

THERE'S MORE TO IT:



**A RESPONSE TO THE
WOMEN'S POLICY UNIT NEEDS ANALYSIS: THE
NEEDS OF WOMEN OFFENDERS**

Department of Corrective Services, QLD

**FROM PRISONERS LEGAL SERVICE AND
SISTERS INSIDE**

October, 2000

PART 1: THE NEED TO ADDRESS THE (MALE) GENDER OF THE CORRECTIONAL SYSTEM

Stakeholders welcome the acknowledgment by the Department of Corrective Services that women in prison do have gender specific needs, and its stated intention to implement “policies and programs in response to the gender-specific needs of women offenders” in its Strategic Plan. However, this approach to women offenders is fundamentally flawed because it does not acknowledge the [male] gender-specific nature of the Criminal Justice and Correctional systems.

Ann Worrall has encapsulated the problem, which lies at the core of many of the decisions affecting women in the correctional system, in stating:

*“Women.. are always-already not men. Femininity is constructed on the site vacated by masculinity, and this absence of maleness is manifested in two opposing sets of expectations..”*¹

At the core of the problem is the dilemma of a criminal justice and prison system designed to deal with male offenders. To the extent that it is built on any theoretical underpinning, and not merely a traditional political response to social deviance, the criminal justice system, and its counterpart, the prison system, are built on sociological theories of male criminality and security perceptions of male offenders. These systems purport to respond to male offending patterns, male offender profiles, and they deal with male offending and security issues.

As Ann Worrall pointed out in her workshop “Imprisoning Women: Some International Reflections”², very few women’s prisons have been ‘purpose-built’. The Queensland experience has been that the one prison that has been, purportedly ‘purpose-built’ has nevertheless been built on the same principles, and plans as male prisons, with some fundamental errors of planning for women.

This should not, however, be interpreted as a call for the building of more women’s prisons. On the contrary, stakeholders maintain that imprisonment, to the extent that its main purpose is to punish by deprivation of liberty, is fundamentally inconsistent with feminist principles.

“Thus, where women experience barriers in exercising their rights and using those agencies, the barriers are not the women’s “problems” - they result from structural deficiencies and it is the structures that must change to become truly inclusive. Nor should the needs of particular women be categories as “special needs” – a term which marginalises many women and sets their issues apart from those of the rest of the community.”

(Report of the Taskforce on Women and the Criminal Code, Feb 2000.)

¹ Carlen, P.(1998) *Sledgehammer*, London, MacMillen Press Ltd

² Brisbane, 27 July 2000, p.4

Independent studies into the effects of imprisonment on women, and their dependent children, have called for imprisonment to be an absolute last resort for women, at the sentencing stage. Stakeholders support this view to the extent that imprisonment remains a sentencing option for women, but maintain that imprisonment is ultimately inappropriate for women.

It is also acknowledged from the outset that many male offenders also suffer terrible injustices and human rights abuses in our State's prisons, and that prison is ultimately ineffective at providing any prospects of 'rehabilitation' for most offenders.

The point, however, is that women in prison should not be seen as simply a female version of a male offender.

“..any demands for reform in women's prisons must be based on the *particular needs of women*, rather than spurious comparisons with the male prison experience.”³

Bernadette O'Connor, of the Women's Advisory Unit, Corrective Services Department, NSW, has pointed out that:

“it is very important that the preparation for release start on the day that the people are received [into prison], whether they are received for three months, six months, or six years.”⁴

This is the bottom line. All offenders with the exception of a few held at the State's pleasure, and those who die in custody, *will be returned to the community one day*. Any attempt at addressing those issues affecting women offenders, with a view to reducing recidivism and successfully enabling women's reintegration to the community should therefore be based on sound principles that promote these ideals. Stakeholders endorse the views of Margaret Shaw, in her call for the running of women's prisons to be informed by five principles:

- “**Empowerment**: enabling women to take some control over their own lives.
- **Meaningful choices**: Allowing women to make genuine decisions about how they spend their time in prison and how they prepare for release.
- **Respect and dignity**: treating women as individuals, encouraging self-respect and respect for others.

³ Worrall, 2000, p.7

⁴ ” Interim Report: Issues Relating to Women, Select Committee on the Increase in Prisoner Population, July 2000

“The Taskforce is of the view that the failure of the criminal justice system to respond to the life experiences and needs of women is one of structural inadequacy – inadequacy arising from the fact that the system was created by, and to a large extent remains controlled by men.”
(Report of the The Taskforce on Women and the Criminal Code, Feb 2000, p4)

“There is no shortage of research on what would make prison bearable for women. We know that what women want is to be located near their families, to have as much contact with their children as they can, to be gainfully occupied in work or education, to have access to appropriate health care (preferably outside the prison) and to be released as soon as possible, with as much continuing support as possible. We don't need any further research to tell us this...”
(Anne Worrall, Imprisoning Women: Some International Reflections)

- **Supportive environment:** giving women access to both the physical and emotional pre-requisites for their well-being;
- **Shared responsibility:** ensuring that women have access to the same variety of problem-solving organisations as they would have in the community, rather than assuming that all their needs must and can be met by the prison service.”⁵

To date, the Queensland Department of Corrective Services, like its predecessor, the QCSC, has not implemented these principles, and Qld has seen a rise in recidivism, as women become not healed, but further damaged through the process of imprisonment. Some examples of the consequences of this blinkered approach to women in prison, are as follows:

- **Brisbane Women’s Correctional Centre** – Qld’s only prison built for women, was built with some extraordinary oversights.
 - The women in the observation units are monitored 24 hours per day by male officers in the men’s prison next door. This remains the practice despite stakeholder’s calls for Corrective Services to change this situation by at least ensuring that women are only monitored by women. Stakeholders have called on the Department to acknowledge the damaging effects on the very high percentage (89%)⁶ of women who have been subject to male violence including child and adult sexual assault, and domestic violence.
 - The security system is partially operated from within the male prison. A shocking consequence of this was that when a young woman hung herself in the observation cells in 1999, her body was left hanging for several hours in her cell in view of other women, until security officers were able to obtain the assistance of officers from the men’s prison to operate the security system and have her body removed.
 - The prison was built without any facilities for women in crisis. Consequently women in ‘crisis’ are sent to the Moreton B CC CSU (Crisis Support Unit).
- **Crisis Support Unit, Moreton B CC** - Women are monitored 24 hours per day by male officers. Male officers also work within the unit.
 - A front page article in the Courier-Mail (September 2000) alleged that women in the CSU are being asked by male officers operating the camera monitors, to perform sexual acts for male entertainment.
 - There have been reports of women being rough handled by male officers. One woman reported that a bone in her arm was broken by male officers detaining her at a time when she was offering no resistance, and was, in fact, already being detained by female officers.
- **Numinbah** - This is a fenced off part of a male prison. It operates as an ‘open security’ prison. Its purpose is, purportedly, to give women an opportunity of ‘graduated release’ by living in a more open environment where they can perform tasks which demonstrate their trustworthiness and readiness to return to the community. In fact it provides almost none of the facilities, and performs none of the functions of an open security facility.

⁵ Worrall, 2000 p.6-7

⁶ Most recent statistics from Sisters Inside

- Women are fenced into a confined area ‘for their own protection’, while male prisoners demonstrate trustworthiness by having access to a wide area unsupervised, so that they can engage in farm work activities. (Some women are appointed to look after the calves in a barn situated close to the secure perimeter of the prison).
- Most women are unemployed, as work opportunities are extremely limited, thus defeating the ‘re-integration’ purpose of their being there.
- There are no support services for indigenous women, or non-indigenous women.
- Women wear men’s clothes, passed over from the male prison. This is extremely demoralising for the women, and, as one woman has explained it, very embarrassing for women who are transported out of the prison, e.g. for medical emergency treatment in the community.
- Women have no hobbies apart from recently installed sewing facilities. Male prisoners have access to some interesting hobbies, such as lead light work, pottery, and Aboriginal art.
- Women have no library to speak of, apart from a small collection of cheap novels in one of the rooms.
- Women have very limited access to the Sentence Management Unit. Such access as exists, was only implemented after many requests by women in prison, and stakeholders.
- Women with dependent children are less likely to have visits from them because of the relative remoteness of the prison.
- Phone calls to maintain vital contact with dependent children are all at STD rates, and therefore prohibitively high for the purposes of maintaining any degree of meaningful contact.

Women in secure custody often report that they have heard reports of conditions at Numinbah, and express their fear of going to the prison. Non-indigenous women may expect some degree of peer support (depending on whether they have well-developed social skills to deal with long periods of boredom in close contact with other women, and whether they have friends). Indigenous women have no support at all, and most refuse to be transported to the prison for that reason.

- **Townsville CC (Women’s section)** - Townsville is a men’s prison with the capacity to hold approximately 600 men. A small annexed section of the prison holds about 40 women, and up to 20 women are housed in the village area of the prison. Women are confined in a small area, again for their ‘own protection’. They were formerly able to walk to the programs areas of the prison, until a woman was assaulted by a male inmate. Library and telephone are located together in a ‘shoe-box sized’ room. Legal materials, should women wish to be informed of their legal rights and the rules under which they are detained, are only accessible in the male secure unit library. The Women’s section recently was granted facilities to accommodate babies and small children for about 8 women.
- **There are no women’s facilities in far north Qld.** - Beyond the limited facilities at Townsville there are no northern women’s facilities, either secure custody or community correctional facilities. This means that women from Cairns and particularly indigenous women from the Cape and remote areas of far North Qld and the islands, suffer great detriment if given a custodial sentence. Contrary to the

recommendations of the Royal Commission into Aboriginal Deaths in Custody, these Aboriginal and Islander women may have no access to their families or communities, for the duration of their detention.

The problem of gender specificity of conditions of detention, apply to every area of prison life. Women in Townsville reported, in May 2000, that their diet was inappropriate for women (no acknowledgment of iron and calcium needs of women). The centre has undertaken to address this issue. Counsellors have reported that offender programs (purportedly designed to reduce recidivism by engaging cognitive processes), are designed to address the offending behaviour of non-indigenous males. Counsellors 'adapt' the programs by supplementing the material from their imagination or experience.

The above examples demonstrate, that even the facilities in which women are housed in Qld prisons, are purpose-built for men, not for women. The special needs of women were not taken into account in building or appropriating from male facilities, these prisons. This barely touch on the issue of the male gender-specific nature of prisons in Queensland. The Women's Policy Unit has acknowledged that studies indicate that many women need not be held with same high security restrictions as men, yet women in secure custody are all detained as if they were high security classified male prisoners, irrespective of individual offender profiles.

RECOMMENDATIONS

That the Women's Policy Unit :

- 1. Develop, in conjunction with women and stakeholders, women-centred models and practices for implementation within correctional facilities in Queensland.**
- 2. Undertake an audit of all gender-neutral policies operating with the corrections system with the aim of re-shaping these to include and address the specificities and differences of women's offending**
- 3. That an urgent enquiry be conducted into provision of community corrections facilities for women in North Queensland.**

“Without any fanfare, the “war on drugs” has become a war on women, and it has clearly contributed to the explosion in women’s prison population...”

(quote in Amnesty International: “Not Part of My Sentence” Violations of the Human Rights of Women in Custody.

PART II: THE CASE AGAINST IMPRISONING WOMEN

As a group that works with women in prisons in Queensland in a variety of legal and support roles, we believe it is crucial that the Women's Policy Unit act upon previous and contemporary research indicating that the most constructive way of dealing with women's offending is via non-custodial options.⁷ Imprisonment does not work for women, nor advance wider community goals of preventing and deterring crime. Immediate steps must therefore be taken to abolish imprisonment and institute non-custodial responses to women's offending in recognition that women's offending is different from men's and is based on profound gender-based and economic, social, cultural and political disempowerment that is compounded by imprisonment.

A. THE LINK BETWEEN WOMEN'S OFFENDING AND GENDER-BASED, ECONOMIC, SOCIAL AND CULTURAL DIS- EMPOWERMENT.

Research undertaken internationally, nationally and in Queensland, confirms that women's incarceration is linked to profound gender-based disadvantage combined with social, economic, cultural and spiritual disempowerment. This manifests in the following characteristics of women prisoners in Queensland:

1. The continuing disproportionate representation of indigenous women in incarcerated populations⁸ and their under-representation in community-based sentencing options;
2. A majority of women in prison having histories of gender-based violence spanning sexual and physical abuse in childhood⁹ and/or as adults;

"...women are significantly disadvantaged... social-economic pressures of poverty, child care, single parenthood, lower wages, domestic violence, drug addiction, child bearing and menopause impact on the health of a significant number of women in Australia. The enormous strains... associated with rearing children are primarily borne by women."
Report of the Women's Policy Review, p10

⁷ E.g. *Criminology Australia*, 1993; Sources quoted in Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000.

⁸ As detailed by the Womens Policy Unit the over-representation of indigenous women in custody is at a rate of 22.33% of all incarcerated women with 57.82% of the Townsville Correctional Centre population being indigenous (p11).

⁹ Research in Australia and elsewhere confirms a high rate of sexual and physical abuse in the histories of women who are imprisoned. See for example Qld Corrective Service Commission, *Report of the Women's Policy Review* 1993; Sources quoted in Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000; Sisters Inside Survey, presented at State DV Conference, 14 June 2000.

3. A third of women incarcerated for failing to pay fines;
4. Women, being more likely than men, to have drug and alcohol abuse problems and for offending to be drug related¹⁰;
5. A disproportionate number of women having never been employed, or being unemployed at the time of entry to prison,¹¹ and having lower levels of educational attainment than the general population;¹²
6. Women are significantly more likely than men to bear primary and sole responsibility for children prior to and following incarceration, sole parenting having been directly linked to poverty and in particular, to “feminised” poverty;
7. On release from prison, women have a high mortality rate.¹³ This has received little attention in comparison to suicide, which is more typically associated with men. Gender-based causative factors include lack of employment and training options for women; lack of gender and culturally–appropriate accommodation and substance-treatment options; discriminatory attitudes and systems relating to women as mothers; high incidence of physical and sexual abuse; lack of self-esteem and well-being.

RECOMMENDATIONS:

That the WPU:

1. **Advocate for the abolition of the imprisonment of women and prioritise the development of non-custodial alternatives;**
2. **Progress a whole of Government response to women’s offending and imprisonment that recognises and addresses women’s offending as tied to gender, cultural, social, economic and spiritual dispossession.**

“Women’s crimes are overwhelmingly economic in nature and few female offenders pose a risk to society or public safety, imprisonment is therefore inappropriate, costly and inefficient.” *Brand, G (1993) Criminology Australia, 25 cite in Women’s Taskforce, p394*

“...one of the most universally shared attributes of women in prison is a history of victimisation.”
Acoca and Austin 1996, The Hidden Crisis: Women in Prison. San Francisco: National Council on Crime and Delinquency.

“Numerous studies have indicated that the vast majority of women who enter prison have previously experienced physical and/or sexual abuse.” *S Davies & S Cook, Neglect or Punishment?: Failing to Meet the Needs of Women Post-Release, P10*

¹⁰ E.g noted in Qld Corrective Service Commission, *Report of the Women’s Policy Review 1993*; Sources quoted in Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000; Report of the Taskforce on Women and the Criminal Code, 2000 at p395.

¹¹ See WPU, *Needs Assessment Draft* that nearly 41.78% of women in prisons report having never been employed and 47.60% as having been unemployed at the time of entry to secure and open custody and women predominating as primary and sole carers of dependent children prior to imprisonment. For similar observations as to employment and education Qld Corrective Service Commission, *Report of the Women’s Policy Review 1993*.

¹² Eg, Qld Corrective Service Commission, *Report of the Women’s Policy Review 1993*.

found that 51% of women had not reached year 10 standard of education.

¹³ S Davies and Cook, *Breaking The Silence of Death* (paper on file with author) .

B. WOMEN'S OFFENDING AS DIFFERENT FROM MEN'S

Research into women's offending confirms that women's offences and offending patterns are different to those associated with men and pose less risks to community safety. These differences include the following:

1. Women's offending is more likely to be motivated by or committed in relation to substance abuse than men's.¹⁴
2. Significantly fewer women than men commit violent offences.¹⁵
3. Women's property offending tends to be aimed at income generating to satisfy drug dependency.¹⁶
4. Domestic violence encompassing sexual, physical, psychological and property abuse -forms the backdrop to a significant proportion of women's offending, including offences of violence, and contributes to re-offending by women following release from prison. Yet, domestic violence and its impact, continues to be largely ignored in the criminal law and process (save in limited circumstances of admission of expert evidence of abuse at trial). It is also ignored in the practices and policies of imprisonment and release systems that do not recognise the impact of abuse on offending and the need to empower women to address this impact.
5. The feminisation of poverty, related to women predominating as primary and sole carers of children,¹⁷ women's unemployment and lower labour market participation rates, disproportionate location in part time and casual workforces, and lesser wage rates, is a crucial causative backdrop to

"...women offenders and inmates essentially commit non-violent crimes, are generally young and single or in a de facto relationships, have experienced abuse and violence, are drug and/or alcohol addicted, come from a dysfunctional family background, socially and economically disadvantaged and often have dependent children."

Select Committee on the Increase in Prisoner Population, p6-7

"...Courts will treat more leniently mothers, women offenders who are perceived to be conforming to traditional stereotypes of nurturing caring middle-class mothers who went astray for some reason, and therefore for whom custody would be inappropriate." *Select Committee on the Increase in Prisoner Population, p6-7*

¹⁴ See, for example, Qld Corrective Service Commission, *Report of the Women's Policy Review 1993*; Sources quoted in Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000; Report of the Taskforce on Women and the Criminal Code, 2000 at p395. sources above n4.

¹⁵ Note that figures for women's violent offences are unreliable as they do not distinguish between violent offending committed as a party or principal. As noted in Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000 p30-31, women are often accomplices to men (as principal offenders), rather than principal offenders of violent crime committed with men.

¹⁶ See, for example, sources cited in Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000 pp 28-31

¹⁷ See Queensland Council of Social Services Inc, *Drawing the Line on Poverty*, 1995 and *People and Places: a Profile of Growing Disadvantage in Queensland*, 1999 identifies sole parents as those most likely to be living below the poverty line.

women's property offending such as social security fraud and dishonesty offences and to women's fine defaulting.

6. Women are convicted of crimes that are generally less severe, in terms of penalty than men, with the result that women tend to spend less time in prison custody than men.¹⁸
7. Women's imprisonment often culminates a childhood and adolescence involving removal or dislocation from families and living under the umbrella of state and institutional care systems.
8. A significant proportion of women in Queensland prisons are first offenders.¹⁹

RECOMMENDATIONS:

That the WPU:

- 1. Advocate and negotiate with all agencies in the correctional system to ensure that proper recognition is given to gender differences in women's and men's offending patterns.**
- 2. Prioritise working with the Department of Justice to develop responses that ensure women are no longer criminalised for poverty via imprisonment for fine default.**
- 3. Ensure that all correctional processes, in particular sentence management and community release, address the relationship between violence against women and women's offending.**
- 4. Advocate and support reforms that aim to address discrimination experienced by women, in all their diversity, in the criminal justice system.**

"...Women who are regarded as failures, neglectful women and mothers in terms of society stereotypes, are treated more harshly than their male counterparts."

(Select Committee on the Increase in Prisoner Population, p7)

"the interaction of the influences of race, gender and poverty result in very high levels of fine default in Far North Queensland, with the impact falling disproportionately on Indigenous people and most disproportionately on Indigenous women."

(Judith Andrews, Imprisonment for fine Default in Far North Queensland, (unpublished, 24 cite in The Taskforce on Women and the Criminal Code, p192)

¹⁸ This is a phenomenon that has been widely observed. See, for example, Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000; Qld Corrective Service Commission, *Report of the Women's Policy Review* 1993; Report of the Taskforce on Women and the Criminal Code, 2000 noting at p395 that in 1999 the median expected time to serve for women was 1.9 years compared to 4 for men

¹⁹ Women's Policy Unit, Needs Assessment (Draft) noting that in 57% of women in prisons have served prior terms of imprisonment so that 43% are first time offenders; for similar observation in relation to NSW see Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000

C. IMPRISONMENT: ENTRENCHING DISADVANTAGE

Research highlights the futility of women's imprisonment. That, whilst it may exact retribution, it does not advance other goals of imprisonment such as deterrence, rehabilitation and denunciation. To the contrary, reports clearly indicate that imprisonment entrenches and compounds the disempowerment and disadvantage to which women's offending is connected in the following ways:

1. It contributes to women's isolation and alienation from families, friends and community supports. The isolation is particularly acute for women from non-English-speaking backgrounds and for women who come from remote rural communities.
2. Surveillance and detection practices of strip searching and urine testing reinforce the lessons of sexual violation: such as lack of power, no control over one's fundamental bodily integrity, and the sexual objectification of women. Strip searching has been characterised as a direct trigger of previous sexual assault.
3. Imprisonment stigmatises women so that women face decreased opportunities to escape poverty and deal with social and economic disempowerment via meaningful employment;
4. It contributes to the disintegration of families. As women continue to predominate as primary and sole carers of children, their imprisonment has acute disintegrating effects on families and poses increased risks to young children and teenagers of homelessness, institutionalisation, risk-behaviours such as self-harming, sexual and physical abuse, low educational attainment and offending.
5. Processes relating to sentence management and prison discipline reinforce individual dis-empowerment because they mandate breaches of women's minimum legal rights. In particular, women's rights of reply and to have allegations proven against them. In turn, individual dis-empowerment discourages the assumption of responsibility for offending and decreases motivation, whilst contributing to a loss of self esteem and greater social marginalisation of women.
6. Correctional processes, such as parole and release systems, reinforce gender discrimination and disadvantage by applying rules and policies, based on men's imprisonment and

"International research suggests that a greater proportion of women prisoners could be held without physical security restrictions as they do not represent a danger to the public; nor is there a high probability of them absconding." (*Women's Police Unit, Draft p7*)

"From a situation of imposed infantile dependence, rules and regulations covering every aspect of your life; what time you get up, how to make your bed, what time you eat breakfast, what time you're allowed out to exercise, being locked in you cell – a person is then let out and expected to cope immediately." (*Quote in S Davies and S Cook, Neglect of Punishment?: Failing to Mett the Needs of Women Post-Release.*)

"The experience of prison can be both psychologically and physically damaging. Ex-prisoners talk about loss of identity, loss of community and extreme isolation. The prison culture is not one that fosters individual responsibility, particularly not in relation to the crime that has been committed. Many people in prison experience a significant drop in self esteem..."

offending, to women.

This has been recently evidenced by the decision declining parole to a woman who had her sentence reduced on appeal in explicit recognition of her offending having been closely related to domestic violence. On appeal, the Queensland Court of Appeal also recommended that she be considered for release on parole two years earlier than the Supreme Court's first instance recommendation. However, when this woman applied for parole (based on the parole eligibility recommendation of the appellate decision), she was prevented from satisfying parole guidelines because her progress through the correctional system had been based on her first sentence determination. The Board's apparent unwillingness to step outside of these guidelines simply reinforced and continued the gender discriminatory effects of the first instance sentence decision's failure to recognise the impact of domestic violence.

7. The likelihood of women not re-offending is directly related to women's access, whilst imprisoned and following release, to basic social, cultural and economic rights such as the right to live free of domestic and sexual violence and cultural discrimination, and rights to adequate housing and clothing, a minimum income level, healthcare, drug and alcohol treatment services, opportunities to reconnect with children and wider families, cultural and ethno-specific services, and a range of social and community networks.²⁰
8. Women's imprisonment, unlike men's, is affected by a lack of community service and community release options.²¹
9. Studies indicate that the sentencing of women may entail sanctions for non-conformity to race- and class-based gender-roles. Anecdotal evidence also suggests that women in prison may be affected by similar (albeit informal) practices from officers who penalise and target women for gender non-conformity instanced by dress, assertive behaviour and mannerisms. This, in turn, compounds women's disempowerment and progress through the system.

"A number of studies have shown that women offenders and prisoners have traditionally been perceived to be, in some way, "more deviant" than male prisoners."

(Select Committee on the increase in Prisoner Population, p7)

"The Aboriginal women's imprisonment rate was and still is significantly higher than non-Aboriginal women's. The more frequently committed offences by Aboriginal women are non-payment of fines, drunkenness and social security fraud – crimes of extreme poverty."

(Quardrelli 15, quote in The Taskforce on Women and the Criminal Code, 2000.)

²⁰ For example, S Davies & S Cook, *Neglect or Punishment? : Failing to Meet the Needs of Women Post-Release In Harsh Punishment: International Experiences of Women's Imprisonment* eds S. Cook and S. Davies (eds), Northeastern Press, Boston highlight these links as essential and in particular, how provision of adequate and affordable housing is crucial to women's post release.

²¹ Qld Corrective Service Commission, *Report of the Women's Policy Review 1993*; Report of the Taskforce on Women and the Criminal Code, 2000 pp404-6.

RECOMMENDATIONS:

That the Women's Policy Unit :

1. **Prioritise the development of correctional responses to women's offending that aim to empower women;**
2. **Work to facilitate increased linking between women and their families and communities;**
3. **Take immediate steps to secure the cessation of strip searching;**
4. **Develop training strategies for all corrective service staff that recognises and addresses gender stereotyping;**
5. **Work with women and relevant stakeholders to progress non-custodial alternatives to imprisonment;**
6. **Work with women and relevant stakeholders to ensure that the correlates of women's offending are addressed and responded to throughout the corrections system.**

“...sentiments capture the despair and frustration that many women feel when the certainty of the prison and its controlled routine is replaced by freedom and the expectation that they be self-reliant and law-abiding even though they are usually poorly placed to secure even the most basic necessities of life.”

(S Davies and S Cook, Neglect or Punishment?: Failing to Meet the Needs of Women Post-Release, p1).

“We need to decrease, not increase, the means by which the state, in its multifarious networks of authority, controls human lives and selectively incapacitates people who, no less than others, have the potential to contribute to the improvement of the human condition... To cultivate a commitment to such a world would be to see most prisons, along with the inequities they represent, disappear from the social landscape.”

(Karlene Faith, Unruly Women, 1993, Vancouver, p177.)

PART III: WOMEN WITH DEPENDENT CHILDREN

A. The experience of Women as parents in prison differs from Men's experience

The overwhelming majority of women in prison are primary or sole care givers of dependent children. Nearly 75% of all women in prison in Qld were young women, under the age of 35 years.²² The Queensland Department of Corrective Services does not record particulars relating to women's dependent children. WPU's report cites Farrell's 1995 study which found that over 85% of women in prison were mothers of young children. Other Australian and overseas studies have also found consistently that high numbers of women in prison have dependent children.²³

Australian and overseas studies have consistently found that incarceration of a mother in custody is far more disruptive to a child's living arrangements and needs than incarceration of a father. Home Office studies in England, indicate that 64% of male prisoners with dependent children said that their spouse was involved in the care of their children, compared with only 19% of women with dependent children.²⁴ In CPM's study of parents in prison 13 out of 19 male inmates identified the other parent as the primary care giver to their children, compared with only 3 out of 11 women inmates. The study further found that even where a woman has a partner present, the male partner is unlikely to adopt primary care of the children.²⁵

The direct outcome of the different care roles assumed by men and women as parents, is that the incarceration of a woman is likely impact more destructively on the stability and integrity of the family than incarceration of a women.²⁶ Most children have been living with their mother prior to incarceration, and, contrary to the male experience of imprisonment, women prisoners are forced to rely heavily on temporary carers to look after their children. Studies have found that the children experience a range of behavioural and emotional problems.²⁷

Apart from the distress and dysfunctionality caused in families, the experience for women in prison is far more stressful.

²² Women's Policy Unit, statistics in the year 1998/99

²³ A Report into Children of Imprisoned Parents:37; Carlen,1998, 40

²⁴ Carlen, 1998, p.41

²⁵ CPM Parents in Prison and their families p.16

²⁶ Ibid p.15

²⁷ Report of the Taskforce on women and the Criminal Code, p.395, citing Home Office Study

"Incarcerated parents are often cut from support systems. They struggle with powerlessness, an ability to trust, and anxiety surrounding parenting roles...They tend to be hypersensitive to anything manipulative or coercive and are suspicious of authority."

"Incarceration threatens family ties by *terminating a parent's functional role*, reducing or suspending communication between family members, and *challenging the process of parent-child attachment*."

"maintenance of family ties is seen by inmates and their families as important for the rehabilitation of the inmate mother and for the welfare of her children."

Quote from "Incarcerated Mothers and Children: Impact of Prison Environments, in (A. Farrell *Policies for Incarcerated Mothers and their Families* in Australian Corrections, 1998, 31 The Australian and NZ Journal of Criminology, 1023)

“..it is a distinct feature of women’s imprisonment that many women in prison are expected, or feel obliged, to try to run their homes and families while they are in prison. By contrast, there is some evidence that male prisoners are much more likely to expect to be shielded from family and domestic burdens while they are serving their sentences.”²⁸

Stakeholders welcome WPU’s acknowledgment of the anxiety, grief and concern suffered by incarcerated women who are separated from their dependent children. Stakeholders agree that it is of utmost importance that the needs of these women in relation to their children be given special consideration in the internal prison stages of classification, placement and case management.

The WPU report, however, stops short of acknowledging the need for Corrective Services to be accountable to the community for the way in which it manages the incarceration of women with dependent children in terms of facilitating an ongoing functional parental role for the woman, and assisting her to prepare for return to family and community.

The WPU report has acknowledged that the reason for accommodating children in custody is the importance of mother/child bonding. The emphasis seems to be on the bonding between mothers and young children, with no acknowledgment of the life changing detrimental effects of a mother’s imprisonment on older children, and particularly adolescents. It does not extend this to a general philosophy in relation to the maintenance of parental roles for imprisoned women. There are no recommendations for the adoption of fundamental guiding principles to underpin policies and procedures which impact on the children of women who are serving a term of imprisonment.

The maintenance of child-parent ties is implicated as an important factor in reducing the incidence of recidivism.

“although the literature of controlling or reducing recidivism is dismal, the little literature there is suggests that maintaining community ties is absolutely essential – maintaining the bond between the prisoner and [his/her] family, that is their partner and/or children. Efforts to strengthen/retain those bonds are probably central to any attempt to try to reduce recidivism.”²⁹

²⁸ Carlen 1998, p.41 citing Fishman 1990

²⁹ A Report into the Children of Imprisoned Parents, comments of Dr Don Weatherburn, NSW Bureau of Crime Statistics and Research

“...the inmate mother is not only seen to abrogate the socially constructed female ideal of a compliant law abiding woman, but she is also seen to contravene her primary maternal role as a nurturing responsible parent. The perceived denial of her feminine and maternal identity is further galvanised in the male constructed prison environment with its pervasive philosophy of incarceration, its rigid rules and regulation and its male oriented mode of containment ...”

(A. Farrell *Policies for Incarcerated Mothers and their Families* in Australian Corrections, 1998, 31 The Australian and NZ Journal of Criminology, 1023)

B. Women's Stories

The following women's stories illustrate some of the difficulties encountered by women in prison who have dependent children and the woman's experience of being a primary carer or sole parent in prison..

Case 1

Ann is a woman now in her 30's, with two dependent children, a boy and a girl, who were aged 5 and 9 years when Ann was sentenced. As Ann is estranged from her husband, and there has been a bad history of domestic violence, Ann has had to arrange for the Dept of Families Youth and Community Care to take out a guardianship Order over her children. Ann's mother suffers from a psychological disorder, and one of Ann's concerns when she came into custody was that her mother would try to care for the children. Luckily for Ann, and unlike some other women in prison, the Dept (DFYCC) has been supportive of Ann's parenting, arranging regular of imprisonment. visits between Ann and the children, with the help of a caseworker. Ann is a loving mother who has remained in constant contact with her children by letter. She is as attentive to their needs as she is able to be from prison. She questions her children carefully about school, and other activities, while trying to maintain a sense of fun on visits, normality, and loving contact (no mean feat for anyone). After three years, and two sets of foster carers, things are changing for Ann and the children. The first set of foster carers was terminated because they were inappropriately and harshly disciplining the children. The second foster carers are now no longer able to look after the children. Ann is extremely anxious about her son, who has reportedly been disruptive at school. Her son is now reaching adolescence, and Ann senses that he strongly resents her being in prison. She feels that now is a critical time, if she is ever to salvage her relationship with her son. Ann managed to obtain a transfer to a Release to Work facility, and began to undertake tertiary studies to improve her job prospects. Ann had more frequent and longer contact with her children. Ann's 'release to work' order was cancelled when she failed to attend a scheduled class one day. The Board did not accept or pay heed to Ann's reasons for not attending class, although she was engaged in her studies at the time, and this was attested by classmates. Ann had on another occasion, although not on this occasion, returned a positive urine test.

Case 2

Jane has 5 young children, two pre-schoolers, and the others primary and secondary school children. Jane's husband is in

"My ex- overdosed, and the welfare stepped in, he kept saying 'I can't handle it', when we were together I did the fort together (*Woman prisoner*)

Parents in Prison and their families, CPM, p16

"..the early loss of a mother or prolonged separation from her before age 11 is conducive to subsequent depression, choice of an inappropriate partner, and difficulties in parenting the next generation. Anti-social activity, violence, depression and suicide have also been suggested as the likely results of the severe disruption of affectional bonds (*Human Rights and Equal Opportunity Commission, July 1997:181*), *A Report into Children of Imprisoned Parents*"
July 1997

People couldn't follow through; they don't realise at a responsibility it is. My mother has been good even though I hadn't spoken to her about 4 years, I manage her in separation from the watch-house. (*female prisoner*)
Parents in Prison and their families, p16

"There would be less drama in prison if there was more contact with spouses and children. ((% of the stress and trauma arises from separation. You gotta be able to ease pressure on spouses and children as well. You'd find that people's rehabilitation would go there 'if relationships with families were maintained]

(*Male prisoner*)
Parents in Prison, p.16

custody. This is Jane's first time in custody. Jane was soon transferred to Numinbah since her offence was non-violent, and her sentence was relatively short. Jane tried to obtain an inter-prison visit with her husband, in order to maintain the relationship. This was denied, since the General Manager stated that transport was not available from Numinbah. Jane is worried about what the Board's attitude will be when she applies for parole since she has only been able to do part of one of the recommended offender programs. She was transferred to Numinbah one day before completing this program. At Numinbah, she cannot do any of the recommended programs, since nothing is available. Jane worries constantly about getting out of prison for her children, particularly her youngest child, aged about two and a half years. She feels constantly guilty about getting involved in the situation that led to her offence and conviction, and admits that it was her inability to cope at the time. She talks a lot about her children and her guilt. At Numinbah the family cannot see her every weekend.

Case 3

W was convicted of trafficking in a dangerous drug. She was arrested at the airport, and immediately detained. W's only knowledge of Australia is the watch house and the Women's prison. W could not speak any English on her arrival in Australia. She was provided with an interpreter for her criminal hearing, but has had no access to an interpreter since being in custody. On appeal W was given a reduced sentence. This may have been an acknowledgment of the fact of her being coerced and intimidated into being a drug courier. W has never used drugs. Her life was straight forward until her separation from her husband, leaving her with 4 children to support financially by working in various positions. W became a drug courier when she became involved with a man romantically. He offered to take her on a holiday. When W was told to conceal drugs in her body, she was horrified, and refused, until she was beaten physically by the man. Her children were staying with an auntie for what W thought was to be a few days.

W cannot access programs because she cannot speak English. She is aware that the parole Board may well regard her as a "risk" to release because she is "untreated". Her children were placed in an orphanage in her home country. W uses her allowance to phone her children every week. This is an extremely disheartening experience since she is confronted every week with her children's growing estrangement. Her eldest, a girl, is now a teenager, and is reportedly wagging school to spend time with a boy she has met. W worries deeply about the danger to her daughter, and tries to offer advice, but her daughter will not listen, and simply cuts her

"Given the weighty ideology of "motherhood" (as compared to "fatherhood"), it is more common for a female offender to be judged a 'bas parent' simply by virtue of having offended. This link, illogical as it may be, is internalised by many women prisoners who become consumed with a sense of guilt in relation to their children. Concern for the welfare of their children is an over-riding preoccupation of many prisoners.

Given the pre-existent responsibility of the daily care of children by their mothers, this worry is particularly burdensome for female prisoners, having as it does a very real material basis."

A Report into Children of Imprisoned Parents, July 1997, p.39

off. Her son is always sick. Another small daughter will not speak to her by phone at all. A friend has informed her that her youngest child was taken away from the orphanage by W's husband and sold. W has no knowledge of the whereabouts of the child and worries constantly. She has literally worried herself sick, having developed a nervous condition. Contact with authorities and the Red Cross in her home country have been of no assistance, since the authorities have told Australian authorities that in that country, the father has the right to sell the child. The Red Cross has no interest beyond checking that the remaining children are in fact residing at the orphanage, and are reportedly in good health. The Red Cross has not contacted the children or interviewed them. There is little sympathy for W in her home country, since drug traffickers are held in very low regard. All of the Red Cross' enquiries have been with authorities at the orphanage. W has been unable to access parole because she was not eligible. She has applied for early parole through the Federal Attorney-General's Dept. The Dept seems to have been worried about political implications of releasing a drug trafficker, although the dept denies that it is motivated by political considerations. There has been a delay of over 12 months, while the federal police and then the Dept allegedly try to check the facts, despite the existence of a Red Cross report which at least confirms that the children are at the orphanage, and one child has been taken away and given to strangers.

Case 4

Lena is a sole mother who had a dependent pre-teenage daughter when she was sentenced. Lena left school early in secondary school and never had a job prior to becoming a mother. She did not feel she had the social skills to really 'fit in' and she thought that she did not have the skills to get a job. As a child she was sexually abused. Lena was convicted of drug trafficking. Selling drugs helped to support her own addiction, and she was always able to justify her involvement by looking after her daughter well. While Lena was in prison she did an educational course to get some work skills so that she could support herself and her child when she was released. She worried a lot about her daughter, and kept in constant contact through telephone, mail and visits. At some point in her sentence, Lena realised to her dismay, that her child had reached a critical stage in her development. Her daughter now resented her for being in prison, and was embarrassed, angry and rebellious. Lena was not eligible for parole, but eventually, too late in some respects, was granted release to work and then home detention. Her daughter blamed her for being absent from her life. Lena used her skill to find employment, but things did not seem to improve with her teenage daughter. At some point, Lena was unable to cope,

“Almost three-quarters were living with their mothers before imprisonment, some with their mothers only. So, most of the children lost their principal carer when their mother was imprisoned. This is very different from the situation experienced by fathers in prison. Whereas the children of male prisoners are generally looked after by their partner, women prisoners relied heavily on temporary carers to look after their children...

Their children were reported to be experiencing a variety of problems as a result of the separation from their mother. This confirms other research (Richards et al 1996) which found that the children of women prisoners tended to have quite serious emotional and behavioural problems whereas the children of male prisoners tended to have relatively minor problems.”

Report of the Taskforce on Women and the Criminal Code, February 1997, p.395

and returned to regular drug use. She left her job, and stopped trying to relate to where her child was at. Lena could have been, but ultimately was not, one of the ex-prisoners who overdose when resuming drug use.

The above examples illustrate first hand some of the difficulties facing women prisoners with dependent children. It is intended to demonstrate the gender specific nature of the criminal justice system, and prison system. It highlights reasons why a custodial sentence is inappropriate for a woman with dependent children, as well as the difficulties that occur at every stage of the process of incarceration and immediate pre and post-release.

C. Arrest and Sentencing of Mothers with Dependent Children

1 Arrest

A South Australian study *Taken In*³⁰ discussed the problems associated with the arrest of women with dependent children. Some of these included police cross-examining children about a mother's activities, mothers being arrested and detained without any opportunity to make arrangements for their children. It is not proposed to repeat their findings here, but rather to recommend an independent study be conducted into arrest of women with dependent children in Queensland, and that strategies and protocols be developed for liaising with the Queensland Police Service, and the Department of Families Youth and Community Care, for women who are arrested. In the case of indigenous women, it is recommend that strategies be developed to include liaising with and in consultation with Aboriginal elders or other community support persons, and relevant indigenous services, such as the Aboriginal and Torres Strait Islander Legal Service *at the time of arrest*, so that access to legal representation and support is ensured before the process of charging and detention on remand begins.

3. Sentencing

There is no provision in Queensland for the fact of a woman having dependent child/children being a relevant consideration. This is an absolutely essential consideration for ensuring that alternatives to prison be fully considered.

The issue was considered by the Taskforce on Women and the Criminal Code. Stakeholders endorse the

“From arrest through sentencing, imprisonment and post-release, there is almost no recognition or consideration given to the fact that these inmate women are mothers.” (A Farrell, *Policies for Incarcerated Mothers and their Families* in Australian Corrections (1998) 31 The Australian and NZ Journal of Criminology, 102.)

“Women’s crimes are overwhelmingly economic in nature and few female offenders pose a risk to society or public safety, imprisonment is therefore inappropriate, costly and inefficient.”

Report of the Taskforce on Women and the Criminal Code, February 2000, p395

“Gaol should only be used as a last resort. Men and women suffer the same alienation, and community support should be more readily available. However consideration of problems peculiar to women should be given, especially to those mothers who have offended. Regardless of the offence... women should receive the comfort that their children are well cared for... Fear of losing children must interfere with attempts to rehabilitate.”

The Report of the Taskforce on Women and the Criminal Code, p397

³⁰ 2000 Women’s Legal Service Inc

Taskforce's recommendations in relation to amending the *Penalties and Sentences Act* to make non-custodial sentencing options available to sole carers of children.³¹

Stakeholders call for an independent review of sentencing options for women with a view to finding realistic alternatives to custody, for example:

Fine Defaulters. Many women are victims of economic disadvantage, which have resulted in their being unable to pay fines. As one woman reported:

*"You need to be fairly organised to pay off a fine. For some women it's just too hard – there are other things going wrong in their lives. These other difficulties tend to be the reasons they are in the system in the first place"*³²

- Community Service Orders need to be managed differently to suit the needs of women fine defaulters, who are often poor and often have dependent children (ensuring the availability of child care, or community service options that are child-friendly, ensure transport is available and affordable, abolish automatic cancellation of orders for breach, introduce a practice of cancellation as a last resort for women);
- 'Periodic detention' as sentencing option. This would provide an alternative to custodial imprisonment by requiring women to report to a college, rehabilitation centre, or community corrections centre during school hours.³³

Remandees. There is a high mortality rate among women detained in custody on remand. The reasons for this are complex, but there is an urgent need to consider and implement alternative custodial arrangements for these women, for instance:

- investigate the workability of bail hostels for women with dependent children;
- evaluate intensive support needs of women entering custody on remand, especially those with drug or alcohol addictions, and with a special emphasis on the need for peer and therapeutic or family support, including flexible family visits, facilitation in open security;
- adoption of a non-punitive approach to substance abuse for these women

Policies and sentencing practices which result in the imprisonment of a woman with dependent children become critical issues when considering sentencing options for Aboriginal

...the family is the nucleus of Indigenous existence and self-image, in both historical and contemporary terms. While many people try hard to retain the integrity of their family unit, administrative and structural processes often compound and exacerbate the distress, trauma and violence they experience (Aboriginal and Torres Strait Islander Women's Task Force on Violence, p201)

"Incarcerated parents are often cut from support systems. They struggle with powerlessness, an ability to trust, and anxiety surrounding parenting roles...They tend to be hypersensitive to anything manipulative or coercive and are suspicious of authority."

³¹ Report of the Taskforce on Women and the Criminal Code, rec.84.4, p.399

³² *Taken In*, 2000 Women's Legal Service (SA) Inc, p.23

³³ Report on the Taskforce on women and the Criminal Code, citing a proposition by Brand, p395

and Torres Strait Islander women, many of whom have experienced the loss of family and community through former colonial and governmental policies of genocide and assimilation, the “Stolen Generation” policies. The impact of these experiences of abandonment have been devastating and far-reaching for indigenous communities. The fact that 26% of children currently subject to Protective Orders are indigenous children³⁴ indicates that former governmental policies continue to impact on Aboriginal communities, and calls for urgent action for survival of indigenous people. At year ending 30 June 1999, *none* of these women were recorded as being in community custody, indicating that all indigenous women were detained in secure custody.³⁵

The Standing Committee on Social Issues (1997)³⁶ made urgent recommendations for a program in NSW that diverts Aboriginal and Islander offenders from incarceration.³⁷

Stakeholders call for an urgent independent enquiry conducted by and for indigenous women, to develop alternatives to custodial sentences particularly for indigenous women with children. Current sentencing practices and community release options must be carefully examined, and alternatives sought. Stakeholders support a moratorium on the imprisonment of Aboriginal and Torres Strait Islander women.

Recommendations

- 1. That Corrective Services liaise with the Justice Department to implement of a pilot project to provide child care and welfare officers at the Courts.**
- 2. That the WPU advocate for a review of sentencing legislation and practices in Queensland in relation to women and indigenous women and women with dependent dependant children, with a view to developing a wide range of alternatives to custodial sentences.**
- 3. That the WPU advocate for a moratorium on the imprisonment of indigenous women.**
- 4. That Corrective Services develop as a matter of urgency community corrections options for women, and especially indigenous women in North Queensland.**

D. Imprisonment of Women with children

³⁴ Queensland Crime Prevention Strategy, Statistical Profile Dec 1999

³⁵ WPU Statistics

³⁶ A Report into Children of Imprisoned Parents, Standing Committee on Social Issues, NSW, 1997

³⁷ Ibid, rec4

All too often the prison environment is destructive to family relationships. There are numerous obstacles to quality family relationships, including: the authoritarian character of the prison environment; strict limitations around contact; the remote location of prisons from many families; transport and financial difficulties encountered by prisoners families; and significant overcrowding of prisons (Farrell, 1995; Hess and Hairston, 1989; NSW Taskforce, 1985; Richards, 1991).

“A child ran to its mother, the mother responded, the officers overreacted and the department had to do quite a bit of fast footwork to make sure that woman did not take further action because she was actually hurt in front of her children.”
A Report into Children of Imprisoned Parents, July 1997, p.73

Stakeholders endorse the statement of Women's rights as parents, as set out in the Young Families Working Party, Issue Paper No 2 *Women and Children in prison*³⁸:

- Right to see your child;
- Right to care and to be with, to look after your child;
- Right to have love of my child, to be respected despite conviction;
- Right to make decisions, about self, about child. (in all areas relating to their well being);
- Right to protect;
- Right to make mistakes;
- Right to correct information;
- Right to privacy – to know what everyone else is being told;
- Right to feedback.

The Issues Paper found that imprisonment involved the loss of many of these parental rights, and that there was a need to address professional practices and the ethical framework for such practices in the context of imprisonment.

(a) Immediate access to welfare assistance on induction.

Women entering custody, whether after being arrested and charged, or after sentencing, may not have anticipated a prison sentence, or detention in custody, and may not have made arrangements for their dependent children. Catholic Prison Ministry, in its report *Parents in Prison and their dependent children*, provides an example of a woman who had gone to court, leaving her children in a car in the carpark under the building, not anticipating a term of imprisonment, and had been detained in custody³⁹. This suggests a need for child care and welfare officers actually at the courts. In the present absence of these facilities, however, there is a need to ensure that women, arriving at prison, must have immediate access to a welfare officer, to assess particular needs.

Women with children will usually need to contact family, friends or the Department of Families. Actual arrangements may be complex, and may therefore require sufficient time and access to telephone. A woman with older child/children may need extra time to explain and to reassure those children. It will undoubtedly be a stressful time, requiring a dedicated welfare officer. The Standing Committee on Social Issues Report (1997) recommended that prisons have a dedicated 'child officer' to deal with such issues.

³⁸ October 1997

³⁹ p.15

“...most of the children lost their principal carer when their mother was imprisoned. This is very different from the situation experienced by fathers in prison. Whereas the children of male prisoners are generally looked after by their partner, women prisoners relied heavily on temporary carers to look after their children...The children were reported to be experiencing a variety of problems as a result of the separation from their mother.”

(Home Office Research and Statistics Directorate – Research findings No.38 1997, 2)

“These families are often additionally burdened by financial crisis, changes in residence and lifestyle for children (including foster care placements), and histories of domestic violence and substantive abuse.” (Ann Adalist-Estrin “Parenting – From Behind Bars” *Nurturing Today*, pp.4,5 [italics added])

(b) Phone calls to children.

Phone calls to maintain contact with children should be lengthened, particularly where the mother must make STD phone calls, since it is likely that she will not be having contact visits with the child. The Standing Committee⁴⁰ recommended 15 minute phone calls. It also recommended a protocol for emergency phone contact with children. Stakeholders endorse recommendations for extended phone calls.

(c) Visits.

The literature available into the effects on a child, of imprisonment of his/her mother, as well as the detrimental effect on the woman herself, bear out the importance of regular, quality contact between mother and child. Stakeholders repeatedly hear from women who have reports about the way in which visits have taken place. The main areas of concern are:

- **Visits staff** Families frequently report that visits staff were rude or abrupt or otherwise offensive when they phoned to arrange a visit, or when they arrived at the centre for a visit. Some family members report feeling as if they had done something wrong.
- **Contact visits for children.** The Standing Committee Report (1997) cites an incident of a two year old who bruised his forehead when he tried to get through a glass partition to his mother on a non-contact visit. Many inmates and their families have reported to stakeholders incidents of children being refused contact visits because of the parent having provided a positive urine test, or for some other behavioural reason. Prison authorities always say they are not punishing the child/family by denying a contact visit, but they are punishing the prisoner for breaches of discipline. This is unacceptable as an explanation. Stakeholders endorse recommendation 21 of the Standing Committee's recommendations, that a visit with a child should *always* be a contact visit. If the parent has committed a breach of discipline, the parent may be punished in other ways, but the child should not be punished.
- **Drugs Strategy Procedures.** Under current guidelines, contact visits are immediately terminated when a visitor uses the toilets. This procedure is indicative of the ongoing targeting of visitors and families, despite the relative lack of evidence that these are the sources of drugs

⁴⁰ A Report into Children of Imprisoned Parents, 1997

"In maximum security facilities, if a child is playing in a play area...(and) falls over or argues with another child and the parent gets out of the chair as a spontaneous response to see what is happening, that visit is terminated. If the child wants to go to the toilet, as soon as the child goes to the toilet the visit is terminated. These are vry draconian measures to take. We understand that there needs to be a balance between security and drug couriering, but you cannot have an open visiting policy when such measures are in place"

(A Report of Children of Imprisoned Parents, July 1997, p.73)

in prison. Children are the primary targets, since they are more likely to need to use the toilet. Prisoners have reported children becoming anxious over this procedure. Some children have reportedly returned to bed wetting and have shown anxiety about using the toilet, and guilt about ‘causing’ the visit to terminate. For this reason, a number of women have made the agonising decision of telling their families not to bring their small children to visit them.

- ***Use of drug dogs/technology.*** Women have reportedly ceased visits with children because of not wanting to traumatise the children by subjecting them to dogs and swabs, or have expressed concern about the use of these drug detection methods.
- ***Visiting periods for dependent children.*** In the interests of facilitating quality contact with children, this is a need expressed by women. As one woman has explained it, children do not blurt out their problems on a two hour visit, it takes the right time and mood. Children first re-establish contact with parents before they start discussing matters of deeper importance to their development. The use of family days is of particular importance in maintaining family relationships. At least one general manager has admitted that women, more than men, seek this sort of ongoing closeness with their children. At present women can have longer contact with their children at low and open security facilities, when they are closer to their release dates. This, however, ignores the importance of parents and children maintaining a relationship throughout the incarceration period, from the all important first stage of imprisonment through to the pre-release period.

Need for grief and separation counselling. Stakeholders’ experience of women in prison is that women separated from their children suffer the grief of losing their children, in addition to the guilt anxiety and constant worrying about their children. Stakeholders do not intend to send a message that counselling can be a substitute for adequate contact and other appropriate practical measures for minimising the impact on parents and their children of imprisonment. It is, nevertheless, important that measures be taken to counteract the extremely damaging effects of imprisonment on a woman’s well being as a parent, one such measure being as we suggest below, provision of grief and loss counselling and programs.

“Incarceration puts physical and emotional distance between inmates and families, sometimes taxing already stressed family relationships and always challenging even the strongest of family relationships.”

“The women worry that when their children see them there is not a relaxed atmosphere, it is strange and already they have been separated and there is a bit of a problem if they cannot cuddle them, which is sometimes not possible depending on the officers present and if they look funny, that is, wear funny clothes according to the children. The women worry a lot about there being any real communication during the time of the visit”

A Report into Children of Imprisoned Parents July 1997, p.69

“Coming to prison is a stressful experience and there is evidence that women experience the effects of imprisonment severely. The development of any philosophy or programme needs to recognise this. Without helping or enabling women to deal with practical issues such as childcare, accommodation and involvement with other agencies such as Social Services, programmes

Recommendations:

That Women's Policy Unit:

1. Recommend and lobby for the appointment of dedicated welfare officers whose responsibilities are specifically to ensure that women, arriving at prison, immediately have a welfare needs evaluation and that all immediate needs in relation to family and the care of children are dealt with at the induction stage.
2. Recommend and lobby for an extension of timed phone calls with children to 15 minutes, as an initial step, and that consideration be given to extending this after a trial period of 12 weeks.
3. Liaise with centres to develop and implement a protocol for women with dependent children to have emergency phone contact with children.
4. Call for the funding of training for dedicated visits staff sensitive to families' needs and stresses, and that procedures be implemented that fast-track visiting arrangements for families.
5. Advocate and lobby for an amendment to section 125 *Corrective Services Bill* to provide that prisoners be entitled to at least *one personal contact visit per week*, in addition to such contact visits with their children as may be needed and can be facilitated.
6. Recommend and develop an amendment to current Policies and Procedures ensuring that visits with children *always* be contact visits, and that this be reflected in the provisions of the *Corrective Services Bill 2000*.
7. Support and develop an amendment to current Policies and Procedures to ensure that a contact visit is *never terminated* as a consequence of a child using the visitors' toilet facilities.
8. Support and lobby for an amendment to current Drugs Strategies to ensure that children up to the age of 12 years old not be subject to drug detection procedures including passive drug dogs and electronic drug detection methods.
9. Ensure that Corrective Services adopt as a principle that visits always be sufficiently flexible to maintain and foster parent-child contact.
10. Liaise with Correctional Centres to develop and implement a program of monthly "family days" consisting of a monthly all-day visit for children of prisoners and other immediate family members.
11. That Corrective Services liaise with the Departments of Health, and Aboriginal Affairs, and community organisations for the provision of grief and separation counsellors for all women, and in particular women with dependent children, and Aboriginal and Torres Strait Islander women.

E. The importance of support at pre- and post-release

Pre-Release

Ann's, Lena's and W's experiences of the deteriorating contact with their children, as a consequence of their imprisonment, and despite their best efforts, demonstrate the difficulty of maintaining parent child relationships, and the consequences of failing to do so. Imprisonment fundamentally undermines the position of a woman's parental role within a family by denying her any functional parental role, and then expecting her to resume this upon her release. Apart from preparation for return to the workforce and the community, there is a fundamental need for pre-release re-establishing of parental roles.

Ideally parental roles should be maintained as much as possible throughout imprisonment. The reality, however, is that even where contact has been relatively frequent, this can not be a substitute, for or undo the damage caused by the loss of, an immediate parenting role for the duration of their incarceration, and a resumption of this role may be difficult. It may be resented, particularly in older children who have been through great hardship with an absent parent.

For many children with women in prison, the return of the mother to the community will mean a change of residence, change of school, friends, environment, and an attempt to return to a former family structure. The stress on the family is difficult to imagine.

There is a need to maximise assistance in, for example, family therapy. It is strongly recommended that this be provided by independent services, such as community organisations, or Health Department. The need to maximise opportunities for women's re-establishing of family bonds and community support network, by providing flexible and frequent Leaves of Absence, is also indicated.

4. **Post-Release support**

The difficulties for women resuming parental roles after release are discussed above. Often the post-release effects on women is unknown by prison agencies which tend to primarily concerned with women in prison. Sisters Inside Inc. and Catholic Prison Ministry are exceptions in this respect, since they offer significant post-release support. Sisters Inside is familiar with the extraordinary struggles of women who seek to return to a functional role in the community. In addition to the stresses of re-structuring the family, women must often find accommodation, finances, work, and deal with post-

From a situation of imposed infantile dependance, (sic) rules and regulations covering every aspect of your life; what time you get up, how to make your bed, what tie you eat breakfast, what time you're allowed out to exercise, being locked in your cell – a person is then let out and expected to cope immediately
(*Fitzroy Legal Service 1988, p.36*)

Davies and Cook, "Women and Post-Release Mortality" p.20)

We've got a thankless job, because we come to work and we're just holding people. It's like saying, 'Let's waste a year of somebody's life'... – we only run basic education here. They'll go out and they'll be put back in the same environment, knowing that they can't get a job because they've been in prison. I really can totally understand why they go back to crime. ..I really do understand why they do it. They can't find a job, they've got little children to look after, they've got no money, and they see everybody else with money. It's very difficult to know what to say to them. You go home some days, and think, 'Well, how the hell have I helped anyone today?'"

Female prison officer quoted in Carlen, 1998, p.148

release shock.

It is shocking, but not surprising, then, that the post-release mortality rate is exceptionally high among women. In “Women, Imprisonment and Post-Release Mortality”, Davies and Cook cite the separation from their children as one of the issues impacting on women’s health whilst in prison. Davies and Cook found that between 1990 and 1995, 60 women had died within three months of leaving prison in Victoria alone (p.15).

In addition to practical support in the areas of housing, Centrelink payments, seeking employment, and other related problems such as transport, women also need ongoing and intensive counselling and family therapeutic support. If the first three months can be considered the critical period, this is clearly the time of greatest need.

Post-release survival may also be related to the amount of pre-release opportunities for community re-integration, such as:

- Frequent and flexible family contact;
- Programs of frequent Leaves of Absence, both for special purposes such as seeking housing, education and employment, and for the purposes of re-settlement.

Some current obstacles to this are:

- ***Numinbah***
 - provides no pre-release support,
 - no Leaves of Absence for at least the first three to six months that a woman is placed at the centre,
 - is inaccessible for visitors,
 - is remote from city infrastructure, so few opportunities for re-familiarisation, seeking work, seeking housing, checking schools and bus and transport routes
 - has no public transport access for family and visitors
 - provides no real community work opportunities for women
 - provides no or minimal support for drug and alcohol substance abuse relapse prevention support
- ***Open security Urine testing – Zero tolerance***

Current urine testing policy allows an open security centre no discretion to consider a woman’s case if she tests positive to an illicit drug. She is immediately returned to secure custody, irrespective of whatever positive steps she may have taken towards her return to the community. This provides no acknowledgment of the difficulties women may face initially in resuming contact with the community. A particularly unjust consequence of the policy is that some presumptive (initial) drug tests have less than 100% accuracy, and the presence of metabolites for the particular drug can only be determined by a confirmation test. The initial test for amphetamines is only about 65% accurate, and may give a positive reading if a woman is taking cough medicine. The policy nevertheless provides that people testing positive on the initial test will be returned to custody before a confirmation is carried out. The effect of the policy on family re-integration is destructive and disruptive, and causes enormous setbacks to the development of the trust and bonding required in re-parenting.

Recommendations:

1. That Corrective Services introduce Policies and Procedures which ensure intensive programs of re-settlement Leave of Absence for all women and particularly for women with dependent children, together with Leaves of Absence for special purposes such as seeking housing, education and employment.
2. That the policy and procedures in relation to urine testing of prisoners in Open security be urgently reviewed, and amended to ensure that no prisoner is automatically returned to custody if a positive urine sample is returned.
3. That Open security facilities provide drug and alcohol support services for the ongoing support of women as they attempt to return to the community.
4. That, a supportive and non-punitive approach be developed in relation to procedures upon a woman returning a positive urine sample.
5. That women in open security and community corrections centres only be returned to secure custody as a last resort, when all other avenues available are exhausted.
6. That every effort be made to ensure that a woman who is engaging in family re-integration efforts in open custody and community corrections centres, be supported, and that she not be returned to secure custody if she has not committed a further criminal offence.
7. That in the event that a woman who is engaging in family re-integration efforts in open custody and community corrections centres, commits a further criminal offence, that she be permitted to remain at the centre if she is granted bail in relation to the charges.

PART IV: INDIGENOUS WOMEN AND WOMEN FROM CULTURALLY DIVERSE COMMUNITIES.

A. The disproportionate imprisonment of indigenous women

It has been noted that Aboriginal and Torres Strait Islanders are the “most researched” group in Australia. The WPU Needs Analysis accordingly follows a range of other research initiatives into issues concerning indigenous people and the criminal justice system. There are at least two common themes to these earlier initiatives. First, that the incarceration of indigenous women is linked to the historical and ongoing colonisation of indigenous peoples in Australia. Colonisation has wrought extensive community and familial disintegration; physical and sexual violence against women;⁴¹ widespread alcohol and drug abuse as a coping response to untold economic, social and cultural dispossession; combined with a culture of spiritual loss and grief.⁴² The second theme is that incarceration should be used only as a last resort in the sentencing of indigenous people.⁴³

Yet, the WPU does not pick up either of these themes.⁴⁴ To this extent, the Unit aligns itself with a Queensland tradition of either ignoring, or reinventing racism and profound historical and ongoing discrimination and disadvantage as “minority issues”, rather than owning and addressing these as issues for the dominant culture and institutions of Australia.

That indigenous women comprise only 2.9% of the Queensland population and yet, nearly a third of those imprisoned,⁴⁵ casts the imprisonment of indigenous women in emergency and crisis terms and as a phenomenon to which all government resources should be immediately directed. It is an issue that directly and adversely contributes to the ongoing disintegration of indigenous families and communities and in this light, impacts on long term indigenous survival. At minimum, and until the Government

“The most frightening trend...is the belief of some indigenous women that this is ‘their lot’ and nothing can be changed to make it better. It is as if indigenous women have resigned themselves to living very disadvantaged lives until their untimely deaths (often the result of stress related illnesses and/or acts of violence) simply because they do not expect any better.”

“...Indigenous peoples were the most disadvantaged in the State...it is probable that a number of Indigenous families are on the verge of starvation...”

Aboriginal and Torres Strait Islander Women’s Task Force on Violence, pJ95

“The social and economic status of Aborigines and Torres Strait Islanders is well known. They are the sickest, the poorest, the most imprisoned, the highest unemployed and the most studied group in Australia.

Aboriginal and Torres Strait Islander Women’s Task Force on Violence, p157

⁴¹ Aboriginal and Torres Strait Islander Women’s Task Force on Violence 1999 locates violence within a process and ethos of colonisation.

⁴² Aboriginal and Torres Strait Islander Women’s Task Force on Violence, p127 describes how socio-economic poverty also wrought a ‘poverty of spirit’ – a sense of hopelessness and inter-generational transmission of disadvantage in indigenous, marginalised communities.

⁴³ See for example Royal Commission into Aboriginal Deaths in Custody, Recommendations 92-121; Recommendation supported by The Aboriginal and Torres Strait Islander Women’s Task Force on Violence

⁴⁴ Exemplifying this same approach, the Women’s Policy Review (1993) reported that in 1993 indigenous women comprised 50% or more of the Townsville prison population and between 10-30% at Brisbane Women’s Correctional Centre, but described this as simply “a matter of concern.” (p23.)

⁴⁵ Women’s Policy Unit, *Needs Assessment (Draft)* reports that indigenous women comprise 22.33% of all women in custody.

arrives at a package of measures to address the disproportionate imprisonment of indigenous women, an immediate moratorium should be placed on the further imprisonment of indigenous women.

B. Specific issues impacting on indigenous Women in custody

The discrimination that contributes to the disproportionate rates of incarceration, also shapes the experiences of indigenous women whilst in prison custody. Although Corrections has introduced initiatives such as those detailed by the WPU, discrimination continues to manifest in ways told by women to the WPU and as follows:

1. In a lack of community custody and release options.

The lack of community custody options in Townsville impacts disproportionately on indigenous women, who comprise the majority of the women's prison population at this centre, and is accordingly, a clear example of indirect discrimination. Immediate steps must therefore be taken by the WPU to address this.

The under-representation of indigenous women in community release options, such as home detention, appears to occur across jurisdictions. Whilst it has yet to be comprehensively explained, our experience suggests that it is an issue bound up in social and economic disadvantage. For example, access to home detention, currently, rests on detainees having a telephone in the house. However, for many indigenous people the costs of a phone being installed may be too prohibitive, or not a realistic possibility. Likewise, home detention may be less accessible for an indigenous woman, who is more likely than her non-indigenous counterpart to have been homeless, or to have experienced violence and abuse at home.

It is essential that the WPU work with the appropriate correctional mechanisms to ascertain and address the causes of indigenous women's under-representation in community release options. Then, to institute appropriate mechanisms to ensure that women have access to home detention where they have previously been homeless or experienced violence and abuse at home, or are unable to afford or arrange for a telephone at home.

2. Indigenous women, in common with non-indigenous, are also adversely affected by the unduly punitive approach that is currently being taken to release on parole. The WPU describes how one Indigenous Community Corrections Officer takes an "innovative and flexible" approach to working with

"The removal of Aboriginal women into custody and the criminal justice system at such disproportionate young age, has serious consequences for the future.

Aboriginal women, as the bearers and educators of children, are being removed from their roles as mothers, which has major repercussions for both the survival of the race of Aboriginal people, and also a significant number of Aboriginal people growing up without (or at least periodically) their natural mothers."

Submission to Select Committee on the Increase in Prisoner Population

"There appear to be significant disparities in the justice system relating to racial and cultural issues that warrant immediate attention.

Many Indigenous people are arrested and imprisoned for offences that do not usually attract a custodial sentence for non-Indigenous people.

This reveals a racial bias in sentence and a disproportionate use of imprisonment weighted against Indigenous offenders."

Aboriginal and Torres Strait Islander Women's Task Force on Violence, p247

indigenous women on release. However, it is generally perceived amongst prisoners that release on parole is unviable, given unduly harsh restrictions on movements and the extremely punitive consequences of breaching parole conditions. This highlights the need for more staff to be trained in working flexibly and supportively with women on parole. The difficulties for women following release on parole should also be explicitly acknowledged in policies and practices relating to breach of parole. Rather than punishing women who are having difficulties in adjusting to release and living circumstances by way of breach, parole practices should aim to support women.

3. Indigenous women are being subjected to over-control and surveillance. This is manifest in their under-representation in open and low security centres and as the WPU acknowledges, in indigenous women spending longer periods in secure custody.⁴⁶ The trial undertaken by Corrective Services to address this over-control - sending a group of indigenous women to Numinbah Correctional Centre - was unsuccessful with most of the indigenous women returning to secure custody. This was predictable for a number of reasons.

First, because placement at Numinbah, as an open security facility, compounds the social and geographical isolation of imprisonment. It is widely viewed in negative terms. It is rurally isolated so that prisoners and in particular, indigenous prisoners with few financial resources, are forced to pay for STD phone calls. Visiting the centre involves significantly higher petrol and transport costs and extra travelling time. Whilst it is an open security centre it is enclosed by a fence, apparently on the basis that women must be protected from men at the Centre, who are unfenced.

Secondly, because the culture of Numinbah is monocultural and evocative of traditional Anglo and masculinised prison culture. Women report, for example, that the environment discourages assertiveness and positive self esteem and fosters divisions between prisoners. Ironically, given the Centre's open security status, women report that they are subjected to greater controls over their behaviour and attitudes. Officers use "incident" reports as a routine means of exerting control over them and with the consequence, that this slows and impedes women's progress to release. Work and training options at the Centre are also limited, as are opportunities to link with community organisations, who are able to assist with arrangements concerning housing, children and economic support, post release.

"A bipolar standard of expected behaviour for women stipulates that she either follow societal norms or fall into a state of disgrace. Often, punishments given to female offenders have therefore been harsh, reflecting attempts to bring their behaviour in line with societal norms and expectations"
Beckerman, 1991: 172 cite in Select Committee on the Increase in Prisoner Population, p7

"it is common knowledge that prisoners emerge from prison more isolated and marginalised, and if they are a person with a disability this is likely to be more pronounced."
Quote p61, Select Committee on the Increase in Prisoner Population.

..."imprisonment has been a colonial tool of domination and contrainment..."
Aboriginal and Torres Strait Islander Women's Task Force on Violence, p206

⁴⁶ Women's Policy Unit, *Needs Assessment (Draft)* p11; Also highlighted by WPU statistics for year ending 30/6/99 recording no indigenous women in community custody.

It is therefore inadequate to simply send a group of indigenous women to Numinbah as a way of addressing the over-control of indigenous women in the correctional system. Women's reports strongly suggest that the Numinbah experience exacerbates the controlling facets of imprisonment. The more positive response to indigenous women's under-representation in low and open security centres and to the problems posed at Numinbah, is to close that Centre and replace it with a number of small houses based in the community.

4. Indigenous women, particularly those from remote indigenous communities, are jeopardised by a lack of processes and initiatives positively addressing language and cultural barriers. In rural communities, English is often a third or fourth language. However, the correctional system is based on an assumption of English as a first language. Indigenous women, accordingly, face language and cultural barriers similar to those faced by women from non-English-speaking backgrounds in accessing information and support. Therefore, when women are from rural communities, they should be provided with opportunities to use interpreters from the time of reception to custody. In addition to every staff member being trained in anti-racism and cultural awareness, every effort should also be made to represent and use different Aboriginal terms, dialects and concepts in information resources and presentation. As recommended by the Report of the Women's Policy Review in 1993, programs should also incorporate an understanding of Murri dialects and traditional and cultural expectations and norms.

5. As the WPU notes, but does not address, the concentration of women prisoners in two main custodial centres of Townsville and Brisbane shapes the experience of imprisonment for indigenous women, particularly those from rural remote communities, as one involving alienation and isolation from family, community and culture. As the WPU acknowledges, this isolation is compounded by visiting restrictions that do not facilitate visiting by Murri families from long distances; the costs of transport associated with visiting that not only may be prohibitive for families and friends in rural areas but also, for those who live closer to the prisons, but live with financial hardship that precludes expenditure on extra transport costs; the high costs of phone calls, particularly in the Townsville and Numinbah Centres; and a likelihood that many relatives and friends of women may not be in a position, anyway to have phones. Given the prevalence of literacy and numeracy difficulties, indigenous women prisoners are often less well positioned to keep in contact with families by way of letters. The Royal Commission into Aboriginal Deaths in Custody emphasised the importance of Indigenous prisoners

"Indigenous women who have been victims of violent assaults have tended to bury the hurt and trauma, and due to the lack of any ongoing support and counselling, many of them become drug and/or alcohol dependent in an effort to forget."

DPP, Indigenous women within the criminal justice system, p33

"There is no blanket recipe, as Aboriginal society is too diverse.

There are remote communities such as Doomadgee or

Morrington Island, provincial towns or cities such as Townsville or Rockhampton and ...so on... You may deal with one community in a certain style and another community 100 kms away you may deal with in a totally different way."

Qld Govt, 1998,

Protocols for consultation and negotiation with Aboriginal People.

remaining connected to families and communities and to this end, recommended provision of financial assistance to families to enable them to visit prisoners from time to time.⁴⁷ Financial assistance should therefore be provided to enable prisoners contact with families and partners who, otherwise face locational, disability, and economic barriers, to visiting and corresponding with women.

6. Aboriginal people are the most financially disadvantaged group in Australian society and when imprisoned, indigenous women are less likely than non-indigenous to have access to outside financial support.⁴⁸ Indigenous women are especially disadvantaged in the first two weeks of incarceration when they have no access to remuneration. They continue to be disadvantaged, throughout custody, by remuneration rates that do not adequately cover the minimum costs of necessities. The 1993 Women's Policy Review recommended that on entry to custody, all women be credited with a sum of money to cover the first two weeks' costs of necessities. To this, we add that remuneration rates be set at a minimum level to cover the costs of necessities on a weekly basis and to ensure that neither indigenous, nor non-indigenous prisoners are penalised by the impoverished socio-economic status of outside families and contacts.

7. The Royal Commission into Aboriginal Deaths in Custody recommended that prisoners be enabled and encouraged to attend funeral services, burial and other occasions of especial family significance.⁴⁹ However, indigenous women continue to be discouraged from attending such events via inflexible leave of absence policies, escort staff lacking understanding of the cultural significance of such events, and feelings of shame and denigration connected with having to remain handcuffed during these events.

“Increasing poverty, the lack of communal resources previously available through extended family structures and growing demands on welfare agencies, indicate that many Indigenous people cannot meet their own basic needs or those of their families.”

(The Aboriginal and Torres Strait Islander Women's Task Force on Violence, p95)

“Handcuffing should not be used regularly for women prisoners and the decision to use it in exceptional cases should be well supported by documentary evidence.

The physical restraints used on female prisoners while under escort outside establishments should be restricted.”

(Home Office, *Women in Prison: A Thematic Review* by HM Chief Inspector of Prisons., Chapt 12

⁴⁷ Royal Commission into Aboriginal Deaths in Custody, Recommendation 169

⁴⁸ This was observed by Women's Policy Unit, *Needs Assessment (Draft)* and in 1993, by Report of the Women's Policy Review 1993.

⁴⁹ Royal Commission into Aboriginal Deaths in Custody, Recommendation 171

C. Women from Non-English-Speaking Backgrounds

The WPU notes that there are a small number of women from non-English-speaking backgrounds incarcerated in Queensland Prisons. So small apparently, that they require no more than a mention. Yet, this group endures significant barriers to equitable treatment in the prison and community corrections systems, which are in some ways similar to those encountered by indigenous women.

As exemplified in the WPU report they are a largely invisibilised and silenced minority. Most obviously, because of language barriers. As stated above, the corrections system is monocultural and premised on English as a first language. Information about rights, processes and options is therefore, provided in English with few attempts made to access and use interpreters to ensure that information is accessible to women of Non-English-Speaking backgrounds. Often, at visiting times, children are forced to interpret for women in their interactions with staff. Practices such as strip-searching are also conducted without any recognition of the differing cultural significance to women from Non-English-Speaking backgrounds.⁵⁰

The Australian Law Reform Commission identified the impact of linguistic and cultural barriers on the access of women from non-English-Speaking backgrounds to the law. These included a lack of understanding of law, legal rights and processes, and a lesser ability to communicate needs and access effective responses to needs, different cultural expectations, isolation and lesser ability to access justice. This indicates the likelihood of high legal and support needs amongst women from non-English-speaking backgrounds on entry to custody and underlines that every step be taken by correctional staff to ensure women access to interpreters and information about such correctional processes as sentence management, community release, and security. In addition, that multi-lingual information resources be produced and staff trained in multi-cultural awareness, working with interpreters, and the role and impact of different cultural values and practices on women's experiences in the corrections system.

The isolation of imprisonment for every woman is particularly intense for women from Non-English-Speaking backgrounds, who were living in another country, prior to apprehension and

“What has been done suggests that migrant women inmates, particularly those from NESB, face specific problems due to cultural differences and language barriers which are not adequately addressed within the prison system.”
(Patricia Easteal 1993, Overseas- Born Female Inmates in Australia: A Prison Within a Prison, Journal of Criminal Justice, 21 173-84)

“Many people of non-English-speaking background do not understand the criminal justice system in Queensland...”

Women of non-English-speaking background feel they would not be able to express themselves fully...or be able to understand what is being asked of them...

Many people of non-English-speaking background do not fully understand the role of the interpreter...

Women of non-English-speaking background feel that it is essential...to have some awareness of their culture and an understanding of their situation of being caught between two cultures.”

Women of Non-English-Speaking background within the Criminal Justice System, 1997 DPP, QLD.

⁵⁰ Note that Department of Justice Victoria 1995, Women's Prisons in Victoria: Correctional Policy and Management Standards, 50-52 highlighted the need for the management practices in prisons to be sensitive to the needs of women from Non-English-Speaking Backgrounds, Aboriginal women and women with intellectual disabilities.

imprisonment in Australia. Separated from families, children and their culture, -separation that is largely unable to be mediated by proper phone contact - imprisonment has huge social, health and familial impacts.

Cultural and language barriers impede access by women from Non-English-speaking backgrounds to formal and informal support and information that is provided (on a taken-for-granted basis) by prison staff, and other prisoners about matters such as parole, sentence management and classification. Lack of access to these channels may, in turn, hamper progress through the system. These barriers may also prevent women from accessing medical services and participating in core and elective programs, again with an adverse impact on their progress towards release.

The experiences of women from Non-English-speaking backgrounds necessitate that the WPU prioritise the development and implementation of strategies to reduce the cultural and linguistic barriers that this group of women face. They should include mechanisms for linking women with outside ethno-specific networks, staff training, and strategies to ensure that women from Non-English-Speaking backgrounds have an equal right to information and program access and more generally, equal rights to progress through the correctional system at the same rate as others.

RECOMMENDATIONS:

That the WPU:

- 1. Lobby for a moratorium to be placed on the further imprisonment of indigenous women;**
- 2. In the process towards the abolition of imprisonment for women, advocate and lobby for the legislative stipulation of imprisonment as a sentence of absolute last resort (as recommended by the Royal Commission into Aboriginal Deaths in Custody);**
- 3. Prioritise and work with women and indigenous groups to develop initiatives that recognise and address indigenous women's offending as linked to historical and ongoing colonisation;**

“Most new arrivals...may not understand the Australian concept of health, welfare and education services.

Women of non-English-speaking background are often not sure where to go for assistance and what kind of services are available.”

Women of Non-English-Speaking background within the Criminal Justice System, 1997 DPP, QLD.

“there tends to be more pressure for women of the non-dominant culture not to ‘rock the boat’ and attract negative attention to themselves and their community.”

Women of Non-English-Speaking background within the Criminal Justice System, 1997 DPP, QLD.

“Access to information and knowledge of their rights, the laws and the criminal justice system in Queensland and Australia is difficult for women whose first language is not English as most of the information is available only in English...”

Women of Non-English-Speaking background within the Criminal Justice System, 1997 DPP, QLD.

RECOMMENDATIONS (cont) :

4. Work with appropriate corrections staff to ensure women in Townsville Correctional Centre equal community custody opportunities;
5. Audit procedures and policies relating to community release to ensure they are free of discriminatory effect and recognise and accommodate situations arising, particularly, for indigenous women;
6. Lobby for the closure of Numinbah and establish pre-release houses in the community;
7. Ensure that staff are trained in anti-racism, cross-cultural communication and working with interpreters;
8. Ensure that information and support processes are accessible to women of all racial minorities;
9. Ensure that an ethical code is developed around practices such as strip searching and that it takes into account the beliefs and standards of women of cultural minorities;
10. Ensure that from the time of reception, indigenous women from remote communities and women from Non-English-Speaking backgrounds are provided with the opportunity to access interpreters;
11. In consultation with appropriate groups and stakeholders develop guidelines to apply to the production and distribution of information and resources in correctional facilities and which recognise and address the responsibility of correctional facilities to ensure the equal access of women of all cultural and ethnic minorities;
12. Audit procedures relating to visits and telephone contact for the purpose of achieving improved opportunities for contact between indigenous women and families and communities living in distanced places;
13. Advocate and lobby for the provision of financial assistance to families, living away from the two main correctional facilities, to enable them to visit women in these centres;
14. Advocate for the introduction of a reception allowance for all inmates and for improved and minimum remuneration rates for women to cover the cost of necessities (averaged on a weekly basis.)
15. Develop and implement a policy relating to escorting and security on leave of absence to attend such events as funerals, that prohibits handcuffing (save in exceptional circumstances) and emphasises sensitivity and understanding of Aboriginal customs and beliefs as criterion for escort staff;
16. Prioritise the development of initiatives that link women from Non-English-Speaking backgrounds with outside ethno-specific networks;
17. Develop program outcomes that emphasis and evaluate the access of women from Non-English-Speaking Backgrounds to information and programs.

PART V: HEALTH

A holistic and seamless approach.

The WPU acknowledges that women in prisons in Queensland have high and multiple health needs spanning sexual assault, domestic violence, drug abuse, self-harming and suicide. These have been documented previously by the Women's Policy Review in Queensland, and have also been raised in initiatives such as the Royal Commission on Aboriginal Deaths in Custody, and The Aboriginal and Torres Strait Islander Women's Task Force on Violence Report.

These initiatives highlight the need for a holistic and seamless approach to women's health needs in prison. This recognises that health encompasses social, physical, emotional, spiritual, mental and collective dimensions of women's lives and is inseparable from socio-economic and cultural contexts. Secondly, that health does not simply begin and end at the doctor's door. Rather that women's health and well-being is linked to all aspects of imprisonment and post-release and is contingent on the provision of rights to actively participate in decisions and to be treated with dignity, respect and equality throughout correctional processes .

A. Sexual assault and domestic violence

Literature and research into women's imprisonment confirms a high incidence of sexual and physical violence in the histories of women imprisoned.⁵¹ Such violence has been shown to have devastating effects on women's lives and has been directly linked to women's offending, drug and alcohol abuse, self harming and suicidal behaviours, mental illness, a range of medical conditions, low self-esteem, homelessness and poverty. Psychological explanations characterise the effects in terms of Post Traumatic Stress Disorder.

"Many women who enter the criminal justice system do so in the context of having been subjected to violence. Where women are victims of crime they feel that their story is often presented in an isolated manner which masks the true gravity of what they experienced. Where they have committed offences, or acts of violence, they often have a story of violence which they have experienced which may explain, and even justify their actions."

Taskforce on Women and the Criminal Code p11

"It is difficult for a woman who has suffered abuse to achieve a meaningful degree of insight and healing in the prison environment. Conditions within the institution continually re-invoke memories of violence and oppression, often with devastating results. ..I do not feel "safer" here because "the abuse has stopped." It has not stopped. It has shifted shape and paced itself differently, but it is as insidious and pervasive in prison as ever it was in the world I knew outside these fences."

Marcia Bunney, One Life in Prison: Perception, Reflection and Empowerment p17.

⁵¹ E.g Qld Corrective Service Commission, *Report of the Women's Policy Review 1993*; Sources quoted in Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000; Sisters Inside Survey, presented at State DV Conference, 14 June 2000 reporting that 89% had been sexually abused, 98% subjected to physical violence and 13% ritually abused.

A.1 Strip searching

Research and experience highlight women's empowerment as pivotal to any effective response to violence. At minimum this means safeguarding and respecting women's rights to physical and sexual integrity. However, the practice of strip searching women prisoners violates even this most minimum of rights. As the WPU consultation with women confirmed, strip searching often triggers memories and sensations associated with previous sexual violation, in other words re-traumatises women. For indigenous women and women of ethnic minorities, strip searching may offend against cultural edicts of modesty and be deeply affronting to dignity and sense of self-worth in a cultural sense.

Strip searching is justified on the basis that it is aimed at preventing the introduction of contraband and in particular, drugs into prisons. However, research into the outcomes of strip searching in Queensland and Victoria reveal that they yield an extraordinary paucity of contraband. Davies and Cook, for example, report that in August 1995, out of a total of 595 strip searches carried out at Fairlea prison in Victoria, only two women were found to be carrying cigarettes.⁵² Similarly, an official request by Sisters Inside Inc showed that from 1400 strip searches, conducted in the period before the opening of Wacol Brisbane Women's CC, no contraband was found as a result of strip searching.

Numerous commentators have also suggested that strip searching is ill-conceived and unjustified as a "drug strategy" because it does not address the centrality of prescribed drugs in the "drugs in prison" phenomenon. They point to women being over-prescribed with prescription drugs as a means of prisons exercising control. It has also been suggested that women obtain prescription drugs to ward off the effects of withdrawal, deal with stress, and to substitute for other substances.⁵³

Justified (even unconvincingly) as a drug detection strategy, the utility of strip searching is undermined by its effects of re-inducing and reinforcing experiences and feelings connected with drug-dependency, such as shame, guilt and dis-empowerment (related for example, to sexual abuse.) Effecting such a massive intrusion on bodily integrity, strip searching – as a drug strategy -

"Prison staff can require prisoners to bend or squat, presumably in the belief that such a posture might dislodge concealed items from bodily orifices, but none of the staff to whom we spoke considered that this was at all effective with women prisoners. Our medical advice is that it is unlikely to be an effective method of searching."

Home Office, Women in Prison: A Thematic Review by HM Chief Inspector of Prisons, 1997

"...(strip) searching is likely to prove traumatic for women who have little experience of imprisonment or who have suffered physical or sexual abuse. We have also been told that older women are embarrassed to be searched by young staff."

Home Office, Women in Prison: A Thematic Review by HM Chief Inspector of Prisons, 1997

"Jail takes away your self-esteem... strip searching...All that is very degrading...To me its all very sexual, in an abusive way (Interview, in S Cook & S Davies, *Breaking the Silence of Death*, unpublished.)

⁵² Davies S & Cook S (p.19) Fairlea prison in Victoria, 13,752 strip searches were carried out between 1994 and 1995.

⁵³ S Cook & S Davies. *Breaking the Silence of Death*, unpublished; *Dying Outside: Women, Parole and Post-Release Mortality*. Paper on Second Australian Conference of Parole Boards & Offenders Review Boards, 8/10/99..

may, ironically and tragically encourage women to actively seek out illicit substances to deal with such feelings.

Strip searching is essentially an abuse of power. In non-custodial contexts, it is a form of sexual assault. Officers who conduct strip searching are not bound by any ethical rules of conduct. To the contrary, they have very broad powers to strip search. A strip search may be justified by a woman 'acting suspiciously', mixing with "drug users" (whether or not she knows they are "drug users", and whether or not the woman herself is under any suspicion). Rules permit a woman to be strip searched in the presence of a male officer in an 'emergency'.

An example of blatant abuse of the power to strip search occurred in relation to a woman detained at Numinbah. Early in the day she had an altercation with a female officer. This was not a 'serious' matter. It consisted of talking back to an officer who told her to do up her shirt. She made a comment in response. She was not breached. Later in the day, the officer again told the woman to do up her shirt properly, and the woman made a sarcastic response. Within a very short time later, the officer had fetched a male officer, and ordered the woman to strip. No other conduct indicated 'suspicious behaviour'. No emergency was indicated, but the female officer succeeded in asserting her 'ultimate power' over the woman in custody who had behaved in an 'insubordinate' way.

As another example, an older Aboriginal woman, "E", at Brisbane Women's Correctional Centre contacted a stakeholder organisation, anxious and distressed because she believed she was being discriminated against. She had no history of drug abuse, was an older woman, and had been told to strip search three times in a little over one week. The explanation given was that E was strip searched when she entered the prison, strip searched when she accompanied some women to another part of the prison – in the course of her employment, and strip searched once because she was walking with a particular group of women. It was admitted that there was no suspicion that E was a drug user. Yet she was needlessly humiliated and shamed.

The Home Office report into Women in Prison recommended that strip searching of women should proceed on the assumption that any woman might have a history of abuse. They also recommended against the routine practice of strip searching such as that currently engaged in Queensland prisons, recommending instead that reasonable suspicion (formed in relation to individuals) be the threshold for searching. We note that, at least, this is the proposed threshold in the (amended)

"We were given worrying examples by prisoners and ex-prisoners which alleged that women had been strip searched for no sound security reasons but as a way of demonstrating the control of staff over prisoners..we are convinced that such abuses are possible without proper safeguards...Strip searches must never be used as an instrument of control or for the intimidation of prisoners."
(Home Office, *Women in Prison: A Thematic Review* by HM Chief Inspector of Prisons, 1997.)

"Strip searching...There is no substitute for the skills of a good Prison Officer in this situation. The ability to explain to prisoners what is to happen and the reasons for it, the adoption of a confident but sensitive approach to each woman as an individual and the capacity to give reassurance throughout the process are skills which are able to be identified and should be the subject of detailed staff training both nationally and at a local level."

(Home Office, *Women in Prison: A Thematic Review* by HM Chief Inspector of Prisons, 1997.)

" Numerous reports point to the fact that women in general do not often report sexual assault. There are various reasons for this, including fear of not being believed, threats made by the perpetrator and fear of being blamed." Office of the DPP, Women of Non-English-Speaking Background within the Criminal Justice System, 1997

Corrective Services Bill currently before Parliament, but reiterate that strip searching should be completely abolished on the grounds that it entails and reinforces the sexual degradation and abuse of women.

A.2 The taboo of sexual assault and domestic violence.

As characterised by the WPU, sexual assault continues to be a largely taboo subject. For women who have survived sexual assault, this taboo may be lived out in terms of shame, self-blame, and silence. Domestic violence, spanning physical assault, sexual, emotional and psychological abuse, also, continues to be a largely unacknowledged phenomenon. Accordingly and as noted by the WPU, women may not disclose abuse at the time it is occurring, but wait until many years after the abuse has ceased before telling anyone. Disclosure and the ability to talk about abuse, however, are essential to women being given the opportunity to address the negative impact of abuse and move forward in their lives.

The taboos surrounding sexual and domestic violence, render it crucial that women have access to support, counselling and programs from community-based domestic violence and sexual assault services. Also, that information regarding sexual and domestic violence be freely available within correctional facilities and that these facilities undertake positive measures to counter victim-blaming and individual shame about violence and provide information to women about their rights and options. Given that many women encounter domestic violence following release, emphasis should also be given to developing support, information and referral strategies that respond to domestic violence and which extend beyond custody to post release.

As we state above, it is crucial that strategies are put in place to ensure that women are not penalised in their home detention applications, or when on release on parole, by violence perpetrated by partners or other family members against them. As stated above, a woman who does not want to return to a violent partner may be precluded from applying for home detention. Likewise, domestic violence may be the backdrop to a woman breaching parole conditions. It is a matter of priority, therefore, that the WPU develop mechanisms to ensure that women, in such circumstances, are not jeopardised or punished for violence against them.

“Within prisons, the problems and circumstances that have often contributed to women’s offending are rarely dealt with, indeed they are often exacerbated. ..women in prison are punished and then spat out into a world that once again neglects them” (S Davies & S Cook *Neglect or Punishment?: Failing to Meet the Needs of Women Post-Release, In Harsh Punishment: International Experiences of Women’s Imprisonment, S Cook & S Davies (eds)*

“Ultimately, the provision of comprehensive assistance to women victims of violence must be a priority component of the mission and philosophy statement of every prison system wherein women are confined.”
Marcia Bunney, One Life in Prison: Perception, Reflection and Empowerment p17.

RECOMMENDATIONS

That the WPU:

- 1. Advocate and lobby for the elimination of strip searching of women prisoners;**
- 2. If strip-searching is to continue, that an appropriate ethical code be developed which recognises the violative nature of strip searching and that most women have been subjected to sexual violence;**
- 3. if strip-searching is to continue, advocate for it to comply strictly with the provisions of the Corrective Services Bill 2000, and be undertaken only under circumstances of 'reasonable suspicion'.**
- 4. Lobby for the implementation of procedures that ensure that where there is a 'reasonable suspicion' that a woman is concealing a prohibited article, a search may only be undertaken by female medical staff, and that such searches always proceed on the assumption that a woman is a survivor of sexual abuse or physical violence, and that her consent to the search first be sought**
- 5. Develop and implement information and educational strategies to address the effects of sexual and domestic violence on women;**
- 6. Initiate and facilitate the involvement of community-based sexual assault and domestic violence services in program provision with the express aim of encouraging ongoing contact post release;**
- 7. Ensure that women are not penalised in parole or community release processes by violence perpetrated against her by a partner or family member.**

D. SELF HARMING BEHAVIOR

Women self-harm for a number of reasons. For example, self harm may be one way in which a woman has learned to cope with the effects of abuse. Self harming behaviours have also been characterised as responses to a lack of control and denial of autonomy.

The WPU notes that on reception to prison, women report much higher rates of self-harming and previous suicide attempts than men. The WPU raises the possibility that this may reflect gender differences in reporting. However, research elsewhere confirms that attempted suicide and self harming are particularly common amongst women, as compared to men, and that self harming behaviours amongst women in prison occur at a much higher rate than in the community.⁵⁴ It is also a largely taboo phenomenon so that reporting and apprehension rates are likely to significantly under-estimate the true incidence of these behaviours.

The institutional response to suicide attempts and self harming is to place women in secure 24 hour observation or under report. This is widely viewed as a punitive response and one which women commonly avoid by harming themselves in places where wounds are unseen. The 24 hour camera surveillance, (which may be undertaken by male staff) reinforces a sense of lack of control that is connected with abuse histories, the routine use and objectification of women's bodies and the everyday controlling regime of prison.

It is recognised that the Department has a duty to respond to and reduce risks of self-harm and suicide. However, a more positive approach to that currently implemented would be one based on the following recommendations:

RECOMMENDATIONS

- 1. That men not participate in 24 monitoring of women;**
- 2. Women who have self-injured be provided with intensive support instead of being placed under 24 hour observation;**
- 3. That the WPU work with women and stakeholders to develop and resource peer support mechanisms such as "buddie" or mentoring systems;**
- 4. The WPU ensure the linking of women with appropriate services to provide them with medium and long-term support to address issues connected with self-harming and suicide.**

"... treating slashing as a security issue compounds the problem... she encourages greater attention to mental health services which would include giving prisoners more opportunities to develop structured peer support systems."
(*Karlene Faith, Unruly Women, 1993. p244*)

"Procedures should be implemented to facilitate prisoners informing staff of their distress before they reach a point of crisis.

"It is imperative that the response to such disclosures be free of disincentives to further disclosure (such as placement into an observation cell...

"...Alternatives to placing person who have self-harmed into observation cells should be explored.

"These alternatives should include the provision of emotional support by appropriately trained persons and interventions aimed at identifying and resolving the underlying psychological and/or social problems."

G Dear & D Thomson et al, Self-harm in Western Australian Prisons: An examination of situational and psychological factors, July 1998, p19

⁵⁴ G Dear & D Thomson et al, *Self-harm in Western Australian Prisons: An examination of situational and psychological factors*, July 1998; Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000, NSW.

E. SUBSTANCE ABUSE

Extensive research indicates that women's offending is significantly more likely to relate to substance abuse than men's and that women in prisons are more likely to be dealing with substance abuse entailing poly substance abuse.⁵⁵

Drug and alcohol abuse is often the means by which women survive and respond to gender-based violence. It is connected with poverty and homelessness and has been identified as a key contributor to the high mortality rate of women post-release.⁵⁶

The criminal justice response to drug and alcohol abuse occurs within an overwhelmingly prohibitive and punitive framework. A focus on "the evil of drugs" has been an integral part of conservatist law and order agendas pushed at State and Federal levels, resulting in an increase in penalties for drug-related offences, and the implementation of a harsh and intrusive "drug strategy" by the Department of Corrective Services. With women being four times more likely to be convicted of drug offences than men, such measures have had a disproportionate and adverse impact on women, contributing to increased numbers of women in prison and lengthier terms in custody.⁵⁷

The influence of drug and alcohol abuse on women's offending highlights the need for specifically women-centred, drug and alcohol responses. As a matter of priority, these should be formulated within a broad health and criminal justice response that seeks to divert women from the criminal process and support women in dealing with drug and alcohol problems and underlying issues.

As developed within custodial centres, these responses should be informed by a supportive, rather than punishment-oriented approach, to drug and alcohol abuse and incorporate the holistic approach to health that we outlined above. At minimum, they should accord women in custody the same opportunities to deal with abuse as those afforded the wider community, for example,

"... over 80 per cent of women who come into custody have a drug and alcohol problem...and are withdrawing from drugs when they come into custody and that would be usually poly-drug abuse. It is fairly unusual for us to see the single use of any particular substance. Alcohol is very common, but our main problem would be heroin with cocaine and benzodiazepines: abuse of pills."

Submission to Select Committee on the Increase in Prisoner Population.

"I drink because I feel better. I feel good when I drink because I don't hurt so much and I am not frightened so much."

Quote in Aboriginal and Torres Strait Islander Women's Task Force on Violence, p67

⁵⁵ Qld Corrective Service Commission, *Report of the Women's Policy Review* 1993 p4; *Prisoners in Queensland* (1999) 5 Queensland Crime Statistics Bulletin cited in Report of the Taskforce on Women and the Criminal Code, 2000 p395; Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000, NSW. Citing Steffensmeier and Allen at p31 who highlight the link between drug dependency and income generating crimes, for example, that women commit burglary and robbery typically as a result of addiction and will abandon these on cessation of drug use.

⁵⁶ S Cook & S Davies, *Dying Outside: Women, Parole and Post-Release Mortality*. Paper on Second Australian Conference of Parole Boards & Offenders Review Boards, 8 October 1999.

⁵⁷ See Women's Policy Review Draft p4; *"Prisoners in Queensland"* (1999) 5 Queensland Crime Statistics Bulletin, cite in Report of the Taskforce on Women and the Criminal Code, 2000 at p395

the same rights to participate in recent trialing of naltrexone⁵⁸ and same rights of access to community-based programs.

Priority must be given to ensuring the access of all women to alcohol and substance abuse programs. These should be culturally appropriate, incorporating indigenous concepts of health and well-being. They should accommodate the diversity of women's sentences so as to be accessible and made available to women on remand, as well as to women on short and longer sentences and extend beyond women's sentences to post release. They should be based on a policy of harm minimisation rather than abstinence, the latter policy not addressing the realities that women in, and following release from, custody are continually dealing with drug and alcohol use and that women often continue to use drugs and alcohol on release.⁵⁹ Given the prevalence of polysubstance abuse amongst women prisoners, harm minimisation is crucial to women's survival and to facilitating, in the longer term, women's rehabilitation.

Attention should also be given to developing and implementing initiatives similar to those undertaken in New South Wales prisons. These include a drug-free living-in program, particularly aimed at assisting women who have previously been in prison and who have long term drug and alcohol histories. The program provides women with the opportunity to live in a drug-free environment for a period prior to release. It is aimed at encouraging and supporting women to take individual responsibility for their lives following release and encouraging linking with community organisations. As another initiative, the Emu Plains Correctional Centre has a drug-free wing for prisoners who wish to stay "straight", the Select Committee on the Increase in Prisoner Population in NSW recently, recommending that similar wings be developed elsewhere.⁶⁰ The NSW Committee also emphasised the need to trial a "through care model of service delivery" to which recognition of the support needs of drug-affected offenders and access to support services following release, is crucial.

Lastly, women-centred drug and alcohol initiatives should address alcohol and drug usage and abuse in the context of broader responses to issues and needs of women concerning, for example, children, families, abuse histories, spirituality, sexuality, reproduction, homelessness and socio-economic rights.

⁵⁸ Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000, NSW at 75 notes that on 13 April 2000 it was announced that naltrexone would be trialed in Parklea prison and 450 prisoners are expected to participate.

⁵⁹ Currently, substance abuse programs tend to be directed at those who are not using drugs and alcohol. By contrast, a harm minimisation focus to programs will ensure and facilitate access by women currently using drugs and alcohol.

⁶⁰ Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000, NSW at pp70-77

"The whole drugs thing is a complete and utter disaster. Physical security for women is so repressive and it runs counter to everything we're trying to do. You're trying to build them up, you're trying to give them a sense of identity, you're trying to build their self-esteem, and then you've got them peeing into a pot for mandatory drug testing in front of an officer. I could weep for some of them, particularly the older women. I think I would just up-end the table, I couldn't take it."
(Pat Carlen, 1998, p117)

"A lack of adequate and effective drug treatment programs is also a matter of urgent concern. In 1998, a woman was found dead in a Melbourne Street. She had died of a drug overdose little more than five hours after leaving prison. Next to her body was 'A Certificate of Achievement in Drug Awareness' that she had received whilst in prison."
S Cook & S Davies,
Breaking the Silence of Death, unpublished.

RECOMMENDATIONS

That the WPU:

1. **Prioritise and work with relevant stakeholders and women to develop and implement women-centred drug and substance abuse responses within correctional facilities in Queensland.**
2. **Ensure that women in correctional processes are provided with the same opportunities to address substance abuse issues as women in the wider community;**
3. **Participate in and progress initiatives aimed at diverting women, whose offending relates to drug or alcohol abuse, from the criminal justice system;**
4. **Promote the implementation of harm minimisation as central to effective correctional responses to drug and alcohol issues for women;**
5. **Ensure drug and alcohol programs are accessible to all women regardless of sentence status or length and allow and promote women's access on release;**
6. **Explore initiatives, undertaken in other Australian and overseas jurisdictions to respond to alcohol and drug abuse amongst women, for the purpose of applying these in correctional facilities in Queensland.**

4. SEPARATION AND LOSS

Imprisonment entails the forced separation of women from their families, children and communities. For many women it causes feelings of deep loss and grief. Likewise, for children and significant others, this forced separation is hugely traumatic.

The loss and grief involved in imprisonment should be explicitly recognised in program provision, first by way of reception and induction processes and then, through program provision. As stated above, every step should be taken to ensure that women are involved in arrangements for the care of children and to facilitate visiting by children. The role of peer support and friendship, whilst in custody, should also be promoted with programs and support measures in place to address and normalise women's feelings of grief and loss. On entry to custody, women should be given the opportunity to participate in a surviving prison program that addresses these issues of loss and grief, and informs women about effective ways of receiving and providing support to other family members dealing with these issues.

"At the beginning of my incarceration, I was too debilitated to do more than exist, suffering from the physical and emotional effects of jail confinement, in conjunction with the terrible grief and disorientation resulting from the commission of a violent act...The prison system offered no overt help. I was screened, put to work at a menial job, and left to find my own way to cope."

Marica Bunney, One Life in Prison: Perception, Reflection and Empowerment

"...many female prisoners present with dual diagnoses- mental illness and drug and alcohol addiction..."

The Select Committee on the Increase in Prisoner Population, p51

"A number of witnesses and submissions reported to the Committee that a history of abuse and violence as a child and/or family violence as an adult was a common precursor to a female inmates' mental illness, drug and alcohol abuse and ultimate prison sentence."

The Select Committee on the Increase in Prisoner Population, p51

Explicit recognition should also be given in program provision to issues relating to ongoing contact with children and significant others and to physical, emotional, social and psychological issues that may arise with women re-uniting with loved ones on release.

RECOMMENDATIONS

That the WPU:

- 1. Work with women and stakeholders to develop and implement program initiatives aimed at normalising and addressing feelings of grief and loss associated with imprisonment;**
- 2. In conjunction with women and stakeholders develop and implement surviving and leaving prison programs.**

G. WOMEN IN CRISIS SUPPORT UNITS

The health and well-being of women who are considered ‘at risk’ of self-harm or suicide, or who are considered to be otherwise ‘unmanageable’ within the mainstream prison system, is currently being jeopardised by institutional responses that emphasise isolation. Specifically, by isolation, under 24 hour observation, in sterile observation cells or Crisis Support Units (CSUs), which may be monitored by male officers.⁶¹

Whereas women who are “at risk” require intensive support with a strong focus on healing, placement in CSUs emphasises security. Cells are designed for security and to insure prisons against liability for negligence related to suicide or self-harm. They are absolutely bare, except for a mattress bed, with no healing or supportive environmental props for women in crisis, and nothing to alleviate the extreme boredom of solitary confinement. Placement in CSUs also denies women control over basic bodily functioning, with access to toilet and shower facilities in the modern CSUs depending on mechanical operation.

Staff operating the cells have absolute and ultimate power over women. It is presumed and trusted that officers will handle this responsibility appropriately. Recent events occurring at women’s correctional facilities, however, highlight how easily this

“ As the twentieth century draws to a close, every part of a woman prisoner’s existence is laid out for physical, medical, psychiatric, legal and social-work analysis. Concomitantly, the disciplinary and security paraphernalia in women’s prisons creatively harness a wide spectrum of women’s bodily and emotional fears to a penal process that is ever-innovative, ever-revisionist and ever-transformative in its modes of inspection and repression. It is innovative because it constantly has to adapt to the effects that changing political and social conditions have on the penal system. It is revisionist because, as prisons are essentially places directed at the maintenance of a state of permanent closure, (they have no other organisational product), all innovative influences have to be ‘closed off’ as soon as they really threaten to weaken the fundamental power of that closure...”

(Pat Carlen, p.43)

⁶¹ It is also in breach of recommendation 174 and 181 of *The Royal Commission into Aboriginal Deaths in Custody*

responsibility might be abused, and the need for proper and strict accountability mechanisms to apply to those charged with the job of 24 hour monitoring:

1 On 20 June 2000 the Townsville Bulletin printed an article about three women detained in the Crisis Support Unit of the Townsville Correctional Centre. It was reported that the women were put in strait jackets, denied water for long periods of time, given no access to toilet facilities, and were forced to drink their own urine. The prison denied the story. Independent investigations have not been completed.

2 In September 2000, a front page report in the Courier-Mail reported that women in Moreton B Correctional Centre had been asked by a male officer monitoring the cells to perform sexual acts for the entertainment of the male officers. We understand that disciplinary action was taken in this matter, but that no policies or accountability mechanisms of more generalised effect have been put in place.

Given such concerns and allegations, we welcome the WPU's acknowledgment that women in crisis need peer support, and a chance to talk and that isolation "can exacerbate negative feelings." (p.25) We therefore urge the WPU to explore initiatives that emphasise support and healing as a response to "at risk" behaviour of women.

Women's Stories

Ray

I thought it would be better if [my husband and I] split up because he was not coping with my imprisonment. I returned to my cell. I asked to be left alone. I just wanted some time alone. An officer in the Women's Unit, kept constantly harassing me. He would come and say things like "I wouldn't want to be with you either." "At least I've got a home to go to..." I got tired of this constant harassment, and I tied up the door handle to stop him coming in. They could still see me on the monitor, but I refused to answer when they were calling outside the door. I just wanted time alone. A lot has happened to me .. and I wanted time to think.

But they forced their way in to the cell, and took me to the CSU. I locked myself in a toilet. I was angry, and I just wanted to be alone. They were outside and they kept threatening me. They threatened to do physical harm. Officer X who was the senior in charge of the Women's Unit that night, threatened me. I was pressing against the door and X grabbed my right leg from under the door and bent it around. He said "I'll break your f...ing leg". ... but I was too scared to come out. I was so scared that I couldn't feel any pain [in my leg]. They were twisting my leg. X kept saying things like "You've caused me enough problems for one day. I can't be bothered with your shit. Stop acting like a f....ing c..t. In the end they forced their way into the toilet.

Sarah

On Friday I went up to an officer and said 'I'm not feeling myself today'. She told me to go to the surgery, I didn't want to go to the surgery, I just wanted to stay and talk to her. She rang the surgery. I said I'm not going.. She said she'd get someone to take me. Then those 3 [male] officers turned up. I tried to get away. I ran around the table and they grabbed me and dragged me to the surgery. I was feeling very depressed and worried about what might happen. I am scared of the officers. At the surgery I showed the nurses the marks but they said it was my fault because I didn't do what I was told. [Five days after this ordeal, Sarah

saw a stakeholder organisation. She had deep rings of bruising around her upper arms, and pressure bruising on both wrists. She had large bruises on her left forearm, and a large area of bruising on the lower right hand side of her face. This was referred for independent investigation.]

Paula

I just want to get out of here [the CSU]. All they do is deaden me with drugs so that I won't be any trouble. I don't have a psychiatric problem, Dr X assessed me and told me that I don't.

These women's stories illustrate the potential for reinforcing patterns of disempowerment, and re-activating the trauma of physical violence which many women prisoners have experienced during their lives, and which have often been a causative factor in their offending. The potential for physical abuse, and psychological trauma is enormous. The reaction of placing a woman in a CSU at all is extraordinarily inappropriate and counterproductive. This is the basis for Stakeholders' call to abandon the use of CSU's for women, and should the use of the CSU continue at all (which Stakeholders strongly oppose), to amend the Corrective Services Bill 2000, to provide more safeguards against the abuse of power against women detained in CSU's. In this respect, Stakeholders endorse the submissions of PLS in response to Corrective Services Bill 2000, parts of which are reproduced below.

CORRECTIVE SERVICES BILL – CSU's

The provisions of the Corrective Services Bill 2000 relating to the use and monitoring of Crisis Support Units are concerning, particularly as they relate to women. As elaborated in the Prisoners Legal Service' submissions on the Bill and detailed below, we emphasise the need for these concerns to be addressed by the WPU and for the Unit to advocate for appropriate provisions for women.

Prisoners Legal Service' submissions on the Bill raised concerns that segregation, as proposed under s.39 of the Bill, pays insufficient regard to the rights of prisoners:

- the legislative power under which a prisoner may be placed under a special treatment order is insufficiently defined;
- it is inconsistent with principles of natural justice;
- it has insufficient regard to Aboriginal tradition and Island customs

The UN Standard Minimum Rules for the Treatment of Prisoners (rules 31 and 32 provide:

Rule 31:

Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

Rule 32:

Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.

The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

- it is ambiguous and the power is not clearly defined.

Further, that the failure to provide expressly for reasons to be given for the issuing of special treatment orders, and the prisoner's right to make submission, is inconsistent with procedural fairness.

Section 41 Crisis support orders - The same criticisms apply to the use of separate confinement, for medical or psychological reasons. Stakeholders maintain that women should not be confined in the Crisis Support Unit.

Where a decision is made to detain a woman in a CSU, it is imperative that the processes by which such a power may be exercised, whether as an initial response or by consecutive order, must be safeguarded by sufficient provisions for accountability and independent review.

Prisoners who have been segregated in a CSU perceive their segregation as a punishment. This damaging perception could be addressed by ensuring that, apart from the segregation and observation prisoners in CSUs do not suffer a loss of access to fresh air, exercise, personal visits, recreational and other facilities.

Stakeholders submit that the opinion of a doctor or psychologist should not be sufficient to justify longer term segregation in a CSU. The Department employs many relatively inexperienced psychologists and persons at this level should not be given the power to determine that a prisoner be kept in the CSU for 3 months or longer. A recommendation by a panel independent of the Department should be required. A CSU Reference Group should be constituted to provide a general oversight and advisory role to the Department which includes representatives of ATSI and general community mental health organisations, prisoner advocacy organisations, the Health Department, qualified psychiatrists, psychologists and medical practitioners.

Section 42 Consecutive crisis support orders The timeframe of 14 days within which a prisoner may make submissions in response to a proposal to impose a consecutive crisis support order, is insufficient time to enable a prisoner in those circumstances to seek advice and/or assistance in order to make further submissions. The proposal fails to take into account the isolation of a person in the CSU, and their ability to access assistance or advice as to their options and appropriate submissions. The time allowed should be 28 days.

Section 43 Review of crisis support order Orders should be reviewed by a review panel on a weekly basis. In any event s.43(3) should be amended to clarify that the reviewing doctor or psychologist should not be the doctor or psychologist who gave the advice that resulted in the original order being made.

Section 44 Accommodation with consent Stakeholders are strongly opposed to introducing a power to detain prisoners without an order, and on the basis of their 'consent'. It is doubtful whether genuine 'consent' can be obtained in circumstances where the prison holds ultimate coercive power. The intended purpose of the CSU is clear from the definition of Crisis Support Orders. *If a prisoner is considered eligible for admission in circumstances amounting to crisis, then a failure to obtain a proper supporting order and regular monitoring by medical staff may amount to negligence*

Section 45 Medical Examination Stakeholders condemn the proposal that an interval of 28 days *if practicable* within which a prisoner detained in the CSU is entitled to receive medical attention is grossly inadequate. We are appalled at the proposal that a person who has been placed in separate confinement because of a crisis, may be left without access to a qualified medical doctor for 28 days or longer, and may, under the provisions of the Bill have no *entitlement* to medical attention at shorter intervals than 28 days.

RECOMMENDATIONS

THAT THE WPU:

- 1. Ensure that Crisis Support Units are no longer used to detain women in crisis.**
- 2. Ensure that women in crisis are given opportunities for peer, family, and culturally appropriate support, as well as therapeutic support if required.**
- 3. Promote the undertaking of an urgent independent enquiry into the use of Crisis Support Units for women in particular and that, as part of an independent enquiry, appropriate medical alternatives to CSU detention are examined.**
- 4. Advocate that the Prisoners Legal Service's submissions in response to the Corrective Services Bill 2000 be adopted by Corrective services, and that the Bill be re-drafted taking into account those considerations.**

PART VI: OFFENDER MANAGEMENT

A. Managing Women's Sentences

Women are frequently disadvantaged in the sentence management process, by the application of blanket policies designed to detain male offenders, with little regard to the nature of women's type of offending, and actual personal circumstances. Even where staff claim to be giving individual consideration to a woman's case, the blanket effect is hidden in the inherently male gender orientation of the policy, and in the hidden biases about women as prisoners in a general sense. The gender biases affecting women prisoners have been discussed above. The WPU has acknowledged that the previous Women's Policy Review (1993) found that women were moving more slowly through the system than male prisoners. Gender bias appears in sentence management process which:

- Apply socially biased expectations of women, and place undue emphasis on institutional behaviour and conformity⁶²
- Fail to take into account the counter-productive effect of keeping a woman with dependent children for a longer period of time, (in terms of: the institutionalisation of the woman and her ability to therefore cope with 24 hour parenting duties on top of community reintegration upon her release; the disintegration of the family and therefore the greater stress on the woman upon her release; the loss of family and community support structures⁶³)
- Fail to take into account the relatively low risk to the community posed by most women offenders and therefore the fact that they need not be detained in high security prisons⁶⁴
- Uses an assessment process that presumes that a woman must "earn" the right to move to lower security (impliedly by conforming to social expectations of a woman – passivity, conformity, obedience), instead of, in the case of non-violent offenders in particular, assuming that they should be in low security unless there are genuine "security" risks.

Corrective Services in Queensland has no individual case management that will consider a woman's real needs to avoid re-

"most Aboriginal prisoners have a higher classification and are deemed more at risk. The classification often follows Indigenous people through their involvement in the Corrective Services. For example, if an Indigenous prisoner did some time, say, 10 years prior and played up a little bit, got a more serious classification because of behavioural problems which may have been quite appropriate at the time, but several years down the track he is facing another period of incarceration, their classification usually depends on the reports from the previous period. So it makes it very difficult for Aboriginal people to progress to less serious or to be assessed as less of a risk"

(Ella-Duncan evidence, 14 February 2000). Interim Report: Issues Relating to Women, p96

⁶²e.g. having a verbal altercation with an inmate or staff member; a woman who is a drug addict is a bad mother, therefore her behaviour should be sanctioned more

⁶³ mothers frequently rely on informal support networks to assist with care, transport, casual work etc

⁶⁴ less than half (38%) of women in prison have been convicted of violent offences Report of the Taskforce into women and the criminal code, p.395

offending. This has a detrimental effect on women, whose real needs to be re-integrated to the community and to resume a functional role as a woman, as a parent, or as a worker, are ignored.

The question of whether a woman can successfully return to the community and resume functional family and community roles is far more crucial to whether or not she will re-offend, than whether or not she attended an offender program. A tragic example of how little impact a program (without regard to real needs) may have was provided by Davies and Cook⁶⁵

“..a 36 year old woman on remand had been taken from prison at 9 o’clock in the morning to appear at a suburban Magistrate’s court on theft and assault charges. At 11 o’clock, the court had released her, subject to a suspended jail sentence and a community-based order. Just over three hours later, she died of a heroin overdose. A ‘certificate of achievement in drug awareness’, which she had received whilst in prison, was found next to her body.”

A common mistake of both Sentence Management Staff and Community Corrections Boards is that they firstly assume that undertaking recommended offender programs will deal with the ‘rehabilitation’, and secondly that they assume that undertaking these offender programs in custody will result in the woman being less likely to re-offend than by undertaking them in the community. Thus prisoners are often prevented from gaining access to community release because they have not undertaken a program, and therefore ‘pose an unacceptable risk to the community’. Studies referred to earlier in this submission demonstrate that exactly the opposite is true. Programs are more likely to be effective in the community where a woman’s support structures are in tact, and where the programs, if relevant at all, have immediate relevancy and application. If offender programs are successful at all at reducing the chances of re-offending then they are more successfully undertaken in a community setting.

To the extent that women are detained in secure custody at all, it has been found in NSW that individual case management has been relatively successful⁶⁶, (although the system falls down if an individual caseworker is not sufficiently resources or competent). This should sound a warning note for Queensland, where professional staffing in crucial areas such as counselling and education, have frequently been drastically under-resourced and the competence of some staff also becomes questionable where paying lower pay rates takes precedence over proven expertise and commitment.

B. Sentence Management Policy

The new Corrective Services’ Sentence Management Policy, introduced on 17 August 2000, abolishes the point system, in favour of what it promotes as a more flexible system of Sentence Management, but which is ultimately proving a more enigmatic, and nebulous system for some offenders.

⁶⁵ “Women, Imprisonment and Post-Release Mortality, *Just Policy* No 14 Nov 1998, p.15

⁶⁶ Interim Report: Issues relating to Women, July 2000, NSW

While frameworks are established for a ‘minimum’ period in secure custody, as with the old system, inmates are finding that they rarely progress in accordance with the minimum framework. Women eligible to be progressed to open security undertake a “Risk/ Needs” assessment. They may be progressed to open security unless one of several overrides apply:

- Extradition/deportation
- Outstanding court matters
- Risk of escape
- Institutional conduct and behaviour
- Medical needs (including psychological or psychiatric)

Despite purporting to be a more flexible system, the first two overrides are mandatory provisions with no consideration of individual circumstances. The last three overrides are sufficiently broad to justify a conclusion that the overrides apply in a wide variety of circumstances.

Extradition/deportation

This excludes women such as W (Case 3 of the section entitled “Women with Dependent Children”) from transferring to an open security facility where she might access more community assistance to deal with medical problems, counselling, obtain further access to work skills which may assist her when she returns to her home. W has frequently during her incarceration expressed, to anyone who will listen, her extreme distress about her children, and her need to return to her children. She does not present a risk of escape, and in fact knows nobody in Australia outside of the prison system, and speaks little English. Yet, as an automatic deportee she is detained in circumstances designed to house high risk prisoners.

Outstanding Court Matters

This does not specify the type of court matters, for example whether civil, family, criminal or other court matters. All inmates with court matters outstanding are ineligible for transfer to an open security prison. The fact that not even a time frame is given places all prisoners at a disadvantage if their court matter is not likely to be heard for a long time because of court waiting lists. Prisoners who are eligible for community release, are unlikely to be granted this by the Board if they have not ‘demonstrated trustworthiness’ in an open security environment.

“We are ... concerned that the (system override for “behaviour..could potentially be over-used and create a large group of prisoners who are not dealt with in accordance with the new policies and procedures.

We submit that there is insufficient detail here to indicate the seriousness of the behaviour that would lead to a system override. In particular ‘involvement in impulsive, uncooperative behaviour, and/or non-compliance with the Centre rules and regulations could describe behaviour over a very wide spectrum, from occasional minor breaches and bad language to regular assaults on staff and other prisoners.

... the absence of adequate guidelines for the application of exclusions and overrides leaves enormous potential for there to be different approaches taken between staff and between centres.

We suggest that a more objective test, such as the number of breaches or convictions for violent or threatening behaviour in the last 12 month period, be employed. “

(Karen Fletcher, letter to DCS, addressing concerns about the new sentence policy, Dec.1999, published in Inside Out, PLS Newsletter, September 2000)

Institutional Behaviour or Conduct

In this respect women are likely to be disadvantaged if they do not conform to social stereotypes. The Interim Report of the Select Committee on the Increase in Prisoner Population (NSW) points to studies that show women offenders to have traditionally been seen to be “more deviant” than male prisoners.

“The female felon offends society’s idealised vision of women as all-caring, nurturing, and attentive to their children. She therefore poses a threat to the established social order unlike that presumably posed by male felons. The female felon’s criminal activities raise concerns about her ability to be a ‘good’ mother. A bipolar standard of expected behaviour for women stipulates that she either follow societal norms or fall into a state of disgrace. Often punishments given to female offenders have therefore been harsh, reflecting attempts to bring their behaviour in line with societal norms and expectations.”⁶⁷

WPU statistics suggest that women generally are serving shorter sentences than men, and the Select Committee also noted that evidence did not suggest that women received harsher penalties than men. The WPU Report findings suggest that the main bias for women occurs, not at the sentencing stage, but at sentence management level. The Report cites the 1993 *Women’s Policy Review* which found that **women were spending longer in secure custody facilities than necessary**. The 1993 Review called for a **new system of sentence management for women prisoners**. Seven years later, this recommendation has never been implemented despite the evidence of bias within the correctional system.

The Standing Committee also indicated ways in which bias may be hidden. It noted, the comments of Professor Zdenkowski’s evidence to the Children of Imprisoned Parents Inquiry, in which he referred to studies in England and elsewhere, that revealed the harsher treatment by Courts of non-conforming women. He noted that women who are regarded as ‘failures’, or ‘neglectful’ as women or mothers in terms of social stereotypes received harsher treatment by the Courts, than male counterparts.

This indicates the need for caution in interpreting statistics which purport to show that women have shorter sentences than men, and highlights the need for a more in depth look at women’s progress through the correctional system, in addition to their treatment by the criminal justice system.

Stakeholders are also familiar with anecdotal evidence that non-conformist or socially marginalised women currently in the Queensland correctional system receive harsher treatment than male counterparts when being assessed for progression to lower security or community release. The Select Committee’s Report touched on this issue, with reference to Blanche Hampton’s book *Prisons and Women* in which she criticises the NSW prison system:

“that Corrective Services policies affecting women are often inappropriate is bad enough, but even when the policies are superficially in order, the spirit of the law is often lost when they are applied in ways which result in injustice, great inefficiency and unjustifiable cost to both community and prisoner.”(p8 Report)

⁶⁷ (Beckerman, 1991:172)” Interim Report: Issues relating to Women, July 2000, p. 7

Under current guidelines, a woman imprisoned for a non-violent offence, with no drug use history, may be prevented from progressing to open security because she has ‘back-chatted’ officers, which may mean that there are ‘incident reports’ stating that she has been insubordinate. One woman was returned from open security because she talked back to officers and had a verbal altercation with another woman. The centre decided she was too difficult, and, despite the enormous impact which this had on this woman’s prospects of parole, her parenting responsibilities, and her personal family circumstances, returned the woman to secure custody, where she was housed as a high security prisoner.

The WPU report states:

“International research suggests that a greater proportion of women could be held without physical security restrictions as *they do not represent a danger to the public; nor is there a high probability of their absconding*”

It is submitted that this should be borne in mind when placing women prisoners. The ultimate goal of successful return to the community and re-integration should be the primary consideration when assessing women’s placement needs.

Behavioural assessments should also bear this in mind. Women should not be prevented from progressing due to rebelliousness which does not pose a risk to the community, asserting views and opinions, disagreeing with staff or other inmates, “inconsistencies” or other behaviours that relate only to institutional conduct or performance, without posing a ‘risk to the community’ or others in the prison.

There is also a need to ensure *adequate availability of open security/community corrections facilities in SE Qld and regional Qld.*

- **There are no indigenous women in open security or community corrections in Qld**
- **Numinbah is patently unsuitable as a facility for women for all of the reasons mentioned above – lack of support services, work opportunities, work skills training, access to families, cost of phone contact with families**
- **There is no community corrections facility in North Qld (where the majority of women in prison are indigenous women)**

RECOMMENDATIONS

That the WPU:

1. **Advocate and lobby for the implementation of the recommendations of the 1993 Women’s Policy Review, to implement a *new system of Sentence Management* for women.**
2. **Support the adoption of a Sentence Management Policy guided by the principle that preparation for a return to the community begin on the day that a woman is sentenced.**
3. **Call for the acknowledgment by the Department that women’s offending and management should not to be bound by current case management guidelines, and in particular those which stipulate minimum time frames**

for detention in secure custody, but that the guiding principle be that a woman should be accommodated in open or community corrections centres *unless there are compelling reasons that indicate that the woman would pose a serious risk to the community if placed in open/community corrections.*

4. Support a process of individualised case management, i.e. that women be given a caseworker, whose responsibility it is to ensure that the woman has every assistance to return to the community within the minimum time frame.
5. Advocate for the inclusion of a woman's parental status (having dependent children) to be a primary consideration in determining placement options
6. Initiate an enquiry into the provision of small suburban or country based community corrections centres without "secure" perimeters, in particular in any future consideration of facilities for women, and as an alternative to building more secure facilities.
7. Support an urgent review of community based sentencing and urgent provision of community supervision be undertaken for indigenous women, in consultation with indigenous community groups
8. Recommend that priority be given to therapeutic and practical support services, facilitating access to education and training, whether in the community or otherwise.
9. Call for programs to address offending behaviour being available and encouraged in a *community setting as opposed to custodial programs only.*
10. Advocate for women who have been convicted of 'serious violent offences' to be managed on an individualised case management basis, which takes account of all of the relevant factors at each stage of a woman's progression to return to the community, and that the use of blanket policies or procedures be abandoned.

PART VII: PROGRAMS, WORK, ACTIVITIES

We welcome the comments of the WPU that “programs, work and activities are important in the achievement of departmental goals of rehabilitation...of offenders”. In the words of Bernadette O’Connor, of the Women’s Advisory Unit, Corrective Services Department, NSW:

“it is very important that the preparation for release start on the day that the people are received [into prison], whether they are received for three months, six months, or six years” (Interim Report: Issues Relating to Women, Select Committee on the Increase in Prisoner Population, July 2000)

In reality, offenders are ultimately accountable to themselves and to the community. Rehabilitation is an extremely personal and individual goal, which the department must assist with by adopting an approach that promotes and supports the empowerment of women throughout their sentences. However, as to the WPU’s comments about reparation, it is difficult to see how reparation is an achievable departmental goal under current custodial arrangements.

Rehabilitation

Stakeholders maintain that rehabilitation is a complex issue, and that it cannot be reduced to a simplistic formula or logic, such as offenders frequently report encountering when they apply to the Community Corrections Boards for community release (home detention, release to work, parole). A holistic approach to rehabilitation is called for, and unless it assists the individual to develop coping and living skills which are effective in the community, it will fail. Prison is not a helpful environment in which to achieve these ends.

The Select Committee on the Increase in Prison Population cited comments of one researcher,⁶⁸ that *there is no empirical evidence which suggests that offending behaviour and recidivism can be deterred by incarceration.*⁶⁹ Another report found that:

“some European countries (specifically Germany, Austria, Finland, Holland) have transformed their justice system by adopting alternative which reduce the rate of imprisonment without affecting the safety of the community. They hold a shared realisation that imprisonment is not only inappropriate

⁶⁸ Harding

⁶⁹ Interim Report: Issues relating to Women, p58

“Because the risk of recidivism and relapse is much higher among released drug-affected offenders who have not entered community programs, greater emphasis should be placed upon measures for closer co-operation between government and non-government agencies to ensure continuity of care, treatment and rehabilitation both before and after the release of inmates from prison. A trial ‘through care model of service delivery’ including post release support services should be developed by the Department of Corrective Services in partnership with the following organisations: Corrections Health Service, Aboriginal Medical Service, Probation and Parole Service, Department of Juvenile Justice, Department of Housing, non-government agencies including those operating under Department of Corrective Services community Grants Program, and other government departments.”

Interim Report: Issues Relating to Women, Select Committee on the Increase in Prisoner Population, p74

(especially short sentences) but is also counterproductive to the objective of reducing the incidence of crime.⁷⁰

Some of the factors influencing whether a woman will re-offend upon her release include:

- **The circumstances of the offence** It is submitted, for example, that a woman who has been subjected to a history of domestic violence, and kills the perpetrator in circumstances of defence or similar threatening circumstances is relatively unlikely to re-offend, particularly where appropriate counselling and post-release support mechanisms are made available to her.
- **Previous imprisonment** The Select Committee on the Increase in Prison Population reported that, of people who have been in jail once before, 27% come back, compared with 50% return of people who have been jail several times. This suggests that imprisonment has an increasingly damaging effect on individuals.
- **Work, and social skills** The WPU Report states that 47.6% of women in prison have never been employed. It has been found that programs which are designed to address social and cognitive skills, must be community oriented, and that these have a greater chance of success if they are *based in the community*. Being community based, program facilitators are able to work at establishing relevant community supports, which were previously lacking.⁷¹
- **Emotional and personal self improvement**⁷²
- **Substance abuse support pre- and post- release**
- **Adequate post-release programs** Reports suggest that the critical period of support is the first three months after release.
- **Cultural healing** The Select Committee has referred to a Canadian program which provides cultural healing for indigenous people, through teachings, spirituality and culture. It aims at healing abuse histories and regaining a sense of self worth, gaining skills and rebuilding families⁷³

Women in Qld prisons, and in some cases prison staff, have reported some of the difficulties confronting women's attempts to rehabilitate.

Programs

- **Availability** within the prison system has been reported as a difficulty, with Corrective Services allocating limited funding to all of the areas which may contribute to rehabilitation, such as education, psychological counselling, programs, libraries, and other such facilities.
- **Programs are gender biased** In the area of programs, a prison counsellor has pointed out that programs are designed for non-indigenous males. For example, the scenarios that are provided to stimulate cognitive engagement are distinctly male oriented situations and choices.
- **Many counsellors and psychologists in the prison system are inexperienced.** Although this is not a specific complaint of women in prison, it does appear as a general problem in prisons in Qld.

⁷⁰ Sherrin, 1996:6, Interim Report: Issues Relating to Women (p.58)

⁷¹ Ibid p64

⁷² Ibid p.63

⁷³ Select Committee Report p.139

- **Efficacy of programs not evaluated** The growing rate of recidivism raises questions about the efficacy of programs in achieving individuals' rehabilitation needs. It has been suggested that programs are more effective if they are undertaken in a community setting.⁷⁴
- **Programs not available in open security prisons** No support staff are allocated to women at Numinbah, and the only program available is a Drug and Alcohol program run from the Men's prison
- **Community Corrections Boards are reluctant to permit programs to be undertaken in the community as an alternative to undertaking programs in prison** Because of limited funds allocated to programs and counselling by Corrective Services, and because of the lack of available programs in open security, women may be unable to complete programs prior to eligibility dates. The case study of "Jane" is an example of this.
- **Lack of ongoing support (pre- and post-release) for substance abuse issues**
- **Lack of individual Drug and Alcohol counselling**

Education

Despite some of the extraordinary obstacles placed in their path, some women in Qld prisons do undertake externally run educational programs, including tertiary and business courses. To do so, involves a high degree of self-motivation, initiative and determination. Some women have now been prevented from doing this by the introduction of up-front fees for educational programs. Obstacles within the Correctional System include the following.

- **Discouragement from some Staff** Some women have reported active discouragement from pursuing tertiary education by officer staff who devalue or denigrate them for trying.
- **Corrective Services Policy on computers** In 1999, Corrective Services introduced a policy that all inmates were only permitted to have a computer if undertaking an educational program, and no inmates were permitted to have a printer. Inmates who had printers had them taken away, even if purchased by the inmate. It has been widely stated that the reason for the policy is that some male sex offenders were printing pornographic material on their computers. The absolute irrelevance of this to most prisoners, and to almost all women apparently did not prevent the introduction of this new policy for women. The impact on students, was that they could no longer print assignments and study materials. They must hand over their disk to officer staff. This has been variously reported as causing delays of up to 5 or 7 days, and resulting in the loss of alignment of the material as the formats may be incompatible with the printer. Enquiries during 1999 at Brisbane Women's CC, and at a male prison brought assurances that staff were professionally trained and able to re-format and that there would be no detriment to the student. This has proved untrue, as delays and formatting problems continue.
- **Extreme poverty for full time students** Full-time students miss out on the often essential salary payments available to workers, leaving an amenities allowance. This leaves students short changed to purchase personal items, pay for phone calls and other needs not met by the prison. This creates a financial disincentive for women to undertake full-time study.
- **Impact on security classification** may be negative if the student is full-time. Under the previous Sentence Management Policy, points could only be reduced by undertaking core programs, work or by demonstrating exceptional behaviour. The benefits, skills, achievement of personal goals of discipline and rehabilitation which independent study requires, were not acknowledged under the points system. Consequently students

⁷⁴ Ibid p.64

progressed more slowly. It remains to be seen how full-time students will progress under the recently introduced Sentence Management Policy.

Work

Women at Brisbane Women's CC have reported some frustration at the lack of employment opportunities. Apart from domestic duties such as kitchen, laundry, gardening, and a sewing shop, there is little in the way of employment that would enhance their work skills and improve job prospects. [Most of the men's prisons in Queensland have a variety of work including hard industries, bakery, a commercially based furniture making shop, farm work, water treatment plant, and others. It is acknowledged that some prisons provide little work for men]

Numinbah provides practically no work opportunities, or opportunities for work skills enhancement that may assist women on their release. As such, transfer to Numinbah is a step backward for women attempting to prepare for their impending return to the community. Women who enjoyed full-time employment at Brisbane Women's CC (e.g. in 7 day per week kitchen work) have reported frustration, demoralisation and boredom at being transferred to Numinbah, and being told to "pull weeds, and if there are no weeds, pretend there are".

Recreation

Stakeholders welcome the acknowledgments by the Women's Policy Unit that recreation is linked to women's self-esteem, and that diversity is to be encouraged. Stakeholders agree that there is an urgent need to provide culturally preferred recreation and activities for indigenous women, and recommend that this be given urgent consideration, in consultation with indigenous community groups and women who are community elders.

It needs to be acknowledged that many women in custody, including those detained in community custody, and particularly those women placed at Numinbah, suffer from chronic boredom. Those women who undertake demanding and time consuming work tasks, or education, are to be commended for their initiative. These activities do not, however, serve the same functions as recreation, and should not be regarded as suitable substitutes.

Recommendations

Programs

- 1. That programs be developed to address the specific needs of women offenders.**
- 2. That departmental funding prioritise program and support services particularly those which may be implemented as community-based programs and support.**
- 3. That programs which address substance abuse be supported with ongoing and preferably independent counselling in secure and open security centres, as well being available from community corrections offices in the community after release to community supervision.**
- 4. That all programs be evaluated for effectiveness, and be scrutinised and reviewed on a regular basis.**

5. That the Department's employment policy seek out women support staff who are committed to principles of empowerment and healing of women, and who have relevant experience.
6. That the needs of women, and particularly indigenous women in North Queensland be considered an urgent priority in the development of programs, and that community-based programs and support services be developed in consultation with the communities of the women.
7. That the Minister for Corrective Services amend current Ministerial Guidelines, to the effect that where an offender program is available in the community, and a woman has not had the opportunity to undertake a particular program in secure custody, that she not be prevented from progressing to community supervision merely because of not having undertaken a program in secure custody.

Education

1. That Corrective Services policy on computers be amended as a matter of urgency, to enable women to have their computers and printers in their rooms, whether in custody or in open security, in the absence of strong evidence that the woman is engaging in a prohibited activity.
2. Students be paid an allowance equal to Corrective Services pay levels for clerical work.
3. That the Education officer be responsible for ensuring that individual women are aware of educational programs relevant to their interests, abilities, and needs, and that every effort is made to facilitate women's access to these relevant educational programs.
4. That Sentence Management Policy acknowledge the undertaking of an educational program, whether implemented within the prison, or undertaken externally, as a positive indicator of a woman's progress towards community reintegration.

Work

1. That Corrective Services acknowledge the importance to women's self esteem and prospects of success upon their return to the community of being provided with relevant and marketable work skills.
2. That Corrective Services adopt a flexible approach to assisting women to develop work skills, and recognise that work or business opportunities may arise out of creative or innovative areas, such as self-directed creative work (art, freelance writing, dance, crafts and woodwork) as well as the more traditional, mainstream work skills.
3. That Corrective Services, in consultation with women prisoners, and community and business representatives, enquire into the development of work skills and opportunities for women who are in secure custody as well as women who are in open custody or community supervision.

PART VIII: THE EXTERNAL INTERFACE

Women enter custody as a result of a number of processes spanning apprehension, arrest, prosecution and sentence. These processes have been highlighted as race, class and gender-biased which accounts for the disproportionate representation of indigenous women in custody, the lower socio-economic status of women prisoners, and the high rate of sexual and domestic violence in women's histories.

A number of reports and research exercises have been undertaken in Queensland and other jurisdictions. Most recently, these include the Report of the Taskforce on Women and the Criminal Code and The Aboriginal and Torres Strait Islander Women's Task Force on Violence. All reports have made extensive recommendations to eradicate gender bias and improve criminal justice processes. In recognition that imprisonment is a part of these processes, the WPU must prioritise progressing the adoption and implementation of these recommendations. In particular, it should give immediate focus to progressing law reforms to reduce and abolish the practice of criminalising and imprisoning women because they are poor - a practice manifest in the imprisonment of women for fine default. These reforms should prohibit the imposition of a fine unless proof of capacity to pay is provided. Provision should also be made for fines to be paid by instalment. Where fines remain unpaid, law reforms should only allow warrants to be issued to bring a woman before a court for the purpose of presenting her financial circumstances and for the court to reconsider the fine and possibility of either cancelling it, or imposing some other form of sentence. **At no stage, should imprisonment be imposed for fine default.** In the event that it is to be retained as some kind of penalty, it should as the Royal Commission into Aboriginal Deaths in Custody recommended, only be a sentence of absolute last resort.⁷⁵

A. Women and Children

As the WPU acknowledges and as we highlight above, the imprisonment of women often has a significant and devastating impact on children, families and women. It is vital that from the time a woman commences her prison term that she is given every opportunity and assistance in making arrangements for the care of her children. Where her children are in the care of the FYCCQ system, Corrective Services must ensure that women have regular

"A treatment assessment process for Indigenous offenders, including female offenders, must be established prior to sentence, with specific offender needs being a mandatory component of the sentence. Such treatment, for example trauma, drug and alcohol counselling, must be available from the beginning of the sentence." Aboriginal and Torres Strait Islander Women's Task Force on Violence, p297.

risk of juvenile offending."

Quoted in Select Committee on the Increase in Prisoner Population.

"The present justice system is characterised by cultural exclusiveness, and does not easily accommodate the needs of minority groups who may not have the skills to understand its language, procedures or structural complexities. Although intended to transcend racial, political and social persuasions, the justice system has produced great violation, particularly for women and children."

The Aboriginal and Torres Strait Islander Women's Task Force on Violence.

⁷⁵ Report of the Royal Commission on Aboriginal Deaths in Custody, Recommendation 121 (fine default); Recommendation 92-121 (imprisonment as a last resort).

contact with their children and foster carers. Currently, this occurs infrequently, so that women often lose contact with children and are jeopardised in the longer term, in re-securing permanent care of their children.

B. Mental Health issues

The trend towards de-institutionalisation, combined with a lack of community supports and services for people dealing with mental health issues, has been linked to a drift of people into the criminal justice and penal systems.⁷⁶ Mental illness, like offending, has also been linked to psychiatric disability, drug and alcohol dependency, sexual abuse, and violence. Imprisonment is not a substitute for necessary mental health resources and supports in the community. The WPU should accordingly work with Queensland Health to improve mental health provision to women in the community and with the Department of Justice, to ensure that mental health issues are properly represented and dealt with by courts.

Mental health issues often remain undetected whilst women are in custody. To improve detection and responses to mental illness, the WPU should explore the possibility of health teleconferences and services being instituted for access and support by women and staff at prisons.

C. Sentence Options

More creative and flexible sentencing options are needed for women. A number of reports undertaken in Queensland have focused on the need for more non-custodial alternatives for women, including home detention, drug courts and diversion programs. The option of Community Service should be improved to financially assist women in travelling to venues and in putting their children in daycare.

Given the gender-based characteristics of women's offending patterns, emphasis should be given to developing and implementing sentencing options that address the links between offending and alcohol and drug dependency, family break-down, gambling, social, cultural and economic dis-empowerment and sexual and physical violence. The Aboriginal and Torres Strait Islander Women's Task Force on Violence raised the prospect of re-shaping the process of, as well as options for, sentencing one possibility being sentencing circles for appropriate offences. These are currently being trialed in three Aboriginal communities

"I think every health issue you could think of is common in the female inmate population. Our core business is drug and alcohol and mental health problems, but there are very considerable psycho-social problems, problems relating to separation from families and support systems."
(Submission to Selection Committee on the Increase in Prisoner Populations, 2000)

"Restorative Justice is a viable alternative that must be considered in circumstances where Indigenous people are disproportionately represented in correctional centres. Restorative Justice incorporates a process that empowers Indigenous peoples and Communities as integral contributors and maximises Community participation in crime prevention."

The Aboriginal and Torres Strait Islander Women's Task Force on Violence, p254.

⁷⁶ Report of the Select Committee on the Increase in Prisoner Population, *Interim Report: Issues relating to Women*, July 2000, NSW, p50

in New South Wales, the aims being to: empower Aboriginal communities in the sentencing process, provide relevant and meaningful sentences to offenders and options of support to victims and offenders during sentence. The WPU should give urgent attention to the recommendations of the Aboriginal and Torres Strait Islander Women’s Task Force on Violence and work with the Department of Justice to explore the possibility of trialing sentencing circles in Queensland’s indigenous communities.

D. Legal Advice

We note that the WPU focuses only on provision of legal advice to women in the criminal justice process up until imprisonment. We confirm the difficulties that women have in dealing with lawyers and making decisions relating to such issues as defence strategies and sentencing. However, this is not simply an “external interface” issue and is one to which the WPU can easily, and positively, contribute by ensuring that all correctional facilities have general legal texts and information resources available to women to assist them in making decisions about their legal issues.

We also emphasise that women’s rights to due process and basic minimum legal rights, such as a right of reply and right to put allegations to the test, should be safeguarded and respected throughout all correctional processes. At present, these rights are being undermined by the practice of prison staff preparing incident reports, which do not have to be substantiated in any way and may simply document hearsay. Whilst prisoners are given a right of reply when breached, there is no equivalent right in relation to incident reports and yet, incident reports, like breaches of discipline, adversely impact on women’s progress towards release. It is therefore, urgent that the WPU work with General Managers to ensure that women’s basic legal rights are protected and respected in *all* correctional processes.

RECOMMENDATIONS

That the WPU:

- 1. Progress the adoption and implementation of recommendations made, for example, by the Taskforce on Women and the Criminal Code and the Aboriginal and Torres Strait Islander Women’s Task Force on Violence, that aim to eliminate bias against women in the criminal justice system;**
- 2. Prioritise and lobby against the continued criminalizing of women who, because of insufficient means, default on fine payments;**

“There is also what is sometimes referred to as the “legal mystique” – the obscure rituals, language and practices of the law – which in the past has kept the public in the dark.”

The Report of the Taskforce on Women and The Criminal Code, Feb 2000

“The justice system is bewildering and confusing, filled with talk and things that frightened me...I didn’t know what some of the words meant. I cannot write very well and when I tried to get someone to help me, I ended up feeling embarrassed and ashamed...”

quote in The Aboriginal and Torres Strait Islander Women’s Task Force on Violence, p222.

3. **Negotiate with Families, Youth and Community Care Queensland, for improved linking and contact between women in prison and their children;**
4. **Work with Queensland Health to improve mental health provision to women in the community and prisons and with the Department of Justice to ensure that mental health issues are properly represented and addressed by courts;**
5. **Support and progress the development of more creative and flexible sentencing options for women as recommended for example, by the Report of the Taskforce on Women and the Criminal Code and the Report of the Aboriginal and Torres Strait Islander Women's Task Force on Violence;**
6. **Ensure that all correctional facilities have basic legal texts and resources to assist and empower women in their legal cases;**
7. **Ensure that all correctional processes respect and guarantee women in prison basic legal rights, including the right to have allegations put to the test and the rights to make full and proper reply and to a fair, impartial and independent review and appeal of decisions.**

PART IX: EXITING THE SYSTEM

A. PRE- AND POST-RELEASE STRESSES ON WOMEN

As indicated by the high post-release mortality rate of women exiting prison, returning to the community is a critical time in a woman's life. Whether she is able to successfully return to the community may be, literally a life or death issue. Many women have lost the support of family and friends, or may not have family, have returned to the community homeless, and with no savings to assist them to re-establish themselves. At the same time, they may be attempting to remember how to parent children from whom they have been separated for some time. Women with drug addictions must accomplish the seemingly insurmountable problems of resuming a place in society without resorting to patterns of drug abuse, which may have been a substitute coping mechanism in the past.

It has been found that in the last 28 months, 19 women have died in Queensland within 3 months of leaving prison, and two adolescent children of mothers returning from prison have committed suicide within six months of their mothers' prison release.⁷⁷

The tragedy of post-release death, disintegration of families, resumption of drug abuse, and homelessness may be minimised by:

- Alternatives to custodial sentences
- Adequate, practical and ongoing pre- and post-release programs and practical support

⁷⁷ Sisters Inside Inc., 2000

- Pre- and post-release counselling and therapeutic support

Alternatives to Custodial Sentences

Corrective Services' endorsement of the Drug Courts in Queensland, at its recent Stakeholders' forum (6.10.00) suggests that it supports alternatives to imprisonment, and recognises the potential that community based orders may offer for genuine rehabilitation. Overseas studies have found no benefit to incarcerating women.⁷⁸

The detrimental effects on women in the longer term, and the pattern of inter-generational dysfunction in the families of women incarcerated as a result of the abandonment experienced by the dependent children of imprisoned women, emphasise the urgent need for a review to examine all viable alternatives to imprisonment for women in Queensland.

Recommendations

1. **That an urgent enquiry into sentencing be undertaken with a view to developing non-custodial options for women**
2. **That a woman's role as a parent should be introduced as a relevant consideration in the sentencing process**
3. **That community service options be developed for women with fine defaults as an alternative to imprisonment**
4. **That there be no automatic revocation of Community service Orders where a woman has fail to attend or complete due to legitimate family-related, poverty, illness or child care responsibilities**
5. **That Courts, in recognition that women's non-payment of fines is frequently due to poverty/ child expenses/ economic violence against women, adopt a flexible approach to payment of fines, and in particular, accept payment by instalments at all Magistrates Courts.**

Pre-release programs and support

Much has already been said about developing appropriate, women-centred approaches to sentence management, and gender appropriate programs. It should be noted also that current sentence management practices are not able to provide women with realistically achievable or useful goals. The process of an external agency setting unattainable goals is extremely disempowering. Goal setting ideally should be a mutual process between the individual woman and her caseworker. However, since imprisonment by its nature is coercive and provides an ultimate power imbalance, it needs to be recognised that in reality imprisonment in secure custody is fundamentally inconsistent with self empowerment. It cannot progress some of the fundamental needs of a woman to rehabilitate through healing, and should be not be seen as an appropriate sentencing option for women at all.

We have said elsewhere that prison is a particularly disabling experience for women. Current practices repress and punish individual initiative, discourage independence and individual goal setting and undermine a woman's self-esteem, and sense of self worth. We would therefore recommend that the current destructive tendencies within the system be modified by encouraging and rewarding the setting of individual goals,. In the programs

⁷⁸ Interim Report: Issues Relating to Women, p.64

area, this translates to encouraging and rewarding educational, personal and skills based goals, and work initiatives.

In relation to pre-release support, again much has already been said in other areas of this submission. Stakeholders endorse the pre-release recommendations of Catholic Prison Ministry⁷⁹

“Recommendations: Support during the Release Process”:

“Resources should be directed towards the following:

- **Provision of accommodation for prisoners in the early stage of release;**
- **Assistance in setting up a home, this is particularly important for inmates who are not returning to an established home;**
- **Support in accessing social security and income information;**
- **Advocacy to increase financial support to prisoners who are denied it, particularly young, homeless inmates.**

In addition to the pressing material requirements faced by many inmates on release, the successful social and familial integration of inmates can be enhanced by:

- **Emphasis on preparation for release in the final stage of imprisonment. Significant resources for counselling and practical support should be directed towards the transition to non-custodial status;**
- **Support in reconstructing or renegotiating family relationships damaged by crime and imprisonment. This is particularly important in instances where there are significant changes in family arrangements during the period of incarceration, extensive period of imprisonment and where there has been violence between inmate and family members;**
- **Support in developing and maintaining a parenting role;**
- **Access to appropriate service provision and support, particularly in relation to the prevention and treatment of drug and alcohol issues;**
- **Access to personal, peer and professional support as the individual negotiates the initial stages of release.**

These pre- and immediately post- release supports are of particular importance for women because

1. A woman in prison in Qld is typically the primary care giver to children in a household. Imprisonment therefore frequently means disintegration of the family, loss of home, and family supports.

⁷⁹ *Parents in Prison and Their Families*, Healy, Foley and Walsh:31

“Yes, I have made a very grave mistake and people have suffered because of my actions, and I do not deny that, and I have a lot of remorse for that, but I feel that the more time I get out and about and get myself doing things that I can get better within myself. The longer I spend in here locked away, you cannot really do much to get yourself used to society again and being a member of society and a productive member of that, you know. ...Because I am a serious offender I cannot go anywhere until the last 12 months. It just seems you pay more than once for that crime.”

(Inmate evidence, 16 February 2000)
Interim Report: Issues Relating to Women, 95

2. A high percentage of women (47%) were unemployed prior to imprisonment and the additional burden of parenting responsibilities for many, it is likely that a woman will face extreme financial hardship upon her release if she has not already established financial support networks, savings, or a job obtained while in an open security facility or otherwise.
3. Approximately 85% of women in prison have young dependent children⁸⁰, re-establishing parental roles is particularly imperative, and will involve a range of support services, both during imprisonment, prior to release and in the approximate danger zone of 3 months (or longer if necessary) after release.
4. Drug addiction and substance abuse is significant among women, and therefore presents a challenge to women as they struggle to re-integrate against often difficult odds.

In relation to drug addiction, stakeholders reiterate earlier comments about the importance of maintaining a supportive and non-punitive approach to women who have progressed to open custody and community supervision. It is recommended that support and tolerance be the guiding principles, as opposed to an, often unrealistic and counter-productive “zero-tolerance” stance.

In recognition of women’s needs in this area, it is strongly recommended that resources be targeted to assisting re-integration through therapy and counselling services at pre-release and post-release stages of sentence. It needs to be recognised that women will need:

- Therapists they can trust. The assistance of therapists and counsellors who are not employed by Corrective Services is recommended
- A “no-blame” approach where a woman fails to achieve absolute abstinence. Blame only ingrains habits of shame, self-blame and guilt and is ultimately destructive and self defeating.
- Drug free areas in open custody

B. CORRECTIVE SERVICES BILL 2000

Stakeholders endorse the submissions of Prisoners Legal Service in response to the Bill and emphasise that under the new Bill, once again inappropriately male gender specific legislation will be imposed on women, with no consideration of the indirect discrimination involved, or of the devastatingly negative effects on all women, and particularly women and the dependent children of women, who are mothers.

Abolition of parole for offenders serving less than two years

The proposal to make those serving sentences of two years or less ineligible for the supervised community release options is a backward step for all prisoners, and in particular women. Approximately 84% of women in Queensland prisons are sentenced to less than two years. The average sentence for a woman in Queensland is two months.

This reflects the relatively less “serious” or “violent” nature of offences for which women are convicted. Many women are imprisoned for fine default because of (often chronic)

⁸⁰Farrell’s study

poverty. It may also reflect Court considerations of a woman's life circumstances, which have assessed the woman as not constituting a "risk to the community".

The proposal to abolish parole for these offenders also imposes a form 'mandatory sentence'. It removes the power of a sentencing Magistrate/Judge to take into account mitigating circumstances in relation to the offence, or circumstances of the individual woman. The common way of acknowledging these factors, is to sanction the offence in accordance with community standards, and legal requirements of sentence length, but provide an early parole date to encourage an offender's return to the community by way of acknowledgment of particular circumstances.

Stakeholders re-iterate their position that custodial sentences are inappropriate for women for all of the reasons set out above. The Bill runs contrary to the evidence that custody does not reduce offending, and contrary to all of the above submissions indicating the need for flexibility in relation to the sentencing, sentence management and exit from the system of women offenders.

Abolition of all community re-integration options for Women serving less than two years

All prisoners who are serving *less than* two years will be denied the opportunity for re-integration by other community release options such as leaves of absence, release to work, home detention, and parole.

The proposal under the Bill to release women without any integration programs means that those women will be returned to the community *entirely unsupported*, with no opportunity to prepare for return to the community, by all-important re-familiarisation programs. Many people on their release feel acutely the 'stigma' of prison. 'Preparation' also means

- having an opportunity to find work prior to release
- finding housing
- being able to access financial help
- accessing community services
- having an opportunity to prepare dependent children for the return of their mother to the household
- giving a women with dependent children an opportunity to regain confidence in her role as a parent before her release, through re-integration programs

The paralysing and disorienting effects of prison institutionalisation should not be underestimated. It should not be thought that because a woman is serving less than two years she does not need re-integration. On the contrary, the disruption to outside life occurs immediately that a woman is incarcerated. If she is a sole parent, her children will be re-accommodated, or taken into the care of the Dept of Families Youth and Community Care within a very short time. Within a week she may have lost her home, her possessions, her children, her job and her friends. This makes any return to the community daunting, apart from the very real effects of institutionalisation.

Institutionalisation. One General Manager of an Open Security prison stated that when women first arrive at her centre from secure custody, they are often afraid to go outside into the community. When asked how long it may take for a woman to become institutionalised in this way, she replied that women become institutionalised to prison life very quickly *some of them have only been in for two months and have trouble* [with returning to the community].

Pat Carlen (1998) provides an insight into institutionalisation as told by an Official Visitor about a woman with children who was having re-settlement leaves at week-ends:

..She had a weekend leave [at home with her husband and son]...On Sunday, it was about 12 o'clock, her son said to her, 'Mum, what about lunch?' And she said she just sat and looked at him. She said, 'I had completely forgotten what you had to do to make lunch – and I'd only been in six months'. I think that prison completely disables a woman, and yet we're supposed to be preparing them to go out. It's the nature of prison, to be totally disabling.

Women will suffer indirect discrimination under the proposal to abolish parole and other community release for Offenders serving less than two years because of the greater numbers of women with short sentences, and because of the detriment to women.

1. **Approximately 84% of women in Queensland prisons are sentenced to less than two years. The average sentence for a woman in Queensland is two months.**
2. **A large proportion of women prisoners are the care givers primarily responsible for dependent children.** The impact of a primary care giver spending *any* time in prison can be devastating for children and for the integrity of the family unit. The effect of the proposed provisions under the bill will be to increase the burden on families, and women and children in particular. A South Australian study on the effects on children and families, of the Justice system, *Taken In*, noted:

Even though another member of the family (usually their mother) was the preferred option, this arrangement could be complicated.... In the long term, women's position in relation to their children can be completely compromised by their involvement in the criminal legal system...in several cases relatives have sought Family Court Orders to formalise the temporary arrangements made while a woman is in custody. (p.49)

A Queensland study by Catholic Prison Ministry, *Parents in Prison*, has noted the impact on children of imprisonment of parents. A particular concern is that an inter-generational crime cycle may be set in motion as a consequence of the negative impact of the child.

There is ample practice and research based evidence to suggest that the imprisonment of parents is deleterious to children (Gabel, 1995). In a review of the literature on the topic, the NSW Standing Committee on Social Issues Report (1997) concluded that: "Research has shown that without proper support many of these children often fail to get over this loss and may then under-achieve or engage in anti-social or self-destructive behaviour."

The physical separation of parent and child was identified by respondents as contributing to emotional distancing in parent-child relationships....these children “usually have poor self-esteem and not well developed communication skills... they just seem to be in protective mode.”

The proposal to impose a mandatory provision which will *increase* the amount of time which parents who are primary care givers to dependent children, serve in custody, is inappropriate. It runs contrary to the recommendations of studies on the effects of imprisonment on children, and is likely to place an increased burden on the community in the long-term, not only because of the negative effect of prison on those who are subjected to imprisonment, but ultimately because of the negative experiences of children of prisoners, who will carry the scars of their experience into adulthood.

- 3. The Bill proposes a blanket provision to apply irrespective of the fact that most women do not pose a threat to the community.**
- 4. The primary burden of the provision will fall on women and their dependent children.**

If the proposals to abolish community based release for prisoners serving two years or less is to be proceeded with, the eligibility for conditional release should be at 50% of the sentence. This would be unlikely to have any adverse consequence as far as public safety is concerned, because prisoners serving sentences of two years or less do not generally fall into the dangerous category, and, there is provision in the Bill not to grant conditional release where risk to the community is found to be unacceptable.

No release to work or home detention until 50% of sentence served

Currently a prisoner is eligible for Release to Work, if serving 30 months or less, at two thirds of their non-parole period, or if serving more than 30 months, 10 months before their parole eligibility period. A prisoner is entitled to home detention, if serving 30 months or less, at two thirds of their non-parole period, and if serving more than 30 months, 4 months prior to their parole eligibility date. The exception to this is “serious violent offenders”, who are not eligible for release to work or home detention until their parole eligibility date.

The proposed provisions in the Bill, treats all prisoners as if they were “serious violent offenders”. This will inevitably result in a significant increase in the prison population, and once again have a disproportionately negative effect on women with dependent children.

The effect of not providing for release to work or home detention until a prisoner is eligible for parole is that community corrections boards will be reluctant to grant prisoners parole when they are eligible, because they will not have had any opportunity to demonstrate trustworthiness in a community setting or, in the majority of cases, to establish employment or rebuild family and community support networks.

In practice, prisoners will be denied parole until well beyond their eligibility dates.

Leave of absence

The proposal to restrict access to resettlement leaves of absence to prisoners serving terms of eight years or more will deny important reintegration opportunities for women who are parents of dependent children. These women in particular benefit significantly from a graduated process of reintegration which includes resettlement leaves of absence. Numerous studies indicate the devastating effect on families of incarceration of a woman, and in particular the complete loss of any functional role as a parent.

Stakeholders oppose the removal of any discretion to grant Leaves of Absence, and particularly leaves for re-settlement purposes, for women serving less than eight years.

Stakeholders support Prisoners Legal Service' call for guidelines ensuring procedural fairness is observed in the revocation of a Leave of Absence program, and that such decisions should be subject to both internal and external review. The importance of this to women is to avoid decisions based on gender bias, without proper, independent scrutiny and testing of evidence, opinions or assertions on which decisions may be based.

Section 61 Leave of absence available to serious violent offenders

We oppose the mandatory imposition of restrictions on leave of absence options for *all* prisoners who have been convicted of serious violent offences, irrespective of any consideration of the circumstances of the offence, or the risk which the prisoner may pose to the community if granted a community supervision order.

For example, a woman convicted of unlawfully killing a violent husband in circumstances of longstanding domestic violence abuse, must be subject to the same restrictions in respect of her access to community supervision options, as a serial killer.

C. PRESUMPTIVE PAROLE

It is particularly important that women have certainty in relation to release dates, since many arrangements with their children, families, housing, including State funded housing, and work availability depend on women being able to plan ahead, and provide a commitment to a definite time frame. Case examples are:

The earlier case study of "Ann" referred to her children being in foster care, and the fact that circumstances had changed for the foster carers and they were no longer able to provide care for her children. It was particularly imperative that Ann obtain community release on her eligibility date or soon after, because arrangements for her children's foster care were drawing to a close, and arrangements needed to be made to settle her children into a new school. After several applications to the Community Corrections Board were unsuccessful, Ann gave up. As she said, there was nothing more she could do to 'prove' herself, she had made extraordinary efforts to turn her life around. When community supervision was denied her, she opted to wait out her full time, for the sake of certainty, and because she could no longer cope with the process of having expectations, and having them dashed by the Board.

The case of Jane, with her five children waiting for her return, illustrates the anxiety caused to women by uncertain parole dates. Jane had diligently attempted to comply with requirements. She was a first time offender, and had nothing to gain from being detained in

custody. She worried constantly about her children, and whether she would be granted parole or whether she would join the majority of women constantly going back to the parole board with further submissions, and new applications.

Lena's community release came too late for her to re-establish her relationship with her daughter. It eventually led to feelings of despair and disempowerment and a pathway back to regular drug use.

These types of uncertainties reinforce in women a sense of disempowerment and disabling her from commencing the process of regaining any sense of control over her life. They also exacerbate the possibility of women with children losing custody of their children, to ex-partners, mothers and relatives.

Recommendations

1. **That the Corrective Services Bill 2000 introduce presumptive parole, whether parole eligibility arises from a Judge's recommendation, or statutory entitlement.**
 2. **That Ministerial Guidelines issued to Community Corrections Boards pursuant to s.139(1) of the Corrective Services Act, provide that women should be granted community release at their eligibility date unless there is strong evidence that a woman's community release will pose a serious risk to the community.**
 3. **That members of Community Corrections Boards be provided with sufficient training to understand the legal issues which they are considering in relation to the granting of parole.**
 4. **That members of Community Corrections Boards be provided with training in relation to Family Law issues affecting women with children.**
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