

# Build Communities, Not Prisons

## *Indigenous Women and the Australian Criminal Justice System*

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## **Introduction**

The following paper explores the issues surrounding the over-representation of Indigenous women in the Australian criminal justice system. It outlines the most well documented causal factors influencing high rates of crime and incarceration, and reports on the effects of incarceration; with consideration of Indigenous women themselves, and of the families and communities of women being imprisoned. The paper has been compiled with a view to reconciling the statistical data that is available with the findings of qualitative studies that have been conducted. This report does not offer a comprehensive analysis of the issues, but it is hoped that it might be a useful starting point for further research.

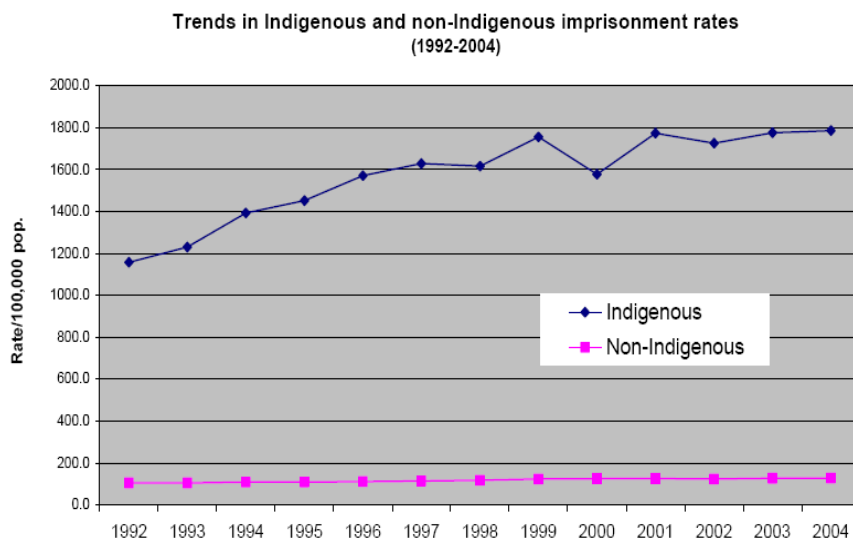
It is worth noting that there is a distinct lack of research exploring the particular issues facing Indigenous women in the criminal justice system. Research tends to focus either on women in the criminal justice system, or Indigenous people in the criminal justice system, and in either case, the issues specific to Indigenous women tend to be lost or ignored (Cunneen 2001, p.158). The Human Rights and Equal Opportunity Commission has highlighted the absence of literature and need for research on numerous occasions (HREOC 2002; HREOC 2004). According to the *Social Justice Report 2004*, the lack of research, and the resulting lack of detailed up to date statistical data, has meant that policy makers have been unable to gain a clear understanding of the issues specific to Indigenous women, and that as such, policies have failed to adequately address their needs (HREOC 2004, p.14).

## **Framing the Issue**

It has been more than 20 years since the Australian Federal Government established the Royal Commission into Aboriginal Deaths in Custody (RCIADIC). One of the most prominent conclusions of the Commission's inquiry was that the over-representation of Indigenous people in the criminal justice system was the direct consequence of the underlying social, economic and cultural disadvantage suffered by Aboriginal and Torres

Straight Islander peoples (Commonwealth of Australia, 2001). In 1992, the Keating Government accepted 338 of the Commission’s 339 recommendations, and allocated \$400 million to reducing Indigenous economic and social disadvantage. Despite this, the Government’s response had no effect on the rate of Indigenous imprisonment, and since the inquiry, imprisonment rates have continued to rise (Figure.1) (Weatherburn 2006). In 2007, Indigenous people made up 24% of the Australian prison population, whilst comprising only 2.4% of the total population (ABS 2007, p.6). According to the Australian Bureau of Statistics 2007 National Prisoner Census, Indigenous Australians were 13 times more likely to be in prison on the 30<sup>th</sup> June 2007 than non-Indigenous Australians (ABS 2007, p.6).

Figure1. Exact Copy from Source:



(Weatherburn, 2006, p.4)

In explaining the continued rise in imprisonment rates over the past 20 years, most argue that it reflects the failure to reduce Indigenous disadvantage. The Australian Bureau of Statistics (ABS) publication *Overcoming Indigenous Disadvantage* reported that in 2007, Indigenous people experienced poorer outcomes than non-Indigenous people on virtually all headline indicators (ABS 2008). This report took into consideration measures of life expectancy, rates of disability and chronic disease, levels of educational attainment, rates

of labour force participation, levels of income and wealth, indicators of social strain, and rates of arrest and imprisonment (ABS 2008). Its findings highlight the extent and complexity of the social and economic factors implicated in the perpetuation of Indigenous disadvantage.

Indigenous women, whilst remaining as a small minority among prisoners, are ‘the fastest growing prison population’ (HREOC 2004, p.15), and the ‘most legally disadvantaged group in Australia’ (ATSIC 2003, cited in HREOC 2004, p.14). At March 2004, Indigenous women were imprisoned nationally at a rate 20.8 times that of non-Indigenous women (HREOC 2004, p.16). The rising rate of over-representation is occurring in a context where Indigenous women experience high levels of family violence, suffer from poor physical and mental health, experience high levels of unemployment and live lives of poverty (HREOC 2002, p.135).

### **The Figures: Rates of Incarceration**

The Australian Bureau of Statistics’ National Prisoner Census, reported on in *Prisoners in Australia*, revealed that over the 10 years to June 2007, there has been a massive increase in the overall national prisoner population (ABS 2007). The number of prisoners has increased by 42%, from 19,128 at 30 June 1997, to 27,224 at 30 June 2007 (ABS 2007, p.7). In this same period the number of male prisoners has increased by 40% (from 18,038 to 25,240), and the number of female prisoners has increased by 82% (from 1,090 to 1,984) (ABS 2007, p.7). The proportion of Indigenous prisoners has also risen. In 1993, Indigenous people comprised 15% of the national prison population (HREOC 2004, p.15). In 2007, Indigenous people comprised 24% of the national prison population (ABS 2007, p.6). According to the Human Rights and Equal Opportunity Commission, Indigenous women are the fastest growing prisoner population, with the number of Indigenous female prisoners reportedly increasing by 343% over the decade from 1993-2003 (HREOC 2004, p.15).

The reasons for the increase in numbers of Indigenous female prisoners are unclear. In 2001, the Select Committee into the Increase in Prison Population found that in New

South Wales, the most significant contributing factor was an increase in the remand population, not an increase in actual instances of crime (HREOC 2004, p.16). Chris Cunneen has noted that increased police activity and changes in judicial attitudes and sentencing, may have also had an impact on rates of incarceration (HREOC 2004, p.16).

### **The Factors Underlying High Rates of Crime and Incarceration for Indigenous Women**

High rates of crime and incarceration for Indigenous women can be understood as a consequence of their particularly disadvantaged position, in what the Human Rights and Equal Opportunity Commission have described as a 'landscape of risk' (HREOC 2002). Cunneen has noted the particularly complex social position occupied by indigenous women, where multiple disadvantages arise as a result of the interaction of gender, class and 'racial' inequalities (Cunneen 2001, p.157). The *Social Justice Report 2002* has highlighted that offending behaviour for Indigenous women is linked to economic disadvantage and social marginalisation, as well as non-economic deprivation such as damage to identity and culture, and experiences of trauma and grief (HREOC 2002, p.136). Some of the specific issues that have been identified as influencing the high rates of crime and incarceration for Indigenous women include:

- High levels of victimisation
- High levels of alcohol and drug dependency
- High levels of mental illness
- Low levels of educational attainment
- High rates of unemployment
- High levels of poverty
- Poor relations with the police

Women in Australian prisons (Indigenous and non-Indigenous) have been found to suffer from social disadvantage, under-education, under-employment, histories of family and relationship violence (including sexual abuse), high incidence of mental illness, and alcohol and substance addictions (Goulding 2004, p.36; ABS 2004). Studies focusing

specifically on Indigenous women in prisons have reported these same underlying factors (Lawrie 2003; Johnson 2004; Kilroy 2005).

### **Victimisation**

Indigenous women experience high levels of abuse and violence throughout their lives (Cunneen 2008; Kilroy 2005; Goulding 2004). While time and space limitations preclude a thorough analysis of national victimisation statistics for this report, a glance at victimisation rates in Queensland and New South Wales demonstrates the over-representation of Indigenous women as victims of physical and sexual violence. In Queensland, Indigenous women are twice as likely as Indigenous men to be the victims of offences against the person. They are 4.7 times more likely to be victims compared to non-Indigenous men, and nearly 6 times more likely to be victims than non-Indigenous women (Cunneen 2008, p.147). In New South Wales rates of sexual assault for Aboriginal women were 251.7 per 100,000 compared to 101.4 per 100,000 for women more generally. Indigenous women were shown to be between 2.2 and 6.6 times more likely to be victims of crime than non-Indigenous women (Cunneen 2008, p.148). These statistics show that Indigenous women are over-represented both as victims and offenders in the Australian criminal justice system.

Research has shown that being the victim of assault or abuse is strongly associated with the likelihood of arrest (Hunter 2001 cited in Cunneen 2008, p.148). In 2005, Debbie Kilroy reported that of Indigenous women in prisons, 89% had been sexually assaulted or abused and 98% had experienced physical violence prior to their imprisonment (Kilroy 2005, p.1). Rowena Lawrie (2003) also identified high levels of victimisation among female Indigenous prisoners in her research for the Aboriginal Justice Advisory Council's project 'Speak Out – Speak Strong'. Lawrie interviewed 50 Aboriginal women in prisons in New South Wales, representing 48% of the total number in prisons at the time of the study. Of these women, 70% reported having been sexually assaulted as children, 78% reported having been victims of violence as adults, and 44% stated that they had been sexually assaulted as adults (Lawrie 2003, p.2). Of particular significance, was that of the women who reported having been sexually assaulted as children, 98% had

drug problems, and most equated their drug problems to their experiences of past violence (Lawrie 2003, p.2). Lawrie emphasised what she saw as clear links between sexual assault, drug and alcohol addiction and patterns of offending behaviour leading to incarceration (Lawrie 2003).

While Indigenous women are shown to experience violence and abuse at a higher rate than non-Indigenous women, studies of female prisoners reveal that Indigenous and non-Indigenous offenders share histories of sexual and physical abuse (Goulding 2004; Johnson 2004, p.102). Research shows that there are clear links between early experiences of sexual and/or physical abuse, drug and alcohol dependency, and criminal offending later in life (Johnson 2004, p.101). The following table (Table 1) shows the results of a national study conducted by the Australian Institute of Criminology, highlighting what are seen as the key risk factors in the lives and experiences of Indigenous and non-Indigenous female offenders.

Table 1: (exact copy from source)

<b>Table 39: Personal history by Indigenous status (percentages)</b>		
	<b>Indigenous</b>	<b>Non-Indigenous</b>
Family had drug problems	22	27
Family had alcohol problems	56	39*
Often in trouble at school	52	50
Ever in juvenile detention	27	14*
Previously in adult prison	56	38*
Mental health problems	66	58
<b>Child abuse</b>	<b>60</b>	<b>65</b>
Sexual abuse	37	38
Physical abuse	39	43
Emotional abuse	52	59
Neglect	23	16
<b>Adult abuse</b>	<b>79</b>	<b>77</b>
Sexual abuse	29	36
Physical abuse	74	61*
Emotional abuse	63	68
(n)	(128)	(342)

\* statistically significant, chi square, p < .05

Source: Australian Institute of Criminology, DUCO female survey, 2003 [computer file]

(AIC, cited in Johnson 2004, p.102)

## **Substance Abuse**

Alcohol and drug abuse are major factors underlying offending for Indigenous and non-Indigenous Australians (Willis & Moore 2008; Johnson 2004). Research has consistently shown that offenders have significant drug and alcohol problems at the time of incarceration (Willis & Moore 2008). While statistics reveal that Indigenous Australians drink less alcohol on average than non-Indigenous Australians, Indigenous people are more likely to engage in high-risk binge drinking and are more likely to drink in public spaces (Willis & Moore 2008, p.32).

The Australian Institute of Criminology's study, *Drug Use Careers of Offenders* (DUCO), was conducted over three years with a view to measuring the intersection of offending and drug use in sentenced Australian prisoners. In her analysis of the female component of the DUCO study, Holly Johnson (2004) found that alcohol use was more likely to be associated with Indigenous women's criminal offending, where as drugs were more likely to be connected to crimes committed by non-Indigenous women (Johnson 2004, p.97). The survey revealed that 60% of Indigenous women were under the influence of alcohol at the time of their offence, compared to 16% of non-Indigenous women (Johnson 2004, p.97). Indigenous offenders were more likely to report being alcohol dependent, with 54% of Indigenous women reporting dependency, compared to 17% of non-Indigenous women (Johnson 2004, p.101). The study also found that Indigenous women in prison were more likely to have grown up in families with alcohol problems than non-Indigenous women (Johnson 2004, p.101).

The DUCO study identified key risk factors for drug dependency and offending for Indigenous female offenders. These are presented in the following table (Table 2). According to the study, drug dependent Indigenous offenders were significantly more likely to have grown up in families with drug problems, to have had trouble at school, to be victims of child abuse, and to have mental health problems (Johnson 2004, p.102).

Table 2: (exact copy from source)

<b>Table 40: Risk markers for drug and alcohol dependency and offending for Indigenous offenders (percentages)</b>								
	Drug-dependent		Alcohol-dependent		Property offender		Violent offender	
	Yes	No	Yes	No	Yes	No	Yes	No
Family had drug problems	34	11*	15	25	38	15*	22	22
Family had alcohol problems	56	56	65	52	57	56	65	54
Often in trouble at school	64	41*	46	56	66	47*	61	51
Ever in juvenile detention	32	22	20	30	44	19*	30	26
Child abuse	74	47*	50	65	72	54*	65	59
Adult abuse	82	76	87	75	72	82	61	83*
Mental health problems	74	58*	62	67	70	64	78	63
(n)	(62)	(66)	(40)	(88)	(40)	(88)	(23)	(105)

\* statistically significant, chi square,  $p < .05$

Source: Australian Institute of Criminology, DUCO female survey, 2003 [computer file]

(AIC, cited in Johnson 2004, p.103)

Drug abuse and alcoholism are often closely linked to histories of abusive and violent relationships (Johnson 2004; Goulding 2004; Lawrie 2003). More recently, studies are also highlighting the potential for drug and alcohol use to ‘mimic, trigger or exacerbate symptoms of mental illness’ (Butler & Allnutt 2003, cited in Goulding 2004, p.34). Importantly, the female component of the DUCO study revealed that Indigenous offenders had significantly higher odds of mental health problems than non-Indigenous offenders (Johnson 2006, p.212). The links between early experiences of abuse, alcohol and drug addiction, and mental health problems demonstrates the complexity of the disadvantage experienced by Indigenous women, and the interconnectedness of many of the factors underlying their over-representation in the criminal justice system.

## **Mental Illness**

Studies of female prisoners in Australia have shown that Indigenous and non-Indigenous women are entering prisons with diagnosed psychological and/or psychiatric conditions (Goulding 2004, p.38). In a study of mental illness among female prisoners in New South Wales, Butler and Allnutt found that 78% of sentenced women and 90% of women at reception (unsentenced) had been diagnosed with mental illness (cited in Goulding 2004, p.32). This is a disturbing finding especially given that incarceration is likely to exacerbate psychological and psychiatric conditions (Goulding 2004, p.33). Dot Goulding's interviews with female offenders also revealed that it was common practice for women to be taken off their prescribed medication upon imprisonment (2004, p.33). Women were forced into withdrawal from medication intended to help them manage serious conditions, and in many cases this was a cause of serious concern for incarcerated women. The high numbers of mentally ill women being incarcerated in prisons around Australia, has led some to suggest that prisons are in some respects, becoming substitutes for mental hospitals and psychiatric institutions (Beyond Bars, cited in Goulding 2004, p.33).

Incarcerated Indigenous women are generally regarded as a high-need population characterised by poor physical and mental health (ABS 2004; Salamone 2005; Kilroy 2005). Reports vary as to whether or not Indigenous women in prisons are more likely to suffer from mental illness than non-Indigenous women. In the *Social Justice Report 2002*, the HREOC found that in Queensland prisons, mental health problems had been reported in similar proportions by both Indigenous and non-Indigenous women (HREOC 2002, p.148). Conversely, Butler et al. (2007) found that incarcerated Indigenous women were one of the most vulnerable groups to mental illness. Findings revealed that Indigenous women were more likely to have experienced symptoms of psychosis in the 12 months prior to the study, and that Indigenous women demonstrated higher levels of psychological distress than non-Indigenous women (Butler et al. 2007, p.429). While the relationship between mental illness and crime and incarceration may not be directly causal, mental illness is clearly a significant issue for Indigenous women in prisons, and

the links that have been made between mental illness, drug use and crime are worthy of serious consideration.

### **Low Education, High Unemployment and Poverty**

Indigenous women and men achieve lower levels of formal schooling than their non-Indigenous counterparts (ABS 2008). In 2006, Indigenous students were half as likely as non-Indigenous students to continue to Year 12 (ABS 2008, p.2). As education is a key factor contributing to people's self-development and their potential for employment, low levels of education have serious and long lasting implications for personal and financial wellbeing (ABS 2008, p.3). Research has also shown that a lack of formal school education significantly increases the likelihood of involvement in the criminal justice system (Hunter 2002).

While there are currently no national statistics revealing the educational background of Australian prisoners, smaller surveys consistently show that Indigenous women in the prison system have low levels of formal education (Lawrie 2003; Goulding 2004). In her survey of female Indigenous prisoners, Lawrie (2003) found that 10% of women did not study beyond primary school, and 70% had left school before completing Year 10 (Lawrie 2003, p.3). Importantly, the study also revealed that most of the Indigenous women had attempted to pursue educational courses outside of school, and that of these women, half had completed them (Lawrie 2003, p.3). This suggests that consideration should be given to the factors that cause Indigenous women to leave school, and that appropriate educational options might reduce their likelihood of becoming involved in the criminal justice system. Lawrie (2003) suggests that Indigenous women could engage in educational courses within the prison system, and argues that this could help Indigenous women out of cycles of offending and imprisonment, through improving their prospects for employment upon release (Lawrie 2003).

The high levels of unemployment experienced by Indigenous Australians can be seen as a consequence of and factor contributing to, Indigenous disadvantage. Unemployment is a serious problem for Indigenous people in rural and urban areas, where in 2003

Indigenous Australians were almost 3 times more likely than non-Indigenous Australians to be unemployed (20% compared with 7%) (ABS 2003 cited in Cunneen 2008, p.143). High unemployment is clearly linked to low levels of educational attainment, where without education prospects for employment are severely limited. There is also evidence to suggest that unemployment is a predictor of recidivism (Cameron, cited in HREOC 2002

Considering their low levels of educational attainment, high rates of unemployment among incarcerated Indigenous women comes as no surprise. In her study of Indigenous women in prisons, Lawrie (2003) found that the overwhelming majority of women reported being unemployed at the time of their last offence. Those who did have jobs were employed to do low-paying menial work, such as bar-work, waitressing, and rural seasonal labour (Lawrie 2003, p.3). Prior to imprisonment 42% of the Indigenous women surveyed were not receiving a formal income of any kind (including social-welfare payments), and for one quarter of the women, their only regular income came through the proceeds of crime (Lawrie 2003, p.3). These findings indicate that Indigenous women in prisons are coming from backgrounds of significant poverty, and that many women are turning to crime as a source of regular income (Lawrie 2003).

### **Poor Relations with the Police**

Another issue worthy of consideration is that Indigenous women have a particularly complex relationship with the police (Cunneen 2001). This relationship is shaped by a long history of gendered policies developed by Governments intent on controlling Indigenous populations. As Dodson has argued, ‘there is concrete evidence to suggest that throughout the “protection”, “assimilation”, “integration” eras of the twentieth century, Aboriginal women were consciously nominated targets of government in its pursuit to destabilise and dismantle Aboriginal society’ (Dodson 1991, cited in Cunneen 2001, p.160). Of particular significance is the ongoing impact of the removal of Aboriginal and Torres Strait Islander children from their families.

From the beginning of the colonial period, and increasing dramatically in scale in the late nineteenth and early twentieth centuries during the 'protection' era, legislation legitimised the removal of Aboriginal and Torres Strait Islander children from their families by the Aborigines Protection Board and the police (Cunneen & White 2007, p.145). As Cunneen (2001) has highlighted, this process of intervention and removal was gendered. Between 1900 and 1940, Aboriginal girls bore the brunt of the so-called 'protection' policies, with estimates suggesting that some 80% of the children removed were females of a pubescent age (Cunneen 2001, p.159). Throughout the "protection" era, police played an important part in their implementation and enforcement of removal policies. This can be seen as contributing to a lack of faith that Indigenous women have in police and the criminal justice system more generally (Cunneen 2001m p.160). As a result of their mistrust, Indigenous women often don't call for police assistance or report their experiences of being victims of crime. And in-turn, Indigenous women do not receive the protection of the police afforded to most other women in Australian society.

The relationship between Indigenous women and the police becomes even more complex, where there is clear evidence of 'under-policing' and 'over-policing' (Cunneen 2001, p.164). As Payne has noted, 'police strategies over-emphasise public order maintenance and under-emphasise the protection of Indigenous women from violence' (Payne cited in Cunneen 2001, p.164). While Indigenous women are not offered the protection given to most other women, and while they are often ignored in situations where they are the victims of crime, surveys reveal that Aboriginal and Torres Strait Islander women are taken into police custody at an extraordinarily high rate (Cunneen 2001). Aboriginal and Torres Strait Islander women comprise 50% of all women taken into police custody in Australia, despite there only constituting around 2% of the total female population (Cunneen 2001, p.165). Considering that research has shown that being arrested once greatly increases the likelihood of being arrested on further occasions, these findings are very troubling.

## **Impacts of Imprisonment**

Imprisonment has been shown to have serious implications for Indigenous women and for the children and families of those being imprisoned. The current punitive system, fails to address the severe disadvantage experienced by Indigenous women, and the underlying causes of their offending (Lawrie 2003). And as such, rather than rehabilitation, imprisonment is causing further damage to already fragile populations (Goulding 2004; Krieg 2006). As Joanna Salomone has commented, ‘prison environments are unsupportive at best and at worst, brutalising, adding to the traumas already experienced by a vulnerable population’ (cited in Goulding 200, p.36).

The factors identified as underlying the high levels of crime and incarceration for Indigenous women, i.e. victimisation, alcohol and drug dependency, mental illness, unemployment, low levels of education, poverty and poor relations with the police, are all further exacerbated as a result of incarceration (Goulding 2004). In many cases the ‘causes’ underlying high rates of crime and imprisonment, become the ‘effects’ of imprisonment, where ‘mass incarceration’ can be seen as maintaining the distinct disadvantages experienced by Indigenous women.

As the majority of female Indigenous prisoners come from backgrounds of intense hardship and poverty, terms of incarceration do not appear to be causing great changes to their economic circumstances (Goulding 2004). Imprisonment does however further entrench disadvantage, where the stigma attached to imprisonment means that Indigenous female ex-prisoners face difficulty integrating into wider society.

The difficulties faced by female Indigenous ex-prisoners, in their attempts to find employment and housing, provide clear examples of how imprisonment can further exacerbate conditions of disadvantage. Goulding’s interviews with incarcerated Indigenous women are revealing (Goulding 2004). In response to questions about employment possibilities, one recently released Indigenous woman is quoted as saying:

“I wouldn’t bother wasting my time looking for a job. I’m on single parent benefits but even if I wasn’t no one would give me a job... I’m Aboriginal and

I've been in prison. That's two strikes against me. Even before I had kids and done time I couldn't get a job, just because I'm Aboriginal".  
(Goulding 2004, p.37)

Finding housing is also a serious problem. Recently released Indigenous women have difficulty finding accommodation, with public housing being extremely limited and where indigenous ex-prisoners are rarely seen as 'desirable' candidates for private rentals (Krieg 2006). This is seen as one of the most significant factors underlying many Indigenous women's unsuccessful transition into life outside of prison, and is particularly problematic for Indigenous women with substance abuse problems and/or mental health issues (Krieg 2006; Goulding 2004). Without a secure address, these women find themselves under intense pressure with very little support (Krieg 2006, p.535). The multiple disadvantages experienced by Indigenous women, are only compounded by experiences of incarceration.

As well as the impacts on Indigenous women themselves, incarceration places significant hardship on the families and communities that women come from. Research shows that a high proportion of female Indigenous prisoners are single mothers, many are responsible for the care of children other than their own biological children, and others are responsible for the care of older family members (Lawrie 2003, p.3). As such, the imprisonment of Indigenous women means that children are at a greater risk of neglect, abuse, hunger and homelessness (HREOC 2002, p.136). As Goulding (2004, p.14) has pointed out, 'the imprisonment of women often signals the loss of 'mother' for the immediate and extended families of those concerned'. The incarceration of Indigenous women has the clear potential to create further disadvantages for the children of women being imprisoned. Importantly, the children of incarcerated women are at a greater risk of becoming involved in the criminal justice system themselves. As such, the impacts of incarceration can be inter-generational.

### **The Problem of Recidivism**

In what has become known as the 'revolving door' of imprisonment, Indigenous women and men are being caught in cycles of crime and incarceration (Dodson, cited in Krieg

2006, p.534). Research has shown that Indigenous offenders have long histories of contact with the Australian criminal justice system. In 2003, national statistical data reported that 77% of Indigenous prisoners had previously been incarcerated (ABS 2003, cited in HREOC 2004, p.19). While there is no recent national data reporting on the rates of recidivism for Indigenous women, a recent study by Mathew Willis for the Australian Institute of Criminology, found that Indigenous men were twice as likely as non-Indigenous men to be re-imprisoned within two years of having been released from prison (Willis 2008). Statistics from 2002 reveal that recidivism is also a problem for Indigenous women, where in 2002 rates of recidivism were higher for Indigenous women than non-Indigenous women, in all states and territories (HREOC 2002, p140). In New South Wales 85% of Indigenous women had previously been in custody compared with 71% of non-Indigenous women (Cunneen 2002, cited in HREOC 2004, p.19). In Victoria 71% of Indigenous women were repeat offenders compared to 61% of non-Indigenous women (HREOC 2004, p.19).

While there has been no national studies measuring recidivism among Indigenous women, smaller scale research projects demonstrate that this is clearly an issue for Indigenous women. In 2003 the Aboriginal Justice Advisory Council conducted surveys and interviews with Indigenous women imprisoned in New South Wales, to identify the causes of their imprisonment, their experiences in the criminal justice system, and their needs once incarcerated (Lawrie 2003). The study found that of the women surveyed (representing 48% of the total number of Aboriginal women in NSW prisons at the time), 98% had prior convictions as adults, 26% had between 15 and 30 previous convictions and 75% had been sentenced to full time prison before (Lawrie 2003, p.1).

While there are various factors which can be seen to influence rates of re-offending and re-imprisonment, fundamentally, recidivism reflects the failure of the current punitive approach to dealing with criminal offenders. The current system does not address the underlying disadvantages experienced by those imprisoned; it does not provide rehabilitation to prisoners with drug and alcohol problems, it does not provide adequate care to those with mental health problems, it does not provide the support services

necessary for prisoners to successfully integrate back into the community upon release, and it does not provide prisoners with the tools to break cycles of crime and incarceration (Lawrie 2003; Kilroy 2005).

On being released from prison, Indigenous men and women are returning to the same circumstances that have led them to lives of crime in the first place. Their situations are made even worse where incarceration causes social disruption to families, and can often result in loss of accommodation and employment. In many cases, incarceration only further entrenches social, economic and cultural disadvantage for the women being imprisoned, and places extra pressure on their communities and families (Salamone 2005, p.17). There is a clear need for further investigation into the conditions which lead Indigenous women into cycles of crime and imprisonment. The lack of research and the resulting lack of services focused on their particular needs, means that Indigenous women are particularly vulnerable to re-offending and re-imprisonment.

## **Conclusion**

The over-representation of Indigenous women in the Australian criminal justice system is a result of extreme social, economic and cultural disadvantage. Indigenous women are one of the most disadvantaged groups in Australian society. They suffer from poor physical and mental health, have high levels of drug and alcohol addiction, and experience sexual and physical violence at much higher levels than any other group in the Australian population. As well as these factors, Indigenous women face extreme financial hardship, where low levels of formal schooling and high levels of unemployment mean many women live in poverty. Intersecting with these issues, a history of gender based colonial policies, continues to inform the relationship between Indigenous women and the police, where Indigenous women are arrested by police at alarming levels for minor public order offences, yet little attention is paid to situations where Indigenous women are the victims of crime and in need of police assistance. These factors make Indigenous women an extremely vulnerable population.

As it currently operates, the Australian prison system does not provide the support or rehabilitation needed by Indigenous women. As the current system does not address the underlying causes of Indigenous women's offending, upon release Indigenous women return to the same situations that led them to being incarcerated, resulting in high levels of re-offending and re-imprisonment. While imprisonment provides punishment for offenders, it has serious long-term implications for Indigenous women themselves, and for the families and communities of women being imprisoned. The impacts of the incarceration of Indigenous women on their children are particularly concerning, where children of female offenders are at greater risk of neglect, homelessness and poverty, and are more likely to become involved in criminal activity themselves. Overall, the research suggests that for Aboriginal women, imprisonment is overused as a tool of crime control. The serious impacts of imprisonment on Indigenous women and their families, should mean that incarceration is regarded as the punishment of last resort and that it should only be considered when all other options have been explored.

### **Areas for Further Research**

A thorough examination of the issues surrounding the over-representation of Indigenous women in the Australian criminal justice system would need to involve an analysis of the historical processes and structural conditions of colonisation, social and economic marginalisation, systemic racism, and specific practices of criminal justice agencies (Cunneen 2008, p.148). While this paper provides a broad overview of these issues, there is much room for further analysis.

There is also a pressing need for research to be conducted on the viability of alternatives to incarceration for Indigenous women. There have been a number of programs recently developed in an attempt to improve the situation for Indigenous women in prisons. In May 2004, the Boronia Pre Release Centre for Women was commissioned and early reports indicate that the centre has been very successful (Salamone 2005). Another program, the Karra Kirnti Aboriginal Women's Cultural Program has had mixed outcomes (Maurer 2004). These programs and facilities should be critically assessed, and

research should be conducted so as to ensure that viable and effective alternatives to the current punitive system can be developed.

### Reference List:

Australian Bureau of Statistics (2004) 'Women in Prison- Crime and Justice' in *Australian Social Trends*, catalogue No.4102.0, available online at : <http://www.abs.gov.au> , accessed Nov 2008

Australian Bureau of Statistics (2007) *Prisoners in Australia*, catalogue No. 4517.0, available online at: <http://www.abs.gov.au> , accessed Oct 2008

Australian Bureau of Statistics (2008) *Overcoming Indigenous Disadvantage*, Yearbook Chapter 1301.0, accessed Sept 2008, online at: <http://www.abs.gov.au/AUSSTATS/abs@nsf/Latestproducts/1301.0>

Cunneen, C (2001) *Conflict, Politics & Crime: Aboriginal Communities and the Police*, Allen & Unwin, Crows Nest.

Cunneen, C & White, R (2007), *Juvenile Justice: Youth and Crime in Australia*, 3<sup>rd</sup> Edition, Oxford University Press, Victoria.

Cunneen, C (2008) 'Crime, Justice and Indigenous People', in Barclay, E., Donnermeyer, J., Scott, J. and R. Hogg (eds.) *Crime in Rural Australia*, The Federation Press, Leichhardt, pp.142-153.

Goulding, D (2004) '*Severed Connections: A Study of the Impact of Imprisonment on Women's Familial and Social Connectedness*', Murdoch University, Perth WA.

Johnson, H (2004) 'Drugs and Crime: A Study of Incarcerated Female Offenders', Australian Institute of Criminology (Research and Public Policy Series, no.63.) Available online at: <http://www.aic.gov.au/publications/rrp/63/chapter8.html> , accessed Oct 2008

Johnson, H (2006) 'Concurrent Drug and Alcohol Dependency and Mental Health Problems among Incarcerated Women, *The Australian and New Zealand Journal of Criminology*, Vol.39, No.2, pp.190-217

Human Rights and Equal Opportunity Commission (2002) *Social Justice Report 2002*, (W Jonas, Commissioner), Human Rights and Equal Opportunity Commission, Sydney

Human Rights and Equal Opportunity Commission (2004) *Social Justice Report 2004*, (T Calma, Commissioner), Report No.1/2005, Human Rights and Equal Opportunity Commission, Sydney

Kilroy, D (2005) 'The Prison Merry Go Round: No Way Off', *Indigenous Law Bulletin*, August/September 2005, Vol.6, Issue 13

Krieg, A.S (2006) 'Aboriginal Incarceration: Health and Social Impacts', *Medical Journal of Australia*, Vol.184, No.10, May 2006, pp. 534-536.

Lawrie, R (2003), for the Aboriginal Justice Advisory Council, *Speak Out: Speak Strong*, accessed Nov 2008, full report available online via the Aboriginal Justice Advisory Council's website:

[http://www.lawlink.nsw.gov.au/lawlink/ajac/ll\\_ajac.nsf/pages/ajac\\_publications#13](http://www.lawlink.nsw.gov.au/lawlink/ajac/ll_ajac.nsf/pages/ajac_publications#13).

Maurer, P (2004) 'Reducing the Numbers of Aboriginal Women in Custody: The Karrka Kirnti Aboriginal Women's Cultural Program', *Indigenous Law Bulletin*, March/April 2004, Vol.6, Issue.1

Salamone, J (2005) 'Addressing the Needs of Aboriginal Women Prisoners and Their Families in Western Australia', *Indigenous Law Bulletin*, Vol.6, Issue.14, Oct 2005

Willis, M (2008) for the Australian Institute of Criminology, 'Reintegration of Indigenous Prisoners: Key Findings', *Trends and Issues*, August 2008, No.364