



Flat Out Inc.
54 Pin Oak Crescent
Flemington VIC 3031
Phone: 03 9372 6155
Email: admin@flatout.org.au

29 May 2015

Dear Royal Commission into Family Violence,

Re: Family Violence and Criminalised Women

This submission to the Royal Commission focuses on the experiences of criminalised women. We use the term 'criminalised women' to encompass women who have been imprisoned, in contact with police, and/or who engage in criminalised activities such as illicit drug use or sex work. The submission highlights how criminalised women do not have equal access to justice and the right to live safely in the community. These women are often immediately presumed to be perpetrators, without recognition of their victimisation. Existing police approaches to family violence are failing criminalised women, and the overwhelming majority of women who end up in prison are victims/survivors of family violence.

This submission has been compiled by Flat Out Inc. and the Centre for the Human Rights of Imprisoned People (CHRIP) after seeking input from a wide variety of community organisations that work with criminalised women. We have sought stories from workers relating to their clients' experiences with various agencies that respond, or fail in their response, to criminalised women and their children seeking assistance in family violence matters.

Flat Out Inc. is a state-wide advocacy and support service founded in 1988 for women who have had contact with the criminal justice and/or prison system in Victoria. It is an independent, not for profit, community based organisation that is managed by and for women. Flat Out Inc. leads and participates in research and community education, seeking to inform the wider community about the harms that occur for women in the criminal justice system.

The Centre for the Human Rights of Imprisoned People (CHRIP) is a project of Flat Out Inc. focusing on community awareness, capacity building and systemic advocacy. The work of Flat Out Inc. and CHRIP builds on the intrinsic connections between service delivery and social change work that has been present since Flat Out's inception.

Flat Out Inc. works directly with women who have experienced criminalisation and/or incarceration and to improve the rights and conditions of women in prison. Flat Out Inc. aims to prevent women from going to prison and to keep women out of prison once they are released. Flat Out Inc. has a strong voice in the prison abolition movement in Australia and internationally, with the vision that eventually prisons will be widely viewed as the antiquated, cruel and ineffective institutions that they are. Flat Out Inc. seeks to work alongside diverse communities to end all forms of inequality and injustice.

Flat Out Inc. receives government funding through the Department of Health and Human Services (State) and the Department of Health (Federal), for the purpose of providing individualised support and advocacy for women (with or without children) to address homelessness, drug and alcohol treatment and a range of other support and advocacy to address underlying causes of criminalisation.

Flat Out Inc. and the agencies we have consulted in the development of this submission are well placed to comment on many of the issues and challenges facing the Royal Commission in respect to criminalised women.

The submission is divided into five sections:

1. Executive Summary (p. 5)
2. Systemic Issues (pp. 6-12)
3. Stories and Accounts from Community Sector Workers (pp. 13-19)
4. Findings (pp. 20-21)
5. Recommendations (p. 22-23)

If the Royal Commission would like to follow up on any of the issues raised herein, or ask any further questions, please do not hesitate to contact us.

Best Regards,

Serap Ozdemir
Executive Officer Flat Out Inc.

Submission written by: Emma Russell, Amanda George, Billi Clarke
Editing and other contributions: Phoebe Barton, Serap Ozdemir, Jeannette Large, Sylvia Daravong

THIS SUBMISSION HAS BEEN ENDORSED BY THE FOLLOWING ORGANISATIONS

The Women's Coalition Against Family Violence
Undercurrent Community Education Project
Elizabeth Morgan House Aboriginal Women's Service



THIS SUBMISSION HAS BEEN ENDORSED BY THE FOLLOWING INDIVIDUALS

Vickie Roach

Women's Prison Advocate and plaintiff in the High Court case of Roach v. Electoral Commissioner (2007) 233 CLR 162

Eileen Baldry PhD

Professor of Criminology and Deputy Dean Faculty of Arts and Social Sciences, University of New South Wales

Diane Otto PhD

Professor and Francine V McNiff Chair in Human Rights Law, Director Institute for International Law and the Humanities, University of Melbourne

Julie Stubbs PhD

Professor in the Faculty of Law and Director of the Criminal Justice and Criminology program, University of New South Wales

Erica R. Meiners PhD

Brommel Research Professor, Northeastern Illinois University, 2015-2016 Soros Justice Fellow

Phil Scraton PhD

Professor of Criminology and Criminal Justice, School of Law, Queen's University of Belfast & lead researcher Women's Imprisonment Project, Northern Ireland Human Rights Commission

Kim Pate

Sallows Chair in Human Rights - Faculty of Law, University of Saskatchewan & Executive Director - Canadian Association of Elizabeth Fry Societies (CAEFS)

Elaine Barclay PhD

Associate Professor of Criminology, University of New England

Bree Carlton PhD

Senior Lecturer in Criminology, Monash University

Marg Liddell PhD, Marietta Martinovic PhD and Una Stone

Justice & Legal Studies, RMIT University

Bridget Harris PhD

Lecturer in Criminology, University of New England

Rebecca Badenoch

Accredited Family Law Specialist, Independent Children's Lawyer, Partner, Logie-Smith Lanyon Lawyers

Kath McCarthy

Psychotherapist, Aquifer Counselling and Psychotherapy

Irene Bouzo PhD

Executive Officer, Ethnic Communities Council of Victoria

EXECUTIVE SUMMARY

The following submission to the Royal Commission on Family Violence prepared by Flat Out and CHRIP focuses on the systemic biases and barriers experienced by criminalised women seeking to access police and/or service responses to family violence. The case studies contained herein suggest that criminalised women experience discrimination from police, government-funded services such as Child Protection, and family violence services. As a result, criminalised women experiencing family violence have restricted access to support systems and may find themselves in a position whereby seeking a police response to family violence worsens their overall situation.

The submission further highlights the overwhelming over-representation of family violence victim/survivors in women's prisons in Victoria. We point out that imprisonment and practices such as routine strip-searching in prison have significant re-traumatising effects for women. Imprisonment further disrupts the lives of women and their children who have experienced family violence.

The thirteen case studies we collected for this submission focused on criminalised women's family violence-related experiences. The case studies revealed:

- Police bias, misconduct and inaction in responding or failing to respond to criminalised women's reports of family violence;
- Criminalised women's exclusion from family violence services;
- The links between family violence and women's imprisonment.

Based on the systemic issues highlighted and the findings garnered from case studies, the submission strongly recommends that reducing by half the numbers of women in prison in Victoria be incorporated into the stated goals of the Royal Commission into Family Violence.

In order to begin working towards this goal, we call for:

- The State Government to curb women's prison growth and reduce the harm of imprisonment;
- State and Federal Government to fund and expand specialist services in the community;
- Increasing and extending independent system oversight and accountability mechanisms;
- Strengthening wider prevention initiatives that address the roots of the problem.

1. SYSTEMIC ISSUES

1.1. Barriers and Bias Affecting Criminalised Women Experiencing Family Violence

The case studies contained in this submission reflect a pattern of systemic failure for criminalised women experiencing family violence. This affects victims and survivors of violence who have been incarcerated, who engage in criminalised behaviours such as sex work, who are known to police, who have previous or current drug addictions, mental health issues and/or are seen not to co-operate with police or fit into the current family violence service model.

The accounts we have collected suggest that women who are criminalised frequently experience discrimination and bias at the hands of police, government funded services such as Child Protection, and community support services including family violence services. Criminalised women have on many occasions clearly reached out for help, only to find a justice and service system that is judgmental, non-responsive, and incompetent in its ability to have understanding and compassion. As a result, many women never report family violence again or attempt to access specialised family violence services. The reluctance to report family violence may be compounded by a range of factors, including real fears of retribution from partners.

Criminalised women often find themselves in precarious situations, whereby the threat of child removal by Child Protection increases their vulnerability to family violence, and often means that they are unable or unwilling to access support or services for family violence. Considering the vast increases in the numbers of Aboriginal babies and children being removed in Victoria,¹ this fear may be particularly heightened for Aboriginal women who are criminalised.

Family violence services often have refused support for criminalised women based on the assumption that they are too difficult, pose a threat to other women, a threat to the service model of high security, or present with a complex range of support needs to which services feel unable to appropriately respond. Women on the pharmacotherapy program can be refused access to refuges based on the belief that these women are a threat to security, for example, that someone may follow them when they leave to pick up methadone. Criminalised women may therefore fear mainstream services because they fear discrimination.

Historically community services funding models (both Federal and State) have failed to recognise that women who are criminalised require specialist support services, i.e. family violence, homelessness, drug and alcohol, mental health, financial hardship, etc. For many women pre, during and post prison, access to community service support has been inadequate and not targeted to address their complex needs and trauma-related support

¹ See Jackomos, A. (2015), *2015 Report on Government Services* [letter], 3 February, Melbourne, Commission for Children and Young People, accessed 15 May 2015 at: http://www.ccyv.vic.gov.au/downloads/2015.02.03_ROGS%202015.pdf.

requirements. There is an urgent need for governments to recognise that women who are criminalised have specialised needs.

Aboriginal and Torres Strait Islander women have long been over-represented in imprisoned populations in Victoria and across Australia. Recently there have also been significant increases in the numbers of migrant and refugee women entering the prison system in Victoria. Vietnamese women are vastly over-represented with reports suggesting that one in five women in prison in Victoria are Vietnamese.² Yet there is a lack of funding and support for culturally appropriate and safe programs for Aboriginal women and migrant and refugee women particularly those who are criminalised. This needs to extend beyond interpreting services towards embedding cultural planning tools within the wider community sector.

Current family violence support agencies including those targeting migrant and refugee women do not necessarily cater for women who have experienced criminalisation. Government departments both Federal and State have failed to recognise the urgent need for funding for specialist family violence support for criminalised migrant and refugee women. In addition, Aboriginal-led and controlled organisations need further support and funding in order to continue to provide and build upon existing violence prevention and response initiatives that are culturally safe.

Many criminalised women and their children present at generalist services as homeless. Assistance to these women is often general rather than specialist in nature, in services that are overwhelmed with demand. Access to specialised support remains limited and difficult for criminalised women, whether in accessing housing, mental health services, or advocacy and support, etc. Criminalised women are often housed in various types of accommodation that may expose them to further violence, such as rooming houses. Research in Victoria and New South Wales has found that accommodation instability is a predictor of return to prison.³

The case studies in this submission reflect a sense of defeat and acceptance by criminalised women experiencing family violence that no one really cares, that this is just how it is. Police, prisons and generalist services have continued to fail these women. There is a systemic pattern that has allowed family violence to occur, influenced reporting numbers, and been justified by a myopic focus on the criminalised behaviour of the victim/survivor rather than on the violence she is experiencing in the family.

² Bucci, N. and McKenzie, N. (2015) 'Crown Casino gambling debt linked to drug crimes committed by Vietnamese women', *The Age*, 4 May, accessed 15 May 2015 at: <http://www.theage.com.au/victoria/crown-casino-gambling-debt-linked-to-drug-crimes-committed-by-vietnamese-women-20150503-1mxv6u.html>;

Le, R. (2014) *Risky Business: Understanding Vietnamese Women's Pathways into Australia's Illicit Drug Trade*, PhD thesis, Swinburne University of Technology.

³ Baldry, E., McDonnell, D., Maplestone, P. and Peeters, M. (2006) 'Ex-Prisoners, Homelessness and the State in Australia', *The Australian and New Zealand Journal of Criminology*, 39, 1.

Workers report that criminalised women often feel that their experiences of violence are of less concern to police than those of other women, and that their lives have less value. As one worker described to us:

I have worked with criminalised women [who are] very scared to call the police because police know them and don't take them seriously and treat them differently. Another common thing is when police know both parties they behave as though it's not serious. I have heard police say they can't be bothered doing the paperwork because the woman will back out when it goes to court.

Criminalised women rarely live up to conventional ideas of a 'worthy victim'. They are often seen as 'doubly deviant' because they have not only 'broken the law' but also transgressed gender norms. In such cases, women's victimisation may be officially sanctioned through police inaction or police action taken against the woman, such as an arrest for an outstanding warrant. Both of these scenarios have been recounted to us by community sector workers and appear to be disturbingly common.

When victims/survivors of family violence have criminal records or social histories that lawmakers, police, frontline social workers, or mainstream media view as non-normative, there are multiple barriers for women to find recourse through the law and in many cases women as victims may be re-criminalised. This leaves women in a position whereby contact with the criminal justice system can worsen their situation of family violence.

1.2. Policing

Since the introduction of the Victorian Police Code of Practice for the Investigation of Family Violence in 2004, responses to family violence and the reporting of such violence have greatly improved. This initiative has proved to be a welcome and overdue approach by many, *but not all*, women and children experiencing family violence. The code covers a range of police responses from the initial reporting stage, investigation of incident, through to criminal charges. The safety of the victim underpins the code and there is a procedural structure that police are expected to follow.

An examination of the case studies contained in this submission unfortunately reflect a common experience where police have not followed the code of practice and on many occasions failed to investigate the family violence incident. We refer the Royal Commission to Sections 1 to 4 of the Code of Practice in particular, although it is worth pointing out that failure to follow the code goes beyond these sections. These sections assume that police have undertaken an investigative process, and outlined criminal and civil process options including a collaborative response by specialist Family Violence Services.

At times, police have failed in their responsibility to investigate family violence reports and take appropriate steps to ensure the ongoing safety of these women because they view them as criminals rather than victims. In several case studies, women have been arrested for outstanding warrants when police have been called to respond to family violence. In many

of these cases, police have taken no action in relation to the family violence that has clearly occurred. The consistent prioritisation of the victim's criminal history over her safety, indicates a systemic bias that overrides all else.

Police initiatives frequently do not translate for criminalised women. For example, in their Code of Practice, they're supposed to identify the primary aggressor and if the woman has a criminal record or prior charge of 'assault police', this often translates into their re-criminalisation in a context of family violence. Police bias has a flow on effect for service provision in that if police assess women as perpetrators or 'primary aggressors,' family violence access points will not accept them.

The complaints process contained in the Police Code of Practice is less likely to be taken up by criminalised women for fear of reprisal. Specialist Family Violence workers are less likely to advocate on their behalf as the service model itself continues to, in practice, exclude criminalised women.

Ultimately, we put forth that there is an inherent conflict of interest in police relationship to criminalised women; they cannot protect or support women at the same time, as criminalising and imprisoning them.

1.3. Women's Imprisonment

- The number of women entering prison in Victoria each year: **more than 600**
- The number of women in prison in Victoria as at 9 April 2015: **442⁴**
- The average daily cost of imprisoning one woman: **\$269⁵**
- Estimate of the proportion of women imprisoned in Australia that are the mothers of dependent children: **75%⁶**
- The average number of children living in custody with their mothers in Victoria: **10 – 15**
- The proportion of women in prison who have victimisation histories including childhood sexual abuse, intimate partner violence, and violence from non-intimates and carers: **at least 57% and up to 90%⁷**

⁴ Noonan, W. (2015) Minister's speech delivered at Corrections Victoria Stakeholders Forum, 09 April, Melbourne.

⁵ Corrections Victoria (2014) *Corrections Statistics: quick reference*, accessed 15 May 2015 at: <http://www.corrections.vic.gov.au/utility/publications+manuals+and+statistics/corrections+statistics+quick+reference>

⁶ Office of the Correctional Services Commissioner (1996) *Women prisoners in Victoria*, Melbourne, Department of Justice Victoria.

⁷ Australian Institute of Family Studies, *Addressing women's victimisation histories in custodial settings*, Canberra, Australian Government, viewed 14 April 2015, at: <http://www.aifs.gov.au/acssa/pubs/issue/i13/i13b.html>;

Moloney, K. P, van den Bergh, B. J, & Moller, L. F. (2009) 'Women in Prison: The central issue of gender characteristics and trauma history', *Public Health*, 123, pp. 426-430;

Johnson, H. (2004) *Drugs and Crime: A Study of Incarcerated Female Offenders*, Research and Public Policy Series, No. 63, Canberra, Australian Institute of Criminology;

- The proportion of women in prison reporting that a partner or spouse had engaged in at least one form of abuse or control in the year preceding their current incarceration according to one study: **45%**⁸
- The amount dedicated to women's prison expansion in the Victorian state budget: **\$119 million**

Research reveals that the overwhelming majority of women in prison have experienced family violence. Our case studies further suggest that family violence is a contributing factor to many women's imprisonment. The failure of government and society to recognise this and instead to focus on women's criminalised behaviour and consequent punishment, serves to compound the trauma these women have experienced. Imprisonment further disrupts the lives of women and children who have experienced or are experiencing family violence. The trauma of imprisonment will be endured and carried with them throughout their lives.

Prison replicates all the features of family violence. Beyond the deprivation of liberty, imprisoned women are subjected to the prison's implied and actual threats, coercion, humiliation, degradation, sexual assault through strip search practices and the use of force. All of these are deemed lawful when carried out by correctional officers. Strip searching practices in prison are unnecessary, revealing negligible contraband and are re-traumatising for women.⁹ Routine strip searching in conjunction with other strict security measures has been held by the European Court of Human Rights to amount to inhuman or degrading treatment.¹⁰ It is particularly degrading and re-traumatising for imprisoned women, who as a population have a high prevalence of victimisation and sexual abuse.¹¹ Strip searches perpetuate cycles of control, submission and humiliation – similar to the function of violent and abusive behaviour in the family.

The prison environment is saturated by a simmering fear and threat of force. It is often a site of re-traumatisation for women. As such, there is little that can be achieved in a prison environment to support women who have a history of family violence. Prison is not and cannot be a therapeutic community,¹² as prisons are built on an ethos of power, surveillance and control, yet trauma sufferers require safety in order to begin healing. The prison therefore cannot serve both punitive and therapeutic purposes because these goals are

WIPAN (2014) Women in Prison - Primary Document for a Public Forum surrounding Women in Prison being hosted by WIPAN, Community Justice Coalition (CJC) and the International Commission of Jurists (ICJ) at NSW Parliament House on 13 August 2014, p.16.

⁸ Within a sample of 199 women. Indig, D., Topp, L., Ross, B., Mamoon, H., Border, B., Kumar, S. and McNamara, M. (2010) *2009 NSW Inmate Health Survey: Key Findings Report*, Justice Health, p.70.

⁹ McCulloch, J. and George, A. (2009) 'Naked Power: Strip Searching in Women's Prisons', in McCulloch, J. and Scraton, P. (eds.), *The Violence of Incarceration*, New York, Routledge, p.119.

¹⁰ See for e.g. *Van der Ven v the Netherlands* (2004) 38 Eur Court HR 46; see also *Lorsé v the Netherlands* (2004) 37 Eur Court HR 3.

¹¹ Stathopoulos, M. (2012), 'Addressing women's victimisation histories in custodial settings' *ACSSA Issues*, 30, pp. 1-20.

Australian Centre for the Study of Sexual Assault, Addressing women's victimisation histories in custodial settings, ACSSA Issues Paper no. 13, 2012

¹² Baldry, E. (2014) 'Disability at the margins: limits of the law', *Griffith Law Review*, 23, 3, pp.370-388.

antithetical. The prison's primary focus is security, not therapy. Prison, by its very nature, excludes normal society, promotes prison living skills and actively erodes community living skills¹³ Prison compounds women's systemic disadvantage. As we outline in our recommendations, specialist support for criminalised women should be provided in the community and there should be a targeted reduction in the numbers of women imprisoned in Victoria.

The Royal Commission will no doubt hear from Corrections Victoria that an increase in funding for their programs for women in prison will enable them to work better with women's trauma. The reality is that the focus of government has always been prison expansion whilst services and programs in prison are deprioritised, if they get funded at all. The prison could change many of their practices to reduce women's trauma that would be cost negative, for example ceasing strip-searching. In the Australian Capital Territory, imprisoned women are no longer subjected to routine strip searches after visits. The ACT Human Rights and Discrimination Commissioner called the very significant reduction in reliance on strip-searching of women in prison a 'positive achievement'. The ACT now leads practice in this area compared to other jurisdictions.¹⁴

Studies highlight that maternal imprisonment is more likely to result in separation of children from their natural family and foster care placement than paternal imprisonment.¹⁵ It was found in the United States that imprisoning a parent increases the likelihood of their children becoming incarcerated by up to six times.¹⁶ In Victoria too, the children of prisoners are more likely than children in the general community to be imprisoned themselves.¹⁷ Early interventions into family violence that protect the integrity of women and their self-defined needs, secures and prioritises their relationship with their children, and creates a safe environment for children to live in, will have a direct flow-on effect, and significantly reduce the number of young women entering youth justice facilities and the increasing numbers of women entering prison.

There are more than 600 women entering prison each year in Victoria. The majority of women are imprisoned for non-violent offences and are serving short sentences.¹⁸ 36% of women imprisoned in Victoria are on remand, a figure that is growing, and 60% of those

¹³ Baldry, E. (2008). The booming industry: Australian prisons. Submission to Debate, October 2008. Accessed 30 April 2015 at: http://www.nobars.org.au/downloads/Baldry_Debate.pdf

¹⁴ Watchirs, H., McKinnon, G., Costello, S. and Thomsen, J. (2014) *Human Rights Audit on the Conditions of Detention of Women at the Alexander Maconochie Centre: A Report by the ACT Human Rights and Discrimination Commissioner April 2014*, Canberra, ACT Human Rights Commission.

¹⁵ Sheehan, R. and Levine, G. (2006), *Parents as prisoners: maintaining the parent-child relationship*, Final Report for the Criminology Research Council, accessed 15 May 2015 at: <http://crg.aic.gov.au/reports/39-0506.pdf>

¹⁶ Woodward, R. (2003) *Families of prisoners: Literature review on issues and difficulties*, Canberra, Australian Government Department of Family and Community Services, p.5.

¹⁷ Victorian Association for the Care and Resettlement of Offenders (VACRO) (2000), *Doing it hard: A study of the needs of children and families of prisoners in Victoria*, Melbourne, p.78.

¹⁸ Drugs and Crime Prevention Committee (2010) *Inquiry into the Impact of Drug-Related Offending on Female Prisoner Numbers*, October, Melbourne, Parliament of Victoria.

remanded women are released at court.¹⁹ The significant costs and flow-on effects of imprisoning women - who have in significant numbers experienced prior victimisation - need to be considered when assessing the financial cost of family violence to the community.

It is our view that funding Corrections Victoria to address women's trauma resulting from experiences of family violence do not and will not work in the prison environment. Programs delivered by NGOs to this effect in prison also are of marginal value, but at least give women connection to the outside. As one woman, formerly imprisoned in Victoria, argued:

The biggest thing is those incredible statistics about how many women have been victims of domestic violence, sexual abuse, that type of thing. When you look at that, you know, is it any wonder we're in prison? But it's a perfect opportunity while we are away from the domestic violence – and that's actually the one thing where women can gain strength in prison, because away from that domestic violence they can sort of come out of themselves and regain a bit of self-esteem [and] self-respect, but not in the prison environment. *It's a very rare woman that can do it in a prison environment because the system becomes the abusive partner when you get to prison.*²⁰

The vulnerable situations that criminalised women often find themselves in are compounded by imprisonment. There is a disproportionate impact on women and their children by sentencing them to imprisonment.²¹ As such, the resources currently spent on imprisoning people would be better spent on community services and providing long-term, safe and appropriate housing for criminalised women.

¹⁹ Noonan, W. (2015) Minister's speech delivered at Corrections Victoria Stakeholders Forum, 09 April, Melbourne.

²⁰ *Emphasis added.* Carlton, B. and Segrave, M. (2010), 'Women, Trauma, Criminalisation, Imprisonment...', *Current Issues in Criminal Justice*, 22, 2, p. 296.

²¹ Naylor, B. and Mackay, A. (2013) *Human Rights Audit and Review of Treatment of Women at AMC: Submission to ACT Human Rights Commission*, Monash University Castan Centre for Human Rights Law, accessed 15 May 2015 at: <http://www.law.monash.edu.au/castancentre/policywork/act-hr-commission-sub.pdf>

2. ACCOUNTS FROM COMMUNITY SECTOR WORKERS

We consulted with people working in the community sector, primarily within housing and health fields, to gather case studies centred on criminalised women's experiences in the context of family violence. All names have been changed and any identifying information removed to protect the confidentiality of clients. We include the case studies here for the Royal Commission's reference and we summarise the key findings from these case studies in the following section.

2.1. Case Study

I [worked with] a criminalised woman with an 'assault police' conviction... I went to visit and could hear her ex-partner assaulting her. I went back to the car and called police. When they arrived they knew both the people involved i.e. the man and the woman because they both had criminal records. The police expressed to me that they weren't really "interested" as they were "as bad as one another." I informed police that the male partner had broken in and that there was a newborn baby in the house. I asked whether they could issue an intervention order. One of the policemen told me they couldn't and wouldn't because the woman would withdraw the complaint once it went to court. I told the police I was very concerned for the safety of the baby and again the same policeman said he was not prepared to do it and he was sick of attending at these flats (Office of Housing) as they were continually being called out to the various occupants who then didn't follow through when the order went before the magistrate.

2.2. Case Study

One of my clients 'Rebecca' has a long time partner who is twenty years older than her. He has both criminal and police connections. Rebecca has been subjected to domestic violence by her partner and he has done things like putting surveillance on her mobile phone, having her followed and getting others to threaten her. Rebecca is frightened to go to police or get a restraining order as she can't be sure that police won't alert her partner. This leaves her with nowhere to turn and in fear. Because Rebecca is a criminalised woman and she has had charges of assaulting police on her record, she is distrustful of police and her experience in the past is that they have an "attitude" towards her.

2.3. Case Study

[I worked with] 'Bella' [who] is a 32 year old mother of twin boys aged 10. She has been in an on again off again relationship with 'Billy,' the boy's father for 11 years... Bella said during her pregnancy [Billy] became more verbally abusive, screaming ugly names at her and going out and staying out for two or three nights at a time. When the twins were born she says the abuse became physical. Bella says she could never tell her family as she was so ashamed that she had let the abuse go on so she learned to cover it. Bella says that she left and returned on many occasions.

Two years ago the violence became worse and the police were called when Billy tried to strangle Bella. Billy was placed on an IVO. Since this time Billy has breached the order 29 times and keeps breaching it. Bella says she has moved so many times in the last two years because he keeps finding her. Twelve months ago Bella says that Billy found her and threatened to kill her so she tried to protect herself by fighting back. The police were called and Bella was placed on an IVO even though at the time of the incident Billy was in breach of a current intervention order. The police said she was the one that was causing the trouble and so they told her she had to be placed on an order.

Two weeks later Billy returned to Bella's home and the police were called again and when they arrived Bella says she was upset and screamed at them to do something. The police then breached her and did nothing to Billy. Bella spent 3 months in prison for the breach. Billy has never done any time for his 29 breaches. While Bella was in prison the children stayed with their father. When Bella was released from prison she was homeless and had to go through the family court to attempt to gain custody of her sons. Bella continues to fight for her children. Billy remains abusive and free of consequences.

2.4. Case Study

'Jade' is a client, a Vietnamese woman with limited English language. She was married for 10 years. After the first child her husband became violent. He was also dealing drugs. When her husband knocked her teeth out when she had a 3 month old baby, Jade couldn't confide in anyone, felt that she would be blamed and shamed by her community. There was no help or support within her community. She had nowhere to go. Her husband supported her financially. When she told her parents, her father took the husband's side.

When her husband went overseas, Jade was forced to deal drugs. She got busted and went to prison. In prison, the Multicultural Liaison Officer workers promised things but nothing ever happened. She found a support worker who found her housing post-release. Once released, police approached her to testify against her husband. She has always been terrified of police and she could never approach them. One time, police had stolen her jewellery and money when around at her house. A friend of Jade's encouraged her to contact her support worker about the police pressuring her to testify. Her support worker took her to the police station so that police would treat her well. She got an AVO for the rest of her life. Jade ended up testifying against her husband and he's now in prison.

2.5. Case Study

'Rhonda' is a 21 year old who was residing at an emergency accommodation centre with her 24 year old boyfriend. Both have a diagnosed intellectual disability and have disability support workers. Rhonda's boyfriend has a history of violence and had recently been directed to undertake an anger management program. An

Intervention Order had been in place after a violent incident in the street, but this had since lapsed.

Both Rhonda and her partner were advised separately by staff at the centre that if violence occurred, police would be called, the perpetrator would be removed and appropriate support would be provided to the victim of violence. Rhonda had a long history of family violence from her childhood and adult relationships. She had various diagnoses for: post-traumatic stress disorder, depression, anxiety and an eating disorder. Rhonda had been incarcerated on several occasions for theft related activities.

Rhonda came to staff, one week after moving into the accommodation centre, stating that her partner had lost it and that she was scared. Staff took her into a secure area as the partner presented at the main reception area. He was yelling, screaming, making threats to kill and attempting to get past staff to Rhonda.

Police were called and arrived to find the partner outside, kicking on the front door and continuing to make threats to hurt/kill Rhonda. He was demanding his phone and keys, which he claimed Rhonda had taken. Police calmed the partner down and came into the building to ask Rhonda for his belongings. Rhonda advised that she did not have these items and police went to the room they shared to retrieve these items. Rhonda was with staff at this time, verbalising her fear that her partner would really get her now, because the police had become involved.

Police returned a short time later, advising Rhonda and staff that the partner had agreed to move on and there was nothing else they could do. They did not request a statement from Rhonda or staff, but advised Rhonda that she had an outstanding warrant for failure to appear. Rhonda was arrested and was remanded for 10 days before returning to the centre. She reported having a psychotic episode during her incarceration and felt very isolated. Rhonda also reported that her partner was continuing to threaten her, via text message, but she did not want to report this to police.

2.6. Case Study

A client of ours 'Sharon' was in her mid-40s and had been in a relationship with Tony for almost 5 years. There had been a history of physical, emotional and financial violence in the relationship. Sharon and Tony had been living in a private rental property until Tony had taken control of all their joint money and they were evicted due to failure to pay rent. Previous to this, Sharon had a long and unblemished private rental record. Both became homeless and were in short term accommodation after sleeping rough for several months. Both had been arrested and charged with various counts of theft during this period on the street and police had attended twice in relation to family violence. Sharon had been injured on both occasions and when they presented at a homeless service, Sharon had a black eye.

No charges were laid against Tony and Sharon later disclosed that Tony had threatened to kill her if she spoke to police.

Police were called to the short term accommodation when Tony physically assaulted Sharon. Police attended and immediately recognised both Sharon and Tony. Police were overheard to say to Tony, "This is the third time we have been called out for you two, pull your heads in." Despite requests from others (residents and staff) at the scene to do something, police left without any further action. Tony continued to verbally threaten Sharon, took their shared money and left with the couple's car. Staff advised him that he could not return. A formal complaint was made by a social worker working with Sharon and police were required to return to the premises and take a statement from Sharon. Tony was arrested a short time later and Sharon was moved to a safer location.

2.7. Case Study

'Zania' is a woman [we worked with] in her early 30s, she had moved from Lebanon to Australia with her family when she was a child. She had a difficult childhood and had left home at an early age due to conflict with her father. She had a history of drug use and periods of incarceration. She was known to police and had been homeless on and off for a number of years. Zania had recently fled from a violent relationship and having been denied access to a women's refuge, due to her drug use. Zania had moved to a new area to hide from her ex-partner. Several weeks went by without incident when Zania's ex-partner turned up at the property and physically assaulted her in the driveway. Police were not called as other tenants living in the property had criminal records and did not want any police attention.

Zania presented at a 24 hour crisis centre seeking assistance, she was put in a motel for 2 nights. Social Workers contacted Family Violence services to refer Zania to a women's refuge. A Family Violence worker spoke to Zania and informed social workers that they could not assist, as Zania was a drug addict and would pose a security risk. Attempts were made to advocate on Zania's behalf with social workers stating that they feared for her safety. Family Violence services maintained their belief that she was not suitable for a refuge and Zania was offered accommodation in a mixed homeless service for 4 weeks.

2.8. Case Study

'Dee' was a 35-year old woman we worked with, who had a long history of incarceration and drug use. She had experienced family violence throughout her life, initially as a child and then through various relationships as an adult. Dee had been sentenced to a year in prison when she was six months pregnant. During this period of incarceration, she did well, was drug free and unlike previous stays, prison staff reported no management issues.

Child Protection had previously removed two of Dee's children and were involved in the future of her unborn child. Dee was determined to keep this baby and did everything that was required by prison authorities and Child Protection. After initial court action by Child Protection to remove the baby at birth, Dee was able to satisfy the court that she was capable of caring for her baby. Child Protection raised concerns in relation to family violence with the father of the baby. Dee severed her relationship with him, and made plans to unite with her eldest of her children, a 15 year old boy.

Dee gave birth whilst in custody and served her sentence drug free and without incident. She was released, moved to a public housing property with her baby and 15 year old son. Her ex-partner would not accept that the relationship was over and made verbal threats to harm her. Dee did not report these threats to either Child Protection or police, fearing that she would have her children removed. Within a couple of months of being released, Dee's ex-partner turned up at her property and physically assaulted her with his fists and a bike chain. Dee's son, locked himself in the toilet and rang police. Police attended, but the ex-partner had left the property.

Dee had visible injuries, the front door had been smashed in and both her son and the baby were crying and fearful. Police in attendance knew Dee well from previous contact and advised her that they were arresting her for an outstanding shoplifting warrant. Police left the baby in the care of the 15 year old boy and took her to the station. She was released several hours later and given a date to appear in court.

Dee attended court and the Magistrate was advised that her lawyer had been unaware of any outstanding charges that in fact efforts had been made to have all charges dealt with at a previous hearing where Dee had received her 12 month sentence. The court heard the circumstances regarding her most recent arrest and the Magistrate dismissed the charges. The Magistrate apologised to Dee and congratulated her on her progress in life. He criticised police and expressed concerns regarding their priorities and inappropriate response in this matter. No charges were laid against Dee's ex-partner and he was granted access to the baby.

2.9. Case Study

We met with a woman who was incarcerated under the Serious Violent Offenders (SVO) category. She explained that she had indeed been an accomplice to an armed hold-up however that it was her partner who committed the crime and she was the driver of the car. She further explained that she was in a situation of intimate partner violence with her partner (and so some coercion implicit in completing the armed robbery) and they were both drug users. Her situation has been further exacerbated by the fact that in the women's system there has been at least an eighteen month wait for the 'Offending Behaviours Program' that she is required to undertake before being released, whilst there is no similar such wait in the men's prisons.

2.10. Case Study

[A woman] in her early 40s... attended [health service] a few weeks ago. She is currently mentally unwell (diagnosis of chronic schizophrenia), although is able to present for most health needs as she requires, from our service with no incident. She had attended her area mental health service that had called us with concerns following her allegations of sexual assault. A male known to her allegedly sexually assaulted her. She had attended the local police station shortly after the assault took place to report the incident and she reports that she was told to "go away". She then presented to her area mental health worker to gain support to contact the police to make a report. The police advised her to go to [a] hospital for a forensic exam, but she declined to go, as it too far to go. Her mental health worker called us as they are aware she engages here and has trust in our service provision. I have since seen her and offered all appropriate testing and counselling which she has declined, stating "what's the point if the police don't listen to you anyway". A police complaint was offered which she has also declined. [This health service] continues to provide ongoing mental and physical health support for her.

2.11. Case Study

[I met with a woman] in her 50s, who describes a lifetime of sexual violence and physical violence (in care as a child, and within intimate relationships as well as within community relationships) [and] she was "confused" as to what had happened to her. She has spent time incarcerated and reports this being due to her finding it hard to make sense of who she was and where she had "come from". She believes her treatment within the prison re-enforced her confusion and it was re-traumatising for her.

2.12. Case Study

We had a client returned to prison and we are not sure what the charge was, but the sentence is for 6+ months. We had suspected for some time that there was illegal activity going on but also believed that the [woman] was being pressured by 'partner' and his friends, none of whom we understand have been sentenced. During a property inspection one of her children innocently told us that some damage had been done to the property when the [woman's] partner had been physically violent towards her. We have been informed that the [woman] reported she felt 'safer' in prison - we are not definite whether this is do with only domestic violence, but believe it is certainly part of it.

2.13. Case Study

We worked with a woman released from prison [who] returned to her abusive and controlling partner [because] he had custody of her 2 year old child while she was in prison and she wanted to return to her child. He has made life incredibly difficult for her . . . jeopardising any chance she has of moving out and taking the children with her. He has been contacting her parole officer to make reports and he will not let her out of his sight. Her plan had been to move with her 2 year old and 14 year old

children, but it seems this will not be able to happen as she cannot remove herself and her children safely from this violent relationship.

3. FINDINGS

Amongst the cases that we collected from community sector workers, there were accounts of:

3.1. Police Bias, Misconduct and Inaction:

- Police mistreating women reporting sexual assault or family violence and refusing to take reports when approached or called;
- Police refusing to respond to family violence because they knew both parties and judged that both parties were ‘as bad as one another’, i.e. the woman was presumed to not be a victim because of her criminal record;
- Police refusing to respond because of the presumption that the woman wouldn’t follow through if the order went in front of the magistrate;
- Police only responding to family violence reports after a social worker/case worker called them on it;
- Police refusing to respond to male violence when called out, even in cases where the woman had visible injuries, but breaching the woman for outstanding warrants for ‘failure to appear’, for example, and then remanding her;
- Violent male partners breaching IVOs multiple times without consequence;
- A woman being afraid to contact police because her partner had a relationship with them;
- Women being afraid to contact police because of the belief that police wouldn’t take them seriously and would treat them differently because they knew them from prior contact and/or arrests;
- Women being afraid to contact police for fear of having children removed by Child Protection;
- Police pressuring women to testify against their abusive partners when women were terrified and intimidated by police.

3.2. Exclusion from Family Violence Services:

- Women being excluded from women’s refuges based on drug dependency or complex support needs.

3.3. The links between family violence and women’s imprisonment:

- Women being either implicitly or explicitly pressured, coerced and/or forced to engage in illegal activities by an abusive partner;
- Women experiencing intimate partner violence, being coerced into accompanying partners in the commission of a crime, and being imprisoned for longer than the male partner because the waiting lists for accessing mandated programs in the women’s prison system are far longer than in the men’s prison system, which prevent them from accessing parole at their earliest eligibility date;
- Women acting in self-defence, being placed on IVOs and imprisoned for a single breach;
- Women losing their children when incarcerated;

- Women describing the impacts of multiple forms of trauma and violence throughout their lives as contributing to their incarceration;
- Women describing their treatment in the prison as re-traumatising and reinforcing confusion resulting from prior experiences of intimate violence;
- Women describing how they 'feel safer' in prison because they can temporarily escape from an abusive partner.

4. RECOMMENDATIONS

In recognition that an overwhelming majority of women incarcerated in Victorian women's prisons have experienced family violence, that a significant number of women are incarcerated for minor offences or are remanded for short periods of time and that incarcerating women who have experienced years of family and intimate violence is anti-therapeutic and counter productive, we recommend that reducing by half the numbers of women in prison in Victoria be incorporated into the stated goals of the Royal Commission into Family Violence.

In order to implement the above recommendation, we urge that:

State Government curb women's prison growth and reduce the harm of imprisonment.

- 20% of state resources currently directed towards women's imprisonment to be diverted to specialist and community-controlled support and long-term housing options in the community for women;
- State Government to place a moratorium on growth of prison places for women;
- State Government to commit to halving the numbers of women remanded and sentenced to prison in Victoria by 2025;
- The practice of routine strip-searching in Victorian women's prisons be ceased.

State and Federal Government fund and expand specialist services in the community.

- Specialist support services be established for criminalised women experiencing family violence in the community;
- Community-based prevention initiatives and family violence support services that are driven and delivered by culturally-specific organisations built upon and expanded;
- Early legal assistance that is culturally safe and specialist training for family violence lawyers on the issues facing criminalised women be provided.

Independent system oversight and accountability mechanisms be increased and extended.

- Systems of Child Protection involvement in families, or protocols around child removal, be independently reviewed in line with the principles of transparency, accountability, honesty and, considering the over-representation of Aboriginal children in out-of-home care, recognition of the important role played by Aboriginal community;²²
- Develop appropriate policies, processes, institutions and mechanisms to ensure the independent and effective investigation of breaches of the Victoria Police Code of Practice in the interests of police accountability.

²² See Jackomos, A. (2015), *2015 Report on Government Services* [letter], 3 February, Melbourne, Commission for Children and Young People, accessed 15 May 2015 at: http://www.ccyv.vic.gov.au/downloads/2015.02.03_ROGS%202015.pdf.

Strengthening wider prevention initiatives that address the roots of the problem.

- Broad based and preventative strategies to address the drivers of disadvantage be established and existing initiatives driven by community organisations built upon and expanded;
- Schools-based education on healthy relationships informed by non-punitive approaches, consent principles and analysis of gender inequalities be built upon and expanded as broader community prevention strategy.