had her arms fastened in a waistcoat, which was removed after she promised to be quiet.<sup>2</sup> By the end of February she had improved and was discharged convalescent.<sup>3</sup> However, four months later, Mary Jane was readmitted, this time described as “a drunken prostitute”.<sup>4</sup> As she remained violent she was removed to the padded room again.<sup>5</sup> However, she quickly became quiet and well behaved and so improved that within a month she was discharged, although “cautioned not to drink”.<sup>6</sup> Mary Jane Hayes was one of eight women to be labelled a prostitute in the patient records by the staff at the Fremantle Lunatic Asylum from 1858-1908.<sup>7</sup> However, none of the other identified prostitutes were described with such obvious derision than in Mary Jane’s case. Seven other women had prostitution alluded to with previous prison convictions for vagrancy, illegitimate children, or references to venereal diseases. Mary Jane had been clearly labelled a drunken prostitute and it was both of these issues in her life, prostitution and her addiction to alcohol, which were believed to be the causes of her insanity, bad behaviour, and criminal convictions. Mary Jane’s story is an illustrative case study analysis that frames

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<sup>1</sup> *Case Book Female Patients, 1878-1897*, State Records Office Western Australia, Folio 57, 16 February 1881.

<sup>2</sup> *Case Book Female Patients, 1878-1897*, 18 February 1881.

<sup>3</sup> *Case Book Female Patients, 1878-1897*, 22-28 February 1881.

<sup>4</sup> *Case Book Female Patients, 1878-1897*, Folio 59, 14 June 1881.

<sup>5</sup> *Case Book Female Patients, 1878-1897*, 16 June 1881.

<sup>6</sup> *Case Book Female Patients, 1878-1897*, 6-14 July 1881.

<sup>7</sup> Prostitution accounted for just 3% of the female Asylum patient population, while alcohol accounted for 7%.

wider research into the theories of moral insanity and treatment of the female patients at the Fremantle Lunatic Asylum during the late nineteenth century. Individual lives and stories provide ways of understanding both contemporary societies and the whole process of social and historical change.<sup>8</sup> Historical research and biography attends not only to the life stories of the individuals concerned, but also to the meaning of those stories in their wider historical, social, political, cultural and geographical contexts.<sup>9</sup> There is a general absence of Fremantle Asylum historical scholarship and early colonial examination of criminal and deviant women in Fremantle and Perth.<sup>10</sup> Through an examination of the Fremantle Lunatic Asylum patient records and case books, the Prison records, Police Gazettes, and newspaper articles, a colourful and sordid picture of Mary Jane's life is painted. This microcosm case reveals the treatment of a public woman who was deemed morally insane, as she did not conform to the dominant social and moral ideology of late nineteenth century Fremantle.

### **Mary Jane Hayes: An Outcast's Journey**

Mary Jane was a stout woman, 5 foot 4 inches, with high dark brown hair, a long visage and a swarthy complexion.<sup>11</sup> She was born to Protestant parents John, a Police Sergeant, and Ellen (Elan) Gallagher in Ireland in 1849.<sup>12</sup> Due to her parents professions, she could read and write.<sup>13</sup> She was single and 18 years old when she arrived in the Swan River colony, on

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<sup>8</sup> Barbara Caine, *Biography and History* (Hampshire: Palgrave Macmillan, 2010), 1.

<sup>9</sup> Yvonne Downs, "Testing the Potential of Auto/Biographical Life History," *Qualitative Research Journal* 16, no. 4 (2016): 363. doi: 10.1108/QRJ-09-2015-0088.

<sup>10</sup> Leigh Straw's excellent work on criminal women in Western Australian covers the early twentieth century. I aim to examine the earlier experiences. See: Leigh Straw, *Drunks, Pests and Harlots: Criminal Women in Perth and Fremantle, 1900-1939* (Kilkerran: Humming Earth, 2013).

<sup>11</sup> "Police Gazette," State Library of Western Australia, 14 November 1881, 162.

<sup>12</sup> Rica Erickson, *The Bicentennial Dictionary of Western Australians pre-1829-1914, Vol III, Free 1850-1868* (Nedlands: The University of Western Australia Press, 1988), 299.; *Certificate of Marriage Registration 0003357T/1871*. Charles Berry and Mary Jane Gallagher; 31 October 1871. Births, Deaths and Marriages. Western Australia Department of Justice.

<sup>13</sup> *Register Female Prisoners, 1897-1913*, 74, p. 2.

the west coast of Australia, in 1867 on the bride ship *Palestine*, as Mary Jane Gallagher.<sup>14</sup> On 16 January 1869 she gave birth to Elizabeth Smith, her daughter by James Smith, a mariner: Elizabeth was Mary Jane's only documented child.<sup>15</sup>

Her first recorded arrest was in February 1871 when she and Agnes Arbuckle "two notorious prostitutes were charged by P.C. Moan, with using obscene language, and creating a disturbance in their house, on the night of the 11<sup>th</sup> instant".<sup>16</sup> Agnes was fined 15 shillings, or, in default seven days imprisonment and Mary Jane was mulcted in the sum of 20 shillings or 14 days imprisonment.<sup>17</sup> Despite being the first remaining reference of Mary Jane's exploits she was already "notorious" in 1871, she had certainly made an impression since her arrival. Jan Gothard notes that the bride ships with single women immigrants were sometimes identified as sources of prostitutes; some women from various vessels acquired unsavoury reputations immediately upon arrival due to allegations of "irregularities" on board; this was the case for the *Emma Eugenia* which arrived in Fremantle in 1858, it may have also affected passengers, like Mary Jane, on the *Palestine* in 1867.<sup>18</sup> 1871 was also the first time Mary Jane was arrested and tried for larceny. Once again with her partner in crime, Agnes, they had been accused of stealing from the person of Joshua Pickersgill, the sum of £33, in Fremantle, on 6 April.<sup>19</sup> A witness, Thomas Webster, had seen "Gallagher put

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<sup>14</sup> *Fremantle Passenger Arrivals Index, 1829-1890*. SROWA. ACC115/98A.; *Albany Passenger List of Assisted Emigrants Showing Names of Emigrants and from which Countries Selected*. SROWA; Accession: 115; Roll: 214.; The *Palestine* left Albany on 13 April 1867 and arrived in Fremantle on 11 August 1867. There were 47 passengers on board, most of them single women. Mary Jane was listed as a general servant and had paid 10 shillings to emigrate. Her Selecting Agent was Denis Brennan.

<sup>15</sup> *Certificate of Birth Registration 0011200R/1869*. Elizabeth Smith; 16 Jan 1867. BDMWA.

<sup>16</sup> "Police News: Fremantle Police Court," *The Herald*, Fremantle WA, 18 February 1871, p. 3.

<sup>17</sup> "Police News," 18 February 1871, p. 3.

<sup>18</sup> Jan Gothard, *Blue China: Single Female Migration to Colonial Australia* (Carlton South: Melbourne University Press, 2001), 28.

<sup>19</sup> "Supreme Court: Criminal Sittings," *The Herald*, Fremantle WA, 8 July 1871, p. 4; In 1868 Agnes' husband John stated he would no longer be accountable for Agnes' debts and by 1872 he left the colonies. Agnes, using her husband's other name Aiken, married George Reeves. This new marriage would account for her disappearance from the criminal records. Already mother to four Arbuckle children, with George she had

her hand under his coat, and take something; was about two yards away; she then put her hand into his bosom".<sup>20</sup> However, the "prisoners defended themselves, with great readiness, and brazen impudence" and after calling a number of witnesses to establish their alibis the jury returned a not guilty verdict.<sup>21</sup> However, Mary Jane quickly ran out of sympathy from the court and out of money to pay her fines.

Between 1871 and 1898 Mary Jane amassed a criminal record of over 85 arrests and appearances in Perth and Fremantle, with an estimated 67 convictions. This was considered to be the upper end of convictions and Mary Jane would have been a known criminal. Later research into twentieth century Fremantle revealed criminal women to have had upwards of 50 to 200 convictions. Leigh Straw found that Alice Lawson, a notorious prostitute in Kalgoorlie, Bunbury and Perth, had well over 50 convictions by 1930.<sup>22</sup> From 1898-1913 Cecilia Reilly notched up over 70 convictions for neglect, drunkenness, loitering and soliciting.<sup>23</sup> By the Late 1930s, notorious drunk and prostitute Esther Warden, had amassed over 200 convictions.<sup>24</sup> Mary Jane was arrested for: drunkenness (21), larceny (14), idle and disorderly (9), obscene language (8), disorderly conduct (7), vagrancy (5), assault (4), unsound mind (4), drunk and disorderly (1), and keeping a house of ill-fame (1). Although, she was not always convicted of these offences. The broad range of offences can be seen as "versatile offending"; Alana Jayne Piper and Victoria Nagy identified that studying female crime in categories limits the broader understandings that can be made from the mix of

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another four before her death in 1878. After Agnes' death her eldest daughter from her first marriage, Jessie Arbuckle, married George and they had a further eight children.

<sup>20</sup> "Supreme Court: Criminal Session," *The Perth Gazette and West Australian Times*, Perth WA, 21 July 1871, p. 4.

<sup>21</sup> "Supreme Court," 8 July 1871, p. 4.

<sup>22</sup> Straw, *Drunks, Pests and Harlots*, 130.

<sup>23</sup> Straw, *Drunks, Pest and Harlots*, 177.

<sup>24</sup> Straw, *Drunks, Pest and Harlots*, 1.

offences.<sup>25</sup> In a study of the criminal careers of 33 female prisoners interviewed in the 1880s in Queensland, Piper noted that despite their vast number of public-order offenses (like prostitution and destitution), the majority of these women were also versatile offenders who amassed a number of convictions for theft and violence.<sup>26</sup> Mary Jane's crimes were versatile and reveal a hard life, one of poverty, homelessness, uncertainty, and danger. A single biographical case, like Mary Jane, reveals facets of particular institutions, events and large scale social, economic and political developments which are not available in other ways.<sup>27</sup> Barbara Caine noted that a biographical approach in history offers an important addition to the understanding of general developments by providing a way of accessing subjective understanding and experience.<sup>28</sup> What Mary Jane's convictions and story details, is a resourceful, strong, and sometimes, violent woman that society struggled to know what to do with. However, it is her four charges of being of unsound mind that land her in the Fremantle Lunatic Asylum in 1881, 1889, and 1898. Mary Jane's supposed moral failings, most importantly as a woman, in colonial Fremantle society contributed heavily to her incarceration in the Asylum as a morally insane patient.

### **Moral Insanity in the Nineteenth Century**

Moral insanity was an emerging theory in the eighteenth and nineteenth centuries explored most extensively in France and England. One of the first physicians to discuss moral insanity was Englishman, Dr James Cowles Prichard in 1822 who defined it as "madness consisting in a morbid perversion of the natural feelings, affections, inclinations, temper, habits, moral

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<sup>25</sup> Alana Jayne Piper and Victoria Nagy, "Versatile Offending: Criminal Careers of Female Prisoners in Australia, 1860–1920", *Journal of Interdisciplinary History* 48, no.2 (2017): 210, doi:10.1162/JINH\_a\_01125.

<sup>26</sup> Piper and Nagy, "Versatile Offending", 189.

<sup>27</sup> Caine, "Biography and History", 1-3.

<sup>28</sup> Caine, "Biography and History", 1.

dispositions, and natural impulses, without any remarkable disorder or defect of the intellect or knowing and reasoning faculties, and particularly without any insane illusion or hallucination".<sup>29</sup> Prichard writes that the symptoms included a "morbid depression and excitement" and an "unusual prevalence of angry and malicious feelings, which arise without provocation or any of the ordinary incitements".<sup>30</sup> Dr John Kitching wrote in 1857:

When disease invades the general structure of the brain, all the faculties, mental, moral, and instinctive, succumb to the devastating plague. With the inability to reason and to judge, the faculty of distinguishing right from wrong may be lessened or destroyed; the nicety of moral perception may be obscured, the control of emotions and the instincts may be more or less lost, and the whole physical life enervated.<sup>31</sup>

The emphasis on insanity weakening morality in the nineteenth century allowed the definition of moral insanity to be stretched to include almost any kind of behaviour regarded as abnormal or disruptive by community standards.<sup>32</sup> Elaine Showalter argues that traditional categories of madness like mania, dementia, and melancholia, were in some cases thought to be brought on by moral causes.<sup>33</sup> Moral causes were defined by most doctors as strong emotions and psychological stresses that had reduced the system rendering it less capable of enduring fatigue and thus depressing the patient; for some moral causes also referred to social causes, especially poverty.<sup>34</sup> Showalter writes that Victorian doctors believed that in most cases insanity was preventable if individuals were

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<sup>29</sup> James Cowles Prichard, *A Treatise on Insanity and Other Disorders Affecting the Mind* (London: Sherwood, Gilbert, and Piper, [1822]1835), 6; Dr James Cowles Prichard (1786-1848) English physician and entomologist was a senior physician at Bristol Infirmary.

<sup>30</sup> Prichard, *Treatise on Insanity*, 20-21.

<sup>31</sup> John Kitching, *The Principles of Moral Insanity Familiarly Explained in a Lecture* (York: William Simpson, 1857), 23; Dr John Kitching was the third Superintendent of the Friends' Retreat in York from 1849-1874.

<sup>32</sup> Elaine Showalter, *The Female Malady: Women, Madness and English Culture 1830-1980* (London: Virago Press, 1987), 29.

<sup>33</sup> Showalter, *Female Malady*, 29.

<sup>34</sup> Showalter, *Female Malady*, 29.



prepared to use their willpower to fight off mental disorder and avoid excess; mental health was achieved through a life of moderation and energetic exercise of will.<sup>35</sup> Michel Foucault notes that asylums, institutions of morality were established in which an astonishing synthesis of moral obligation and civil law was affected, therefore moral error had assumed the aspect of a transgression against the written or unwritten laws of the community.<sup>36</sup>

### **Moral Treatment in the Colonies**

The Fremantle Lunatic Asylum, established in 1865, was influenced by the theories and practices evolving in Britain and Europe.<sup>37</sup> Although geographically remote from Britain the Australian colonial administration stemmed from England and the patterns of institutional care across the country paralleled those in the motherland during the colonial era.<sup>38</sup> The most prominent of these was the theory of moral insanity and moral treatment: as Stephen Garton argues, mid-nineteenth century psychological medicine in Australia was shaped by the evangelical ideas of moral therapy.<sup>39</sup> Showalter writes that moral treatment looked to abolish restraint; replacing physical coercion, fear and force with paternal surveillance and religious ideals.<sup>40</sup> The Fremantle Lunatic Asylum looked to institute these theories in their patient care; Medical Superintendent Dr Henry Calvert Barnett wrote in 1872 a list of rules for the Asylum Attendants which focused on “Gentleness, Firmness, Truthfulness” and

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<sup>35</sup> Showalter, *Female Malady*, 30.

<sup>36</sup> Michel Foucault, *Madness and Civilization: A History of Insanity in the Age of Reason*, trans. Richard Howard (Oxen: Routledge, 2005), 56.

<sup>37</sup> Bronwyn Harman, “Out of Mind, Out of Sight: Women Incarcerated as Insane in Western Australia 1858-1908” (PhD thesis; University of Western Australia, 1993), 21.

<sup>38</sup> Kenneth C. Kirkby, “History of Psychiatry in Australia, pre-1960,” *History of Psychiatry* 10, no. 38 (1999): 192.

<sup>39</sup> Stephen Garton, “Asylum Histories: Reconsidering Australia’s Lunatic Past,” In *Madness in Australia: Histories, Heritage and the Asylum*, ed. Catharine Coleborne and Dolly MacKinnon (St Lucia: University of Queensland Press, 2003), 18.

<sup>40</sup> Showalter, *Female Malady*, 8.

encouraged occupation and entertainment for the patients.<sup>41</sup> Although moral treatment principles were enacted across most Australian asylums, restraint remained an active part of the treatment in the colonies, which had its origins in the emphasis on punishment and containment of convicts.<sup>42</sup> This practice was used in Fremantle as seen in Mary Jane's case when in 1881 she was secluded and placed in physical restraints.<sup>43</sup> However, moral treatment physicians preferred seclusion to restraint on both moral and medical grounds.<sup>44</sup> As documented in the registers and case books, the Fremantle Asylum did implement the use of seclusion and mechanical restraint which was used on both men and women and the practice continued well into the twentieth century.<sup>45</sup> However, Garton notes that the new humanist attitudes developing in the late nineteenth century influenced a struggle in Australian colonies for improved conditions and the development of laws regarding committal; these reforms were often undermined by government neglect but were the basis for efforts and gradual improvements and conditions.<sup>46</sup> Dr Barnett had pleaded with the colonial government for years to improve the conditions in Fremantle and when he wrote his 1896 report his frustration was evident: "alas the year 1897 is now with us and nothing

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<sup>41</sup> Henry Calvert Barnett, *Rules for the Guidance of Attendants, Fremantle Lunatic Asylum, 1872*. Lunatics (Folios 12-106). SROWA. AU WA S2941- cons36, item 721; Dr Barnett (1832-1897) was the Medical Superintendent for the Fremantle Lunatic Asylum 1872-1897 when he died of an accidental overdose of sulphonal. He constantly asked the government to provided better conditions for the patients and did his best, with the resources he had, to bring moral therapy to Fremantle.

<sup>42</sup> Kirkby, "History of Psychiatry in Australia," 193 & 199.

<sup>43</sup> *Case Book Female Patients, 1878-1897*, SROWA, Folio 57, 18 February 1881.

<sup>44</sup> Nancy Tomes, "The Great Restraint Controversy: A Comparative Perspective on Anglo-American Psychiatry in the Nineteenth Century," in *The Anatomy of Madness: Essays in the History of Psychiatry, Vol III: The Asylum and its Psychiatry*, eds. William F. Bynum, Roy Porter and Michael Shepherd, (London: Routledge, 2004), 198.

<sup>45</sup> Harman, "Out of Mind, Out of Sight", 111.

<sup>46</sup> Stephen Garton, *Medicine and Madness: A Social History of Insanity in New South Wales, 1800-1940* (Sydney: University of New South Wales Press, 1988), 3.

has been done".<sup>47</sup> Barnett's requests were eventually accepted and the slow process to establish better facilities came after the 1900 Report into conditions at the Asylum.<sup>48</sup>

However, Catharine Coleborne and Dolly MacKinnon write that asylums in Australia had a history of being used by members of society as a place to control deviant behaviour or different identities.<sup>49</sup> In Fremantle, conformity to social customs was important and as such madness was defined as deviation from moral behaviour: moral insanity was thus related to socially inappropriate behaviour and emotions. This attitude regarding abnormal behaviour was reflected in Fremantle, Bronwyn Harman notes the Asylum was used as a "dumping ground" for women who were disruptive in the family and in the community.<sup>50</sup>

### **The Labelling of Deviance**

The labelling of people with words, for example criminal, deviant, drunk, prostitute, could have further social impacts as the "labeling theory" dictates. Labeling theory is built around three themes: a view of crime and deviance as "relative", a focus on how power and conflict shape society, and the importance of self-concept.<sup>51</sup> The general position is that "deviance" is not inherently evil, bad, or criminal; therefore, whether acts are considered deviant depends on the society in which they happen, the historical context, and the circumstances of the behaviour; the crucial dimension is the societal reaction to the act, not the act itself.<sup>52</sup>

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<sup>47</sup> Henry Calvert Barnett, *Report on Fremantle Asylum for 1896, Superintending Medical Officer*. SROWA, AU WA S675, Cons 527 1897/0298.

<sup>48</sup> Jane Hall, *May They Rest in Peace: The History and Ghosts of the Fremantle Asylum* (Carlisle, WA: Hesperian Press, 2013), 29; *Report of the Select Committee of the Legislative Assembly, Appointed to Inquire into the Conditions of the Fremantle and Whitby Falls Lunatic Asylums*.

<sup>49</sup> Catharine Coleborne and Dolly MacKinnon, eds., *"Madness" in Australia: Histories, Heritage, and the Asylum* (St Lucia: University of Queensland Press, 2003), 6.

<sup>50</sup> Harman, "Out of Mind, Out of Sight", 48.

<sup>51</sup> Gennaro F. Vito and Jeffrey R. Maahs, eds., *Criminology: Theory, Research and Policy*, 4th ed. (Burlington, MA: Jones and Bartlett Learning, 2017), 158.

<sup>52</sup> Vito and Maahs, *Criminology*, 158.

Labeling also emphasises the influence of powerful groups in society to both define and react to deviant behaviour. Those in power will define and enforce laws that benefit themselves to the detriment of those who are less powerful; such as the criminalisation of certain forms of behaviour that they view as evil or morally wrong.<sup>53</sup> The third aspect is part of the general theory of symbolic interactions; people communicate through gestures, signs, words, and images that stand for, or represent other things (symbols), therefore a single word (label) may contain a whole set of meanings.<sup>54</sup> These exchanges of symbols help people understand and define themselves, in other words people interpret symbolic gestures from others and incorporate them into their self-image.<sup>55</sup> Based on others' responses to the self as a social object, we come to see ourselves as we think others see us.<sup>56</sup> Reza Barmaki affirms that labeling is a process of identification, judgement and punishment of the deviant which then results in the formation of a deviant identity which would in turn cause further delinquency on their part.<sup>57</sup>

The label of criminality itself can lead to victimisation as there is an overlap between criminal offending and crime victimisation; offenders are more likely than non-offenders to be victims, and victims are more likely than non-victims to be offenders.<sup>58</sup> Jennings, Piquero and Reingle in their study note that since the 1950s the overlap between crime and victims has been examined; in 1958 Marvin Wolfgang found that people who were involved in

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<sup>53</sup> Vito and Maahs, *Criminology*, 159.

<sup>54</sup> Vito and Maahs, *Criminology*, 159-160.

<sup>55</sup> Vito and Maahs, *Criminology*, 159-160.

<sup>56</sup> Fred E. Markowitz, "Labeling Theory and Mental Illness," in *Labeling Theory: Empirical Tests: Advances in Criminological Theory*, vol 18, eds. David P. Farrington and Joseph Murray (New Jersey: Transaction Publishers, 2014), 46.

<sup>57</sup> Reza Barmaki, "On the Origin of "Labeling" Theory in Criminology: Frank Tannenbaum and the Chicago School of Sociology," *Deviant Behaviour*, Taylor and Francis (2017): 1. doi: 10.1080/01639625.2017.1420491.

<sup>58</sup> Horst Entorf, "Criminal Victims, Victimized Criminals, or Both? A Deeper Look at the Victim-Offender Overlap" (discussion paper 7686 for IZA: Institute for the Study of Labor, Bonn, October 2013).

minor crimes would be more likely to become victims of more serious crimes.<sup>59</sup> In 1983 Jan Van Dijk and Carl Steinmetz argued that victimisation (becoming a victim of crime) weakened normative values and therefore resulted in subsequent offending.<sup>60</sup> This can be seen in Mary Jane's case as she is caught in a system of criminal labels and incarceration.

Naturally both men and women engaged in criminal and publicly unacceptable behaviour; however, it was women who were seen to be the moral influence of the family, and therefore their behaviour needed to be beyond reproach. Piper argues that in the late nineteenth century criminality was seen as a moral contagion communicated, often deliberately and maliciously, by bad company or corrupt family members.<sup>61</sup> For women, in particular, moral contamination was often seen as the reason for female crime and prostitution.<sup>62</sup> Julie Kimber notes that these deviant women were labelled fallen, vile, and corrupting of the moral fabric of society; male deviants, equally despised, were perceived of more as a threat to physical safety and industrial order, not morality.<sup>63</sup>

For women, the term "deviancy" refers to the processes through which women's behaviours have been viewed as outside of accepted social parameters, behaviours unlikely to command honour, respect, and social status; this includes behaviours that are considered criminal and those not illegal but which placed some women on the margins of the

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<sup>59</sup> Wesley G. Jennings, Alex R. Piquero and Jennifer M. Reingle, "On the Overlap between Victimization and Offending: A Review of the Literature," *Aggression and Violent Behaviour* 17 (2012): 22. doi: 10.1016/j.avb.2011.09.003; Marvin Wolfgang, *Patterns in Criminal Homicide* (Oxford: University of Pennsylvania Press, 1958).

<sup>60</sup> Jennings, Piquero and Reingle, "On the Overlap", 22; Jan J. Van Dijk and Carl H. Steinmetz, "Victimization Surveys: Beyond Measuring the Volume of Crime," *Victimology* 8 (1983): 291-309.

<sup>61</sup> Alana Jayne Piper, "'Woman's Special Enemy': Female Enmity in Criminal Discourse during the Long Nineteenth Century," *Journal of Social History* 49, no. 3 (2016): 672, doi: 10.1093/jsh/shv049.

<sup>62</sup> Piper, "Woman's Special Enemy," 673.

<sup>63</sup> Julie Kimber, "'A Nuisance to the Community': Policing the Vagrant Woman," *Journal of Australian Studies* 34, no. 3, (2010): 280, doi: 10.1080/14443058.2010.498092.

community.<sup>64</sup> Shani D’Cruze and Louise Jackson argue that perceptions of appropriate gender roles have meant that women’s sexuality in particular has often been an area of anxiety in relation to constructions of deviancy.<sup>65</sup> Therefore women’s deviance and offending has tended to be viewed not merely as unusual, but as “doubly deviant” in that it contradicts gendered assumptions about caring femininity as well as threatening broader social norms through the act of law-breaking or transgressing social boundaries.<sup>66</sup> Leigh Straw notes that female offenders experienced a double punishment whereby, based on the stereotype of the bad woman, social transgressions overlapped with gender transgressions to marginalise women more than men outside the judicial system.<sup>67</sup> Marisa Silvestri and Chris Crowther-Dowey agree, arguing that social anxiety about the deviancy of girls and their transgression of the legal, social, and moral order manifested into five persistent cultural myths about the female offender: firstly, that she is not violent; that she more likely to be mad than bad; that she is a liar and deceiver; that through her sexuality she is both dangerous and risky; and lastly, that she is in need of both care and control.<sup>68</sup> This can be seen in the treatment of deviant women, like Mary Jane Hayes.

### **Tainted Women: Alcohol and Prostitution in the Nineteenth Century**

Mary Jane was both a drunk and a prostitute, two of the worst labels a woman in nineteenth century Fremantle could be branded with. Respectable women’s lives were ruled by social constructs regarding behaviour, work, and marriage. The nineteenth century

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<sup>64</sup> Shani D’Cruze and Louise A. Jackson, *Women, Crime and Justice in England since 1660* (Hampshire: Palgrave Macmillan, 2009), 2.

<sup>65</sup> D’Cruze and Jackson, *Women, Crime and Justice*, 29.

<sup>66</sup> D’Cruze and Jackson, *Women, Crime and Justice*, 15.

<sup>67</sup> Leigh Straw, “‘The Worst Female Character’: Criminal Underclass Women in Perth and Fremantle, 1900-1939,” *Journal of Australian Studies* 37, no. 2 (2013): 208. doi: 10.1080/14443058.2013.782061.

<sup>68</sup> Marisa Silvestri and Chris Crowther-Dowey, *Gender and Crime: A Human Rights Approach*, 2nd ed., (London: Sage Publications, 2016), 45.

Australian dominant feminine ideal was imported from Britain and the artificial social construct placed women in the private sphere of their own home and family, removed from what was then considered the taint of the public arena.<sup>69</sup> Of course women's experiences varied, as working-class women were employed outside of the home. However, in colonial Australia women were assisted to migrate with a view to entering paid domestic service: Gothard suggests that over the space of half a century, colonial societies absorbed over ninety-thousand domestic servants.<sup>70</sup> Therefore domestic service would have been the dominant employment opportunity for working class women. The prevailing ideology, that a woman's primary function was to care for her husband and family, was reaffirmed in all aspects: Sarah Stickney Ellis wrote in 1843 that "the love of woman appears to have been created solely to minister; that of man, to be ministered unto".<sup>71</sup> Therefore anything outside the confines of "good" behaviour would be grounds for punishment; public indecency, drinking alcohol, and engaging in prostitution were morally repugnant.

It was believed that drunkenness reduced a woman's capacity to manage and further the family's material and spiritual interests: a drunken woman would not be capable of attending to her children and her husband, and most importantly would be incapable of setting a good moral example.<sup>72</sup> Prostitution in the nineteenth century was the "Great Social Evil" and Victorians feared it would pollute respectable society, wreck marriages, break up the family home and destroy the very fabric of the nation.<sup>73</sup> The dominant view held by

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<sup>69</sup> Anita Selzer, *Governors' Wives in Colonial Australia* (Canberra: National Library of Australia, 2002), 8.

<sup>70</sup> Gothard, *Blue China*, ix.

<sup>71</sup> Sarah Stickney Ellis, *The Wives of England, their Relative Duties, Domestic Influence, and Social Obligations* (London: Fisher, 1843), 76.

<sup>72</sup> Ben Killingsworth, "'Drinking Stories' from a Playgroup: Alcohol in the Lives of Middle-class Mothers in Australia," *Ethnography* 7 (2006): 357.

<sup>73</sup> Drew D. Gray, *London's Shadows: The Dark Side of the Victorian City* (London: Bloomsbury Publishing, 2010), 149.

Australian society was that women engaged in prostitution due to defects of character or addiction to alcohol, not because they had no alternatives.<sup>74</sup> Elaine McKewon notes that prostitution itself is not illegal in Western Australia, however, prostitution-related activities, such as soliciting and keeping a premises for the purpose of prostitution, were criminal offences under the *WA Police Act 1892*.<sup>75</sup> Police used containment policies to enforce unofficial restrictions to the areas prostitutes could solicit, or arrested women on other related charges like idle and disorderly, vagrancy, and drunkenness.<sup>76</sup> Straw writes that women committing offences against good order presented authorities with a challenge as to how best control them: Reformatories, Homes, prisons and the Asylum came to be used in an effort to reform and rescue womanhood well into the twentieth century.<sup>77</sup> The aim of these institutions was to raise the women's sense of morality by awakening shame and a desire to repent and reform, combined with the moral treatment strategy to place them in wholesome family situations where they completed domestic tasks.<sup>78</sup> Both drunkenness and prostitution were also grounds for insanity as women were more likely to be deemed insane for their moral failing than men were.<sup>79</sup> Prichard wrote that "among physical causes of madness, one of the most frequent is the immoderate use of intoxicating liquors...ardent spirits are perhaps, of all, the most injurious in their effects, particularly on the lower classes".<sup>80</sup> He also observed that prostitutes were frequent inmates at asylums, "these

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<sup>74</sup> Frank Bongiorno, *The Sex Lives of Australians: A History* (Collingwood: Black Inc, 2012), 45.

<sup>75</sup> Elaine McKewon, "The Historical Geography of Prostitution in Perth, Western Australia," *Australian Geographer* 34, no. 3 (2003): 300-301, doi: 10.1080/0004918032000152393.

<sup>76</sup> McKewon, "The Historical Geography of Prostitution in Perth", 300-301.

<sup>77</sup> Straw, *Drunks, Pests and Harlots*, 7-8.

<sup>78</sup> Raelene Frances, *Selling Sex: A Hidden History of Prostitution* (Sydney: The University of New South Wales Press, 2007), 165.

<sup>79</sup> Bronwyn Harman, "Women and Insanity: The Fremantle Asylum in Western Australia, 1858-1908." In *Sexuality and Gender in History: Selected Essays*, eds. Penelope Hetherington and Philippa Maddern (Nedlands, WA: University of Western Australia Press, 1993), 170.

<sup>80</sup> Prichard, *Treatise on Insanity*, 204.



unhappy creatures, after abandoning themselves to excesses of all kinds, and partly through the effect of misery and despair, fall into dementia".<sup>81</sup> Catharine Coleborne writes that colonial mental hospitals rarely used the explicit label of "prostitute"; when the label was used it highlights not only colonial worlds of female dependency and need, but also concerns over the identities of women in social spaces.<sup>82</sup> Deviant women, criminals, drunks, prostitutes, or any other public display of traits that contradicted ideal female behaviour, would be removed from the community and placed in institutions like the asylum or prisons with hopes of restoring some of their lost morality.

### **Alcohol, Violence, Sex, and Madness: A Criminal Career**

After her discharge in February 1881, in the time between her first two stays at the Asylum, Mary Jane had her second husband Henry Hayes arrested on 26 May 1881 for assaulting her.<sup>83</sup> He was bound to keep the peace for six months and since he was in default of his securities he was sent to Perth Gaol.<sup>84</sup> This not only reveals her violent home life, but that she was not afraid of engaging the authorities when she was wronged, despite the fact the offence was committed by her husband. Her bad behaviour continued across 1882-1883 as she was suspected of larceny, confined for four days after running down High Street "screaming out at the top of her voice", and sent to Perth Gaol for seven days for drunkenness.<sup>85</sup> In April 1884 Mary Jane's aged mother Ellen Gallagher arrived from Ireland,

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<sup>81</sup> Prichard, *Treatise on Insanity*, 206.

<sup>82</sup> Catharine Coleborne, "Insanity, Gender and Empire: Women Living a 'Loose Kind of Life' on the Colonial Institutional Margins, 1870-1910," *Health and History, Health and Place: Medicine, Ethnicity and Colonial Identities* 12, no. 1 (2012): 91-92.

<sup>83</sup> "Police Gazette," SLWA, June 1881, 91; On 31 October 1871 Mary Jane Gallagher married Charles Berry, a seaman in the Port of Fremantle; by 1878 she was noted as widowed and on 26 December 1878 married Henry Hayes, a sawyer, a drunk and ex-convict.

<sup>84</sup> "Police Gazette," June 1881, 91.

<sup>85</sup> "Police Gazette," November 1881, 196.; "Saturday December 31<sup>st</sup> 1881," *The Herald*, Fremantle WA, 31 December 1881, p. 2.; "Police Gazette," May 1882, 48

via Queensland, to live with her, but upon arrival was ill-treated by Mary Jane and disapproved of her “loose” living.<sup>86</sup> She wished to return to Ireland and applied for assistance to do so; this reaction would not be surprising from the widow of a Police Sergeant.<sup>87</sup> The visit from her mother did nothing to discourage Mary Jane but perhaps spurred on her criminal activities as by the end of 1884 she became involved in her biggest crime for which she received the harshest sentence she had faced.

In October 1884 Mary Jane was being referred to by the local papers as “a well-known character” and so when she was arrested in December 1884 for larceny along with three other men, it was a juicy story for Fremantle and Perth.<sup>88</sup> On 3 December “notorious Fremantle resident” Mary Jane was charged with having been drunk but was discharged with a caution as she was about to be tried in another case for larceny along with John Waters, Dennis McCarthy and Patrick Shea.<sup>89</sup> They were charged with feloniously stealing five one pound notes, four sovereigns, one half-sovereign, and some silver, which was the property of visiting shepherd Stephen Radford.<sup>90</sup> It was in this case that Mary Jane’s *modus operandi* was displayed again; Radford claimed:

None of the men robbed me, it was the woman (Mrs. Hayes) that robbed me; she jumped on my neck and wanted to kiss me (laughter)...I have not seen any of the money or my pouch since; McCarthy and Waters were on the right side of me when I was standing in the bar, and the woman and Shea were on the other side... the woman is the only one who interfered with me; she had taken my money two or three times before on that day; I did not say anything to her about it, because I was afraid of the men, and I did not know what the consequences would be. I was the

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<sup>86</sup> Friends of Battye Library, *Bicentennial Dictionary: H*, SLWA, p. 1413; Friends of Battye Library, *Bicentennial Dictionary: G*, SLWA, p. 1141.

<sup>87</sup> *Bicentennial Dictionary: H*, p. 1413; *G*, p. 1141.

<sup>88</sup> “The Daily News,” *The Daily News*, Perth WA, 23 October 1884, p. 3.

<sup>89</sup> “City Police Court,” *The Daily News*, Perth WA, 5 December 1884, p. 3.; “City Police Court,” *The Daily News*, Perth WA, 8 December 1884, p. 3.

<sup>90</sup> “City Police Court,” *The Daily News*, Perth WA, 8 December 1884, p. 3.

worse for liquor at the time; as soon as the woman had left the bar I felt in my pocket and missed the money.<sup>91</sup>

Mary Jane had exhibited similar tactics in 1871, targeting drunken men while soliciting and taking their money; this was the only reported instance where she used intimidation of the men around her to aid in her crime. Mary Jane's response to the accusation was: "do you remember telling me that you wanted me to go in the bush and mind your hut for you?", which implied that Radford may have employed Mary Jane's services on the evening in question.<sup>92</sup> The trial continued into 1885 when in January further witnesses were examined one of which, a woman named Timewell, stated: "the prosecutor promised to take them both to Guildford for a holiday, and also promised to give Hayes (the female prisoner) some money, but the 'gentleman' had no money at that time to give her", "did not see the prisoner making love to the old man, but the old man made love to the 'lady' (meaning the prisoner)".<sup>93</sup> Radford claimed he resented Mary Jane's attentions but Timewell suspected otherwise.<sup>94</sup> It was decided by the jury that as Mary Jane was the thief, or principal in the first degree, and the others accessories, she was found guilty on the first count; Waters and Shea guilty on the second count, McCarthy was acquitted.<sup>95</sup> Mary Jane, who had been previously convicted of a similar offence, was sentenced to five years penal servitude in Perth Gaol.<sup>96</sup> Mary Jane's association with other criminal men resulted in a more daring

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<sup>91</sup> "City Police Court," 8 December 1884, p. 3.

<sup>92</sup> "City Police Court," 8 December 1884, p. 3.

<sup>93</sup> "Supreme Court: Criminal Sittings, Larceny in a Public House," *The West Australian*, Perth WA, 17 January 1885, p. 3.

<sup>94</sup> "Supreme Court," 17 January 1885, p. 3.

<sup>95</sup> "Supreme Court," 17 January 1885, p. 3.

<sup>96</sup> "Supreme Court," 17 January 1885, p. 3; Waters, who had previously borne a good character, received six months imprisonment with hard labour. Shea, who had two previous convictions for felony, was sentenced to seven years penal servitude. McCarthy, the only prisoner represented by counsel, was released with no charge.

crime and a harsher sentence. Criminal associations added weight to a sentence and as Piper notes, women were considered more susceptible to moral and criminal contamination.<sup>97</sup> However, women were also represented as more potent sources of contagion which could explain her harsher sentence.<sup>98</sup>

It is this period that reveals much of Mary Jane's complicated relationship with her daughter, Elizabeth Smith. In June 1886 Elizabeth petitioned the Governor of Western Australia, F.N. Broome, for the early release of her mother.<sup>99</sup> The petition stated that Mrs Hayes was "subject to fits of insanity" and that Elizabeth desired her mother's liberty, "removing that shame which I am bound to participate".<sup>100</sup> Elizabeth was now able to support her mother and hoped that the two years she had already served was "justice sufficiently vindicated".<sup>101</sup> The judge of Mary Jane's larceny case, P.G. Stone, commented that "she is now of those inmates who if allowed her liberty will be always a trouble to society".<sup>102</sup> No action was taken to release Mary Jane and Elizabeth was informed on 2 July 1886.<sup>103</sup> Despite the rejection of her daughter's petition, Mary Jane was released after serving three years of her sentence, discharged early on 20 June 1887.<sup>104</sup>

Mary Jane's complicated relationship with Elizabeth continued in February 1888, when Mary Jane was brought before Fremantle Court for assaulting Charles Clark.<sup>105</sup> Clark claimed that Mary Jane had struck him in the face and made some untruthful remarks about

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<sup>97</sup> Piper, "Woman's Special Enemy," 673.

<sup>98</sup> Piper, "Woman's Special Enemy," 673.

<sup>99</sup> *Elizabeth Smith Petition for the Release of Mrs Mary Jane Hayes, 1886*, SROWA; AU WA S675, Cons 527 1886/2595.

<sup>100</sup> *Elizabeth Smith Petition, 1886*.

<sup>101</sup> *Elizabeth Smith Petition, 1886*.

<sup>102</sup> *Elizabeth Smith Petition, 1886*.

<sup>103</sup> *Elizabeth Smith Petition, 1886*.

<sup>104</sup> "Police Gazette," SLWA, June 1887, 118.

<sup>105</sup> "News and Notes," *The West Australian*, Perth WA, 2 February 1888, p. 3.

her daughter.<sup>106</sup> Despite Elizabeth's efforts to secure early release for her mother the previous year, Mary Jane had turned her out of the house.<sup>107</sup> Clark claimed he had taken pity on Elizabeth and as a widower he had offered her employment as a housekeeper and to look after his child.<sup>108</sup> Mary Jane claimed that Elizabeth had been led astray, as she already had one child, she was now "again in trouble" by Clark.<sup>109</sup> Robert Fairbairn, presiding over the case, stated that it seemed a bad house and must have been a hard thing for a mother to endure; he dismissed the case "admitting that the defendant had great cause for distress".<sup>110</sup> Violence was an enduring feature of Mary Jane's life, this time it was she who inflicted it, however, she used her role as a mother in order to avoid charges. Fairbairn's view that Mary Jane would be distressed by her unwed, twice pregnant daughter's actions, and the man who had impregnated her, reveals the level of status that motherhood had in nineteenth century Fremantle, as despite her criminal past she garners leniency based on motherly affection. Cesare Lombroso and Guglielmo Ferrero wrote in 1893 about "the anticriminogenic influence of maternity" that "never inspires crime, even among female born criminals. The sentiment is too noble to coexist with degeneration".<sup>111</sup> Mary Gibson noted that for Lombroso, criminal women typically shunned maternity, as his ideology surrounding motherhood did not align with the type of woman who would engage in crime.<sup>112</sup> This view is still held by some modern institutions that are guided by the

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<sup>106</sup> "News and Notes," 2 February 1888, p. 3.

<sup>107</sup> "News and Notes," 2 February 1888, p. 3.

<sup>108</sup> "News and Notes," 2 February 1888, p. 3.

<sup>109</sup> "News and Notes," 2 February 1888, p. 3; in 1889 a 20-year-old Elizabeth Smith would give birth to a daughter with Charles Clarke, Amy Isabella Clarke in Fremantle.

<sup>110</sup> "News and Notes," 2 February 1888, p. 3; Robert Fairbairn was the Resident Magistrate of Fremantle from the 1880s until the early twentieth century.

<sup>111</sup> Cesare Lombroso and Guglielmo Ferrero, *Criminal Women, the Prostitute, and the Normal Woman*, trans. Nicole Hahn Rafter and Mary Gibson (London: Duke University, [1893] 2001, 186; Cesare Lombroso (1835-1909) Italian physician, considered to be the "father" of criminology.

<sup>112</sup> Mary Gibson, "Cesare Lombroso, Prison Science, and Penal Policy," in *The Cesare Lombroso Handbook*, eds. Paul Knepper and P.J. Ystehede (Oxon: Routledge, 2013), 35.

assumption that teaching women to be “good” mothers will help them to be law abiding.<sup>113</sup> Of course, the “optimistic characterisation of the redemptive power of motherhood” faces challenges in that, according to Yule, Paré and Gartner, most British women serving time in 2015 were mothers.<sup>114</sup> Mary Jane’s association with other criminals or morally repugnant actions were sentenced more harshly than her actions as a mother which were sentenced more leniently. The leniency did not last as a month later in March 1888 Mary Jane was convicted by Fairbairn with disorderly conduct, which was reported as her forty-second appearance in court.<sup>115</sup>

Eight years since her first admission, as detailed in the introduction, Mary Jane was arrested and identified as a lunatic in Fremantle on 13 May 1889 and was sent to the Asylum for the third time.<sup>116</sup> Dr Barnett noted that she “had led a dissipated life”, she had been under his care at Police lock up “threatened with D.T.”, “very delusional and violent at times”.<sup>117</sup> D.T. was delirium tremens which was a severe form of alcohol withdrawal that involved sudden and severe mental or nervous system changes; a combination of both physical and mental symptoms, delirium tremens would result in tremors of the limbs and terrifying hallucinations.<sup>118</sup> American Dr John Ware wrote in 1831 that delirium tremens could be “occasioned by abstinence from ardent spirits, whether this abstinence be forced or voluntary”, or “frequently ensue shortly after a course of excessive indulgence”.<sup>119</sup> In this

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<sup>113</sup> Carolyn Yule, Paul-Philippe Paré and Rosemary Gartner, “An Examination of the Local Life Circumstances of Female Offenders: Mothering, Illegal Earnings and Drug Use,” *British Journal of Criminology* 55 (2015): 248. doi: 10.1093/bjc/azu073.

<sup>114</sup> Yule, Paré and Gartner, “Examination of the Local Life Circumstances of Female Offenders,” 248.

<sup>115</sup> “News and Notes,” *The West Australian*, Perth WA, 19 March 1888, p. 2.

<sup>116</sup> “Police Gazette,” SLWA, May 1889, 83 & 126.

<sup>117</sup> *Case Book Female Patients, 1878-1897*, Folio 136, 22 May 1889.

<sup>118</sup> Kostas Makras, “‘The Poison that Upsets my Reason’: Men, Madness and Drunkenness in the Victorian Period,” In *Insanity and the Lunatic Asylum in the Nineteenth Century*, ed. Thomas Knowles and Serena Trowbridge (Oxon: Routledge, 2016), 143.

<sup>119</sup> John Ware, *Remarks on the History and Treatment of Delirium Tremens* (Boston: N. Hale’s Steam Power Press, 1831), 7.

instance it can be assumed that Mary Jane's time in prison had led to her developing the condition. Insanity caused by alcohol was considered to be the one of the most easily cured, Prichard wrote that often, "when the exciting cause is removed, the effect begins to lessen, and eventually ceases. When these patients are prevented from obtaining stimulating liquors, and are treated with sedative remedies, they quickly show signs of amelioration and of the subsidence of disease".<sup>120</sup> This was reflected in Mary Jane's case as she once again began to improve and by early June she was discharged convalescent.<sup>121</sup> The nineteenth century physician's lack of understanding of addiction and alcoholism is even more apparent when only two months later Mary Jane was readmitted for the fourth time after she was found wandering the streets and was arrested by P.C. Loveday for being of unsound mind in Fremantle on 8 August 1889.<sup>122</sup> She was removed to the Asylum with her "customary symptoms" as she had "again been drinking and as usual her brain [was] affected".<sup>123</sup> She was described as very troublesome and had to have a "very necessary bath".<sup>124</sup> Unsurprisingly Mary Jane, who by now would have realised how she could behave to get out of the Asylum, quickly behaved well and began to improve again; by 25 September 1889 she was discharged.<sup>125</sup>

Mary Jane's life continued to be plagued by alcohol, violence, and stints in prison. In October 1889, a month after her final discharge from the Asylum she was assaulted by Carl Stenback who "said he was going to sleep in her house that night, and when she objected he

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<sup>120</sup> Prichard, *Treatise on Insanity*, 204-205.

<sup>121</sup> *Case Book Female Patients*, 1878-1897, Folio 136, 31 May; 1-7 June 1889.

<sup>122</sup> "Police Gazette," SLWA, 8 August 1889, 126.; "News and Notes," *The West Australian*, Perth WA, 10 August 1889, p. 2.

<sup>123</sup> *Case Book Female Patients*, 1878-1897, Folio 136, 10 August 1889.

<sup>124</sup> *Case Book Female Patients*, 1878-1897, 11 August 1889.

<sup>125</sup> *Case Book Female Patients*, 1878-1897, 16 August; 10-25 September 1889.

struck her and took up a chisel saying, 'I am Jack the Ripper'".<sup>126</sup> It is interesting that the story of Jack the Ripper, the unknown serial killer of Whitechapel, East London who killed at least five prostitutes between 31 August and 9 November 1888, made it all the way to Fremantle in under a year to be used as a threat against a local prostitute.<sup>127</sup> Fairbairn dismissed the case, despite Stenback's violent actions and his claims that Mary Jane had robbed him.<sup>128</sup> The dismissal of the case reveals a lack of sympathy for Mary Jane and an indifference to violence towards female prostitutes from the local law system. Roger Matthews notes that women involved in prostitution still have extensive and continuous victimisation particularly related to violence from clients or drugs and alcohol.<sup>129</sup> While they are sometimes seen as victims the circumstances surrounding their prostitution depends on what level of victimisation they are attributed; for example, women who engage in prostitution are classified as offenders and women who are trafficked for sex are seen as victims, based on the belief that trafficked women are coerced and prostituted women are not.<sup>130</sup> In this instance, Mary Jane's status as a soliciting prostitute negated her victimhood.

From 1889-1898 Mary Jane accumulated at least 31 appearances for drunkenness, idle and disorderly, disorderly conduct, vagrancy, obscene language, larceny, and keeping a house of ill-fame. In 1894 it was revealed she was no longer living with her husband Henry, during a case for obscene language when she stated "she had been living with a man many years, and because he found she had been drinking he knocked her about, and then she followed him into the street and used her tongue", "he took her away from her husband,

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<sup>126</sup> "News of the Day," *The Inquirer and Commercial News*, Perth WA, 25 October 1889, p. 5.

<sup>127</sup> Judith R. Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (Chicago: The University of Chicago Press, 1992), 192.

<sup>128</sup> "News of the Day," 25 October 1889, p. 5.

<sup>129</sup> Roger Matthews, *Prostitution, Politics & Policy* (Oxon: Routledge, 2008), 59.

<sup>130</sup> Mary A. Finn, Lisa R. Muftić and Erin I. Marsh, "Exploring the Overlap between Victimization and Offending among Women in Sex Work," *Victims & Offenders* 10, no.1 (2015): 75. doi: 10.1080/15564886.2014.918069.



and she had lived with him ever since”.<sup>131</sup> Almost all the men in Mary Jane’s life were violent: her continual exposure to repeat victimisation accounts for her continued offending in public drinking and violence. A newspaper article, also from 1894, further emphasises some of the reasons she drank; in late July Mary Jane “an elderly woman was again charged with drunkenness” she had been released from prison on Friday, having been in for disorderly conduct, and the “first use she made of her liberty was to get drunk”: she admitted the charge, but said “it was a wet day, very wet indeed, and she took a little drop to guard against the wet”.<sup>132</sup> Psychiatrist Phyllis Chesler argues that trauma victims, of varying degrees, sometimes attempt to mask their symptoms with alcohol or drugs, so it is not unfounded to suggest unhappy women would have taken to temporary relief in intoxicating substances.<sup>133</sup> This could be the case for Mary Jane; her life had certainly been traumatic. In 1896 it was noted that she had an estimated 67 recorded convictions, a massive accumulation of her criminal, social, and moral transgressions.<sup>134</sup>

### **The Final Holding Cell**

Mary Jane’s last recorded conviction was in September 1898; “a well-known visitor to the Police Court, Mary Jane Hayes, was brought up charged with being idle and disorderly”; Inspector Hogan explained that Mary Jane’s “methods of life mostly consisted in drinking beer and ‘dossing’ in the open when not in gaol”.<sup>135</sup> The arresting constable P.C. Banfield stated that “she’s cleaner to-day than she has been for a month”.<sup>136</sup> The magistrate, “to

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<sup>131</sup> “Police Court Reports, City: How She was Taken Away,” *The Daily News*, Perth WA, 27 July 1894, p. 2.

<sup>132</sup> “Police Court Reports – City – Keeping out the Rain,” *The Daily News*, Perth WA, 28 July 1894, p. 2.

<sup>133</sup> Phyllis Chesler, *Women and Madness* (New York: Palgrave Macmillan, [1972] 2005), 35.

<sup>134</sup> “Fremantle Police Court,” *The West Australian*, Perth WA, 14 November 1896, p. 6.

<sup>135</sup> “News and Notes: Too Bad,” *The West Australian*, Perth WA, 13 September 1898, p. 4.

<sup>136</sup> “Police Gazette,” SLWA, 10 September 1898, 309; “The Police Courts, Perth: To Unaccustomed Pleasure,” *The Daily News*, Perth WA, 12 September 1898, p. 2.

show his disapproval of the conduct of the accused woman, sent her to gaol for four months”; “the prisoner, wildly protesting, was conducted to the cells”.<sup>137</sup> However, a few moments later music was heard in the court, suspecting it was Mary Jane, Hogan despatched the Court Orderly below who then revealed that it was not Mary Jane, but that “the members of the WCTU [Women’s Christian Temperance Union], then in session in the Town Hall, were expressing their feelings with ‘joyful voice, with trumpets also, and shawms’”.<sup>138</sup> This was potentially the most ironic and amusing end to Mary Jane’s criminal career.

While serving her four-month sentence in Fremantle Prison for drunkenness and vagrancy, Mary Jane was admitted to the Asylum for the fifth and final time in November 1898 now aged 53.<sup>139</sup> Dr Montgomery, the new Medical Superintendent, noted that she was a demented woman but that she worked well and gave little trouble.<sup>140</sup> She was “fat and very coarse, awfully dirty and untidy”, wanted whiskey and was “fond of liquor”.<sup>141</sup> Mary Jane continued the same and was transferred to the Claremont Hospital for the Insane in 1908 as the Fremantle Lunatic Asylum was closing.<sup>142</sup> In Claremont Mary Jane worked well at times, however complained of rheumatism and was delusional, often talking or muttering to herself.<sup>143</sup> She remained in Claremont until 20 July 1922 when she was discharged relieved.<sup>144</sup> Mary Jane was a problem that colonial Fremantle did not know how to solve.

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<sup>137</sup> “News and Notes: Too Bad,” 13 September 1898, p. 4.

<sup>138</sup> “News and Notes: Too Bad,” 13 September 1898, p. 4.

<sup>139</sup> *Register Female Prisoners, 1897-1913*; AU WA S678, Cons 41861, 74; *Case Book Female Patients (Chronic), 1901-1908*, Folio 51, 18 November 1898.

<sup>140</sup> *Case Book Female Patients (Chronic), 1901-1908*, Folio 51, 11 March 1903.

<sup>141</sup> *Case Book Female Patients (Chronic), 1901-1908*, 20 March 1905; 15 March; 12 December 1907.

<sup>142</sup> *Case Book Female Patients Claremont Mental Hospital 1908*; AU WA S4498 Cons31071, Folio 323, 12 June 1908.

<sup>143</sup> *Case Book Female Patients Claremont Mental Hospital 1908*, 24 June-20 October 1908; 20 May; 20 November 1909.

<sup>144</sup> *Patient Admission Register Claremont Mental Hospital 1891-1909*; AU WA S4400 Cons31041, 20 July 1922.

Her time in the Asylum, while it was supposed to be curative and restore morals lost, was often another holding cell. Mary Jane's life after the Asylum is unknown until her death on 14 December 1925 at 80 years old.<sup>145</sup> In her burial records for the Fremantle Cemetery she was stated to be living in the Women's Home in Fremantle, which was located at the old Lunatic Asylum building.<sup>146</sup> Mary Jane had spent the last years of her life back in the Asylum.

## **Conclusion**

Mary Jane Hayes' life as a very public drunken prostitute meant she was seen to have few, if any morals. This deemed her insane and criminal, resulting in her constant removal from society into institutions like the asylum and prison. Late-nineteenth century Western Australian society disapproved of her behaviour as it not only transgressed laws but also the gendered assumption of moral feminine behaviour; she was doubly deviant. Both men and women engaged in criminal and publicly unacceptable behaviour, however it was women who were seen to be the moral influence of the family, and therefore their behaviour had to contribute to this ideology. Moral insanity was stretched by society and medical professionals in the nineteenth century to be defined as any behaviour regarded as disruptive to the community. Therefore, anything outside the parameters of "good" feminine behaviour would be grounds for punishment and incarceration; public indecency, drinking alcohol, and engaging in prostitution, were morally unacceptable. As the Fremantle Lunatic Asylum was often used as a place to control these deviant behaviours, moral management techniques aimed to restore morals to the patients, but in Mary Jane's case the Asylum was a temporary fix for a problem they did not know how to solve. Biography in

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<sup>145</sup> Metropolitan Cemeteries Board (MCB), "Burial Application, 1925," <http://crs/pages/Applications.aspx?appid=FB8762>.

<sup>146</sup> MCB, "Burial Application, 1925."

historical research enables a new light to be shone on a range of different historical periods, problems and individuals or groups who have previously been ignored in the framework of historical analysis.<sup>147</sup> This case illustrates how drinking and prostitution were believed to cause moral insanity and led to Mary Jane's criminal convictions; it reveals how a woman was punished her whole life for failing to conform to the dominant social and moral ideology of late nineteenth century Fremantle.

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<sup>147</sup> Caine, "Biography and History," 1.