

WOMEN IN TRANSITION: FROM PRISON TO...

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Theories and perspectives driving post-release approaches and work have been informed by the male experience of prison and release and have been imported to the Australian context from the UK and North America. These theoretical frames, like desistance, and approaches like throughcare and addressing criminogenic needs are then imposed upon women's transitional and post-release lives. They ignore the majority of women prisoners because they do not address very short sentence and remand prisoners; the large number of women with combined and multiple mental health and substance abuse disorders and cognitive disability; or the marginal space from which most come and to which most return. These approaches are considered in Australia and New South Wales (NSW) as they apply to women and approaches from the ground up, using new work on the expressed needs and experiences of Aboriginal and other women being released from prison in Australia, are suggested.

The factors that assist women released from prison to remain out of prison, cease offending and increase their well-being in the community are poorly understood. This may be because policies and programs assisting women post release are derived largely from research on men's criminal, prison and post-release needs and experiences that are then used to develop theoretical perspectives which drive policy and program creation. Although these approaches are sometimes adapted to women post-release, they are nevertheless still founded in

male-centric understandings. This article critiques some of the concepts of, and approaches to women post-prison in contemporary Australia, such as desistance and throughcare, using recent studies with Aboriginal women prisoners and women with complex needs in the prison system in NSW; reflects upon the marginal, gendered nature of the social and physical space to which most women leaving prison go back; and continues the discussion begun by critical criminologists of how to not just imagine, but actually get to a better place.

GENDERED PENALTY

It is the case everywhere in the world that men, compared with women, represent the majority of prisoners. Globally, the female proportion of the prison population ranges from around 3% to 20%¹ with the mean at about 6.5%. Even though this proportion has been increasing in many western countries, at its highest level, women prisoners are still a small minority of the prisoner population. In Australia women form 7% of the prison population.² As a minority group, women prisoners have been subjected to theory framing, management practices and programs posited as gender neutral or derived or borrowed directly from those for men. These have been critiqued by a number of criminologists with most jurisdictions making attempts to build and run women centred prisons. For all this, the criminal justice system and its penal estate are still shaped by male informed knowledge and assumptions. Most of the research on post release has been done with men only and, where women have been included the research has tended to be with longer-term prisoners, those convicted of more serious crime and those released. It is then generalised to and imposed on prisoners being released as if the findings are pertinent for all. This research, used to inform most transitional and post-release developments in Australia, has been carried out largely in North America and the United Kingdom (UK) focusing on criminogenic risks and matters such as violent behaviour, accommodation, drug and alcohol use and employment programs and programs addressing these matters.³

Many jurisdictions in Australia have slavishly followed developments in the USA for the past two decades and Australian criminal justice approaches have come to resemble those of the country with the highest incarceration rate in the world.⁴ Much that has been introduced into the Australian penal realm does not

necessarily fit the Australian context well.

A major flaw in post-release conceptualisation is its lack of connection with the reality of a large section of releasees' experience and context.

IGNORING THE SHORT TERM ELEPHANT IN THE ROOM

The profiling of prisoners tends to be based on census data, that is, the demographics of the static prison population taken in a census on a particular day. Use of such data for planning post-release work and programs leads planners in Australia to believe that half the people leaving prison had served a sentence of over three years. The data is most misleading for those working with people being released, especially when considering women, as such census figures do not take into account the flow-through numbers, that is, the numbers of prisoners who flow through the system over the period of a month or 6 months or a year. This information is vital for any post-release policy and strategy because the flow numbers and demographics are radically different from the census or stock ones. A conservative estimate of around 1500 women a year flow through NSW prisons.⁵ This large turnover of women going in and out in less than twelve months having spent short periods in custody provides a quite different picture to the static census figure of 722.⁶

Why is this so important? Because the majority of people entering full-time imprisonment are serving sentences of under 12 months or are on remand. From the perspective of persons being released from full-time imprisonment the census data quoted earlier gives the impression that the majority of persons in prison are serving longer sentences than is the case. The flow through numbers suggest different approaches – approaches that take seriously the number and effects of short-term sentences and of remand on incarcerated

women. Persons serving shorter sentences or on remand are more often those with mental health/dual or multiple diagnoses, borderline cognitive disability and tend to be those who cycle in and out with high recidivism and breaching rates.⁷ Throughcare approaches for this majority are not the same as those for persons having served longer sentences. The fact is that by far the majority of women prisoners in Australia, a highly disproportionate number of who are Indigenous women, fall into this group.⁸

There is very little published research on this majority of women releasees who have served short sentences (under 12 months) or those who have been released after time on remand. It has been argued that a series of short sentences (which is the most common experience for women) is a form of serial institutionalisation that is even more disruptive to positive engagement with the community and maintains more chaotic living than a longer sentence. Spending weeks or a month or two in remand (another more common experience for women than men) is equal to spending the same amount of time under sentence, in fact worse because remand is spent in a maximum security setting with little access to programs or work. There is no published evidence of programs or support for people who are released after short sentences or a period on remand. What is evident is that in those jurisdictions like South Australia and NSW, that have a high rate of remand, the final sentence is more likely than in Victoria that has a lower rate of remand, to not be a further period of incarceration, suggesting being held on remand was unnecessary.¹⁰

This blindness to short term women prisoners, when challenged by women's lived reality of prison and release, has serious consequences for approaches to transition and re-entry policy and programs currently used in Australia.

THROUGH-CARE: GENDER ATTUNED?

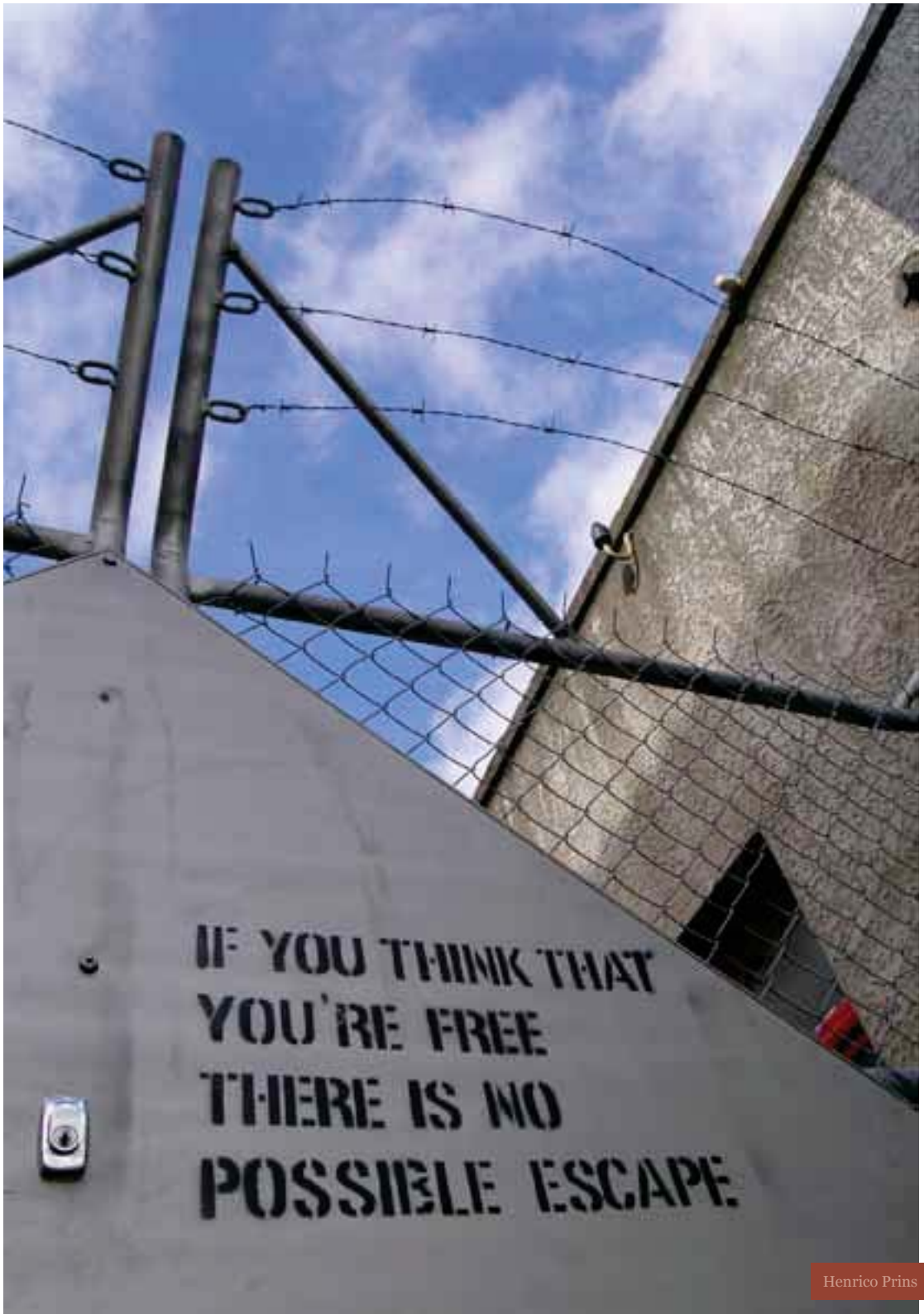
Throughcare is the main policy vehicle for post-release work in Australia. It has been defined as the continuous, co-ordinated and integrated management of offenders from the offender's first point of contact with correctional services to their successful reintegration into the community and completion of their legal order.¹¹

Throughcare is acknowledged as policy in each of the seven Australian jurisdictions. Principles of throughcare can be summarised as,

- Assistance and support to offenders whilst in custody or under supervision in the community
- Whole of sentence planning and integrated case management: 'the individualised and planned management of offenders based upon assessed need, implementation of case plans and case reviews' aims to provide uninterrupted service for offenders leaving the prison system.
- Provision of seamless service to avoid duplication and
- Effective working partnerships and provision of consistent interventions across community and custody.

Theoretically this is an excellent model. But there are significant breakdowns in implementation, even for long term prisoners and especially for women experiencing short episodes of incarceration.

When combined with the understanding of the flow as opposed to the stock women's prison population, there are some obvious and immediate problems with throughcare. Whole of sentence planning is not applicable or possible for those on remand. Similarly, for women on short sentences, whole of sentence planning using this model is very difficult. These



recognitions bring into question the use of the current throughcare model for the majority of women leaving prison.

It is essential to base approaches to women's transition and post-release programs and support on real life, real system information not on data that does not provide a realistic picture of persons being released, and not on approaches developed on the basis of research on men in other countries.

Throughcare, where it is applied to women being released, is applied to those who have been in prison long enough to have a case plan developed, maybe to have completed a program, have a definite release date and a period of parole. As demonstrated earlier, this is the minority of women being released from prisons in NSW and as far as can be ascertained, in Australia so there is no reality based post-release support for these women. This suggests that women must fit the throughcare model rather than throughcare being developed to fit the reality of women's imprisonment and release. Simply put, the throughcare approach, as practiced in Australia, does not address the majority of women being released.

DESISTANCE

Desistance from offending, [t]he change process involved in the rehabilitation of offenders',¹² has reemerged as an important concept in post-release policy and program development. Theorising on desistance¹³ argues that desistance from crime can be achieved by repairing and improving social links and various social bonds; for example marriage is associated with reducing re-offending. So desistance focuses on positive relations with others, the building of 'good lives', driven by personal motivation to cease offending.

Work on desistance was focused on the male offender's pathway.¹⁴ Work on effects of prison on recidivism (lack of desistance) is premised on the male experience.¹⁵ Therefore, most work on desistance remains framed by the original male individual experience. Those who do focus on women and desistance post-release, do so largely in the framework already set by the foundational male normed studies and theorising.

In tackling the problem of desistance thinking being largely around male offenders, opportunity, identity, scripts, self-efficacy and resilience - taken from other fields of social work – have been considered.¹⁶ A theoretical case for considering these in work with women in prison or being released has been built. The question though remains as to whether they are shown to be beneficial in the everyday world of post-release experience.

Some aspects of the theoretical model can be seen in Brown and Ross's (2010)¹⁷ exploration of what outcomes post-release mentoring in Victoria has on desistance for women. Their work raises many of the same questions and problems with desistance noted in this paper. Brown and Ross note that those women who took up mentoring and indicated it had assisted in their desisting from offending, were a minority of those originally expressing interest, were not those with long histories of offending and imprisonment (i.e. not recidivists), were not those who had problematic drug and alcohol use and were more likely to be older and first time offenders. So the women in the mentoring study do not represent the majority of women leaving prison, suggesting this form of mentoring may have limited applicability.

DESISTANCE WITH...?

Other concerns about the applicability of desistance

theory to women are presented by authors¹⁸ who point to the shortcomings of focusing on the factors found to be beneficial for men. Take for example Farrall's¹⁹ summary:

... the desistance literature has pointed to a range of factors associated with the ending of active involvement in offending. Most of these factors are related to acquiring 'something' (most commonly employment, a life partner or a family) which the desister values in some way ...

These key factors may have little connection with many women's post-release lives and needs. They do not necessarily speak to women's significantly different experience of and attitudes to many of the social bonds and informal social controls fundamental to the desistance model.

Various studies of women prisoners and those being released from prison in Australia indicate that the majority does not have a current male partner.²⁰ But if a woman does have a male partner, it is often not a beneficial bond and many women prisoners interviewed say they do not want to return to those relationships²¹ or have already tried to sever the relationship.²² But this severing of relationships, recognised as necessary to escape offending influences and violence, often leaves women lonely and isolated because most have very few other relationships that provide support. The majority of women in prison have experienced sexual and physical abuse and many have post-traumatic stress disorder,²³ often due to the relationship with an abusive male partner, a fundamentally and significantly different experience compared with their male prisoner counterparts.²⁴

Employment may also have a significantly different place in women's post-release lives. For example,

Spark & Harris (2005) argue from their interviews with women in Victorian prisons that the almost singular focus on employment as the outcome and motivation for education for prisoners is very wide of the mark as far as women are concerned and 'that prisoner education for women ought to be conceptualised in relation to a range of factors and not merely conceived of as a path to employment.'²⁵ As employment, like marriage or intimate partnering is seen as a strong factor in achieving desistance, yet again there may be a poor fit with the stated reality of women's needs and lives.

ABORIGINAL WOMEN'S VIEWS

In a needs analysis for an Aboriginal women with dependent children leaving prison project, Aboriginal women in prison, parole officers and various agencies working with them were interviewed regarding the women's experiences previously upon release, and what they needed and wanted post-release in the future.²⁶ Analysis of these interviews and a mapping of available relevant services revealed a severe disjuncture between their throughcare arrangements and the reality of their lives, context and needs. They were frustrated that they were often not consulted or listened to regarding their future directions or if they were consulted nothing much resulted.

The women's concern was overwhelming for their children, how they were doing, how they missed them, how they worried for their safety and how they did not want their children to take the same path they had.²⁷ They were clear that any post-release planning and programming would have to have their children at the centre for it to have meaning for them. For example, long term housing would be working towards how to get housing for them and their children; drug and alcohol rehabilitation would be focused on getting their

lives 'together' so that they could be with their children. So the women did not lack the motivation to change their lives; the question for them was how to act on that motivation in their marginal circumstances and context.

They talked about stopping offending in terms of finding viable pathways out of the circumstances they were in prior to imprisonment. They said that they had been and were entrenched in chaotic, disadvantaged and usually violent spaces and quickly felt 'hopeless' on release when they were back in the same circumstance. They talked of 'wanting and needing help' that was genuine and respectful, before and 'immediately' upon release, to avoid this hopelessness and to be directly involved in decisions about their transition and post-release arrangements. Few had experienced programs in the past that had been relevant or particularly helpful.

Further analysis of the data from this project reveals that few of the women had had planning prior to release, and most had no arrangements for safe housing. As most Aboriginal women in NSW in prison are either on remand or serving under 12 month sentences, throughcare planning was said to be almost non-existent. Parole officers interviewed also despaired at the lack of transitional and post-release options available.

REALISTIC, WOMEN-FOCUSED POST-RELEASE

Explorations of the real circumstances of women leaving prison in Australia most of who live with complex needs, are Aboriginal women and women being released from remand and from short sentences, challenge throughcare arrangements and desistance thinking.

Indications from listening to women on this matter are that approaches must recognise and meet women where they are, in their current and real circumstances and contexts, and work in partnership with them. It is clear that capacity for women on the prison treadmill to change behaviour begins with a safe and supported place, no matter whether a woman has been in prison for ten years or a month. Many say this means a place away from previous negative relationships and one that fosters caring relationships. That is a different place from the liminal, marginal space in which they had lived most, or all of their lives. A variety of supported housing with a range of accommodation types is required to begin to build such safe spaces.

There is no reason why the combination and integration of agency support needed to address this cannot be achieved. Post-release approaches could be reviewed and revised to address this reality rather than women being told they must first fit the criteria, such as having been in prison longer than a year or being on parole or being drug free or having done the right cognitive program. For example a transitional worker from a community support service could meet with every woman, whether on remand or short sentence not just long sentenced women, as soon as practicable after reception and work towards housing and support post-release. As Brown comments, 'offending cannot be de-contextualized and all responsibility for it sheeted home to individual deficits' (2008:60).²⁸

The most obvious conclusion, though, is not to put most of these women in prison, but to take a social reinvestment preventive approach that works towards not creating those marginal spaces for women in the first place.

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