

# *Creating Choices — Or Just Softening the Blow?*

## The Contradictions of Reform: Inmate Mothers and their Children

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Women in custody are a minority. This is true in New South Wales, Australia and indeed the world. In the area of crime women are remarkable underachievers, 'it is an area of public achievement where women hardly compete with men' (Heidensohn 1985:5). Ironically, this minority status, rather than infer a cause for celebration, is turned around to subject women inmates to a litany of complaints: they are difficult to manage, they are manipulative, they are emotional (thus, difficult to handle), they are much more demanding (than male inmates).

Inevitably, women's small numbers, and the belief that they are inherently difficult, led to the needs of women inmates being subjugated within a framework that recognised only the needs of male inmates. As Rafter put it, 'the standard is set on male terms that overlook important gender differences' (1993:7). The fact of the matter is, women in custody have different needs and many of them originate from the special role women in general are expected to play in our society (Turnbo 1993:15).

In this paper I will discuss some of the inherent dilemmas for policy makers in the field of corrections. In particular I will focus on the challenge for the Women's Services Unit<sup>1</sup> whose staff approaches its work based on feminist theory, in developing a Mothers and Children's Program for women inmates in NSW. Putting this into the context of feminist practice when trying to enhance a reform program for women in custody, is not without its pitfalls.

Many writers have described the social control mechanisms to which women, and particularly women in the criminal justice system, are subjected (Carlen 1983; Gelsthorpe and Morris 1990; Heidensohn 1985). These controls are imposed by the state, the family, the work place and the education system. In terms of the social policy agenda and legislative changes, it appears as if society has come a long way in loosening the grip of some of those controls by removing some barriers for women. For example, Australian women have had equal pay legislation since the 1970s; women's health is on the agenda; for those able to pay, childcare services have expanded; there is equal employment legislation; there are more women in senior positions in the public service and in parliament than at any other time. Yet, for most women in prison, major social policy advances in health, childcare and education mean very little.

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1 The Women's Services Unit was established by the NSW Department of Corrective Services in October 1994. One of its major roles is to advocate for women inmates, and develop policies specific to their needs.

Feminist criminologists have played a major role in alerting us to the particular needs of female inmates in a system that has largely been designed to cater for the needs of men. They have provided a sound theoretical framework for a reform program that seeks to address a form of social control which portrays women in prison as double deviants. Such women have committed a crime against society and a crime against femininity and motherhood (Heidensohn 1985:46, 47; Easteal 1991:241).

## Rocking the boat while rocking the cradle

Probably the most controversial and emotive issue, and the most perennial problem for women in prison, is their relationship with, and their responsibility for, their families and children. More than by anything else, women are defined by their role in the family — their role as mothers, as child bearers, as nurturers. In contemporary Australia as in other western countries, women remain the primary carers of children. They are the ones who hold the family together, who see to it that the children are enrolled in and turn up at school, who feed and clothe the family and comfort sick and upset children. They manage the family infrastructure. Unlike incarcerated men, most women in prison leave behind children who are dependent solely on them (Hounslow et al 1982:4, 104, 105; Pollock-Byrne 1990:64). Every study of this matter concludes that separation from children constitutes the major hardship for incarcerated women (Hatty 1984:124; Wynne-Hughes 1988:137). And most female inmates will tell you the same.<sup>2</sup>

The studies also show that separation from the mother is devastating for children (Beckerman 1991:172; Fuller 1993:41; Harris 1996:31).

Whether the responsibility was major or sole, it is probable that the forced removal of the mother with care and custody of her children will seriously disrupt those children's lives, often necessitating a total change in the care situation rather than simply a re-organisation of it (Hounslow et al 1982:5).

The above statement is just as valid today as it was at the time of writing in 1982 following the closure of the Mothers' and Babies' Unit at Mulawa.<sup>3</sup>

Although both male and female inmates are separated from their children, the social consequences are different. The pervasive ideology of motherhood, as compared to fatherhood, is very powerful (Hounslow et al 1982:4).

The female felon offends society's idealized vision of women as all-caring, nurturing, and attentive to their children. She therefore poses a threat to the established social order unlike that presumably posed by male felons ... criminal activities raise concerns about her ability to be a good mother (Beckerman 1991:172).

It is commonplace for a female offender to be judged a bad parent, not because of what she has done to the child but by virtue of having committed a crime. This link, flawed as it may be, is internalised by women inmates who become consumed with guilt and shame. Inmate mothers take their motherhood role as seriously as the next mother.

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2 In developing the Mothers and Children's Program a number of discussion groups were held with staff, inmates and external stakeholders.

3 A program to accommodate mothers and their pre-school children was established at Mulawa in 1979. This program was established primarily in response to a recommendation of the Nagle Royal Commission. Together with this program, a Mothers and Babies Committee was established by the then Chairman of the Corrective Services Commission, Dr Tony Vinson. The Mothers and Babies Unit was suspended on Christmas Eve, 1981 (see NSW Department of Corrective Services 1994:57-58).

Herein lie the contradictions: how do we pursue a reform program for women in prison who are parents, based on principles of empowerment, respect and dignity when the prison system is inherently disempowering? How do we provide a supportive environment when gaol is by its very nature unsupportive? How do we guard against reinforcing gender stereotypes when many of our programs are geared towards traditional female roles? By giving incarcerated mothers special consideration, is the correctional system reinforcing the role of women as mothers and perpetuating passive and dependent behaviour? Do such policies in fact act as a means of social control over women and contribute to the discrimination against women in the criminal justice system?

As policy makers in the corrective services system, we have to accept the reality that many of the women who come into the system are primary carers of children.<sup>4</sup> They want to remain mothers and primary carers. They expect to care for their children once they are released. Being a mother is not a role they wish to relinquish.

In 1994, when the NSW Department of Corrective Services adopted the Women's Action Plan, it clearly endorsed the principle of not reinforcing gender stereotypes through its policies. The question is, how do we develop policies and provide program options that are practical and based on women's reality and, at the same time, counter some of the long term effects of social control. Such effects may include dependency in relationships, domestic violence, substance abuse, poor decision-making skills, economic hardship (including housing and income support), and may impact on offending behaviour and the ability to survive in a complex, often harsh, community.

## Reality bites

Very few women in prison have 'sensitive new age guys' who keep the home fires burning. The majority of female inmates are socially and economically marginalised. Many have no community support networks. It is estimated that up to 80 per cent have been the victims of sexual, physical and/or emotional abuse, as children and/or adults. Many have survived childhood as wards of the state. Most have low levels of education and poor employment histories. All but a small number have serious drug and/or alcohol addictions along with associated emotional problems (Kline 1992:1-2; NSW Women in Prison Task Force 1985:49-56; Pollock-Byrne 1990:25,30; NSW Department of Corrective Services 1994; Kevin 1994:11-15). But no matter how disadvantaged their circumstances, we expect them to act rationally, always taking into consideration every aspect of the possible consequences of their behaviour — because, *if they really loved their children, they would not have committed their crimes in the first place.*

We find it much easier to believe that women who are mothers easily trade a life of being with their children for:

- the guilt and shame they feel about the impact their imprisonment has on their children
- their feelings of failure as mothers
- having to face major drug and alcohol issues, which in many instances contributed to their imprisonment

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4 There are no exact figures. Anecdotal evidence suggests around 70 per cent have children (dependent and older non-dependent) (Kevin 1994:13).

- their children having to be taken from their homes and schools to stay with suitable carers, friends or grandparents
- their children being made state wards
- the constant worry that '*if the welfare takes my children, I'll never get them back*'<sup>5</sup>
- the uncertainty of visits, and concerns about who will bring their children to the prisons

Women who live in country NSW can go for weeks and months without seeing their children, family members and friends. Women who are going to be deported on release may not see their children at all for the time they are in an Australian gaol.

Aboriginal and Torres Strait Islander women made up 18 per cent of the total female inmate population in 1995, yet Aboriginal and Torres Strait Islander women represent less than 1.5 per cent of the national female population (Paxman 1993:55). Many of these women, and their families, were stolen as children. They were part of the stolen generations, compounding issues associated with the separation of children through imprisonment.

It is impossible to comprehend the devastating effect of this policy on Aboriginal women and their children. Those scars are the equivalent of a genetic imprint which will leave its mark on generations to come (Lynch 1996).

Running the risk of presenting more questions than answers, let me add another crucial one. What services can the Department provide to help women in its correctional centres deal with these complexities? Often the need for relief becomes urgent under the pressure of these crises. Female inmates and those working with them are grateful for the tiniest bandaid. In this context our work hardly breaks the shackles of social control but gives only temporary solutions to long-term problems.

### Home on a 'section'

One means of help is the granting of a 'section 29'. Section 29(2)(c) of the (NSW) *Prisons Act* 1952 provides an opportunity for female inmates who are mothers to be reunited with their children before their prison sentence has expired. Under this section, the Commissioner can grant a female prisoner who is the mother of a young child or children leave to be absent from prison

for the purpose of enabling the prisoner to serve her sentence with her child or children in an appropriate environment determined by the Commissioner ((NSW) *Prisons Act* 1952:section 29(2)(c)).

This option was introduced in 1986 (NSW Department of Corrective Services 1994:58). It followed a series of reports and strong lobbying by many groups and community organisations following the closure of the Mothers' and Babies' Unit at Mulawa in 1981.

Generally speaking, to qualify for a section 29(2)(c) release, women must have completed at least half of their sentence and have less than 12 months remaining. They must have appropriate sponsors and accommodation. In some instances, accommodation may be a half-way house or drug rehabilitation centre. The most important criterion for an application to be successful is clear evidence that it is in *the best interests of the child*.

Staff play an important role in preparing an application under section 29(2)(c). Staff in correctional centres for women have a heavy caseload. Apart from compiling the reports

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5 Comment from female inmate during discussion group.

for the Mothers and Children's Committee which deals with the applications for a section 29 release, they also assist with organising sponsors and interviewing children. Inmates recognise the role staff play in assessing their eligibility and they are also acutely aware of the power staff have in the decision making. The process can be fraught with difficulties and frustrating for all concerned. For example, staff may have to deal with telling a woman that her application does not meet the criteria and has been unsuccessful.

There is a myth in the Department and correctional centres that women with children have it easy; *they can get out on a section just because they have children*. Not much is further from the truth. The reality is that many applications do not get through the committee stage. Nevertheless, for those whose application is recommended by the Mothers and Children's Committee, the chances are that the recommendation will be endorsed (in the financial year 1995/96 11 women were released under section 29(2)(c)). Even when a woman is released under section 29(2)(c), there are many obstacles in her way. She is still an inmate, still in detention, albeit at home. How can she tell a three year old that she cannot go to the park; or an eight year old that she cannot go with her to the school fete? In most instances women have more than one child. There is little chance for any respite from the demanding home environment under this form of home detention.

As valuable as this section 29(2)(c) provision is, there are many limitations and for a majority of mothers in prison this is not an option. There are many in gaol who:

- may have little support or are new to Australia and do not know anyone to fulfil sponsorship requirements
- may not have accommodation which is deemed suitable
- may be in physical danger from an abusive spouse or partner
- may have a sentence that is too long, yet have young children or be pregnant.

It is for those women for whom a section 29(2)(c) release is not a possibility that the Women's Services Unit is developing a program which offers a variety of choices including:

- full-time residency program
- an occasional overnight program for older children
- special activity days at the correctional centres during school holidays
- changing the classification system for women so that they have easier access to the weekend and day leave programs.

The majority of female inmates in NSW have short sentences, less than 12 months, thus they are ineligible for weekend and day leave programs.

### **The children are coming**

The most important improvement for mothers in NSW correctional centres is the establishment of a full-time residency program at the Emu Plains Correctional Centre and the Parramatta Transitional Centre. In effect, a small number of carefully selected women will be able to care for their pre-school age children whilst in custody.

This is by no means a radical move. NSW ran such a program from 1979 to 1981. All other states in Australia run similar programs in both maximum and minimum security institutions, and it is common practice overseas. Throughout the world there are residential correctional programs which offer a range of services to inmate mothers such as facilities which cater for infants born to inmates while in gaol or facilities which offer temporary placement for children (NSW Department of Corrective Services 1994:59-61).

In preparing the ground work for this program a number of initiatives have been undertaken in the planning and policy process. They include the design of suitable accommodation and physical environments, the recruitment of staff committed to working with women and their children, and the inclusion of community based activities and resources in the program implementation. Importantly, consultations were held with women inmates, correctional staff and external stakeholders. The role of the Mothers and Children's Committee is being reviewed, as is the need for a specialist Children's Services Co-ordinator.

The task here is not to go through the public policy process, but to discuss implementation issues that go to the core of a reform program. No single issue highlights the contradictions inherent within institutional change more than the issue of inmate mothers and their children. What happens *beyond the policy* document, is critical.

People have firm opinions when it comes to raising children, and they have firm opinions about whether or not small children should be placed with their mothers who are in prison. Departmental staff represent this range of community attitudes and they bring to their job their own values and mores. Many inmates themselves do not want to live with children.

The role of custodial officers cannot be underestimated. It is vital to the success of the Mothers and Children's Program. Officers have to perform a difficult role with its own unique contradictions, the dual role of supporter and gaoler.

The full-time residency program for children will mean that the job description for custodial officers will include a supporting role for female inmates who are caring for their children. For many officers this is an exciting challenge and an extension of the case management role. Others do not think children should live in gaols, nor that mothers should be given special treatment. Others still will resent the recruitment of specialist staff.

There is the risk that the parenting role in a correctional centre will be pathologised, with every action of mother and child being viewed through the Diagnostic Standards Manual, the notorious DSM IV. There is recorded evidence that previous programs were viewed through a medical model and treatment perspective, without reference to structural issues such as economic dependency, housing and employment.<sup>6</sup> Anyone who has ever cared for children knows the constant demands which place pressures on the carer. These pressures are the result of circumstances, not some medical condition which needs to be cured. Add to this a correctional environment and pressures are even greater.

Clearly there are no simple policy solutions. What is clear is that policy development and reform programs must go beyond individual pathologies and be grounded in reality, a reality that considers the structural impediments that impact on offending behaviour (McLaren 1992). There is a vital need to provide options that sustain relationships. These options must be supported by establishing frameworks that assist in the pre and post-release period. Structural issues go to the core of the social control of women offenders, and these need to be addressed as an integral part of program development. Structural and cultural change is also necessary within the Department and in the way women inmates are viewed and treated within the criminal justice system. This effort must extend across professional boundaries.

The full-time residency program for inmate mothers attempts to address some of these issues. The policy considers the historical context of previous programs in NSW, along

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6 Research for the Mothers and Children's Program included the examination of historical files and records (which included general comments, file and case notes, assessment reports).

with inter-state and international experience. There is an emphasis on partnerships with the community in access to services and the involvement of workers providing a range of professional advice.

Support for women caring for children in a correctional centre is achieved in a number of ways: case management; counselling services; educational and training classes (related to parenting and/or general education/skills acquisition); interaction with community agencies; drug and alcohol programs. As an inmate nears the end of her sentence case workers will establish links with community agencies and key support workers. Issues such as housing and income support will be addressed prior to release. The central role that staff play is acknowledged. Training packages are being developed (to provide information and enhance skills and knowledge) and job designs are being reviewed to reflect program expectations. The needs of children are also paramount in the policy, as is the need for continuity and security in their care, in order to reduce the impact their mothers' incarceration has on themselves.

While the policy revolves around the issue of the female inmate as a parent and the needs of the child it also acknowledges issues that reinforce gender stereotypes and dependency. The policy cannot ignore short-term, and usually complex, welfare issues. It can, though, prepare the groundwork for long term change. This groundwork must be supported after release.

Such an approach brings me back to the original question raised in this paper, that is, is a Mothers and Children's' Program in a correctional setting just reinforcing socially constructed roles for women? The Women's Services Unit acknowledges the important role of women as parents and that value to the community, and is attempting to provide options that offer opportunities and real choice.

## Conclusion

Underlying the overlapping contradictions is the need for a woman to be able to survive as an independent economic unit. In NSW around 740 women are released from gaol each year. They go back to their communities, our communities, to pick up their lives and the lives of their families.

The question then becomes, how can we soften the blows. We cannot take away all the social controls over female inmates' lives. We can, however, provide a framework that may assist in alleviating some of the effects. The Mothers' and Children's Program is one aspect of that framework.

Each aspect of our work, not just individual programs, must work to achieve a framework of intervention that addresses structural issues. This requires intra and inter-departmental co-operation, *a whole of government approach*. It requires ongoing consultation, monitoring and evaluation; a commitment to staff training, support and special recruitment practices; the collaboration of all sections of the correctional system; and greater emphasis on pre and post-release planning and support. It also requires program and policy development which focuses on the unique experience of women.

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