



# VICTIMS or OFFENDERS?

## Mental health issues in women's prisons

By Claire O'Connor

'Law and order' debates feature in every state and territory election, with parties often trying to outdo each other in proposing tougher penalties for crime. Governments tend to claim that harsher penalties reflect a greater interest in the victims of crime.

**B**ut for women who end up before the courts and in prison,<sup>1</sup> the distinction between offender and victim is blurred. Women inmates are almost always the victims of serious criminal conduct themselves, and very often enter prison suffering from serious psychological and psychiatric illnesses because of the harm done to them. Often, these crimes go undetected.

Ironically, women in prison are the very people whom 'tough on crime' initiatives purport to help.

In the past decade, numerous reports have been produced that detail the abuse against women and children in our community and acknowledge that these women often end up as offenders because of the harm done to them.

In 1997, HREOC produced the *Bringing Them Home* report on the 'Stolen Generation'.<sup>2</sup> This report detailed the abuse, both physical and sexual, that Aboriginal children who had been removed from their families had suffered. Often, this abuse had been undetected and uncharged.

In South Australia, the government has held inquiries into children in care and is presently conducting a further inquiry into allegations of sexual abuse and unlawful deaths of children in care.<sup>3</sup>

In 2006, following an ABC *Lateline* program<sup>4</sup> in which Dr Nanette Rogers, a Northern Territory Crown Prosecutor, told stories of sexual abuse in the indigenous community, the federal and territory governments responded by promising to attempt to improve conditions for Aboriginal women and

children affected by sexual and physical violence. The report that resulted has received widespread coverage, as have the Federal Government's attempts to respond to its allegations.

Various state governments have reviewed sexual assault legislation in the past decade, having recognised the failure of the justice system to convict perpetrators of sexual crimes. Research shows that reasons for the low conviction rate for sexual crimes include the way that victims of sexual crimes are treated by the legal system. As a result, some changes have occurred. In all states, evidence can be taken from a vulnerable witness via closed-circuit television; some states record the victim's evidence soon after an allegation is made; all states have legislation that attempts to prohibit victims from being cross-examined about previous sexual histories, and victims are encouraged to use court companions when giving evidence.

Domestic violence is now no longer the quasi-criminal offence it was two decades ago, and some states have created specialist courts to deal with perpetrators of domestic violence.

Despite these welcome changes, and the acknowledgement of the harm done to women, the legal system still fails to adequately take into account the special needs of women, and the prison system fails to treat the psychiatric and psychological illnesses that they invariably have. The failure of governments to appreciate the profile of women in custody does further harm.



**THE MENTAL HEALTH PROFILE OF WOMEN IN CUSTODY**

In 1995, Dr Craig Raeside, a forensic psychiatrist, and Professor Alexander McFarlane, a psychiatrist who is an expert in post-traumatic stress disorder (PTSD), conducted research into female prisoners in South Australia. The study, based on the participation of 81% of South Australia's female prison population, found that:

'All had a psychiatric disorder in addition to drug and alcohol disorders. Over 88% of the subjects had experienced significant trauma in their life, often at an early age, and involved interpersonal violence; 81% suffered from PTSD, which was severe in most cases.

Other psychiatric morbidity was very common, with high levels of depressive disorders (89%), anxiety disorders, and substance dependence (97%).'<sup>5</sup>

In 2002 in Queensland, the Department of Correctional Services conducted a health survey of the female prison population.<sup>6</sup> It found that three major issues affected the health needs of women in prisons: drug abuse, mental health and childhood sexual abuse; 42.5% reported being the victim of non-consensual sexual activity before the age of 16, 37.7% reported having been physically or emotionally abused before the age of 16, and 36.5% experienced actual or attempted intercourse on one or more occasions before the age of 10.<sup>7</sup> The survey noted that 57.1% of the women reported having been diagnosed with a specific mental illness, the most common being depression. Further, the report noted that female prisoners had a much higher rate of mental health problems than male prisoners.

In NSW, the Law Reform Commission estimated that 30% of the prison population had an intellectual disability.<sup>8</sup> Research indicates that women prisoners with intellectual disabilities are more likely than their male counterparts to have a psychiatric diagnosis.<sup>9</sup> At least 85% of women in prison in NSW are survivors of sexual abuse; 70% experience physical violence as an adult; 73% had been admitted to a psychiatric or mental health unit; 39% have attempted suicide; and 31% are indigenous.<sup>10</sup>

In Western Australia, a survey of women prisoners found that 77% reported a history of abuse, either as a child or an adult.<sup>11</sup>

**THE NEED FOR REFORM**

While it is clear that a female prisoner is more likely than a male prisoner to have mental health problems and to have a history of sexual and physical abuse, the prison system fails to cater for the special needs of such women.

The South Australian study by McFarlane and Raeside reported that:

'Mental illness in women prisoners has been a generally neglected area of research. Their male counterparts, being more numerous, have received greater attention, in part due to their greater numbers. However, the number of women in Australian prisons has increased in the past decade [written in 1996]. In addition to increasing numbers women are also receiving longer sentences...

It has been recognised that significant psychological distress exists within the confines of the women's prison.'<sup>12</sup> Only one state has conducted a comprehensive review of the needs of the female prison population: Queensland. The Anti-Discrimination Commissioner of Queensland (ADCQ) conducted an inquiry into women in prison and reported in March 2006. Its report recognises the fundamental differences in the needs of female prisoners in a number of key areas, which include employment, family issues and health problems.

Of the 68 recommendations for reform, many dealt with addressing the mental health needs of prisoners. The first issue that was discussed was the appropriateness of detaining persons with mental health needs in prisons in the first place. Some female prisoners, the inquiry noted, had their mental health problem diagnosed for the first time while in custody. The inquiry noted that Cornelia Rau was detained in a women's prison in Queensland and had her mental health problems undiagnosed and untreated during her months there. The report said:

'The ADCQ is of the view that procedures for detecting and treating mental illness in prisons for female prisoners are inadequate, and psychiatric services in female prisons do not adequately address the extent of need. This is particularly the case for female prisoners who have a high incidence of mental health issues compared to the general population and to male prisoners. >>

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It is apparent that female prisoners experiencing mental health problems but who have not been diagnosed with acute psychiatric illness, rarely receive the level of treatment or rehabilitation they need. Those rehabilitation programmes that are offered, do not adequately deal with female prisoners who have a cognitive incapacity. ...

Further, women prisoners with personality disorders ... receive no assistance except for pharmacological interventions.<sup>13</sup>

If governments are genuine when they say that they want to assist victims of sexual abuse and domestic violence, they must recognise that women who are such victims often end up committing offences and being imprisoned. Programs and services in these prisons ultimately need better funding.

Recommendations have already been made in the Raeside and McFarlane report in the 1990s, and in the Queensland anti-discrimination report of 2006.

In their 1995 report, Raeside and McFarlane noted that all the subjects were diagnosed as having at least one psychiatric disorder (using the DSM III categories that were applicable at the time), and made the following recommendations:

1. 'Greater efforts are sorely needed at reducing child sexual and physical abuse, as well as domestic violence in the community. Victims need to be identified at an early age, in order to provide early intervention, decrease substance abuse, and to provide diversion into non-criminal activities.
2. Together with the provision of expanded services for the victims of violence (and in particular sexual assault) there will be a greater impact on the increasing levels of crime in female populations.
3. All women, upon entering a correctional facility, should be adequately assessed for psychiatric disorders and PTSD in particular. Adequate trained staffing and funding should be made available in order to conduct this assessment.
4. An adequate system of diversion of offenders from the criminal justice system to the mental health system should be developed and supported.
5. There is sufficient evidence to justify attempts at treatment whilst women are incarcerated. Whilst jails are not hospitals, they are supposed to be "correctional facilities". Efforts to correct unacceptable behaviour need to take into consideration psychopathology, not only behaviour alone. This offers more hope of decreasing recidivism than is currently employed. The community should see a reduction in recidivism as the aim of jail and not solely punishment.
6. Further research is needed into the prevalence and characteristics of psychiatric disorders, including PTSD, in women prisoners, as well as controlled treatment studies.
7. Finally, the results of this study should be cause for an expanded view of the issues surrounding the decriminalisation of many illicit drugs in our society. These are the difficult questions that must be addressed.<sup>14</sup>

The Queensland *Women in Prison* report made two recommendations in relation to mental health issues: recommendation 35 urged improved and properly resourced community sentencing options to divert offenders with mental health issues from the prison system; and recommendation 36 said that the government ought to address systemic issues in the provision of all its services, with a view to reducing the over-representation of women with mental illness in the Queensland prisons.

It is also quite common for correctional systems not to have programs or assessments for women on remand. About one-third of women in custody are on remand, and sometimes they can wait for more than a year before they are sentenced. By not assessing and treating women in this category, their needs are being ignored. By the time of sentencing, it is not unusual for a female prisoner to be released having served sufficient time on remand; and all that time with inadequate access to whatever programs do exist.

### WHERE TO FROM HERE?

If governments are committed to helping victims of sexual and physical assault, they must recognise the impact that such offending has on women and to understand that they often end up in prison.

Simply providing support for the mental health needs of women in custody is not enough, however. A whole new approach to women prisoners is needed. Diversion, community-based sentences and assistance to women with children have to be prioritised. It is 98 years since the first prison for women was opened at Long Bay. Let us hope that this century will see the special needs of women who end up before the legal system properly recognised and addressed. ■

**Notes:** **1** A rapidly growing number – the number of Aboriginal women in full-time custody is growing at a particularly large rate. In NSW, for example, they are the fastest growing group in jail: R Lees, *Stop the Women's Jail Anti-Prisons Resource Kit*, June 2001 (a summary of the kit can be found at [http://www.justiceaction.org.au/index.php?option=com\\_content&task=view&id=149&Itemid=32](http://www.justiceaction.org.au/index.php?option=com_content&task=view&id=149&Itemid=32)). **2** The report can be found at [http://www.humanrights.gov.au/social\\_justice/stolen\\_children/index.html](http://www.humanrights.gov.au/social_justice/stolen_children/index.html). **3** The Layton Inquiry and the Mulligan Inquiry. Details can be found at <http://www.familiesandcommunities.sa.gov.au/Default.aspx?tabid=750> for the Layton review. The Mulligan Inquiry has yet to produce a final report. **4** <http://www.abc.net.au/lateline/content/2006/s1639133.htm>. **5** WJ Raeside and AC McFarlane, 'Post-Traumatic Stress Disorder in a Female Prison Population', 1995, unpublished. **6** BA Hockings et al, *Queensland Women Prisoners' Health Survey* (2002) 17-18. **7** *Ibid*, 54. **8** New South Wales Law Reform Commission, *People with Intellectual Disability and the Criminal Justice System* (1996). **9** S Hayes and D McIlwain, *The Prevalence of Intellectual Disability in the NSW Prison Population; an empirical study* (1988) **10** R Lees, note 1 above. **11** Department of Justice, *Executive Summary: Profile of Women, Community and Juvenile Justice Division*, June 2002, Government of Western Australia. **12** *Ibid*, p3. **13** Anti-Discrimination Commission Queensland, *Women in Prison*, March 2004. **14** *Ibid*, pp10-11.

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