



NSW Law Reform Commission  
GPO Box 5199  
Sydney NSW 2001

By email: [nsw\\_lrc@agd.nsw.gov.au](mailto:nsw_lrc@agd.nsw.gov.au)

Dear NSW Law Reform Commission,

**Submission on the Question Papers on Parole**

Please find attached the Women in Prison Advocacy Network (WIPAN) submission on the parole question papers issued by the NSW Law Reform Commission.

Yours sincerely,

Kathryn Farrar & Kat Armstrong  
**Policy / Director**  
**Women in Prison Advocacy Network (WIPAN)**  
**18 December 2013**

## **Submission in Response to NSW Law Reform Commission**

### **Question Papers in relation to Parole**

**18 December 2013**

**Written and submitted by**

**Women in Prison Advocacy Network (WIPAN)**

PO Box 345, Broadway NSW 2007

T: 02 8011 0694 F: 02 8011 0690

E: [kat@wipan.net.au](mailto:kat@wipan.net.au)/[policy@wipan.net.au](mailto:policy@wipan.net.au)

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## 1. Introduction

Women in Prison Advocacy Network (WIPAN) is a grassroots community charity governed by women, including reformed ex-prisoners, dedicated to advancing the prospects and wellbeing of women and female youth affected by the criminal justice system. WIPAN addresses the many issues facing criminalised women and female youth both systemically, by advocating to improve the criminal justice system and individually, by mentoring. WIPAN know from experience that by providing women and female youth with gender-responsive social support, recidivism rates will be reduced and the burgeoning prison population will be minimised.

## 2. WIPAN's Experience with Persons in Custody

WIPAN's close and extensive work with women during their incarceration, and post their release, informs our submission. WIPAN has expertise in housing issues faced by women post release, education within the female centres and post release mentoring. Since May 2010 WIPAN have recruited, interviewed and trained women volunteers from the community to mentor 136 women released from prison. In 2012 WIPAN also started to mentor female youth.

Women in NSW are being incarcerated at an unprecedented rate (particularly Aboriginal and Torres Strait Islander Women), far surpassing that of men. They face unique challenges that are much greater and more complex than those of men.

There is a need to approach the issues of parole from a gendered perspective. While there are differences between each and every prisoner based on different dimensions of identity, what sets gender aside as particularly significant is that the prisons are organised along gender lines and their services and resources differ depending on the gender of the prisoner. This is then compounded with the particular forms of disadvantage generally experienced by women prisoners. WIPAN notes that Question Paper 6 considers juveniles. Similarly WIPAN argues that there is a need for NSWLRC to give separate consideration to parole for women.

The majority of women prisoners come from deeply disadvantaged backgrounds. Many report to having experienced incidence of past childhood and adulthood sexual, emotional and physical abuse. Women prisoners confront unique challenges as the primary carers for their children. As a consequence the emotional, social and economic costs for mothers, children and families can be extensive.

A gendered approach must be taken when considering parole. The Australian Institute of Health and Welfare's (AIHW) 2013 report *The Health of Australia's Prisoners 2012* paints a worrying picture of the women in detention. WIPAN would like to take this opportunity to reiterate some of the AIHW's findings:

- Females are less likely than males to be employed with unemployment rates of 69% compared with 46% prior to incarceration.<sup>1</sup>
- Females are also less likely to have employment organised prior to their release than males (10% and 31% respectively).<sup>2</sup>
- Female entrants face serious risks of homelessness, with 45% in emergency or short-term accommodation prior to incarceration compared with 26% of male entrants.<sup>3</sup>
- 56% of female discharges had been diagnosed with a mental health disorder compared with 44% of male discharges.<sup>4</sup>
- Female entrants were more likely than males to report high and very high levels of psychological distress (44% compared with 29%).<sup>5</sup>
- Whilst in prison, data from one day shows 44% of women were taking a prescription mental health medication, compared with 23% of men.<sup>6</sup>
- Nearly twice as many women than men have a history of self-harm (28% compared with 15%) and recent thoughts of self-harm (19% and 10%).<sup>7</sup>
- Women have higher rates of testing positive for hepatitis C than men (34% compared with 21%).<sup>8</sup>
- 3% of women entering prison in 2011-2012 were pregnant.<sup>9</sup>
- Women in prison use illicit drugs differently to men, with more 14% women reporting use of ecstasy, 20% heroin, 30% tranquillizers, 38% analgesics and 44% methamphetamine (44%) than men in prison (respectively 9%, 14%, 15%, 15% and 36%).<sup>10</sup> More women (56%) than men (42%) reported previous or current injecting drug use.<sup>11</sup> 80% of female prisoners are daily smokers.<sup>12</sup>

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<sup>1</sup> The Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2012*, Catalogue No PHE 170 (2013) 22.

<sup>2</sup> Ibid 23.

<sup>3</sup> Ibid 27.

<sup>4</sup> Ibid 36.

<sup>5</sup> Ibid 39.

<sup>6</sup> Ibid 45.

<sup>7</sup> Ibid 48.

<sup>8</sup> Ibid 54.

<sup>9</sup> Ibid 71.

<sup>10</sup> Ibid 77.

<sup>11</sup> Ibid 78.

<sup>12</sup> Ibid 84.

- Females report alarmingly higher rates than males of being subject to sexual violence since the age of 16 (29% compared with 2%).<sup>13</sup>
- 22% of women report engaging in sexual activity with a partner who threatened violence.<sup>14</sup>
- Two thirds of women in prison have been in at least one violent relationship (66% compared with 28% of men).<sup>15</sup>
- 45% of women reported a partner engaging in abuse or control in the year prior to their incarceration.<sup>16</sup>

Due to the increasing rate of imprisonment of women, WIPAN is of the opinion that a gendered approach is necessary in this area of law reform.

### 3. Our Submission in Summary

WIPAN will address aspects each of the five Parole Question Papers within this submission. The submission will be structured in order of the questions as presented in the Question Papers with their original numbers. Only the questions of particular relevance to women will be considered in WIPAN's submission.

WIPAN is concerned that too little consultation has taken place with the people most directly affected by parole, that is, the parolees themselves. People with lived experience of parole can provide the greatest insight into what aspects of the parole system works and what does not, yet they have not been directly involved in these discussions. Parolees and prisoners must be included in the submission process, and WIPAN recommended circulating and reaching out to those most directly affected by the areas within the scope of this potential reform.

WIPAN is concerned about the programs offered to women in custody. The sentencing judge can make recommendations about the programs a person needs to undertake to address their offending behaviour, yet it is the experience of WIPAN that these recommendations are not pursued and the programs do not exist. Likewise, educational programs within the female correctional centres are not such that they provide meaningful skills for women for their release.

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<sup>13</sup> Devon Indig et al *2009 NSW Inmate Health Survey: Key Findings Report* (Justice Health, 2010) 131.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid 131.

<sup>16</sup> Ibid 70.

There must be a wraparound, holistic gendered approach for people participating in programs in custody and when released on parole to ensure time spent in custody is time well spent.

## 4. Submission

### QUESTION PAPER 1

#### Question 1.1: Retention and objectives of parole

##### **(1) Should parole be retained?**

WIPAN supports the continuation of parole and agree that it can be an incentive for participation in rehabilitative programs and a valuable support on reintegration. WIPAN believes that there should be an increased focus on the rehabilitative aspects of incarceration from the time a person is taken into custody, (not just toward the end of their incarceration). Support needs to be provided to people to address their criminogenic needs throughout their sentences, and then for the duration of their parole.

The female prison population is only a small percentage of the overall population. In NSW the average daily number of women in prison is 702, in contrast to the 9199 average daily number of men in prison.<sup>17</sup> While representing a low percentage of the prison population, it is alarming that women are the fastest growing population in prison.

Support programs are not being delivered sufficiently to the female populations. As this population of high needs prisoners continues to increase, the lack of support available to them will negatively impact their ability to be empowered to successfully transition back to society. Corrective Services must not be deterred by the cost of implementing services to the smaller groups of women in the prisons.

Parole provides the opportunity to continue to support women on their reintegration. Women often lack the support mechanisms necessary to successfully settle back into society, and a good parole officer can have a substantial impact on reintegration.

##### **(2) If retained, what should be the objectives of the parole system in NSW?**

The objectives of parole should be:

- Empowerment
  - To empower offenders to reintegrate into society in a positive way

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<sup>17</sup> Australian Bureau of Statistics, Corrective Services Australia: March Quarter 4512.0 (13 June 2013) 14

- Encouragement
  - To encourage offenders to participate in rehabilitative programs to address their offending behaviour(s).
- Supervised Release
  - To provide individualised supervised release to assist parolees in their re-integration to society.
- Protection
  - To protect society from the effects of re-offending

**(3) Should there be an explicit statement of the objectives or purposes of parole in the Crimes (Administration of Sentences) Act 1999 (NSW)?**

Yes. An explicit statement of the objectives and purposes of parole should be included in the *Crimes (Administration of Sentences) Act 1999* (NSW) (CAS Act). The State Parole Authority (SPA) should have legislated reference to the objectives and purposes of parole and be guided by these principles when making parole decisions.

**Question 1.2: Design of the parole system**

**(3) Does there need to be a mechanism to ensure supervised reintegration support for offenders serving short sentences? What should such a mechanism be?**

The majority of women in custody are serving short sentences of six months or less.

WIPAN objects to subjecting people who have served short sentences to punitive community supervision on their release. WIPAN would like to take this opportunity to emphasise the importance of positive support for people once they have been released.

WIPAN's mentoring work highlights the success of reducing reoffending with positive support for women on their release. The WIPAN Mentoring Program aims to encourage the mentee's autonomy, support their community reintegration and promote their overall wellbeing. The program is aligned with a strengths based perspective. Mentoring and positive support can bring about genuine and profound change. Non-judgmental practical and emotional support at a time of significant transition, such mentoring should be the mechanism for ensuring supervised reintegration support is available for offenders serving short sentences.

**QUESTION PAPER 2**

**Question 2.1: Membership of SPA**

**(1) Does the balance of members on SPA or SPA's divisions need to be changed in any way?**



The SPA is presently required to consist of four judicial members, one police officer, one Probation and Parole Service Officer and 10 community members. WIPAN believes the balance of members on SPA needs to be changed to include members with lived experience.

There needs to be at least one person involved in the decision-making process regarding parole who has personal experience of incarceration and the parole process. They are uniquely positioned to be able to share their knowledge and perspectives of women with lived experience of imprisonment and successful reintegration and rehabilitation.

As there is a high Aboriginal and Torres Strait Islander (ATSI) population within NSW's correctional facilities, WIPAN recommends including at least one ATSI member. Likewise, with high representation of culturally and linguistically diverse in incarceration, the community members should include CALD representatives.

A new balance should include:

- At least one member with lived experience;
- At least one member who identifies as Aboriginal and Torres Strait Islander; and
- At least one member of a CALD background.

### **(3) Should SPA's community members be representing the community at large or be representing specific areas of expertise?**

WIPAN questions the ability to represent the community at large with ten members. WIPAN recommends these members should represent more specific areas of expertise, including professionals in the fields of social justice, criminology, sociology, and medical practitioners who can provide educated perspectives on parolees and their parole needs. The ten community members must not fall into one of the other proscribed categories. The recent appointment of a former police officer and former Corrective Services Commissioner as community members, rather than in their capacity as other categories of members, unfairly shifts the balance of the SPA and should not be permissible.

WIPAN also recommends a gender-balanced approach to the members of the SPA and women should be represented in the membership.

## **QUESTION PAPER 3**

### **Question 3.1: The public interest test**

**Should the current public interest test in s 135(1) of the CAS Act be retained, or does the Queensland test, or something similar, better capture the key focus of the parole decision?**

In its current wording, this section fails to take into consideration the potential that a parole order has to offer a level of support to a person on their release to reduce the risks associated with reoffending. WIPAN is concerned that the provision fails to recognize the parolee.

The Parole Authority should also be satisfied that the release of the offender is in the best interests of enabling the offender to be released and discontinue any patterns of reoffending.

### **Question 3.2: The matters that SPA must consider**

#### **Should any matters for consideration be added to or removed from the lists in s 135(2) and s 135A of the CAS Act?**

Women's circumstances must be taken into consideration by the SPA when determining parole. WIPAN regrets that there has not been broader consultation with people within NSW's correctional facilities, and current and previous parolees. The people who have, or will be, directly affected by parole decisions should be afforded a voice in the process and considerations of their release.

Monitoring and supporting parolees in the community is more cost effective than imprisoning them. The cost benefit of releasing offenders at the earliest possible release date is in the public interest. In WIPAN's experience the longer a person is detained decreases their ability to successfully reintegrate without higher levels of support.

A safer community can be achieved with effective levels of support for a person on their release. Due to the considerable lack of support for women, more emphasis and resources need to be directed to assisting women on their release. If a woman is committed to making a real change, WIPAN's mentoring program is able to make substantial contribution to the success of their rehabilitation. WIPAN's mentoring program has kept 116 women out of prison, representing almost 80% of all women assisted. Overall the recidivism rate for women released from prison is approximately 42%.

Consequently, WIPAN recommends that the offender's willingness to participate in mentoring programs should be considered when determining parole.

### **Question 3.3: Specific issues given weight by SPA**

#### **(1) Should any changes be made to the way SPA takes completion of in-custody programs into account when making the parole decision? If so, how?**

WIPAN is informed by our contacts and mentees that access to in-custody programs within the female prisons is under-resourced and often insufficient in addressing the needs of the women. Additionally a woman's inability to complete an in-custody program may not reflect her desire to complete an in-custody program. Rather it may suggest that there was not the opportunity to attend.

SPA should consider whether or not a woman has not completed a program due to a lack of programs. While this lack of programs tailored for females is primarily a concern for Corrective Services to address, the SPA must give weight to a person's interest in completing an in-custody program.

**(2) Should any changes be made to the way SPA takes homelessness or lack of suitable accommodation into account when making the parole decision? If so, how?**

WIPAN conducted extensive research on the housing needs of women leaving prison in NSW. Women are at greater risk of homelessness than men prior to and post release. In the experience of WIPAN coordinators, the private rental market is virtually impossible for women exiting prison to access. Instead, women rely on short-term and often unsuitable accommodation until community or public housing is available. The services women receive on release are insufficient for the high needs women have.

A lack of a home address penalises women when they are not afforded parole. In an attempt to have their parole approved, women are falling straight back into the complex situations that led them to crime in the first instance. WIPAN is aware of multiple cases of women who have returned to abusive ex-partners with drug dependence so as to not remain in custody.

The system is unfairly penalising women at risk of homelessness rather than supporting them. And this same system is perpetuating the cycle of crime.

All the research shows that if women are given post release support they are less likely to reoffend. The SPA should only take homelessness into consideration when making a parole decision insofar as to connect women to support agencies to reduce their risk of homelessness and thus reoffending.

**Question 3.15: Offender involvement and input into SPA decisions**

**(1) Should there be more scope for offender input and submissions to SPA at the first stage of the decision making process (ie the private meeting where a decision is taken or an initial intention formed)?**

WIPAN supports an increased scope for offender input and submissions to SPA at all stages of the decision making process. The individual must be given the opportunity to demonstrate their readiness for parole. They must also be given the chance to provide the information that the SPA requires in order to make the decision regarding their parole.

WIPAN's position is that it is essential to the rehabilitation and reintegration process for women to empower them in the decision making process. This includes providing input and making submissions regarding their parole decision.

## QUESTION PAPER 4

### Question 4.1: Case management of offenders in custody

**How could case management of offenders in custody be improved to ensure that any issues that may impede successful reintegration on parole are identified and addressed?**

Case management of offenders in custody could be improved. As women typically receive short sentences, making case management services available as soon the person is taken into custody would be prudent.

At sentencing the Judge can make a raft of recommendations with respect to programs a person should access once in custody. However, it is WIPAN's experience that there is a total disconnect between these recommendations and the services made available inside the centres.

Individuals have minimal time with their case managers and welfare officers. In each of the major female correctional centres, Dillwynia, Silverwater and Emu Plains, there are only two welfare officers for each centre holding over 200 women. This lack of services could be improved. There is a lack of services available specifically for women.

Case Management could be improved by redefining the role of the case manager. Presently a parolee's case manager is providing two, conflicting, roles. Case managers cannot effectively assist the women in a supportive role while they also have a coercive role. They cannot develop trusting relationships, and women simply will not tell their case manager about social concerns whilst there is a threat of punishment.

Case management and welfare services cannot be effectively provided by a prison officer.

### Question 4.3: Custodial rehabilitation programs

**(2) How could offenders be given sufficient opportunity to participate in in-custody rehabilitation programs?**

The reduced availability of in-custody rehabilitation programs for women is discriminatory and has a negative effect on their rehabilitative prospects.

In-custody case management and programs must become available to women at the time of their incarceration, not after their sentence. Approximately 32% of women in custody are on remand with no access to the rehabilitative programs that could improve their prospects for reintegration on parole. WIPAN is aware of people who have no opportunity to participate in programs by the time they have been

sentenced. This does nothing to assist them with the process of rehabilitating and the prison time serves only as a punishment.

The whole of the custodial period is a time which should be used by Corrective Services to increase the likelihood and ability for the person to be able to be successfully released and able to reintegrate. Once a sentence has been received, it applies to include the time spent on remand and frequently women are not sentenced for long enough periods to have access to in-custody rehabilitation programs at all.

In instances where women have received longer sentence, the in-custody rehabilitation programs still often remain outside their reach. People are interested in participating, but the women have no control over when or where a program will be conducted.

In sentencing Judges can make recommendations for a person to attend multiple programs in order to address offending behaviour. These measures include sexual assault counselling, education, AOD, parenting courses, relapse prevention, anger management and self-esteem programs. The opportunity for women to actually participate in these programs simply does not exist once they are in custody.

Access to technology in cells could alleviate the problems associated with providing in-custody programs across multiple locations. Technology has the potential to tailor programs to individuals and provide increased number and range of rehabilitation programs.

#### **Question 4.4: Access to education and work programs in custody**

##### **(1) What education and work programs would boost offenders' employability and improve their prospects of reintegration when released on parole?**

WIPAN has recognised access to education and work programs for women in custody have two clear limitations.

1. Women are not given the same opportunities as men in custody, as they represent a smaller proportion of inmates; and
2. There is a financial disincentive for women to participate in any educational programs when they can earn more participating in industry.

In both education and industry, WIPAN is concerned that the skills acquired are not such that they will increase their employability or prospects of reintegration.

WIPAN receives numerous complaints from women across NSW regarding the low levels of access to education and work programs. Again, this is a question that WIPAN would like the NSWLRC to pose to the women in custody to see what programs they believe would be of benefit to them.

Access to education and work can provide essential skills for the women on their release that would boost their employability and ability to successfully transition.

WIPAN questions some of the educational programs offered to women whilst they are in custody. The provision of art and pottery classes, while therapeutic, do not equip the women with information and life skills to assist them on their release. As a smaller group within the prison population, women experience discrimination on the grounds of their sex with respect to the educational programs offered to them.

Educational programs aimed to maximise post-release employment is a feature of best practice for the rehabilitation and reintegration into community post-release.<sup>18</sup> Literacy and continuous learning programs have been included in a suggested 'good practice model' for women in order to facilitate rehabilitation and reduce recidivism.<sup>19</sup>

Women's education opportunities should be developed to enable them to gain skills whilst in detention, particularly in areas that may be considered non-traditionally female, such as computing.<sup>20</sup> A study revealed that many women exiting the criminal justice system want to be self-employed so as to avoid the stigma and discrimination from being an ex-prisoner, which further emphasises the need to provide training and education in areas like computing.<sup>21</sup>

Education that continues post-release can also help reduce recidivism,<sup>22</sup> and ease the transition from custody to the community. This can be pursued through increased enrolment in courses and programs offered externally whether through TAFE, University or OTEN. Access to these courses and programs is incomplete without access to technology to ensure women can perform competitively against other students not in custody. Women need increased access to education and

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<sup>18</sup> Tamara Walsh, 'Is corrections correcting? An examination of prisoner rehabilitation policy and practice in Queensland', *The Australian and New Zealand Journal of Criminology*, 39(1) April 2006, pp 109-133.

<sup>19</sup> Lorana Bartels and Antoinette Gaffney, 'Good Practice in Women's Prison: A Literature Review' (Technical and Background Paper No 41, Australian Institute of Criminology, 2011) 24.

<sup>20</sup> *Ibid* 13.

<sup>21</sup> Callan V & Gardner J 2007. The role of VET in recidivism in Australia, in Dawe S (ed), *Vocational education and training for adult prisoners and offenders in Australia*. Adelaide: National Centre for Vocational Education Research cited in Lorana Bartels and Antoinette Gaffney, 'Good Practice in Women's Prison: A Literature Review' (Technical and Background Paper No 41, Australian Institute of Criminology, 2011) 31.

<sup>22</sup> Lorana Bartels and Antoinette Gaffney, 'Good Practice in Women's Prison: A Literature Review' (Technical and Background Paper No 41, Australian Institute of Criminology, 2011) 40.

meaningful employment opportunities, both pre and post-release, as a measure to reduce recidivism and prevent their re-entry into the criminal justice system.<sup>23</sup>

Inmates in corrective services receive weekly wages for their domestic work; work in industry or participation in education. These weekly wages are based on a 30 hour working week and the money received is used in weekly 'buy up's of groceries and personal items. This is a prohibitive difference in income earning abilities.

Women doing fulltime education earn from \$17.67 to a maximum of \$34.77 per week.<sup>24</sup> Women doing domestic work can earn up to \$51.12 per week.<sup>25</sup> A woman working in industry contracted by CSI has an earning potential up to \$80.00 per week.<sup>26</sup> The industry work the majority of women do in prison is packing headsets for airlines. This work provides them with no transferrable skills for their release but has the highest level of pay.

Women lack the support networks of their partners, which many of the male prisoners receive. WIPAN's experience is that the male partners of women do not economically support the women while they are in custody. 90% of the WIPAN Mentees say that they have only one or no person in their lives they can rely on. Women are therefore in a position where it is imperative for them to earn as much as possible to buy their toiletry products and other small purchase items available on the buy up list.

NSW's Attorney General, Mr Greg Smith, has commented on how essential education is for successful rehabilitation, stating that 'unless they get that experience somewhere, they will be in a vicious circle and will keep coming back'.<sup>27</sup> Yet there is no financial incentive for women to participate in study or education.

This financial discrepancy should be removed and the same rate of pay should be awarded regardless of which activity the woman chooses to better increase her chances of being employed once released on parole.

Educational programs need to be promoted and women who undertake programs need to be supported to do so. Any educational program undertaken needs to be considered in parole applications.

#### **Question 4.5: Short sentences and limited time post-sentencing**

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<sup>23</sup> Ibid 11.

<sup>24</sup> Letter from Peter Severin, Commissioner, to Kathryn Farrar dated 24 May 2013, 6.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Michaela Gray, Interview with Greg Smith, NSW Attorney General (Television Interview Nowra, 13 December 2012) <http://www.gregsmithmp.com.au/intensive-learning-centre-young-offenders-success>.

**How could in-custody case management for offenders serving shorter sentences be improved to reduce reoffending and improve their prospects for reintegration on parole?**

WIPAN again suggests this question is of particular importance for women, who typically receive shorter sentences. Limiting in-custody case management for those in custody on short sentence is indirectly discriminatory as there is less support for women.

All offenders should have the opportunity to engage in in-custody case management and have access to custodial planning to assist their prospects of reintegration.

Please see our responses to Questions 4.1 & 4.3.

**Question 4.6: Pre-release leave**

**(1) How could pre-release leave programs be improved to prepare offenders sufficiently for life on parole; and ensure offenders can access pre-release leave prior to parole?**

Pre-release leave can reduce the impact of release, and assist with the reintegration process. Pre-release programs could be extended to female inmates to assist them sufficiently prepare for life on parole. As per the Question Paper on page 19, pre-release leave is particularly suitable for women, as high proportions of women are classified at the lowest classification level.

However, WIPAN's mentoring coordinator has had no experience with a woman who has been able to access pre-release leave. While the opportunity for women ought to exist, particularly given their classification, it does not.

WIPAN is supportive of these programs and regrets that they are unavailable in practice to women in custody.

Please see our responses to Questions 4.1, 4.3 & 4.4

**Question 4.7: Transitional centres before release**

**(1) How effective are transitional centres in preparing offenders for release on parole?**

WIPAN supports using transitional centres for preparing women for their release. The transitional centres help the women find employment in the community, easing their transition. They are also effective in developing the community ties and connections with services, such as WIPAN's mentoring service, that can provide positive support.

**(2) How could more offenders benefit from them?**



More offenders could benefit from transitional centres if there was increased resources and availability within the centres.

Bolwara House in Emu Plains can only accommodate up to 16 women. Children are not permitted there and it provides specialist drug and alcohol programs targeting ATSI women.

Parramatta Transitional Centre only accommodates up to 21 women. Whilst it has capacity to house children, there can only be up to four children there full time. The focus of Parramatta Transitional Centre is on white-collar crime offenders. More people could benefit from the centre if it focussed on serial recidivists, people who have already been through the system and failed to successfully reintegrate.

#### **Question 4.8: Back-end home detention**

##### **Should the Corrective Services NSW proposal for a back-end home detention scheme, or a variant of it, be implemented?**

Back-end home detention scheme shifts funding from Corrective Services but has a destructive effect on families, who are then required to act the part of prison warden. The families of people in back-end home detention are also punished, and have to become those responsible for ensuring the detained person does not commit any offences.

Back-end home detention presents different problems for women. There is a lack of housing for women and high rates of corresponding homelessness and sleeping rough. Close to half of all women entering custody reported having a domestic violent relationship in the 12 months prior to incarceration.<sup>28</sup> Women do not have the necessary social or family support networks for an effective implementation of back-end home detention schemes.

Back-end home detention must ensure the gender specific issues of women are considered. Rather than be given a custodial sentence it would be beneficial to provide women with appropriate community support to allow them to maintain their relationships with their children.

#### **Question 4.11: Planning and preparing for release to parole**

##### **How could release preparation be changed or supplemented to ensure that all offenders are equipped with the information and life skills necessary to be ready for release to parole?**

The WIPAN mentoring program report identified that there is a significant lack of support services available to specifically address the various underlying traumas

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<sup>28</sup> Devon Indig et al . *2009 NSW Inmate Health Survey: Key Findings Report* (Justice Health, 2010) 70.

experienced by women in the criminal justice system. See our response at question 4.3.

Release preparation should begin at the time a woman is taken into custody. WIPAN receives reports from women that they receive no release preparation until just before they are due to be released. They are having a completely passive experience in custody and are not being equipped with any information or life skills to be ready for release.

The whole of their time in custody should be used to assist in their rehabilitation. Presently women receive an exit checklist. Yet another booklet is insufficient support for people to plan their release. Women need structured and individualised assistance to prepare for their release from the outset of their incarceration.

Pre-release planning must be integrated with social and community support programs that can assist women on their release. Increasing community access to prisons can assist with maintaining relationships and support for the inmate to be there for them on release. Men who go to prison are more supported by their female partners and families on the outside who visit the men throughout their sentences. In contrast, the male partners of women who are incarcerated typically do not wait for them and do not visit them as frequently.

WIPAN mentors connect with women who would like to become mentees prior to their release, which assists with a soft transition when they are released on parole. The mentoring relationship can help with developing the life skills necessary for being ready for release.

Women need to be connected with Housing NSW well before their release date to ensuring they are placed on the housing lists well before they are released. Corrective services should arrange for transport for women when they are released so they have a way to get from the suburban correctional centres to their accommodation.

Again, WIPAN would like to reiterate that this is a question that could be most effectively answered by women who have experienced release on parole. They can provide the most informed responses as to what services they need that are not being provided.

#### **Question 4.13: Intensity of parole supervision**

##### **(1) Are there any improvements that need to be made to the intensity of parole supervision in terms of levels of monitoring and surveillance?**

The level of monitoring and surveillance should be individualised to the particular parolee, and it must taper off. It is important to provide a decreasing level of monitoring as the parolee progresses through their parole period. The transition from parole should not be a significant one, as throughout the period the monitoring

levels should be gradually decreasing.

**(2) How could the intensity of parole supervision be changed to strike the right balance between:**

- (a) monitoring for breach; and**
- (b) directing resources towards support, intervention and referrals to services and programs?**

Parole supervision needs to be supportive rather than punitive. Presently the balance between monitoring and support is not working. Parole supervision is implemented in a manner that punishes negative behaviour while providing no reward or incentive for positive behaviour.

Parolees cannot seek the support they need from a person who is in a position to have their parole revoked. A person cannot effectively provide the support parolees need to readjust with such a degree of power over them. A parolee may require drug or alcohol counselling support but is unlikely to seek this support from a parole officer who can respond by revoking their parole on the grounds of drug use. Parolees cannot seek support or confide in a parole officer who is also monitoring them for breach.

There can be no effective balance between these roles while they are conducted by the same person. Mentoring can provide the level of support for the women on parole, without threat of retribution, while parole officers can continue to conduct their monitoring.

#### **Question 4.17: Workload and expertise of Community Corrections officers**

**(2) What are the arguments for and against Community Corrections implementing specialist case managers or specialist case management teams for certain categories of offenders?**

WIPAN supports having specialist case managers for female offenders, as women have different needs to other offenders. Two thirds of women in prison have been in at least one violent relationship,<sup>29</sup> they are more likely than men to report high and very high levels of psychological distress and mental health issues,<sup>30</sup> have higher levels of drug and alcohol addiction,<sup>31</sup> are more likely than men to be the primary caregiver of children and to have experienced trauma.<sup>32</sup>

The following case study from a WIPAN mentee indicates the interconnectedness of the issues specifically relating to women.

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<sup>29</sup> Devon Indig et al, 131.

<sup>30</sup> The Australian Institute of Health and Welfare, 39

<sup>31</sup> The Australian Institute of Health and Welfare

<sup>32</sup>

### Case Study: Jenny

Jenny [not her real name] is a 33-year-old woman who grew up in a violent home with migrant parents. As well as childhood trauma, Jenny lived in a violent relationship with a partner and experienced adolescent and adult sexual assault.

Jenny first started using illicit drugs at age 12, and was 17 when she first used heroin. When she was 19, Jenny had a baby boy who she mothered until her estranged sister took custody and care of her son when he was four years old.

Jenny was diagnosed and treated for a number of mental health issues, including suicidal ideation, depression, self-harm, anxiety, and drug-induced psychosis.

Jenny served four custodial sentences for fraud and theft, which were committed in order to support her heroin dependency. The longest period between sentences was three weeks.

### **(3) If specialist case management were to be expanded, what categories of offenders should it apply to?**

The complexities of the issues experienced by women require a specialised, gendered approach. Corrective services should implement and train specialist case managers to be able to assist women parolees with their reintegration.

*‘ When I began the mentoring program I didn’t have any friends my own age, I wanted someone to talk to, and someone who would listen to me, and someone who wouldn’t judge me...I was in rehab & my life was uncertain, I was fighting an addiction, my husband was in prison and I had lost my daughter to DoCS, there was no light at the end of the tunnel’*

*WIPAN Mentee - Melissa*

### **Question 4.18: Housing for parolees**

#### **(1) What changes need to be made to ensure that all parolees have access to stable and suitable post-release accommodation, and that post-release housing support programs are effective in reducing recidivism and promoting reintegration?**

Risk of homelessness on release is of serious concern to WIPAN. WIPAN has published a report on the housing needs of women leaving prison in NSW.<sup>33</sup> This report can be accessed [here](#).

Women have different housing needs to men whilst on parole. They have a

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<sup>33</sup> Brenda Bailey, ‘Dreaming of a Safe Home’ (August 2012), <[http://www.wipan.net.au/publications/WIPAN\\_Dreaming\\_of\\_a\\_Safe\\_Home\\_WEB.pdf](http://www.wipan.net.au/publications/WIPAN_Dreaming_of_a_Safe_Home_WEB.pdf)>.

particular need to have 'safe' housing, which has been identified as being located away from violent ex-partners, away from damaging relationships and drug abusing friendships. Additionally, women who are the primary caregivers for their children also need their housing to be near the health and educational services required by their children, as well as any family support they may have. Women prisoners are at a greater risk of homelessness than men prisoners both prior to and post their release.<sup>34</sup>

All participants in WIPAN's housing research indicated that the Community Restorative Centre's Targeted Housing and Support Service was the best model for post release housing.<sup>35</sup> This service engages with women prior to their release to reduce the chances of exiting into rough sleeping.<sup>36</sup> However, limited by funding cuts and a broad range of services, Community Restorative Centre was only able to assist 47 of the women who were released from prison in 2012-3 with targeted housing and support services.<sup>37</sup> Demand for this service far exceeds the resources of CRC.

It is common practice for prisoners to lie to the SPA in order to establish that they have appropriate housing in order to be released. This starts out their life deceitfully. Alternatively, women return to violent relationships in order to be released on parole.

Early pre-release planning and contacting Housing NSW to arrange community housing early can address these concerns.

Women face considerable challenges organising suitable post-release housing. Women with a criminal record experience discrimination in applying for housing. Current Discrimination Legislation is inadequate for protecting parolees from this discrimination and the only recourse available to them is filing a complaint with the Australian Human Rights Commission. Including criminal records as a ground for discrimination under the NSW *Anti-Discrimination Act 1977* (NSW) would go towards alleviating an aspect of the inaccessibility of parolees to obtaining accommodation, and put parolees on an equal footing with the rest of the community of which they are a part.<sup>38</sup>

Whichever form of housing a women is planning on having when out on parole, there must be planning pre-release to minimise the risk of homelessness or the return to domestically violent relationships. Community housing workers recognise

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<sup>34</sup> Australian Institute of Health and Welfare, 27.

<sup>35</sup> Brenda Bailey, 'Dreaming of a Safe Home' (August 2012), <[http://www.wipan.net.au/publications/WIPAN\\_Dreaming\\_of\\_a\\_Safe\\_Home\\_WEB.pdf](http://www.wipan.net.au/publications/WIPAN_Dreaming_of_a_Safe_Home_WEB.pdf)>.

<sup>36</sup> <http://www.crcnsw.org.au/services/thass>

<sup>37</sup> Community Restorative Centre, Annual Report 2012-2013 ,28

<sup>38</sup> James Farrell, *Discrimination on the Basis of Criminal Records: The Need for Reform* (14 March 2012, Deakin Speaking, Deakin University) <<http://communities.deakin.edu.au/deakin-speaking/node/273>>.

this, and complained to WIPAN during the course of their research about a lack of support for parolees and prisoners in accessing stable and suitable post-release accommodation.<sup>39</sup>

*'We have a waiting list, so if women are only referred to us at the end of their sentence, when they come out of gaol they have to go at the end of the waiting list, we have no hope of helping them then. If they could be referred while in prison we could begin point of contact much earlier.'*

*'We get the occasional call from a welfare officer but there doesn't seem to be any real exit planning.'*

*'Too many services are not available for women when in prison because they have short sentences and therefore not eligible.'*

*'Support needs to happen pre-release. Prisoners need intensive case management to make plans to manage their housing situation and other aspects of managing their lives on release. The tenancy should depend on a plan being developed. We need a case management approach.'*

*'The key is the communication from the prison, it actually is the responsibility of the prison to initiate that, to prepare prisoners for release. They are the ones who know the date of release, no one outside can do anything if we don't get the information from them.'*

#### **Question 4.19: Programs for parolees**

##### **(1) What level of access should parolees have to rehabilitation and other programs while on parole?**

Programs need to be available to parolees as soon as they are released and programs need to be provided with flexibility.

WIPAN mentees have identified that the first two months post-release is the most critical period for support.<sup>40</sup> It is essential that parolees have access to rehabilitation and relevant programs and support at this critical time when they are released.

However, as a result of lacking pre-release planning, there is frequently a gap between when people are released and where the services are provided. The onus is entirely on the parolee to attend any meetings as required by the parole officer, but no corresponding onus on the parole officer to ensure these meetings are arranged at the appropriate time.

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<sup>39</sup> Brenda Bailey, 'Dreaming of a Safe Home' (August 2012), <[http://www.wipan.net.au/publications/WIPAN\\_Dreaming\\_of\\_a\\_Safe\\_Home\\_WEB.pdf](http://www.wipan.net.au/publications/WIPAN_Dreaming_of_a_Safe_Home_WEB.pdf)>. 11.

<sup>40</sup> WIPAN, The Report Pilot Mentoring Program, page 7.

Mentoring programs are often overlooked when considering the level of access to support on parole and post release. Mentoring can address issues regarding social isolation and lack of positive social networks experienced by many women. A mentoring relationship boosts their confidence and empowers women to make responsible decisions for themselves in a supportive environment. Mentoring services are able to connect the parolee with the specific programs and services that will assist them in meeting their parole obligations, without the fear of repercussions from a parole officer a parolee might have.

A gendered response again must be considered when the parolee is a woman. This women with children face particular difficulties in attending pre-determined meeting times and their parole officers must be more flexible to deal with this. Services women are required to attend must be offered at various times throughout the day to address this.

People on parole must be consulted in this reform process to provide their personalised, lived experience of the programs and their appropriateness.