The Long Road to Freedom: The Report

Women affected by domestic violence and the criminal justice system

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WIPAN
women in prison advocacy network
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Part one: the background

About WIPAN

The Women in Prison Advocacy Network (WIPAN) is an independent grassroots organisation governed by a group of women, including ex-prisoners, lawyers, academics and women from the broader community. WIPAN is dedicated to advancing the status and well being of women affected by the criminal justice system; by addressing the many issues facing criminalised women both systemically through advocating for a fairer criminal justice system and individually through mentoring women. WIPAN operates from the experience and knowledge that by providing women with gender-responsive social support, recidivism rates and the prison population will be reduced. WIPAN is funded independently through small philanthropic-grants.

About the project – The Long Road to Freedom

This project was funded by the NSW Office of Women’s Policy, now known as Women NSW.

The project was an action research and resource-based project focusing on the relationship between women’s imprisonment and domestic violence. The ultimate aim of the project is to break the cycle of domestic violence, victimisation, homelessness, substance use and criminalisation endured by women so they can live free from domestic violence and free from the criminal justice system.

The project seeks to do this by:

- Conducting research through a literature review and qualitative structured discussion forums with women affected by the criminal justice system and domestic violence to determine key issues and the focus of the resource.

- Producing a post-release resource and education package for dissemination amongst women affected by the criminal justice system that have experienced domestic violence, and also amongst service providers, and community organisations working in the sector.
Project rationale

The WIPAN mentoring program (WMP) delivered an evaluation report, launched in September 2012, (WIPAN, 2012) on the effectiveness of mentoring for women returning to the community from prison. Through interviews, consultations and other data collection, the report findings contribute to growing national and international research describing the profound disadvantage women affected by the criminal justice system experience, including the high prevalence of – and often extreme – domestic violence and childhood trauma.

WIPAN reports that the gender specific adversities women offenders face are typically related to their victimisation, including sexual violence, domestic violence, poverty and homelessness, all of which can be attributed to inequalities of gender, race, disability and class. Most women engaged in the WIPAN mentoring program have experienced more than one kind of trauma, including childhood and adult sexual assault, growing up in or currently living in violent homes as adults. Only 10% of WIPAN mentees reported not experiencing trauma of this kind.

The WMP report identified that there is a significant lack of support services available to specifically address the various underlying traumas experienced by women in the criminal justice system. A new counseling program/service for women offenders is currently being trialed in the Dillwynia Correctional Centre, funded by the NSW Attorney General’s department. When asked about this service, the majority of mentees in the WIPAN mentoring program were unsure if receiving counseling and/or starting treatment for trauma and victimisation, whilst serving a sentence in a prison, was the right setting in which to do so. When asked why there were doubts about this pilot service, the mentees’ advised that when detained in a correctional setting, women already felt vulnerable and powerless. To further open oneself to such in depth and/or sensitive treatment, while in a correctional setting, was not necessarily a positive or empowering process for the women.

Further to the WMP report, anecdotal evidence from women engaged in WIPAN programs reveals that domestic violence and prison cycles are so frequent as to be accepted as ‘part of the norm’.

Project methodology for the domestic violence resource

The process of engaging real community collaboration in the development of this project was paramount for the integrity of the project and its intended outcomes. The project set out to engage community by contacting service providers with strong links with women who have experience of prison and disability and who also identify as Culturally and Linguistically Diverse, (CALD) or Aboriginal. The service providers contacted were Guthrie House, People With Disability, (PWD) Multicultural Disability Advocacy Association, (MDAA) Mudgin-Gal Women’s Centre and Intellectual Disability Rights Service, (IDRS). Speaking with key workers, WIPAN arranged to hold a series of discussion forums held at the location of the different services.

Discussion forums were structured and designed for small group participation. Participants in all groups were given information about the structure and purpose of the group and offered $25 reimbursement for their time and valued experience. Participants were advised they were free to leave the group at any time given the sensitive nature of the subject, and that if they did so they would still be reimbursed for their time. Participants were also advised that while discussions were recorded for the purpose of this report and resource, all identifying information would be removed to retain confidentiality. All participants gave informed consent and signed an agreement.

In the course of the discussion forums, participants identified that first person stories were the most compelling and informative format to communicate experiences and information within their communities. This was a significant finding of our research and reinforces the importance of not so much what domestic violence says as to how it is said and who it is said by – thus reflecting the importance that WIPAN attributes to, including women in prison, the law reform and service delivery debates that impact on their lives.

A number of women were willing to write their story for the resource but requested support in the writing process. The project worked with other community based organisations to set up a writing workshop facilitated by a woman from the Newtown Neighbourhood Centre, who specialises in supporting disadvantaged groups in storytelling. Through doing this, WIPAN was not only including women in the development of the resource, but also empowering and equipping them with skills in order to become ongoing participants in community development. The one day workshop was held at the Mudgin-Gal Women’s Centre and was attended by women who had participated in the discussion groups. All women produced a story, poem or song by the end of the workshop. WIPAN paid $50 to each of the women for the rights to publish their material and as a form of acknowledgement.

A rough outline of the resource was drawn up from the discussion groups and canvassed at the writer’s workshop. From community direction, the resource contained a number of varying activities to
engage and support the reader in identifying healthy relationships and different types of abusive relationships. This included having a graphic story, commissioned by a comic illustrator. The graphic story was an important aspect aimed at making the resource accessible to women with literacy difficulties or cognitive disability. Women participating in the project gave constant feedback on the dialogue and appropriate characters for the graphic story.

WIPAN developed some of the tools found in the resource with the help of the Domestic Violence Line and Counseling Australia, including the safety plan and ten tips staying safe in violent homes. WIPAN then assembled the information, stories, puzzles (the find a word puzzle was developed by a WIPAN Mentee) and the quiz in a draft format. The draft was sent to a graphic designer who was given a brief based on recommendations from the discussion forums. The designer did a mock up and WIPAN arranged meetings with participants to gain feedback and ascertain the resource was resembling what the community had described they wanted. After some alterations to characters in the graphic story and imagery used throughout the resource, a second meeting with project participants was held to show the final draft and get their final approval. The participants expressed heartfelt appreciation for the format and content of the resource, saying they had never been given the opportunity to be heard before and contribute to something so positive, particularly arising from their pain. The significance of this outcome from The Long Road to Freedom project cannot be overstated – it reflects the importance of meaningfully including women in prison in the issues that affect them, in drawing on their experiences in a sensitive and constructive manner and in acknowledging the importance of their views and experiences to policy and service development.

Altered focus of the final domestic violence resource

Initially, The Long Road to Freedom project aimed to focus attention on the particular needs and issues of women with disability from CALD or Indigenous backgrounds. To this aim, the project engaged several stakeholder organisations and various networks to engage women who have been affected by the criminal justice system, domestic violence and live with a disability. As interviews, discussion forums and research continued, it became apparent that issues relating to Indigenous women and women with CALD backgrounds are vastly different. The impossibility of creating a resource that appealed to and addressed the needs of both groups while also addressing the issues of disability, domestic violence and prison was therefore made apparent.

Adding to the decision to alter the resource focus was the difficulty that multicultural services had in identifying their clients who have experience of prison, disability and domestic violence. This may indicate the extreme exclusion of this group – in that services are not accessing or providing services to this group – which might necessitate a further research project and resource focused specifically on the gaps and needs of this group.

With community consultation, women in prison, women ex-prisoners and a variety of community stakeholders and organisations, WIPAN decided to focus the resource and research on women with disability and Aboriginal women, who were affected by the criminal justice system and had experienced domestic and family violence.
Part two: the research

In this section the key findings from the literature review that WIPAN conducted at a preliminary stage of The Long Road to Freedom project are summarised.

Locating the literature review in WIPAN’S focus on women with lived experience

WIPAN conducted the literature review at the preliminary stage of our project in light of our overarching methodological approach linked to our underlying philosophy. WIPAN is founded on and works pursuant to the philosophy of foregrounding the lived experiences of women in the criminal justice system in all of the work that we do, including our service provision, resource development, research and law reform advocacy. For WIPAN it is imperative that women with lived experience of the criminal justice system must be involved in determining the solutions that will guide policy and law reform and service development that directly affects them, and that on a broader level women are involved in the processes that build the frameworks of the communities they belong to. This is very important because women in the criminal justice system have typically been subject to social exclusion across their life and rarely been given opportunities for participation in political and legal decision-making processes. We think it is highly problematic that women in prison and women with lived experience of the criminal justice system are currently excluded from the policy and law reform debates about criminal justice issues and corrective and human service development – these debates are dominated by professionals and organisations that do not directly engage with women and ask their views or seek their input.

It is WIPAN’s view that it is the role of professionals and organisations to support women to be part of the consultation and negotiation processes, and part of the solutions. Through the WIPAN mentoring program, the WIPAN self help guide, the WIPAN focus and discussion groups and workshops, we also encourage women with lived experience to themselves feel empowered, confident and an important voice in any debates that
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WIPAN’s recent report experiences to guide our work. It follows from our philosophy that a core part of WIPAN’s approach to research and resource development is to engage women with lived experience of the criminal justice system and to use their views and experiences to guide our work. WIPAN’s recent report Dreaming of a Safe Home: Consumers and community workers’ perspectives on housing and support needs of women leaving prison in NSW is an example of this approach. A detailed explanation of the methodology employed in this report has been published in order to encourage other organisations and government departments to adopt a similar approach (WIPAN, 2012; Bailey, 2012: 31-32).

A striking example of the failure to include women with lived experience of the criminal justice system in policy/service development and academic research can be found in the policy and scholarly literature on domestic violence. This literature not only fails to address the issues specifically facing women in prison but also additionally fails to include in the research the views of women with lived experience of the criminal justice system and domestic violence – a point we return to below. As such, for the purposes of The Long Road to Freedom project, WIPAN saw the purpose of the literature review as providing an important background to how issues around domestic violence (DV) were being framed in policy and academic contexts. This context then had three roles:

1. It provided the basis for the questions used in the focus/discussion groups with women with lived experience in order to ascertain their views as well as to what extent they agreed with the research about them and their experiences of domestic violence and responses to domestic violence.

2. It provided a point of contrast to understand how well existing research, policy development and service approaches around domestic violence were responding to the lived experiences and expressed needs of women in the criminal justice system. This in turn enabled us to identify gaps in the existing research and hence how our resource could not replicate the vast array of research and resources already existing and provide something that the women actually wanted and would use.

3. In dually contextualising our resource in the existing literature and the lived experience we can also now insert our findings about the gaps in existing literature and what the women have told us could fill these gaps back into the scholarly and policy literature through engaging in academic and policy discussion around domestic violence. An example of this is our recent submission to the New South Wales Law Reform Commission, (NSWLRC) review on People with Cognitive and Mental Health Impairments in the Criminal Justice System on Question Paper 1: Apprehended Violence Orders. We will also be writing up our research findings and our research methodology and how it fits with the existing literature in legal and domestic violence journals in order to engage with these debates and hopefully to influence future research practice in this area.

Thus, the summary of the literature review below is not intended to be the findings of The Long Road to Freedom project, but rather the vital context for a reiterative process that works between research and lived experience and for findings that can have an impact on the needs of women and on the broader policy and scholarly debates that affect them.

Women in the criminal justice system and domestic violence: an unrecognised and ignored pairing?

WIPAN’s literature review surveyed national and international scholarly and policy literature on women in the criminal justice systems that have been victims of domestic violence. A striking finding we made very early on in this process was that there is a dearth of literature on this specific topic – and more particularly on the link between domestic violence and criminalisation, the need to support women in prison and post-release in relation to domestic violence issues and the similarities between relationships of domestic violence and prison. For us, this was an important indication of the failure of policy and academic researchers to acknowledge and respond to the issue of domestic violence and women in the criminal justice system. It showed the problems with an approach, which fails to take a more nuanced and complex look at how domestic violence relates not only to gender but also to location in the criminal justice system (we refer to this as the ‘gender-only approach’). Also it showed the intersecting dynamics that might be related to this location (such as indignity, race, disability, poverty and substance use). Further, there was negligible literature on domestic violence and women in the criminal justice system that belong to particular marginalised sub-categories within this already marginalised group of women. It
is important to look specifically at research on these categories rather than assume the general literature applies to these groups because female offenders are not a homogenous group but comprise diverse individuals with different experiences and needs – and as such it is important to recognise the difference among women in the criminal justice system (CJS) and acknowledge individual difference within, between and across marginal groups (Valier, 2002: 148). On the basis of this serious absence of literature, our literature review centered on two key areas: women in the criminal justice system and women and domestic violence. More specifically, the focuses of the literature review were on women in the criminal justice system and women victims of domestic violence from culturally and linguistically diverse backgrounds, are Indigenous, and/or have a disability.

**Domestic violence and women affected by the criminal justice system**

Female prisoners constitute only 7.7% of the NSW prison population, however recent evidence indicates that female incarceration is increasing at a faster rate than males. Female prisoners exhibit a variety of specific needs that are often more complex than those of their male counterparts.

A recent report released by the Australian Bureau of Statistics (ABS, 2011) demonstrates that there has been a 60% increase in female prisoners over the past decade. Indigenous people constitute approximately 2% of the general population however they form approximately 30% of all female prisoners in NSW (MHCC, 2010). Women from non-English speaking countries constitute approximately 16% of the total number of females in prison. (ABS, 2011). Women born in Vietnam make up the highest culturally and linguistically diverse (CALD) population at 6.9% of all female inmates, followed by women born in Cambodia at 2% (ABS, 2011). In 2008, NSW had the highest recidivism rate for women in the country at 42%, which was considerably higher than the national average of 38.2%. The 2009 NSW Inmate Census revealed that 59.5% of all female inmates held in full-time custody (including those on remand) had a history of prior adult incarceration (Corben, 2007:14).

Women in prison are generally regarded as ‘low risk – high need’ due to their mental and physical health conditions and histories of abuse. These health issues are directly related to the high levels of drug and alcohol dependency among female offenders and the cumulative effects of long standing trauma and domestic and sexual violence. Typically, women prisoners are characterised by: high levels of historical disadvantage and victimisation, repeat offending, nonviolent crime, homelessness and multiple short periods in detention. Women’s substance dependency is more closely associated with their criminality than it is for men, with women more inclined to use illicit drugs as a form of self-medication or as a coping strategy for psychological distress and/or historical trauma (Forsythe and Adams, 2009).

Some facts pertaining to women affected by the criminal justice system are as follows:

- Women have higher levels of substance abuse and drug-related offences than men;
- Women are more inclined to use illicit drugs as a form of self-medication, or as a coping strategy for psychological distress and/or historical trauma;
- Women are largely committing petty crimes that are related to addiction (including obtaining money for heroin or methamphetamine through theft, credit card fraud, prostitution/soliciting, small scale dealing and trafficking, and being involved in alcohol-induced violence);
- Women experience higher rates of infection with blood borne viruses, especially Hepatitis C;
- Women experience higher rates of mental illness and self harm;
- Women experience higher reported rates of past childhood and adulthood abuse;
- Women also face unique needs in the area of motherhood; and
- Women have higher rates of recidivism then men, with 58% having been previously imprisoned as an adult. Women have a 42% rate of recidivism within two years of release.

The general literature on women and domestic violence notes the significance of violence against women in the domestic sphere and how this is contrary to common assumptions about violence as perpetrated randomly, in public and by strangers. For example, Daly and Lincoln note, ‘women are three times more likely to be victims of private violence – assaults by family members’ (Daly and Lincoln, 2006: 252).

The significance of violence in the domestic sphere and in the familial or intimate context is confirmed by key findings from the 2009 NSW Inmate Health Survey (Indig, Topp, Ross, Mamoon, Border, Kumar and McNamara, 2010) indicating the significance of violence and trauma to women in prison:

- 29% of women had been sexually abused from the age of 16 (Indig et al., 2010: 131)
- 66% of women had been involved in at least one violent relationship (Indig et al., 2010: 131)
- Women were more likely than men to report physical injuries sustained in the past year deliberately caused by their intimate partner (3% vs. <1%) (Indig et al., 2010: 63)
• 45% of women reported a partner or spouse had engaged in at least one form of abuse or control in the year preceding their incarceration (Indig et al., 2010: 70)

• 9% of women reported being forced by their intimate partner to participate in unwanted sexual activity (Indig et al., 2010: 70).

Hoyle and Zedner note that ‘personal crimes such as physical and sexual assault and child abuse commonly entail long-term effects’ (Hoyle and Zedner, 2007: 468). This is particularly true for women in the criminal justice system that experience domestic violence. This violence has numerous complex, ongoing and cumulative effects such as trauma, substance use, physical and mental health problems, homelessness, and social isolation. In this context, women’s pathways into (and back into) the criminal justice system are typically related to offences at the lower end of the spectrum with shorter periods of incarceration for remand and sentence. Women therefore cycle in and out of the criminal justice system and this forms part of a complex cycle of violence, trauma, substance use, social disadvantage and criminalisation (Armstrong and Steele, 2011).

An arbitrary and absolute divide between victim and offender that underlies the criminal law and criminal justice processes might seriously impede acknowledging the existence and significance of domestic violence in relation to women in the criminal justice system. People are either victims or offenders and the possibility that women can be both of these challenges this core dichotomy and society’s response to crime founded in this dichotomy, (punishment for the offender, support for the victim). Yet, as Daly and Lincoln note, ‘offenders and victims are not separate, but overlapping populations’ (2006: 252). Daly and Lincoln stress that when dealing with female offenders we must recognise the ‘blurred boundaries of victimisation and criminalisation’ (2006: 252). This is further compounded by the problem that women offenders, in light of their experiences of trauma, social isolation and histories of violence, might find themselves in conflict situations and having Apprehended Violence Orders, (AVO’s) made against them, such that they might be both alleged perpetrators and victims of domestic violence. The division between criminalisation and victimisation fails to capture this complex interplay of violence and vulnerability and might go some way to explain the absence of literature, policies and services for women in the criminal justice system that experience domestic violence. It suggests a need to think beyond this dichotomy in order to address the issue of domestic violence in relation to women in the criminal justice system (and to support women in the criminal justice system more broadly).

A central observation from the literature review is that the lived experiences of women in the criminal justice system can be very powerful, empirical evidence of the relationship between criminalisation and domestic violence which might go towards challenging this existing arbitrary boundary. Thus, one key point of discussion in the focus groups was around drawing out these links between criminalisation and victimisation, and to include this in the final DV resource. One particular dynamic in the women’s stories that reflects this is the significance of drugs and substance use in violent intimate relationships – that women can be engaged in substance use (typically seen as criminal activity) and be the victims of domestic violence problematises the dichotomy between victim and offender. On a broader and more systemic level, it also suggests the need for WIPAN to engage with policy and scholarly literature in challenging this boundary, including through foregrounding the lived experience of women in the criminal justice system as empirical evidence of this. We have already accomplished this through our Housing Paper and Mentor Report, and also through our recent NSWLRC submissions. WIPAN also intends to write some scholarly journal articles in order to draw attention to and challenge this boundary and show how our particular methodology can be used to this end.

We will now turn to discuss the issue of domestic violence in relation to particular sub-groups of women in prison.

**Domestic and family violence and Aboriginal women**

At the outset, it should be noted that the term ‘family violence’ is generally used when referring to domestic violence in Indigenous communities. Family violence ‘may involve all types of relatives. The victim and the perpetrator often have a kinship relation’ (Memmott, Stacy, Chambers and Keys, 2001: 1).

Indigenous women are overrepresented as victims of domestic and family violence (Bartels, 2010). Aboriginal women are more likely to be victims of ‘crimes against the person’ (such as rape and assault) rather than ‘crimes against property’ (Mackay and Smallacombe, 1996:17). The Australian Domestic and Family Violence Clearinghouse has noted that: 'Indigenous women are the victims of homicide at a rate that is 10 times greater than the rate for non-Aboriginal women' (Australian Domestic and Family Violence Clearinghouse Topic Paper, 2003: 10). This reflects the broader phenomenon, noted by Mackay and Smallacombe that despite the massive under-reporting of crimes against Aboriginal women, police statistics still show Aboriginal women to be far more likely to be victims of reported violent crime than non-Aboriginal women (Mackay and Smallacombe, 1996: 17).
Family violence in relation to Indigenous women in the criminal justice system must be located at the multiple intersections of ‘gender, class and “racial” inequalities’ (Cunneen, 2001: 157). In this way, and following on from observations we made earlier concerning the problems with a ‘gender-only’ approach, to attribute family violence only to gender will ignore these more nuanced and complex dynamics. As Cunneen notes, while domestic violence is an issue that affects all women, it is apparent that Indigenous women suffer more extreme levels of violence than non-Indigenous women. This point is most clearly seen in the rates of homicide for Indigenous women.

Bartels notes a number of ‘key risk factors’ for Indigenous family violence including ‘substance use; social stressors; living in a remote community; levels of individual, family and community (dys)functionality; availability of resources; age; removal from family; disability; and financial difficulties’ (Bartels, 2010). Yet, other scholars have noted more systemic, historical and political dynamics, which have shaped Indigenous women’s vulnerability to family violence. For example, the Australian Domestic and Family Violence Clearinghouse has stated that historical circumstances, the loss of land and traditional culture, the disempowerment of traditional elders, breakdown of community kinship systems and Aboriginal law, entrenched poverty and racism are clearly factors underlying the use of violence (Australian Domestic and Family Violence Clearinghouse Topic Paper, 2003: 11).

On a similar note, Cunneen notes the impact that colonial practices have had on Indigenous women, subjecting them to exploitation, physical abuse, rape and forcibly removing them from their families and, significantly, that these practices were variously sanctioned by policy and legislation, the courts and police (Cunneen, 2001: 158). Noting the institutional and legal dynamics of the systemic context of Indigenous family violence, Cunneen also makes note of allegations of physical and sexual violence experienced by Indigenous women at the hands of police officers (Cunneen, 2001: 163). Echoing these comments Mackay and Smallacombe state that ‘the distrust many Aboriginal people feel towards police means that many Aboriginal victims of crime fail to report any offence’ (Mackay and Smallacombe, 1996: 17). The recognition of the systemic dimensions of Indigenous family violence is also touched upon by Baldry in her research on Indigenous women in the criminal justice system and patriarchal colonialism (Baldry, Ruddock and Taylor, 2008). Thus, in thinking about how the law and institutions can support Indigenous women who experience family violence, we need to reflect on how these institutions have themselves been involved in or legitimated violence against Indigenous people. WIPAN took serious note of this observation gleaned from the literature review and in our resource we looked at issues around seeking assistance from police and the parallels between prison and domestic violence relationships.

Another significant aspect of institutional failures in relation to Indigenous family violence to emerge from the literature review was that while there has been increasing recognition of systemic failures of the criminal justice system in relation to Indigenous people, the specific issues relating to violence against Indigenous women have been marginalised in these discussions. For example, the Australian Domestic and Family Violence Clearinghouse note that there have been more deaths of Aboriginal women in communities than deaths of Aboriginal men in custody (Australian Domestic and Family Violence Clearinghouse Topic Paper, 2003: 11). Yet Cunneen notes that the report of the Royal Commission into Aboriginal Deaths in Custody, whilst noting that there ‘was a widespread perception by Aboriginal women that police were indifferent to acts of violence against them’ (Cunneen, 2001: 161) did not specifically address the issues surrounding violence against women: the focus of the Royal Commission into Aboriginal Deaths in Custody provides one example. Many Aboriginal women have pointed to the huge disparity between the number of deaths in custody (which were overwhelmingly male) and the much higher number of Aboriginal women killed in communities (Cunneen, 2001: 158).

This institutional failure also manifests in criticisms that the police and the criminal justice system fail to give adequate attention to domestic violence in Indigenous communities (Johnston, 1991: 41 cited in Cunneen, 2001: 161) and that while Indigenous people are over-policed for certain summary offences such as public drunkenness and offensive language, they also experience under-policing when it comes to interpersonal violence against them (Cunneen, 2001: 161, see also 164). Reflecting our observation above about the arbitrary distinction between victim and offender vis-à-vis women in the criminal justice system and domestic violence, Cunneen notes that ‘it is difficult for an operational system which has focused on Indigenous people as a “criminal” problem to turn itself around to see the same group as deserving of protection from the law’ (Cunneen, 2001: 163).

This is further complicated by the racial dynamic of ‘a long tradition of seeing Aboriginal women and men as being undeserving of police protection—of being essentially outside the protection of the law’ (Cunneen, 2001: 164).

In the most significant study on Aboriginal women in prison in Australia to date, Speak Out, Speak Strong (Lawrie, 2003), most of the Aboriginal women who were interviewed in that study
(representing half of the Indigenous women prisoners at the time) were single mothers with a number of children, were responsible for children other than their own, had a prior conviction as an adult, were using alcohol or drugs at the time of their last offence with a strong connection between their alcohol or drug use and offending behaviour, and had long and serious histories of abuse (Lawrie, 2003: 25-51). Along with other research (Aboriginal and Torres Strait Islander Women’s Policy Units, 2002: 16) domestic violence was identified as one of the most serious forms of abuse these women faced when in the community (Lawrie, 2003: 51). Finding stable, suitable, supported housing to allow them to live with their children upon release was their key concern but in their experience, the most difficult problem to resolve (Lawrie, 2003: 27). It was argued that this transition needed Aboriginal managed rehabilitation and housing options (Lawrie, 2003: 69.74). Confirming Lawrie’s findings, the most severely disadvantaged among all participants in a 2009 NSW and Victorian post-release study were Indigenous women (Baldry and McCausland, 2009). These women experienced the highest rates of re-incarceration and homelessness in the sample. They came from, and after prison returned to, a very small cluster of highly disadvantaged suburbs or towns, and moved frequently within these same disadvantaged areas. A lack of suitable housing was found to be a fundamental problem and a predictor of return to prison. The authors surmised there were a number of reasons for this. As well as the problems and disadvantages highlighted by Lawrie, most of these women had experienced multiple prison episodes, had minimal social or material goods prior to incarceration and had served short sentences. Cycling in and out of prison was almost the norm, and did not prepare them for nor create pathways to successful community living (Baldry, McDonnell and Peters, 2003: 34). It is theorised by Baldry and McCausland (2009: 3) that these women are subject to serial institutionalisation that moves them frequently from highly structured living (in prison) to chaotic living in the community. This has the effect of depleting the social, cultural and physical resources and resilience of these individuals, their children and their communities, and compounds exclusion from stable, functional family life (Baldry and McCausland, 2009: 291). Additionally Baldry noted the significant vulnerability to violence and criminalisation of Indigenous women with complex diagnoses of mental and cognitive disability.

Domestic violence and cultural and linguistic (CALD) women

18.2% of the Australian population speaks languages other than English (ABS, 2011 census).

Immigrant women in general experience ‘settlement problems, isolation, high unemployment and the under-valuing of their skills, and a lack of knowledge about and access to legal rights and social services’ (Cunneen and Stubbs, 2002: 4). Filipino women living in Australia are almost six times over-represented as victims of homicide compared to other women (Cunneen and Stubbs, 2002: 2).

Women from CALD backgrounds experience multiple and complex barriers in seeking support and protection in relation to domestic violence. For example, Bartels states that research does indicate that cultural values and immigration status enhance the complexities normally involved in domestic or family violence cases and women from CALD backgrounds are generally less likely than other groups of women to report cases of domestic or family violence (Bartels, 2010).

Bartels suggests that there are a number of reasons why women from CALD backgrounds might not report their experiences of domestic violence, which are related to the intersections of such factors social and cultural isolation and legal migration status. She specifically identifies: limited availability of appropriate translator/interpreter services and access to support services; limited support networks and reluctance to confide in others; isolation; lack of awareness about the law; continued abuse from immediate family; cultural and/or religious shame; and religious beliefs about divorce (Bartels, 2010).

On a similar note Alexander notes the difficulty in dealing with women who do not have residency status – abusive partners and/or family members may tell them they will be deported or detained in an immigration detention centre if they seek help to leave the abusive relationship (Alexander, 2010: 20). Alexander also discusses the importance of using ‘ethical and professional interpreting services’ particularly in relation to women from small immigrant communities (Alexander, 2010: 19).

Alexander suggests that working with CALD women requires sufficient time to develop adequate rapport and to address a complex range of issues including, residency, family law, support at court, accompanying clients to appointments, organising interpreters and having time to properly research cultural and religious considerations (Alexander, 2010: 20).

Alexander ultimately concludes that the balancing act of ensuring a woman makes choices that ensure her safety without unnecessarily estranging her from her community can be challenging. However, safety is always the overriding consideration. Ideally, helping a woman to make new community connections so that she builds alternative supports if contact with the original community is no longer wise is something that workers
support and try to achieve within limited timeframes and resources (Alexander, 2010: 20).

Definitions of domestic violence and sexual assault differ across cultures – some women from CALD backgrounds may view certain acts or behaviour as socially acceptable and therefore not recognise it is considered domestic violence in Australia (Bartels, 2010). Religion and cultural standards play a large role in how some women from CALD backgrounds view family violence, and define their options – divorce was considered a sin in some cases (Bartels, 2010).

According to the 2009 NSW Inmate Census, women from non-English speaking countries of birth constitute approximately 16% of the total number of females in prison (Corben, 2009: 4), and women born in Vietnam make up the highest group at 6.9% of all female inmates, followed by women born in Cambodia at 2% (Corben, 2009: 14). It is likely that the percentage of CALD women is greater than this figure due to the number of women from CALD backgrounds born in Australia. Cultural and language barriers and social isolation can make these women particularly vulnerable in their pathway through the criminal justice system, in prison and upon release (Centre for the Human Rights of Imprisoned People, 2010). Easteal’s study found female inmates from non-English speaking background were more likely to be older, married, more educated, less likely to have substance dependencies or have been imprisoned before. Easteal noted that ‘the prison subculture was experienced as particularly alarming and alien’ (Easteal, 1993: 173).

CALD women in prison are frequently the victims of domestic violence. For example, Kilroy’s report on CALD women in a Brisbane prison found that in the sample studied, 76.9% reported they had been subjected to domestic violence (Kilroy, 2003: 2). There is a dearth of literature on domestic violence and women from CALD backgrounds in prison. Additionally WIPAN had significant difficulty engaging with this section of the community, particularly relating to CALD women who have been affected by the criminal justice system and experienced domestic violence.

Domestic violence and women with disability

Women with disability are particularly vulnerable to domestic violence and marginalised in policy and service responses to domestic violence (Dowse, Frohmader and Meekosha, 2010: 252-254). Bartels states that ‘women with physical and/or intellectual disabilities are more likely than those without disabilities to experience domestic or family violence and such violence is also likely to be more severe and continue for longer’ (Bartels, 2010). The Australian Domestic and Family Violence Clearinghouse reported Northern Territory data that 5% of domestic violence incidents involve victims with a disability (NT Data Collection Report 1999-2000 in Australian Domestic and Family Violence Clearinghouse Topic Paper, 2003: 12). Similarly, ‘overseas studies have found that women with disabilities, regardless of age, race, ethnicity, sexual orientation or class are assaulted, raped and abused at a rate of between two and twelve times greater than women without disabilities’ (Mulder, 1995).

The particular nature of the domestic violence experienced by women with disability might differ from that experienced by other women due to the different living and support arrangements that can characterise the domestic relationships of these women (e.g. institutional care, groups homes) (Dowse et al, 2010: 253). Bartels notes that as a result of these living arrangements there are fewer support options for those leaving the violent relationship (Bartels, 2010).

There are a high number of women with disability in prison. Over half (53.5%) of the 2009 Inmate Health Survey female participants reported that they currently suffered from an illness or have a disability that had troubled them for six months or more (Indig et al 2010, 51), and 45.6% of 2009 Inmate Health Survey female participants had a self-reported mental health condition (Indig et al, 2010: 135). People with cognitive disability and mental illness are overrepresented in the criminal justice system (including prison) and are particularly vulnerable and disadvantaged in their passage through the criminal justice system (Dowse et al, 2010: 251-266). An Australian Research Council (ARC) Linkage project led by Professor Eileen Baldry, ‘People with Mental Health Disorders and Cognitive Disabilities in the Criminal Justice System in NSW’, maps the human service and criminal justice pathways of prisoners identified as having a mental health disorder or cognitive disability. Relevant findings include that higher rates of incarceration were experienced by those women in the sample who had complex needs, that is women with a cognitive disability together with a mental health and/or alcohol or other drug disorder, rather than a single diagnosis (Baldry, Dowse and Clarence, 2010).

Indigenous persons with mental health disorder or cognitive disability are overrepresented in the criminal justice system. Findings from Baldry’s ARC project indicate that Indigenous women represent a significant subset within the group of women prisoners with a mental health disorder or cognitive disability. Their high rate of custodial episodes are likely attributable to their complex needs (Baldry, McComish and Clarence, 2009).

Rushworth cites shocking findings from Victorian prison research that ‘the rate of head injury due to assault in Indigenous women was almost 70 times that for non-Indigenous women’ (Rushworth,
2011: 10). This raises questions about the relationship between victimisation, criminalisation and disability. For example, what is the extent to which the gendered factors characterising criminal justice pathways that we discussed above might also characterise how women with Acquired Brain Injury acquire their disability? To what extent is brain injury related to victimisation, either directly (e.g. physical assault in the course of child abuse or domestic violence or in prison) or indirectly (e.g. from drug use following abuse and violence)?

We note, for example, the Victorian research cited in Rushworth’s policy paper that indicates that drug and alcohol use was the main cause of Acquired Brain Injury (ABI) among prisoners and that there was a greater percentage of female than male prisoners who had screened positively for hypoxic brain injury due to drug overdose (Rushworth 2011: 8).

Women with cognitive and mental health impairments in the criminal justice system might have been in a variety of institutional settings from an early age – out of home care, juvenile justice, mental health facilities, prisons, disability care. They might have been subject to violence, abuse or neglect in these settings. By dint of the extreme power differentials inherent to institutions, this might have been ignored and even condoned in forming part of a larger culture of that institution. Women who have experienced such violence, abuse or neglect might have trauma and have complex feelings towards institutional settings and persons in positions of authority, care and trust. This suggests that responses to domestic violence allegedly perpetrated by women in care settings should consider what, if any, is the appropriate criminal legal response to challenging behaviour, alleged assaults or alleged intimidation by women with cognitive and mental health impairments in group homes, care settings or other institutional contexts in these deeper dynamics. It also suggests that the role of institutions and authority figures in supporting women with disability who have experienced domestic violence must be sensitively and carefully considered.

Women in care settings, particularly group homes, can find themselves both victims of domestic violence and subjects of AVOs. In these care settings, breaches of AVOs can easily arise and compound the criminalisation and social marginalisation of these women insofar as it can result in time in custody, vulnerability to violence and trauma in prison, exacerbation of physical and mental health problems and loss of housing.

Blaming violence or offending on disability, rather than looking to underlying violence that may characterise the lives of women with disabilities, can lead to women with disabilities finding themselves very rapidly involved in the criminal justice system. While it might be the case that a variety of therapeutic options are also possible alternatives to AVOs, these should not be provided by medicalising and pathologising what could be very reasonable responses by women to a particular interpersonal or care situation, and such approaches must ensure they address underlying issues of trauma and validate women’s feelings and experiences.
Part three: what the women say*

The analysis of the focus groups with women affected by the criminal justice system

In the flow of conversation in each focus group that WIPAN held for *The Long Road to Freedom* project, there was no clear differentiation in how women came to experience domestic violence and homelessness, started to use alcohol and drugs and how this influenced their criminal justice pathways. While each woman’s story was different, each one was characterised by all these experiences. At times the experiences were so intertwined the discussion moved seamlessly from escaping domestic violence to detoxing from drugs. Drugs for some couples were central to how they came and stayed together, for others alcohol and drug use was a response to the domestic violence. The most clear cut example of the role of drugs and alcohol played in an abusive relationship was for women who relied on their partner for the supply of drugs – strikingly supporting our point made above concerning the interrelationship of criminalisation and victimisation. The following description of the qualitative study includes a lengthy section on how women moved away from drugs. For most, this was the first and essential step to moving away from abusive relationships, i.e.: domestic and family violence.

Identifying and defining violence

Women explained that they did not always identify their experience as domestic violence. Some had experienced family violence as children and lived in neighbourhoods where it was so common as to become something that was expected, part of everyday life. In such neighbourhoods, particularly in Aboriginal communities, there was little or no trust in the police and until very recently no mechanisms or programs that women would trust to provide protection. They were often told and came to believe that the violence was their fault.
Women described this state of not acknowledging the violence:

*Sometimes you don’t know you’re getting abused. Later when you look back you realise. When you finally get out of the relationship and get help you realise you were in a domestic violence situation.*

You start to believe that violence between partners is normal, like; *if he’s not beating you he mustn’t love you.*

You start to think, well if you didn’t do this and that you wouldn’t be covered in blood, or have a gun to your head, or have cigarettes put out on you.

He demolished our house during a fight. I took the baby across the road to a neighbour’s house. I didn’t want to call the cops; I didn’t like being involved with the police. People living on the same street helped me clean the house.

When asked to define domestic violence, the types of violence the women described was wide ranging, including:

- Physical assault
- Mental control and manipulation
- Financial abuse
- Sexual assault
- Isolation and stalking

Women were able to identify and describe the non-physical abuse and how it affected them as much as physical violence:

*They keep you poor as a way of control – ‘oh you don’t have to work, I’ll look after ya’.*

*He always asked me to hook up with other girls so he could watch.*

*He wouldn’t let me talk to friends or family, even when I was allowed to call my mum he would have to be next to the phone and I had to be on loudspeaker.*

*He moved me away from family in Redfern, to Bankstown; he wouldn’t let me speak to my family and friends. He thought they would convince me to leave and he would lose me and the control he had.*

*He would tell me I’m stupid, he put me down a lot, he would tell me ‘oh you can’t do this you can’t do that, you’re too stupid’, he used to say ‘oh you’re fat’ and I’d say ‘that’s not nice, that’s below the belt’.*

*Having been in prison was a big issue, he would get violent and say: ‘You think you’re good? You think you’re tougher than me because you’ve been in prison?’ He needed to beat me to make himself feel more powerful, this was his power trip.*

*He was a gambler and robbed me. To make this imbecile happy I’d do it, I’d give him money. I was over it by then and gave up trying.*

All women interviewed had left their violent relationships but this did not mean the violence and intimidation ended. A typical experience was ongoing fear that their partner would find out where they lived. One woman described a current problem:

*My ex is currently stalking me, driving up and down the street. He knows everyone I know, he hangs around and waits for me.*

**Aboriginal women**

One focus group was held with Aboriginal women. Women in this focus group were more likely to describe experiencing and witnessing domestic violence in their wider community as they grew up and expressed a greater distrust of police and reluctance to seek help from police (reflecting the point from the literature review about the problematic place of legal and criminal justice institutions in violence against Indigenous women). The women agreed it was commonly thought to be better handled by the family:

*Happened all the time on the block, you would always hear a woman screaming, getting her head jumped on next door, but no one called the cops, no one went to help, because everybody said it was their own business.*

Women thought the lack of support for Aboriginal domestic violence victims was changing and police attitudes were improving. Police getting involved in the community and encouraging women to report the abuse and take out AVOs was encouraging to the women.

Although the women believed there was still a barrier because Aboriginal girls hid their issues because of the shame involved in talking about domestic violence. This being due to the fact that the majority of the time their abuser is in their family:

*A lot of Aboriginal girls get abused by family members but don’t want to report or tell anyone because it will bring shame onto the family – if police find out, then the family finds out and then the girl either does not get believed or she gets disowned and loses her family.*

**Offending and domestic violence**

Women described the fear, cruelty and intimidation they experienced in abusive relationships and how this had a lasting effect, during and after the relationship. They described how it was difficult to make changes when experiencing low self-esteem and a lack of confidence:

*Self worth doesn’t mean anything – what’s the good of you anyways?*

*After I left I felt pretty fucked up, messed up in the head. Didn’t know if I was coming or going... self-esteem was at zero, down to the ground.*
decisions, just do whatever people made, a common sentiment was:

I used to get bashed, dragged up and down the street. It affected all the choices I made.

Sense of self is damaged and weakened – you lose the capacity or strength to have autonomy, agency and free choice – this feeling stays with you for a long time after the trauma and experience of domestic violence – you struggle to make your own decisions, just do whatever people ask/tell you to do – I don’t think I said ‘no’ for many years.

It was at this point in the conversation that use of alcohol and drugs, violence and offending became intertwined. Regardless of whether drugs were used prior to the relationship or a reaction to the violence, for women who offended, it became part of their response:

I didn’t choose drugs to party, to have fun. I chose them to combat the demons in my head. When I stopped taking drugs I went to a dark place.

The only time we were happy was when we were off our heads.

Use of drugs would then lead to contact with police:

I got involved with the wrong blokes and started getting into trouble, my man used to go out and get the money and get the drugs, but when he got locked up I had to do it myself, and then I got pinched.

Some women would also react violently in response to the violence they were experiencing which led to them being the victim and offender:

I physically fought back because that was all I knew. You had to know how to fight back in there (group home) or you might not survive.

In an unhealthy relationship you can’t talk to each other about your problems, so I’ll go out and get drunk and he’ll go and drug up and we’ll come back later and start a fight and it can get out of control. People are always yelling, knives can come out, glasses get broken, and then the cops get involved.

Making changes

Women do make the break and move on with their lives. However, this can be a long and difficult process. As one woman said: change is hard, it’s a very scary decision to make. When asked what helped women leave violent relationships, the trigger was different for each woman. An essential part of most stories of long-term escape revolved around recovery from drug addiction. Once in recovery they could cease their dependency on abusive relationships and networks that supplied their drugs and gave them companionship in their alcohol and drug use. The following comments were a response to how women moved away from domestic violence, but all women interpreted this in terms of how they took a decision to stop using drugs and alcohol:

I had been diagnosed with post-traumatic stress disorder – I had no idea until I talked to a psychologist.

Children – you have to be their rock.

Regardless of the support around you, you have to make the change in your life, make the change in your head. It’s hard. I’ve been lying in the gutter, bashed, needle hanging out of my arm. But I made the decision to change.

I wasn’t thinking about my kids, I wasn’t thinking about my health.

But seeing someone die in front of me, get stabbed to death really scared me.

I had no hope. I had lost my kids. I’m an ex-junkie. I’m a crim. I’ve been to prison. Then I saw a Koori girl working behind the counter at a service station, she had been a junkie too. I asked her how did she get a job? She said ‘I applied for it, you should too’. And that was what changed my mind, which was the turning point for me. Getting a job meant someone put their trust in me again.

I don’t think it was a conscious decision to stop [using and offending] and change my life, I just did it.

Someone fucking trusted me, you know? (Referring to a job offer) I was playing a new role, playing a part, pretending to be someone else in that job, I mean I was still me, but they didn’t know I was a crim and I wasn’t gonna tell them, there’s a lot of discrimination against ex-crim who are trying to get work, it was a spark fanned to turn into a flame.

Women’s discussion groups helped me a lot; it let me unpack my feelings and trauma. I opened up and started telling my story.

It got to the point where I felt I was going to die. I thought I’d end up dead somewhere, where no one could ever find me. I didn’t want to never see my mum again. Didn’t want my brothers and sisters to think of me as just another junkie and think I would choose drugs over them. I’m their big sister. That’s why I wanted to stop doing drugs. My wake up call was when my little brother came up to me when I got out and asked what happens if you die?

I went to a domestic violence education course, I learned a lot of important coping mechanisms and strategies for dealing with frustrations, now when a fight...
The women need a good transition centre, better than funding a fucking booklet.

Another booklet. No one’s going to bother to read it!

What would have helped?

An important goal of the focus groups was to learn how a new written resource could assist women experiencing domestic violence and the criminal justice system. Generally, they were initially dismissive of a written resource, but when questioned about where they sought information, a couple of publications were mentioned. The sources they sought had the following in common – credibility among the women as coming from others with similar experiences, easy to read and being seen as non-judgmental.

One particular woman in the focus group was very direct in what she thought women needed:

The women need a good transition centre, better than funding a fucking booklet.

Another booklet. No one’s going to bother to read it!

When women were directly asked where they went for information a few women referred to reading the Users News magazine, one woman commented ‘I know it is written by users’. The magazine Framed was also referred to as being easy to read and something they could relate to. The women in all the focus groups were shown many different samples of other DV publications and resources, some of the comments about these publications and suggestions about what type of resource should be made were:

Other comments from the group were:

Need to provide more facilities for women coming out of prison. Help women to up skill, work on their resumes, get a job and keep them in regular contact with their kids – get the family reunited again. Women are estranged from their kids and family because of jail. It can affect the kids more than the mums themselves.

I need to talk to people who have been there and done that. Others treat me like a piece of shit – I tried to report a sexual assault to the police and they just asked about my drug use instead of listening. CAMS (Centre of Addiction Medicines) in Parramatta are run by people who were ex-users they are easy to relate to, but too far away.

These girls need someone who has been there to show them there is a light at the end of the tunnel.

My daughter doesn’t need people bullshitting to her like oh yeah we can help you but I just ask them HOW? A booklet isn’t going to help my daughter; she needs one on one support.

The Family Handbook… does not appeal at all – too thick, too much like a service provider book.

If it doesn’t get my attention, if it doesn’t captivate me in the first two pages I wouldn’t continue reading it.
Many women liked the NSW Women’s Legal Service “Domestic Violence Advocacy Service” resource; the women thought its purpose was clear by the cartoon picture on the front page, which showed a woman on the phone. For them it meant, ‘if you’re in trouble, you want to get legal advice and some one to talk to.’

The women across all focus and discussion groups were emphatic and unified in what content and presentation was needed and what would work:

- The resource should have a magazine format with lots of colour and images, similar to women’s magazines, and should reflect the street savvy style of its audience.

- The women identified that women support one another in difficult times by sharing understanding and stories informally. Therefore, the magazine should be ‘written by the women for the women’ ensuring the voice of women with lived experience is clearly reflected back to its community.

- The magazine should have minimal information pieces interspersed with various interactive pieces such as puzzles, quizzes, spot-the-difference, graphic stories, and action plans as well as some phone numbers at the back.

- It was strongly recommended that no images of police or authorities be represented on the cover.

By working closely with women who have experienced domestic violence and the criminal justice system, WIPAN recognised that there are strong similarities in how prison and abusive partners can use power and control to manipulate women into submissive or compliant roles.

Through first person story telling, interactive pieces and graphic stories the final DV resource as a magazine illustrates how these controlling dynamics diminish a woman’s autonomy and sense of self. The purpose is to support readers to recognise these factors in their own life and navigate their own course out of the cycle of domestic violence and prison.

The women found it empowering to be involved in creating the resource. Their attitudes towards the project and the actual resource changed from beginning to end. All women consulted and involved gave their final approval and consent to what is now printed and submitted as the final DV resource, a magazine titled The Long Road to Freedom: A guide for women to escape the cycle of domestic violence and jail. On a broader level the project provided the women participating with skills and confidence in a community development environment, which also promoted social inclusion.

Further the women advised that the WIPAN mentoring program was a crucial support system for women in their transition from the criminal justice system and in supporting women to break the cycle of domestic violence. WIPAN mentee’s who were engaged and consulted in this project stated that the WIPAN mentoring program had been central to their success in not re-offending and in getting access to the social and community supports that assisted them in making considerable life changes, including leaving an abusive relationship.

Conclusion

WIPAN is very honoured and proud to have supported women in this action research project. To produce a resource the women believe speaks to women like themselves, who have experienced physical and emotional abuse, made poor decisions, been through the criminal justice system and may have abused alcohol and/or drugs. The key message for this project and for the women involved was to ensure their voices were heard and to inform other women, affected by the criminal justice system and domestic violence, that there is hope, that it is possible to make a better life and better choices. Every woman deserves support to achieve change in her life.

Undertaking this project, the research and production process, together with the final results have reconfirmed WIPAN’s commitment to ensuring that the voices of women with lived experience are central to any law reform or service development efforts. This is essential if this work is to be effective and have real, long lasting and positive impacts. Whilst the project did highlight the limited research, information and services available regarding certain client groups, (i.e. CALD women affected by the criminal justice system and domestic violence or disability), WIPAN were able to empower and provide essential skills to many marginalised women who would otherwise have not had this opportunity.

This report and the final domestic violence resource are a powerful example of how we can not only aid in the development of more effective resources but also be part of how researchers and services work with women in the criminal justice system in a supportive, constructive, inclusive and respectful manner. Further, it demonstrates that this process can itself be an important strategy for supporting criminalised and victimised women to have the confidence, skills and knowledge to control their own lives and make better life choices and solutions.
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