

# **Aberrance, Agency and Social Constructions of Women Offenders**

A Thesis submitted in fulfilment of the requirements for the  
Degree of Doctor of Philosophy

by

Carol Quadrelli

BA (Hons) Griffith University,  
GradDipEd, Queensland University of Technology

School of Justice Studies

Faculty of Law

Queensland University of Technology

2003

## **Key Words**

Aberrance; agency; essentialism; resistance; criminal justice system; female offenders; women's prisons; women's experiences of the criminal justice system.

## **Abstract**

Traditionally offending women are framed through essentialist discourses of pathologisation and the family. Hence, good women are constructed as passive, compliant, vulnerable to victimisation, and nurturers. Offending women are constructed within criminal justice processes as disordered, physiologically and psychologically flawed. Censure or sympathy dispensed to women within the system is contingent on a number of key factors: the type of offence, the category of women involved, and the way in which women interact and negotiate the discourses used to construct their aberrance.

The focus of this thesis is offending women and how they are socially constructed through legal and penal discourses within the court and the prison. However this thesis rejects the essentialist framework which positions women as passive recipients of an omnipotent patriarchal criminal justice system and thus having no agency. Nor is this thesis about creating a new entity to encompass all offending women. Instead an anti-essentialist approach is adopted that allows the body, power, and women's agency to be theorised. This approach provides a more complex and detailed account of women's aberrance that acknowledges the diverse range of women, their experiences and negotiations of criminal justice processes. The combination of real women's lived experiences and an alternative theoretical framework provides a very different perspective in which to understand female offending.

# Table of Contents

|  |      |
|--|------|
| KEY WORDS .....  | i    |
| ABSTRACT.....  | ii   |
| TABLE OF CONTENTS .....  | iii  |
| LIST OF APPENDICES .....   | vi   |
| LIST OF TABLES.....  | vii  |
| LIST OF FIGURES .....  | viii |
| LIST OF ABBREVIATIONS.....   | ix   |
| DOCUMENT SOURCES .....   | IX   |
| OTHER ABBREVIATIONS .....  | IX   |
| GLOSSARY OF TERMS.....   | x    |
| STATEMENT OF ORIGINAL AUTHORSHIP .....   | xii  |
| ACKNOWLEDGMENTS .....  | xiii |
| CHAPTER ONE - RAISON D'ÊTRE.....   | 1    |
| 1.1 INTRODUCTION.....  | 1    |
| 1.2 RESEARCH FOCUS .....   | 5    |
| 1.3 SIGNIFICANCE OF THE STUDY.....   | 6    |
| 1.4 THEORY .....   | 10   |
| 1.5 METHOD .....   | 12   |
| 1.6 THESIS STRUCTURE .....   | 14   |
| 1.7 CONCLUSION.....  | 16   |
| CHAPTER TWO - ESSENTIALIST VISIONS OF ABERRANT WOMEN.....                                  | 18   |
| 2.1 INTRODUCTION.....  | 18   |
| 2.2 ESSENTIALISM.....  | 19   |
| 2.3 THE MASCULINITY HYPOTHESIS .....   | 21   |
| <i>Medical discourse and pathologisation</i> .....   | 22   |
| <i>Sexuality</i> .....   | 24   |
| 2.4 THE CHIVALRY HYPOTHESIS .....  | 24   |
| <i>Arrest phase</i> .....  | 26   |
| <i>Sentencing outcomes</i> .....   | 27   |
| 2.5 THE LIBERATION HYPOTHESIS .....  | 29   |
| 2.6 FEMINIST FRAMES: FAMILIAL/PATHOLOGICAL/SEXUALITY .....                                 | 30   |
| <i>Married women and good mothers</i> .....  | 33   |
| 2.7 ESSENTIALISM AND PRISON LITERATURE.....  | 35   |
| 2.8 ENVISIONING THE FEMALE OFFENDER .....  | 38   |
| <i>Revisioning women's aberrance</i> .....   | 41   |
| <i>Future Directions for Feminist Research</i> .....                                       | 42   |
| 2.9 CONCLUSION.....  | 44   |
| CHAPTER THREE - THEORISING NETWORKS OF POWER, SPACE, THE BODY<br>AND RESISTANCES .....     | 47   |
| 3.1 INTRODUCTION.....  | 47   |
| 3.2 KNOWLEDGE, POWER AND DISCOURSES OF THE LAW, FEMININITY, SEXUALITY AND THE<br>BODY..... | 49   |
| 3.3 FEMINISTS ON DISCOURSES AND THE BODY .....   | 51   |

|  |            |
|--|------------|
| <i>Bodily inscriptions</i> .....   | 56         |
| 3.4 COMPLIANCE AND RESISTANCE .....  | 59         |
| <i>The female body as a site of resistance</i> .....   | 61         |
| <i>Space, power, resistance and compliance</i> .....   | 63         |
| <i>The habitus of the court and prison</i> .....   | 65         |
| 3.5 CONCLUSION .....   | 69         |
| <b>CHAPTER FOUR - RESEARCH DESIGN AND METHODOLOGY .....</b>                                    | <b>71</b>  |
| 4.1 INTRODUCTION .....   | 71         |
| 4.2 RESEARCH RATIONALE .....   | 78         |
| 4.3 FEMINIST ETHNOGRAPHY .....   | 74         |
| <i>Strengths and weaknesses</i> .....  | 75         |
| <i>Problems in prison ethnography</i> .....  | 78         |
| 4.4 RESEARCH PROCESS .....   | 83         |
| <i>Data collection</i> .....   | 83         |
| <i>Observational records</i> .....   | 84         |
| <i>Court observations</i> .....  | 84         |
| <i>Prison observations</i> .....   | 85         |
| <i>Journal entries</i> .....   | 86         |
| <i>Court transcripts</i> .....   | 86         |
| <i>Other stakeholders</i> .....  | 86         |
| <i>Use of vignettes and case studies</i> .....   | 87         |
| <i>Informed consent</i> .....  | 87         |
| 4.5 TRUST AND CONFIDENTIALITY .....  | 88         |
| 4.6 THE INTERVIEW PROCESS .....  | 90         |
| <i>Timing and location of interviews</i> .....   | 93         |
| 4.7 MANAGEMENT, VALIDITY, AND INTERPRETATION OF DATA .....                                     | 96         |
| <i>Validity of data</i> .....  | 96         |
| <i>Interpretation: constructing the ethnographic account</i> .....                             | 98         |
| 4.8 CONCLUSION .....   | 99         |
| <b>CHAPTER FIVE - INCREDIBLE WOMEN NEGOTIATING LEGAL DISCOURSES OF FEMININE DISORDER .....</b> | <b>101</b> |
| 5.1 INTRODUCTION .....   | 101        |
| 5.2 NEGOTIATING THE COURT AS A SITE OF INSTITUTIONAL POWER .....                               | 103        |
| <i>Performances and discourses</i> .....   | 107        |
| <i>Negotiating feminine discourse</i> .....  | 108        |
| <i>Negotiating familial discourse: the good mother</i> .....                                   | 113        |
| <i>Negotiating pathologisation</i> .....   | 116        |
| 5.3 FEMALE VOICES AND LEGAL REPRESENTATION .....   | 118        |
| <i>Inexperience with criminal justice system</i> .....   | 123        |
| <i>Experience with criminal justice system</i> .....   | 124        |
| 5.4 THE GOOD (BUT VICTIMISED) DAUGHTER .....   | 126        |
| 5.5 THE OFFENDING WOMAN NEGOTIATING SELF DEFENCE .....   | 130        |
| 5.6 CONCLUSION .....   | 133        |
| <b>CHAPTER SIX - NEGOTIATING TIME IN THE BIG HOUSE .....</b>                                   | <b>134</b> |
| 6.1 INTRODUCTION .....   | 134        |
| 6.2 HABITUS OF A WOMEN'S PRISON .....  | 135        |
| <i>Punishment and control</i> .....  | 139        |
| 6.3 SOCIAL CONSTRUCTIONS OF FEMALE INMATES .....   | 140        |
| 6.4 AGENCY, RESISTANCE AND COMPLIANCE .....  | 146        |
| <i>Scoring on the inside – illegal drug use</i> .....  | 155        |
| <i>Legal medication of women inmates</i> .....   | 157        |
| 6.5 NEGOTIATING SERVICES WITHIN THE PRISON: PROGRAMS .....                                     | 159        |
| <i>Drug programs</i> .....   | 167        |
| <i>Work</i> .....  | 170        |
| 6.6 NEGOTIATING HEALTH SERVICES WITHIN BWCC .....  | 171        |
| <i>Post release</i> .....  | 175        |

|  |            |
|--|------------|
| 6.7 CONCLUSION.....                      | 176        |
| <b>CHAPTER SEVEN - CONCLUSION- .....</b> | <b>178</b> |
| 7.1 INTRODUCTION.....                    | 178        |
| 7.2 SIGNIFICANCE OF THESIS .....         | 177        |
| 7.3 IMPLICATIONS OF RESEARCH.....        | 184        |
| <i>Further research</i> .....            | 189        |
| 7.4 LIMITATIONS OF THESIS .....          | 190        |
| 7.5 CONCLUSION.....                      | 191        |
| <b>BIBLIOGRAPHY .....</b>                | <b>218</b> |

# List of Appendices

|   |            |
|---|------------|
| <b>APPENDICES.....</b>  | <b>192</b> |
| APPENDIX 4.1 ETHICAL CLEARANCES .....                                   | 193        |
| APPENDIX 4.2 PROFILE OF RESEARCH SITES .....                            | 198        |
| <i>Brisbane Magistrate Courts.....</i>                                  | <i>198</i> |
| <i>Brisbane District Court.....</i>                                     | <i>198</i> |
| <i>Brisbane Supreme Court.....</i>                                      | <i>199</i> |
| <i>Correctional facilities for women in Queensland.....</i>             | <i>199</i> |
| <i>Brisbane Women's Correctional Centre.....</i>                        | <i>199</i> |
| <i>Crisis Support Unit (CSU).....</i>                                   | <i>200</i> |
| APPENDIX 4.3 SAMPLE OF COURT LISTS .....                                | 201        |
| APPENDIX 4.4 COURT ATTENDANCE AT BRISBANE MAGISTRATES COURTS 1 & 2 .... | 203        |
| APPENDIX 4.5 LETTERS TO INMATES .....                                   | 204        |
| APPENDIX 4.6 FIRST INTERVIEW FORMAT .....                               | 210        |
| APPENDIX 4.7 FOLLOW UP INTERVIEW FORMAT .....                           | 211        |
| APPENDIX 5.1 MEDIA COVERAGE OF JOY ANN LANE'S CASE.....                 | 212        |
| APPENDIX 6.1 BWCC PROGRAMS 1997.....                                    | 216        |
| APPENDIX 6.2 INMATES AND INTERVIEWEES BY MOST SERIOUS OFFENCE.....      | 217        |

# List of Tables

|  |     |
|--|-----|
| <i>Table 1.1 Prison population growth rate 1994-99</i> .....   | 3   |
| <i>Table 1.2 Indigenous rates of incarceration nationally</i> .....  | 4   |
| <i>Table 4.1 Offending profile of BWCC inmates and interviewees by most serious offence</i><br>.....           | 90  |
| <i>Table 6.1 Female prisoners by known prior adult imprisonment in Queensland as at 30<br/>June 1998</i> ..... | 145 |
| <i>Table 6.2 Female Escapes and absconds from secure, open and community custody<br/>environments</i> .....    | 153 |
| <i>Table 6.3 Mental Health indicators-female and male prisoners BWCC and AGCC, October<br/>1999</i> .....      | 172 |



# List of Figures

*Figure 1.1 Actual and forecast number of the female prison population in Queensland 1988-2011*.....3

# List of Abbreviations

## Document sources

|    |                   |
|----|-------------------|
| CL | Court list        |
| CT | Court transcripts |
| DE | Diary entries     |
| IN | Interview notes   |
| TS | Tape transcripts  |

## Other abbreviations

|       |   |
|-------|---|
| ABS   | Australian Bureau of Statistics           |
| AIC   | Australian Institute of Criminology       |
| ALRC  | Australian Law Reform Commission          |
| BWCC  | Brisbane Women's Correctional Centre      |
| BWS   | Battered Woman Syndrome                   |
| CSU   | Crisis Support Unit                       |
| DPP   | Department of Public Prosecution          |
| DU    | detention unit                            |
| DV    | domestic violence                         |
| FTA   | fail to appear                            |
| IDU   | intravenous drug use                      |
| NWCC  | Numinbah Women's Correctional Centre      |
| QLD   | Queensland                                |
| QCORR | Queensland Corrections                    |
| QCSC  | Queensland Corrective Services Commission |
| TWCC  | Townsville Women's Correctional Centre    |

## Glossary of Terms

|              |   |
|--------------|---|
| aberration   | a departure from what is normal or accepted as right; a moral or mental lapse   |
| aetiology    | a term with several related meanings: the assignment of a cause or reason, the philosophy of causation, the science of the causes of disease.   |
| agency       | agency is located within the body of the female offender as she negotiates specific criminal justice processes. Resistance and compliance are outcomes of agency and are demonstrated by stylised performances of the self.   |
| breach       | a disciplinary procedure where inmates are punished for breaking rules  |
| co-ey        | co- accused   |
| dogging      | when one offender gives information concerning another offender to authorities  |
| 'done        | methadone   |
| dropping     | drug overdose   |
| essentialism | Essentialism has several interpretations: first, the belief that things have a set of characteristics which make them what they are; second, that the task of science and philosophy is their discovery and expression; and third, essentialism is the doctrine that essence is prior to existence. |
| lockdown     | during lockdown inmates are confined to their cells for a period of time. A lockdown can occur for a number of reasons.   |
| Mirikai      | a drug rehabilitation centre located in Brisbane  |
| 'out         |   |
| shopping'    | shoplifting   |
| screws       | prison officers   |
| 'the girls'  | term used by both prison staff and by women inmates   |

thirdspace represents the space beyond dualisms ie public/private, male/female. Term used by social scientists, cultural critics and geographers.

UT urinalysis testing

'working

girl' sex-worker

# Statement of Original Authorship

The work contained in this thesis has not been previously submitted for a degree or diploma at any other higher education institution. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made.

C. Quadrelli

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## Acknowledgments

This thesis would not have been possible without the support and cooperation of Queensland Corrective Services Commission and the inmates and staff of the Brisbane Women's Correctional Centre. I would like to extend my sincere appreciation to all those concerned. In particular, I am indebted to the inmates who gave so generously of their time candidly sharing their experiences. Without their support, this thesis would not be the document that it is. Your humour, spirit and resilience are inspirational.

I am also grateful for the Queensland University of Technology APA Scholarship that enabled me to undertake this incredible research journey. The Scholarship provided me with the time and opportunity to develop an approach that captures the real accounts of women's experiences of criminal justice processes. I thank the School of Justice Studies for its support over the years and my Principal Supervisor, Dr Belinda Carpenter and Associate Professor Simon Petrie. Your input and guidance have been invaluable. The journey has been challenging on so many levels and yet so satisfying. Thank you for being a part of it.

Over the years, I have been most fortunate to have the support and friendship of QUT colleagues who have provided me with inspiration and the motivation to 'keep going'. Many thanks to Associate Professor Sue Grieshaber, Sue Currie, and Dr Christine Eastwood.

This thesis has had a huge impact on my family and friends. Thank you for your understanding, patience and support. In particular, I express my love and gratitude to my partner Philip and son Nick. True to form, I commenced this journey, organised the itinerary and you both carried the bags. Words cannot express the immense gratitude I feel for your unconditional support,

humour, encouragement and unwavering belief that I had the ability and the right maps to complete this journey.

# CHAPTER ONE

## Raison d'être

### 1.1 Introduction

Women and crime is a fascinating topic within contemporary Western culture, with criminal women constructed as titillating, incredible and horrifying. More specifically, deviant actions by women - particularly violent offences - are fascinating in ways that men's violence is not (Braidotti, 1997; Naylor, 1993). This is because offending women are constructed as displaying signs of abnormality and of difference. This difference represents a mark of inferiority and within woman such a sign of difference is monstrous (Braidotti, 1997). Moreover, crime has been, and continues to be, constructed by and within a male domain. That is, the significant players are predominantly male - from the lawmakers to the judiciary, the criminal to the correctional officer.

The purpose of this chapter is to provide a general overview of offending patterns and the impetus for undertaking this research project with a focus on offending women's negotiations of criminal justice processes. A brief discussion of the significance, theory and method adopted follows. The chapter concludes with the organisation of thesis chapters.

Statistically, the majority of offenders are male and their behaviour perceived as natural masculine aggression. To conflate masculinity with deviant behaviour creates a benchmark, normalising and naturalising men's actions. By contrast, women are perceived as passive and compliant, and portrayed as victims of circumstance. Any deviant behaviour is thus attributed to either physiological dysfunction or circumstances beyond her control. Women's deviant actions are then reframed as an aberration (Mills,



1997).

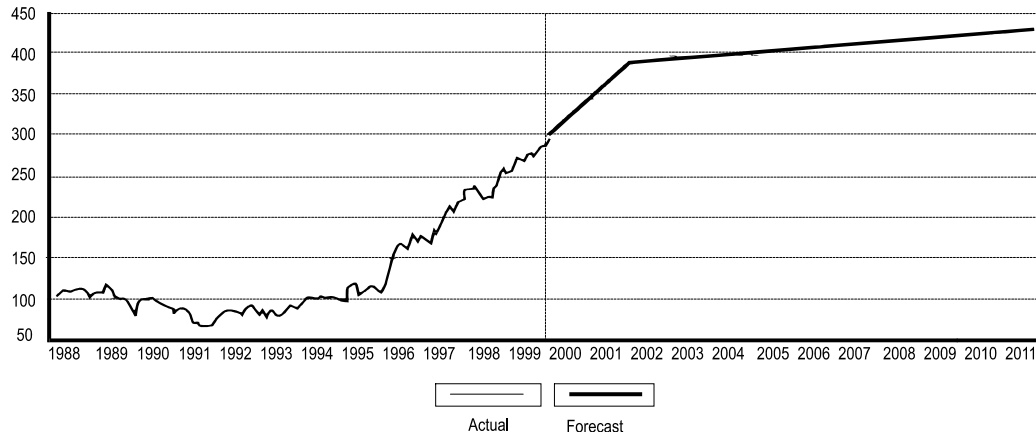
Current discourses on women and the law focus on women's social and economic position within society – with aberrant actions explained through women's victim status (Shaw, 1995). Other research identifies young women's actions are deemed as irrational and symptomatic of individual pathology rather than of conscious rebellion and resistance (see also Allen, 1987a; Henning, 1995; Hudson, 1990; Maher, 1997).

However the question is more complex than whether or not aberrant women are victims of life circumstances and/or the patriarchal mechanism of the criminal justice process. Certainly many of the women interviewed for this research project would not locate themselves as victims. They acknowledge their agency and demonstrate this in a range of ways whilst negotiating criminal justice sites. This thesis seeks to address how some women offenders actively engage with, either through compliance and/or resistance, discourses used to explain and manage their aberrance.

Just as women's level of representation as criminal justice professionals is slowly increasing, so too the level of women incarcerated is increasing - albeit at a more vigorous rate. For the purpose of this thesis the central focus is on women as offenders, the discourses used to construct them within the criminal justice domain and how such constructs are negotiated. A range of factors provide the impetus for the focus and framework of this thesis, *Aberrance, Agency and Social Constructions of Women Offenders*.

First, the past decade has witnessed a rapid acceleration in the rates of women offenders (juvenile and adult) entering the criminal justice system. This increase is reflected both at national and international levels. Future projections indicate a continual increase (See Figure 1.1).

**Figure 1.1 Actual and forecast number of the female prison population in Queensland 1988 – 2011**



Source: Queensland Corrective Services Commission *Profile of Female Offenders 2000*

More specifically, Queensland’s incarceration rate has experienced an influx never previously witnessed (See Table 1.1), especially amongst young Indigenous women (See Table 1.2), exceeding the growth in imprisonment rates of Indigenous and non-Indigenous men. Surveying the overall picture of prison trends, this ever-increasing population of offending females represents a statistical minority, an insignificant number when compared to the total prison population and the wider community. As such this group remains a blurry figure, their realities interpreted as one, within an essentialist framework underpinned by fixed dualisms of masculine and feminine. Such a framework inhibits any meaningful understanding of women’s experiences, excluding any construction of ‘woman as agent’ in negotiating criminal justice processes. However only a minority of research rejects the essentialist underpinnings of traditional feminist and criminological theories (Carrington, 1993; Carrington, 1998; Daly & Maher, 1998; Maher, 1997). In the main, new ways of thinking about women and offending continue to be framed within essentialist boundaries.

**Table 1.1 Prison population growth rate 1994-99**

|                 | <b>MALE</b> | <b>FEMALE</b> | <b>TOTAL</b> |
|-----------------|-------------|---------------|--------------|
| 1994            | 2391        | 100           | 2491         |
| 1999            | 4456        | 273           | 4729         |
| Growth Rate (%) | 86.36%      | 173%          | 89.84%       |

Source: Queensland Corrective Services Commission *Profile of Female Offenders 2000*

**Table 1.2 Indigenous rates of incarceration nationally**

| Aboriginal & Torres Strait Islanders<br>in custody nationally |             |             |             |             |             |             | Rate per 100 000 Population<br>of Imprisonable Age |             |             |
|---|-------------|-------------|-------------|-------------|-------------|-------------|--|-------------|-------------|
|   | 1983        | 1985        | 1987        | 1989        | 1991        | 1993        | 1983   | 1993        | % Change    |
| <b>Male</b>   | 1070        | 1100        | 1688        | 1714        | 2045        | 2287        | 1719   | 2749        | <b>59.9</b> |
| <b>Female</b>   | 48          | 53          | 78          | 111         | 121         | 129         | 77   | 152         | <b>97.4</b> |
| <b>Total</b>  | <b>1118</b> | <b>1153</b> | <b>1766</b> | <b>1825</b> | <b>2166</b> | <b>2416</b> | <b>869</b>   | <b>1438</b> | <b>65.5</b> |

Source: AIC website

Second, mainstream criminological discourses on crime and offending (both historically and traditionally) have framed such activity as an essentially masculine trait, fervently interpreting and managing data within a masculine framework. Criminal justice institutions such as judicial courts and prisons further articulate these values in their architecture, discourses and modus operandi. As will be explored more fully in the following chapters, such factors have a subtle impact upon an individual's experiences of, and engagement with, such processes.

Both the courtroom and the prison are examples of institutional sites where specialist knowledges and meanings, and specific discourses, are deemed acceptable. As with legal discourses, penal policy for women continues to be framed through an essentialist framework deploying gender specific assumptions about women's role in society and the behaviour and needs of women in prison.

A third impetus for this thesis is the social and legal constructions of aberrant women. Traditionally, the criminal justice system's response to aberrance tends to be that men are bad and normal and treated within the legal/punishment paradigm while women are mad and abnormal and in need of the welfare/treatment model (Frigon, 1995; Wilczynski, 1995). The criminal woman is a fallen woman and past and present discourses of offending women replicate such representations (Dobash, Dobash, & Noaks,

1995; Naffine, 1987, 1995, 1997; Scutt, 1997a, 1997b). For example, the archetypal image of Eve represents impregnated womanhood, its fallen condition characterised by inherent weakness, susceptibility to temptation and a propensity for sensuality (Hirschon, 1993). Whether 'woman' is the accused person, sentenced offender, victim, or a witness, she is nonetheless regarded as 'incredible'. That is, woman is not to be believed and is susceptible to questioning about her sexuality, her sexual presence, and her character as a woman (Scutt, 1997a, p. 138).

## **1.2 Research Focus**

Initially, this project was undertaken to address the demand for research to ascertain just how gender is operating in women's treatment by, and engagement with the justice processes and in sentencing outcomes (Alder, 1994a; Australia Law Reform Commission, 1994a; Howe, 1994; Naylor, 1993; Zdenkowski, 1994). My overall objective was to explore the ways in which different categories of women are perceived or constructed within the justice system processes and the systems subsequent treatment of such categories of women.

However, as the research gathered momentum, a micro level of dynamics emerged. The research method is thus derived from a tiered system of interlinking objectives. At a macro level my objectives are twofold: first to consider the extent, type and complexity of women's crime within Queensland; second to explore the gendered characteristics of criminal justice procedures through a continuum of acceptable and unacceptable narratives of female deviance. More specifically, this thesis attempts to ascertain how acceptable and unacceptable discourses of female aberrance are constructed and negotiated by women offenders at the criminal justice sites of the courts and the prison.

Through an exploration of these objectives, a concise picture emerges of how different categories of women are perceived and constructed within judicial and legal discourses, highlighting women's agency in their negotiation of such discourses. Yet another important objective of this thesis is to document and validate the very real, and differing experiences of women encountering Queensland's criminal justice system. At a micro-level, a core objective of this thesis is to explore the degree to which women display agency and resistance in negotiating a range of discourses (i.e. legal, medical, pathologising) in the court and the prison.

### **1.3 Significance of the Study**

There are four significant aspects of this research. First, a range of criminological discourses have developed over the last century to explain and manage the offending behaviour of aberrant female individuals. The theories underpinning the majority of these mainstream discourses tend to be essentialist, perhaps with modifications and a shift in focus over the decades. At a theoretical level, this thesis contributes to the field of feminist criminology by providing a critique of previous accounts of female offending as well as disrupting essentialist accounts of female offending.

Links between gender, crime and victimisation occurred in the 1970s when feminist scholars focussed on women as victims and criminals. A large proportion of this research centred on the victimisation of women, specifically male violence against women. During the 1970s and 1980s many feminists worked in various ways to politicise men's violence against women (Carrington, 1998; Dobash et al., 1995; Howe, 1994; Mills, 1997). This thesis acknowledges that as a minority group, categories of women are disadvantaged by our criminal justice system. Nonetheless it aims to reject and disrupt the notion of woman as victim and explores the more nuanced elements of women's agency and resistance to the discourses that construct

them within the court and penal systems.

Second, literature on women and crime in Australia has been established slowly over the past twenty years. Of particular concern is the lack of qualitative research available on women offenders' experiences of judicial and penal processes. Opportunities to research women's imprisonment are limited and constrained by changing culture, resources of universities, funding bodies, power and policies of governments and public institutions. Research focussing on women's correctional facilities has become a sensitive and politically volatile issue (see also Cook & Davies, 1999; Grimwade, 1999, p. 303). At present there is limited Australian research on women's experiences of criminal justice processes, particularly at the court and the incarceration phases. This is a gap this thesis seeks to address. Increasing incarceration rates combined with high rates of recidivism make this research pertinent by providing data on what it is to be female and negotiate criminal justice processes.

Third, reports and other research also indicate that there is a lack of research on women, crime and sentencing within Australia. Recent research suggests that gender still affects decision making in complex ways which also indicates a need for more research into sentencing patterns (Alder, 1994a; Australia Law Reform Commission, 1994b; Dobash et al., 1995; Hampton, 1993; Howe, 1994; Naylor, 1993).

Fourth, the majority of research conducted tends to adopt an essentialist perspective and as a consequence women are framed as victims. This thesis builds upon a small but growing cluster of works that acknowledges offending women's agency and resistance. In contrast to the majority of research undertaken, research utilising a feminist framework to understand women and their modes of resilience, coping, and resistance is in the minority. This framework is capable of exploring ways in which racial, class

and gender inequalities constrain women's lives as well as documenting the ways in which women deal with their circumstances, how they endure and transcend the difficulties, creating inventive strategies for removing and/or circumnavigating the reality of their lives (Daly & Maher, 1998; Franz & Stewart, 1994; Maher, 1997). Maher & Daly (1998) refer to this perspective as intersectionality whereby these aspects are acknowledged as central to good research.

Moreover, feminist theories that do rely on essentialist parameters in framing women's aberrations tend to elicit a pathological response, especially with regard to violence by women (Allen, 1987b; Bradfield, 1998; Shaw, 1995). This is because women as perpetrators of violence challenge notions of femininity. Aberrance and violent behaviour tends to be conceptualised in masculine and simplistic terms. It is problematic however, to see women's violence from the perspective of violent acts by men (Mills, 1997; Shaw, 1995). This thesis thus explores the relationship between gender, victimisation, aberrance, and female offending.

Several Australian studies have noted the importance of individual differences between magistrates, with a number of studies identifying clear gender-stereotypes in sentencing when the category of 'woman offender' has been explored (Naylor, 1993). Some researchers have observed that women may be treated more leniently than men when they act in an acceptable feminine role, but that they seem to receive no advantage, and may in fact be treated more severely, if engaging in 'unfeminine' crimes (i.e. crimes of violence) or in untraditional roles (Naylor, 1993; Wilczynski, 1995; Worrall, 1990). Moreover, women's credibility and aberrance is constructed within a range of pathological discourses at various criminal justice sites. Naylor (1995) identifies six archetypes that are deployed to explain women's aberrance and all fall within an essentialist framework. These include:

Madonna/whore; sexual passion/love; reproduction and madness; the evil monster/witch; the criminal woman as not-woman; and the female as devious and manipulative (Frigon, 1995; Naylor, 1993; Scutt, 1993). Recent research has utilised frameworks of sexuality, madness, domesticity, social control of family/ economic dependency, as modes of subjectivity (Bosworth, 1999; Worrall, 1987, 1990) and most recently mad/sad/bad categories (Easteal, 2001). To varying degrees, this body of research acknowledges the essentialising of the female offender through pathological and familial discourses yet they remain locked into this very framework in their own analysis.

This is because the question not addressed is that of women's agency, specifically their resistance and negotiation of the discourses used to construct aberrance that in turn underpin the mechanisms of criminal justice processes. There are many forms of resistance (see Faith, 1994; Foucault, 1980; Grosz, 1990; Grosz, 1994) and this thesis attempts to demonstrate how women can be resisting while complying in a particular setting (such as prison and the courtroom). Mills (1997) defines resistance as 'a flight from the body' that 'may be enacted in various ways: religious or transcendental belief systems; or attempts to change the body in which one is trapped' (Mills, 1997, p. 204). One such example is the inmate who attends programs for the sole purpose of 'moving through the system' and 'tells them what they wanta hear'. Inmates may also abide by the prison rules yet resist and take control of their bodies through actions such as self-harming, tattooing, body piercing, eating disorders, illicit drug use and so on. In effect, the inmate mantra of 'don't feel, don't speak, don't trust' is in resistance to the prison environment.

A refusal to be pathologised is yet another example of resistance to medical, legal and penal discourses operational in the court and prison. Inevitably, women's experiences are reconstructed into discourses acceptable to the



court (Hatty, 1993) or the prison (Bosworth, 1999; Sim, 1990). Thereby one label replaces another: the unfit mother/fallen woman becomes the helpless victim with low self-esteem (Shaw, 1995). This leads to problematic terrain for feminist researchers. Legal discourses are incompatible with those of offending women and silence is one avenue of resistance available. Such a resistance can be extremely powerful (see Mills, 1997). As Foucault states 'the silence of the accused can cause the judicial machine to cease to function' (Foucault 1978: 18 in Mills 1997: 167).

A flow-on effect of the significance of this research project is in the fields of feminist criminology and judicial and penal policies. For example if women offenders are viewed as active agents then this would have a positive impact upon the design and appropriateness of rehabilitation in the areas of programming and support services whilst under the care and supervision of Corrective Services. Challenging essentialist discourses also has wide ranging implications for legal representatives and the judiciary in their construction of the special needs of women offenders. It is too simplistic to frame women as defenceless creatures suffering a psychotic episode, biologically-prone to defectiveness and/or victims of circumstance.

## **1.4 Theory**

This thesis draws upon a feminist post-structuralist theoretical approach. A significant aspect of feminist theory and practice is to find, create and redefine words that reflect and record women's experiences (Kelly & Radford, 1996, p. 19). For this reason, a feminist ethnographic method has been deployed to make visible women's experiences; and to make heard women's voices. Research containing a gender variable often presumes that women are an homogenous group. The assumption is that one can isolate a gender variable and import meaning to it. This thesis acknowledges that the effects of gender are a tangential variable hence women are not an

homogenous group. Further it is argued that a gender variable cannot 'be isolated without further information about the women and cultural milieu from which these women originate' (Bernat, 1995, p. 2). Gender is a collective condition experienced by women in terms of their race, class, culture, sexuality, age and location. An understanding of the breadth and depth of women's culture enables the researcher to fully appreciate the complexity of justice issues facing women on a daily basis.

Within western culture, there exist higher levels of discipline upon, and higher levels of bodily docility required of, women (MacDonald, 1993, p. 199). Law and order impinges on women's lives in both the public and private sphere. Women are controlled in the private sphere, which acts to control women in public without the need for overt public control. Women can be coaxed into orderliness through social pressure and the requirement that they conform to conventional standards of femininity (Scutt, 1997a, 134-135).

The female body, as it has been philosophically, historically and medically constructed, represents a threat to purity and to order. Mills contends that 'like the feminine so the abject stands in for what is undifferentiated, disordered, and ambiguous' (Mills, 1997, p. 38). The terms are interchangeable. The female body is a strategic site of power and where there is power there is potential for resistance (Foucault, 1980; Grosz, 1990; Grosz, 1994). Resistance like power is not static, monolithic or chronological and as this thesis will demonstrate there is no one resistance, but rather infinite multiplicities of strategic resistances (Faith, 1994). Resistance to power is resistance to specific strategies by which power relations are patterned. Therefore it is possible for resistance and compliance to be occurring simultaneously.

## 1.5 Method

At various stages of this research it has been suggested that I include men within the research parameters. My response to this suggestion has been varied. Male offenders were not included in this study for theoretical and practical reasons. There exists a considerable body of research that focusses on the (male) criminal. Moreover, a primary concern of the project is not to study female offenders in terms of their difference or differential treatment from men, but in their own right. As will be discussed more fully in Chapter Four, the inclusion of data concerning male offenders would only serve to obscure issues (see Henning, 1995). This is because a tendency of gender comparative analyses is to establish similarities or differences in the treatment of men and women. As such an analysis between women of the many subtleties and complexities operating within the court and prison sites would be precluded. As will be discussed in Chapter Two, much of the research undertaken that compares men's and women's treatment by the criminal justice system uses varying methodologies and variables with inconclusive outcomes.

The methodology used in this thesis rejects essentialist parameters that tend to identify notions of justice based on hierarchical dualisms of masculinity/femininity, politics/ethics, reason/passion, true/false, and reality/fantasy. Such constructions ignore both

multiple and contradictory 'experiences' of the same events as well as the dimension of symbolic representation, particularly gender representations, which are 'intrinsic to our particular ways of knowing and being in the world' (Gatens 1996 in Mills 1997: 10).

Hence the importance of examining the impact of narrative.

Narrative is central to how deviant women are constructed within the courts and prison. Sarmas (1994) posits that the stories adopted by Judges and other legal decision-makers reinforce the dominant discourse. Moreover

legal narratives are structured in ways that exclude, silence and oppress outsiders, particularly those not part of the dominant culture. Narratives reflect and reinforce dominant ideas about gender, race, sexuality, and social class (Sarmas, 1994). The conventional legal story serves to silence women's voices, presenting women's collective oppression as an homogenous entity where one voice serves to speak for all others. Implicit within such silence is the acceptance that only one voice needs be heard on an issue. Inevitably that one voice may be from a male speaking for the collective society of men and women, or from a white female speaking for the gendered society of women.

The inability or failure to hear other voices sets an area of inquiry within a screened context of social reality. This screened reality fails to consider the interdependency of culture, race and class as important considerations for women's lives. The failure to consider and make vocal the voices of silenced women can profoundly affect criminal justice outcomes (Glenn, 1992). A related claim is that voice, the identity of the storyteller, makes a difference to the type of story told. The telling of stories by outsiders, the telling of counter stories (Delgado, 1990), is seen as a means of challenging the dominant legal stories and thereby transforming the legal system so that it is more inclusive, and responsive to the needs of outsider groups.

The evidence which comes out at a trial is structured by a restrictive process of selection and construction, a process determined by the way the legal issue is framed, by the way in which lawyers structure their clients' cases, and by the rules of evidence, particularly those relating to what is legally relevant. It is impossible to glean such details from the reading of the trial transcript because the trial process ensures their exclusion (Sarmas, 1994, p. 726). Thus in this thesis women's voices form the focus.

## **1.6 Thesis structure**

This thesis is organised into seven chapters. This chapter has provided a brief overview of the framework for this research topic, its purpose and rationale. A discussion of the significance of this research and thesis structure conclude this chapter.

The purpose of Chapter Two is to provide the reader with a comprehensive account of the themes that have emerged from a range of discourses that locate and construct the 'disorder' within women in very different ways, yet within an essentialist framework. Explanations of female deviance have been re - fashioned within the essentialist dualisms evident from the emergence of criminology as a discipline through to contemporary explanations of female offending. An analogy is drawn between essentialist theories as representing old frames with new lenses being modified intermittently and culminating in a filtered new view to explain female offending, hence the Masculinity, Chivalry and Liberation hypotheses. However essentialist frames remain relatively unchallenged, despite feminist lenses re-visioning female offending. Rejecting essentialist frames for anti-essentialist feminist frames has the potential to bring into focus women's agency, their compliance and resistance as they negotiate criminal justice processes. Such a framework rejects dualisms and acknowledges women's lived experiences as agents. Women can then be viewed beyond the simplistic feminised victim role. The chapter concludes with a discussion of recurring issues and future directions for feminism, criminology and explanations of women's aberrance.

Chapter Three draws upon a number of interlinking theoretical perspectives such as Foucault, Goffman, Bourdieu, feminist geography, and feminist theorists such as Grosz and Butler to provide the theoretical framework for this thesis. These ideas are drawn upon so as to explore aspects of space/architecture, discipline regimes, cultural inscriptions of the body, and

constructions of gender in the production and re-production of acceptable feminine ideals. Mainstream criminological theory and research construct the body within essentialist dualisms. This chapter rejects such parameters, instead theorising links between knowledge, power, and the corporeal body. The court and the prison are also critiqued as sites where power, resistance and compliance are under constant negotiation.

Chapter Four discusses the nuts and bolts of this research project, the methodological principles framing the project and outlines the conduct of the research. A discussion of feminist ethnography, its strengths and weaknesses, and its relevance to the research rationale follows with a profile of research sites and participants provided to set the contextual background. The process of gathering information (how, where, and when data was obtained), including aspects pertaining to accessing inmates at BWCC are highlighted.

Chapters Five and Six present the findings of the research. Using the stereotypical narratives deployed to explain women's aberrance, Chapter Five, *Incredible women negotiating legal discourses of feminine disorder*, explores the reframing of the offender and her aberrance. More specifically, it examines how some women actively negotiate (through resistance and/or compliance) acceptable 'deviant' narratives accessible to the disorderly female offender. Demonstrated in this chapter is how offending women are located within familial or pathological discourses so as to make sense of their aberrant actions that have made them visible in the public space of the court. The findings show that women negotiate these discourses in a variety of ways, with very different outcomes. Offending women's voices are heard highlighting their perspectives on legal representation and court processes. These are drawn from interviews with inmates reflecting on their court experiences. This chapter concludes with two cases that demonstrate the re-producing of the feminine ideal. Two vignettes of Brisbane court cases,

Debbie Guise and Joy Ann Lane, are presented to demonstrate how judicial players, and the women themselves, negotiate legal discourses of acceptable and unacceptable disorder within the offending woman.

Chapter Six, *Negotiating time in the big house*, explores the habitus of a women's prison, the gendering structures, values and practices of the BWCC. In particular, prison programs and health services are discussed and their role in the re-production of the feminine ideal, specifically, the rehabilitated good woman. This chapter explores how essentialist notions underscore health services and programs on offer to inmates and how women resist and display agency as they negotiate their time inside. Vignettes demonstrate the acceptable or non-acceptable feminine roles adopted (or rejected) by inmates.

Chapter Seven presents a summary of the thesis incorporating discussion of the findings. Following this summary, implications of the research findings are highlighted. This thesis presents a challenge to contemporary mainstream feminist research and criminology and contributes to a growing body of literature that acknowledges offending women's agency. Further, this thesis holds real implications for policy and practice within the criminal justice system, particularly the incarceration process. Also identified is a range of areas requiring further research.

## **1.7 Conclusion**

The purpose of this chapter has been to provide the reader with a broad contextual overview of criminology and constructions of female offending. The research rationale outlined the aims of the project and a discussion of the significance of this research was discussed. The chapter concludes with an outline of the thesis structure. The next step is to review the criminological literature and discourses that have emerged over the last

century that consistently depict the aberrant woman within essentialist frames. That is, as something other - non-feminine and biologically flawed.



# CHAPTER TWO

## Essentialist visions of aberrant women

### 2.1 Introduction

Traditionally the discipline of criminology has been male dominated with crime constructed as a male activity and while feminists since the 1960s have challenged and critiqued the masculine dominance of the criminological focus, a pervasive legacy of essentialism lingers in contemporary feminist discourses which explain female aberrance through a range of pathological discourses: sexuality, sanity and domesticity. Thus while increasing rates of incarceration and crime among women have prompted new explanations on female offending, the majority of researchers remain firmly anchored by the essentialist legacy of early criminological theory.

From the 1970s feminist critiques of the traditional theories on female deviance emerged and remain well-documented (see Anleu, 1995; Dobash, Dobash, & Gutteridge, 1986; Frigon, 1995; Gwynn, 1993; Heidensohn, 1985; Smart, 1976, 1995). One of the great achievements of feminist criminology has been in developing new theories about and policies for women (and children) as victims (Rafter & Heidensohn, 1995, p. 7). Not surprisingly, the study of women's victimisation has caused the least resistance in the field of criminology (Chesney-Lind, 1995, p. xiv). This is because of the underlying essentialist notion of women as passive. Thus to be a victim, rather than an offender, is easier to understand and accept within criminal justice discourses.

The purpose of this literature review is to provide the reader with a thematic picture of the pervasive legacy of essentialism and its continued dominance within contemporary criminological theory and research. Later chapters will

demonstrate how essentialist underpinnings influence criminal justice policy and practices on women and crime. This chapter is organised around three central themes so as to accommodate a new way of viewing offending women and theories of deviance. These themes include:

- i) *Hoary chestnuts*, which considers essentialism, the masculinity, chivalry and liberation theories and the impact such discourses have had on feminist research and criminological discourses;
- ii) *Social control* mechanisms, which explores frameworks deployed by feminists in response to the sexist and phallogentric nature of criminal justice processes and women's treatment within the criminal justice system; and
- iii) *Feminist revisions*, considers existing frameworks and the recurring issues hindering approaches that acknowledge the female offender's fragmented entity.

## **2.2 Essentialism**

Essentialism is a term frequently used yet rarely is its meaning and impact analysed in feminist research (Carrington, 1998; Grosz, 1995; Webster, 2002). It continues to be an issue of contention in feminist criminology (Carrington, 1998). Essentialism can include the belief that things have a set of characteristics which make them what they are, that the task of science and philosophy is their discovery and expression, and that essence is prior to existence. Essentialism thus frames categories of people, such as men/women and heterosexual/homosexual. Within such a framework categories of people are argued to have intrinsically different and characteristic natures or dispositions.

My use of the term essentialism within this thesis refers to the attribution of a fixed essence to women (see also Grosz, 1995). Women's essence is

assumed to be given and universal, and is intrinsically linked to her biology and natural traits. This view infers a limit on the variations and possibilities of change. That is, it is not possible for a woman to act in a manner contrary to her essence. Therefore, the good woman is pure and moral, the bad woman is biologically defective, more male than female. In this manner essentialism refers to the existence of fixed characteristics, given attributes and ahistorical functions that limit the possibilities of change and social reorganisation. There are also instances where women's essence is seen to reside in psychological characteristics such as nurturance, empathy, support, and non-competitiveness (Grosz, 1995, p. 47-49). Within the prison setting, such psychological characteristics are highly desirable and valued by correctional professionals and are at the core of rehabilitative programs.

Intuitiveness, emotional responses, concern and commitment to helping others are also attributed to the essence of woman. When framing offending through essentialist lenses, an aetiology of women's aberrance is constructed that precludes any chance of recognising women's agency. It is a contention of this thesis that women's aberrance is constructed within the courts and prison as intrinsically linked to a physiological and/or psychological malfunction that renders the female offender abnormal, a victim of her feminine form. As this review will demonstrate, locating aberrance as a bodily condition has a rich history.

Various manifestations of essentialism can be seen in explanations of female offending over the last century. Thus the masculinity hypothesis fed into later discourses of pathology, sexuality and familial control. The chivalry thesis shifts focus but holds fast the principles of the female as the weaker sex, in need of male protection and lenient treatment from police and the courts. Aberrant women were flawed biologically, mad and abnormal. The liberation theory espouses women's changed role within the domestic sphere and blames feminism for the new breed of female offender. What all

these accounts share is an unquestioned framing of women as either victims or offenders. Women offended due to circumstances beyond their control. Women's aberrance was never perceived as a deliberate act of agency, rather an anomaly of the true essence of woman.

### **2.3 The masculinity hypothesis**

The masculinity hypothesis derives from late nineteenth century criminological discourse. It is prefaced on the assumption that females with masculine behaviour account for the few crimes that women commit (Culliver, 1993, p. 4). To provide some contextual background to the environment in which this discourse emerged, it needs to be understood that women and men of this era viewed themselves as occupying vastly different social spheres (Quadrell, 1991). Women were clearly positioned in the domestic sphere and were the property of their father or husband (who occupied the public sphere). She was perceived as the moral guardian of the hearth - the very essence of woman was linked to her biology. Such ideology is evident in Morrison's (1891) explanation for why women commit less crime:

The most obvious answer is that they are better morally. The care and nurture of children has been their lot in life for untold centuries; *the duties of maternity have perpetually kept alive a certain number of unselfish instincts; these instincts have become part and parcel of woman's natural inheritance, and, as a result of possessing them to a larger extent than man, she is less disposed to crime* (Morrison 1891 in Morris & Gelsthorpe, 1981b, p. 49) (my italics) .

Thus the normal woman was endowed with 'a natural inheritance' that eliminated criminal tendencies. It was also believed that women comprised 'fewer geniuses, fewer lunatics, and fewer morons' (Thomas 1907 in Morris & Gelsthorpe, 1981b, p. 49). At this time Lombroso and Ferrero (1895) drew a distinction between the occasional female criminal and the born female criminal. The occasional female criminal was characterised as biologically and behaviourally normal but lacking in moral strength. By contrast, the

born female criminal was described as muscular and strong, with thick hair and a virile face. She was said to lack the qualities associated with the feminine, being devoid of maternal and religious feelings, masculine in her style of dress, and excessively erotic (see Davies & Rhodes-Little, 1993, p. 19; Frigon, 1995). Thus female criminality was perceived as a form of deviation from natural or normal womanhood. The prostitute, for example was perceived to be anthropologically and morally more male than female. She was said to menstruate differently from other respectable women, to be infertile, to miscarry more frequently; and if she did bear children, to be a bad mother, all of which demonstrated her lack of maternal instinct and the loss of her essence of womanhood.

A further contention of Lombroso's was the inherent dangers of educating women. It was feared that by removing the constraints of domesticity and maternity, the innocuous semi -criminal personality, present in all women, would emerge. Therefore education for girls was deemed catastrophic as it would aggravate the physiological strains which puberty and ovulation put upon them. Such notions fuelled arguments that women's emancipation would create havoc with law and order (Morris & Gelsthorpe, 1981a, p. 59). It followed that women would become more criminal if enfranchised and granted full equality. Nineteenth century female crime was thus framed within Victorian morality (Dobash et al., 1986; Frigon, 1995). Women's aberrance was linked to her biology which was kept in check by the constraints of domesticity.

### *Medical discourse and pathologisation*

New discourses continually impact upon and influence criminological thought to varying degrees and effects. Emerging medical discourses fortified the principles of the masculinity hypothesis serving to reinforce the aetiology of the female criminal. For example the psychoanalytic theory of

Freud (1933), used medical discourse to explain women's criminality. Hence criminal women were diagnosed as sexual misfits whose aggressive and rebellious behaviour was a result of the failure to develop healthy feminine attitudes. In the late 50s and early 60s, concepts of sexual maladjustment and neurosis to explain women's criminality were forwarded by Pollak, Davis and Konopka (Widom, 1981, p. 35).

In more recent times, the process of pathologisation continues to characterise female criminality based on assumptions about the inherent nature of women. For example Henning's (1995) qualitative study revealed that the Tasmanian judiciary viewed female deviance predominantly as a function of psychological disturbance. Women's responsibility and dangerousness was discounted or subsumed into psychological explanations in the form of pre-sentence reports (see also Allen, 1987a; Allen, 1987b; Bradfield, 1998). Worrall's research on female offenders reveals that female defendants are socially constructed within the discourses of domesticity, sexuality and pathology (Worrall, 1990, p. 29).

Similarly, contemporary legal discourses of femininity continue to position the offending woman as sick, suffering from a physiological or psychological disorder. Women are rendered incredible through this definition of the accused woman as ill with the illness grounded in such physiological disorder as PMS (Scutt, 1993, p. 18). Such representations of women are highly contentious issues as are the benefits in using such discourses (see also Eastal, 1992b; Morgan, 1997; Scutt, 1992; Stubbs & Tolmie, 1994). For example, the acceptance of battered woman syndrome (BWS) in Australian courts demonstrates the willingness to psychologise female offending (see Bradfield, 1998). The strong judicial tradition of explaining female offending in terms of psychological dysfunction permeates contemporary cultural mores (Bradfield, 1998, p. 7; Naffine, 1997).

### *Sexuality*

Sexuality is an interlinking theme to the pathologisation of aberrant women, drawing on the principles of the masculinity hypothesis. The location of women who offend is explained through the framework of sexuality. This is because societies operate in terms of discrete categories and established boundaries. The boundary areas or the ambiguous classifications are points of danger because they give rise to ambivalence and marginalisation. Virginity and heterosexuality represent purity and operate within essential categories of men and women. For example the demonisation of Tracey Wigginton<sup>[1]</sup>, and more recently Sarah Bird and Aleaha Schipper<sup>[2]</sup> through psychobiological and psychiatric interpretations reframe their deviance and criminality. These women (charged with murder and attempted murder respectively) transgressed accepted notions of femininity and were constructed as sexually deviant (lesbians) and devil worshippers.

Homosexuality and transsexuality are concepts of danger relating to ambiguous areas of classification (Hastrup, 1993, p. 36-37). Transsexuality presents difficulties for definitions of the legal subject and most pertinently in the criminal justice system. Difficulties arise in imprisoning transsexuals as they are defined as one gender at birth. There is also an over-representation of transsexuals in the criminal justice system (Johnson, 1995). One only has to review the varying Australian states' policies concerning transsexual inmates to understand both the complexities and inconsistencies that derive from an essentialist viewpoint (Blight, 2000).

## **2.4 The chivalry hypothesis**

The chivalry hypothesis (also referred to as paternalistic theory) represents a

---

1 For a discussion of Tracy Wigginton's case see Davies & Rhodes-Little (1993) and Mills (1997).

2 In July 1998 teenagers Bird and Schipper were charged with the attempted murder of Dulcie Brooks, at Noosa National Park, Qld. Both teenagers were framed as sexually deviant with an interest in the occult.

pervasive mid-twentieth century contention that continues to preoccupy contemporary research agendas. This hypothesis was grounded in notions, expressed in the masculinity thesis, of women as the weaker, passive sex located within the domestic sphere and in need of protection when negotiating the public sphere. As Pollock explains:

One of the outstanding concomitants of the existing inequality between the sexes is chivalry and the general protective attitude of the man toward woman. This attitude exists on the part of the male victim of crime as well as on the part of the officers of the law, who are still largely male in our society. Men hate to accuse women and thus indirectly send them to their punishment, Police officers dislike to arrest them, district attorneys to prosecute them, Judges and juries to find them guilty ... (Pollak, 1950, p. 151).

Thus, the offending woman was thought of in terms of her familial relation to men, as a daughter, sister, wife, or mother. Within this way of thinking the female offender is a deviant manipulative creature whose criminality is concealed by criminal justice officials acting chivalrously. Women are believed to be less culpable, delicate in a childlike way and in need of protection. Her innate characteristics are completely at odds with the offending behaviour which has brought her before the courts. This ideology greatly influenced both the direction and focus of research initiated in the 1970s with responses mostly from those writing on juvenile delinquents (Campbell, 1981; Chesney-Lind, 1973; Datesman & Scarpitti, 1980; Farrington & Morris, 1983; Hancock, 1980; Nagel & Weitzman, 1971; Shacklady-Smith, 1978; Smart, 1976). The chivalry question 'Are women offenders treated more or less leniently than their male counterparts?' has remained a central objective of feminist research agendas determined to ascertain whether offending females obtain a lenient response or harsher outcome at the various criminal justice processes, when compared with male offenders. A range of variables are included in these research methodologies including arrest rates, offence type and sentencing outcomes. The more sophisticated research variables included the roles of women within the domestic sphere



and gender roles and expectations. Specific stages of criminal justice processes were targeted so as to ascertain whether chivalry was present. Thus the arrest process and aspects of court processing were to dominate the criminological research agenda of the 1970s.

### *Arrest phase*

The investigation of chivalrous treatment by police was one strand of research undertaken in the 1970s that indicated a distinct police bias favouring female offenders (Krohn, Curry, & Nelson-Kilger, 1983). Chivalry was thus demonstrated at arrest stage if the woman displayed appropriate gender behaviour and characteristics (Visher, 1983). Contemporary research on arrests has found that males are consistently arrested more often than female suspects (Wright, 1993). However there is no advantage to a female offender if she deviates from stereotype (Morris, 1987; Visher, 1983). Chivalrous attitudes that may exist among police officers result in more frequent arrests for black female suspects who are more likely to be sentenced to prison and receive longer sentences than white women (Mann, 1995). Thus any chivalry that occurs is likely to operate selectively to the advantage of white female defendants.

More specifically a number of studies identify clear gender-stereotypes in sentencing when exploring the category of 'woman offender'. Some researchers have observed that women may be treated more leniently than men when they act in an approved feminine role, but that they seem to receive no advantage, and may in fact be treated more severely, if engaging in 'unfeminine' crimes (i.e. crimes of violence) or in untraditional roles. For example, Wilczynski's (1995) study demonstrates that gender plays an important role in determining the nature of the criminal justice response to those who kill. The criminal justice system views men as bad and normal and to be treated in accordance with the legal/punishment model. Women,

on the other hand, are constructed as mad and abnormal and in need of the welfare/treatment model. Further Wilczynski states that while criminal justice processes predicated on traditional gender stereotypes can be oppressive to women, at times women benefit from them (Wilczynski, 1995). Horowitz & Pottieger (1991) explore gender stereotyping of offences as a possible explanation for police responses. They suggest that young women who engage in major felonies, considered to be male offences, are invisible to the police and are less likely than males to be arrested for these offences. Yet white females are more likely than white males to be arrested for the 'female' crime of high volume petty shoplifting (Mann, 1995).

### *Sentencing outcomes*

Aspects of sentencing and chivalry have been the focus of criminology. The research question pivots around whether women offenders receive more lenient treatment than their male counterparts. Earlier studies found that women were treated preferentially in court (Daly & Bordt, 1995; Nagel & Hagan, 1983; Parisi, 1982; Steffensmeier, 1980). Other research counters these findings suggesting that women are in fact treated more harshly (Chesney-Lind, 1978; Dominelli, 1984; Smart, 1976). Still other researchers conclude that women offenders receive equal treatment (Douglas, 1987); or that disparities in sentencing are diminishing (Kempinen, 1983).

By focussing on offence type some research suggests that differential sentencing occurs for felonies but not for misdemeanours (Zingraff & Thomson, 1984). For example, Nagel & Weitzman (1971) compared treatment received by men and women appearing before the courts on charges of assault and larceny. The findings indicate that women were treated chivalrously by the courts, and for the offences of both assault and larceny there was less likelihood of pre-trial custody, conviction, or prison if convicted for women when compared with men. However, this difference

was less noticeable in cases of assault than in cases of larceny and is attributed to the unfeminine nature of assault (Nagel & Weitzman, 1971). Daly (1994) concludes that men and women are sentenced alike for similar crimes but stressed the importance of both qualitative and quantitative data to fully understand the complexity of judicial decision making. Others have argued that it is not to women's advantage to receive lenient treatment from the courts (Moulds, 1980; Pearson, 1993; Worrall, 1981). Even when the data are controlled for offence type and prior convictions, the results are unclear (Gelsthorpe, 1987; Parisi, 1982). Drawing on previous research, (Morris, 1987) concludes that it is difficult to ascertain whether sexual discrimination occurs in the criminal justice system and that simple allegations of chivalry or sexism can obscure our understanding of the complex nature of the sentencing of both male and female defendants.

Recent Australian research with a focus on judicial views on sentencing and chivalry found that Judges felt there was no chivalry and that public opinion actually sanctioned a more lenient sentence for women offenders than for male offenders (Fox & Freiberg, 1985). Warner (1991) could find no sentencing trends by Tasmanian Judges that favoured women. Naylor (1993) also found little difference in sentencing between men and women in the imposition of custodial or suspended sentence. However more recent research identifies a lenient approach adopted by criminal justice professionals towards female offenders (Julian, 1993). The relationship between socioeconomic status and sentence has also been a topic of interest to researchers with inconclusive results. While some studies have found a strong inverse relationship between a defendant's socioeconomic status and sanctions, others have not (D'Alessio & Stolzenberg, 1993).

Contemporary research remains wedded to the comparative equal outcome debate at the crux of the chivalry thesis with a focus on stereotypes and

sentencing outcomes. Farnworth & Teske (1995) suggest that differential discretion occurs at various stages of court processing and that females charged with violent or assault offences violate the expected female stereotype resulting in more severe sentencing outcomes. Other research suggests that the economy, sex differences, and the phenomena of the glass ceiling will determine whether or not female offenders will reach parity with men in white-collar crime (Albanese, 1995). A generalisation concerning women's interactions with criminal justice processes and whether they are disadvantaged or advantaged as a group is thus not useful. To explore the frames in which offending women are viewed by the criminal justice system is far more productive in attempting to encapsulate women's experiences of criminal justice processes. One such theme used to frame research on the absence or presence of chivalry has been the familial discourse.

## **2.5 The liberation hypothesis**

While the chivalry hypotheses was developed to explain women's lenient treatment by criminal justice professionals, the liberation hypothesis emerged to explain women's criminal presence. The liberation hypothesis was generated in the 1970s to explain the perceived notion of women's increasing criminal activity. Two key texts, *Sisters in Crime* (Adler, 1975); and *Women and Crime* (Simon, 1975), engaged feminist theorists and research agendas. These texts identified a new breed of female offender undertaking traditional male crimes such as robbery and burglary. The women's movement was given responsibility for the increase in women's criminal activity, hence the liberation hypothesis. The release of these texts generated much debate amongst feminists. As discussed above, previous criminological research adopted a comparative framework to explain crime undertaken by women. The pervasive assumption that the male criminal was the norm remained and hence was the benchmark in which to measure and interpret women's crime. As a consequence, feminist studies focussed on

women's crime, women criminals and the treatment of women by the criminal justice system in an attempt to redress the balance by producing work on women. However this research mirrored the traditional criminological work on offending men (Adler & Simon, 1979; Datesman & Scarpitti, 1980; Simon, 1975; Warren, 1981). Feminist research on rising crime rates strongly rejected links between the women's movement, changing roles and the increase in crimes amongst women (Carlen, 1988; Challinger, 1982; Chesney-Lind, 1986; Mukherjee, Scutt, & Australian Institute of Criminology., 1981).

## **2.6 Feminist frames:**

### **Familial/Pathological/Sexuality**

Feminist research over the last three decades has used frameworks of the family, domesticity, femininity pathology, and sexuality, to frame constructions of women offenders. It is thus argued that the courts are more concerned with enforcing a specific gender-role on young women who engage in unfeminine behaviour than punishing them for their offence. This is because it is argued that such behaviour poses a threat to their role within the domestic sphere (Carlen, 1976, 1983; Smart, 1984; Worrall, 1981).

One strand of research has focussed on interactional aspects within the Magistrates' Court. Factors such as differences in the way defendants behaved and the way in which they were perceived were found to affect decision making (Eaton, 1983, 1986; Edwards, 1984; Worrall, 1987, 1990). Hedderman (1990) concludes that how Magistrates appeared to react to defendants and how they sentenced individuals is inconclusive yet suggests that women may receive more lenient sentencing outcomes than men because of their nervousness and display of respect (Hedderman, 1990). Magistrates, solicitors, psychiatrists, and probation officers combine to constitute a chain of signification in the courtroom. These players have the

authority to define and give meaning to the fragmented and contradictory reality that brings defendants into the criminal justice system. Women are perceived as out of place in the courtroom (Carlen, 1976; Worrall, 1981; Worrall, 1990).

Research exploring the nuances of social control mechanisms operating through the family argue that previous research has failed to critique the use of the family as the dominant model. This marked an important shift as previous frameworks were limited by their use of variables that excluded analysis of gender, class, and race simultaneously. Such a perspective provided criminologists with a stronger framework in which to theorise women's relationship to crime. Research demonstrated that gender divisions, like class and racial divisions, were endorsed by the judicial process (Eaton, 1986). It was demonstrated that gender relations are reinforced by continuous reference to the dominant model of the nuclear family as a benchmark of normality. Women are thus disadvantaged by the court not specifically in relation to male defendants, but more generally in relation to men, within the family and, consequently, throughout society.

Other findings indicate that women are more likely to be defined as troubled than men, Magistrates don't like to fine women and favour probation or discharges for women, and women are generally perceived to be inexperienced, deferential and hence honest. However different types of women were treated more leniently and more harshly (Gelsthorpe & Loucks, 1997, p. 56-57). Worrall (1990) also makes connections between appearance, demeanour and the defendants ability to fit within discourses of the family/pathology/sexuality.

More specifically, feminist research found that women experience a high degree of informal social control through their status within the family (Eaton, 1983, 1986; Farrington & Morris, 1983; Gelsthorpe & Loucks, 1997; Hagan, Simpson, & Gillis, 1979; Kruttschnitt, 1982). This is because women are seen by the court, as they are by other institutions, (e.g. education, labour market, mass media) as primarily home centred. Moreover, the model of family dominant in the court is a model associated with the lifestyle of white middle class men and women. Carlen (1988) contends that the majority of women who go to prison are sentenced not according to the seriousness of their crimes but primarily according to courts' assessment of them as wives, mothers and daughters (Carlen, 1988, p. 10). Economic dependency was another mitigating variable in sentencing outcomes. Analysis of probation officer's reports found that less formal (i.e. state-imposed) control was recommended for those women in a situation of strong economic dependency within the family (Kruttschnitt, 1992). Kruttschnitt concludes that the sentences received by women are a recognition of their role rather than their sex (see also Gelsthorpe & Loucks, 1997).

Research also indicates that some women whether because of their race, socioeconomic status or the nature of their offending receive harsher judicial treatment than men in comparable situations. It is theorised that this is because Judges sentence women according to whether they are integrated or not within traditional control mechanisms, such as the family, where the offender may be controlled as daughter or wife. Wilkie found that women social security offenders, unlike other female offenders, are more likely than men to be imprisoned (Wilkie, 1993b). Women who were not incarcerated were typically placed on probation, with or without a Community Service Order, or on a good behaviour bond, while men were typically fined. Separation from children as a result of incarceration, or loss of custody, means that mothers are punished further by society's stigma and social

ostracism and harsh sentencing (Carlen, 1976, 1983; Daly, 1987; Eaton, 1986; Farrell, 1998b).

### *Married women and good mothers*

An ideology of mothering exists in Western countries that portrays women as virtuous, nurturing and pure (Boyd, 1999; Glenn, 1994; Oakley, 1992). This ideology draws upon earlier notions of woman's essence expressed in the masculinity hypothesis. For example, when examining judicial processing, Nagel (1981) identified the advantage of the married woman over the single woman. Farrington and Morris (1983) found that previous convictions and other factors were important in sentencing both men and women, but like Nagel, they found domestic circumstances were more important in the sentencing of women than men. For those women whose backgrounds did not conform to the expected familial role severe sentences were administered. Other research found that Judges viewed mothers who took care of their children as good and treated them more leniently than female defendants who were less exemplary in their mothering (Daly, 1987). Analysis of female roles suggests that some women engaging in traditionally female offences enjoy some benefits before the court, particularly if they can establish themselves as women by fulfilling other traditional roles (Chesney-Lind, 1978). However women not matching traditional stereotypes of good mothers and wives may be dealt with severely (Morris & Wilczynski, 1994). Other research has shown that magistrates viewed the status of marriage as a sign of stability and cohabitation as a more transient state. However living with someone was better than being alone as it provided a degree of social control (Gelsthorpe & Loucks, 1997, p. 48). Ideally women should live with their parents or husbands (or long term partner), or at least have family in the area. Responsibility for children was recognised as exerting a controlling influence.



Magistrates' responses to bail applications revealed that sexism is manifest not in overt disparities in the treatment of men and women but through the subtle reinforcement of gender roles in the discourse and practice of courtroom practitioners. Family structure offering a form of control comparable to that offered by the prison system is most supported with leniency in sentencing (Eaton, 1986, p. 107). While sentencers do not reject the idea of imposing prison sentences on women, it is argued that women do not stand an equal chance of custody in all circumstances (Hedderman & Gelsthorpe, 1997). The most persistent findings about the treatment of men and women are that women are given more lenient treatment than are men in decisions about sentencing especially in response to serious offences (Herzberger & Channels, 1991). Findings indicate no leniency was shown toward women either in bond type or bond amount for women and neither current nor previous criminal history was found to be of importance to decision-makers. However marital status is of significant influence, with a disadvantage to single women (Channels & Herzberger, 1993, p. 337).

What this new research suggested was that women's lives are organised around dependence but that this is socially ambiguous (Hatty, 1993; Worrall, 1990). Notions of acceptable femininity consist of demonstrated competence in the domestic sphere and fulfilling the maternal obligations of her good mother role. This discourse of domesticity also legitimises the interventions of various state authorities and professional groups in the family if the appropriate role is rejected by the mother. On the one hand, women are expected to nurture, support and care for others, particularly if they are family members. On the other hand, society defines ideal womanhood in terms of emotional fragility, intellectual bankruptcy, and moral strength (Hatty, 1993, p. 21). Therefore women's experiences of criminal justice processes were analysed through familial discourse which explored the social control mechanisms of the family.

## 2.7 Essentialism and prison literature

Perceiving the female inmate as deviant either sexually, intellectually or emotionally has dominated research on female inmates (Dobash et al., 1986, p. 124; see also Freedman, 1996). Such constructions of female deviance are underscored by essentialist assumptions. That is, atypical to normal women, more male than female and thus criminal.

Few studies on women inmates have challenged essentialist notions of criminal women (exceptions include Bosworth, 1999; Carlen, 1983; Carlen, 1988; Hannah-Moffat, 1995, 2000). Early accounts of prison life used sex role theory to interpret women's experiences of imprisonment (Giallombardo, 1966a, 1966b; Heffernan, 1974; Ward & Kassebaum, 1965). These works confirmed that differences exist in men and women's adaptation to prison. Generally female prison populations, disciplinary practices and gender specific needs of women within women's prisons were neglected areas of research. The power of the prison was explored within numerous autobiographies, literary accounts and sociological writings (see Carlen, 1983; Padel & Stevenson, 1988; Ward, 1993). Such feminist research did not always incorporate within its research paradigms aspects of race, ethnicity, and class. This prompted more specific research in the 90s on specific women's needs within prison (see Baunach, 1992; Fletcher & Moon, 1993; George, 1995a; Hampton, 1993, 1994; Pollock-Byrne, 1990; Queensland Department of Corrective Services, 2000; Ryan, 2000). A litany of factors has been identified from health <sup>[3]</sup>, education <sup>[4]</sup>, and family <sup>[5]</sup> through to post

---

3 Health issues include: counselling, medical care, drug treatment programs, prescription drugs, self harming. (see also Hampton, 1993, 1994; Harding, 1990; Liebling, 1992, 1994).

4 Rehabilitation issues include: education, vocational and recreational courses (see also Cameron, 2000, 2001; Danby, Farrell, Skoien, & Quadrelli, 2001).

5 Family issues for women inmates (see also Baunach, 1985, 1992; Benjamin, 1991; Bloom, 1993; Chesler, 1991; Farrell, 1996, 1998a, 1998b).

release issues <sup>[6]</sup>. Yet other feminists lament the lack of material available on characteristics and needs of female prisoners in general with even less known about racial differences, commonalities and differences in women's experiences (McQuaide & Ehrenreich, 1998).

Contemporary prison research continues to frame the female offender as victim and/or pathologically ill. It is acknowledged within the correctional setting that women offenders are a special needs group (Brown & Quinn, 1985; Queensland Corrective Services Review & Peach, 1999; Shaw, 2000). The way in which this 'special needs' status is conceptually framed impacts upon the management and programming focus of the prison. A direct effect of this is that prison services are framed and designed using this victim/offender ideology. As a consequence this framework can only acknowledge certain needs of female offenders.

The identikit image of the female offender draws upon a bank of criminogenic symptoms or factors that include: poverty, adult racial discrimination, sexual discrimination, early childhood victimisation, physical abuse, witnessing violence, sexual abuse, and genetic disposition (see Katz, 2000; McClanahan, McClelland, Abram, & Teplin, 1999). Other studies of incarcerated women also link their traumatic histories to a variety of psychological and psychiatric problems (Greene, Haney, & Hurtado, 2000; Jordan, Schlenger, Fairbank, & Caddell, 1996; Teplin, Abram, & McClelland, 1996). Thus explanations of women's involvement in crime and deviance are prefaced with a number of these symptoms in an attempt to understand and manage female criminality. This strand of research justifies its approach by framing women within the familial discourse arguing that women have

a pivotal role as mothers in the lives of the next generation ... the

---

6 Housing (see also Carnaby, 1998; Robson & Nancarrow, 1995); suicide (Davies & Cook, 1998; Fabb, 1995; Pollock-Byrne, 1990; Stevens, 1998).

children's lives are affected by their mothers' incarceration and many of them may have experienced the very criminogenic factors that contributed to their mothers incarceration, giving rise to a cycle of criminality (Greene et al., 2000, p. 4).

Therefore intervention is required to correct deficient mothering. The desired outcome then is that

mothers who gain control of their situations may take a more active and authoritative role in encouraging the men in their lives to share in parenting responsibilities and rewards (Greene et al., 2000, p. 19).

The onus is on the mother to become more active and authoritative, to reclaim, foster and transfer the natural traits of good women (ie heterosexuality, nurturance, loyalty) to the men in their lives so as to create and preserve a nuclear family unit. Green et al (2000) acknowledge the dire need for the unique needs of women to be recognised and responded to. Maher (1995) contends that this strand of research fails to examine other social factors (Maher 1995 in Boyd, 1999, p. 13). She further questions the uncritical acceptance of a causal relationship between early victimisation and later drug use (Maher, 1997). In a review of the literature on mothers, illicit drugs and parenting, Boyd concludes that mothers who use illicit drugs can be adequate parents (Boyd, 1999, p. 14). In the main, research continues to focus on the mental stability and substance abuse of women inmates (Denton, 1995; Lewis & Hayes, 1997; Sigurdson, 2000; Smith & Borland, 1999) with much research framed around health service objectives.

One strand of prison research focusses on sexuality – specifically the lesbian inmate. This research is framed in traditional essentialist terms using the same equation of the equal or harsher treatment paradigm. The heterosexual female is used as the benchmark of normality to which the lesbian inmate is compared. The lesbian inmate represents the male factor of the chivalry equation – are lesbian women advantaged/disadvantaged compared to

'normal' women in criminal justice processes (see Fishbein, 2000). For example Fishbein's (2000) findings indicate that lesbian detainees had more masculine traits than did non-lesbian detainees, more feelings of hostility and anger, and experienced more physical child abuse than did heterosexual detainees. While they did not commit more violent crimes, they were detained more often for longer periods of time.

Other research suggests that hetero-feminine image is important in engendering chivalry and thus leniency toward female offenders (Streib 1993 in Farr, 2000, p. 53). Farr's research indicates that lesbians are over-represented in death sentence cases that are atypical of either the male or the female norm (Farr, 2000, p. 51). The cases Farr studies are linked through portrayals of the perpetrators as embodiments of 'defeminised and dehumanised female evil for whom chivalry must be forfeited and the most severe punishment delivered' (Farr, 2000, p. 63). Such a research paradigm clearly operates using essentialist parameters.

## **2.8 Envisioning the female offender**

Thus far this chapter has argued that a key objective of the emerging feminist movement of the 1960s was the inclusion of gender analysis within disciplines that had previously misrepresented or ignored women completely. Feminist theory focussed on the misogyny and hostility explicitly directed at women and femininity from various discourses (Grosz, 1988, p. 97). Feminist critiques of the criminal justice system in the 1970s and 1980s confronted two key issues: first that violence against women be taken seriously within the legal system; and second, the omission of women and the misogynist representations (Alder, 1995; Carrington, 1998; Scutt, 1990, 1995). It was anticipated that this approach would correct the theory but this proved problematic as there was no theoretical space for women's inclusion (Carrington, 1998; Grosz, 1988, p. 94-95). An unexpected outcome of this

approach was the emergence of the female offender as 'a unitary subject, a hapless victim of a patriarchal legal system' (Carrington, 1998, p. 72; Daly & Maher, 1998). In effect, this shift traded one set of reductionism for another (Cousins 1980 in Carrington, 1998, p. 72).

It has been argued previous feminist research on women's criminality is flawed due to its statistical basis and focus on the chivalry and women's liberation questions. The assumption that women constitute an undifferentiated entity that is advantaged or disadvantaged at different decision points - arrest, committal or sentencing - is not useful (Howe, 1990, p. 36-37). Adding women in at the margins of the discipline has also failed to deconstruct its central frames and theoretical and methodological assumptions (Chesney-Lind, 1986; Morris & Gelsthorpe, 1991; Smart, 1995).

The next strategy of feminist criminological research in the 1980s was a revision and extension of previous feminist criminological critiques of the 1970s deploying a more sophisticated analytical framework. A central concern was to contribute to 'the larger feminist project of reconstructing knowledge so that it no longer reflects exclusively a male social reality' (Naffine 1987 in Alder, 1995, p. 24; Grosz, 1988, p. 92). Furthermore, the assumption that crime was overwhelmingly a male activity is critiqued on the grounds that biological explanations ignore the combined effects of environmental influences, cultural traditions and physiological, psychological and social factors. It was argued that biological theories perceive criminality as the product of hereditary characteristics (Morris & Gelsthorpe, 1981a, p. 50).

French feminism influenced feminist discourses of the 1980s (Carrington, 1998, p. 73) through a rejection of behaviourist and rationalist conceptions of the body that positioned the body as neutral in the formation of consciousness (Gatens, 1983). As discussed earlier the social control

mechanism of the family and the role of women within this unit was firmly on feminist research agendas. So too was the pathologisation of female offenders as mad or bad.

New feminist concepts invigorated the debate on women, crime and criminal justice processes resulting in a plethora of research. While still operating within a comparative framework, the notion of women being either disadvantaged or advantaged was recognised as too simplistic and a clearer profile emerged on women's experiences of criminal justice processes, especially the pre-trial (Willis, 1987) and prison phases (Easteal, 1992c; Easteal, 2001; Gelsthorpe, 1987; Genders & Player, 1987; Owen, 1995; Pollock-Byrne, 1990; Rafter & Stanley, 1999). Feminist critiques of existing delinquency theories on men and boys demonstrated the inadequacy in relation to female delinquency (Caine 1988; Chesney-Lind 1989, 1997; Gelsthorpe 1989). As a consequence critiques of women as victims, offenders and practitioners within the criminal justice system expanded (see Alder, 1994b; Flowers, 1987; Heidensohn, 1985; Heidensohn & Silvestri, 1996; Morris & Gelsthorpe, 1981b; Morris & Gelsthorpe, 1991; Moyer, 1992; Mukherjee et al., 1981).

For feminist criminology, the late 90s represented a time of contemplation, reflection and assessment of feminist discourses and the usefulness of criminology. To explain the relationship between women, crime and criminology early feminist critiques were groundbreaking, responding to the various dominant ideologies at specific times. More recent theoretical and empirical work on gender and crime have revealed the direct relationship between masculinity and crime (Collier, 1995, 1998; Connell, 1995; Dobash et al., 1995; Walklate, 1995). The 1990s was also a time of 'discovery and recovery of women as crime victims and victimizers' (Daly & Maher, 1998, p. 13).

### *Revisiting women's aberrance*

Overall the representations of criminal women are quite limiting (Alder, 1995; Dobash et al., 1986; Naffine, 1997). It is problematic for feminists to discuss women as perpetrators of violence, except in terms of their own reactions to victimisation, for example the battered woman who hit back (see Shaw, 1995, p. 116). Hence, most of the attention has been directed at women who kill (Easteal, 1993a; Jones, 1980; McDonald, 1997; Myers & Wight, 1996; Newton, 1993; Wilczynski, 1995) with only a handful of studies that have attempted to approach the issue of violence by women (Allen, 1987b; Kelly & Radford, 1996; Shaw, 1995). As a result, there is a tendency to rely on truisms about 'most women' (Shaw, 1995, p. 120). The universal nature of this label oversimplifies the explanation of women's situation and behaviour (Naffine 1986 in Shaw, 1995, p. 115). Indeed, research using an alternative framework that positions women beyond the essentialist victim/offender dichotomy are in the minority (for example see Bosworth, 1999; Carrington, 1993; Denton & O'Malley, 1999; Hannah-Moffat, 1995, 2000; Hudson, 1990; Maher, 1997; O'Neill, 1995). Generally there is a reticence to research the lives of women lawbreakers using this framework. Alder (1995) attributes this to an adherence to an Australian legal discourse that entails a clear distinction between victims and offenders (Alder, 1995, p. 31).

Female aggression appears more unexpected, is labelled irrational, and hence denied legitimacy (Campbell, 1993; Naffine, 1997; White & Kowalski, 1994). Yet the myth of the non-aggressive woman is a most pervasive and undisputed gender stereotype. Nonviolence is seen as part of the passive, gentle nature of women, suiting them well for their roles as wife and mother (White & Kowalski, 1994, p. 489). Our image of violence is based on that of male violence - macho, tough, aggressive - thus there is no alternative to conceptualising violence by women except in terms of its unnaturalness



(Mills, 1997; Shaw, 1995, p. 122). Of the few studies of violence other than killing by women, most have used conventional empirical methods or theoretical approaches to measure the acts themselves, and to see how they measure-up to violent acts by men (Shaw, 1995, p. 124-125). Both court and feminist analyses tend to downgrade women's actions as not serious thereby neutralising women's responsibility for crime (Allen, 1987b; Bradfield, 1998; Daly & Maher, 1998, p. 8). It is now argued that female violence needs to be theorised and that the intersection of race, class, and gender is central to these theories (Daly & Maher, 1998; White & Kowalski, 1994, p. 501). Including women's use of violence is only a threat to a version of feminism which views men and women, masculinity and femininity as fixed, unchanging and biologically based, which defines violence as an inherent potentiality in men (Kelly, 1996, p. 36).

#### *Future Directions for Feminist Research*

Mainstream criminology has consistently marginalised feminist research and theory (Allen, 1990; Britton, 2000; Naffine, 1997; Rafter & Heidensohn, 1995; Smart, 1995). Contemporary feminists echo several concerns raised in earlier feminist critiques. First criminology as a discipline continues to think of race in ungendered terms (Daly & Maher, 1998; Gelsthorpe, 1990; Reid & Kelly, 1994) and this is based on the assumption that the female sex is singular in relation to a masculinist legal system (Carrington, 1998, p. 77; Glenn, 1992; Ikemoto, 1992). Reid & Kelly (1994) record a shift from when women of colour were completely ignored in the literature to a stage where they are now studied as anomalies. They argue that women of colour are presented as anomalous through their absence in studies of 'common' female experiences and by their selection for investigations of deviant female behaviour (Reid & Kelly, 1994, p. 479).

While a large body of knowledge exists on race and ethnic comparisons, differences, and effects, this has been constructed from models determined to illuminate deficits and deviance from white norms (Reid & Kelly, 1994). Belle (1990) contends that women of colour are frequently scrutinised as helpless victims or victims of society (Belle, 1990). Furthermore, it is argued few researchers explore strengths and survival strategies used by women of colour, with even fewer studies framing these women 'as enactors, enablers, or as potential individuals' (Reid & Kelly, 1994, p. 483). Others cite a complete lack of data about criminal offending among racial groups, such as Asian or Hispanic (see Britton, 2000).

Similar claims are made within Australia concerning the lack of research undertaken to develop a profile on Indigenous women and criminal justice processes (Carrington, 1990; Carrington, 1998; Mackay & Smallacombe, 1996; Office of the Director of Public Prosecutions, 1996). An essentialist framework constructs women's experiences as universal hence masking disparities in factors such as race and ethnicity. For example Carrington (1998) contends that 'the specificity of Aboriginal women's experiences of the law must remain submerged within essentialist feminist discourses so as to maintain the credibility of the general claim that the criminal justice system is masculinist in that it generally operates on one sex, men (Carrington, 1998, p. 76). Within such a framework no account can be taken of diverse cultural spatial and historical specificity. Thus essentialism cannot cut across the reductionism of binary opposites (Carrington, 1998, p. 73).

Calls to deconstruct frames of reference and to reconstruct a critical analysis deploying contextual determinants which structure and influence economic, political, social and cultural experiences of everyday life have begun outside feminist criminology but have yet to raise the issues within criminology itself

(Scraton, 1990, p. 19). To avoid essentialist framings of women's experiences of criminal justice processes Carrington (1998) advocates

constructing genealogies of intra-sex, intra-familial, and inter-sexual violence, and to interrogate the sites and means of their production, before assuming any universal significance about the sex of the victim or offender (Carrington, 1998, p. 75).

Gender, race, age, class and other social relations intersecting with criminal justice processes and the offender's life need to be factored into research design and analysis (Daly & Maher, 1998, p. 13). It is essential that feminists engage in an ongoing self-reflective process (Alder, 1995, p. 27) and create more detailed studies which examine in greater depth and in terms of women's own experience in conjunction with the contexts and lives of women (Daly & Maher, 1998; Shaw, 1995, p. 125). An analysis of power is also essential to understand offenders' negotiations of criminal justice processes (see Carrington, 1998, p. 77).

A generalisation concerning women's interactions with criminal justice processes and whether they are disadvantaged or advantaged as a group is thus not useful. To explore the frames in which offending women are viewed by the criminal justice system is far more productive in attempting to encapsulate women's experiences of criminal justice processes. An anti-essentialist theoretical framework is required if the researcher is to identify offending women's agency (Daly & Maher, 1998; Maher, 1992; Maher, 1997; Stewart, 1994).

## **2.9 Conclusion**

In summary, explanations of female criminality have been grounded in scientific and medical discourses dating back to the 1800s and as such female criminality has been explained through the dysfunction of female biology and/or psychology. The masculinity hypothesis fed into later discourses of

pathology, sexuality and familial control. The chivalry thesis shifts focus but holds fast the principles of the female as the weaker sex, in need of male protection hence lenient treatment from police and the courts. Aberrant women are viewed as flawed biologically, mad and abnormal. The liberation theory espoused women's changed role within the domestic sphere and feminism for the new breed of female offender. What all these accounts share is an unquestioned framing of women as victims or offenders. Women offended due to circumstances relating to victimisation, physiological or psychological dysfunction. Rarely was women's aberrance perceived as a deliberate act of agency.

A review of feminist criminological work reveals a focus mostly on women's legal status and experience as victims. In the last two decades a large amount of work has been produced to provide valid knowledge of a continuum of social and cultural factors associated with women's crime (Dobash et al., 1995). Initial critiques of criminology emerged out of woman centred feminist discourses of the 1960s and 1970s. A key objective was the inclusion of gender analysis within disciplines that had previously misrepresented or ignored women completely. Feminist theory focussed on the misogyny and hostility directed at women and femininity (Grosz, 1988, p. 97). Core issues addressed by Australian feminists throughout the 1980s and into the early 1990s have focussed on legal and criminal justice reform. Existing research provides a much-needed profile of offending women and imprisonment but mostly viewed through essentialist frames. Research focussing on the female offender as an agent, negotiating the discourses used to reframe her deviance has been minimal, instead the court and prison are viewed as mechanisms of patriarchy, the female offender positioned as the oppressed victim. Building upon the anti-essentialist approaches of Bosworth (1999), Allen (1987a,b), Carlen (1983, 1988), Hannah-Moffat (1995, 2000) and Worrall (1990), the next

chapter will provide a theoretical framework in which to locate offending women's agency as they negotiate criminal justice processes.

## CHAPTER THREE

### Theorising networks of power, space, the body and resistances

#### 3.1 Introduction

It has been difficult for feminists to acknowledge offending women's agency unless it is couched in terms of her status as victim. As discussed in the previous chapter, a small yet growing cluster of works are taking women's agency and resistance in criminal justice processes as their focus (see Allen, 1987b; Bosworth, 1999; Daly, 1998; Hannah-Moffat, 1995; Maher, 1997; Worrall, 1990). As discussed earlier, Carlen's (1983, 1988) and Bosworth's (1999) non-essentialist framing of women's incarceration experiences have been highly relevant to this thesis. Bosworth's (1999) investigation of the agency and identity of women inmates across three English prisons argues that women actively accept or reject feminine stereotypes and that femininity can be positioned as a source of oppression whilst also enabling resistance. Carlen's (1983, 1988) work analyses the biographies of women prisoners and the feminine discourse used to construct them. Surveillance, disciplinary techniques of the prison and paternalistic *modus operandi* are discussed as Carlen captures 'the moment of prison' (Carlen, 1983, p.3). This thesis contributes to and extends upon Carlen's and Bosworth's research by acknowledging offending women's agency but diverges in its framing of agency as a process and thus not residing solely in the individual.

The purpose of this chapter is to provide the reader with an alternative framework that extends beyond dualisms of the female offender as victim thereby rendering visible a more complex and detailed reading of women's aberrance. More specifically, the adoption of a theoretical framework drawing on theories of space, power and the body makes visible offending

women's agency, their compliance and resistance as they negotiate criminal justice processes. This proposed framework acknowledges the importance of theorising power, knowledge and notions of the body, and as such disrupts the location of women as victims by rejecting the dualism of offender/victim. Within the field of criminology, an analysis of how power relations and women's agency intersect with a postmodern reading of the body represents a nontraditional approach. The aim of this chapter is to provide an alternative framework in which to view and contextualise women's offending and their experiences of criminal justice processes.

Following Foucault (1991, 1980) this chapter will argue that power and knowledge is multifarious, existing in and through the body, architecture, discourse, practices and norms of the criminal justice system. As such, a symbiotic relationship exists between power and the individual. Power is located within the individual but the individual constitutes a strand of the weblike power structures that encompass and impinge upon the individual. For example the female inmate who may be the model prisoner and appears to comply with prison protocol, may simultaneously resist at another level. Actions such as illicit drug use, or the parroting of specific responses to her counsellor that will expedite her progression through the correctional system, are strategies of internal resistance to external powers.

This framework progresses in three stages. First is to provide an overview of the juxtaposition of knowledge, power and discourses in relation to how the female criminal body is constructed and interpreted from both essentialist and anti-essentialist perspectives. Second is to draw on theorists such as Foucault, Bourdieu, Goffman, Butler and Grosz combined with the concept of thirdspace (a feminist geography and cultural theory term), in order to theorise the body and bodily inscriptions. The underlying objective is to theorise offending women's resistance and/or compliance at various sites

and to explore women's agency in the context of their lives. Resistance and compliance is located within, and are outcomes of, agency. This thesis contends that power, compliance and resistance are not mutually exclusive of each other, can occur simultaneously, and are continually under negotiation. The concluding section explores the notion of compliance and resistance in relation to the female body and includes an analysis of the habitus of the court and the prison as institutional sites of power (and thus, resistance).

### **3.2 Knowledge, power and discourses of the law, femininity, sexuality and the body**

.. it is in discourse that power and knowledge are joined together  
(Foucault, 1980, p. 100)

Prior to Foucault's analysis of power, knowledge and discourse, power was theorised as an omnipotent hierarchical force that was one directional - top down. As such Foucault's framework has provided a useful tool for feminists to critique power and knowledge thereby disrupting the idea of knowledge as neutral and ungendered. Knowledge is what is socially recognised as knowledge and is a major instrument and technique of power made possible and functioning only through its alignments with regimes of power. Conversely, power in its turn is transformed, realigned, shifted with transformations in the order and functioning of knowledges (Grosz, 1994, p. 147-148). Knowledge also extracts information from individuals that is capable of being refined and reformulated in terms of and according to criteria relevant to the assessment of knowledge. For example, medical experts yield significant power within the sites of the prison and the court (see also Allen, 1987a, 1987b; Carlen, 1983; Sim, 1990). This is due to their status as expert and the concomittant creation of specialised knowledge which impacts radically on court outcomes as well as treatment regimes in prison. As a legitimised and sanctioned knowledge, medical discourses are



then able to feed back into the regimes of power which made them possible and to enable power to operate in more subtle or systematic, more economical or more vigilant, forms (Grosz, 1994, p. 148).

Similarly law is a powerful discourse in the criminal justice system, laying claim to truth (see Smart, 1995, p. 70-75). Such claims to truth enables it to silence women who encounter law (Mills, 1997; Scutt, 1995, 1997a; Smart, 1995; Thornton, 1996). This is because within law, the rational knowing female is an oxymoron (Naffine, 1995, p. 21). Our legal code is imbued with rationality and objectivity. Women are sexed by the law with specific sexualised meanings attributed to the corporeality of women (Naffine, 1995; Smart, 1995). Whether as legal professionals or defendants and/or victims, women are always 'other' despite the myth of the neutrality of law. Furthermore, legal discourse remains impervious to perspectives other than those of white, middle class men (Thornton, 1996; Webster, 2002).

As demonstrated in Chapter Two, it is not a matter of the courts or prisons treating men and women equally or differently. It is, however, the way in which women are constructed through essentialist discourses of domesticity, pathology and sexuality that is pertinent. As family members, wives, divorcees, mothers or daughters, women are located within or outside of such discourses (Eaton, 1986; Worrall, 1981; Worrall, 1987, 1990). This thesis argues that the sexed body cannot be escaped (Butler, 1990; Grosz, 1990) and is constantly reproduced in legal (Naffine, 1995; Smart, 1995) and penal discourses (Howe, 1994). Moreover, essentialist discourses operate within a dualistic frame of reference that will always reproduce the taken-for-granted natural differences that reinforce our experiences as women (and men).

Hence, the legal subject is male and woman is the universal other. Her identity is constructed from a subset of labels derived from the essentialist genre of woman as weak and passive. Legal discourses frame one's life in

terms of the possibilities available to them. For example the victimised woman, the lone mother, good woman, fallen woman, or mad/bad/sad are identities deemed natural and acceptable feminine personas in which to frame offending women through legal and penal discourses (Easteal, 2001; Scutt, 1993, 1997a; Smart, 1995; Worrall, 1990). As many feminists have argued, binary dualisms such as male/female, masculine/feminine, good/bad, rationality/emotionality, objectivity/subjectivity, culture/nature, active/passive, truth/falsehood, not only construct understandings of difference but impart different values (Carrington, 1998; Davies & Rhodes-Little, 1993; Frigon, 1995; Grosz, 1995; Smart, 1995).

### **3.3 Feminists on discourses and the body**

Feminists have struggled around issues involving women's bodies - such as abortion, contraception, maternity, reproduction, self-defence, body image, sexuality, and pornography (Grosz, 1995, p. 31). There exist two broad categories (by no means universal) in which feminist discourses on the body can be organised. The first group, while constituting a diverse range of approaches to shared feminist concerns, frame their theory and praxis within essentialist parameters (for example Bartky, 1988; Bordo, 1993, 1997). An essentialist framework tends to position women as a universally oppressed group ignoring intersections of race, ethnicity and sexuality. Within such a framework it is argued that women are socialised into technologies of the self to achieve docile feminine bodies (Bartky, 1990; Bordo, 1993). Power is not fully explored, hence women are viewed as oppressed by patriarchy where 'woman lives her body as seen by another, by another patriarchal other' (Bartky, 1988, p. 68-72).

It is thus argued that historically the body has been more integral to the formation of identity for women than for men (Bordo, 1993; MacDonald, 1995). This ideology underscores prison programming and is evident when

comparing programs offered in women's prisons to programs operating in men's prisons (Bosworth, 1999; Dobash et al., 1986; Easteal, 1992a; Easteal, 2001; Fletcher & Moon, 1993; Pollock-Byrne, 1990). Programs for women focus on developing the essentialist female qualities of nurturing and caring. Hence programs are designed to develop the fallen woman's skills in the domestic sphere, such as home skills, grooming, arts and craft (ie. raffia hat making) (See Appendix 6.1). Reflecting a distinct sexual division of labour, vocational programs are geared to lowly paid jobs upon release (Easteal, 2001; Hampton, 1993). This focus reflects penal views that are grounded in essentialist notions of womanhood and affects the type of rehabilitation available to women inmates (Bosworth, 1999; Owen, 1998).

The second group reject such a framework adopting instead a theoretical position that positions the body and its inscriptions through an anti-essentialist lens. It is the latter position that provides the theoretical structure of this thesis. Identifying women's agency and contextualising women's experiences of criminal justice processes could not have been conceptualised within an essentialist framework. Essentialism denies notions of women's agency offering only an existence as victim. Moreover it is problematic to view femininity as only an effect of patriarchal oppression. Women are not passive recipients of the discourse. It is women themselves who practice this discipline on and against their own bodies - the choice is theirs (Wearing, 1996). What Bartky, Bordo and others do not address adequately is that a body may appear to be rendered docile or compliant, while simultaneously enacting resistance. The use of the dualism dominance/subordination central to the essentialist framework cannot explore resistance or compliance as an expression of power. Some feminists acknowledge women's choice and agency arguing they are active and they create themselves (Bosworth, 1999; Franz & Stewart, 1994; Law, 1997; Maher, 1997; Smith, 1988; Worrall, 1990).

This is achieved, to varying degrees, by challenging essentialist constructs of women's experiences.

How the female body is theorised has a significant impact on interpretations of women and aberrance. Grosz (1995) identifies a strong reluctance to conceptualise the female body as playing a major role in women's oppression. Essentialist and ahistorical criticism presume that only anatomical, physiological, or biological accounts of bodies are possible, thereby obscuring the possibility of sociocultural conceptions of the body. Nonbiological, nonreductive accounts of the body entail quite different consequences and serve to reposition women's relations to the production of knowledge (Grosz, 1995, p. 31).

Of most significance to an anti-essentialist position is the corporeal body. To be female is not a natural fact but a cultural performance in which naturalness is constituted through discursively constrained performative acts that produce the body through and within categories of sex (Butler, 1990). Gender identities are thus a performance constituted by the stylised repetition of acts (Butler, 1990). This also gives rise to the notion that gender should be understood as a process, rather than a description of binary opposites. For Butler, corporeal style comprises the ways in which the body (gendered, sexed) is made from repetitive stylised performing acts (Butler, 1990). Through acts, gestures, and clothes the individual constructs an identity that is manufactured, manifested and sustained through corporeal signs and other discursive means.

Such a framework allows agency and its relation to embodiment to be embraced. Butler's theory of performativity infers an understanding of agency in which subjects are not wholly passive in the process of construction. Through the activity of performance, the individual

participates in the construction of gender, where the possibility lies for subversion and resistance. For example, for a court appearance a woman may actively create an image to either conform to or directly challenge accepted feminine stereotypes.

Butler's use of agency is in relation to resistance to norms; as resistance to dominant gender paradigms and hierarchies. More specifically Butler locates agency in the act of resistance itself, rather than within the individual. This emphasises the process through which resistance occurs and underplays the relation between the individual and the processes through which they are constructed. Although Webster's (2002) critique of Butler's notion of agency suggests that it de-individualises resistance and emphasises instead the processes through which resistance occurs (Webster, 2002, p. 203). The danger of this viewpoint is that agency should not be attributed to the essence of a Cartesian notion of the individual.

Bosworth (1999) suggests that to have agency is to preserve the ability to negotiate power and to resist (see Bosworth, 1999, p. 127-128). Influenced by Butler's framing of agency, for the purpose of this thesis, resistance and compliance are outcomes of agency and are demonstrated by and through stylised performances of the self. However Bosworth's approach is useful in acknowledging women's resistance regardless of her use of agency being located in the individual.

Theorists such as Foucault (1979), Goffman (1961, 1968, 1969) and Bourdieu (1977) fail to take into account the sexed body, while postmodern feminist theorists such as Butler (1990, 1993), Grosz (1988, 1990, 1994, 1995) and others of their ilk do not. For Foucault, the body is the object, target, and the instrument of power. Goffman (1961) also ascribes the self as subject to transcending relations:

The self then can be seen as something that resides in the arrangements prevailing in a social system for its members. The self in this sense is not a property of the person to whom it is attributed, but dwells rather in the pattern of social control that is exerted in connection with the person by himself (sic) and those around him (sic). This special kind of institutional arrangement does not so much support the self as constitute it.

(Goffman, 1961, p. 168)

Although dated and sharing the same gender blindness as Foucault, Goffman's work is useful to theorise the body drawing on his notions of self and performance. Goffman's social theory of self is a social product in two senses. First the self is a product of the performances that individuals put on in social situations. There is no essence that exists inside an individual waiting to be given expression in social situations. The sense of self arises as a result of publicly validated performances. Second, while individuals play an active role in fashioning these self indicating performances, they are generally constrained to present images of themselves that can be socially supported in the context of a given status hierarchy. For example, an individual appearing before court is expected to adopt specific performances, such as bowing to the Judge, addressing the court with appropriate language such as 'Your Worship'. Clothing and demeanour also contribute to the performance. Within the prison system, set codes of behaviour are expected from inmates with violation of such codes resulting in breaches. Thus, the self is a social product in the sense that it depends upon validation awarded and withheld in accordance with the norms of a stratified society. Goffman (1968) argues that sustaining a viable self also depends on possession of traits and attributes deemed by the dominant society to be requisite of full-fledged humanity (Branaman, 1997). In the case of female inmates, 'the girls' are meant to be remorseful, their good behaviour evident through the display of docile bodies.

Following Grosz (1994) this thesis argues that both male and female bodies are subject to inscriptions, disciplinary power, and regimes of corporeal

production. Men, as well as women, are caught up in modes of self-production and self-observation. These modes engage and absorb the individual within various networks of power but one is never rendered merely passive and compliant (Grosz, 1994, p. 144). They are constitutive of both bodies and subjects. In no way is a subject outside these regimes more free of constraint, less amenable to social power relations, or any closer to a state of nature. Women are no more subject to this system of corporeal production than men; they are no more cultural, no more natural, than men. Patriarchal power relations do not function to make women the objects of disciplinary control while men remain outside of disciplinary surveillance. It is not a question of more or less but of differential production (Grosz, 1994, p. 144). Her recent work theorises the possibility of multiple female bodies and offers strategies to think through ways of being female that are not reduced to a maternal body. In this manner, Grosz moves beyond the Foucauldian body as an inscriptive surface to include the body as culturally produced (Grosz, 1994).

### *Bodily inscriptions*

This thesis contends that the body is not a neutral screen on to which masculinity and femininity can be indifferently projected (Butler, 1993; Grosz, 1990; Grosz, 1994). It is important for the specific modes of materiality of the body to be taken into account. The inscribed male or female body does not equate to the same thing or result in the same text. As sexually specific, the body codes the meanings projected on it in sexually determinate ways. As such women's bodies have been reduced to a biology that in turn presumes them to be passive. These essentialist notions underpin western philosophical thought and continue to be articulated in contemporary discourses such as those in the court and prison (Grosz, 1995; McDowell & Sharp, 1999).

Through these modes of corporeal inscription, bodies are made amenable to the prevailing exigencies of power. Body language is an apt description of the ways in which cultural specific grids of power, regulation, and force condition and provide techniques for the formation of particular bodies (Grosz, 1994, p. 142). For example the body language displayed by roles within the court (such as the Judge, prosecutor, defendant, legal counsel, prosecutor) are distinctly marked as performative bodies. For Grosz (1994)

The naked body is marked by its disciplinary history, by its habitual patterns of movement, by the corporeal commitment it has undertaken in day-to-day life. It is in no sense a natural body, for it is culturally, racially, sexually, possibly even class distinctive, as it would be if it were clothed. (Grosz, 1994, p. 142).

Moreover, Grosz contends that the body is marked by the history and specificity of its existence. For each individual and social body a biography, or history of the body, can be constructed .

Clothing, jewellery, cosmetics, cars, living spaces, and work are signifiers that function to mark the individual's body binding individuals to systems of significance in which they become signs to be read - by others and themselves (Frye, 1983; Grosz, 1994; Grosz, 1995). Decisions to have dreadlocks, shaved heads, bulging biceps, swampy/Goth style make up, tattoos, body piercing, self mutilation all translate into readable signs, demanding of attention. Bodies speak without necessarily talking, because they become coded with and as signs (Frye, 1983).

The body's traditional centrality to feminine identity can be subdivided into a variety of codes or appearances: ideal bodily shapes and size; appropriate forms of and cosmetic care of skin and hair; and the adornment of the body through clothes and accessories. It is not the body but the codifying of the body into structures of appearance that culturally shapes and moulds what it means to be 'feminine' (MacDonald, 1995). For example body piercing and



tattooing are decorative yet can be interpreted as transgressive acts (McDowell, 1999). This was very evident in the performances and presentations of women in BWCC and in court. As will be discussed in more detail, women presenting themselves for court appearances and inmates' constructions of self varied greatly as they negotiated and constructed their personas at both sites. Thus bodies are traversed and infiltrated by knowledges, meanings and power and represent sites of struggle and resistance (Grosz, 1995, p. 35-36). Through repetitive and stylised performances the body practices, as well as responds to, signification.

Inscriptions also occur both violently and in more subtle forms within our culture. Violence is demonstrable in a range of social institutions of correction and training, such as prisons, juvenile homes, hospitals, and psychiatric institutions. The aim of such sites is to confine, constrain, supervise, discipline and regiment the individual (see Goffman, 1961; Grosz, 1994; Hampton, 1993, 1994). The body can be marked by shock therapy, handcuffs, the straitjacket, the regimen of drug habituation and rehabilitation, chronologically regulated time and labour divisions, cellular and solitary confinement, the deprivation of mobility, the bruising of bodies in police examinations, and strip searches. More subtle are inscriptions of cultural and personal values, norms, and commitments according to the morphology and categorisation of the body into socially significant groups such as male and female, black and white. However such inscriptions are no less coercive (Grosz, 1994, p. 141).

Sexuality is pivotal to conventional feminine identities (Butler, 1993; Jackson, 1996). Within Western society, many of the identities available to women are derived from their location within heterosexual relations – as wife, girlfriend, daughter or mother (Bartky, 1990). This is reflected in acceptable identities for women appearing in court (Chesler, 1991; Eaton, 1986; Smart, 1984; Worrall, 1981; Worrall, 1990, 1996) and within the prison (Farrell, 1998b). At

an ideological level, the institutionalisation of heterosexuality operates through the discourses and forms of representation which define sex in phallogentric terms. Men are positioned as sexual subject and woman as sexual object (Jackson, 1996). To name oneself as heterosexual is to make visible an identity that is generally taken for granted as a normal fact of life. Moreover, the categories of heterosexual, homosexual and lesbian are grounded in gender - they presuppose gender divisions and could not exist without our being able to define others and ourselves by gender (Jackson, 1996, p. 27).

The individual also lives their sexuality from different locations within the social structure. There is thus the need to consider the intersections of gender and sexuality with class, race and other social divisions, to think about ways in which dominant discourses around sexuality have been framed from a predominantly white, male, middle class heterosexual perspective. A Foucauldian approach tends to focus on sexual diversity per se, on sexualities at the expense of structural bases of power coupled with the denial of the importance of gender and the sexed body (Butler, 1990; Grosz, 1990; Grosz, 1994; Jackson, 1996). The assumption of normative heterosexuality operates throughout society and its institutions (Jackson, 1996). For example within the judicial system, lesbianism is not an acceptable feminine identity. Transsexuality is another problematic identity for both the courts and penal system to manage (Blight, 2000). In prison, same sex relationships represent a very real dilemma for staff (Bennett, 2000; Bosworth, 1999; Easteal, 2001).

### **3.4 Compliance and resistance**

Where there is power there is resistance, as Foucault states

There is a plurality of resistances, each of them a special case: resistances that are possible, necessary, improbable; others that are spontaneous, focuses of resistance are spread over time and space at

varying densities, at times mobilizing groups, or individuals in a definitive way, inflaming certain points of the body, certain moments in life, certain types of behaviour ...

(Foucault, 1980, p. 96)

It is necessary to contextualise agency within power relations in order to understand resistance. Goffman maintains that certain resistant stances are available to the most marginalised members of society 'despite having no access to the resources, freedoms and territories necessary for sustaining a viable self' (Goffman, 1961, p. 319). As discussed above, staged performances construct the self (see also Butler, 1990) and most of the time these performances are constrained by the ritual order of social life.

Like power, resistance is not static, monolithic or chronological; there is no one resistance, but rather infinite multiplicities of strategic resistances (Faith, 1994). Resistance to power is resistance to specific strategies by which power relations are patterned. For example, just as the mental patient learns to adopt a separate identity from the one that the hospital can give and take away (Goffman, 1961), so too does the prison inmate and the female defendant adopt stylised performances. Negotiating power through agency was evident during the period of research as women appeared before the court and in the actions of BWCC inmates (ie. attempted breakouts, drug overdoses, and other breach offences). These resistances will be further explored in chapters five and six.

Wherever power is infused across a range of disciplinary sites, such as the courts and the prison, it simultaneously intersects with the force of resistance. Resistance has the potential to weaken processes of victimisation and generate personal and political empowerment through the acts of naming violations and refusing to collaborate with oppressors. The act of resisting incursions into the body may be conscious, thoughtful, deliberate and/or ideologically situated, or it may be a primitive act of survival (see

Faith, 1993, 1994). Acts of resistance could include refusing visits to avoid a strip search, accessing the Ombudsman over complaints, refusing to be pathologised in court (Mills, 1997), and suicide (Liebling, 1992, 1994). Resistance may also be a choreographed performance of cooperation (Faith, 1994, p. 38-39). For example, several of the inmates commented on their cooption of appropriate responses and attitudes so as to work their way through the prison system towards a low classification. Women prisoners are constructed as victims and are regulated right down to the last details of their self-representation, yet it does not follow that they cannot or do not form resistant networks (Howe, 1994, p. 131).

### *The female body as a site of resistance*

The various procedures for inscribing bodies, marking out different bodies, categories, types, norms, are not simply imposed on the individual from the outside (Grosz, 1990; Grosz, 1994). Prison culture establishes often unspoken rules amongst inmates such as don't trust, don't feel, don't talk. Rules also govern relationships between lifers and short-term inmates (Easteal, 1994, 2001; Kilroy, 2000). Such rules are commonly undertaken voluntarily and usually require the active compliance of the subject via techniques of self-production, or repetitive acts of stylised performativity. Relevant to this thesis is not the conformity to 'cultural patterns, models, or even stereotypes, but *which particular ones are used and with what effects*' (my italics) (Grosz, 1994, p. 143).

Historically, convict women were portrayed as disobedient rather than rebellious and yet their behaviour signified resistance. Many convict women demonstrated their unwillingness to conform to the demands of the system through a multiplicity of minor acts of insubordination and defiance. Colonial inmates' resistance was expressed through vociferous laughter and play - dancing, chanting and playing tricks so as to undermine the exercise

of power. Shouting and smashing the cells were also forms of protests (activities frequently undertaken by BWCC inmates in the Detention Unit - DU). Another prevalent feature, also shared by contemporary women inmates, was self-mutilation and suicide as a last response to the pressure of the regime (Damousi, 1997; Daniels, 1998; Dobash et al., 1986). Like their contemporary sisters, many convict women were not passive victims of institutional authority and responded in a variety of ways to attempts to control and pacify them (Daniels, 1998, p. 142-143).

Women's prisons exude an air of control and order to the outside world (see also Bosworth, 1999). Therefore it is not surprising that disturbances occurring within BWCC rarely attract media attention unlike the constant reporting of disturbances within the men's prisons. At the time of interviewing, two serious incidents were to have a significant impact on women inmates. First, Brendan Abbott (a.k.a. the Postcard Bandit) and four other inmates escaped from Wacol men's prison. Second, a convicted rapist absconded while on day release and raped two women. The media frenzy that ensued was intense. A governmental response to these incidents was to sack the Queensland Parole Board, and implement changes to the Judicial Review Act, and the Penalties and Sentences Act. Violent offenders sentenced to ten years jail or more have to now serve 80% of their sentences. Prior to these changes, one could apply for parole after serving half of the sentence. The men's attempted breakouts, breaching of parole and so forth hold ramifications for all inmates - men and women. Interviews were being conducted at the time of the breakout and as one interviewee stated

*we're tarred with the same brush, even though it's the guys who do this stuff*

(Joan, BWCC)

Another inmate, a lifer, confided how she contemplated ending her life. These incidents affected the BWCC population greatly.

### *Space, power, resistance and compliance*

A rethinking of the space of theory itself provides the opportunity to search for new categories of position beyond public/private, man/woman, home/work. Rather than mutually exclusive territories defined by their oppositional characteristics, categories of thought need to be conceived as more fluid and overlapping (Boys, 1998, p. 205). Architectural knowledge is based on masculinist rationality, underpinned by a system of binary oppositions. This is very evident in the designs of courts and prisons. The court and the prison represent male interests, hence masculinist sites and spaces are created.

Court architecture gives us walls and doors, closed and open communication channels. The architecture mediates between inside and outside, between the place of the trial and place as evidence, between containment and projection of judicial power, between law and not-law. Courtrooms are fixed aesthetic objects with inherent properties resulting from decisions by members of the judiciary, architects, planners, and project managers (Tait, 1998). The architecture of each trial includes the legal architecture of the situated discourse of the trial, the location of witnesses, the processing of evidence and the accommodation of the public and media.

New space is produced in each ceremony, hearing, and judgement. Space produces openings and welcomes, exclusions and exclusivities. It defines places of meeting and barriers to prevent contact, hierarchies of authority and alliances across status lines (Tait, 1998). The courtroom is imbued with symbolism and judicial rituals, the organisation of space, and the use of silence. The social space of the courtroom organises the treatment of individuals: either being welcomed into the common space, or excluded; being affirmed or devalued; being treated as a valued person in the centre of action or a deviant to be confined to the margins (see also McDowell, 1999;

Tait, 1998). For example the Indigenous law system when contrasted with Western law systems, demonstrates how exclusive and closed Western law is<sup>[7]</sup>. Intersections of race, ethnicity, gender, religious beliefs all have a profound impact on experiences with criminal justice processes and how one is included or marginalised by the law.

Social practices, interactions, and ways of thinking about and representing place/gender are thus interconnected and mutually constituted. For example the judiciary, police officers, correctional staff, hold firm to specific notions of appropriate behaviour and actions for and by women and men (see also Gelsthorpe & Loucks, 1997; Thornton, 1996). Spatial divisions play a central role in the social constructions of gender divisions. The notion that women have a particular social role and place is an essential element of Western Enlightenment ideology and underpins the social organisation of institutions such as the family, the workplace, the shopping mall, political institutions, courtrooms and prisons. For example these notions are reflected in the type of programs offered to women inmates, as well as management practices within the prison. Rehabilitation focuses on the redemption of the good woman so she can reclaim her role within society upon release. Further, a recursive and dynamic relationship also exists between organisational structures and cultures. Gender relations are embedded within organisational structures and practices, such as the prison and the court, that operationalise a notion of the lived body as the materiality of both gender and sexuality. As with architecture, masculine characteristics are normalised and presented as gender-neutral desirable characteristics of organisation and of organisational employees (Witz, Halford, & Savage, 1996, p. 175-176).

---

7 Western laws are made and unmade by elite groups, Judges and politicians, and have civil significance. Indigenous law is made by the ancestral spirits in the dreaming and has great spiritual significance. Western laws are dispensed by elite groups. Indigenous law is dispensed by the people. Elite groups are the custodians of western law whereas the people are the custodians of Indigenous law. Western law sites are often degraded by their positioning in the built environment. Indigenous law sites are located in the natural environment and are sacred. Western law is changeable, inconstant. Aboriginal law was laid down in the Dreaming and is immutable. (Nicholson, 1998)

Therefore the court and its judicial players through stylised performances perpetuate the myth of law as neutral (Thornton, 1996) despite its masculine dominance.

Gender issues need to be placed within a critique of existing design and development processes that go beyond analogies between architectural space and oppression (Boys, 1998, p. 213). The belief in binary gender divisions has remained a key element of contemporary structures, social practices and in social institutions (McDowell, 1999). It is argued that places are made through power relations that construct the rules that define boundaries. These boundaries are both social and spatial – they define who belongs to a place and who may be excluded, as well as the location or site of the experience (McDowell, 1999, p. 4). For example a woman appearing in court or commencing a prison term is going to experience these processes quite differently to their male counterparts. The body is not a fixed entity, rather malleable and is positioned in space. The design and shape of space and how bodies fit into this space: class, status, ethnicity, sexuality, group acceptance and exclusion need to be considered when analysing women's (or men's) experiences (McDowell, 1999, p. 36).

### *The habitus of the court and prison*

The term habitus was appropriated by Pierre Bourdieu and is both structured and structuring, generative rather than fixed. Habitus is articulated through body language and gesture across an entire range of concrete behaviours. Habitus is thus a system of shared social dispositions and cognitive structures which generates perceptions, appreciations and actions (Bourdieu, 1977). Court protocol is one such example. It is important to understand social relations in terms of habitual practices, or stylised performances. Everyday, taken for granted practices arise from habitus. Habitus expresses the idea that bodily identity is not natural, but involves



the inscription of dominant social norms (Butler, 1990, 1993; Grosz, 1988, 1990; Grosz, 1994; McNay, 2000, p. 36). With regard to the habitus of the court, it is important to understand how women occupy space in gender specific ways. The significance of space is not just metaphorical. Rather identity and difference are constructed, fixed and contested through space and place (Gilbert, 2000, p. 66). The court perpetuates white middle class masculinist values. Therefore, men dominate the legal and judicial roles within the criminal justice system.

A strict protocol of behaviour, or roles, exist for the different players habitating court space. Justice can be seen as a performance, a drama continuously presented and re-presented. Studies of court rituals argue that court processes tend to be degrading and insensitive, that defendants and victims are frequently humiliated and excluded, obscure language can be used, in an unfriendly environment with alienating practices (Eastwood, 1998; Parker, 1998; Scutt, 1993; Tait, 1998). While these rituals bring together individuals in a shared performance this does not equate to each actor's performance as an homogenous experience (Tait, 1998). As the data chapters will demonstrate, not all women experience oppression as passive victims. There are no 'universal' women's experiences of criminal justice processes.

Unlike the court, the prison is a total institution structured by social arrangements that regulate all aspects of an individual's life - sleeping, eating, working, accessing visits, courses and space under one roof and according to one rational plan (Bosworth, 1999; Carlen, 1983; Goffman, 1961). This is premised by practices of discipline, surveillance, individualisation and normalisation (Foucault, 1979). Medical discourse is part of a disciplinary strategy which extends 'control over minutiae of the conditions of life and conduct' (Sim, 1990, p. 9). Bentham's panopticon is the architectural figure that exemplifies the relationship between power, knowledge and punishment. In the panopticon, inmates are segregated in

solitary cells which are arranged so that the prisoners are constantly visible to an overseer who is conversely invisible to the captives (Bosworth, 1999, p. 16).

When an individual enters a total institution, one is stripped of the supports provided by the social arrangements of their outside environment and experience what Goffman identifies as a range of 'mortifications of self' that include:

role dispossession; programming and identity-trimming; disposition of name, property, and identity kit"; imposition of degrading postures, stances, and defence patterns; contaminative exposure; disruption of usual relation of individual actor and his (sic) acts; and restrictions on self-determination, autonomy, and freedom of action (Goffman, 1961, p. 5-6).

Medical discourse remains a central factor in the response of the criminal justice system in general (Allen, 1987a, 1987b; Worrall, 1990) and prisons in particular to criminal women (Carlen, 1983; Carlen, 1985; Sim, 1990). Medical and psychiatric power is pervasive and underpins institutional practices and individual ideologies of state personnel. This cuts through all aspects of imprisonment.

From their initial contact with the criminal justice system through to imprisonment and on to release, women are confronted by a series of interlocking rules and regulation, programs and practices administered by a range of groups and individuals targeted to controlling, constraining and remoulding their behaviour. Women prisoners experience a regulation, discipline and process of normalisation quite different and distinct from the experience of male prisoners. Intervention and surveillance that is more intensive than that experienced by criminal men (Dobash et al., 1986; Genders & Player, 1995; Major, 1993; Pinnuck, 1998; Sim, 1990).

As with the policing and management of aberrant girls and young women (Bains, 1996; Cain, 1989; Carlen, 1987; Carrington, 1990; Chesney-Lind, 1973; Chesney-Lind & Shelden, 1992) the focus of the expert remains on the psychological stability, the personal and moral life of the women under their purview. Evident in the prison literature are the liberal notions of rehabilitation and reform that mask a fundamental strategy to reshape the criminal woman back to the role for which she was seen to be biologically and sociologically suited – that of wife and mother (Carlen, 1983; Sim, 1990).

Thus, the concept of femininity is built around essentialising notions of domesticity, sexuality and pathology (Hampton, 1993, 1994; Worrall, 1990) and this has become a central element in the relationship between professionals and incarcerated women (Bosworth, 1999; Sim, 1990, p. 129). It is argued that the image of women inmates as ‘rational, volitional agents seeking to maximise deviant or criminal opportunities’ has been rejected in favour of the notion that women in prison are

passive victims of oppressive social structures, relations or substances – society, pharmacology, pathology, violent men or some combination of them all (Maher 1994 in Hampton, 1994, p. 30).

Prison interventions continue to focus on the maternal woman as the key site where modification is required (see also Carlen & Worrall, 1987, p. 3; Grosz, 1990). The inmate is constructed through an essentialist framework that links her to her biology and maternal vulnerability. As will be demonstrated in Chapters Five and Six, there exists contradictions and conflicts in relation to legal and penal discourses on the construction and management of women offenders and how women negotiate specific discourses used to frame their aberrance.

### 3.5 Conclusion

The purpose of this chapter has been to construct an alternative framework in which to locate female aberrance that makes visible women's agency and resistances. This is achieved through a discussion of essentialist and anti-essentialist discourses that position the body and power in dialectically opposed frameworks. Traditionally female aberrance and women's experiences of criminal justice processes have been explained through theories and research grounded in essentialist principles in criminological, legal and feminist discourses. Essentialism operates on Western dualistic conceptions of what it is to be male/female, masculine/feminine, rationality/emotionality. However an essentialist framework is limited to framing women's relationship to crime using a universal formula that emphasises biologically based traits and characteristics. Thus the 'essential' woman is perceived as oppressed, passive, emotional, subjective and irrational. A woman displaying aberrant behaviour is treated as an oppressed victim of specific circumstances both social (for example - ethnicity, socioeconomic, abusive background factors) and/or biological (addictions, menopausal hormones, PMT, mental illness, jealousy, inability to cope). However, if 'woman' is constructed through an essentialist lens, there is no space to hear her voice or her negotiations of agency, compliance and resistance.

A non-essentialist approach, on the other hand, rejects dualisms thereby creating a thirdspace where theoretical analysis of the relationship between the body, power and sites can be theorised. This framework provides researchers with a plethora of opportunities in which to explore female aberrance. More specifically, such a framework challenges mainstream discourse on offending women by providing a theoretical basis in which to read women's negotiations of the institutional sites of the court and the prison from an anti-essentialist standpoint. Chapters Five and Six

demonstrate how women are constructed through essentialist discourses and how offending women display agency in their negotiation of these discourses at the court and the prison phases.

# CHAPTER FOUR

## Research design and methodology

### 4.1 Introduction

As indicated in the literature review, criminology and research focussing on crime has been predominantly focussed on men. Thus, criminal justice processes

... revolve around men. It is mainly men who are labelled offenders, mainly men who police offenders, mainly men who sentence offenders and mainly men who are imprisoned (Gelsthorpe, 1990, p. 90).

Inevitably, the response of criminal justice processes is problematic when offending women enter this public masculine domain. As discussed earlier, space is gendered and affects how identity and difference is constructed, fixed and contested. Exploring the ways in which offending women are constructed and managed throughout criminal justice processes highlights the limitations of existing mainstream ideologies which underscore practices of our legal system and criminal justice professionals<sup>[8]</sup>. Women's credibility and aberrance is constructed and negotiated at various criminal justice sites drawing on a continuum of discourses and modes of feminine subjectivities such as sexuality, madness and domesticity. As a consequence women's experiences at these sites are reframed into discourses acceptable to criminal justice mores.

In order to demonstrate this, this chapter documents the progression of this research project from the initial stages of the research design through to the writing of the final ethnographic account. To accommodate this purpose, the

---

<sup>8</sup> For example penal policy for women and girls continues to be based upon gender specific assumptions about women's role in society and about the behaviour and needs of women in prison (see Alder, 1994b; Bloom, 1993; Farrell, 1996, 1998c; Hampton, 1993, 1994; Pollock-Byrne, 1990)

chapter is organised into two sections. The first section provides an outline of the research rationale, specifically a discussion and reflection on the use of feminist ethnography. The second stage provides the reader with the nuts and bolts of the research design and procedures.

## **4.2 Research rationale**

A primary concern of this thesis is to study female offenders in their own right, not in terms of their difference or differential treatment from men and was undertaken to confront the challenge for much needed research in the construction of gender and its operation in justice processes (Alder, 1994b; Australia Law Reform Commission, 1994a, 1994b; Howe, 1990; Naylor, 1993; Zdenkowski, 1994). Initially the focus was on categories of women and their construction and treatment within justice system processes. To examine these dynamics my research method incorporated a tiered system of interlinking objectives.

At a macro level these objectives were:

- to consider the gendered characteristics of criminal justice procedures, specifically focusing on women who are brought into the system on the basis of their offending.
- to examine criminological theory and research for constructions of female offending.
- to document women's lived experiences of criminal justice processes, in particular their arrest, court and prison experiences.
- to explore the extent, type and complexity of women's crime within Queensland.

As data collection and analysis progressed a key micro level objective emerged

- the degree to which female offenders' compliance and/or resistance

in negotiating a range of discourses (i.e. legal, familial, pathological) at both research sites (courts and prison) displays agency.

A selection of feminist qualitative works has informed this research methodology providing the catalyst for the structure and organisation of the research design. These works can be categorised broadly into three groups. The first group share ethnographic approaches to criminal justice processes and focus specifically on the courts and prisons (Bloom, 1993; Carlen, 1976; Eaton, 1986; May, 1991; Owen, 1998; Rock, 1993; Wincup, 1999). The second cluster of works provide a more nuanced reading of categories of women and constructions of female offending that inform perceptions of normal and offending women (Carlen, 1983; Daly, 1994; Eaton, 1986; Hatty, 1993; Henning, 1995; Naylor, 1993; Smart, 1976, 1995; Worrall, 1990). Finally a small number of studies venture beyond the victim status of women offenders to acknowledge and explore the notion of their agency. While limited in number this final group of work has had the greatest impact on my research focus and method. A shared characteristic of these works is the rejection, as simplistic and problematic, of the essentialist notion of female offenders as victims of the system, or fragile damsels in distress acting under duress. To varying degrees, these final studies explore the concept of aberrance and women's agency, blurring boundaries between the concepts of victim and offender (Allen, 1987b; Bosworth, 1999; Franz & Stewart, 1994; Hannah-Moffat, 1995; Hudson, 1990; Maher, 1997; Mills, 1997; Shaw, 1995; Worrall, 1990). More specifically, such research discusses women and their modes of resilience, coping, and resistance, exploring ways in which racial, class and gender inequalities constrain women's lives. Another shared feature of this last group of work is a focus on the ways women deal with their circumstances, enduring and transcending their difficulties as well as inventing strategies for removing and/or circumnavigating such difficulties. A subset within this category consists of feminist theoretical perspectives



drawn from anti-essentialist thinkers (Carrington, 1993; Carrington, 1998; Grosz, 1988; Grosz, 1994; Grosz, 1995) and feminist geographers (Boys, 1998; McDowell, 1999). This collection of works contributes to the theoretical framework enabling an understanding of offending women's resistances through an analysis of power, space and the corporeal body.

### **4.3 Feminist Ethnography**

From the outset, this project was visualised through an ethnographic lens. Ethnography is a way of 'telling it like it is', looking at the social world of the subject as it is seen 'from the inside', telling stories as people might tell these stories themselves (see also Maher, 1997; Pearson, 1993, p. viii). People's behaviour is studied in everyday contexts, rather than under experimental conditions created by the researcher. Data are gathered from a range of sources, but observation and/or relatively informal conversations are the main approaches. As a consequence there are no pre-given or fixed categories for interpreting what people say and do. The initial data is collected in as raw a form and on as wide a front as feasible and the focus is usually a single setting or group of a relatively small scale (Hammersley, 1990, p. 1-4).

To realise the objectives of this thesis, a feminist ethnographic framework has been adopted. It needs to be stated that I have not followed one set design or structure rather I have blended aspects of feminist principles with ethnographic traits. Owen (1998) refers to this technique as quasi-ethnography. I have found this approach most beneficial and in that regard have followed researchers working inside and outside the feminist tradition who have challenged the notion of an exclusive feminist method (Gelsthorpe, 1990; Wincup, 1999). Such researchers support the development of methodologies appropriate to the research question, avoiding methodological purism (Kelly, 1990) and adapting pre-existing research

techniques so as to 'mesh with their gender-conscious theoretical position' ( see also O'Neill, 1995; Wincup, 1999, p. 114-115).

Rather than testing explicit hypotheses, ethnographic thinking views the research process as discovery-based (Hammersley & Atkinson, 1995) and provides a framework for implementing social change (Spradley & McCurdy, 1972). Contemporary ethnography tends to be multi-method research incorporating participant observation, interviews and documentary analysis (Pearson, 1993; Reinharz, 1992; Wincup, 1999). Differences in method in ethnographic research results from differences in culture, the interpretations and uses of social space rather than differences in scientific philosophy.

#### *Strengths and weaknesses*

Ethnography is not without its critics and several debates surround ethnography as a valid methodology. The first critique suggests ethnography is not scientific enough; second, that ethnographic research suffers from a lack of precision as a result of the absence of quantification; third, ethnographic data are subject to bias; and fourth, small samples used by ethnography produces findings that are of little value because they are not generalisable. A discussion of these critiques in relation to this research project follows.

The first debate emerged in the 1960s and 1970s, with the charge that ethnography was not scientific enough. These debates were grounded in quantitative criteria. Quantitative research design is hypotheses based, reliant on experiments or the use of statistical analysis of large surveys, along with the assessment of measurement error by means of reliability and validity tests (Hammersley, 1990, p. 5). However the contemporary consensus is that the scientific character of ethnography is justifiable on the

grounds that it is more suited than are experimental and survey research to the nature of human behaviour. Without a doubt, there is no possibility this research project could have generated such rich data using a quantitative method. That ethnographic research suffers from a lack of precision as a result of the absence of quantification is a misapprehension. While quantitative research has made an important contribution to our knowledge and understanding of women's lives (Kelly, 1990; Kelly, Regan, & Burton, 1992; Pugh, 1990; Wincup, 1999) the essential flaw intrinsic to quantitative data collated on women offenders generates and gives credence to the entity of the universal female criminal. In effect quantitative data ignores the specificities and differences among women offenders. Through the process of triangulation (comparing and accessing data from a range of sources) ethnographers ensure that their findings are not idiosyncratic. For the purpose of this study, the range of data sources included observations, interviews, diary entries, prison statistics, court transcripts and existing literature.

Another critique is that ethnographic data are subject to bias. It is argued that observation and interview techniques are subjective in the sense that they are not guided by a structure (i.e. a questionnaire or observational schedule) that would maximise the chances that another observer or interviewer would produce the same data. The question of bias or impartiality is often raised in relation to feminist research generally (Gelsthorpe, 1990; Owen, 1995, p. 252; Wincup, 1999). The views of those in power are often seen as unquestioned universals, whereas those arguing from oppressed social positions are inevitably accused of impartiality (Owen, 1995). Feminist ethnography rejects the scientific claim of 'value-neutrality' and instead fosters a commitment to reflexivity. In principle, this framework rejects the self-obscuring and alienating methodologies that are grounded in the knower-known, subject-object dichotomies of traditional positivist epistemology. Rather it is a central aim of feminist ethnography to

highlight and examine the role of the researcher (see also Gelsthorpe, 1990; Grimwade, 1999; Owen, 1995; Roseneil, 1993; Spradley & McCurdy, 1972).

This approach values demographic or ideological characteristics outside of research. All values, positive and negative, equate to a source of bias and distortion when studying the social behaviour of other people and this occurs in all research (Fountain, 1993; Spradley & McCurdy, 1972; Stewart, 1994; Wolcott, 1994). Reflexive strategies I found useful were diary keeping, anecdotal records, and reflective thinking of my experiences and data collected. Such techniques provided rich data and a point of reference I could revisit to clarify particular issues.

However neither feminist principles nor a commitment to feminist practices can override the inequities and hierarchical ordering which are inherent in researching dispossessed women. Informants are never equal participants in the research process (Maher, 1997; Stacey, 1988; Williamson, 1996; Wincup, 1999). Moreover, ethnography is 'messy business' especially when traversing race, class, and cultural boundaries (Maher, 1997, p. 232). The relationship between the feminist ethnographer and her informants is a relationship in which each party draws on her own historical experiences to make sense of 'the other' (Maher, 1997, p. 213). Otherness on both the part of the ethnographer and informants is 'not an ineffable essence, but rather the sum of different historical experiences' (Rabinow, 1977 in Maher, 1997, p. 213). My otherness was constructed by what I was not (an employee of Corrective Services nor an inmate) and by what I was (an outsider).

Some researchers argue that fieldwork represents an intrusion, an intervention into a system of relationships that the researcher can leave quite freely. While I chose to enter BWCC I was not 'doin time' and possessed the relative freedom to walk in and out of BWCC. This can highlight the compromises between respect for participants and the production of an

authentic account when research participants are promised control over the final product (Stacey 1988 in Wincup, 1999, p. 117).

A final criticism of ethnography is that studying very small samples produces findings that are inclusive rather than generalisable. This thesis argues that this inherent trend to generalise women's experience of criminal justice processes has been extremely problematic in the majority of research to date. It is argued that the choice of small samples represents a trade-off between studying cases in depth (the priority of ethnography) and in breadth (the focus of quantitative research). Such a focus on breadth in quantitative research loses relevant information and creates a tendency to misunderstand key features of the cases studied (Gelsthorpe, 1990, p. 90-91; Hammersley & Atkinson, 1995; Wincup, 1999). For example an effect of many reports drawing on prison data is that a statistical 'universal' picture of the woman inmate is created resulting in generalisations rather than specificities about women's experiences.

### *Problems in prison ethnography*

A central preoccupation in ethnographic research is to establish and maintain access and rapport (Pearson, 1993, p. xii-xiii). The process of negotiating access is the major obstacle for researchers of women's imprisonment (see Grimwade, 1999). It is also understandable that gatekeepers want the researcher present when things are normal (and not when they are troublesome) and to be directed away from the sensitive issues (Hammersley & Atkinson, 1983, p. 63-76). Within the research period, there were two escapes and one attempted escape from BWCC, self harming incidents and drug overdoses. These incidents hindered my access to the inmates considerably, as the prison would go into lockdown mode. Similarly, BWCC staff suggested a number of 'girls who would be helpful' - this group were model prisoners. For a number of reasons, I was never able

to access certain 'bad girls'.

Clerks of the court were also genuinely helpful in highlighting cases to me where the women were 'incredible women'. These were atypical women committing atypical crimes sometime referred to as 'real nut cases', 'psycho's', or 'really weird'. It was almost as if the women on charges relating to drugs, drink driving, stolen goods, and soliciting, were non-offenders because their offences were those typical for women to commit.

The extent to which experience, age, sex and ethnicity influences the researcher's role is often underplayed, or not acknowledged, in more traditional approaches to research. All knowledge is socially constructed and the identity of the researcher matters. No researcher engages in research with *tabula rasa* (Roseneil, 1993). Researchers need to explore their intellectual autobiographies and the traditionally unacknowledged role of their emotions and feelings in the research process (Stanley 1985 in Belle, 1994; Oakley, 1986; Roseneil, 1993, p. 181; Stanley, 1990; Stanley & Wise, 1993; Wilkins, 1993). While I was conscious of my position as being more privileged than my research participants, I never realised just how privileged a position it was. As the women generously gave of their time, sharing their views and life stories with me, I found myself frequently reflecting upon and locating myself in terms of my status and access to an array of societal privileges. My experiences of the criminal justice system prior to this project were limited and I naively assumed that my life experiences (a private school failure; sole parent for 14 years living on social security; mature age graduate) combined with a passion for principles of social justice and equity would prepare me for the research journey upon which I was about to embark. Commencing data collection at both sites (in BWCC particularly) was quite confronting and continued to be for the duration of the data collection. My first visit to BWCC (a baptism of fire) coincided with visitor's day and I was initially assumed to be a family

member or friend of an inmate. I was most disillusioned at the indifferent treatment I received in contrast to when I was identified as 'an official visitor'.

After my first day of interviewing, it became very clear to me that the research relationship was unequal. On the one hand the researcher establishes rapport with the researched; on the other hand they are also warned against unnecessary emotion and over-identification (Kleinmann & Copp, 1993). I experienced ethical dilemmas and emotional effects while researching incarcerated women (see also Grimwade, 1999; Liebling, 1992). First, the role of observer is intrusive and exploitative. Second, there is a guilt factor of receiving more than you are giving in return (Glesne & Peshkin, 1992; Wincup, 1999). Once interviews and observations began it became clear where my advantages and disadvantages lay when locating myself as researcher. My age (36 at time of data collection), gender and life experiences were possible advantages and I felt I established a good rapport with the interviewees. My empathy was genuine and the participants had excellent intuition. Participants were keen to share their experiences and I was very wary of taking on the counsellor role despite Gelsthorpe's experience that it 'provided a chance to make the experience more meaningful for us as well as for them' (Gelsthorpe, 1990, p. 98).

It has been argued that the greater the identification of the researcher and researched, the greater the potential for exploitation by the researcher toward participants (Finch, 1984; Roseneil, 1993; Stacey, 1988; Wincup, 1999). Claims of identification that lead to a privileged understanding of research participants because of their gender are problematic (King, 1990; Owen, 1995; Ramazanoglu, 1989; Simmonds, 1992; Smith, 1989). Oakley discusses the ways in which she was perceived in a positive way by pregnant women she interviewed 'as a resource and support', and 'not a neutral data collector' (Oakley 1981 in Stewart, 1994, p. 19). Feminist attempts to reconstruct the

research relationship as a more egalitarian enterprise have often involved the practice of self-disclosure within the research process. Self-disclosure depends to a large degree on recognising and fostering some sense of shared identity. Owen suggests that the researcher should be open to disclosing information and personal experiences (Owen, 1995, p. 255). In this way it is hoped that the essentially exploitative nature of research might be minimised. My outsider status encouraged women to be exceptionally open with me. I found the level of disclosure made by the participants phenomenal. On the other hand I was wary of my limitations in providing support to the women inmates (see also Wincup, 1999). A fine balance needed to be negotiated at the time of interview. I was very aware of women dragging up unpleasant memories or circumstances. This is why I stressed to women that they only had to share experiences they felt comfortable with and that we could stop the interview at any time. Any shared experience I would acknowledge. For example, parenting hassles, the funny things kids say, the joys of motorbike riding, studying dilemmas, and the like.

Often overlooked is the impact of the research on researchers themselves (Bosworth, 1999; Carter, 1996; Liebling, 1992, p. 118; Moran-Ellis, 1995). The physical and emotional exhaustion should not be underestimated (Bosworth, 1999, p. 78) and researchers have alluded to the difficulties experienced when conducting prison research (Carter & Delamont, 1996; Fleisher, 1989; Kauffmann, 1988). Grimwade (1999) suggests that rarely are the ethical pitfalls and personal dilemmas involved in prison research highlighted and attributes this to the traditional view of these matters as unscientific and subjective accounts that are inappropriate and trivial. Another effect is that the documentation of such encounters may potentially impact negatively on existing or future research (Grimwade, 1999, p. 291).

Listening to women who have experienced various stages of the criminal justice system is part of the process of understanding. However researchers



acknowledge that one can become 'immersed in the intracommunity as well as the interagency politics and lose the critical perspective which is necessary for the development of effective practice and emotional involvement' (O'Neill, 1995, p. 132). Hence the need for basic guidelines and support strategies (see Grimwade, 1999; Liebling, 1992). Support strategies became crucial to this research project, however, this aspect was not anticipated nor factored into the methodology. Journal keeping and reflection were strategies utilised effectively to deal with specific situations. Debriefing sessions with my supervisor and a couple of sessions with a trained university counsellor were also helpful.

Support strategies need to be clearly built into research proposals and are an important component of research method and design for this kind of research. I found that establishing a legitimate field presence as a researcher required patience and persistence with the latter a prerequisite for research within a correctional setting (see also Maher, 1997). Gaining access to women inmates was at times frustrating and this was for a number of reasons. The internal distribution of letters to inmates was a little erratic with mail occasionally going astray.

A range of factors (ethnicity, time, methodological and access constraints) limited my access to Indigenous and non english speaking background inmates. (Only one respondent identified as Aboriginal and Torres Straight Islander heritage and another as NESB). Flexibility, patience and persistence in negotiating an under resourced and overcrowded prison system resulted in the 60 interviews.

**Table 4.1** Offending Profile of B.W.C.C. inmates and interviewees by most serious offence

|  | Inmates | Interviewees |
|--|---------|--------------|
|--|---------|--------------|

|                                  |            |           |
|----------------------------------|------------|-----------|
| <b>Drug Related Offences</b>     |            |           |
| Trafficking drugs                | 11         | 7         |
| Importing drugs                  | 1          | 1         |
| Supplying drugs                  | 8          | 3         |
| Possession                       | 10         | 5         |
|                                  |            |           |
| <b>Break and enter</b>           | 20         | 5         |
| <b>Robbery</b>                   |            |           |
| Robbery with actual violence     | 3          |           |
| Armed robbery                    | 13         | 5         |
| Robbery - other                  | 1          | 1         |
| <b>Homicide</b>                  |            |           |
| Murder / Attempted murder        | 11         | 9         |
| Manslaughter                     | 2          | 1         |
| Accessory after the fact         | 1          |           |
| <b>Assault</b>                   |            |           |
| Rape / Attempted rape            | 1          |           |
| Assault - other                  | 10         | 5         |
| Assault - grievous               | 2          | 3         |
| Aggravated assault               | 1          |           |
| <b>Fraud related offences</b>    |            |           |
| Forgery & uttering               | 1          |           |
| Fraud -other                     | 1          |           |
| Misappropriation                 | 2          | 2         |
| False pretenses                  | 9          | 5         |
| False declaration                | 1          |           |
| <b>Bail Related Offences</b>     |            |           |
| Bail Act Offences                | 10         |           |
| Breach of Probation              | 2          | 2         |
| Breach of bail                   | 1          |           |
| <b>Traffic Offences</b>          |            |           |
| UUMV                             | 3          | 1         |
| Unlicensed driving               | 1          | 2         |
| Driving under disqualification   | 2          | 1         |
| Parking Offences                 | 2          |           |
| <b>Stealing</b>                  | 4          |           |
| <b>Wilful damage</b>             | 3          | 1         |
| <b>Burglar dwellings</b>         | 2          |           |
| <b>Ill-Treatment of Children</b> | 1          |           |
| <b>Arson - unspecified</b>       | 1          | 1         |
| <b>TOTAL</b>                     | <b>141</b> | <b>60</b> |

## 4.4 Research process

### *Data collection*

Initially, this project required ethical clearance to access QCSC documentation relating to the number of Queensland women inmates

currently in custody at BWCC; types of crimes committed and any court records pertaining to their conviction (See Appendix 4.1. Ethical clearances). For this project two sites were selected: the Brisbane Courts (Magistrates, District, Supreme and Court of Appeal) and the Brisbane Women's Correctional Centre (See Appendix 4.2 for a profile of the research sites). Data was drawn from semi structured interviews with inmates, and observations and informal discussions with criminal justice players. Qualitative analysis included detailed recording of observations, including a narrative of the circumstances of the offence, interviews with offenders and informal discussions with other justice system identities (i.e. legal representative/s, social workers, psychologists, and other prison support networks). The evidence which comes out at a trial is structured by a restrictive process of selection and construction, a process determined by the way the legal issue is framed, by the way in which lawyers structure their client's case and by the rules of evidence, particularly those relating to what is legally relevant. Such details could not be gleaned from the reading of the trial transcripts because the trial process ensures their exclusion (Gelsthorpe, 1989; Sarmas, 1994, p. 726). Where possible notes of pleas, pre-sentence reports and judicial sentencing comments have also been examined.

### *Observational records*

Observational data was drawn from the courts and prison sites. Courthouse observations consisted of: observing interactions within the courthouse, informal discussions with magistrates, custodial officers, police officers and Salvation Army support personnel. Likewise in the prison, informal observations were made of interactions between inmates, inmates and staff, inmates and visitors, as was the daily routine of the prison.

### *Court observations*

Court observations took place at the Magistrate, District and Supreme

Courts. Daily sittings were attended from the 6<sup>th</sup> May to 1<sup>st</sup> August in the Brisbane Magistrate Courts 1, 2 and on five occasions in Court 5. My modus operandi was to obtain a copy of the daily court allocation list and commence my observations in Court 1 (See Appendix 4.3). Once the morning session concluded, I would move across to Court 2 which dealt mainly with traffic offences (See Appendix 4.4 for an overview of court attendances). Initially both men and women defendants' appearances were observed noting aggravating and mitigating elements of the case. These included: magistrate, charge, sentence outcome, legal representation; age, ethnicity, gender of defendant; dress and general demeanour. Notes were entered on the charge sheet as well as in a small note book. There was a high turnover of cases daily with varying outcomes. For example, some were remanded to a later date and/or dealt with by a higher court. Many cases resulted in the defendant failing to appear while others on lesser charges opted to deal with their cases by writing their guilty pleas.

After several weeks, female defendants' appearances at Brisbane District Court were the major focus as were observations recording the legal representation of the defendant, how she was constructed within legal discourse, and judicial comments. Three cases were followed from the Magistrate's Court to a higher court. Others were randomly selected from the court lists to gain an understanding of how the courts operated. I initially attended 10 sentence hearings to familiarise myself with the court process. The case study of Joy Ann Lane was observed at the Brisbane Supreme Court, for two weeks in February 1998. The second case study of Debbie Guise is based on court transcripts of the first trial and re-trial.

### *Prison observations*

During the data collection period, interactions between BWCC staff and inmates were noted. I also had the opportunity to participate in a Friday playgroup and liaised with various BWCC staff concerning interview times

and space. Informal discussions were also had with prison officers.

### *Journal entries*

Journal keeping is a reflective exercise, one strategy for maintaining sanity and a method to accurately gauge those initial gut feelings (see also Wolcott, 1994). My first impression of the BWCC was that it was like a school full of mostly naughty girls, although I was informed there were some 'good girls'. Key staff were 'schoolmarm' types. As the research progressed this impression proved a fairly accurate description of how 'the girls' were managed and rehabilitated.

### *Court transcripts*

Copies of court transcripts were accessed at the State Reporting Bureau, located in the Supreme Court complex, Brisbane. In the case studies of Joy Ann Lane and Debbie Guise, daily court transcripts (including sentencing documents) were perused. Transcript records were accessed for several reasons. First to determine how defence counsel sought to define normal and atypical women as well as to consider judicial summing up and sentencing comments so as to identify frameworks used to make sense of the defendant's aberrance. A second aspect was to see how, if at all, these women negotiated these constructs of their 'deviant persona'. Finally, the court transcripts provide another source of data to triangulate the experiences women shared when discussing aspects of their court appearances.

### *Other stakeholders*

Informal conversations took place via a range of support networks. This was extremely useful in establishing clarifications about procedures, issues, and prison culture. Such groups included:

Boystown staff – Boystown provides court support and runs pseudo-courses for women inmates, Sisters Inside- a support service for women inside and post- release; Women’s Legal Service; Prisoner’s Legal Service; Aboriginal and Torres Strait islander Legal Aid; Legal Aid; Salvation Army representatives, Magistrates, Prosecutors, and Official Visitors.

### *Use of vignettes and case studies*

The purpose in the selection of vignettes and case studies is twofold. First I did not want to focus on a small number of women and have them universalised as ‘typical criminal women’ nor did I wish to distinguish them as exceptionally atypical, hence the use of fragmentary vignettes. My goal was to provide a diverse range of women’s voices highlighting their compliance and/or resistance in negotiating criminal justice processes. From an ethical standpoint, the use of vignettes respects the anonymity of inmates. The use of pseudonyms also preserves the identity of inmates.

Second, the case studies allow a more nuanced and detailed analysis demonstrating the agency and negotiation of acceptable stereotypes by both women. These cases were selected using the following criteria: the court cases occurred during the data collection phase; both cases involved a violent offence (Joy Ann Lane was initially charged with attempted murder and Debbie Guise was charged with murder); and both cases demonstrate an active negotiation of specific stereotypes by the defendant and their legal counsel. Finally the two case studies and vignettes are incorporated into the project as a way of demonstrating women’s lived experiences of the Queensland criminal justice system.

### *Informed consent*

It is important to construct the research role so as to make it understandable and acceptable to the researched. The principle of informed consent implies

that two major conditions are met: first, that the research subjects are made aware of and understand the nature and purposes of the research; and second that from a position of knowledge they can freely give their consent to participate in the research (Norris, 1993, p. 124-128). I found the ethical requirements governing information packages and consent forms restrictive and impersonal, particularly for the group I was addressing. While the information letter and consent form (See Appendix 4.5) detailed the conditions of participating in this research project, I felt the need to describe to women what the project was about and go through each point on the consent form explaining the implications. Communication, or lack of it, was a key issue identified by BWCC inmates. Therefore it was crucial to establish a credible presence from the start.

#### **4.5 Trust and confidentiality**

By its very nature, prison is not an environment conducive to trust - for inmates or staff (Easteal, 1994, 2001; Hampton, 1993, 1994). The concept of trust implies mutuality of interest and an equality of dependency. Trust and rapport are also not an automatic outcome of shared sisterhood. The development of closeness can be interpreted as exploitative (a means of collecting data) as well as compromising the outcomes feminist ethnographers set out to find (Reinharz, 1992). In my early days at BWCC, I was the one being observed and 'tested'. Did I really 'walk the talk' (see also Gelsthorpe, 1990, p. 97; Grimwade, 1999, p. 297). From the outset, I treated all individuals (staff and inmates) involved in my fieldwork with the same level of respect. In an environment structured around the dichotomy of 'them' and 'us', this initially caused some confusion and suspicion as to my preferred affiliation (see also Grimwade, 1999; Liebling, 1992). Barriers between inmates and officers are rigid and maintained from both sides, with the exception of long termers (inmates and officers) (Kilroy, 2000). Friendliness towards a staff member can be construed as possible collusion

(Easteal, 2001). Researchers in prison settings have commented on how they were designated as spies, an accusation frequently levelled at ethnographers though this was not my experience (Wincup, 1999, p. 119). After I had 'passed' the first few interviews, the women inmates trusted me and over time staff and management viewed me as less threatening and part of the furniture. I blended in as best an ethnographer could (see also Fountain, 1993; Hammersley & Atkinson, 1983, p. 78-88).

Prior to commencing an interview, I would discuss the privacy and confidentiality aspects with each participant. I constantly reiterated that nothing I heard would be reported back to QCSC staff, officers, or other participants. Due to the length of time it took to complete the interviews, my role became blurred, often leading to mistaken identity. Some officers and inmates referring to me as 'that chick from QUT', others thinking I was 'the religious lady'. Some staff referred to me as the teacher from QUT, linking the women's interviews to educational courses. When discussing the confidentiality clause in the information package, many women urged me to use their real names, so committed were they to the research. As a result a compromise was reached whereby the women selected a pseudonym of their choice if they wished. Confidentiality and protecting the identity of informants in the published record of research was a prime concern (Pearson, 1993, p. ix).

In a prison setting, where women are detainees and supervised by correctional staff, I was consciously aware of how I dressed. To be aware of self presentation is important as one's image can present obstacles to the research task (Williamson, 1996, p. 32). Whilst my style is low key and in keeping with a student's income, I certainly could not be confused with correctional staff. However one winter's day, I grabbed a navy suit jacket from the car, as the prison was particularly cold, and proceeded to partake in a series of interviews that just didn't flow. Upon reflection, I had done



nothing out of the usual. I felt that I had developed a proven rhythm over time in conducting interviews with the women. Then it dawned on me as I assessed my 'uniform'. From then on I was very careful to avoid wearing anything connoting power or authority such as a suit or uniform style clothing. As I became familiar with prison jargon, I would use this jargon to indicate a sense of shared perspective. I am grateful to several inmates in particular who took the time to explain this jargon to me.

It is naive for the ethnographer to believe that one can escape contact with morally ambiguous situations. Yet few accounts exist which describe how feminist ethnographic studies are conducted and, more specifically, how the ethical problems of the fieldwork are managed (Grimwade, 1999; Norris, 1993, p. 124). I found it disturbing witnessing certain behaviours and practices of staff and inmates alike. At these times I reminded myself of the purpose of my research and did not jeopardise my access to or rapport with the women. Prison culture operates on the logic that if you want something you must play the game, behave like a good girl, be docile and not create waves (Easteal, 1992b). For limited periods I was immersed in that culture and was always relieved to hear those gates slam behind me as I re-entered the outside world. Moreover the problems of negotiating access are not just an inconvenience that has to be overcome in order to make contact with 'data'. The negotiations themselves are data, telling us how the organisation relates to its external environment (see Grimwade, 1999; Owen, 1998, p. 24-39).

#### **4.6 The interview process**

Traditional paradigms of interviewing create problems for feminist researchers and their research subjects (Gelsthorpe, 1990). Feminist researchers have been critical of the traditional approach to the interview process because it is based on a hierarchical relationship between the

researcher and the researched where the principle goal is to gather rich data while maintaining objective distance (Finch, 1984; Oakley, 1981). A less exploitative relationship based on informality, equality sharing of information, empathy, genuine rapport and subjectivity is advocated by feminists (Wincup, 1999, p. 115). While it may appear easier to achieve a more equal relationship when women are studying women, the interview situation always and necessarily involves an aspect of power.

This research takes the stance that in order to re-negotiate this issue all parties to the conversation use their 'sociological imagination' and are active producers of the research material (Alasuutari, 1995, p. 88-90). Moreover, interviewing techniques were considered in connection with the particular case in mind, and the structure in the interviews varied according to particular needs (Alasuutari, 1995, p. 3). I found this approach most useful as some women articulated with ease their point of view while others were clearly at a loss, unaccustomed to speaking their mind. Recent feminist debates have also highlighted the essentialist foundations of feminism and the need to acknowledge the diversity of women in terms of their sexuality, ethnicity, class age and socio-economic background (Spelman, 1990).

When interviewing women it is important to build in opportunities to tell them what the researcher is thinking so they can locate the researcher (Stewart, 1994, p. 19). Communicating and negotiating with the women inmates is the antithesis to how prison operates. This is crucial in a prison environment as the prison represents a closed world. This is because the prison is a total institution run on a zoo model where inmates are under constant suspicion and hence require continual surveillance (Rosevear, 1997). Inevitably trust and power issues are endemic under such a model (Easteal, 1994, 2001; Hampton, 1993; Kilroy, 2000; Rosevear, 1997). Acknowledging the subjectivity of the researcher and the researched debunks the mythical notion of unbiased objective interviews (see also Bowles & Klein, 1983;

Gelsthorpe, 1990; Oakley, 1981).

In my original research design, the target group was to be women serving their first custodial sentence. However, the rate of recidivism is incredibly high hence the decision to address all women inmates and organise them according to offence type, identifying commonalities and differences. Management encouraged this modification suggesting my initial proposal would provide me with a minimal sample group. As a consequence, a letter of invitation to participate in this research project was distributed to 141 women incarcerated in BWCC on May 29 1997 (See Appendix 4.5). I received 80 responses (a 57 % response rate). This was quite a high response rate in light of two restraints: first, the ever changing nature of prison; and second, the information package used to contact potential respondents. In meeting strict ethical requirements, warmth and genuineness is harder to convey and the final information package could be interpreted by the target group as yet another official letter impinging on their lives.

Due to the rigid yet hectic environment of the prison coupled with time constraints, 60 interviews were undertaken with inmates discussing their first point of contact with the criminal justice system (arrest) through to their sentencing outcomes. The first interview consisted of semi-structured questions concerning the inmate's criminal history and criminal justice experiences (See Appendix 4.6). These interviews assisted further identification of aspects incorporated into the second interview and potential case studies. While my initial timeframe naively allowed 20-30 minutes, the first interview lasted approximately between 40-60 minutes in duration. Ten second interviews were conducted and took approximately 20 minutes (See Appendix 4.7). A second interview was initiated under the following circumstances: if participants were keen to participate beyond the first interview phase and were yet to be sentenced; cases that were under appeal at the time of the first interview; or if the first interview was unfinished or

interrupted.

### *Timing and location of interviews*

All interviews were conducted at the Brisbane Women's Correctional Centre, Dutton Park over a four-month period in 1997. Times were negotiated in conjunction with correction staff and inmates. That I informed women by letter of interview times, or rescheduling, remained a slight source of amusement to staff and their 'they're not going anywhere' attitude. Interview schedules were flexible as factors requiring flexibility and negotiation included: prison lockdowns, unsuitable interviewing area, letters not received, women attending various courses, court appearances, health appointments, work, solitary confinement, stays at the Crisis Support Unit, and visiting hours. Nor did I wish to cause the inmates any inconvenience to their routine. For whatever reason, if a scheduled interview was unable to be kept, a letter was sent informing inmates of a new time and checking their availability (See Appendix 4.5).

Space and privacy were scarce commodities at Brisbane Women's Correctional Centre, Woolloongabba. Privacy is an anathema to prison (Carnaby, 1998; Grimwade, 1999; Liebling, 1992). As a consequence interviews were conducted in available space and privacy at the time, such as: the counselling room; the visits area, library or courtyard areas. If there was no available area where a certain degree of privacy could be assured the interview would be rescheduled. I became quite adamant about this point when negotiating interview space after one particular incident. While assurances were given that no staff or inmate peers would be in close proximity, I commenced an interview on a stairwell located at the end of a corridor. Despite the inmate feeling quite comfortable to continue, I terminated the interview after a group of officers congregated on the other side of a thin wall.

The interview structure varied to accommodate women's need to talk about specific points. Plenty of the women wanted to talk and share their experiences. As no two women's experiences of imprisonment were the same I would adapt the interview structure in the face of someone's distress or concern to express a particular point (see also Cook & Davies, 1999, p. 5-6). Gelsthorpe (1990) states that distress and concern to express a particular viewpoint are valuable indicators of a prisoner's experience of imprisonment (Gelsthorpe, 1990, p. 98).

As discussed above, trust and privacy are scant in the prison environment. My central concern lay in providing women with anonymity among correctional staff and peers. After discussion with each interviewee it became clear that feedback to those involved would be too problematic at several levels. To rely on the internal mail system would have been problematic as the respondents needed to distance themselves from the project as far as authority figures and peers were concerned. Inmates have access to limited storage and to have interview transcripts in their possession then compromises their privacy and anonymity.

Before the interview commenced the participant had the choice of being taped. My justification for taping was threefold. First, to write everything down would limit the range depth and accuracy of issues raised. In my case, relying on memory would be highly problematic not to mention methodologically unsound. Second, I did not want to be likened to the 'professionals' these women have encountered, jotting down notes, assessing, filling out forms, and making little connection with the inmates as individuals. Third, I view the taped interview as the way to have a relaxed and meaningful conversation with the participant, reading the body language of the interviewee and moderating the interview when appropriate.

The spoken word is also very different to the written word. To listen and see the words expressed and to transcribe them later assists with understanding and meaning of intonation, satire, particular lingo, and in-group references used. This was very much the case in my interviews with the participants. A woman's narrative is part of the ethnographic dialogue - the product of a cultural encounter (Maher, 1997, p. 225-226). I was aware of alienating women by not understanding the gist of what they were saying so I would ask selected interviewees questions on lingo. For example many of the women spoke about dirty UT's and spoke with great intensity on this subject that to ask 'what is a UT?' would have dulled the communication flow instantly. Instead I would make mental notes of terms used and then approach particular inmates. One inmate in particular empathised with this 'straight white girl', and with great humour and patience, would explain specific terms. Accessing prison support networks was also of assistance in clarifying particular issues or terms raised by the inmates.

The process of transcription and coding took place simultaneously with the conducting of interviews (and continued on for some considerable time after). It was important to undertake the transcription process myself for several reasons: first, to interpret the taped response to the facial gestures and inferences expressed by the interviewee; second, for confidentiality reasons; and third, to gain a greater understanding of the themes and issues arising from the data.

Of the 60 inmates, two declined to be taped due to bad experiences with police interviews and media accounts. In these cases hand written notes were taken.

## 4.7 Management, validity, and interpretation of data

I began my research with a large number of ideas and hypotheses at various levels of development (see also Roseneil, 1993). These were derived from existing studies of women offenders and female offending more generally as well as engagement with criminological and feminist theory. The set of interview questions was designed to help focus and limit the data collection. Central to my research design is the recognition of the agency of the women involved. Feminist theorising must be as collective an activity as possible. Qualitative analysis includes the detailed recording of observations, including a narrative of the circumstances of the offence, interviewing of offenders, and where possible verbatim notes of pleas and sentencing comments. The qualitative database selected was NUD\*IST. This package allows for the organisation of non-numerical and unstructured data in qualitative analysis.

### *Validity of data*

Validity serves as a gloss for *scientific accuracy* among those who identify closely with science and for *correctness* or *credibility* among those who do not.

(Wolcott, 1994, p. 347).

It is acknowledged that certain aspects of qualitative research concerning distortions and misrepresentations need consideration, such as the reliability of the informant in the setting; the reliability of the informant; the plausibility of the account; the place of the informant in the setting; and comparison with others' accounts of the same incident (see also Burgess, 1982; Fountain, 1993, p. 162; Hammersley & Atkinson, 1983). Some argue that the researcher has to recognise that it may be in the inmate's interests to misrepresent or misdescribe her own actions, or to counter the interpretations of the ethnographer (Easteal, 1992a; Fountain, 1993, p. 160; Hammersley & Atkinson, 1983, p. 196). Gelsthorpe (1989) suggests that 'being around and observing, the researcher has access to remarks and

conversations, clues and insights which cannot be obtained otherwise' and advises that the participant reveals only a partial self to be checked where possible against other sources of information. Yet it must be remembered that official documents are socially constructed documents (Gelsthorpe, 1989, p. 43; Grimwade, 1999, p. 297-298).

The range of sources that constituted the data was drawn together to triangulate women's stories. Triangulation is an approach that improves validity and reliability providing a depth of meaning to data and enables multiple perspectives to be explored (Gelsthorpe, 1989; Grimwade, 1999, p. 297; Hammersley & Atkinson, 1983; Hammersley & Atkinson, 1995; Liebling, 1992; Maher, 1997; Miles & Huberman, 1984; Roseneil, 1993). Triangulating the data for possible distortions in women's accounts of their experiences only served to validate their stories. To rely solely on official sources may contradict practices or information gained from prison staff and/or women inmates (Grimwade, 1999, p. 298; Liebling, 1992, p. 124). Similarly, to focus on court transcripts alone is to examine an already filtered 'judicial' account of circumstances.

From an ethical perspective, it can be argued that no interviewee will answer any of the questions presented without giving at least some thought to the questions. Respondents make a choice between what they want to tell and leave untold (Alasuutari, 1995, p. 90). As discussed earlier many interviewees were unaccustomed to expressing their views and would ask me if what they were saying was 'right' or 'what I wanted to hear'. I emphasised that there is no right or wrong responses answers, it was their story of experiences I was interested in. I also link this to the unspoken rules of prison culture discussed earlier and further in Chapter Six. The prison regime is oppressive for inmates to varying degrees and the women's responses need to be framed within the context of prison culture.



### *Interpretation: constructing the ethnographic account*

Qualitative researchers ultimately resort to their own estimation of the strength of the cited data or interpretation.(Burgess, 1982). I continually reflected on my personal involvement as the research progressed. The fieldwork was a disturbing experience for me - hearing women's life experiences. The participants displayed a diversity of emotions when telling their stories. Nevertheless, it is the ethnographic "I" who is the author of this text. I interpreted the interviews, coded and framed the data according to my conceptual frameworks. Field research encompasses far more than negotiating access, getting in, staying in, surviving, and then getting out more or less intact (Cook & Davies, 1999; Grimwade, 1999; Maher, 1997). There is also the requirement to carry the narrative back home, refashioning the fieldwork experience in a textual form that is accessible to a different audience yet remains true to where it came from (O'Neill, 1995, p. 132; Pearson, 1993, p. Xvii). The final written presentation of the research, however it may try to do justice to the recounted experiences of participants, must acknowledge that they are being structured and interpreted by the researcher (Owen, 1995, p. 253). In explaining or theorising from participants' accounts, researchers must be aware of what they are doing to language and explanations of the participants (Owen, 1995, p. 253). Complex issues cannot be avoided. For example observed interactions between inmate/inmate, inmate/staff, and staff/staff were not always best practice, interviewees disclosed information falling outside the research parameters. While there are no clear cut answers to these dilemmas, the endeavour is to take account of the ethical and political dimensions in the social construction of knowledge and recognise and facilitate the shared participation of the women (O'Neill, 1995, p. 132).

Research rarely progresses smoothly, at theoretical, empirical or emotional levels. Yet there exists the implicit expectation that it should. Therefore there is a reluctance to 'come clean' about the obstructions, hiccups and diversions

which Williamson asserts 'are common place in research practice' (Williamson, 1996, p. 39). Emotional attachment to one's research is a risky business. Policy makers and practitioners may seize upon elements of research which suit their purposes, while discarding aspects which don't. Researchers have to remain resilient about the uses and abuses of research findings (Williamson, 1996, p. 36).

#### **4.8 Conclusion**

The purpose of this chapter has been twofold: first to establish the principles and issues concerning feminist ethnography; and second to detail the procedures and techniques deployed in the research design. I contend that the use of a feminist ethnographic methodology serves to achieve most effectively the goals of this thesis. Ethnographic methods and techniques allow access to 'real' people and 'lived experience' (Maher, 1997, p. 228). Such a framework provides rich detail on real women's experiences and recognises their agency, debunking the dichotomous framework of woman as victim prevalent in the literature. The design is flexible and captures the emerging issues in a way that recognises the complexities of the relationship between the researcher and the researched. Such a method allows me to gain new knowledges and experiences that could not have been obtained in any other way. From the courts to the BWCC prison, I have an enriched understanding of the difficulties encountered daily by inmates, staff, and visiting support groups, as each group negotiates criminal justice processes. Every feminist ethnographic project generates its own concerns (Wincup, 1999, p. 124). Not only does this feminist ethnography contribute to the growing research that is making women's lives visible, it is identifying complex issues for women offenders negotiating criminal justice processes and prison culture. The next step is to explore the data to examine to what extent women and judicial players engage with constructions of female deviance in the court environment.



## CHAPTER FIVE

# Incredible women negotiating legal discourses of feminine disorder

### 5.1 Introduction

As discussed in previous chapters, feminine disorder is underscored by a set of assumptions. These assumptions are grounded in essentialist notions of what it is to be feminine: that is, there are good women (normal) and bad/mad/sad women (offenders). It is the good women who are rewarded within the criminal justice system (Naffine, 1995) as well as women who accept the pathologisation of their acts.

The female offender is framed as incredible (Scutt, 1993) and her feminine disorder is legitimised within the court through discourses of domesticity, sexuality, and pathology. This thesis contends that these discourses mask the potential for more subtle and complex readings of women's agency and resistance as they negotiate various levels of criminal justice processing.

Crime undertaken by women falls into two categories, atypical and typical. Typical feminine crime is tolerable and acceptable and usually attributed to woman's passive nature and/or victim status (Worrall, 1990). For example shoplifting, prostitution and similar offences are often attributed to a need rather than greed when undertaken by women (Gelsthorpe & Loucks, 1997). In contrast, atypical crime undertaken by women is unacceptable and abhorrent, hence abnormal. For example armed robbery, murder, and other violent offences are deemed atypical for women offenders until they are reframed through pathological discourse. This thesis argues that to gain an insight into women's lived experiences of agency within criminal justice processes, the female offender needs to be viewed through a non-essentialist

framework. This means that the notion of the unitary archetype of the female offender is rejected, as is the categorising of women 'as some hapless victims of an oppressive patriarchal legal system' (Carrington, 1998, p. 72). This thesis contends that agency, through resistance and/or compliance, is exercised to varying degrees at every stage of criminal justice processing. This is not to argue however that criminal justice processes do not also disadvantage categories of women, for example Indigenous women – but to suggest that agency is to be found in negotiations within the system. My use of agency is not to imply an innate liberation or freedom.

The general aim of this chapter is to explore how categories of offending women and their offences are re-framed by the criminal justice system and its representatives using the themes and critiques discussed in the previous chapters. This exploration will be achieved by drawing on data gathered from observations and court transcripts from the Magistrate and District Courts. More specifically, a key aspect is to locate the female offender and her negotiation of legal discourse with the intent of demonstrating how women display their agency, either through compliance and/or resistance. This chapter will demonstrate how women interact and negotiate with the discourses used to construct their aberrance, the different perceptions and stereotypes of women's roles held by legal representatives, and the devaluing of the feminine experience that can occur when different voices are negotiating to be heard. Such voices include that of the female offender, their legal counsel and the sentencing Judge or Magistrate.

This will be achieved in several stages. The initial focus will be on women's views and experiences as they negotiate the court as an institutional site of power. Their performances and negotiation of essentialising discourses will be explored. Inmates' perceptions of their legal representation will also be included to highlight the complex relationship between gendered notions of

feminine aberrance and the legal discourses used to explain it. The chapter will conclude with two case studies which examine how two women charged with violent offences demonstrated agency in negotiating their court cases. These cases were selected because the atypical nature of the offences (matricide and attempted murder) and the ways in which both women engaged with discourses used to explain their aberrant actions.

## **5.2 Negotiating the court as a site of institutional power**

As discussed in the literature review, law is organised around a particular individual who is both male and masculine. Hence law and legal practice perpetuate the traditional view of women as the antithesis of the man of law (Naffine, 1990, p. 136-7). Therefore to make sense of women's presence within the court while acknowledging her offences, visible women are reframed as passive and dependent, psychologically troubled, and feminine women whenever possible (Henning, 1995; Jeffries, 2001; Worrall, 1990). Traditional notions of what is appropriate behaviour for a woman still influence the operation of the law. Legal doctrines and legal reasoning remain almost impervious to perspectives other than those of the white middle class male (Graycar, 1995, p. 266-267; Naffine, 1995; Scutt, 1993, 1997a; Thornton, 1996).

This is due, in part, to the fact that Judges and Magistrates, like other members of society, bring to the cases their own socialisation, upbringing, background, understanding, comprehension and perspective (Scutt, 1995, p. 132; Thornton, 1996). If a Judge equates knowledge about women, gained through his own personal experience, with the truth of women, then a Judge can conflate all women. His knowledge is accrued via his private life and then these views become a public matter in his role as Judge. Women's knowledge and views rarely have such public authority (Graycar, 1995, p. 273; Sarmas, 1994; Thornton, 1996). It is acknowledged that some Judges in

Australia still adhere to traditional views about the roles of women and men in society (Australia Law Reform Commission, 1994b) and as a consequence 'stereotyped portrayals of women can have a negative impact on the treatment women receive from the legal system' (Australia Law Reform Commission, 1994a, p. 13).

Over a three-month period both male and female defendants were observed daily as they appeared in Brisbane Magistrate Courts 1, 2, and 5 (See Appendix 4.4). In this time approximately 200 women were closely observed appearing before the courts on a range of charges. Twelve District Court cases were also attended where the defendant was female. No particular type of woman or offence was the focus of observations. The women defendants fell into various age brackets, ethnicities, races and femininities. Depending on a number of variables, some women exited the criminal justice system at the Magistrate Court while others continued further along criminal justice pathways. Of all the defendants observed, there was no archetypal offender or offence.

Defendants diverged greatly in how their 'feminine disorder' was framed for and interpreted by the court players, culminating in a range of outcomes. Various factors impacted upon these sentencing outcomes such as legal representation, previous convictions, offence type, magistrate and so on. Narrative is central to how these offending women were constructed. Legal narratives are structured in ways that exclude, silence and oppress outsiders - those not part of the dominant culture. Dominant ideas about gender, race, ethnicity and social class are reflected and reinforced through such narratives. Therefore the identity of the storyteller impacts greatly on the type of story told.

The evidence presented at a trial is structured by a restrictive process of

selection and construction, a process determined by the way the legal issue is framed, by the way in which lawyers structure their client's case and by the rules of evidence, particularly those relating to what is legally relevant (Hatty, 1993; Sarmas, 1994). Such details cannot be gleaned from the reading of the trial transcript because the trial process ensured their exclusion (Sarmas 1994: 726).

Performances by the various players within the court highlight how judicial procedures function as a means of social control. As discussed in Chapter Three, the rituals and performances in the courtroom operate to silence the defendant (Armstrong, 1998; Carlen, 1976; Tait, 1998). The spatial arrangements of the courtroom and the routines of judicial procedure reinforce the power differentials between the players. Within courtrooms, judicial attire such as wigs and robes act as symbols for the majesty and authority of law (Thornton, 1996, p. 222). They are quintessentially masculine symbols of authority. The reality of the situation is that a hostile environment combined with a lack of knowledge of routine judicial performances effectively render the defendant helpless. It is important to acknowledge the power of the institutional site of the court for where there is power there is also 'a plurality of resistances, each of them a special case' (Foucault, 1980, p. 96). The court is a disciplinary site of power that intersects with the force of resistance.

As my court observations rolled from days into months, several issues emerged: judicial biases exist; private legal representation provides a better outcome; and familiarity with the criminal justice system holds subtle advantages for offenders (a view expressed often by my research participants). Observations of different categories of women charged with particular types of offences appearing before particular magistrates resulted in a myriad of outcomes. Pseudonyms were selected for the different



Magistrates observed according to their style of delivering 'justice'. For example, Swift Justice displayed fairness, consistency and efficiency. This Magistrate never appeared flustered or shocked by events revealed within his court. By comparison, Father Christmas was definitely more lenient than his magisterial colleagues, a fact well known among the regulars; Walt was very harsh, opinionated and conservative in his approach to diversity and contemporary societal values. Like any individual, Magistrates and Judges have good days and bad days. However, this also affects court interactions and outcomes - a point not lost on many of the women interviewed. As one BWCC interviewee reflected

*it's amazing. Judge T, never heard of her before, never will again, that's another sad thing is that someone can make such a big impact on your life.*  
(Natasha, BWCC)

Several women complained that their court hearing had been influenced by the previous offender's case resulting in the bad mood of the Magistrate. Many women, like Susan, view the Magistrate or Judge of the day as being 'the luck of the draw'. Several women stated in a matter of fact way that it all depends on 'whether he got lucky the night before' as to what sort of an outcome could be expected. As Lisa reflects

*We got a good Judge that day. He could easily have remanded me in custody or sentenced me then and there. I was very happy.*  
(Lisa, BWCC)

Alice, reflecting on her fraud charges, believes the only real variable is the Judge. She understands fully the network of power enmeshing the Judge, legal counsel and her relatively powerless status.

*When you stand up in court and your sentencing happens and your lawyer has got a list of past cases for the same amount of money and the sentences imposed and all the ones that we had were all suspended sentences and the Prosecution gets up with theirs and they found ones where people were given real big amounts of time and so it's just different Judges - it's got nothing to do with the legal system. It's just what happened on the day.*  
(Alice, BWCC)

Stacey also identifies the power relations at play describing the court and its processes as being '... very scary, a place where you have no power over and you have no knowledge of'.

### *Performances and discourses*

Interactional aspects of court processes have been the focus of a strand of research that argues the way in which the defendant performs combined with judicial perceptions of the defendant impacts upon decision making (see Eaton, 1983, 1986; Edwards, 1984; Worrall, 1987, 1990). The focus of this chapter however is not whether women commit atypical or typical offences but how they negotiate, through compliance and/or resistance, the discourses used to explain their aberrance. Signs of remorse are very important: repairing damaged property, a letter of apology; more frequently magistrates would assess remorse based on the appearance of the defendant and their gut feeling (see also Gelsthorpe & Loucks, 1997, p. 32-33). Hence cultural background strongly influences displays of body language such as eye contact, body posture (Gelsthorpe & Loucks, 1997, p.33-34).

The number of Indigenous people (both women and men) appearing on Fail to Appear charges (FTA's) far outnumbered non-Indigenous defendants. Many did not meet required bail standards and therefore received a very different sentencing outcome than non-Indigenous defendants, usually incurring a period of incarceration. On one occasion, a Magistrate questioned a middle aged Indigenous male charged with a FTA demanding his reason for not appearing on the set date. The defendant shrugged his shoulders. The Magistrate responded with contempt 'that is what's wrong with you people - no respect for the law' (CL 22/7/97). It must be stated that the Magistrate could have been referring to the category of people who fail to appear. However, his facial gestures and use of intonation were

distinctly different for non-Indigenous defendants facing the same charge.

### *Negotiating feminine discourse*

Certain performances are expected within court. Actions such as respect for the court, truth and remorse impact upon judicial outcomes (Gelsthorpe & Loucks, 1997, p. 30). Female offenders who cried and appeared very nervous generally gained the sympathy of the Magistrates, as long as the behaviour was thought to be genuine. Hence, a winning formula for women defendants is to comply with and adopt a suitable feminine (passive, subdued and remorseful) persona. Depending on the offence type such a performance is less likely to incur the wrath of the judiciary and the heaviest sentencing option. Many women defendants dressed in conservative feminine attire with downcast eyes. This is acceptable feminine behaviour when appearing in court and the majority of women observed adopted this approach. Women make a conscious decision to actively comply with or resist such stereotypes.

First impressions do count (see Gelsthorpe & Loucks, 1997) and many interviewees discussed the impact of appearing 'nice' and how their appearance can disadvantage them when coming straight from an overnight stay in the watch house to the courtroom. The women realise the impact their appearance has on their proceedings and describe their circumstances. It also reflects the inadequacies of the Brisbane watchhouse and custody procedures.

*I spent the night in the watch house. Wasn't given a shower or anything, I was just in a shirt and skirt, high heels, so I went to court barefoot, because I was wearing heels which you are not allowed to have. Yes so it's not like you go to court looking really pretty, no shower or anything.*

(Samantha, BWCC).

*I was in a car accident, had to be cut out of car, taken to PA hospital, police remained with me for 3 1/2 hours at the hospital. I was then*

*taken to the Dutton Park Police Station, charged, spent the night in the watch house. I was refused bail due to a previous FTA. It was a Friday morning and I appeared in court bloody, I'd had no shower. I had damage to my knee, stitches too yeah, my head had gone through the windscreen. I had wanted to spend the night in hospital, instead I got the watch house. It was shocking to go to court like that, no brush for my hair, my hair was dread locked with blood. I was remanded in custody and Saturday afternoon was taken to BWCC.*

(Janice, BWCC)

*I remember I got belted by a few things and he threw me up on the car, and I had to get taken to hospital first and then they took me from the hospital because I was severely sick and after he'd done that I was losing a lot of blood. Then I was taken to Taringa and then they questioned me and then they took me to the Brisbane watch house and charged me and then left me overnight to go to court the next morning. Oh pretty high class!*

(Lois, BWCC)

*I always wear my Country Road suit, it's a navy jacket and pants suit with a white Country Road top and black shoes. I have two Country Road suits that I always wear to court. That's the only place I wear them ... when you think you're gonna get put in jail you put your glasses on and that makes you look really stiff. They'll fall for that too!*

(Lesley, BWCC)

However women are not always passive subjects before the law. In particular young women with attitude instantly incur the wrath of some Magistrates. For example a 19-year-old woman was observed appearing on shoplifting charges and was subsequently incarcerated for one month 'to teach her a lesson'. Our paths crossed at the BWCC the day she was released. This young woman emerged from 'doin' time', bitter and enraged, stating that she'd 'learnt a few lessons during my time - none of them legal'. The lesson the Magistrate had in mind is unclear except to exert discipline on a defendant he deemed to be 'an unruly young woman' (CL 10/06/97).

On another occasion, Leila, a university student (19) is observed addressing Magistrate Walt in an overconfident manner, challenging his sentencing

comments in a polite yet assertive manner (CL 22/07/97). At this point, Leila has made a choice to challenge the Magistrate's comments. Leila presents as an articulate, smartly dressed individual and is being charged with growing several marijuana plants. Walt is clearly outraged that Leila could appear so impudent as to question his sentencing decision. She clearly shows no signs of remorse for her actions, her stance is not submissive, her voice is not weak and soft, her eyes are not downcast. The Magistrate locates this outspoken young woman within the familial discourse by concluding with a tirade of questions: Do you live with your parents? Do your parents know where you are today and the charges against you? Do you undertake any paid work? Leila responds that she doesn't live with her parents and is a full time university student to which Magistrate Walt replies 'go get a real job'. Leila received the heaviest fine possible for the offence and a conviction was recorded. Walt was attempting to locate Leila within the control mechanism of the family and then the workforce. His option was to control and punish through a conviction and monetary fine. In contrast, male defendants appearing under similar circumstances (i.e. same Judge, same offence type, no priors), the attempts to locate the defendant within familial control were not evident.

A contention of this thesis is that gendered notions regarding appropriate female behaviour and feminine roles are firmly entrenched in judicial minds. Differences in offence type and gendered notions of appropriate behaviour impact on the judiciary's handling of female offences. Some charges are deemed more reprehensible than others depending on the offender's gender. Some aberrant behaviour is categorised as typical larrikinism, boys being boys, when undertaken by males. For example, in one morning session I observed three separate cases dealing with the defendant urinating in a public place. The defendants included 2 men and 1 woman all under the age of twenty (CL 08/05/97). As each case was presented to the Magistrate, the young men were mildly berated for such offensive behaviour. However the

Magistrate was lost for words and appeared awkward when a young woman came before him on the same charge as the previous two. He was visibly disgusted as he handed down a similar sentence but without any of the preamble administered to the male defendants. There was a definite sense of awkwardness experienced by both the Magistrate and defendant, with minimal eye contact made. In this instance, the young woman showed remorse, her eyes downcast and appeared tearful and submissive when entering her guilty plea.

Not all women negotiate a particular acceptable feminine discourse to their best advantage. Some women actively resist mainstream feminine discourses of acceptable disorder. One such case is Susie. Susie is a petite 17 year old facing assault and resisting arrest charges. She was arrested on a Friday night in an inner city shopping complex and the charges stemmed from Susie being requested to move along. She spent the night in the watch house, appearing first thing Saturday morning. Susie is unemployed, on the dole and living with her boyfriend in a rented unit. Susie was granted bail on her own undertaking and remanded to reappear some weeks later.

At her first appearance, Susie appeared a little dishevelled after a night in the watch house and rather subdued. Walt was the presiding Magistrate at her next appearance. On this second occasion, Susie was completely unrecognisable from her earlier appearance. At first I did not make the connection. Dressed to the hilt demonstrating her style of femininity - from head to toe. Her style was a mixture of Goth, Swamp and Nazism. This included Doc Marten boots, ripped black fishnet stockings held together with large silver pins, tunic style grey dress with a trenchcoat with Nazi Swastika symbols displayed on front and back; silver studded dog collar and matching wrist bands; lots of facial piercing; and a rainbow coloured mohawk hairstyle. I hardly recognised her as the same young woman that

had made her first appearance a month earlier. Susie entered a guilty plea and her Legal Aid defence voiced her remorse for her behaviour. The Magistrate was caught between repulsion and disbelief repeatedly grabbing quick glances at Susie and shaking his head. He expressed his frustration at not being able to hand down a term of incarceration 'to teach her a lesson'. Instead decreeing the heaviest fine possible totalling one half of her income, no option for a Community Service Order, and a conviction recorded against her (Susie had no prior convictions).

While Susie observed appropriate protocol as far as verbal dialogue went, her silent yet physical statement was of rebellion and resistance to court protocol. Ordinarily having family members is deemed a wise move when appearing on charges as it demonstrates a cohesive family unit and for women that they are under familial control. Research indicates that Magistrates give credit to defendants who have partners or relatives (especially parents or grandparents in the case of young offenders) with them at court. This was viewed as evidence of the family's concern and support for the defendant. Further, Magistrates glean extra information from the demeanour and body language of the family and friends who attended court (Gelsthorpe & Loucks, 1997, p. 48).

However, Susie's support group consisted of a group of young people dressed the same as Susie. The Magistrate felt his courtroom had been turned into a circus or freak show and at various stages of the proceedings threatened to evict members of the group if they did not behave. Procedures for inscribing different bodies are not imposed on the individual from the outside (Grosz, 1990; Grosz, 1994). Susie was not presenting a 'docile body' rather she created a cultural performance (Butler, 1990). Susie voluntarily chose specific inscriptions to mark her body and constructed her style of femininity (see Grosz, 1994). In doing so, she was challenging status quo

norms of femininity.

Susie actively resisted mainstream stereotypes of acceptable feminine appearance. Her clothing, jewellery, and makeup clearly fell outside of familial discourse. Susie and her peers were corporeal bodies, speaking without necessarily talking, because they were encoded with and as signs. This example demonstrates how bodies are traversed and infiltrated by knowledges, meanings and power becoming sites of struggle and resistance (Grosz, 1995, p. 35-36).

### *Negotiating familial discourse: the good mother*

As discussed in Chapter Two, law is inconsistent and different types of women receive different treatment (Naffine, 1990, p. 138; Worrall, 1990). Women's negotiations of the discourses used to construct her actions also intersect with other mitigating factors, such as offence type, age, and status. It was observed that some women actively engaged with specific acceptable stereotypes within the familial/domesticity framework.

Within the discourse of domesticity there are standards of maternal behaviour grounded in caring and nurturing of children. The good woman is a faithful wife and mother whose sphere is the home, not the public market place (Naffine, 1990, p. 137). Research indicates a tendency not to incarcerate women who present as good mothers (Carlen, 1983; Daly, 1987; Worrall, 1990). For example Anne, a 27 year old sole parent was facing stealing charges and had been remanded to appear in the Brisbane District Court. Anne was pleading not guilty. Anne is quite tall, curvaceous, and has blonde shoulder length hair. Her appearance is very soft and feminine. For her court appearances, Anne wore very flattering feminine clothing, a floral dress and minimal make-up. Her long blond hair was pulled back gently with a ribbon. A white crocheted shawl covered her shoulders concealing a



tattooed back and arms. As she sat in the dock, Anne appeared shy, submissive and a little apprehensive. Anne negotiated an appropriate and acceptable court persona.

Her legal defence emphasised her domestic status as that of a respectable young mother who had been deserted by the child's father some time ago and she was doing her best to raise her young daughter alone. Anne was framed as a good mother and a victim of circumstance. She was accused of stealing men's clothing, a punching bag, fishing rod and tackle box, and a washing machine. It was alleged that Anne had driven a car (on loan from a car yard where she worked on a casual basis) to a specific residence and proceeded to load up the back of the station wagon with the above mentioned goods. The three male occupants of the house returned home to find Anne under the house loading up the back of the stationwagon. When questioned what she was doing, Anne said she was looking for a person called 'John' she had met earlier that night at a nightclub. Police were called and charges laid. Anne pleaded not guilty at the Magistrates Court, hence the District Court trial.

After one and a half days, the Judge discharged the jury. The justification consisted of insufficient police evidence (ie. fingerprinting). Prosecution evidence claimed that Anne had a drug habit and prior convictions. However, among the Judge's concluding comments was that he found it incredulous that a woman such as Anne would be inclined to steal articles that only a man would use. Furthermore, it was incomprehensible to the Judge that Anne could possibly move a washing machine let alone a punching bag on her own. Anne appeared a credible legal subject and negotiated the good mother role to her advantage. Her dress was soft and feminine, her body gestures and language docile. Anne was immensely happy with her legal representation and outcome. The Judge's comments

were grounded in traditional notions of femininity that framed Anne as passive, weak and a good mother. The point is not a matter of guilt or innocence, rather that Anne negotiated successfully a stereotype acceptable and available within legal discourse.

Familial ideology privileges the white middle class, nuclear family structure. As a consequence, bad mothers are not tolerated within legal discourses unless there are some circumstances which can explain deficient mothering (i.e. a victim of abuse, a psychological disorder). Particular forms of dependency, such as the traditional place of woman within the family unit, are deemed good for women while others are condemned. Legal medication administered to women is acceptable within society however women drug users who are mothers are considered to have failed in their role as mother (Boyd, 1999; Taylor, 1993). Drug-using women who use illicit drugs are portrayed as deviating from traditional gender roles, especially with regards to motherhood (Boyd, 1999, p. 10). Such women are perceived as immature, out of control, deviant individuals, unfit mothers who pose a risk to their children. A dependence on heroin is doubly unacceptable for women because of a risk that they will be unable to carry out their prescribed duties as wives and mothers (Ettore, 1994, p. 414).

Mary's story reflects these mainstream values. Mary, a 22year old, sole parent held in custody on charges of possession of a dangerous drug (heroin), was reappearing in the Magistrates Court to face further charges of stealing and fraud. She requested release on bail to care for her one-year-old child and recommence a science degree at university. Mary was vocal and addressed the Magistrate directly at times throughout her appearance in the Magistrates Court. This led to the Magistrate declaring that she should have thought about being a good mother before she took up drugs and remanded her in custody. Her child went under the care of Family Services (CL

9/05/97).

Another young mother facing drug charges also requested bail so as to organise care for her one year old daughter. The Magistrate responded 'you should have thought of that before you committed the offence' and did not grant bail. Both these examples demonstrate the reaction of the law towards specific offences and 'bad' mothers. A general lack of tolerance of addiction to drugs or alcohol is typically viewed by Magistrates as self-inflicted problems (Gelsthorpe & Loucks, 1997, p. 28). These sole mothers have been punished twice, first for the offence of being an addict and second for failing in their maternal nurturing role.

### *Negotiating pathologisation*

The scripting of woman as pathologically disordered, hence abnormal is an essentialist construct (Frigon, 1995; Scutt, 1997a; Smart, 1995; Thornton, 1996). Research indicates that women are twice as likely as men to be dealt with by psychiatric rather than penal measures (Allen, 1987a; Naylor, 1993). As discussed above, agency (expressed through resistance and/or compliance), takes many forms. A refusal by women defendants to be pathologised is one such resistance. It was observed that some women comply with the pathologisation of their behaviour while others actively chose not to be categorised as 'mad/sick', rejecting a discourse that has the potential to understand and respond with sympathy (and possibly treatment) rather than censure (such as a jail term). For example, Sarah (50) had pleaded guilty to tuckshop fraud, a similar offence to one she had committed in her early twenties. Sarah had a female legal representative and was appearing for sentencing the day I observed this case. The male Judge urged for a psychiatric evaluation to be undertaken before he handed down his sentence. This was rejected by the defendant. The Judge further suggested that perhaps she was suffering from 'a menopausal disorder', as

the charges were 'so out of character for a woman of her age and good standing'. The defendant still refused despite the Judge indicating that it would help him organise an appropriate sentence (CL 02/07/97). The Judge felt sure he was dealing with a mad woman who was making things difficult for herself. Yet this woman was making a rational decision in how she was to be constructed within the legal discourse in effect challenging the essentialist discourse available to her. It is argued that menstruation, pregnancy, birth and menopause have been construed as being symptomatic of women's disorder. That is, women offenders are framed as victims of their hormones (see also Grosz, 1990; Grosz, 1994; Thornton, 1996, p. 18).

Several interviewees discussed the value of a psychiatric report from a strategic standpoint considering available legal advice and the woman's current circumstances. For example Annika recalls

*Anthony got up and said yeah I represent Mrs. D and she's got two young children and rah rah, he wanted this psyche report off me, and he wanted me to go to this psychiatrist but he wanted \$2000 in his trust account and I said no way. For \$2000 I'd rather stick it in my kid's bank account than a psyche report. I said all good and well Frank but that's not going to help me, a psyche report, let's face it, all I am is a mother with 2 children who's married to a man and if the Judge gets ten of them a day. It all depends on what sort of mood he's in, like if he's had a heavy night on the grog, like do you know what I mean, so I don't want to spend \$2000 on going to a psychiatrist for the sake of a good psychiatric report because I'm not insane.*

*But the psychiatrist can't help me anyway, and it's just piece of paper again and the money is going into my children's bank account because I know I'm going to get incarcerated and my husband, so you know forget it. So I didn't have one. I don't think they help anyway. He was just advising me. And I was on the methadone program too. You know where you give urine's and show the Judge and rah rah rah, and I said, I know it won't even reduce my sentence, I did all the things, and I didn't get it in time for my court case. I received it about a month later after I'd been in here. They didn't send it to me.*

(Annika, BWCC)

Annika rejects the possibility of being labelled 'insane' and demonstrates her analysis of legal advice. When Annika states 'I did all the things' she is

demonstrating her negotiation of strategies (such as methadone program, letters of remorse) that are perceived to have a positive influence on the sentencing outcome.

### **5.3 Female voices and legal representation**

Legal defence is a crucial aspect impacting on women's experiences in court. From my court observations, it became clear that private representation does appear to attribute to a more favourable outcome. This was a popular view amongst the BWCC participants. Often young offenders, or individuals inexperienced with the legal system, appeared oblivious to the fact that a conviction had been recorded, and the implications of having a conviction recorded. Having a conviction recorded doesn't bother Selena - 'I've done what I've done, no big secret'. Many were relieved to be walking out of the courthouse with a small fine to pay or community service, and no prison time. In contrast the push to have no conviction recorded for male defendants appearing in the Magistrates Courts was a typical request for private counsel and sometimes for Legal Aid.

Male offenders are reframed as potential professionals with bright futures (with the possibility of overseas travel and careers), awaiting them that would be severely hindered if a conviction were recorded. Yet another acceptable narrative was that they were family men with responsibilities, or perhaps a second chance at reconciling with an estranged wife and children (see also Gelsthorpe & Loucks, 1997, p.52). However the same approach concerning career prospects was rarely used by legal counsel when representing women offenders. Women were framed within the domestic/familial discourse of being a good mother/good daughter, with their aberrant behaviour stemming from pathological disorder or attributed to their status as a victim of circumstances beyond their control. Thus convictions against aberrant women appeared irrelevant to their future career prospects.

Legal discourse encapsulates the illusion of power shared between legal representatives and their clients. As members of a privileged group, legal counsel reorder and reconstruct their clients' experiences and wishes into paradigms that will be compatible with judicial values (Hatty, 1993, p. 22). There was a general consensus amongst the women interviewees that private representation equates to a better outcome. However a recurrent grievance was that their stories were not being heard, regardless of Legal Aid or private representation. Several interviewees were incarcerated due to committing offences whilst on remand just to afford 'the best' legal representation. They felt private representation would give them a better outcome and they wouldn't even consider accessing Legal Aid. For example Jane commented

*... I had to hustle money to pay. He stated I don't do Legal Aid. That was fine, we were making a lot of money out shopping.*

(Jane, BWCC)

Other women explained how they committed offences to pay fines due to previous failed Community Service placements. As Erica explains

*I did an armed robbery with a small vegetable knife, didn't use it. I needed money to pay for fine options. I'd done Community Service three times: Meals on Wheels, lasted 2 days; gardening at pre-school and library work in a primary school. After two weeks I got jack of it. I had no transport, just a pushbike.*

(Erica, BWCC)

The recidivism rate for female offenders is high (Queensland Department of Corrective Services, 2000, p. 5). The majority of the BWCC cohort had prior experience with the legal system with many women having experiences of both Legal Aid and private representation. As Stacey remarks

*Heaven help the girls that are being represented by Legal Aid. They place their faith in the hands of someone who is really just trying to clear their docket, um and get the basic information off you, and may or may not have an agenda with the prosecutor, it's very scary, a place where you have no power over and you have no knowledge of.*

*Girl after girl comes in and says I got this and I got that, and they gave me this sentence and that sentence, and I go Oh that's just unbelievable, because if you don't know what your rights are then you have to place your faith in someone and it's usually an overworked legal aid solicitor. But you end up with a bit of time in jail to reflect on it!*

(Stacey, BWCC)

#### Another interviewee recounts

*She (private counsel) got there too late and Alex the duty solicitor stood up for me and man, he was just, he really sunked me, made me look really bad. And I was only on one charge, you know, I should have walked from court that day. But nup, he just really sunked me, telling the Judge 'I know she's a heroin addict and I know she's bad but if you give her bail she might be able to prove herself'. And the Judge was saying 'but she hasn't long been out of custody' and he's going 'oh true, I didn't know that and he knew very well, he was just trying to get on his side. And I thought 'get lost'. He made me look like a real idiot. I'd never ask him to represent me again.*

(Nina, BWCC)

#### Annika recounts

*I hired private, straight to the watch house, we had money, I panicked, and I went, I gotta get bail, my husband's on parole, and they knew that I had a prior history, one, 18 months for possession of heroin, eight years ago now, and I did 18 months for that and I've been, got out and I've been straight ever since.*

*I paid him at first, cash up front, and then I just went nah, he did Legal Aid, so I went Legal Aid. I thought buggar it, I need that money for my kids. So when I went Legal Aid, he slacked off. I only saw him a couple of times. Like you're going to court tomorrow and he'd ring and say could he come in and see me, what are you doing?, coming off the done?, and I'm going 'a little bit'. I was that stressed out the whole time I was on bail I was going oh no! You know, like I couldn't deal with it all. Every time I looked at my kids I felt like crying.*

(Annika, BWCC)

Many women expressed a frustration that their voices were not heard and were adamant that this is not the way it should be. Woman's voice is important they argued. One inmate stated she was 'very dissatisfied on all occasions'. Samantha was well aware of the severity of her charges and felt that her legal representatives were

*.... unsupportive, spineless and brainless, and on every occasion and did not acknowledge my input on the facts to be presented.*

(Samantha, BWCC)

Samantha wanted included in her defence the violence she had experienced in her past, her then heroin habit and the fact she was in love, and engaged to a Lebanese trafficker. 'It wasn't my business, my employment history was barely discussed'. Samantha had worked as the manager of a roadhouse for twelve months and had led a 'crime free existence out of choice not fear of being caught - new start, wanted a dream family life'. Samantha felt her legal counsel just wanted to close the books on an old case. She recalls her legal counsel for her absconding charge was

*Just as brainless and spineless as the first time. We ran away to have a baby and be in love and the solicitor still asked why. Like talking to a wall. In court I rattled my handcuffs to prompt the solicitor to include all issues we'd discussed.*

(Samantha, BWCC)

In hindsight, another interviewee, Sandy, felt that private representation could have provided a better outcome or at the very least 'my story would have been heard. Instead he highlighted all the bad points - this arsehole didn't care and made it quite clear'.

*I was in a daze and didn't pay much attention to Judge's comments. Listened to solicitor. In hindsight, I don't have much time for my legal representative. Used by a lot of people in here - make up their mind whether they're going to keep you out of jail or not. They decide. You get God lectures, tells you 'you are a piece of shit 'cos you're a junkie'. His main ambition is to make it to the bench. Cooperates with police and prosecution when it suits him. Good lawyers if they want to be. Matthew, he washed his hands of us and sent a barrister but the barristers sent are appalling. One, Wade Jones, nice positive attitude, he cared, early thirties. I was glad Matthew wasn't acting 'cos he cared so little. Overall yes happy with representation but the fines are a worry.*

(Samantha, BWCC)

Another interviewee, Jane, represented herself on a summary matter. This can be interpreted to be a very gutsy move that runs counter to court protocol. Jane took control and stated her case.



*I represented myself there cos it wasn't worth paying \$1500 for legal aid. Legal Aid wouldn't do it cos I was pleading not guilty.... I just stood up myself. The prosecutor said 'you didn't do a bad job'. I said 'thanks'. Like it was very intimidating! I was pretty nervous and I didn't know I was going to court because they don't tell you here (BWCC) and they told me the Sunday that I had to go to court on Monday.*

(Jane, BWCC)

Regrets concerning legal representation were also expressed concerning previous court appearances. One interviewee stated her regrets that she didn't speak out. When asked if she was involved in her legal defence and did she address the Judge, Amy responded

*No not at any stage, I didn't particularly want to. You do tend to just leave it up to the lawyer, um, I think again in hindsight, given the opportunity I would have liked to. Only because seeing it from a Judge's point of view you are just another bit of paper and another story and they'd hear the same stories all the time. You know this person is wonderful, brilliant it's just that she's got this little heroin problem and she's going to do this and do that and I think that if she speaks for herself she could put herself forward better, but then you could hang yourself too.*

(Amy, BWCC)

Belinda recalls

*I wanted it over and done with, after nine months I didn't care and I thought they knew best. I let them do it their way. They advised me to look tidy. That was it basically.*

(Belinda, BWCC)

Such accounts indicate that women comply with the way their aberrance is constructed. Some women, such as Belinda, deferred to the expertise of their legal counsel assuming that they would take care of her best interests.

However, there were positive accounts of Legal Aid, some attributing these experiences to luck and others to inexperience.

*I had Legal Aid. Good barrister and lawyer - quite happy. Luck of the draw and I was lucky. I was freaking 'cos Legal Aid have a*

*reputation of not caring. But my legal representative did care. They didn't want me sentenced until they had cleared up a few things. I would have done more time if they hadn't have done that. I had the best Judge in Queensland. It was a woman. That's why they wanted me to go to court when she'd be on. She's quite lenient. Stressful to be on remand for so long but it paid off in the end. I was quite happy. Initially I was on attempted murder, then unlawful wounding and they were trying for grievous bodily harm - but that didn't happen. I was advised to get lots of character references, people high up in society, JP's, write letters of remorse to the Judge, the victim. My co-accused had different defence team. Most of her defence was against me. Nothing good said about co-ey - just running me down.*

(Tess, BWCC)

### ***Inexperience with criminal justice system***

Some women blamed themselves for their sentencing outcomes, attributing their experiences to naivety, inexperience and lack of knowledge of the criminal justice processes. Many women held the view that their legal representatives knew best and had their best interests at heart. Beth's story is a case in point. Beth was 17 when she was charged with the shooting murder of her mother. Beth resisted being pathologised as 'a victim of family abuse' and refused a pre-sentence report.

*I was charged with murdering my mother. I was not interested at the time to divulge family details. What went on in my family was my family's business. I pleaded not guilty and let them work it out. I could have spilled my guts and probably got a manslaughter charge and been well and truly out by now. Even now, I don't know if I would change. I did do crime. I made it difficult for my legal representatives. But I pointed to them that the burden of proof is on the prosecution, not on them. All they had to do was provide reasonable doubt that I wasn't at the house. I had a bad barrister.*

*Quite a few lifers in here have had the same barrister and she was really bad, Cynthia Brookes, really bad. 5 inmates had her and got life. It was Legal Aid funded - Public Defenders Office. There was no evidence, they didn't really have anything. The Judge reprimanded her on a couple of times. Judge demonstrated a bias towards me, in summing up, the Judge addressed the jury and said there was not enough evidence to that effect, jury still found me guilty. Cynthia Brookes was 8 months pregnant and was more concerned with having her baby. I only saw her twice before the trial. I was*

*appointed a solicitor and barrister - got a letter informing me, I didn't know whether you could request someone else.*

*No one here I could ask to say "is this normal, good or bad barrister". Basically I thought you get who you get. A certain amount of naivety on my part. I refused to see a psychologist for the pre-sentence report. From 17-19 years of age I wasn't in the best of moods. The Prosecution presented me as an angry teenager, adolescent, a spoiled brat. My legal defence said did you do it? Does it matter I said? I'm pleading not guilty - do something.*

*(Beth, BWCC)*

*Legal Aid funded all charges. Can't say I'm happy but, 'cos I went ex-officio right from the start thinking that it would speed things up and make them better for me and it didn't do that at all. Or if it did Jesus I'd hate to know what a long term was! I did 11 months in here on remand for nothing you know - they didn't backdate my time. So I did 11 months here for nothing you know. You get that.*

*(Ruth, BWCC)*

*Always happy bar one time. District Court 5. Barrister psyched me up to a 6 month term. Then he agreed with the Prosecution I was thinking 'shut the fuck up' 18 months with a 6 month bottom. He should have prepared me better. My own stupidity really should have known better.*

*(Alice, BWCC)*

*They were alright, I can't really say. It was more my misunderstanding of the system, you know. I thought if you hurt and injure people than yeah, you get locked up but I didn't know anything really about prison. Especially didn't think I'd end up in one.*

*(Meg, BWCC)*

### ***Experience with criminal justice system***

Exposure to criminal justice processes sharpened women's dealings with legal representation. These women actively negotiated the system with more confidence due to the experience and knowledge gained from the first time round. There was more likelihood of women working as a team with their legal counsel and participating more in the construction of their aberrance. Women who had experience with legal representatives were also more selective of the counsel representing them. As Simone recalls

*My first legal representation was tragic. They just didn't do anything at all. They just told me tell them the circumstances, a couple of days before the court hearing, and that I'd get a good whack out of it. Then I fired them and got new ones and they did really well for me. I got charged with the FTA but when they heard the circumstances for that he just gave me conviction, no time, cos it was really his (Magistrate's) bungle when they looked through the court papers. But he never gave me bail again.*

Carol: So you sacked the first lot. With the second lot, you said that they were better?

*Yes they came in all the time and left messages, or faxed the prison when things were all right because when it got to sentencing, my father flew from overseas for every one and I had Judge R. I was supposed to have X, see this is how the DPP work, I was fronting X and that's who I wanted, we'd worked it so we did, so they pulled my sentence date the next month when Y was on. They tried to get me in front of Z and there was just no way I was going in front of him, I pulled from Z's court and went, I thought well I'd already pulled it twice and they'd pulled it twice so I just had to front Y. Then I went up to sentence and heard some of it and then remanded me to get more of it to the next week, it went on to the next week and he remanded it again cos he wanted me to cooperate with the police and gave me a further week to do that and then I went up again and he sentenced me.*

(Simone, BWCC)

Margot's comments highlight how familiar she is with court processes and legal representation. The practice of judge-shopping is negotiated in conjunction with legal counsel. Some judges have reputations for being lenient or intolerant of particular offences.

*Frank Bennett, always use this firm. Legal Aid but unavailable so decided on duty solicitor, she refused to represent me because I said I'm not guilty but I'm pleading guilty on higher court issues. I was not going on remand again. They're used to me, I'm very outspoken. I knew the most time I could get in the magistrates is two years. With the charges relating to the car accident, I appeared before Magistrate W. (Swift Justice). But the Magistrate was influenced by prior case. You have no choice in Magistrates. Bail applications put off until certain judges are residing. They've got a job to do. I pleaded guilty therefore not wasting time, I got a better deal just nodding to it. I believe in karma.*

(Margot, BWCC: 1997)

Despite Althea being quite sick (withdrawal symptoms) she wanted bail, her barrister said 'no way, you won't get it'. Althea forced the issue and got bail with reporting conditions. She commenced her jail sentence one month later. If it had not been for Althea's assertiveness and pro-activeness, an immediate jail sentence would have been effective.

Adrienne's story highlights the impact good legal counsel can have on judicial outcomes and touches on the anomalies of legal processes.

*If you've got a good solicitor who's on the ball you can go to your solicitor and say right give the police a date and the solicitor can appear at magistrates and hand out a date and say you've got a month to bring forth all the charges because if they like they can just keep charging you. Like that's what happened to me. I went back 5 or 6 times for different batches of charges, and all that happened is that we'd turn up in court and we'd remand it to the date whenever I was sentenced for the first lot so it was all together for the same sentencing date. But it makes it very confusing because you'll be in jail and you might already be sentenced on something and then you'll be sentenced on something else and something else again. And just continually you'll have charges that will run concurrent and it's just such a waste of court time. So to me, a much better system would be is if a person is already serving 8 years for x and police bring in charges to clear up their books like they're told to by their boss, there is no point in taking it to court and mucking around and taking it through the courts and putting it concurrent. If you are going to plead guilty it should be just slapped on your record and let go. There is not much point in giving you another concurrent sentence, but that's another example of how the court's time is just so wasted. I think I went 7 times, before I actually got to my committal date which is then committal and another committal and then sentencing when it could have been so much easier if the paperwork was just sent in.*

(Adrienne, BWCC)

#### **5.4 The good (but victimised) daughter**

Meanings attributed to both offenders and offences are typically manipulated, modified and reconstructed to dilute the danger associated with crimes committed by women (Allen, 1987b; Worrall, 1990). This is demonstrated in the following two Queensland cases: The Queen v Debbie

Maree Guise, and The Queen v Joy Ann Lane.

### **The Queen v Debbie Maree Guise**

On the 24/02/98 Debbie Guise was facing Supreme Court charges for the murder of her mother, Annette Jean Cherry. Debbie was 18 years at the time of the offence (17 June 1997) and is the eldest of five siblings. Debbie went to her grandmother's house where her mother was residing at the time and shot her mother. The unregistered gun had been given to her in a park one day. Part of Debbie's testimony was 'that a young man came up and started talking to me about how things were at home' and then offered her the gun. This man was unknown to Debbie. This trial took place in Rockhampton and her defence was funded by Legal Aid. Debbie was found guilty of murder after a three day trial and was sentenced to imprisonment for life. A psychiatric defence was not a part of the defence case. Debbie was incarcerated in BWCC.

A Court of Appeal hearing followed on the 3/6/98 and the verdict of murder was set aside and a new trial for murder ordered to take place in Rockhampton with the same Judge. The outcome of this second trial was that Debbie was convicted of manslaughter receiving a 6 year sentence with parole after 2 years. In the first trial, psychiatric evidence was not a part of the defence case. In the first trial, the defence highlighted aspects of Debbie's life. These included sexual abuse and violence by her natural father and some time spent with foster families. Debbie also entered into a sexual relationship with her step-father at 16 years of age because 'I was getting sick of being accused of something I wasn't doing and so I set about getting accused of something I was doing'. Judge Demack's sentencing comments were brief

You have been found guilty by the jury of the crime of murder. The additional material that is relevant for the Parole Board in due course is now part of the court record.

The law requires that a person convicted of murder is sentenced to life imprisonment and it does not seem to me that any remarks I make now would add anything to the evidence that the jury has heard and the additional material is part of the record, so I sentence you to imprisonment for life.

I declare that you have been in custody since 17 June which is a period of 255 days. I order that the gun and ammunition be forfeited.

**The Queen v Debbie Maree Guise (27/02/98)**

In the second trial, Debbie was charged with manslaughter. Her legal defence focussed heavily on her upbringing, her abuse and especially the poor mothering she received. For example in 1988 Annette Cherry (Debbie's mother) rang Crisis Care threatening to kill Debbie if she wasn't removed. The focus was very much on Annette Cherry's inability to cope as a mother and to provide a stable environment for her children. It was Debbie who cared for her younger siblings, taking on the mother role. Debbie was reconstructed by her legal counsel as the victim, a good girl with a dysfunctional upbringing. Much of the evidence provided was not substantiated with documentation. This construction of Debbie Guise reframed her actions as rational or intentional and was reflected in the Judge's sentencing comments:

Debbie Maree Guise, the jury has convicted you of the crime of manslaughter. I understand the jury's verdict to be that you were guilty of criminal negligence in the way you handled that very dangerous weapon when you were in your mother's presence. It is consequently one of these regrettable homicides that occur within domestic situations where families have been broken up by a long period of abuse and possible emotional confusion and uncertainty.

I have been referred by counsel to other cases that the courts have dealt with and of course, I keep in mind the cases that I myself have dealt with here in this sort of circumstance. It seems to me that the community is generally very apprehensive of hand guns and if a person takes a Colt 45 and acts carelessly with it so that another human being is killed, the sentence that is imposed has to indicate that the

community does not regard that as tolerable conduct.

However, you have on the evidence a life that has been confused and this has had a detrimental effect on your well-being so that I will make a recommendation for an early parole, and of course, you have been in custody now for 416 days. So I sentence you to six years imprisonment and recommend that you be considered for parole after two years and declare that you have been in custody solely in relation to this charge since June 16, 1997 and the declaration is that 416 days served relates to this offence and is part of the sentence imposed.

Debbie's legal counsel further suggested a recommendation for psychiatric assistance to which the Judge responded:

See it is different from Green's case where Green had a psychiatric disorder. Dr Lawrence has examined Debbie Guise and found no psychiatric disorder, it is just an abnormal set of relationships, so I hear all you have said about the problems that will arise for her in prison but that is inherent in the nature of the prison service, I am afraid.

Debbie appeared meek, mild and quite shy. Her rural upbringing enhanced a certain naivety. She negotiated the victim child role and complied with this persona. The manner in which Debbie was constructed demonstrates the notion that those who have aberrant domestic environments are vulnerable and criminally susceptible (Henning, 1995, p. 311). A focus on Debbie's dysfunctional family life stemming from poor mothering had the effect of neutralising her dangerousness, blameworthiness and responsibility (Allen, 1987a, 1987b; Jeffries, 2001, p. 5).

While Debbie was incarcerated, her stepfather commenced a relationship with her younger sister, who just prior to Debbie's release, was listed as (and remains) a missing person. Upon her release, Debbie assisted police in relation to two matters: her missing sister, and her stepfather's involvement in her mother's murder. Debbie admitted that it was agreed she would be treated more leniently by the courts. Debbie's case highlights findings that



indicate that although traditional gender stereotypes can be oppressive to women (particularly young women), they at times benefit from them (see Wilczynski, 1995).

## **5.5 The offending woman negotiating self defence**

As the literature and data indicates, the criminal justice system rewards women for complying with gender stereotypes that position them as other - passive, victimised, subjective, emotional, hence their behaviour is easily constructed as abnormal. This notion creates a problem for women who seek to rely on self defence. Self defence requires that the female offender be recognised as a rational, normal and active agent who has used determination and choice given her circumstance. Women are not credible in terms of provocation self-defence laws and are therefore placed in a special category in the criminal law, particularly where they are accused of crimes relating to violence at home (Scutt, 1993, p. 18). The behaviour of the battered woman who stays in violent circumstances does not fit the laws conception of its subject, hence it is women and not the law who are found wanting (Bradfield, 1998; Naffine, 1995; Scutt, 1995, 1997a, 1997b). The next step is to diagnose the problem with women. Battered Woman Syndrome (BWS) helps explain why they are not behaving as the law expects. The notion of learned helplessness is used to explain woman's departure from normal behaviour. Hence, a syndrome is developed in which the battered woman and her actions are reframed as exceptional and pathological. In effect this individualises and denies the structured nature of the problem of violence against women. The BWS may be viewed as a contemporary derivative of the traditional view of woman: as the unreason to man's reason (Naffine, 1995, p. 34).

### **The Queen v Joy Anne Lane**

Expert evidence dispensed by psychiatrists serves to reinforce notions of

irrationality or disorder on the female offender's part (see also Allen, 1987a, 1987b; Bradfield, 1998; Sheehy, Stubbs, & Tolmie, 1992; Wilkie, 1993a; Worrall, 1990). The *Crown v Joy Ann Lane* case demonstrates how self-defence can be negotiated by the active participation of the defendant and excellent legal counsel. Joy Ann Lane (40) attacked her boyfriend, Jeffrey Stannard, while he slept. He fled and she shot her boyfriend twice. Joy Ann was charged with two counts of attempted murder but was found guilty of assault occasioning bodily harm, receiving a \$1000 two year good behaviour bond. Joy Ann Lane never spent a night in prison. Joy Ann dismissed her first set of legal representatives, selecting legal counsel that were very experienced in domestic violence cases. Her partner's behaviour became the target of attention, his previous murder charge of the wife who left him. At her trial, Joy Ann always appeared subdued and lacking confidence. Her behaviour, dress and body language conveying respect to the authority of the court. The media took quite an interest in this case and Joy Ann posed for photos and gave one in-depth media interview, sharing her experiences of her partner's violence and expressing her concern over the perception that women trapped in violent relationships should do more to escape (see Appendix 5.1).

The defence constructed Joy Ann Lane as a good but victimised woman brutalised by her violent boyfriend for four years. Clear dichotomies of appropriate feminine and masculine identities were engaged with in establishing the characters of the defendant and her victim. This typifies how both male and female bodies are subject to inscriptions, disciplinary power, and regimes of corporeal production (Grosz, 1994). Her counsel constructed Joy Ann Lane as an intelligent person, thoughtful, well spoken, kind, committed truthful and consistent. It was stressed that she had provided a truthful account which was not challenged by the Prosecution. She was 'isolated from family, friends, and the very location of her residence'. Lane

was described as a dignified woman with integrity but rather isolated by circumstances. She was characterised as a lonely, vulnerable person because of an earlier marriage breakup.

Both Lane and Stannard were professional people working for the Taxation Office. Nevertheless, her victim Stannard (43) is constructed through masculine discourse, as a powerful and perverse predator whose prey included his ex-wife and a previous girlfriend. Stannard had served ten years in prison for the murder of his first wife after she had left him. He presented as a down and out hobo in a suit. Lane's defence claimed

Stannard deliberately stalked this woman psychologically from the moment he first met her. There was one complete predator who was just stalking her. Threats were made - actions don't happen in a vacuum (The Queen v Joy Ann Lane [7: 409:12]).

The Judge accepted the evidence of abuse against Ms Lane noting that he found it 'disturbing that offers of assistance were declined' and the importance of family. The fact that Joy Ann Lane had no previous convictions, and her age, mitigated against a custodial sentence. The Prosecution stated that probation was not appropriate. The Prosecutor submitted that discharge on a recognisance under the circumstances was the most appropriate way of dealing with Joy Ann Lane. The Judge agreed but recorded a conviction as 'an element of deterrence'. From the commencement of Ms Lane's case, there was a high level of interaction between defendant and legal counsel. From the search for experienced legal counsel in the field of domestic violence, Joy Ann negotiated her story reframed through BWS discourse. She was constructed as 'the victim' and performed appropriately and interacted with the media to re-enforce this image while simultaneously challenging mainstream public and legal notions surrounding victims of domestic violence.

## 5.6 Conclusion

Female defendants are socially constructed within traditional discourses of domesticity, sexuality and pathology. The normal (good) woman is passive, unadventurous, submissive, dependent, non-aggressive and by definition non-criminal. Hence women who engage in aberrant behaviour are by definition abnormal (Henning, 1995, p. 317). Therefore female aberrance is viewed predominantly as a function of psychological dysfunction (see also Allen, 1987a, 1987b; Frigon, 1995; Henning, 1995; Jeffries, 2001; Morgan, 1997; Worrall, 1981; Worrall, 1990).

It is clear from the women's experiences that there are an infinite multiplicities of strategic resistances. Through stylised performances, women negotiate familial and pathological discourses. This chapter demonstrates how women are denied a sense of agency and responsibility for their actions (Walklate, 1995, p. 139). While the literature suggests that women are reframed as nurturers, dependants, pathological and victims of circumstance, this thesis contends that women are not automatically silenced nor are they compliant with such constructions. Still other women negotiated 'acceptable stereotypes' to their advantage.

Drawing on the women's experiences it can be argued that women are not passive recipients of an oppressive patriarchal legal system. By framing women through an anti-essentialist framework a more complex picture renders women's agency visible. Women's narrative represents a challenge and is the antithesis of dominant legal stories with the potential to transform the legal system so that it is more inclusive and responsive to women's experiences (see Delgado, 1990; Scutt, 1997a; Scutt, 1997b). As will be seen in the next chapter, where there is power there are many resistances and women negotiate discourses demonstrating their agency through resistance or compliance.

## CHAPTER SIX

### Negotiating time in the big house

*Whatever is out there is just waiting and it can wait until I get there because I'm here now and your whole world is this.*

(Letitia, BWCC 1997)

#### 6.1 Introduction

The prison, like the court, is an institutional site of power which is structured by essentialist notions of femininity and masculinity. Thus the prison retains a view of women as an homogenous category and then attributes to this category stereotypical behaviours and emotions which it then reifies through its modus operandi (see Thornton, 1996) The prison and the court represent male interests, hence masculinist sites and spaces are created. Specific social and architectural characteristics are formed around masculinist images of society (Boys, 1998). As professional architectural knowledge is based on masculinist rationality it is underpinned by a system of binary oppositions, the prison. Gender issues need to be placed within a critique of existing design and development processes that go beyond essentialist analogies between architectural space and oppression (Boys, 1998, p. 213).

Using essentialist notions of what it is to be a good woman, prison services and programs are designed which are inappropriate and mismatched to the needs of the target group concerned. Women's prisons are rarely perceived to be disordered, yet female prisoners are far from compliant (Bosworth, 1999, p. 139). The aim of this chapter is to demonstrate that inmates are not passive recipients of penal discourse. Agency occurs and is located within and through the body of the inmate as she negotiates the regime of the prison. The offender's negotiation of 'rehabilitation' within the prison system is a continual and often subtle process. Doing 'easy' or 'hard time' involves a certain amount of choice by the inmate. Therefore, decisions have

to be made in an environment designed to reform female offenders into 'good women'.

The purpose of this chapter is threefold: first to explore the habitus of the women's prison, and the ways in which inmates are socially constructed through essentialist discourses, as well as providing a profile of women offenders in BWCC. The second purpose is to explore agency and how it is negotiated in a disciplinary regime grounded in techniques of surveillance, control and punishment. A third aim is to consider education and health services provided in BWCC, women's experiences and perceptions of them as well as their negotiation of such programs within the prison regime.

## **6.2 Habitus of a Women's Prison**

Discipline, individualisation and normalisation are cornerstones of prison within which the emphasis on security, order, and control invariably vanquish any notions of rehabilitation and reform (Sim, 1990, p. 128). Commenting on the new BWCC, a QCSC representative stressed that

The philosophy behind the new security of these prisons, from the perimeters in, is that because it is so foolproof, we can concentrate on normalising and de-institutionalising the lives of those inside

(Severin in Whiting, 1999, p. 46)

The reality is that the prison becomes the inmate's entire world, hence an enforced distance from their outside lives. Daily life inside requires that actions previously private are enacted in public - always on show (Bosworth, 1999, p. 108). While the prison encourages women to adopt a feminine, 'good woman' identity, the inmate negotiates how she will respond. This is achieved through resistant stances and stylised performances (Goffman, 1961). For example, Megan believes she gets good treatment because

*I behave myself, I'm a model prisoner. I've never had any breaches in here.*

(Megan, BWCC)

Megan has complied with the prison's aim of rehabilitation. That is, she has adopted the stylised performance of the docile body.

Advanced technology creates the new panopticon, with increased techniques of surveillance and containment. It is argued that places are made through power relations that construct the rules that define boundaries. These boundaries are both social and spatial – they define who belongs to a place and who may be excluded, as well as the location or site of the experience (McDowell, 1999, p. 4). Binary divisions are apparent in the social production of space, in assumptions about the natural and built environments and in the sets of regulations that influence who should occupy spaces and who should be excluded (McDowell & Sharp, 1999). The belief in binary gender divisions has remained a key element of contemporary structures, social practices and in social institutions.

Women and men experience spaces and places differently and show how these differences themselves are part of the social constitution of gender as well as that of place. Constructed and given meaning through the social practices that define men and women as different (McDowell & Sharp, 1997, p. 2-3, p. 12), social practices, interactions, and ways of thinking about and representing place/gender are thus interconnected and mutually constituted. For example Judges, police officers and correctional staff hold notions of appropriate behaviour and actions by women and men that is reflected and affected by what they imagine a man or woman to be and how they expect men and women to behave, albeit men and women who are differentiated by age, class, race or sexuality. It is argued that these expectations and beliefs change little over time and between place and are based on notions of femininity and masculinity that are universal, untouched and unchanging (McDowell, 1999, p. 7). This is due to essentialist frameworks which underpin such discourses.

One of the cultural rules of prison is not to trust (Easteal, 1994; Hampton, 1993, 1994; Kilroy & White, 2000). The primary behaviour that engenders problems is informing or in any way talking too much. Prison is a controlling environment (Goffman, 1961) which includes movement from one place to another, release, eat sleep, wake, participate in activities, access to gym, welfare, education, visits, and so on. All aspects of a woman's life are controlled when she is in prison. Angelina describes her routine

*At the moment, get up, contemplate breakfast but normally don't have any. Go back down to the cell - come out at lunchtime sometimes stay in there until 4:30pm, be out for dinner and then medication and bed.*

(Angelina, BWCC)

Prison reinforces the learning that she is powerless and can't control what is happening to her.

In prisons a much broader array of conduct is subject to authority (including deportment and manners), and are constantly monitored (Goffman, 1961). There are a variety of disciplinary sanctions the ultimate punishment aside from extension of sentence is placement in solitary confinement (Easteal, 1992c, p. xv). Just as the girls' school prepares its students for dependence while the boys' school is a preparation for independence and power (Okely, 1993, p. 93), so too does the female prison.

*For some people I think it would be scary, particularly some of the younger girls, yeah. It's not what you expect at all. But I've been to boarding school too so..*

(Annette, BWCC)

The subculture of a prison includes the inmate code, social roles, and social groupings. Different sets of subcultural adaptations exist in the women's prisons from those found in institutions for men (Owen, 1998; Pollock-Byrne, 1990). Owen (1998) reviews prior prison studies and concludes that much of women's prison culture has changed little with increased drug offenders and



race and ethnicity identities providing a subtext to prison life (Owen, 1998, p. 4-5). Prison culture: short term/long term separation of the women and between themselves maintained by officers (Easteal, 2001, p. 83; see also Kilroy, 2000). There are not off stage or backstage areas where officers or inmates can relax those barriers (Goffman, 1969). Staged performances construct the self (Butler, 1990; Goffman, 1961) and an integral part of prison life is the isolation of true feelings of staff/inmates. Thus, the inmate needs to negotiate institutional and cultural boundaries. This is what Goffman refers to as 'fronting' (Goffman, 1961, 1969).

When asked about desired changes to the prison system Amanda responded

*I don't know, screws attitudes to us. It will never change, you know humans are humans. Everyone has a different personality, some can handle it some can't some are nice, some aren't. It would be real good if we could be peaceful, you know, get along, it seems like they're (prison staff) there to make our life even harder.*

(Amanda, BWCC)

Many women identified a lack of respect between staff and legal representatives, and the inmates. 'We are not scum' was a frequent response. One inmate complained about the treatment inmates received generally and referred to one officer who addressed some women as 'a piece of meat'. It was not until I overheard the reference being used that I fully accepted and understood its potential impact. The management regime of women inmates is one that does not recognise the inmate as an individual with specific needs. They are constructed as an homogenous group that are contained, with every aspect of their day controlled and under surveillance. Women reported waiting outside specialist services for hours, missing courses or work in doing so. In many cases it had taken them weeks to access the service in the first place. Thus the prison denies any recognition of individuality.

### *Punishment and control*

The prison is perceived as a bulwark against an encroaching tide of crime, deviance and disorder. The notion of the prison regime is that if it is hard then criminal behaviour will be either held in check or even decline because of the visible threat of punishment that confinement poses to individual lawbreakers (Sim, 1990, p. ix). A consequence of this ideology is the double punishment for inmates. Not only are they deprived of their liberty and feel the pain that this engenders but also they endure alienating regimes that for many inflict further psychological and physical distress. A second aspect is that prison life has been subjugated to the disciplinary vice of retribution and punishment (see Rosevear, 1997). The focus on strategies for individual regulation and collective control (Foucault, 1979; Goffman, 1961; Sim, 1990, p. ix).

Practices such as strip-searching and urinalyses are aspects of the disciplinary strategies deployed by the prison to contain and control illicit drug use. Strip searching occurs upon arrival, after contact visits, when moving from one part of the prison to another, when suspected of carrying contraband and after attending court or other activities outside the prison (see also Easteal, 2001, p. 93; Russo, 2000). Strip searching in particular demeans, humiliates and re-traumatizes the female inmate (Davies, 2000; Easteal, 2001; George, 1995b; Kilroy & White, 2000; Rosevear, 1998; Russo, 2000).

Other control mechanisms of the prison include breaches. Breaches, a disciplinary procedure where inmates are punished for breaking rules, are used as a behaviour modification technique. Thus, an inmate 'is punished for her behaviour if it is not acceptable to the screws' (Kilroy, 2000, p. 39). If breached, a woman can be locked away in isolation for up to 7 days, or lose privileges such as visits. Research indicates that women are more likely to be

written up than men, and for less serious actions (Brown, 1995; Devlin, 1999; Dobash et al., 1986; Easteal, 2001; McClellan, 1994; Player, 1994).

### **6.3 Social constructions of female inmates**

As discussed in Chapter Two, a tendency of Reviews and Reports on the needs of women inmates is to essentialise the experience of women and hence reinforce the ideology of women as a (potential) maternal body, a fragile receptacle requiring medical and rehabilitative intervention (for example see Queensland Corrective Services Review & Peach, 1999; Queensland Department of Corrective Services, 2000; Ryan, 2000). She is a victim in need of control and protection from herself and her existence on the outside. This thesis does not intend to deny the reality of the high percentages of female inmates with abuse histories nor that women are oppressed by the disciplinary regime of a total institution. However as several researchers have argued a consideration of agency and resistance need not deny women's actual experiences of oppression (Bosworth, 1999; Maher, 1997; Shaw, 1992, 1995; Worrall, 1990).

In 1992 QCSC granted women prisoners a special needs status. A Policy Review culminating in 44 recommendations for change occurred in 1993. A Women's policy unit was established with the formation of the new department of Corrective Services in Queensland (Queensland Department of Corrective Services, 2000, p. 2). In highlighting the importance of gender relevant needs of female offenders the female inmate has become marginalised and framed as 'other', subsumed within a special needs discourse, thus reinforcing the male offender as the norm.

A recent initiative of the QCSC was the formation of the Women's Policy Unit. The QCSC Women's Policy Unit acknowledges that women are perceived as problematic within the Corrections system (Shaw 2000: 2).

Shaw asked 15 Community Corrections staff for one word to describe female offenders and the following responses were offered (see Table 6.1). These descriptors fall into the essentialist stereotypes that categorise female offenders as pathological and/or victims.

Further reports frequently stress the unusual qualities of women and women’s prisons such as size of prison, women’s child-care responsibilities, health problems, experiences of abuse as factors contributing to the pains of imprisonment. Women inmates are constructed as needy, requiring intervention to raise their self esteem (see also Bosworth, 1999, p. 56-59). The inmate is perceived as a disordered pathological site in need of intervention and support so as to resume a normal persona, that of the good woman. Thus the female inmates is deemed to require care and emotional support because of her innate vulnerability. As Carlen notes

Policy makers like many criminologists perceive female criminality as irrational, irresponsible and largely unintentional behaviour, as an individual maladjustment to a well-ordered and consensual society. Yet as well as sharing basic assumptions, criminological theories of female criminality may serve to legitimize the trends in penal policy, giving scientific justifications for the treatment of women offenders as ‘sick’ individuals (Carlen, 1976, p. 144-145).

**Table 6.1 Summary of Community Corrections staff attitudes to female offenders**

| <b>Pathological</b> | <b>Victim</b> |
|---------------------|---------------|
| Pathological liars  | Abused        |
| Manipulative (x3)   | Needy (x2)    |
| Aggressive          | Disadvantaged |
| Conniving           | Unfortunate   |
| Hard to read        | Intimidated   |
| Complex             | Vulnerable    |
| Cunning             |               |

Source: Shaw 2000

A number of issues consistently raised in the various reports and studies which have been conducted in Australia on women’s prisons include: plight

of aboriginal women in custody (Corbett & Paxman, 1995); inadequacy of educational and vocational training; the difficulties of women who do not speak or read English (Easteal, 1993b; Easteal, 1995); the classification systems (Easteal, 2001); health issues; parenting issues; and pre and post release services (Alder, 1994b, p. 146; Queensland Department of Corrective Services, 2000). Although Australian women are more likely to be accused or sentenced for less serious and violent crimes than men, they have a high likelihood of being incarcerated in maximum-security facilities. Easteal identifies some variation in Australian women's prisons in relation to general atmosphere, presence of children in the prison, physical structure, and availability of education and medical services and training and work opportunities. Similarities across the states include: inmates' negative attitudes about officers' paternalistic and authoritarian manner; lesbianism, and the proliferation of illegal drugs (Easteal, 1992c, p. xv).

From the late nineteenth and early twentieth centuries discourses on criminal women and the predominance of psychobiological representations affected the development of penal philosophies and institutions for women (Frigon, 1995, p. 27). Institutions built at this time were designed to teach women inmates 'how to be good women' with a focus on wifely and domestic skills, and proper feminine traits such as purity, chastity and temperance. This view was based on the belief that women inmates would be released to a household run by a husband bore as little resemblance to reality then, as it does today.

As with legal discourses, women's aberrance within the prison regime is construed as the pathological disorder of women in need of treatment. Medical experts interpret such behaviour as a psychological disorder (see also Bosworth, 1999; Hampton, 1994; Pinnuck, 1998; Sim, 1990). For example, Melanie, 35 years old and doing time for the attempted murder of her

estranged husband, discloses how her identity has been constructed on the inside:

*I have a personality disorder – Ha! I’m different, I’m educated, I look after myself. I’m therefore not the criminal type. I’m different therefore I have a personality disorder.*

(Melanie, BWCC)

The use of psychiatric labels such as personality disorder continues to reinforce the pathologisation of women. Offending men also are labelled with personality disorders but with different ramifications. Normalisation through psychiatry is underpinned by other medical mechanisms for maintaining order and control. Psychotropic drugs have become an important element in that control (see also Carlen, 1983; Genders & Player, 1987; Pinnuck, 1998; Sim, 1990).

The essentialist notion of women as wives and mothers, rather than as sole providers, has meant that vocational programs are deficient and when women are released they are unable to economically support their families (Pollock-Byrne, 1990). Several interviewees who had breached probation conditions and had been returned to prison as a consequence reflected on the difficulties of resuming life on the outside. Programs for women in prison still focus on low-paying occupations such as sewing, clerical skills, hospitality and cosmetology (Flowers, 1987). This is despite the fact that non-traditional employment (such as welding, landscaping, computing) pays better (Easteal, 1992c).

The notion of motherhood is essentialised thus linked intrinsically to women’s nature. As a consequence of this framework, inmates are rehabilitated according to traditional notions of femininity. The assessment of mothering and proper female roles is integral to prison (and welfare) policy (Boyd, 1999). Further, the treatment and understanding of women inmates is grounded in and perpetuates a notion of dependency reflecting an

anachronistic ideal of female passivity (Bosworth, 1999, p. 56).

The assumption of normative heterosexuality operates throughout society and its institutions (Jackson, 1996). Within the judicial system, lesbianism is not an acceptable feminine identity. Transsexuality is another problematic identity for both the courts and penal system to manage (Blight, 2000). In prison, same sex relationships represent a very real dilemma for staff (Bennett, 2000; Bosworth, 1999; Easteal, 2001). Front-line staff adopt different approaches depending on their comfort level with expressions of intimacy. Some intervene if women are hugging or holding hands, while others don't (Bennett, 2000, p. 2). While there is no official recognition of lesbianism a blind eye is commonly turned (see also Bosworth, 1999, p. 138). Lesbianism in prison fairly common. An official silence similar to that on the outside (Wittig, 1992). It has been noted that in Queensland in particular, female homosexuality bothers officers more than those in the other states (Easteal, 1992c, p. 100). According to Easteal, lesbianism is more covert in Queensland, for example no necking is allowed (Easteal, 2001, p. 86).

Mothers both within and outside the prison are judged by an image of the white heterosexual, homemaking mother which is in clear disjunction with many women's lived experiences. Heterosexuality is pivotal to conventional feminine identities (Butler, 1993; Jackson, 1996). In prison, identities are available to women which are derived from their location within heterosexual relations – as wife, girlfriend, daughter or mother (Bartky, 1990; Farrell, 1998b). This is also reflected in acceptable identities for women appearing in court (Chesler, 1991; Eaton, 1986; Smart, 1984; Worrall, 1981; Worrall, 1990, 1996).

85 per cent of female inmates are mothers of young children, who prior to being sentenced, are more often than not the heads of single households

(Farrell, 1996). Aboriginal women's imprisonment rate was and still is significantly higher than non-aboriginal women. They are significantly over represented in custody comprising 22.23% of all women under custodial orders (Queensland Department of Corrective Services, 2000, p. 9).

The most frequently committed offences by aboriginal women are non-payment of fines, drunkenness and social security fraud - crimes of extreme poverty (Alder, 1994b). In 1999, women inmates are more serious offenders than those incarcerated in 1978. In 1978 most of the prisoners were convicted of relatively minor offences such as: fraud, minor thefts (e.g. shoplifting) and good order offences (e.g. prostitution). The typical woman inmate of the early 90s was: serving her first sentence or remand period in gaol; most commonly in prison for property offences; unemployed; most likely a mother, not married or in a de facto relationship; likely to have been victimised through male violence (i.e. rape, sexual abuse, incest, etc); and, of low educational standing

In Queensland today, women convicted of homicide, assault, robbery or drug trafficking make up over 70 % of the female prisoner population. Moreover, women prisoners are much more likely to have an alcohol or drug problem. The major sources of income for regular heroin users include property crimes, prostitution, and illegal activities such as shoplifting, fraud and armed robbery (Wilkinson, 1997).

As demonstrated in Table 6.3 the recidivism rates for female offenders is quite high.

**Table 6.1 Female prisoners by known prior adult imprisonment in Queensland as at 30 June 1998**

| NUMBER OF PRISONERS WITH PRIOR IMPRISONMENT | NUMBER OF PRISONERS WITHOUT PRIOR IMPRISONMENT | TOTAL NUMBER | PERCENTAGE OF POPULATION WITH PRIOR IMPRISONMENT |
|---|--|--------------|--|
| <b>123</b>                                  | <b>91</b>                                      | <b>214</b>   | <b>57.47%</b>                                    |

Source: QCSC Profile of Female Offenders 2000



Repeat offenders have very clear understandings of what the system will and will not do. The adaptation of these offenders can be characterised in terms of learning the system and having realistic expectations. The negative aspect of this adaptation is that the person becomes accustomed to the workings of the organisation and upon release is often uncomfortable with the system of the street which is disorganised, unpredictable, ambiguous, and responsive in unexpected ways. In a way in which the organisation does not intend, adaptation to the prison system can result in model inmates who are unable to adjust to the outside culture. This is particularly true with regard to long-term inmates or inmates who are frequent recidivists (Moon, Fletcher, & Shaver, 1993, p. 102). Drug and alcohol are major factors in recidivism (Queensland Department of Corrective Services, 2000; Rosevear, 1994). Women prisoners on average serve less time in custodial centres than their male counterparts (Queensland Department of Corrective Services, 2000, p. 14).

#### **6.4 Agency, resistance and compliance**

While women prisoners are regulated right down to the last details of their self-representation, it does not follow that they cannot or do not form resistant networks (Howe, 1994, p. 131). Resistance has been appropriated by post modern and critical socio-legal scholars as a way of conceptualising experiences and voices previously marginalised in the legal process (Merry, 1990; White, 1991). Butler's theory of performativity infers a concept of agency in that subjects are not wholly passive in the processes through which they are constructed. Through the activity of repetition, the individual participates in the construction of gender, where the possibility lies for subversion and resistance (Butler, 1990, 1993).

Resistance is an extremely useful concept because of its capacity to highlight small scale attempts to disrupt power relations by drawing attention to a

variety of minor acts and rebellions that may otherwise go unnoticed. Verbal challenges, dress, and practices may all be seen in this light (Bosworth, 1999, p. 130). Yet essentialist representations of women inmates, both historical and contemporary, construct women's aberrance as disobedience rather than resistance to or rebellion against their conditions. Yet their behaviour signified resistance, and many women showed their unwillingness to conform to the demands of the system through a multiplicity of minor acts of insubordination and defiance. Clearly, many women were not passive victims of institutional authority and responded in a variety of ways to attempts to control and pacify them (Daniels, 1998, p. 142-143).

In colonial times women inmates demonstrated their resistance using a range of strategies: clothes were destroyed, bedding torn, and windows smashed. Singing loudly, shouting and smashing the cells were also common forms of protests. Finally there was self-mutilation and suicide as the last response to the pressure of the regime (Dobash et al., 1986). Resistance was expressed through vociferous laughter and play - dancing, chanting and playing tricks so as to undermine the exercise of power (Damousi, 1997, p. 4-5). Damousi (1997) explores how convict women dealt with their relationships with the convict men and their commanders in order to be autonomous and create a space for themselves. Head shaving was endorsed as punishment. This practice underscores the notion that hair was central to the convict woman's sense of feminine self and to her femininity, an identity that was challenged when she moved between the inside and outside worlds (Damousi, 1997, p. 5; Daniels, 1998, p. 112). Women's recalcitrance was framed by a concern about both heterosexual and homosexual female sexuality (Damousi, 1997, p. 7).

Acts of resistance are not always recognisable in purely material or

instrumental terms. Women invoke images on a symbolic level through their own experiences and identities to challenge their material restrictions finding the means to negotiate power by articulating their differences (Bosworth, 1999, p. 127). Such an exploration of agency and resistance challenges the widespread view of female offenders as victims and poor copers (Bosworth, 1999, p. 127). Some inmates choose to shave their heads as an act of defiance against restrictive notions of femininity and the disciplinary regime of the prison. Jenna favoured tattooing and body piercing. Decisions to have dreadlocks, tattoos, body piercing or acts of self mutilation translate into readable signs and can be seen as transgressive acts of resistance. Power relations in prison are always in flux and the capacity to define one's self through gender performances that create the self as agent, modes of corporeal inscription is central to negotiating time served on the inside.

Women acknowledged the more powerful position of the prison and the staff. Access to courses and jobs was contingent on how well behaved 'the girls' were. Model compliant inmates interviewed never had a problem accessing courses. Inmates who were more resistant appeared to experience a very long waiting list. This was a great source of frustration for many interviewees. Early in the interviewing phase, it struck me how the women interviewed could be positioned as displaying rebellious extrinsic resistances or compliance as they negotiated the prison regime. One interviewee described her perceptions of the choices available

*You run with the pack or brown nose.*

(Jenna, BWCC)

When discussing her progression through the system, Patrice stated

*I would rather go to Numinbah but I'm not prepared to kiss arse- I won't do that.*

(Patrice, BWCC)

Women inmates, or 'the girls', are meant to be remorseful, their good behaviour evident through the display of docile bodies. Docile bodies are rewarded with a smooth progression through the system, access to courses and good jobs (if available).

Moreover prison life coerces conformity to an environment alien to the individual and in which one's every moment is dictated each and every minute. For those women who do not have a job or courses to attend their daily routine could look like this.

*At the moment. Get up, contemplate breakfast but normally don't have any. Go back down to the cell - come out at lunchtime sometimes stay in there until 4:30pm, be out for dinner and then medication and bed. I've got a course to do at the moment, Cognitive Skills. I was supposed to start yesterday but I didn't know anything about it until it was too late and um Anger Management to finish off. I think I'm supposed to do Substance Abuse. So that gets me out a bit. But I just hate sitting around the block. Everybody talking, and walking around and I just want to escape. Not that escape!*

(Angelina, BWCC)

For some women, prison provides a respite from a traumatising and disempowering life on the outside. Daphne, a 42 year old convicted of manslaughter, comments on how she has negotiated space inside.

*I was married for 16 years. DV to the max. I was so naive. I had never been allowed out of the house- no conversations with neighbours, no Tupperware parties. Coming in here sure showed me the other side of life. I was in shock in the early weeks. Crazy but when I think it was good coming in here - it made me more stronger. I got to see what life was really about. You'd think that you'd see that out there but you don't. It made me strong. I got to the stage nobody could tell me what to do or trod all over me. A security thing - I feel safe. Especially if you've been through DV really bad. In here, you don't have that fear.*

(Daphne, BWCC)

How women respond to boundaries and interconnections is a key to how they live their lives. Women adjust their use of time and space by creating new environments and reconfiguring existing ones. Moreover, the spatial

boundaries of women's lives may be enabling as well as constraining as women use rootedness in the construction of individual or collective survival strategies (Gilbert, 2000, p. 67). While much of the women's resistance is individualistic, inconsistent, and, in some senses, self destructive, it has the important effect of undermining the authority of official discourses and keeping open the possibility of the creation of new knowledge about them – both as women and as lawbreakers (Worrall, 1990, p. 163).

Yet while the discourse of femininity binds the inmate to a state of dependency and weakness, resistance is always possible. Through gender performativity women are able to construct competing feminine identities through which they resist some of the disempowering effects of imprisonment (Bosworth, 1999, p. 107). The use of drugs in prison is one such resistance. Drugs, denial and power games are the major relief seeking strategies used by inmates, in effect they are survival strategies (Rosevear, 1998, p. 6). The following vignettes demonstrate the management and interpretation of an inmate's overdose and another inmate's experience of the CSU. Surveillance and punishment is at is at the fore, particularly the double punishment consisting of a breach and the use of solitary confinement or the CSU as a potential form of containment and control.

*Yeah, I had a shot and they found me in my room 2 minutes before unlock and they pulled me out and had to call an ambulance to come and get me cos I couldn't wake up. They sent me to the hospital for about 4 hours and then they brought me back and they put me back in the suicide cells for 3 days and the doctor in the hospital said I was fine to go back to my room. They told me it was all right that I wouldn't be breached and then a security senior charged me because he couldn't write it off. Cos I kept saying no it was an accident because if I'd said that it was attempted suicide they won't let me out of the suicide cell. It's one window you can't open it, and you can just see a bit of the fence see out of.*

*There's a cold shower and you got to keep pushing buttons to get anywhere, and you're on camera all the time. That was no good, anyway 'cos they are not meant to breach us after something like that*

*if they charge us. But they charged me, I lived in that room right there for 34 days. I came out once a day. I had to eat all my meals. We were locked up for 22 hours of the day. We are allowed out into a little cage for 2 hours. We had to go straight back to our rooms after that. Some girls are still on it and it's been 40 maybe 50 days for some. In here it doesn't seem like very long to us but when I think what a month felt like out there that would just kill someone to do that.*

*They haven't done it easy either. Like they've had the dog squad up there heaps because girls they get sick of it and they smash the windows out, set fires to things, it's really pathetic, and we're only allowed 3 changes of clothes. We only get washing done, well pushing it, if it's twice a week. I thought that was a bit of a rip off. But there was nothing we could do about it. Only go and see the psych. Even then we had 2 officers go with us to the psych so we couldn't really say much of anything. They sit right outside the door.*

(Kasey, BWCC)

Inmates are constantly negotiating their containment and surveillance.

*The first two weeks were spent on suicide obs. Not allowed out of the library down there. Suicide cells, there's 2, electronic doors so you can get into the toilets and shower and that up in the surgery. 1 padded cell and 1 normal cell with nothing in it, only a bed.*

Carol: Was it worse than CSU?

*Both bad in different ways. CSU is mixed. When we weren't in cells, in with men 8am - 6.30 pm. Easier over there 'cos you can get out to have a smoke and talk to other people. But here you can only get out when there is an officer available which isn't very often. It's getting better over there. I hate it here because I get chucked up there all the time for nothing. And I get over to CSU and they say there's nothing wrong with you, why were you sent here, you know, I can't work it out. I spent 2 weeks the first visit to Moreton (CSU). A month the second visit and two weeks again the third time. Because they got no reason to keep me over there and they know that. I'm not wonky, I'm not suicidal, just angry and depressed. I'd come a long way with (counsellor). I'll be out before I ever open up to anyone else in here. C block is the hole down the bottom. BWCC is just a dirty dark hole - everything is dirty - putrid.*

(Peta, BWCC)

Peta rejects her construction as pathological 'wonky' and 'suicidal'. She articulates that it is her problem with anger which does not fit with penal discourse of the female inmate. Female anger when translated through an

essentialist pathological discourse becomes a psychological disorder located within the physical body of the woman. In contrast, men's anger is part of Western notions of masculinity and is not pathologised in the same way (Allen, 1987a, 1987b; Shaw, 1995).

The interviews also revealed that women choose which 'battles' they will take on. One recurring issue for inmates who are mothers is ensuring access to children. Contact with children is fraught with difficult decisions and is contingent on negotiation with a range of caregivers/Family Services. There were mixed perspectives on the benefits of maintaining contact with family members. Some women were highly spirited in their negotiations, others were dispirited opting for no contact for a variety of reasons. For example, Peta feels immense frustration concerning contact visits with her two young children yet exercises her judgement on what she feels is best for her children and ex-husband.

*Oh hell yeah. I want to see my kids. That's the problem. I could get my kids up here whenever I wanted too if I got Family Services involved but that's not going to be good for the kids nor my husband, ex.*

(Peta, BWCC)

Several of the interviewees decided to withhold their location from family members. On the other hand some women fight for their rights. For example Kirsty fights for the right to access her daughter who is in foster care.

*After three years they know I'm going to do what I say I will. If my daughter is not brought in for visitation I immediately send letters to the Ombudsman, Dept Family Services and my solicitors.*

(Kirsty, BWCC)

Kirsty's proactiveness also extends to 'looking out for new receptions' providing them with an informal induction and rundown on prison life.

Another mother, Kirra kept her child with her for two years and eventually made the choice to place her in care outside. Her reasons were that it is 'my

sentence not his’ and that prison was a ‘very violent place in here for a toddler’.

Letitia also strategically assesses the worth of contesting a visits issue. She demonstrates her capacity for negotiating the challenges she undertakes. In doing so she resists the persona of the docile rehabilitated good woman.

*So he didn't declare and the Visits Officer got very upset with me and told me that I would never be allowed to have my boyfriend in this jail again! And I thought I'm just not fighting that battle, 'cos she's leaving soon and I'll try to get him in then. He'll declare and everything, do it properly but she's a very vindictive woman - I thought I'm just not having that fight. I can ring him. I don't need that added stress. I've spent my whole sentence fighting for things and preparing for things and not getting anywhere with it. So I'm not setting myself up for another battle. Just do it. I'm quite happy to just sit here now until it's finished which is really sad, because that's not what it's s'posed to be all about. Like, an awful lot of girls just sit in here doing their sentence.*

(Letitia, BWCC)

While there were several attempted breakouts at BWCC at time of interviewing the official records show the following statistics.

**Table 6.2 Female Escapes and absconds from secure, open and community custody environments**

| Correctional Centre                   | 1995-96 |         | 1996-97 |         | 1997-98 |         | 1998-99 |         |
|---------------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|
|                                       | Escape  | Abscond | Escape  | Abscond | Escape  | Abscond | Escape  | Abscond |
| All Female secure custody centres     | 2       | 0       | 0       | 0       | 1       | 0       | 0       | 0       |
| All Female open custody centres       | 0       | 0       | 0       | 0       | 0       | 0       | 0       | 0       |
| All Female community custody programs | 0       | 1       | 0       | 1       | 1       | 1       | 2       | 1       |

Source: QCSC Profile of Female Offenders 2000

Little research has been undertaken in the prison literature on why women harm themselves. It has been argued that women in prison are over medicated. Accounts of women’s suicide and self harm in prison and in the



community are characterised by the paradoxical construction of women as victims and agents. Many of the studies describe practices of self mutilation – which women engage in more frequently than do men – as responses to experiences of abuse or stress, yet they also define such actions as coping mechanism (Liebling, 1992, 1994), hence the relevance of women's own stories to provide context.

Suicide and self-inflicted injury are another feature of the women's lives in prison with unofficial reports of attempted suicide and self-mutilation quite common. Moreover the extent of self inflicted injury is even greater if one includes consideration of the eating disorders of bulimia and anorexia which are more prevalent in prison than in the outside community. Whilst the issues of self mutilation and suicide is a complex one, the extent of these in women's prisons has in part to be accounted for by the prisoner's 'feelings of anger, hostility and impotence that results from institutionalization' (Alder, 1994b, p. 145; Hampton, 1993). It is not clear whether the high rates of self-harm is a result of general overcrowding, poor conditions, inadequate welfare and counselling services, lack of contact with family, the presence of excessive amounts of illegal drugs with dangerous withdrawal effects, sex for favours (where women in desperation for a phone call or drugs can find themselves trading their bodies with unprofessional or predatory male officers), or a combination of them all (see also Hampton, 1994; Kilroy & White, 2000).

A common form of self-abuse is self-mutilation. A common practice is blood letting to release the build up of pain that is within the women (Kilroy & White, 2000, p. 8). Prison culture demands that women do not express pain in any overt way. Women medicate this pain in the most acceptable way within prison – by taking drugs (Kilroy & White, 2000, p. 8). Peta links her self harming episodes as reactions to being sent to the Moreton CSU. 'I did

after Moreton the first time - that's why they sent me there the second time. It quite possibly had something to do with the third time too'.

### *Scoring on the inside - illegal drug use*

Illegal drugs are rampant in the women's prisons according to most of the inmates' interviewed. This reflects the high number of drug addicts within the inmate population (Easteal, 1992c, p. 55). Additional risks exist for women who enter prison drug free. The stresses of day to day prison life coupled with the availability of chemical relief, illegal or legal through prescriptions is hard to refuse (Easteal, 1992c, p. 5-6). The Fitzroy Legal Service (1988) estimate that women prisoners were twice as likely as men in Victoria to be prescribed tranquillisers for the same symptoms (Fitzroy Legal Service, 1988, p. 10). Studies in New South Wales and Queensland confirm the excessive use of medication in their women's prisons (Easteal, 1992c, p. 3-5). In Queensland methadone is only given to those inmates who are on methadone prior to incarceration (Queensland Department of Corrective Services, 2000).

Many studies, especially in New South Wales and Victoria- have concluded that prison populations contain a substantial proportion of intravenous drug users (IDUs). This conclusion is supported by the following data: the proportion of prisoners reporting a history of drug injecting is around 50 per cent; and the proportion of IDUs reporting a history of imprisonment is around 40 per cent. Two studies of female prisoners, in New South Wales and Victoria, found that at least half reported heroin use (Crofts, Webb-Pulman, & Dolan, 1996, p. 17-18). About half of inmates with a history of injecting drug use report injecting in prison (one third to over three quarters) and about three quarters of these report sharing injecting equipment (60 to over 90 per cent). These studies provide compelling evidence that high levels of risk behaviour occur in prison (especially sharing of injecting equipment)

and that they are not declining. It can be assumed that these high levels of risk behaviour are likely to continue unless the prison environment is made less conducive to HIV transmission by the introduction of preventive strategies that have been shown to be effective in community settings (Crofts et al., 1996, p. 27; Rosevear, 1998; see also Roughley, 1993).

Many women who are in prison are illegal drug users. Whilst some enter prison still addicted to drugs, others become addicted while in prison (Alder, 1994b, p. 145). Interviewees discussed the availability and use of drugs inside. Several claiming they had never used drugs until they were incarcerated. National research indicates that 10 percent of women inmates had never touched drugs until their incarceration. According to QCSC a small percentage of women inmates ingest illicit drugs in correctional centres. Women prisoners entering Queensland correctional centres reported high intravenous drug use patterns. A higher proportion of female prisoners returning positive urinalysis results than male prisoners (Queensland Department of Corrective Services, 2000, p. 20).

Illicit drug use is attributed to boredom, bad treatment, or blocking out problems (Easteal, 2001, p. 85). Sally commented 'I won't go chasing drugs but if it's there...' Sally has negotiated the system and uses strategies such as this

*I slide down walls so a UT will happen and they'll see then its clear - you gotta get it to work for you.*

(Sally, BWCC)

She then gets a reputation for being clean and she feels she can use more confidently without being caught.

Most reports on women's imprisonment, both in Australia and overseas, comment on the extensive provision of legal drugs 'medications and treatment' in large doses (Hampton, 1993; Pinnuck, 1998). The offering and

withholding of these drugs forming a part of the punishment and control methods in women's prisons. Yet little research focuses on women who use illicit drugs, with the majority of studies focussing on men's perceptions of illicit drug use (Boyd, 1999, p. 6). Why women use drugs is a question not often addressed. Because women are viewed through essentialist frames drug use is attributed to the non-coping and vulnerable characteristics inherent in the physiological make-up of the natural female body. Moon et al (1993) suggest self-medication allows the user to distance herself from painful situations and control her anger (Moon, Thompson, & Bennett, 1993, p. 47).

### *Legal medication of women inmates*

High dosage rates in women's prisons can be explained by the fact that women may experience the rigours of incarceration more severely than men, or drugs may be sought to ease the pain of separation from children. Drug use in prison, however may merely be an extension of women's greater use of drugs in the community (Morris, 1987, p. 125). Numerous commentators in Victoria and elsewhere have identified the over-prescribing of prescription drugs to women inmates as a major source of concern and in some cases, as a mechanism for controlling women inmates. In Victoria, research has demonstrated that female prisoners are twice as likely as the males to be prescribed tranquillisers for the same symptoms (Fitzroy Legal Service, 1988, p.10). Studies in NSW and QLD confirm the excessive use of medication in women's prison (Easteal, 2001, p. 94). Others have suggested that prescription drugs are sometimes sought after by women seeking to alleviate the effects of withdrawal, replace other substances or relieve stress and anxiety (Carlen, 1983; Davies, 2000; Denton, 1995; Easteal, 1994; Genders & Player, 1987; George, 1995a; Major, 1993; Pinnuck, 1998).

Legal medication assists in achieving the aim of the compliant docile body in

a regime based on surveillance, discipline, and control. While some find no need to use drugs they acknowledge the relative ease with which to obtain medication if desired.

*I'm getting out whether I do stuff or not. I'm happy. Parole is linked to classification. My only drug involvement is marijuana. It's not hard to be straight in here, I'm not dependent on anything. Never felt like "blocking out". That's when you go to the psychiatrist and get some tablets to knock you out. If you're clever it's easy.*

(Mary, BWCC)

For Peta, legal medication is a way of achieving respite in an environment requiring constant negotiation.

*.. things that happen that should be told too, you know, but it never gets out. The inmate knows it won't go anywhere. They won't try and fight through it. Drugs help me sleep at night. Yeah there are some good staff. Sometimes though you trust the wrong people.*

*... Ever since I've been taking my pills and tablets I haven't been so depressed. still have bad days but it's not just full on, bottom of the pit sort of stuff.*

(Peta, BWCC)

Resistance takes many forms and Amber is particularly spirited in challenging whatever issues arise. She refuses to attribute her drug use to a victimised life on the outside.

*A lot of the girls take what they hear in here as gospel. I challenge it. I won't go chasing drugs but if they're there I will. I like taking drugs and therefore didn't fit the pigeonhole.*

(Amber, BWCC)

Some women didn't know what medication they were on, just that it helped with 'my nerves', or to 'keep me calm'. Other women identified using Largactil (an anti-psychotic), Melloril, Serenase, and Valium.

*depression and I don't know what the other one is for, just to calm me down. I was on Serenase on the outside which I didn't know what the hell was until I came in here. BWCC girls network - keeps me sane.*

(Petra, BWCC)

It was disturbing to be mid - interview and have an enthusiastic lucid

participant appearing to become increasingly drowsy or experiencing difficulty talking due to a very dry mouth. It was frustrating for some participants too who wished to keep the interview going. The chemical straitjacket effect of some prescription medication can provide an outlet for women to resist the confines of prison life.

## **6.5 Negotiating services within the prison: programs**

Within our society and its institutions, essentialist understandings of motherhood portray women as nurturing, pure and maternal. Yet the reality of mothering for most women, particularly minority groups (inmates, women from low socio-economic backgrounds, NESB and Indigenous women), has little to do with virtue and the care taking of the future of society (see also Boyd, 1999; Oakley, 1992). The reality is long hours of unacknowledged and unpaid work and total responsibility for the care of dependents and household (Boyd, 1999).

Regimes of femininity are manifested within the employment and education typically offered in women's prisons such as sewing, cooking, cleaning, which are all meant to shape the women's identity and their presentation of self (Bosworth, 1999, p. 23). Underpinning prison programs and services are traditional feminine ideals and values, which appear to be inappropriate and as indicated by the interviewees, do not meet the needs of women inmates. Typically, access to programs and treatment resources in the Correctional facilities are based on what is available rather than what should be available (Clements 1986 in Muraskin 1993:212). Services for women lag behind male prisoners because of simple economics: fewer numbers equal higher costs in implementing and running programs. Access to relevant programs and courses featured predominantly as a concern shared by the majority of women interviewees. Lack of real work and educational opportunities also translate into poor rehabilitation (Easteal 1992: 72).

The literature suggests that prison programs need to include programs in parenting skills (training in nutrition, health care, child growth and development, parent child relations), birth control, methods of discipline, welfare, budgeting and maternal rights, with an emphasis on survival skills that enable them to function as the head of a household and as the principal or only wage earner (Moyer, 1993; Ross & Fabiano, 1986). Over the years, there has been an increase in the provision and variety of programs in women's prisons with non-traditional programs included (Carp & Schade, 1993; Moyer, 1993; Pollock-Byrne, 1990). However vocational-training programs are still primarily aimed at developing domestic skills and women also have fewer vocational training opportunities than men in prison (Easteal, 2001; Moyer, 1993, p. 205). It is doubtful whether female prisoners are able to learn a vocation in prison that will provide financial security (Carp & Schade, 1993; Pollock-Byrne, 1990).

Just as women's lives are organised around the socially ambiguous status of dependence (Worrall, 1990) so too are prison programs (Bosworth, 1999; Carlen, 1983; Faith, 1993; Moyer, 1993). Programs are the greatest area of neglect which indicates a misunderstanding of women offenders' needs (Moyer 1993: 199). In the early 1990s BWCC revamped their services to include the appointment of a full-time Education Officer; prisoner/officer committees; and improved on-site medical facilities. Prior to this the women's prison was run as an adjunct to the men's prison. As a consequence female inmates were not getting work release or other programs (Easteal 1992: 108). As one inmate recalls her early days in BWCC:

*So for the first one and a half years there were no courses. Mums came in and taught crocheting, fabric photo frames. Real sheltered workshop stuff.*

(Celeste, BWCC)

Australian research identifies significant differences between its states raising issues concerning: a lack of resources, part time teachers discouraged by prison system, poor communication and poor general environment (Easteal, 2001). For Queensland inmates wishing to pursue further education the fees and book costs are incurred by the inmate. Study also takes inmates out of paid prison work (see Danby et al., 2001).

The focus on individual adjustment has laid the groundwork for the traditional model of rehabilitation that is 'she's broke; let's fix her and make her a good girl' (Fletcher & Moon, 1993, p. 10). The inmates' responses to programs were of a similar ilk, some more articulate than others on the usefulness of programs designed to rehabilitate. Tania states

*rehabilitation is shit – you haven't made a decision for two years and you're released to pick up family pieces and make decisions!! ... You're tossed out of the system into here, turn off the light for some time and turn it on and then send you home. Where do you learn?*  
(Tania, BWCC)

Tania raises the anomaly of women's rehabilitation which reinforces a dependent role while the reality for women on the outside is quite the opposite.

Remand inmates have different experiences concerning access to courses. Protection inmates also experience difficulty in accessing courses and services. A remandee is ineligible to undertake programs until they are sentenced. Once incarcerated Ruth's rehabilitation consisted of accessing a psychologist weekly. 'I can't do courses until sentenced. I just wait and do nothing. Craft classes and gym, cos can't do courses'. Ruth is aware of the core programs and wants to do Anger Management. Her reasoning being

*It's hearsay, good for parole - some say it's stupid but it's good for parole and gets you out of the block. All you do on the block is sit around, watch TV, drink coffee and smoke cigarettes. Anyone would do anything to get out of the block, arts, crafts anything. I like doing*



*jewellery and Arts and Crafts.*

(Ruth, BWCC)

Some women view these courses as meaningless and irrelevant. One inmate responding to my question concerning these courses stated

*you've got to be fuckin joking, fuckin raffia hat making!, besides they cost dollars.*

(Jenna, BWCC)

Raffia hat making did not appeal to Jenna whose interests lay in graphic design. Until this interview no inmate had stated the user pays system for such courses. Peta also could not see the value of some courses stating

*I couldn't be bothered. What am I going to do with Arts and Crafts. It's only more junk to hoard, more junk to cart out the front gate and give away.*

(Peta, BWCC)

Peta added that she lacked the motivation to do anything

*you know. It's just like you grow lazy in here unless you're really strong and fight, fight for what you want, but not me'.*

(Peta, BWCC)

Not all women could relate to the prison's outdated and traditional interpretation of feminine pursuits. The untapped potential of creativity of the women interviewees was astounding. Samples of art work and creative writing the women shared with me were incredible.

A primary objective of staff at Queensland Corrections is to offer prisoners the opportunity to address their offending behaviour through participation in a range of core and elective programs. Centres managed by Queensland Corrections offer a range of core programs which address the most frequently identified need within the prisoner population. These include Anger Management, Cognitive Skills, Ending Offending and Managing Relapse programs and are currently offered at the Brisbane Women's Correctional Centre. In addition Queensland Corrections offers a range of

educational, vocational, personal development and activity based programs

Core programs on offer in the old BWCC included Cognitive Skills, Substance Abuse, and Anger Management. Cognitive Skills training is structured to include four modules, each of ten hours duration. This program provides offenders with skills and strategies in the areas of self-control, critical reasoning, social perspective taking and interpersonal problem solving. The Substance Abuse core program is a ten week program designed to provide offenders with the skills to analyse their own using behaviours and is also a pre-requisite for offenders progressing to longer, more intensive relapse programs. The Anger Management core program is a ten-week program based around a cognitive-behavioural model. It provides offenders with the information and skills necessary to examine their own previous behaviours and to develop alternative non-violent strategies for dealing with similar situations in the future. These core programs are currently implemented at the BWCC.

Other programs offered to female inmates in Queensland prisons appear quite diverse catering for many special needs categories. Complementing these programs at BWCC are: clerical/computer oriented courses; food technology modules; foundation nursery programs; Literacy programs; courses designed specifically for Murri and aboriginal women; programs targeting women's health issues; and a range of art and craft courses (See Table Appendix E: Programs).

A common concern raised by many of the interviewees was the lengthy program waiting lists and the frustrations of dealing with an inflexible system. As Peta explains

*I was doing Anger Management but counsellor left; Literacy – quit that; Life skills – quit that – tried three times. You don't have to finish it but it goes against you if you don't. I was sick of being*

*moved – like being sent to Moreton or the sisters in surgery would ring you up to the surgery and you'd sit in the surgery for one and a half hours waiting for nothing. I didn't just quit for the hell of it but I just got jacked off with the system. It seems like, they were getting mad at me for not making the courses but there was nothing I could do about that. I've been to Moreton 3 times now. I was 49 (points) three weeks ago and then I got three or four breaches and an outside charge like in 1-2 weeks. Most points / lowest category. I was medium but I keep messing up. Doing stupid things to get myself in trouble. I don't want to do any courses I'm doing them cos I have too.*

(Peta, BWCC)

Peta's response was a common one expressed by many of the women concerning the way the prison operates. She was not alone in stating her intention behind doing courses. It was a means of progressing through the system. Julia also reiterates the lack of engagement and connection with the courses on offer.

*There is nothing to rehabilitate in here. If anything I have learnt more things. What is it doing those stupid courses? There is no choice, you have to do courses so that's not rehabilitation. I never want to come in here again.*

(Julia, BWCC)

In many institutions, criteria developed for men are automatically applied to women, with no consideration of gender. Several inmates offered astute insights on prison programs and their suitability for the target group.

*I haven't done Anger Management, I think the course is a load of crap. Apart from that, I don't get on well with the facilitator - disagree with the style. Management keep assuring me that the facilitators will be rotated but it hasn't happened yet - it's been over a year. I do these courses not willingly but because I have to. I have done Cognitive Skills, another big load of crap. One, they are not structured properly and two, they are designed for men, and three not dealing with the issues generally. Maybe relevant earlier in sentence as I can't remember some matters concerning my offence. If I don't respond this is interpreted as denial, which is in fact memory lapses. Women's crimes are very different - different motives.*

(Celeste, BWCC)

Celeste further acknowledges the masculine programs

*Anything done by the Commission is focussed on men - because they*

*are the majority. The core programs are no different. The Commission's idea of rehabilitation is pathetic - lovely core programs!! At the moment they are pretty poor. It has been better. TAFE courses can be done. Sheer boredom was the initiative. The Education Officer said that if you want to do Uni you must do 11 and 12. I said no way was I going to do that again....Then there was a change of Education Officers, one with brains and qualifications. She suggested QTAC exam (Adult version of the ASSET exam). I got 97% in maths. No one was more astonished than me. Over the years there have been a shifting choice of courses. 1993, 1994, 1995, 1996, I've completed courses in computing and two in bookbinding. We've had computers, old machines and old programs. Then updated. If you did a course, you had access to computers. I've always taken jobs where I had access to a computer.*

(Celeste, BWCC)

In this way, Celeste negotiated her time and space to address her needs and interests. She also highlights the initiative of a group of inmates in suggesting appropriate courses and the prison's re-framed version of an appropriate feminine course.

*The emphasis is on courses, arts and crafts, leatherwork don't offer a girl a lot that would help get qualifications that would lead to a job. You have to seek those out yourself and see if it can be arranged. It's not on offer. There are more trade type courses run in men's prisons. The work is female: you sew, garden or cook. Ages ago, the girls wanted a mechanics course. We approached the Education Officer and management came up with basic car maintenance. Typical of how this place is / was. There's more they could be doing. There is a lot of talent in here under-utilised. A lot of the stuff they could do. Maybe one day they will - maybe in the new jail - hopefully I won't see but I think I will.*

(Celeste, BWCC)

Letitia's story demonstrates resistance and the challenging of power, control, surveillance and discipline of the prison regime.

*Um to a certain extent, but if you don't whine, everyone has to go through it. There is nothing you can really do, you know, you can grin and bear it. So, suffer on the inside. Not getting anywhere. Putting a big effort into doing something or change something if you like and not having it recognised is a big issue, that's not necessarily a system thing, that was the Parole Board's decision. I'm currently in a bit of a battle at the moment over the manager over at Albion. That's a*

*big issue for me, that Albion, because it's a half way house. And when I was first told half way house I thought a place to live because you've got nowhere else to live when you get out of jail but it's not, it's still custody and it's just where you go and you've got a little bit more freedom say to go to the shop and that sort of thing.*

*Now it used to be that at Albion you got leave of absence of 48 hours every weekend where you'd go home, and they do phone checks and spot checks to see that you're there, that sort of thing, urine testing and that sort of thing. Visitors could come whenever they wanted, like at home, and you would just go and sit in the garden and have a visit. Well it's not like that at all anymore it is just a custody now, you go out for a few hours in the morning and do volunteer, community service, which is usually some utterly crap job that means nothing and you are only there to fill the community service books. You are not actually doing anything, and the attitude out there has changed from this person is having trouble adjusting, or with drugs, or whatever, let's help them. And now they have a new manager out there and it's changed to "well this person is doing something so let's catch them", breaching the act, and like I had her withhold legal mail from me and do illegal room searches on me, which I've gone through the grievance procedures and am now at the Ombudsman stage. But even that is an uphill battle and now it's just a spite thing. It's all happened so long ago it means nothing to me anymore, it's really had no effect on my prison sentence and like I'll never see that woman again, it's just a spite thing now, like how dare she, because you know, it's meant to be a stepping stone out, and it's not.*

*Very high return rate from Albion and it shouldn't be that high. One of the girls, I was right in the middle of a batch, I think it was 16 or 18 women in a month and a half and that was just ridiculous. That's more than they returned the whole year beforehand! And one of the girls was returned for writing a letter of complaint about her. And every single one of the girls that was returned was vocal. I'm also in the middle of complaining. Now I did use drugs out there and I quite happily and freely admitted it, the point being whether it's pot or heroin, it displays the same weakness of character or whatever they perceive it to be. But I've used drugs out there, the urine that I was returned on wasn't even my urine. I gave then someone else's clean urine because mine was dirty. Gave them some one else's clean urine that has come back with methadone in it. So I told the official visitor that and there is nothing they can do now. I was returned for dirty urine so as far as they're concerned I used drugs at Albion but I don't think it's really reasonable that dirty tactics are being used on the girls.*

*I don't think I'll get very far with that because as far as anyone is*

*concerned I've used drugs and therefore I'm being punished but it is still not really reasonable that a system that is telling you how to behave should have its own standards as well. That's just not on, that's pretty scary. And see, I was always very vocal out there, out of the 16 girls the majority of them were also very vocal, about their rights and what they're entitled to, and we're all returned for one reason or another, some of them under very suspicious circumstances again with the urines. They were playing a lot of games out there. Opening them in the office, breaching the seal on the urine in the office and so on which isn't right, it is illegal. Yeah so there has to be set procedures, like we can't behave in a certain manner unless we are within set procedures too. The Ombudsman is a long and slow process, but when I did see him he said he was already processing complaints and he was very concerned about Albion. But by the same token, with the recent escapee raping those women, the attitude towards prisoners in community custody programs is not good to start with and see the women are battling for their community custody programs anyway.*

(Letitia, BWCC)

Letitia and her peers have resisted and challenged the prison power. The inmates involved are aware of the power dynamics but challenge the controlling idiosyncratic aspects of the system. These inmates are not complying with the notion of the rehabilitated docile compliant woman.

### *Drug programs*

As indicated above many of the women in BWCC are 'doin time' for drug related offences. Women charged with drug offences must undertake the relevant core program. Much of the literature and the philosophy of drug treatment programs portray mothers who use illicit drugs as bad parents (Boyd, 1999, p. 17).

Research suggests that drug treatment services fail to address the needs of women (Ettore, 1994; Taylor, 1993). In her critique of substance abuse treatments, Zajdow contends that of the four models of treatment (with a large number of variations on these models) underscoring current Australian programs, all models are gender blind. Furthermore, not one program specifically addresses women or women's needs (Zajdow, 1998). Women

have either been completely ignored or assumed to have the same needs as men. Feminist critics have long argued that gender-blindness works to disadvantage women when it comes to their addiction to drugs (Ettore, 1994; Freidman & Alicea, 1995) Types of dependency are deemed 'good' for women while others are universally condemned (Boyd, 1999). A woman's economic dependence on a man is considered as part of normative femininity and even dependence on prescription tranquillisers is generally ignored if a woman manages to carry on her family responsibilities more or less successfully (Ettore, 1994).

Mandy argues that rehabilitation should be a major part of time in prison

*instead of this mentality we don't want you on our streets, we're gonna lock you up.*

(Mandy, BWCC)

Mandy plans to keep applying for Parole and wants to go to Mirikai. 'Others laugh at me' but she is adamant about Mirikai 'it's dead time in here, I want to be clean'. The perspective of their incarceration as 'dead time' was shared by many inmates. Laura suggests the following

*rehabilitation is needed. Drugs need to be legalised. I'm touching drugs, we can stick someone on Mars and we can't control a drug problem ... you don't drive with a flat tyre – a new system is needed.*

(Laura, BWCC)

Moyer cites the failure of prisons to provide meaningful drug programs for addicts and condemns the use of tranquillisers as a substitute for programs (Moyer, 1993; see also Pinnuck, 1998).

However there were several positive comments concerning aspects of the prison programs. Two inmates acknowledged that the courses had been really interesting and that they'd learnt a lot about drugs. Another was enthusiastic about the Relapse Course (an elective) and the people involved

with the course.

*Relapse at the moment. Relapse is good, a good group, no bagging. Run by (---) and an ex-junkie. I finish next Friday, can't wait. It's a five-week course twice weekly. Substance Abuse sucks. It's a waste of time, effects of drugs, not what you can do to stop, offers no alternative.*

(Joanna, BWCC)

Janelle's story demonstrates how her addiction was managed upon the commencement of her sentence.

*One month spent in C Block - maximum security, high classo. A nightmare. I organised methadone once I knew I was going to jail- it looked better in court- doing something about my problem. Legal advice supported this. Big mistake! Heroin withdrawal is over in 4-7 days. Methadone withdrawal, I didn't sleep for 2 weeks, sickness dreadful takes months to withdraw. Meant to be gradual reduction of dosage. I was thrown in here on 30 mls. I suffered. No Valium, nothing, after going berko I was given 1x 5mg Valium at 8pm for 3 nights. I was grateful at the time but. One day I was vomiting, couldn't eat, lost weight. Thought I was going to die, from 6.30pm - 6am. My heart was pounding, tablets to lower blood pressure Clonadyne and quinine for cramps.*

*If you admit to benzos in the past, no they won't give you anything, but alcoholics get anything. You just have to withdraw. Two young ones have just come up and they're dosed to the eyeballs - Mellorils and different psych and anti depressants and stuff. We get nothing. I was too sick to fight. You can't see a doctor when you want. You put in forms but you see the doctor when they want to check you for something. Forms into the psychiatrist, because if you tell a psyche a story you will get Valium but I've never been to see one. Ask screws and they grunt at you down there.*

*You're treated like animals. Even the phone account, it was on for days before I knew. Mr. Jones must have taken pity on the twelfth day and rang up for me (on my behalf). Religious lady made inquiries for me. I was sick. What's the point of asking screws - they only grunt at you- they won't do anything for you. When my partner was inside, he got Valium and everybody else's too! The old guys walked past and said here mate on his first night to help him settle.*

(Janelle, BWCC)



## *Work*

Penal systems fail to provide women with learning and work opportunities to enhance their post-incarceration marketability and earning power (Easteal 1992, 2001; and others). Paid labour limited to industrial sewing, cleaning gardening, and kitchen work. Education took the form of remedial skills, typing, sewing cooking and hairdressing. Work opportunities within women's prisons are inadequate due to limited types of employment and/or the low wages received. Variations between states on pay and work available. In Queensland the rate is between \$1.18 - \$3.90 per week as well as a \$9.00 a week hygiene allowance. At the new Brisbane Women the industry is packing plastic utensils (Easteal, 2001, p. 89). This is referred to as 'spastic plastic' and involves the packing plastic utensils into bags.

At the time of data collection, prison industries at the old Brisbane Women's Correctional Centre included tailor shop and nursery. The extent of work included: administration cleaners (2) one inside and one outside; officer's mess (3); tailor shop (12); C Block kitchen (5-6); A Block kitchen (3); outside garden (12); inside Garden (3); utilities (3); stores (2); an activities clerk; and an education clerk. For over one hundred inmates this did not represent a lot of work opportunities, positions were highly prized. Some inmates did not wish to progress through the system (to a low security section) because to do so would mean losing their job.

The inmates were very aware of pay differentials within Corrections and their feminine notions of what women need. One woman discusses the gendered assumptions underpinning programs and the needs of women inmates, as well as those of their male counterparts.

*At Albion one can earn \$50 for 4 days work - this is excellent. They have no understanding of the pay scale. Women need more personal*

*hygiene allowance. A bit more to buy things for our kids, such as Christmas presents/ birthday presents and craft Activities. We pay for everything bar jewellery making (except rings).*

*We need set up candle holders and wrought iron stuff like the men. But they have an idea in their heads of what women are. The girls in Numinbah, the blokes do the newsagency run so they got the girls, Women's Weekly, New idea; Cleo; Cosmo. But the girls changed them to Live to Ride; Tattoo; Flash; and Forum. That's the blokes' notions. We're not pensioners yet, you know!*

(Alanna, BWCC)

Melita complained about men and women inmates pay differentials.

*Women work and get \$18.60. men can get up to \$65 weekly. We're very aware of pay rate differences, men get cheaper buy ups and weekly, women only get fortnightly.*

(Melita, BWCC)

Another point raised by an inmate was the limited work schemes available to women.

*Like we've got our work scheme which is Warwick, which is just brilliant, I was out there, if you've got to be in jail you go there, has 12 women, one work scheme in the whole state, for 12 women! The men have got it all over us. It's no wonder women get bitter. There's nothing for you to work towards. It's very very difficult to get out there, particularly for drug offences*

(Stephanie, BWCC)

## **6.6 Negotiating health services within BWCC**

In every society, the symptoms, pains, and weaknesses called illnesses are shaped by cultural and moral values. Illness as a social experience goes far beyond physiology (Lorber, 1997, p. 4). Women's symptoms are more likely to be labelled psychosomatic by male physicians, who are more likely than women physicians to prescribe tranquillisers to them than to men patients with similar symptoms (Ettore, Klauka, & Riska 1994; Taggart et al. 1993 in Lorber 1997: 9). Medicine as a social institution legitimises appropriate behaviour in women seen as a form of social control (Lorber, 1997, p. 10).

Thus, criminal women have been a central concern for the prison managers and medical and psychiatric professions since the emergence of the modern prison system. As with male inmates, regulation discipline and normalisation were key weapons in the prisons' struggle with imprisoned women. However it was a regulation, discipline and process of normalisation quite different and distinct from the experience of male prisoners. Interventions of the state whose 'key site is always with woman as mother (Carlen & Worrall 1987: 3). Contradictions and conflicts exist over penal strategies for women offenders. Medical and legal discourses had their own theoretical, practical and political limitations. The relationship between confined women and medicine is complex (Sim, 1990).

Research shows that female inmates experience more medical and health problems than male inmates. Women are perceived to be more responsive to treatment or counselling than men (Allen, 1987a, p. 107). Women are more likely to be defined as troubled than men (need/greed) (Allen, 1987a, 1987b; Gelsthorpe & Loucks, 1997, p. 56; Jeffries, 2001). The prison regime, its philosophy and practices translate into individual psychological problems situated on a coping/non-coping continuum. Women are constructed within essentialist framework that constructs woman as disordered through the pathologisation of her body.

**Table 6.3 Mental Health indicators-female and male prisoners BWCC and AGCC, October 1999**

| <b>MENTAL HEALTH INDICATOR</b>           | <b>FEMALE</b> | <b>MALE</b> |
|--|---------------|-------------|
| Previous psychiatric hospital admissions | 9%            | 4%          |
| Prescribed counselling or treatment      | 17%           | 5%          |
| Current emotional problems               | 35%           | 8%          |
| Previous mental health problems          | 36%           | 11%         |

Source: QCSC Profile of Female Offenders 2000

***Counselling: the double edged sword.***

In a total institution such as the prison, accessing counselling can be a double edged sword. The mantra of prison culture is that inmates 'don't talk, don't

trust, don't feel' (Easteal, 1994). Hence the prisoner adopts the performance appropriate in the public space of the prison. Inmates are constructed as victims and perceived as troubled individuals who are highly receptive to the benefits of counselling (Allen, 1987a, 1987b). This thesis questions the usefulness of essentialist framings of woman as victim. Hampton suggest the term is 'counterproductive and should be abandoned' (see Hampton, 1994, p. 40-42).

Inmates discussing counselling services raised several concerns regarding access and trust. At the time of interviewing women could only access counselling services Monday to Friday and in office hours. Bookings were preferred, it appeared persistence also helped. As Alisha recounts

*Eventually, I managed to get up to see a Welfare Officer pretty quickly because I needed to ring my family and the block phone calls could only be done after 6, no, were only 6 minutes long and I needed more than that to discuss it with my family. And I ended up having to ring dad at work because I had to do that phone call at welfare in working hours. Yes so I got up there pretty quickly but only because I requested, requested, and requested to. It's very difficult to get to welfare. It's very difficult to access a lot of the services in here because there are too many women here.*

(Alisha, BWCC)

Another inmate reflects on her experience of counselling and support services within the prison system

*It was, it took me a long time to get anywhere and it's only been in the last 3 to 4 months that I have got help that's done anything for me. But before that they would just ship me off to Moreton because they didn't know what to do with me which I thought that was a shame 'cos they should have something/somebody here in the system somewhere that you can help someone out before they get sent to a place like that. Because over there it is no better, you don't get any support. It's called a CSU (crisis support unit) but there's no support at all. That's what I was told when I was first sent there.*

*It feels like a double punishment, if you've been naughty. 'Cos when I went there the first time, I didn't know I was the only female there*

*at that stage. I was the first female put through that system. They didn't know what the hell to do with me and I complicated things by getting my period, you know, they had to go down the shop 4 hours later I had some tampons. It seems like you're really yelling out for help and nobody is there to hear you. I was told by the psychiatrist when I came back that, because I had a big argument about being sent over, she didn't really know what to do with me because I wasn't suicidal or anything but they thought that I was and they thought that I was going to do something to myself and that's why they sent me over there.*

*But you know it was only because I wasn't talking not because like I had no cuts on my arms or anything at that stage until I came back from that place. I don't know, (psychologist) was really good, she was giving me the support that I needed, but she's left, I don't know what will happen now. I was told it was up to me to see someone new. I'm not in any hurry to see them. It's like I told that to (psychologist) once I first started opening up to her. Why do I need to say all this? I've said it to other people in the past and it just comes back at ya. Like people just throw your own words back at you and devastate you more.*

*But it's because of my behaviour in here – that's why I'm still stuck in that block down there, not moved. Frustration, anger, system changes everyday to suit whoever and we're kinda left wondering what's happening. It had got on top of me for a long long time. It was getting on top of me on the outside before I came in. That's why I screwed up in the first place. I don't know.*

(Peta, BWCC)

This vignette highlights not only the lack of adequate facilities available for women but demonstrates how the system overlooks the very basic needs of a woman in a men's facility.

Some inmates adopted performances to suit the required stereotype expected by the system. Some women realised early in their sentence that to accept a victim role was more beneficial to their progression through the system. As Amber stated

*..(I) finally admitted to the counsellor 'yes, you're right I took drugs because of DV' and she was thrilled. You've come round to my way of thinking. You blatantly lie so they'll help otherwise you rot. You have to play the victim.*

(Amber, BWCC)

Another inmate said

*I've had to take on a victimised role - I hate that domestic violence label. I take full responsibility for the crime wholeheartedly. I'll tell them what they want to hear but it's a hard time making it believable though!!'.*

(Lin, BWCC)

Alice's perspective on accessing counselling was that it was

*one of those things I keep putting off, organising another psychologist. I refused counselling for 7 years, "if it's not broke don't fix it". I agreed to progress through system so I started counselling 2 years ago. No problem with admitting crime. I never done anything I was ashamed of. Maybe regret - but not ashamed. Lots of women in here have problems.*

(Alice, BWCC)

Other women refused to access counsellors on the inside taking the initiative to access outside counselling. For example Mary has accessed a counsellor, psychologist and psychiatrist of her own initiative. Referring to one of the BWCC counsellor's she states

*The counsellor is slack - used to be an old art teacher or something. Doesn't know what she's doing.*

(Mary, BWCC)

Another justification Mary gave for accessing a private psychiatrist was that it was considered a positive move for a good sentencing report.

### ***Post release***

Few of the women interviewed had realistic employment opportunities for life after prison (see also Bosworth, 1999, p. 114). Some women expressed frustration at visualising what the future may hold for them. For example Lexie, serving a life sentence for murder, responded

*counselling ask me that all the time. How do I know, I haven't had a life yet. I'm in a difficult position to other lifers: no family, money, possessions, skills. Psychology degree - would like to do Masters in ancient history - as useful as a chocolate teapot! I'm not going to have skills to do anything.*

*I can cook, sew, basic computer skills. Nothing grabs my interest. I don't know, don't know how to run a household, pay bills. I do have*

*a charming outstanding HECS debt. No knowledge of this stuff. The life skills course deals with literacy. They don't offer anything here. I don't want to come back here. I can't imagine a 9 to 5 job. I'm a perennial student.*

(Lexie, BWCC)

Peta anticipates a bleak future that she is not prepared for

*I can't see any future for when I get out. I don't know what to do. I can see myself going on the dole and getting in trouble, you know, financially to get more money. I'll do a job (theft) to get money. That's what happened last time. I try not to think about it 'cos I haven't got anything anymore. I think about it all the time but I don't like thinking about it. When I came in here I had a house and husband and kids and car and stuff and I know when I get out of here I won't have any of that now. I'll probably, I won't just walk out the gates just broke, I'll be bankrupt. So sometimes I wish I was here longer. A mother, that's all I've been for 12 years of my life.*

Carol: But there are lots of skills involved in mothering.

*Yeah but they're not recognised. Not even by their own family let alone for anybody else.*

(Peta, BWCC)

Many women responded in a similar tone to Letitia's, indicating they would think about release when it happened.

*Whatever is out there is just waiting and it can wait until I get there because I'm here now and your whole world is this.*

(Letitia, BWCC)

Other inmates reflected on warm happy reunions with family and children. But this was a difficult question to respond to as women calculated the missed birthdays and Christmases they had missed with their loved ones.

## **6.7 Conclusion**

Women inmates exist in a regime of power, discipline, control and surveillance. The women's prison is structured by and through essentialist dualisms of space (public/private) and body (male/female, masculine/feminine). Hence, upon rehabilitation the good (normal) woman

should perform as a docile body, passive, nurturing, and above all to be competent to fulfil the dependent maternal role. Although programs for women prisoners may look different on the surface than they did ten years ago, they are still fraught with traditional criminological thought and practices concerning constructions of masculinity and femininity (see also Fletcher & Moon, 1993, p. 12). The purpose of this chapter has been to demonstrate the habitus of the women's prison and how inmates are socially constructed through essentialist discourses. The power dynamics within the prison and how women negotiated the oppressive regime of the prison through a range of resistances was explored using women's voices.

Inmates demonstrated their agency through resistance and/or compliance as they negotiated penal discourses used to explain their aberrance. The women's images of themselves were mostly as active rational agents. This chapter argues that women's needs are very different from those that are currently addressed by rehabilitation (Morris & Wilkinson, 1995; Morris, Wilkinson, Tisi, Woodrow, & Rockley, 1995; Sim, 1990). The inmates identified a clear distinction between their notions of femininity and rehabilitation for women in contrast to the prison's essentialist notions of femininity. Similar to the court findings, this chapter highlights how women offenders are not merely an homogenous group of hapless victims of patriarchal criminal justice processes. Using a non-essentialist framework, women's experiences can be viewed in a more complex way that acknowledges the diversity and range of women's experiences. Such a framing of women inmates and their 'needs' holds implications for the legal and penal processes. This will be discussed further in the next chapter.



# CHAPTER SEVEN

## Conclusion

### 7.1 Introduction

As demonstrated in Chapters Five and Six, women are not passive individuals in their negotiation of criminal justice processes. Agency is evident as female defendants resist and/or comply with the essentialising legal discourse used to frame their aberrance in the court room. Similarly within the prison, women also negotiated the intense regime of discipline, surveillance, control and punishment.

The purpose of this chapter is to discuss significant features emerging from the thesis and the implications arising from the findings.

To achieve this purpose the chapter is organised into three sections. The first section will discuss several key features of the thesis and their significance. The key aspects of the theoretical and methodological framework adopted will be summarised followed by a discussion of the findings and their implications for the criminal justice processes of the court and the prison.

The second section will consider the implications of the research findings and conclude with potential avenues for further research. The third section will discuss the limitations of the thesis.

### 7.2 Significance of thesis

There are three significant aspects of this doctoral research that I wish to address. The first is that this research represents a political statement in that women's experiences are documented and thus validated. More specifically, this thesis has attempted to ascertain how acceptable and unacceptable

discourses of female aberrance are constructed and negotiated by women offenders at the criminal justice sites of the courts and the prison. The principle aim was to reject and disrupt the notion of woman as victim and explore the more nuanced elements of women's agency and resistance to the discourses that construct them within the court and penal systems. A review of the criminological and feminist literature on female criminality identifies a legacy of essentialist underpinnings pervasive in contemporary research. The literature demonstrates how essentialism has gained expressions through criminological discourses influencing theory and research agendas that have developed over the last century to explain and manage the offending behaviour of aberrant women. Much of the research undertaken compares men's and women's treatment by the criminal justice system uses varying methodologies and variables with inconclusive outcomes.

Furthermore, there is a the lack of qualitative research available on women offenders' experiences of Australian judicial and penal processes. This is due to a number of reasons resulting in limited opportunities to research women's imprisonment thus making research on women's correctional facilities a sensitive and politically volatile issue.

Increasing incarceration rates combined with high rates of recidivism make this research pertinent by providing data on what it is to be female and negotiate criminal justice processes. This thesis is an original contribution to the field of feminist criminology by providing a critique of previous accounts of female offending as well as disrupting essentialist accounts of female offending by focussing on women's lived experiences of criminal justice processes. Another important feature of this thesis is that research on women's experiences of criminal justice processes generally focusses on the court or the prison. This thesis explores essentialist discourses of offending

women used in the court and the prison.

The voices of the BWCC cohort support the argument that criminal justice processes do not reflect or encompass the reality of women's lives. Their voices also act to disrupt the notion of mainstream discourse constructions of women as passive victims. The majority of research tends to adopt an essentialist perspective and as a consequence women are framed as victims. Feminist theories that rely on essentialist parameters in framing women's aberrations tend to elicit a pathological response

One of the unique aspects of this thesis in relation to the literature is that it builds upon a small but growing cluster of works that acknowledge offending women's agency, resistance and essentialism (such as Bosworth, 1999; Carlen, 1983; Carlen, 1985; Maher, 1997). In contrast to the majority of research undertaken, research utilising a feminist framework to understand women and their modes of resilience, coping, and resistance is in the minority.

A second significant feature is the theoretical approach adopted within this thesis. This thesis draws upon a feminist post-structuralist theoretical approach. The theoretical argument of this thesis pivots on intersections of power, the female body, architectural space and resistance. Traditionally female aberrance and women's experiences of criminal justice processes has been explained through theories and research grounded in essentialist principles in criminological, legal and feminist discourses. Essentialism operates on Western dualistic conceptions of what it is to be male/female, masculine/feminine, rationality/ emotionality. However an essentialist framework is limited to framing women's relationship to crime using a universal formula that emphasises biologically based traits and

characteristics. Thus the 'essentialist' woman is perceived as oppressed, passive, emotional, subjective and irrational.

By framing women through an anti-essentialist framework a more complex picture emerges that renders women's agency visible. Thus the use of women's narrative represents a challenge and is the antithesis of dominant legal stories with the potential to transform the legal system so that it is more inclusive and responsive to women's experiences.

A non-essentialist framework allows the theoretical interlinking between knowledge, power, the body and the institutional sites of the court and the prison. Power, like resistance, is multifarious. Just as the sites of the courthouse and the prison exert regimes of power, so too does the offender exert power through her negotiations of court and prison processes. The women's actions of active compliance and/or resistance explored in this demonstrate that there are a plurality of resistances.

Resistance is expressed through agency resistance and is articulated through performances of the corporeal body and its inscriptions. It is argued that women are no more subject to this system of corporeal production than men. Resistance is not static, monolithic or chronological and as this thesis demonstrates there is no one resistance but infinite multiplicities of strategic resistances. Resistance to power is resistance to specific strategies by which power relations are patterned.

Further, patriarchal power relations do not function to make women the objects of disciplinary control while men remain outside of disciplinary surveillance. This thesis theorises the body as a culturally produced and inscribed surface. The self is constructed through gender performances

producing a range of masculinities and femininities. Therefore it is possible for resistance and compliance to be occurring simultaneously. For example as demonstrated in Chapter Five a female defendant may adopt a specific performance to comply with traditional court notions of what it is to be a good mother (e.g. Anne) other women actively challenge notions of femininity (e.g. Susie).

A third significant feature of this thesis is the use of a feminist ethnographic method. This method has been selected to make visible women's experiences and to make women's voices heard.

Ethnography is the individual's story or narrative. In this study, narrative is central to how aberrant women are constructed within the courts and prison. As demonstrated in Chapter Five, the stories adopted by Judges and other legal decision-makers reinforce the dominant discourse of the 'essential' woman. More specifically legal narratives are structured in ways that exclude, silence and oppress outsiders, particularly those not part of the dominant culture. The conventional legal story serves to silence women's voices, presenting women's collective oppression as an homogenous entity.

The failure to consider and make vocal the voices of silenced women can profoundly affect criminal justice outcomes. The evidence which comes out at a trial is structured by a restrictive process of selection and construction. This process is determined by the way the legal issue is framed, by the way in which lawyers structure their clients' cases, and by the rules of evidence, particularly those relating to what is legally relevant. It is impossible to glean such details from the reading of the trial transcript because the trial process ensures their exclusion. By drawing on women's voices, the focus is on the different stories that emerge and not the filtered reframing of

women's aberrance that occurs in official records such as court transcripts and prison reports.

Thus a significant theme emerges from this thesis. This is the implications of essentialism for feminist criminology and the criminal justice system. Essentialist frames pathologise women which offers women only passivity and victimisation. Dualisms are central to essentialist constructions of offending women. Female defendants are socially constructed within traditional discourses of domesticity, sexuality and pathology. The normal (good) woman is passive, unadventurous, submissive, dependent, non-aggressive and by definition non-criminal. Hence women who engage in aberrant behaviour are by definition abnormal. Therefore female aberrance is viewed predominantly as a function of psychological dysfunction. A woman displaying aberrant behaviour is treated as an oppressed victim of specific circumstances both social (for example - ethnicity, socioeconomic, abusive background factors) and/or biological (addictions, menopausal hormones, PMT, mental illness, jealousy, inability to cope). The criminal justice system's response to aberrance is that men are bad and normal and treated within the legal/punishment paradigm while women are constructed as mad and abnormal and in need of treatment. Medical discourses explaining aberrant behaviour, if applied uncritically to women offenders, is instrumental in reinforcing and perpetuating debilitating stereotypes of women lawbreakers which deny their rationality and responsibility and which ordain that physically or even emotionally aggressive behaviour on the part of woman is further evidence of pathology.

It is clear from the women's experiences that there are an infinite multiplicities of strategic resistances. Through stylised performances, women engaged with essentialising discourses through active compliance

or resistance. Chapters Five and Six demonstrate how women are reframed as nurturers, dependants, pathological and victims of circumstance, however, as the findings revealed, women are not automatically silenced nor are they compliant with such constructions. Some women negotiated 'acceptable stereotypes' to their advantage while others actively resisted. Drawing on the women's experiences it can be argued that women are not passive recipients of an oppressive criminal justice system.

### **7.3 Implications of research**

There are two levels of implications emerging from this thesis. First is the contribution to feminist criminology and a challenge to mainstream accounts of female criminality. The second level of implications relates to criminal justice processes and practices. Essentialist notions of masculinity and femininity affect criminal justice practices. Nor can theoretical explanations of female aberrance be reduced solely to social control, paternalism or chivalry as they do not encompass the broad and complex reasons for gender disparity in criminal justice decision making. This thesis argues that female bodies are subject to inscriptions, disciplinary power, and regimes of corporeal production. Men, as well as women, are caught up in these modes of self-production and self-observation. These modes engage and absorb the individual within various networks of power but one is never rendered merely passive and compliant.

The legal system and its representatives frame offending women as aberrant and irrational. Within its rhetoric and practice, law needs to acknowledge women's lived experiences. The criminal justice systems resistance to reflexivity serves to perpetuate the construction of women as outsiders. Until an ideological shift occurs, women will continue to be framed as disordered, more mad than bad and passive victims in need of treatment. It

is argued that the legal system is being pushed into a position where it will have to begin to accommodate women as credible figures in criminal law. Documenting women's voices is a way of validating their 'lived experiences' as well as providing a way of disrupting and challenging mainstream discourses of femininity relied on by the criminal justice system.

The thesis findings highlight the need for Judges, Magistrates and legal representatives to be reflexive and locate their own positionality within the court. The findings indicate that essentialist notions of masculinity and femininity abound and as a consequence reinforce traditional universal roles upon women (and men).

Chapter Five findings also highlight the importance for defendants, (especially minority groups), to be informed of the modus operandi of the court, its processes and protocol, especially the future ramifications of having a conviction recorded, regardless of the sentencing outcome. Chapters Five and Six indicate the need for support of defendants and inmates concerning the role of legal representatives and the individual's right to seek other counsel.

The thesis points to the importance of sentencing alternatives. The majority of women in BWCC are serving time for drug related offences. While the drug court trials in Queensland are a positive move in dealing with first time offenders there exists a lack of drug treatment programs in the community for women. Thus more support is needed for drug treatment programs in the community *and* appropriate work that takes into account interests and circumstances of the offender. Community-based drug treatment that keeps families together and provides a full range of social services is a more beneficial option than incarceration for the individual and the community.



Promoting alternatives to prison would equate to reducing recidivism. More processes need to be considered that offer viable and cost-effective alternatives to prison for women offenders which benefit the whole community.

The assumption that expanding the number and size of prisons will alleviate conditions or address the crime rate is a misapprehension. The reality is that more prisons indicate more individuals being incarcerated and current and projected Queensland incarceration levels (See Table 1.1, Figure 1.1) and rates of recidivism (See Table 6.2) support this argument.

The prison is based on a model of punishment and retribution and its traditional function has been to deal with male crime. Thus female inmates and their needs are merely squeezed into this model based on outdated essentialist notions of what it is to be a good woman. At best, it is an uncomfortable fit. Women inmates exist in a regime of power, discipline, control and surveillance. The women's prison is structured by and through essentialist dualisms of space (public/private) and body (male/female, masculine/feminine). Hence, upon rehabilitation the good (normal) woman should perform as a docile body, passive, nurturing, and above all to be competent to fulfil the dependent maternal role.

It is problematic to categorise women as a special needs group using an essentialist framework. Findings from Chapter Six argues that women's needs are very different from those that are currently addressed by rehabilitation. Similar to the court findings, Chapter Six demonstrates how women offenders are not merely an homogenous group of victims of criminal justice processes. Using a non-essentialist framework, women's experiences were viewed in a way that acknowledges the diversity and

range of women's experiences. Such a framing of women inmates and their 'needs' holds implications for the legal and penal processes.

Inmates demonstrated their agency through resistance and/or compliance as they negotiated penal discourses used to explain their aberrance. The inmates identified a clear distinction between their notions of femininity and rehabilitation for women in contrast to the prison's essentialist notions of femininity. Programs for women prisoners are still fraught with traditional criminological thought and practices concerning constructions of masculinity and femininity. Unemployment is a significant factor in the lives of women and a key factor in recidivism. BWCC women stressed the importance of having the appropriate skills to access meaningful work. Factors such as transport, family responsibilities, interests also need to be considered. An initiative to support women's re-entry could be structured around sentence length. For example women serving sentences exceeding one year could be found paid employment outside the prison for at least 6 months prior to their release (Carlen, 1990, p. 159-160).

Moreover, women in prison need to be viewed as individuals with agency rather than of victims if their real needs are to be heard and addressed. Women are not an homogenous group and their current 'special needs' status subsumes their specificities. Therefore programs need to differ for women of various ages, educational levels, and ethnic backgrounds. education programs that will equip long term female inmates with appropriate living skills upon release. Support services also need to be reviewed so as to cater for the 'real' needs of women offenders. Due to the culture of the prisons regime trust and respect are non-existent. Therefore accessing suitable outside support services could be utilised in some areas

with positive results.

A re-evaluation of the level and type of support for substance abusers should also be considered. The data in Chapter Six signals a mismatch between programs, the women's perceived needs and the system's perceived needs as women. Framing women using a non-essentialist perspective will result in programs and support strategies with the potential to be meaningful and relevant to the lives of women inmates, both pre and post release. Inmates feelings of despair concerning their preparedness for eventual release from prison into the community is a concern. Post release is an aspect of imprisonment that requires greater attention than it currently receives. With increasing recidivism rates and a high rate of post-release suicide, an exploration of women's experiences pre and post release is necessary so as to understand and provide support as she resumes a life on the outside. Support networks are imperative prior to a women's release. Carlen (1988, 1990) suggests several strategies such as a rehabilitation officer whose duties would include arranging jobs, accommodation, education courses, child care arrangements, and any special counselling or treatment facilities. In Queensland these arrangements are ad hoc and contingent on outside prison support groups.

Support for women should not remain the responsibility of underfunded support groups with limited resources. The community needs to be made more aware of crime and punishment. Carlen advocates this as a necessary pre-requisite to changing the public's view of female criminals as doubly deviant i.e. bad persons and bad women/bad mothers. If the public were more attuned to the characteristics of the prison population, then it might be in a better position to make judgements about the desirability and necessity of continuing to maintain the costly network of penal institutions (Carlen,

1988, p. 159-160). As several of the BWCC cohort stated '*we are not scum and we will get out one day*'.

However the implications for criminal justice processes and potential change can only be realised if women are viewed through a non-essentialist framework. Only then will women inmates have a real opportunity at reintegrating into society.

### *Further research*

As this thesis progressed through the various phases many related areas in need of research became clear. As stated earlier, Australian qualitative research (such as ethnography) that reflects women's lived experiences of court and prison processes is scant. More specifically, Indigenous women's experiences of court and incarceration processes in Australian is one area in need of research.

Another avenue would be to use a non-essentialist framework in which to re-evaluate the range of programs on offer in women's prisons from the viewpoint of a range of stakeholders, (women inmates, QCSC). For example drug programs implemented in BWCC clearly meets QCSC's perception of women inmates' needs yet is incongruent with the notions held by the BWCC cohort interviewed. There is a distinct lack of information about women who use illicit drugs (Boyd 1999). Current drug legislation and policy regarding illicit drug use, especially by mothers, are underpinned by ideologies concerning good and bad drugs, familial ideology, and gender specific roles for mothers.

A third related area to research would be to explore the perspectives and experiences of prison officers and prison health workers with a focus on

their ideological and working practices. Such research would be useful in ascertaining future needs and has the potential to contribute to the appropriate training of correctional staff.

Increasing rates of recidivism begs the question why? If effective 'rehabilitation' is taking place in our women's prisons then why is the recidivism rate on the increase. Solutions will not be found in statistics nor with harsher sentencing penalties. An exploration of women's experiences would raise pertinent issues, many answers and possible solutions to inform process and practices of the court and penal system.

#### **7.4 Limitations of thesis**

There were several limitations to this project mostly dealing with collecting data from the prison. First with regard to the different ethnicities within the prison population, I would have liked to have included more voices to reflect these minorities. However due to language barriers, lack of time, and resources this was not possible. It would have also been preferable to include more Indigenous voices but my recruitment processes precluded this group. Unfortunately time and resources did not allow such flexibility. With the increasing incarceration rates of Indigenous women this area is deserving of a thesis (or three) in itself.

As discussed in Chapter Four, accessing women inmates was problematic at times due to the fluidity of the prison population with rapid movement within different correctional locations linked to security levels. For example women might be in solitary confinement, at court visits, half-way house, Crisis Support Unit, health visit, work and courses, visiting hours and attempted breakouts which result in the prison going into lockdown mode delaying interviewing for a period of days. Some women exited the system

before I could interview them.

## **7.5 Conclusion**

The purpose of this chapter has been to provide an overview of the thesis and its significance to the field of feminist criminology and the criminal justice system. Ramifications of the research findings have also been addressed. A discussion of future areas of research were flagged as well as the limitations impacting upon this research.

This thesis contends that women are not an homogenous group, nor is there a singular relation between sex and the law. As women experience the judicial or penal systems, their experiences are not similar regardless of specificities. In the current climate of ever-increasing rates of incarceration and recidivism, this research project is timely as it provides a cutting edge approach in its qualitative and theoretical framings of aberrant women and their experiences of the Queensland criminal justice system. Through women's lived experiences, this thesis provides an insight into the complexities of constructions of women's aberrance. The principle goal of this thesis was to de-essentialise the aberrant woman by demonstrating her agency through her negotiation of the court and prison phases.

# APPENDICES

## Appendix 4.1 Ethical clearances

### QUT Ethical Approval



#### UNIVERSITY RESEARCH ETHICS COMMITTEE

Ms Carol Quadrelli  
14 School Road  
Yeronga Qld 4104

12 May 1997

Dear Ms Quadrelli

I wish to advise that the University Research Ethics Committee has granted ethical approval for the human experimentation proposed in the project "The construction of women offenders: Female experiences of the Queensland criminal justice system" (Ref No QUT 1198H). This approval is subject to:

- the consent form and information package be amended to contain an assurance that data will remain confidential and will not be passed on to prison officials;
- and the inclusion of contact details of the researchers being included on the consent form.

Please provide me with the revisions/additional information outlined above by 27 May 1997. Failure to submit this information by the date specified will result in withdrawal of approval for the project.

This approval is valid for the duration of the project or three years, whichever is earlier, commencing from 6 May 1997.

Please note the following conditions of approval:

- Any departure from the protocol detailed in your application must be reported immediately to the Committee.
- You are required to advise the Secretary if any complaints are made, or expressions of concern raised, in relation to the project.
- You are required to report on the progress of the approved project at least annually, or at intervals determined by the Committee. The Committee may also choose to conduct a random audit of your research.
- Where a minor change to an approved protocol is proposed, you are required to submit a request for approval of this change in writing to the Secretary. Minor changes will be assessed on a case by case basis and interim approval may be granted subject to ratification at the next meeting of the Committee.

G:\1997\comm\be\merge\condhum.may

#### Queensland University of Technology

GARDENS POINT CAMPUS 2 GEORGE STREET GPO BOX 2434 BRISBANE Q 4001 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 1510

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Locked Bag No 2 Red Hill Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529



- Major changes to any approved protocol require a new application to be submitted and approved by the University Research Ethics Committee.

Yours sincerely

  
**Gary Allen**  
Secretary, University Research Ethics Committee  
QUT Secretariat  
Telephone: (07) 3864 2902  
Facsimile: (07) 3864 1818  
Email: gx.allen@qut.edu.au

cc Assoc Prof Simon Petrie, School of Justice Studies, QUT Kelvin Grove

G:\1997comm\bel\merge\condhum.may



UNIVERSITY RESEARCH ETHICS COMMITTEE

Ms C Quadrelli  
14 School Road  
YERONGA QLD 4104

16 June, 1997

Dear Ms Quadrelli

At its meeting on 10 June 1997, the University Research Ethics Committee considered the additional information/revisions you provided in relation to your project "The construction of women offenders: Female experiences of the Queensland criminal justice system" (Ref No QUT 1198H).

The Committee is satisfied that the information provided addresses its concerns.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'G. Allen'.

**Gary Allen**  
Secretary, University Research Ethics Committee  
QUT Secretariat  
Telephone: (07) 3864 2902  
Facsimile: (07) 3864 1818  
Email: gx.allen@qut.edu.au

cc A/Prof S Petrie, School of Justice Studies

**Queensland University of Technology**

GARDENS POINT CAMPUS 2 GEORGE STREET GPO BOX 2434 BRISBANE Q 4001 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 1510

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Locked Bag No 2 Red Hill Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529



UNIVERSITY RESEARCH ETHICS COMMITTEE

Ms Carol Quadrelli  
.14 School Road  
Yeronga Qld 4104

27 November 1997

Dear Ms Quadrelli

At its 25 November 1997 meeting, the University Research Ethics Committee approved the minor change to the approved protocol for the project "The construction of women offenders: Female experiences of the Queensland criminal justice system" (Ref No QUT 1198H).

Please do not hesitate to contact me if you have any further queries in relation to this matter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G. Allen'.

Gary Allen  
Secretary, University Research Ethics Committee  
Ph: (07) 3864 2902  
Fax:(07) 3864 1818  
Email: gx.allen@qut.edu.au

cc Assoc Prof Simon Petrie, School of Justice Studies, QUT Kelvin Grove

Queensland University of Technology

GARDENS POINT CAMPUS 2 GEORGE STREET GPO BOX 2434 BRISBANE Q 4001 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 1510

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Locked Bag No 2 Red Hill Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529

# QCSC Ethical Approval



## QUEENSLAND CORRECTIVE SERVICES COMMISSION

14 April 1997

Ms Carol Quadrelli  
Justice Studies Unit, Faculty of Law  
Queensland University of Technology  
Locked Bag No 2  
RED HILL 4059

Dear Ms Quadrelli

The Research Review Committee considered your research proposal on Thursday 27 March 1997. The Committee felt that this was a very useful study.

However the Committee suggested that you give consideration to some comparison with male offenders to make the research more viable.

The Committee gave its approval for the research to proceed.

**ALISON HUNTER**  
**A/Chairperson**  
**Research Review Committee**

50 Ann Street  
Brisbane

GPO BOX 1054  
BRISBANE Q 4001

Ph (07) 3227 4111  
Fax (07) 3227 6611

## **Appendix 4.2 Profile of Research Sites**

The purpose of court observations was to enable me to gain a basic understanding of what women experience upon entering the courtroom. It is one thing to analyse a court transcript of proceedings but observations of court appearances (whether it be a first court appearance, a higher court sitting, or sentencing) add a rich dimension to the research design.

### ***Brisbane Magistrate Courts***

At the time of data collection the Brisbane Magistrate Courts were located at North Quay, in the heart of Brisbane <sup>[9]</sup>. A stipendiary magistrate presides over a Magistrates Court. There is no jury. These courts deal with less serious offences, both civil and criminal. More serious offences are dealt with in the District and Supreme Courts. In criminal cases the magistrate decides a guilty or not-guilty outcome and if the individual is found guilty fixes a penalty. If the criminal charges are too serious it is deferred to either the District or Supreme courts. Regardless of the seriousness of charges, the accused first appears in a Magistrates Court.

### ***Brisbane District Court***

More serious criminal cases (such as rape and armed robbery) are decided in a District Court. Appeals against some Magistrates Court decisions may also be dealt with by a District Court. A District Court Judge presides over a District Court. In Criminal trials, a jury decides whether an individual is guilty or not. In the case of a guilty verdict, the Judge then decides on the penalty. Civil disputes are heard in this court when the amounts are between \$40 000 and \$200 000. Due to the nature of the offence/s, some accused are remanded in custody if the Magistrate believes granting bail could present a risk to the community or the accused.

---

<sup>9</sup> New premises were opened in 1999

### ***Brisbane Supreme Court***

This court is the highest court and consists of two sectors: the Trial Division and the Court of Appeal. A Justice of the Supreme Court presides over this court where serious criminal offences are heard (such as murder, certain drug offences). The Trial Division uses a jury to determine guilt or innocence of cases. A Judge without a jury usually decides civil cases. Some verdicts are appealed against and such action takes place in the Court of Appeal. The Court of Appeal consists of no jury but three Justices of the Supreme Court. All District Court and Supreme Court appeals go directly to the Court of Appeal. Many of the accused appearing in the Supreme Court have been remanded in custody from a Magistrates Court.

### ***Correctional facilities for women in Queensland***

Many of the women interviewed were recidivists and had experiences of the following Correctional sites. The profiles are included to provide a backdrop to the women's experiences. However, all of the interviews were conducted at the BWCC (Dutton Park).

### ***Brisbane Women's Correctional Centre***

At the time this research commenced, *Brisbane Women's Correctional Centre* (Dutton Park) was one of two facilities operated by Queensland Corrections to accommodate women in secure custody. The Brisbane Women's Correctional Centre (BWCC), located behind the now defunct Boggo Road Men's Correctional Centre, Woolloongabba, was built in 1975 with facilities for 83 inmates. These numbers have increased dramatically over the decades (See Tables 1.1, 1.2). At the time of my data collection (1997), there were 147 inmates in the BWCC. In January 1999, the female population of the centre was 172, 18 of which were in protective custody. A new centre commissioned from July 1999 replaced this facility and adjoins the men's

facility. The new 272 bed Brisbane Women's Correctional Centre at Wacol accommodates women in both secure and residential units. The centre has two purpose built units for up to eight mothers and their babies. A second regional centre is based in Townsville and consists of women's secure and open custody complexes. The reception and placement centre has the capacity to accommodate 77 women inmates in single cell accommodation. The daily average for secure and open complexes of TWCC is 76.

*Numinbah Correctional Centre* (NCC) is located 100 kilometres south of Brisbane in the Gold Coast Hinterland and is designed to accommodate up to 139 sentenced male and female prisoners of open and low security classifications. The women's unit is located in the Numinbah Correctional Centre complex and was established in October 1997. The unit averages 29 women prisoners daily. The Helana Jones Centre, located in Brisbane, provides residential accommodation for 27 women. The centre also operates a ten-person work camp for women at Warwick, in southwest Queensland. Prisoners located at the Numinbah Correctional centre have progressed satisfactorily through the correctional system. The primary focus of the centre is to prepare prisoners for release to community based supervision.

#### *Crisis Support Unit (CSU)*

The CSU is incorporated into the Moreton B Correctional Centre for male and female inmates who have demonstrated they are at significant risk of self-harm. Staff in the crisis support unit includes trained medical staff to assist prisoners in developing problem solving and self-management skills enabling them to return to the mainstream inmate population.

# Appendix 4.3 Sample of Court Lists

**CRIMINAL CHARGES FOR SATURDAY 10/5/97** Page 1

| NO | TIME | DEFENDANT                     | DOE   | RESULT                                | DOE   | RESULT |
|----|------|-------------------------------|-------|---------------------------------------|-------|--------|
| 1  |      | REMAND ANDERSON Peter Michael | 16706 | DID DRIVE BAC                         | 16706 | DO     |
| 2  |      | REMAND PUPWIS Gary David      | 27023 | DID DRIVE BAC                         | 27023 | DO     |
| 3  |      | REMAND TWICK Carrie Margaret  | 10033 | DID DRIVE BAC                         | 10033 | DO     |
| 4  | 1525 | Amyler WILLIAMS               | 18179 | COMMITTING BAIL                       | 18179 | DO     |
| 5  | 1555 | Mary WEBER                    | 5436  | ROBBERY WITH VIOLENCE                 | 5436  | DO     |
| 6  | 2315 | Allen Robert DAVEY            | 10078 | ROBBERY WITH VIOLENCE                 | 10078 | DO     |
| 7  | DO   | DAVEY - Charge 2              | DO    | DEPRIVATION OF LIBERTY                | DO    | DO     |
| 8  | DO   | DAVEY - Charge 3              | DO    | DEPRIVATION OF LIBERTY                | DO    | DO     |
| 9  | 0530 | Kenneth James TURNBULL        | 20177 | ATT. ROBBERY WITH VIOLENCE IN COMPANY | 20177 | DO     |
| 10 | DO   | TURNBULL - Charge 2           | DO    | ROBBERY WITH VIOLENCE IN COMPANY      | DO    | DO     |
| 11 | DO   | TURNBULL - Charge 3           | DO    | BAIL ACT - CONTINGENT                 | DO    | DO     |
| 12 | DO   | TURNBULL - Sub Charge 1       | DO    | STEALING WITH VIOLENCE                | DO    | DO     |
| 13 | DO   | TURNBULL - Charge 4           | DO    | BAIL ACT - CONTINGENT                 | DO    | DO     |
| 14 | DO   | TURNBULL - Sub Charge 2       | DO    | OFFENSIVE LANGUAGE                    | DO    | DO     |
| 15 | 0655 | LIM Siew Hong                 | 21064 | IMPORT PROHIBITED IMPORT              | 21064 | DO     |
| 16 | DO   | LIM - Charge 2                | DO    | POSSESS PROHIBITED IMPORT             | DO    | DO     |
| 17 | 0533 | McGRADY, Michelle             | 20582 | CONTINGENT - Probate 1th April 1997   | 20582 | DO     |
| 18 | DO   | McGRADY Charge 2              | DO    | WARRANT OF APPREHENSION (89 00 1 day) | DO    | DO     |
| 19 | 0700 | MATAL, Anton                  | 19084 | WARRANT OF APPREHENSION (89 00 1 day) | 19084 | DO     |
| 20 |      |                               |       |                                       |       |        |

*Handwritten notes:*  
 - 16706: 25/5/97  
 - 27023: 25/5/97  
 - 10033: 25/5/97  
 - 18179: 25/5/97  
 - 5436: 25/5/97  
 - 10078: 25/5/97  
 - 20177: 25/5/97  
 - 21064: 25/5/97  
 - 20582: 25/5/97  
 - 19084: 25/5/97



**10-6-97**

*Cat 1*

CHIEF CLERK'S USE ONLY  
CRT NO. EM. ALLOC

| FILE NO | DEFENDANT'S SURNAME | GIVEN NAMES | OFFENCE          | CHIEF CLERK'S USE ONLY<br>CRT NO. EM. ALLOC                        |
|---------|---------------------|-------------|------------------|--|
| 1       | PA7482/97           | PHILLIPS    | MARTIN JOHN      | 9 OBSTRUCT POLICE <i>(w/ previous conviction - no explanation)</i> |
| 2       | PA1599/97           | BWELL       | SHAWN PATRICK    | BREAK ENTER SECAL <i>23/7 Cat 3</i>                                |
| 3       | PA1566/97           | BAKER       | PHILIP JOHN      | DRINK DRIVING  |
| 4       | PA1567/97           | BAKER       | PHILIP JOHN      | DANGEROUS DRIVING  |
| 5       | PA1599/97           | BOVD        | NICHOLAS WILLIAM | 9 POSSESS DANGEROUS DRUG <i>250c 2 pills</i>                       |
| 6       | PA1599/97           | BOVD        | NICHOLAS WILLIAM | 7 POSSESS DRUG UTENSIL <i>250c 6 pills</i>                         |
| 7       | PA1528/96           | BIRROWS     | DARREN MICHAEL   | UNLAWFUL USE MTR VEHICLE <i>Cat 5 25/6</i>                         |
| 8       | PA1500/97           | CAKACRKA    | STEVEN KASULEVJ  | WILFUL DAM/DIST AT NIGHT <i>\$500 Rept. \$245</i>                  |
| 9       | PA1500/97           | CAKACRKA    | STEVEN KASULEVJ  | UNLAWFULLY ON PREMISES <i>\$100</i>                                |
| 10      | PS01190/97          | CAULLEY     | ALISCA MARGARET  | TAKE GOODS W/OUT DISCHARG  |
| 11      | PS01191/97          | CAULLEY     | ALISCA MARGARET  | TAKE GOODS W/OUT DISCHARG  |
| 12      | PA1602/97           | CELMR       | PETER            | OBSCENE / ABUSIVE WORDS <i>20/49</i>                               |
| 13      | PA1498/97           | CLEARY      | KEVIN JOHN       | BR. WEAPONS ACT <i>Cat 5 Trial - 2/17</i>                          |
| 14      | PA1499/97           | CLEARY      | KEVIN JOHN       | BREAK ENTER INTENT <i>14/7</i>                                     |
| 15      | PA13575/97          | CLOSE       | JO-ANN GRACE     | OBSTRUCT POLICE <i>.PA no release</i>                              |
| 16      | PA13576/97          | CLOSE       | JO-ANN GRACE     | ASSUME DES. OF POLICE OFF <i>2/7/97 Cat 1</i>                      |
| 17      | PA15436/97          | CLOSE       | JO-ANN GRACE     | BREI ATT.(FAT. TO APPEAR) <i>PSV link 1000</i>                     |
| 18      | PA1426/97           | DING        | CRAIG ANTHONY    | OBSTRUCT/RESIST POST   |
| 19      | PA1427/97           | DING        | CRAIG ANTHONY    | FAIL DISPOSE DRUG OBJECT   |
| 20      | PA01574/97          | DREN        | MARTIN STEWART   | ATTEND PERVERT JUSTICE   |
|         |                     |             | MARTIN STEWART   | FALSE PRETENCES  |
|         |                     |             | MARTIN STEWART   | ATTEMPTED FALSE PRETENCES  |
| 21      | PA11495/97          | DUFFY       | WILLIAM EDWARD   | TRAFFICK DANGEROUS DRUGS   |
| 22      | PA11496/97          | DUFFY       | WILLIAM EDWARD   | POSSESS DANGEROUS DRUG   |
| 23      | PA11497/97          | DUFFY       | WILLIAM EDWARD   | PERJURY  |
| 24      | PA11498/97          | DUFFY       | WILLIAM EDWARD   | POSS OF TAINTED PROPERTY   |

9 20

**Appendix 4.4                      Court attendance at Brisbane  
Magistrates Courts 1 & 2**

| <b>Date</b> | <b>Court 1<br/>Male<br/>Defendants</b> | <b>Court 1<br/>Women<br/>Defendants</b> | <b>Court 2<br/>Men<br/>Defendants</b> | <b>Court 2<br/>Women<br/>Defendants</b> |
|-------------|--|---|---------------------------------------|---|
| 6/5/97      | 52                                     | 8                                       | 13                                    | 3                                       |
| 7/5/97      | 38                                     | 12                                      | 3                                     | 1                                       |
| 8/5/97      | 40                                     | 17                                      | 21                                    | 4                                       |
| 9/5/97      | 42                                     | 10                                      | 19                                    | 1                                       |
| 10/5/97     | 5                                      | 5                                       | -                                     | -                                       |
| 12/5/97     | 31                                     | 11                                      | 11                                    | 3                                       |
| 13/5/97     | 43                                     | 17                                      | 8                                     | 1                                       |
| 14/5/97     | 26                                     | 8                                       | 7                                     | 0                                       |
| 15/5/97     | 33                                     | 10                                      | 11                                    | 2                                       |
| 16/5/97     | 28                                     | 4                                       | 20                                    | 3                                       |
| 17/5/97     | 5                                      | 2                                       | 3                                     | 1                                       |
| 19/5/97     | 39                                     | 15                                      | 19                                    | 3                                       |
| 2/6/97      | 61                                     | 8                                       | 34                                    | 11                                      |
| 3/6/97      | 41                                     | 13                                      | 11                                    | 3                                       |
| 4/6/97      | 47                                     | 10                                      | 12                                    | 4                                       |
| 5/6/97      | 35                                     | 11                                      | 12                                    | 4                                       |
| 6/6/97      | 47                                     | 12                                      | 19                                    | 4                                       |
| 10/6/97     | 43                                     | 19                                      | 11                                    | 1                                       |
| 11/6/97     | 67                                     | 16                                      | 12                                    | 2                                       |
| 13/6/97     | 49                                     | 10                                      | 20                                    | 4                                       |
| 16/6/97     | 36                                     | 11                                      | 7                                     | 1                                       |
| 17/6/97     | 33                                     | 8                                       | 8                                     | 3                                       |
| 18/6/97     | 21                                     | 5                                       | 6                                     | 0                                       |
| 19/6/97     | 35                                     | 3                                       | 5                                     | 2                                       |
| 20/6/97     | 40                                     | 14                                      | 21                                    | 4                                       |
| 23/6/97     | 72                                     | 9                                       | 26                                    | 3                                       |
| 24/6/97     | 32                                     | 9                                       | 13                                    | 0                                       |
| 25/6/97     | 38                                     | 9                                       | 15                                    | 2                                       |
| 27/6/97     | 49                                     | 14                                      | 25                                    | 4                                       |
| 30/6/97     | 62                                     | 9                                       | 17                                    | 1                                       |
| 1/7/97      | 32                                     | 15                                      | 10                                    | 4                                       |
| 2/7/97      | 33                                     | 2                                       | 9                                     | 1                                       |
| 3/7/97      | 47                                     | 12                                      | 17                                    | 5                                       |
| 4/7/97      | 47                                     | 3                                       | 14                                    | 2                                       |
| 7/7/97      | 40                                     | 11                                      | 12                                    | 3                                       |
| 8/7/97      | 34                                     | 11                                      | 8                                     | 0                                       |
| 9/7/97      | 27                                     | 11                                      | 18                                    | 0                                       |
| 10/7/97     | 33                                     | 3                                       | 14                                    | 0                                       |
| 14/7/97     | 51                                     | 18                                      | 12                                    | 5                                       |
| 15/7/97     | 41                                     | 12                                      | 13                                    | 1                                       |
| 16/7/97     | 20                                     | 7                                       | 13                                    | 3                                       |
| 17/7/97     | 30                                     | 14                                      | -                                     | -                                       |
| 22/7/97     | 40                                     | 10                                      | 11                                    | 2                                       |
| 23/7/97     | 32                                     | 8                                       | 10                                    | 0                                       |
| 24/7/97     | 29                                     | 6                                       | 7                                     | 1                                       |
| 25/7/97     | 35                                     | 6                                       | 9                                     | 3                                       |
| 29/7/97     | 52                                     | 9                                       | 12                                    | 2                                       |
| 30/7/97     | 41                                     | 13                                      | 11                                    | 3                                       |
| 31/7/97     | 54                                     | 16                                      | 4                                     | 2                                       |
| 1/8/97      | 73                                     | 8                                       | 27                                    | 5                                       |

## Appendix 4.5 Letters to inmates



Carol Quadrelli  
PhD Student  
Justice Studies Unit  
Faculty of Law  
QUT

Dear

I am writing to ask you if you would help me with some research I am doing at Queensland University of Technology. My name is Carol Quadrelli and I am a full-time research postgraduate student. My research focuses on women and their experiences with the Queensland criminal justice system. I am very interested in talking to women who have recently entered the prison system to document their experiences from the time of their arrest through to court appearance/s, support services accessed (if any), their sentencing outcome, and finally their views on personal experiences of the judicial processes to date.

The Queensland Corrective Services Commission has given me permission to write to you. You may choose whether or not you wish to participate in the study. Your decision not to participate will involve no penalty or loss of benefits - participation is purely voluntary.

If at any stage you have concerns about your rights and involvement in this research project you can discuss these issues with the Secretary of the QUT Research Ethics Committee, either by phoning (07) 3864 2902 or send a letter to The Secretary, QUT Research Ethics Committee, QUT, GPO Box 2434, Brisbane, 4001.

Your involvement would consist of one informal interview (with the option of a follow-up interview). The interview will take 30-60 minutes (approximately), at a time convenient to you. Anything you tell me will be treated confidentially and you will remain completely anonymous. Any information provided will not be passed on to prison officials. I will be the only person working on this project and your input would be most valuable in creating a clearer picture of women's experiences of the Queensland criminal justice system.

If you would like to assist me with my research, please complete the attached page and forward it (in the enclosed privacy envelope) to your Block Officer.

Thank you very much for reading this letter.

Yours sincerely

Carol Quadrelli

### Queensland University of Technology

KELVIN GROVE CAMPUS VICTORIA PARK ROAD KELVIN GROVE Q 4059 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 3998

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Victoria Park Road Kelvin Grove Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529

# Response Form



**Carol Quadrelli**  
Justice Studies Unit  
Faculty of Law  
QUT

Re: *Women's Experiences of the Queensland Criminal Justice System*

I am willing to participate in this research.

The most convenient times to see me are:

.....  
.....

Name: .....

Signed: .....

Date: .....

## Queensland University of Technology

KELVIN GROVE CAMPUS VICTORIA PARK ROAD KELVIN GROVE Q 4059 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 3998

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Victoria Park Road Kelvin Grove Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529

# Consent form



Carol Quadrelli (Researcher)  
Justice Studies Unit  
Queensland University of Technology  
Locked Mail Bag No 2  
RED HILL 4059  
Ph: (07) 3864 3188

## Women's Experiences of the Queensland Criminal Justice System Research Project

### CONSENT FORM

I have read the letter describing this research project and am willing to be involved in the interviews and for the information to be used in reporting results.

I understand that:

- (i) all information will be regarded as confidential.
- (ii) my identity will not be revealed in any presentations or publications.
- (iii) any information provided by me will not be passed on to prison officials.
- (iv) my involvement in this research will in no way affect my current circumstances.
- (v) the transcripts of interviews I provide will be destroyed when the research project is completed.

I understand that participation is voluntary and that I may withdraw from the project at any time without comment or penalty.

Signature: \_\_\_\_\_  
(Participant)

Date \_\_\_\_\_

Signature: \_\_\_\_\_  
(Researcher)

Date \_\_\_\_\_

### Queensland University of Technology

KELVIN GROVE CAMPUS VICTORIA PARK ROAD KELVIN GROVE Q 4059 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 3998

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Victoria Park Road Kelvin Grove Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529

## Letter confirming interview time



30 July 1997

Dear

Thank-you very much for agreeing to participate in my research. I appreciate your support.

I would like to interview you on \_\_\_\_\_.

If this time is unsuitable, could you please notify the Education Officer (\_\_\_\_\_) or the Programs Manager (\_\_\_\_\_) and I will make alternative arrangements.  
Looking forward to talking with you next week.

Yours sincerely

Carol Quadrelli  
Justice Studies Unit  
Queensland University of Technology  
Locked Mail Bag No 2  
RED HILL 4059  
Ph: (07) 3864 3188

---

### Queensland University of Technology

KELVIN GROVE CAMPUS VICTORIA PARK ROAD KELVIN GROVE Q 4059 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 3998

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Victoria Park Road Kelvin Grove Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529

## Letter to recently sentenced inmates



Carol Quadrelli  
Justice Studies Unit  
Faculty of Law  
QUT  
Tel: (07) 3864 3188

Dear

RE: *Women's experiences of the Queensland criminal justice system*

I am keen to talk to you about your recent sentencing outcome. I have scheduled your interview time and hope the following time slot will be suitable.

Your interview time is \_\_\_\_\_

If this time does not suit could you please notify either the Education Officer (Deb Coop) or Programs Manager (Pam Puusaari) and I will organise another time. Once again, thank-you for your participation in this research project. Looking forward to our interview.

Yours sincerely

Carol Quadrelli

---

### Queensland University of Technology

KELVIN GROVE CAMPUS VICTORIA PARK ROAD KELVIN GROVE Q 4059 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 3998

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Victoria Park Road Kelvin Grove Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529

## Letter re-scheduling interview



Carol Quadrelli  
Justice Studies Unit  
Faculty of Law  
QUT  
Tel: (07) 3864 3188

15 September 1997

Dear

RE: *Women's experiences of the Queensland criminal justice system*

Due to unforeseen circumstances, I have been unable to organise this interview sooner. I appreciate your interest and hope the following interview time will be suitable.

Your interview time is \_\_\_\_\_

If this time does not suit could you please notify either the Education Officer (Deb Coop) or Programs Manager (Pam Puusaari) and I will organise another time. Once again, thank-you for your participation. Looking forward to our interview.

Yours sincerely

Carol Quadrelli

### Queensland University of Technology

KELVIN GROVE CAMPUS VICTORIA PARK ROAD LOCKED BAG NO 2 RED HILL Q 4059 AUSTRALIA PHONE (07) 3864 2111 FAX (07) 3864 3998

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>  
QUT International: Locked Bag No 2 Red Hill Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529



## Appendix 4.6 First interview format

### Questions

- 1 Family details  
[do you have any children, a partner]  
[Were you employed at the time of offence]
- 2 What type of offence/s were you charged with?
- 3 Where / when were you arrested?
- 4 When were you charged?
- 5 Did you receive bail / or were you placed on remand?
- 6 Have you been charged with similar crimes before?
- 7 What support services did you access(if any)?  
[i.e. Legal Aid, other legal representation, psychologist, welfare agency]
- 8 Advice given from professional service/s accessed?
- 9 Advice taken?
- 10 What did you think about the sentencing outcome?

Any comments/issues arising from arrest/court experiences:

## Appendix 4.7 Follow up interview format

The second interview with women inmates will consist of open-ended questions that will focus on the interviewees' perceptions of their experiences of the criminal justice system. The central foci will be the arrest stage and details pertaining to court procedures as well as more in-depth discussion of whatever issues are carried over from the first round of interviews.

Proposed discussion points to be raised:

Lifestyle of client prior to crime

Arrest details

Court experiences

Remand/ bail

Support services accessed

(I.e. Legal Aid, psychologist, counsellor, private legal representation)

advice given /taken

sentencing outcome: Judge's comments; reactions to the reality of sentence;

reflective thoughts on experiences to date.

Appendix 5.1 Media coverage of Joy Ann Lane's case

The Courier Mail - 6<sup>th</sup> February 1998

+FRIDAY, FEBRUARY 6, 1998

# Shot man a rapist, court told

BY MARK OBERHARDT  
A WOMAN who shot her boyfriend in the stomach and back claimed she had been repeatedly sexually abused by him, the Supreme Court in Brisbane was told yesterday.

Joy Ann Lane told police she had been raped and sodomised by Jeffrey Raymond Keith Stannard the night before the shooting.

Stannard would say he had sex with Lane, but that it was by consent, the court was told.

Lane, 40, of Logan Village, pleaded not guilty to two counts of attempting to unlawfully kill Stannard, 43, at Logan Village on September 8, 1996.

She also pleaded not guilty to two alternate charges of doing Stannard grievous bodily harm, and a further charge of assault occasioning bodily harm on the same day.

The court was told Lane hit Stan-

nard with a garlic grinder and in an ensuing struggle shot him twice.

She allegedly told police she attacked Stannard so she could regain "control of her life".

Prosecutor David Meredith warned the jury to judge the case on the evidence and not on their feelings about Lane or Stannard.

If the jury believed even part of Lane's picture of the relationship, it would be hard not to have "negative feelings towards Stannard", he said.

Mr Meredith also said the jury would hear Stannard had a conviction for manslaughter when he "killed" his wife.

"Whether you do or don't like Stannard should not enter into it," Mr Meredith said.

"Nice as well as nasty people are protected by the law."

"It is what Lane was doing at the time which is relevant."

In his opening address to the jury, Mr Meredith said there would be allegations made that Stannard had repeatedly sexually abused Lane during their relationship.

He said Stannard would sleep at Lane's one-bedroom Logan Village home on occasions.

"It will be alleged he was sleeping on the lounge on Sunday morning September 8, 1996, when he was struck with a blunt object," he said.

"Stannard was cut and dazed after the attack."

Stannard was hazy about the events which followed because of the effects of the blow, he said.

Stannard remembered struggling with Lane, who had a gun and shot him in the stomach.

Stannard would say he then fled and tried to reach neighbours for help, but was shot in the back.

"The bullet lodged near his spine

... because of its position it has not been removed," Mr Meredith said.

The jury would hear a police interview with Lane in which she outlined the events of the morning, he said.

Lane told police she woke up and considered what had happened the night before the shooting, when she claimed she was raped.

She told police she believed if her relationship with Stannard continued, he would kill her or drive her insane so she would kill herself.

Mr Meredith said that in the interview, Lane admitted hitting Stannard with a garlic grinder and then going to a room to get a loaded gun.

The Crown would submit Lane did not have a self-defence case no matter what was the state of the relationship between the pair, he said.

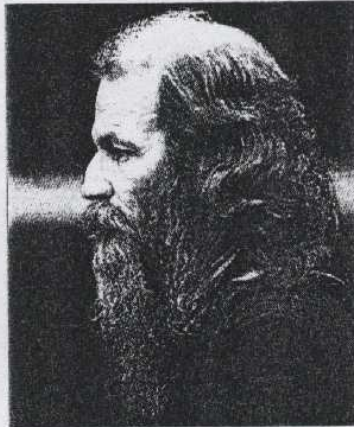
The trial before Justice Glen Williams is set down for two weeks.

C.M. 17

## Assault verdict over boyfriend shooting



JOY Ann Lane ... found guilty on lesser charge of assault.



JEFFREY Stannard ... shot in the stomach and back.

By MARK OBERHARDT

A WOMAN who claimed to have been repeatedly sexually abused by her boyfriend — convicted 20 years ago for strangling his then estranged wife — has been found not guilty of his attempted murder.

A Supreme Court jury took more than a day to find Joy Ann Lane was not trying to deliberately kill Jeffrey Raymond Stannard when she shot him twice at her home, 18 months ago.

However, it found Lane guilty of assault occasioning bodily harm by hitting him on the head with a pestle used to grind garlic.

The trial heard Stannard, a taxation office clerk, had served eight years' jail for the manslaughter of his estranged wife in 1978.

In evidence, Stannard admitted he was convicted of strangling his wife but he maintained he was not guilty and had been set up by police.

He denied having raped, sodomised or abused Lane.

The jury retired to consider its verdict at 3.45pm on Friday and did not return with verdicts until 4.30pm on Saturday.

Justice Glen Williams allowed Lane bail until her sentencing tomorrow.

The court was told Lane hit Stannard as he slept on a couch at her Logan Village house on September 8, 1996.

Lane then took a rifle and shot Stannard in the stomach. As Stannard fled to a neighbour's property, Lane shot him in the back.

During the two-week trial, Lane, also a taxation office clerk, alleged she was driven to the attack by four years of sexual and mental abuse by Stannard.

Lane accused Stannard of bashing her as well as repeatedly raping and sodomising her during their relationship, which began in 1992.

She told the court she had not intended to kill Stannard but had been trying to regain control of her life.

Lane, 40, pleaded not guilty to two counts of the attempted murder of Stannard and also denied a charge of assault occasioning bodily harm.

She called 10 witnesses in her defence including workmates, a domestic violence worker and two doctors.

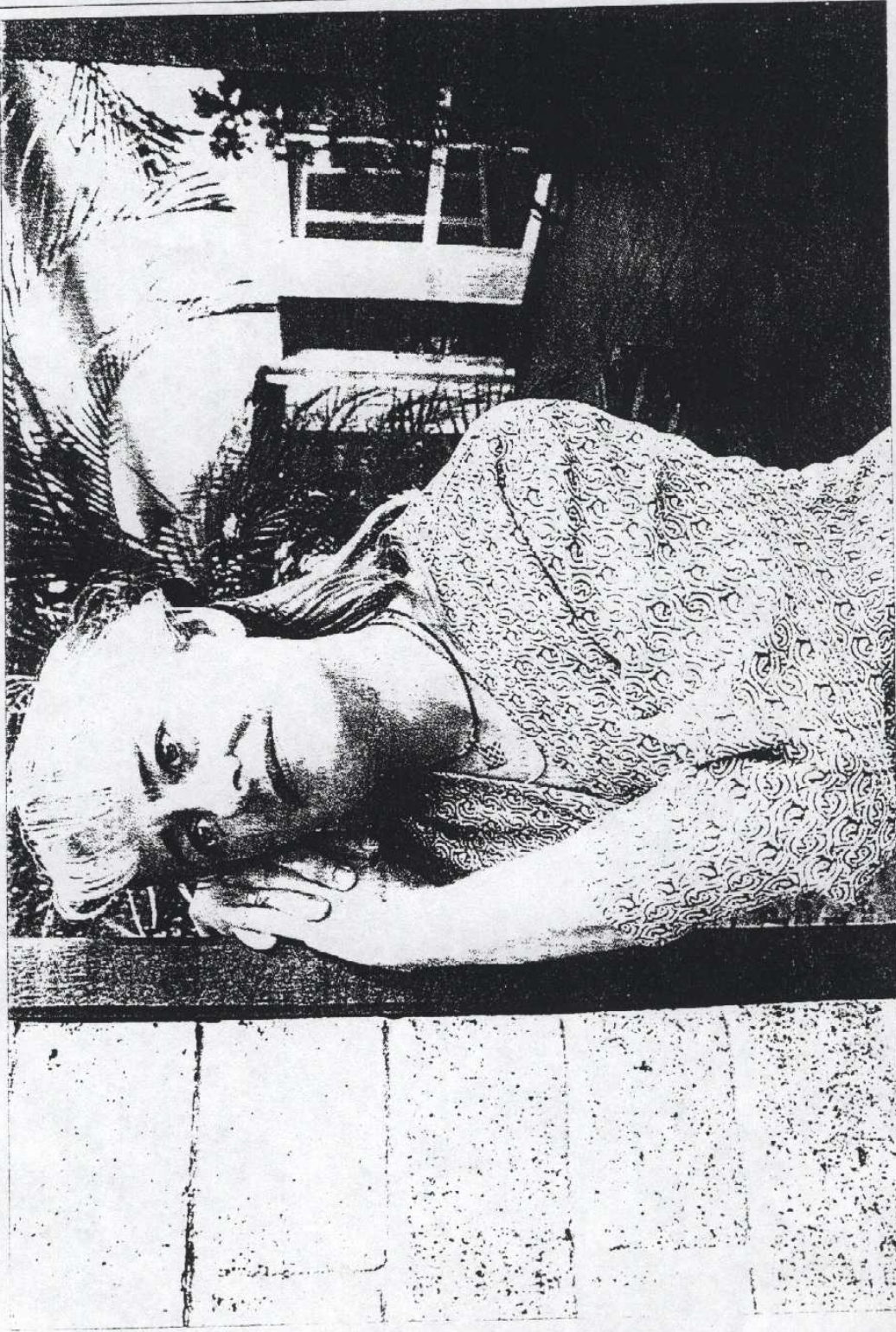
Justice Williams adjourned the case until tomorrow.

M 17/2/98 P.5

... answer, he said. ...

CPM 19/2/98 p.1

# Violence the only escape from torment



JOY-ANN Lane ... He was going to kill me, either physically or psychologically ... and it came down to basic survival.

Picture: BRUCE LONG

## The Courier Mail - 19th February 1998

JOY-ANN Lane ... 'He was going to kill me, either physically or psychologically ... and it came down to basic survival'.

Picture: BRUCE LONG

By CHRISTINE JACKMAN and MARK OBERHARDT

FOR four years, Joy-Ann Lane was trapped in a web of physical violence and emotional intimidation woven tight by a convicted killer, while friends, family and authorities seemed helpless to intervene.

On September 8, 1996, she decided she would have to save herself instead.

Early that morning, the 40-year-old public servant hit her tormentor, Jeffrey Raymond Stannard, over the head with a mortar bowl as he

slept in the lounge room of her Logan Village home.

Fearing his brutal retaliation as he awoke, Ms Lane then grabbed a rifle and shot Stannard twice.

Yesterday, she expressed relief that a Supreme Court jury had accepted that she had acted in self-defence, finding her not guilty of two counts of attempted murder but guilty instead of assault occasioning bodily harm.

But after receiving a \$1000 two-year good behaviour bond, Ms Lane said she was concerned that there was still a perception that women

trapped in violent relationships should do more to escape.

"I had got to the stage where I knew there was no future for me," Ms Lane said. "He was going to kill me, either physically or psychologically ... and it came down to basic survival."

The court had heard that Stannard had threatened he would kill Ms Lane if she ever told anyone about their relationship or attempted to escape him.

Ms Lane believed Stannard was capable of carrying out those threats because, in 1978, he had been

convicted of manslaughter after strangling his wife after she left him.

Stannard had served eight years of a 10-year sentence for that crime, but told the court he had been framed, while also admitting he had confessed to the crime in the presence of police and his sister.

He also denied Ms Lane's allegations of rape, sodomy and abuse.

But Justice Glen Williams said he was satisfied on the evidence that over a period of time Lane had been subjected to psychological and physical assaults by Stannard.

Continued Page 2

## The Courier Mail - 19th February 1998

# Violence was the only escape

From Page 1

However, in sentencing Ms Lane, Justice Williams also said it was not up to members of the public to mete out justice or the whole fabric of society would break down.

"A disturbing fact is that friends, relatives and associates knew what you were going through and offered assistance. But you declined it," he said.

"One of the reasons for having family, friends and associates is that at some stage everyone needs outside help.

"If you had heeded that advice you would not have had to endure the trauma of the trial of the past two weeks."

Outside the court, Ms Lane questioned the criminal justice system's ability to protect abused women from men such as Jeffrey Stannard.

She said he had bashed her severely after colleagues had attempted to help her, and he had also threatened

to attack her 75-year-old mother if she ever left him.

"The police could not do anything. I knew that a domestic violence order would be a worthless piece of paper against him," Ms Lane said.

"And even if the police actually dropped everything and responded to my call (for help) and actually knew how to get to my place, it would still take them 15 minutes to get there. What was I supposed to do? Hold it up as a shield?"

"I can understand they are law-makers who do not want to encourage people to take the law into their own hands ... but telling women they have to seek help even when they don't believe there is help available to them is like telling you to do something that will kill you."

In court, John Jerrard, QC, for Lane, said being convicted of the assault should be enough punishment for Ms Lane. He asked Justice Williams not to record a conviction

for the assault because the mere fact of being found guilty was punishment enough and it could affect her job and other future prospects.

But Justice Williams said he would impose a conviction because he was satisfied Ms Lane's employers - the Commonwealth Taxation office - had a discretion when dealing with her case.

He said deterrence also had to be a major factor in sentencing for such crimes.

Justice Williams sentenced Ms Lane to \$1000 good behaviour bond to be active for two years and recorded a conviction.

Prosecutor David Meredith said Stannard had prepared a Victim Impact Statement but as it related to all the charges it would not be tendered.

Mr Meredith said Stannard, a taxation clerk, suffered through the publicity of the trial because although his superiors at work knew of his criminal record some of his workmates did not.

# Appendix 6.1 - BWCC Programs 1997

## Contents

|   |              |
|---|--------------|
| <b>1. CORE PROGRAMS</b>                                   | <b>3-6</b>   |
| Anger Management .....                                    | 4            |
| Cognitive Skills .....                                    | 5            |
| Substance Abuse .....                                     | 6            |
| <b>2. EDUCATIONAL AND VOCATIONAL PROGRAMS</b>             | <b>7-19</b>  |
| Computer Operation .....                                  | 8            |
| Electronic Learning Centre .....                          | 9            |
| English as a Second language .....                        | 10           |
| First Aid .....   | 11           |
| Food Service Skills .....                                 | 12           |
| Food Production .....                                     | 13           |
| Foundation Gardening Skills .....                         | 14           |
| Foundation Nursery Skills .....                           | 15           |
| Job Seeking Skills .....                                  | 16           |
| Keyboard Skills .....                                     | 17           |
| Literacy .....  | 18           |
| Murri Literacy .....                                      | 19           |
| <b>3. ELECTIVE PROGRAMS</b>                               | <b>20-21</b> |
| Relapse Prevention .....                                  | 21           |
| <b>4. LOCALLY INITIATED AND SELF DEVELOPMENT PROGRAMS</b> | <b>22-36</b> |
| Activity Therapy .....                                    | 23           |
| Alcoholics Anonymous .....                                | 24           |
| Elders Visits .....                                       | 25           |
| Long Termers Group .....                                  | 26           |
| Life Skills .....   | 27           |
| Murri Drug and Alcohol .....                              | 28           |
| Murri Life Skills and Cultural Development .....          | 29           |
| Narcotics Anonymous .....                                 | 30           |
| Parenting Issues for Women in Custody .....               | 31           |
| Personal Imaging .....                                    | 32           |
| Play Group - Mobile .....                                 | 33           |
| Self Esteem .....   | 34           |
| Tully's Group .....                                       | 35           |
| Women's Sexual Health .....                               | 36           |
| You and Stress - Stress Management .....                  | 37           |
| <b>5. RECREATIONAL PROGRAMS</b>                           | <b>38-45</b> |
| Arts and Crafts .....                                     | 39           |
| Creative Sewing .....                                     | 40           |
| Drama .....   | 41           |
| Fitness Classes .....                                     | 42           |
| Jewellery Making Workshop .....                           | 43           |
| Leatherwork .....   | 44           |
| Raffia Hat Making .....                                   | 45           |
| <b>6. CLUBS AND COMMITTEES</b>                            | <b>46-48</b> |
| Convenor's Committee .....                                | 47           |
| Toastmasters .....  | 48           |

**Appendix 6.2 Inmates and interviewees by  
most serious offence**

| Offence                               | Inmates |      |
|---------------------------------------|---------|------|
|                                       | TOTAL   | ATSI |
| <b>Drug Related Offences</b>          | 30      | 1    |
| <i>Trafficking Drugs</i> 11           |         |      |
| <i>Importing Drugs</i> 1              |         |      |
| <i>Supplying Drugs</i> 8              |         |      |
| <i>Possession</i> 10                  |         |      |
| <b>Break &amp; Enter</b>              | 20      | 4    |
| <b>Robbery</b>                        | 17      | 3    |
| <i>Robbery with Actual Violence</i> 3 |         |      |
| <i>Armed Robbery</i> 13               |         |      |
| <i>Robbery Other</i> 1                |         |      |
| <b>Homicide</b>                       | 14      | 2    |
| <i>Murder/Attempted Murder</i> 11     |         |      |
| <i>Manslaughter</i> 2                 |         |      |
| <i>Accessory after the fact</i> 1     |         |      |
| <b>Assault</b>                        | 14      | 4    |
| <i>Rape/Attempted Rape</i> 1          |         |      |
| <i>Assault – other</i> 10             |         |      |
| <i>Grievous Bodily Harm</i> 2         |         |      |
| <i>Aggravated Assault</i> 1           |         |      |
| <b>Fraud Related Offences</b>         | 14      | 1    |
| <i>Forgery &amp; Uttering</i> 1       |         |      |
| <i>Fraud – Other</i> 1                |         |      |
| <i>Misappropriation</i> 2             |         |      |
| <i>False Pretences</i> 9              |         |      |
| <i>False Declaration</i> 1            |         |      |
| <b>Bail Related offences</b>          | 13      | 4    |
| <i>Bail Act Offences</i> 10           |         |      |
| <i>Breach of Probation</i> 2          |         |      |
| <i>Breach of Bail</i> 1               |         |      |
| <b>Traffic Offences</b>               | 8       | 3    |
| <i>UUMV</i> 3                         |         |      |
| <i>Unlicensed Driving</i> 1           |         |      |
| <i>Driving while Disqualified</i> 2   |         |      |
| <i>Parking Offences</i> 2             |         |      |
| <b>Stealing</b>                       | 4       | 1    |
| <b>Wilful Damage</b>                  | 3       | 1    |
| <b>Burglary (Dwellings)</b>           | 2       | 1    |
| <b>Ill-treatment of Children</b>      | 1       | 0    |
| <b>Arson-unspecified</b>              | 1       | 1    |



## Bibliography

- Adler, F. (1975). *Sisters in Crime: The Rise of the New Female Criminal*. New York: McGraw-Hill.
- Adler, F., & Simon, R. (Eds.). (1979). *The Criminology of Deviant Women*. Boston: Houghton Mifflin.
- Alasuutari, P. (1995). *Researching Culture: Qualitative Method and Cultural Studies*. London; Thousand Oaks, California; New Delhi: Sage Publications.
- Albanese, J. (1995). *White Collar Crime in America*. Englewood Cliffs, NJ: Prentice-Hall Inc.
- Alder, C. (1994a). The Policing of Young Women. In R. White & C. Alder (Eds.), *The Police and Young People in Australia* (pp. 159-174). Cambridge [England]; Melbourne: Cambridge University Press.
- Alder, C. (1994b). Women and the Criminal Justice System. In D. Chappell & P. Wilson (Eds.), *The Australian Criminal Justice System: The Mid 1990s* (pp. 141-155). Sydney: Butterworths.
- Alder, C. (1995). Feminist Criminology in Australia. In N. H. Rafter & F. Heidensohn (Eds.), *International Feminist Perspectives in Criminology: Engendering a Discipline* (pp. 17-38). Buckingham; Philadelphia: Open University Press.
- Allen, H. (1987a). *Justice Unbalanced : Gender, Psychiatry, and Judicial Decisions*. Milton Keynes: Open University Press.
- Allen, H. (1987b). Rendering Them Harmless: The Professional Portrayal of Women Charged with Serious Violent Crime. In P. Carlen & A. Worrall (Eds.), *Gender, Crime, and Justice*. Milton Keynes, England: Open University.
- Allen, J. (1990). 'the Wild Ones' the Disavowal of Men in Criminology. In R. Graycar (Ed.), *Dissenting Opinions: Feminist Explorations in Law and Society* (pp. 21-39). Sydney, NSW: Allen & Unwin.
- Anleu, S. R. (1995). *Deviance, Conformity and Control* (2nd ed.). Melbourne: Longman Australia.

- Armstrong, P. (1998). *Architecture in Our Common Life: Rite of Passage*. Paper presented at the Representing Justice Conference, Wollongong, 26-27 June.
- Australia Law Reform Commission. (1994a). *Equality before the Law: Justice for Women*. Sydney: Law Reform Commission.
- Australia Law Reform Commission. (1994b). *Equality before the Law: Women's Equality*. [Sydney]: Law Reform Commission.
- Bains, M. (1996). In C. Alder & M. Bains (Eds.), ... *And When She Was Bad? Working with Young Women in Juvenile Justice and Related Areas*. Hobart, Tasmania: NCYS.
- Bartky, S. L. (1988). Foucault, Femininity, and the Modernization of Patriarchal Power. In I. Diamond & L. Quinby (Eds.), *Feminism and Foucault: Reflections on Resistance* (pp. 61-86). Boston: Northeastern University Press.
- Bartky, S. L. (1990). *Femininity and Domination: Studies in the Phenomenology of Oppression*. New York: Routledge.
- Baunach, P. J. (1985). *Mothers in Prison*. New Brunswick, NJ: Transaction Books.
- Baunach, P. J. (1992). Critical Problems of Women in Prison. In I. Moyer (Ed.), *The Changing Roles of Women in the Criminal Justice System: Offenders, Victims and Professionals* (2nd ed., pp. 99-112). Illinois: Waveland Press Inc.
- Belle, D. (1990). Poverty and Women's Mental Health. *American Psychologist*, 45, 385-389.
- Belle, D. (1994). Attempting to Comprehend the Lives of Low Income Women. In C. Franz & A. Stewart (Eds.), *Women Creating Lives: Identities, Resilience, and Resistance* (pp. 37-50). Boulder, San Francisco, Oxford: Westview Press.
- Benjamin, C. (1991, 27-29 March 1990). *Prisons, Parents and Problems*. Paper presented at the Keeping People Out of Prisons - Conference Proceedings.
- Bennett, L. (2000, 31 Oct. -1 Nov.). *Managing Sexual Relationships in a Female Prison*. Paper presented at the Women in Corrections: Staff and Clients Conference, Adelaide.
- Bernat, F. (1995). Opening the Dialogue: Women's Culture and the Criminal Justice System. *Women and Criminal Justice*, 7(1), 1-7.

- Blight, J. (2000). *Transgender Inmates* (Trends and Issues paper 168). Canberra: Australian Institute of Criminology.
- Bloom, B. (1993). Incarcerated Mothers and Their Children: Maintaining Family Ties. In American Correctional Association. (Ed.), *Female Offenders : Meeting Needs of a Neglected Population* (pp. 60-68). Laurel, MD: American Correctional Association.
- Bordo, S. (1993). *Unbearable Weight: Feminism, Western Culture and the Body*. Berkeley: University of California Press.
- Bordo, S. (1997). The Body and the Reproduction of Femininity. In K. Conboy & N. Medina & S. Stanbury (Eds.), *Writing on the Body: Female Embodiment and Feminist Theory* (pp. 90-110). New York: Columbia University Press.
- Bosworth, M. (1999). *Engendering Resistance: Agency and Power in Women's Prisons*. Aldershot, Brookfield USA, Singapore, Sydney: Ashgate, Dartmouth.
- Bourdieu, P. (1977). *Outline of a Theory of Practice* (R. Nice, Trans.). Cambridge, MA: Harvard university Press.
- Bowles, G., & Klein, R. (Eds.). (1983). *Theories of Women's Studies*. London, Boston: Routledge & Kegan Paul.
- Boyd, S. (1999). *Mothers and Illicit Drugs: Transcending the Myths*. Toronto, Buffalo, London: University of Toronto Press.
- Boys, J. (1998). Beyond Maps and Metaphors? Rethinking the Relationships between Architecture and Gender. In R. Ainley (Ed.), *New Frontiers of Space, Bodies and Gender* (pp. 203-217). London; New York: Routledge.
- Bradfield, R. (1998). *Minimise and Deny: Battered Wives Who Kill*. Paper presented at the Australian and New Zealand Society of Criminology, ANA Hotel, Gold Coast.
- Braidotti, R. (1997). Mothers, Monsters and Machines. In K. Conboy & N. Medina & S. Stanbury (Eds.), *Writing on the Body: Female Embodiment and Feminist Theory* (pp. 59-79). New York: Columbia University Press.
- Branaman, A. (1997). Goffman's Social Theory. In C. Lemert & A. Branaman (Eds.), *The Goffman Reader* (pp. xlv-lxxxii). MA; Oxford UK: Blackwell Publishers.
- Britton, D. M. (2000). Feminism in Criminology: Engendering the Outlaw. *Annals of the American Academy of Political and Social Science*, Sep2000(571), 57-77.

- Brown, B. (1995). *Women and Crime: The Dark Figures in Criminology*. In N. Naffine (Ed.), *Gender, Crime and Feminism*. Aldershot, England; Brookfield, USA: Dartmouth.
- Brown, D., & Quinn, M. (1985). *Review of New South Wales Taskforce Report : Women in Prison*.
- Burgess, R. G. (Ed.). (1982). *Field Research: A Sourcebook and Field Manual*. London: Allen & Unwin.
- Butler, J. (1990). *Gender Trouble: Feminism and the Subversion of Identity*. New York: Routledge.
- Butler, J. (1993). *Bodies That Matter : On the Discursive Limits of "Sex"*. New York: Routledge.
- Cain, M. E. (1989). *Growing up Good : Policing the Behaviour of Girls in Europe*. London ; Newbury Park, Calif: Sage Publications.
- Cameron, M. (2000, October 2000). *Women Prisoners in Australia*. Paper presented at the Women in Corrections, Adelaide.
- Cameron, M. (2001). *Women Prisoners and Correctional Programs (194)*. Canberra: Australian Institute of Criminology.
- Campbell, A. (1981). *Girl Delinquents*. Oxford, England: Basil Blackwell.
- Campbell, A. (1993). *Men, Women and Aggression*. New York: Basic Books.
- Carlen, P. (1976). *Magistrates' Justice*. London: Martin Robertson.
- Carlen, P. (1983). *Women's Imprisonment : A Study in Social Control*. London: Routledge & Kegan Paul.
- Carlen, P. (1987). *Out of Care, into Custody: Dimensions and Deconstructions of The State's Regulation of Twenty-Two Young Working Class Women*. In P. Carlen & A. Worrall (Eds.), *Gender, Crime and Justice* (pp. 126-160). Milton Keynes: Open University Press.
- Carlen, P. (1988). *Women, Crime, and Poverty*. Milton Keynes, England: Open University Press.
- Carlen, P. (1990). *Alternatives to Women's Imprisonment*. Milton Keynes: Open University Press.

- Carlen, P. (Ed.). (1985). *Criminal Women: Autobiographical Accounts*. Cambridge: Polity Press.
- Carlen, P., & Worrall, A. (1987). Introduction: Gender, Crime and Justice. In P. Carlen & A. Worrall (Eds.), *Gender, Crime and Justice*. Milton Keynes: Open University Press.
- Carnaby, H. (1998). *Road to Nowhere: A Report on Women's Housing and Support Needs When Leaving Prison*. Collingwood, Melbourne: Flat Out.
- Carp, S., & Schade, L. (1993). Tailoring Facility Programming to Suit Female Offenders' Needs. In A. C. Association. (Ed.), *Female Offenders: Meeting the Needs of a Neglected Population* (pp. 37-42). USA: United Book Press.
- Carrington, K. (1990). Aboriginal Girls and Juvenile Justice: What Justice? White Justice. *Journal for Social Justice Studies*, 3, 1-18.
- Carrington, K. (1993). *Offending Girls: Sex, Youth and Justice*. St. Leonards, NSW: Allen & Unwin.
- Carrington, K. (1998). Postmodern and Feminist Criminologies: Disconnecting Discourses? In K. Daly & L. Maher (Eds.), *Criminology at the Crossroads: Feminist Readings in Crime and Justice* (pp. 69-84). New York: Oxford University Press, Inc.
- Carter, K. (1996). Domestic Visits: A Forced Non-Relationship of Private Affection in a Semi-Public Place. In K. Carter & S. Delamont (Eds.), *Qualitative Research: The Emotional Dimension* (pp. 105-120). Aldershot, England: Avebury.
- Carter, K., & Delamont, S. (1996). Introduction. In K. Carter; & S. Delamont (Eds.), *Qualitative Research: The Emotional Dimension* (pp. ix-xv). Aldershot, England: Avebury.
- Challinger, D. (1982). Crime, Females and Statistics. *Australian and New Zealand Journal of Criminology*, 15, 123-128.
- Chesler, P. (1991). *Mothers on Trial : The Battle for Children and Custody*. San Diego: Harcourt Brace Jovanovich.
- Chesney-Lind, M. (1973). Judicial Enforcement of the Female Sex Role: The Family Court and the Female Delinquent. *Issues in Criminology*, 8(2), 51-70.

- Chesney-Lind, M. (1978). Chivalry Re-Examined: Women and the Criminal Justice System. In L. H. Bowker (Ed.), *Women, Crime and the Criminal Justice System*. Lexington: Lexington Books.
- Chesney-Lind, M. (1986). Women and Crime: The Female Offender. *Signs*(Autumn), 78-96.
- Chesney-Lind, M. (1995). Preface. In N. H. Rafter & F. Heidensohn (Eds.), *International Perspectives in Criminology* (pp. xii-xv). Buckingham; Philadelphia: Open University Press.
- Chesney-Lind, M., & Sheldon, R. G. (1992). *Girls, Delinquency, and Juvenile Justice*. Pacific Grove, Calif: Brooks/Cole Pub. Co.
- Collier, R. (1995). *Masculinity, Law, and the Family*. London; New York: Routledge.
- Collier, R. (1998). *Masculinities, Crime, and Criminology: Men, Heterosexuality, and the Criminal(ised) Other*. London; Thousand Oaks: Sage Publications.
- Connell, R. W. (1995). *Masculinities*. Berkeley: University of California.
- Cook, S., & Davies, S. (1999). Will Anyone Ever Listen? In S. Cook & S. Davies (Eds.), *Harsh Punishment: International Experiences of Women's Imprisonment* (pp. 3-9). Boston: Northeastern University Press.
- Corbett, H., & Paxman, M. (1995). Aboriginal Women and the Law. In Women and Imprisonment Group (Ed.), *Women and Imprisonment* (pp. 29-35). Melbourne: Fitzroy Legal Service.
- Crofts, N., Webb-Pulman, J., & Dolan, K. (1996). *An Analysis of Trends over Time in Social and Behavioural Factors Related to the Transmission of Hiv among Injecting Drug Users and Prison Inmates*. Canberra: AGPS.
- Culliver, C. (Ed.). (1993). *Female Criminality: The State of the Art*. New York: Garland.
- D'Alessio, S. J., & Stolzenberg, L. (1993). Socioeconomic Status and the Sentencing of the Traditional Offender. *Journal of Criminal Justice*, 21, 61-77.
- Daly, K. (1987). Structure and Practice of Familial-Based Justice in a Criminal Court. *Law and society Review*, 21(2), 267-290.
- Daly, K. (1994). *Gender, Crime, and Punishment*. New Haven: Yale University Press.

- Daly, K. (1998). Women's Pathways to Felony Court: Feminist Theories of Lawbreaking and Problems of Representation. In K. Daly & L. Maher (Eds.), *Criminology at the Crossroads: Feminist Readings in Crime and Justice*. New York: Oxford University Press.
- Daly, K., & Bordt, R. L. (1995). Sex Effect and Sentencing: An Analysis of the Statistical Literature. *Justice Quarterly*, 12(1), 142-175.
- Daly, K., & Maher, L. (Eds.). (1998). *Criminology at the Crossroads: Feminist Readings in Crime and Justice*. New York: Oxford University Press.
- Damousi, J. (1997). *Depraved and Disorderly : Female Convicts, Sexuality and Gender in Colonial Australia*. Cambridge ; Melbourne: Cambridge University Press.
- Danby, S., Farrell, A., Skoien, P., & Quadrelli, C. (2001). Women Inmates' Accounts of Education in Queensland Corrections. *Australia and New Zealand Journal of Law and Education*, 6(1&2), 47-61.
- Daniels, K. (1998). *Convict Women*. St. Leonards, N.S.W.: Allen & Unwin.
- Datesman, S., & Scarpitti, F. (Eds.). (1980). *Women, Crime and Justice*. New York: Oxford University Press.
- Davies, S., & Cook, S. (1998). Women, Imprisonment and Post Release Mortality. *Just Policy*, 14, 15-21.
- Davies, S., & Rhodes-Little, A. (1993). History, Sexuality and Power: Deconstructing the 'Lesbian Vampire Case'. *Australian cultural history*, 12, 14-28.
- Davies, S. C., S. (2000). Breaking the Silence of Death. *Women in Prison*, 1(1), 11-19.
- Delgado. (1990). When a Story Is Just a Story: Does Voice Really Matter? *Virginia Law Review*, 76.
- Denton, B. (1995). *Prison, Drugs and Women: Voices from Below: A Report on the Drug Use of Women in Victorian Prisons*. Canberra: AGPS.
- Denton, B., & O'Malley, P. (1999). *Gender, Trust and Business: Women Drug Dealers in the Illicit Economy*.
- Devlin, A. (1999). *Invisible Women: What's Wrong with Women's Prisons*. Winchester: Waterside.

- Dobash, R., Dobash, R. E., & Gutteridge, S. (1986). *The Imprisonment of Women*. Oxford; New York: Basil Blackwell Inc.
- Dobash, R. E., Dobash, R. P., & Noaks, L. (1995). Thinking About Gender and Crime. In R. E. Dobash & R. P. Dobash & L. Noaks (Eds.), *Gender and Crime*. Cardiff: University of Wales Press.
- Dominelli, L. (1984). Differential Justice: Domestic Labour, Community Service and Female Offenders. *Probation Journal*, 31(3).
- Douglas, R. (1987). Is Chivalry Dead? Gender and Sentence in the Victorian Magistrates' Courts. *Australian and New Zealand Journal of Criminology*, 23.
- Easteal, P. (1992a). *The Forgotten Few: Overseas Born Women in Australian Prisons*. Canberra: AGPS.
- Easteal, P. (1992b). Gender Inequity in Australian Courts. *Criminology Australia*, 3(4 Apr/May), 10-12.
- Easteal, P. (1992c). *Women and Crime : Imprisonment Issues (0642175144)*. Canberra: Australian Institute of Criminology.
- Easteal, P. (1993a). *Killing the Beloved: Homicide between Adult Sexual Intimates*. Canberra: Australian Institute of Criminology.
- Easteal, P. (1993b). Overseas Born Female Inmates in Australia: A Prison within a Prison. *Journal of Criminal Justice*, 21, 173-184.
- Easteal, P. (1994). Don't Talk, Don't Trust, Don't Feel: The Dysfunctional Culture in Women's Prisons. *Alternative Law Journal*, 19(2), 53-57.
- Easteal, P. (2001). *Less Than Equal: Women and the Australian Legal System*. Chatswood, NSW, Australia: Butterworths.
- Easteal, P. W. (1995). Nesb Women in Victorian Prisons. In Women and Imprisonment Group & Fitzroy Legal Service (Eds.), *Women and Imprisonment*. Melbourne.
- Eastwood, C. (1998). *Surviving Child Sexual Abuse and the Criminal Justice System: Young Women Seeking Justice*. Queensland University Of Technology, Brisbane.
- Eaton, M. (1983). Mitigating Circumstances: Familiar Rhetoric. *International Journal of the Sociology of Law*, 11, 385-400.



- Eaton, M. (1986). *Justice for Women?: Family, Court and Social Control*. Milton Keynes, England: Open University Press.
- Edwards, S. M. (1984). *Women on Trial*. Manchester: Manchester University Press.
- Ettore, E. (1994). What Can She Depend On? Substance Use and Women's Health. In S. Wilkinson & C. Kitzinger (Eds.), *Women and Health: Feminist Perspectives*. London: Taylor and Francis.
- Fabb, B. (1995). Post Release: Female Prisoners' Experience. In W. a. I. Group. & F. I. Service. (Eds.), *Women and Imprisonment* (pp. 115-123). Melbourne.
- Faith, K. (1993). *Unruly Women: The Politics of Confinement and Resistance*. Vancouver: Press Gang Publishers.
- Faith, K. (1994). Resistance: Lessons from Foucault and Feminism. In H. Radtke & J. Henderikus (Eds.), *Power / Gender: Social Relations in Theory and Practice* (pp. 36-66). London: Sage Publications.
- Farr, K. A. (2000). Defeminizing and Dehumanizing Female Murderers: Depictions of Lesbians on Death Row. *Women and Criminal Justice*, 11(1), 49-66.
- Farrell, M. A. (1996). *A Comparative Policy Study of Incarcerated Mothers and Their Young Children in Queensland, New South Wales, Victoria and England*. Unpublished Doctoral thesis, University of Queensland.
- Farrell, M. A. (1998a). Educating on the Inside: Inmate Mothers in Australian Corrections. *Australia and New Zealand Journal of Law and Education*, 3(2), 16-28.
- Farrell, M. A. (1998b). Mothers Offending against Their Role: An Australian Experience. *Women and Criminal Justice*, 9(4), 47-68.
- Farrell, M. A. (1998c). Policies for Incarcerated Mothers and Their Families. *Australian and New Zealand Journal of Criminology*, 31(2), 101-118.
- Farrington, D. P., & Morris, A. M. (1983). Sex, Sentencing and Reconviction. *British Journal of Criminology*, 23.
- Finch, J. (1984). "It's Great to Have Someone to Talk to": The Ethics and Politics of Interviewing Women. In C. Bell & H. Roberts (Eds.), *Social Researching: Politics, Problems, Practice*. London: Routledge and Kegan Paul.
- Fishbein, D. (2000). Sexual Preference, Crime and Punishment. *Women and Criminal Justice*, 11(2), 67-84.

- Fitzroy Legal Service. (1988). *Women and Imprisonment: A Report*. Victoria.
- Fleisher, M. S. (1989). *Warehousing Violence*. London: Sage Publications.
- Fletcher, B., & Moon, D. G. (1993). Introduction. In B. Fletcher & L. D. Shaver & D. G. Moon (Eds.), *Women Prisoners: A Forgotten Population* (pp. 5-13). Westport, Connecticut: Praeger Publishers.
- Flowers, R. B. (1987). *Women and Criminality: The Woman as Victim, Offender, and Practitioner*. Connecticut: Greenwood Press.
- Foucault, M. (1979). *Discipline and Punish: The Birth of the Prison*. Harmondsworth: Penguin.
- Foucault, M. (1980). *The History of Sexuality* (Vol. 1: an introduction). New York: Vintage Books.
- Fountain, J. (1993). Dealing with Data. In D. Hobbs & T. May (Eds.), *Interpreting the Field: Accounts of Ethnography* (pp. 145-173). Oxford: Clarendon Press.
- Fox, R., & Freiberg, A. (1985). *Sentencing: State and Federal Law in Victoria*. Melbourne: Oxford university Press.
- Franz, C., & Stewart, A. (1994). Women's Lives and Theories. In C. Franz & A. Stewart (Eds.), *Women Creating Lives: Identities, Resilience, and Resistance* (pp. 1-8). Boulder, San Francisco, Oxford: Westview Press.
- Freedman, E. (1996). The Prison Lesbian: Race, Class and the Construction of the Aggressive Female Homosexual 1915-1965. *Feminist Studies*, 22(2), 397-423.
- Freidman, I., & Alicea, J. (1995). Women and Heroin. *Gender and Society*, 9(4), 433-448.
- Frigon, S. (1995). A Genealogy of Women's Madness. In R. E. Dobash & R. P. Dobash & L. Noaks (Eds.), *Gender and Crime* (pp. 20-47). Cardiff: University of Wales Press.
- Frye, M. (1983). *The Politics of Reality: Essays in Feminist Theory*. Freedom, California: The Crossing Press.
- Gatens, M. (1983). The Critique of the Sex/Gender Distinction? Interventions after Marx. In J. Allen & P. Patton (Eds.), *Beyond Marxism*. Leichardt, NSW: Intervention Publications.

- Gelsthorpe, L. (1987). The Differential Treatment of Males and Females in the Criminal Justice System. In G. Horobin (Ed.), *Sex, Gender and Care Work*. London: Jessica Kingsley.
- Gelsthorpe, L. (1989). *Sexism and the Female Offender : An Organizational Analysis*. Aldershot, England: Gower.
- Gelsthorpe, L. (1990). Feminist Methodologies in Criminology: A New Approach or Old Wine in New Bottles? In L. Gelsthorpe & A. Morris (Eds.), *Feminist Perspectives in Criminology* (pp. 89-106). Milton Keynes: Open University Press.
- Gelsthorpe, L., & Loucks, N. (1997). Magistrates Explanations of Sentencing Decisions. In C. Hedderman & L. Gelsthorpe (Eds.), *Understanding the Sentencing of Women*. London: Home Office.
- Genders, E., & Player, E. (1987). Women in Prison: The Treatment, the Control, and the Experience. In P. Carlen & A. Worrall (Eds.), *Gender, Crime and Justice*: Open University Press.
- Genders, E., & Player, E. (1995). *Grendon: A Study of a Therapeutic Prison*. Oxford: Clarendon Press.
- George, A. (1995a). The Big Prison. In Women and imprisonment group & Fitzroy Legal Service (Eds.), *Women and Imprisonment*. Melbourne.
- George, A. (1995b). Strip Searches: Sexual Assault by the State. In Women and Imprisonment Group (Ed.), *Women and Imprisonment*. Melbourne: Fitzroy Legal Service.
- Giallombardo, R. (1966a). Social Roles in a Prison for Women. *Social Problems*, 13(3), 268-288.
- Giallombardo, R. (1966b). *Society of Women: A Study of a Women's Prison*. New York: John Wiley and Sons, Inc.
- Gilbert, M. R. (2000). Gendering the City: Women, Boundaries and Visions of Urban Life. In K. B. Miranne; & A. H. Young (Eds.), *Gendering the City: Women, Boundaries and Visions of Urban Life*. Lantham; MD: Rowman & Littlefield.
- Glenn, E. N. (1992). From Servitude to Service Work: Historical Continuities in the Racial Division of Paid Reproductive Labor. *Signs:Journal of women in culture and society*, 18, 1-43.

- Glenn, E. N. (1994). Social Constructions of Mothering. In E. N. Glenn & G. Chang & L. R. Forcey (Eds.), *Mothering: Ideology, Experience and Agency* (pp. 1-29). New York; London: Routledge.
- Glesne, C., & Peshkin, A. (1992). *Becoming Qualitative Researchers*. New York: White Plains, Longman.
- Goffman, E. (1961). *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*. London: Penguin.
- Goffman, E. (1969). *The Presentation of Self in Everyday Life*. Harmondsworth: Penguin Books.
- Graycar, R. (1995). The Gender of Judgements: An Introduction. In M. Thornton (Ed.), *Public and Private: Feminist Legal Debates* (pp. 262-282). Melbourne, Oxford, Auckland, New York: Oxford University Press.
- Greene, S., Haney, C., & Hurtado, A. (2000). Cycles of Pain: Risk Factors in the Lives of Incarcerated Mothers and Their Children. *Prison Journal*, 80(1).
- Grimwade, C. (1999). Diminishing Opportunities: Researching Women's Imprisonment. In S. Cook & S. Davies (Eds.), *Harsh Punishment: International Experiences of Women's Imprisonment* (pp. 291-313). Boston: Northeastern University Press.
- Grosz, E. (1988). The in(Ter)vention of Feminist Knowledges. In B. Caine & E. Grosz & M. d. Lepervanche (Eds.), *Crossing Boundaries: Feminisms and the Critique of Knowledges* (pp. 92-104). Sydney: Allen & Unwin.
- Grosz, E. (1990). Inscriptions and Body Maps: Representations and the Corporeal. In T. Threadgold; & A. Cranney-Francis (Eds.), *Feminine, Masculine and Representation*. Sydney; London; Boston: Allen & Unwin.
- Grosz, E. (1994). *Volatile Bodies*. Bloomington, Indiana: Indiana University Press.
- Grosz, E. (1995). *Space, Time and Perversion: The Politics of Bodies*. St Leonards, NSW: Allen and Unwin.
- Gwynn, C. (1993). Women and Crime: The Failure of Traditional Theories and the Rise of Feminist Criminology. *Monash University Law Review*, 19(1), 92-103.
- Hagan, J., Simpson, J. H., & Gillis, A. (1979). The Sexual Stratification of Social Control: A Gender-Based Perspective on Crime and Delinquency. *British Journal of Sociology*, 30(1), 25-38.

- Hammersley, M. (1990). *Reading Ethnographic Research: A Critical Guide*. London; New York: Longman.
- Hammersley, M., & Atkinson, J. M. (1983). *Ethnography: Principles in Practice*. London: Tavistock Publications.
- Hammersley, M., & Atkinson, P. (1995). *Ethnography: Principles in Practice* (2nd ed.). London; New York: Routledge.
- Hampton, B. (1993). *Prisons and Women*. Kensington, NSW: New South Wales University Press.
- Hampton, B. (1994). *No Escape: Prisons, Therapy and Politics*. Sydney, NSW: University of New South Wales Press.
- Hancock. (1980). The Myth That Females Are Treated More Leniently Than Males in the Juvenile Justice System. *The Australian and New Zealand Journal of Sociology*, 63, 4-13.
- Hannah-Moffat, K. (1995). Feminine Fortresses: Women Centered Prisons? *The Prison Journal, Special Issue: women in Prisons and jails*, 75, 135-164.
- Hannah-Moffat, K. (2000). Prisons That Empower: Neo-Liberal Governance in Canadian Women's Prisons. *British Journal of Criminology*, 40, 510-531.
- Harding, R. (1990). *Review of Suicide and Suicide Attempts by Prisoners in the Custody of the Office of Corrections*. Victoria: Office of Corrections, Victoria.
- Hastrup, K. (1993). The Semantics of Biology: Virginty. In S. Ardener (Ed.), *Defining Females: The Nature of Women in Society*. Oxford: Berg Publishing.
- Hatty, S. (1993). *Invisible Lives: Women, Dependence and the Law*. Paper presented at the Women and the Law, Canberra.
- Hedderman, C. (1990). *The Effects of Defendants' Demeanour on Sentencing in Magistrates' Courts* (Bulletin 29). London: Home Office Research.
- Hedderman, C., & Gelsthorpe, L. (1997). *Understanding the Sentencing of Women* (Home Office Research Study 170). London: Home Office.
- Heffernan, E. (1974). *Making It in Prison: The Cool, the Square and the Life*. New York: Wiley.
- Heidensohn, F. M. (1985). *Women and Crime*. Basingstoke [England]: Macmillan.

- Heidensohn, F. M., & Silvestri, M. (1996). *Women and Crime* (2nd ed.). Basingstoke: Macmillan.
- Henning, T. (1995). Psychological Explanations in Sentencing Women in Tasmania. *The Australian and New Zealand Journal of Criminology*, 28, 298-322.
- Herzberger, S., & Channels, N. (1991). Criminal Justice Processing of Violent and Non-Violent Offenders: The Effects of Familial Relationship to the Victim. In D. D. Knudsen & J. L. Miller (Eds.), *Abused and Battered: Social and Legal Responses to Family Violence*. New York: A. de Gruyter.
- Hirschon, R. (1993). Open Body / Closed Space: The Transformation of Female Sexuality. In S. Ardener (Ed.), *Defining Females: The Nature of Women in Society*. Oxford: Berg Publishing.
- Howe, A. (1990). Sentencing Women to Prison in Victoria. In J. Grbich (Ed.), *Feminism, Law and Society* (pp. 32-53). Melbourne: La Trobe University Press.
- Howe, A. (1994). *Punish and Critique: Towards a Feminist Analysis of Penalty*. London; New York: Routledge.
- Hudson, A. (1990). Elusive Subjects: Researching Young Women in Trouble. In L. Gelsthorpe & A. Morris (Eds.), *Feminist Perspectives in Criminology* (pp. 115-123). Milton Keynes: Open University Press.
- Ikemoto, L. (1992). Furthering the Inquiry: Race, Class and Culture in the Forced Medical Treatment of Pregnant Women. *Tennessee Law Review*, 59, 487-517.
- Jackson, S. (1996). Heterosexuality as a Problem for Feminist Theory. In L. Adkins & V. Merchant (Eds.), *Sexualising the Social: Power and the Organisation of Sexuality* (pp. 15-34): MacMillan.
- Jeffries, S. (2001, 13-15 December 2001). *Gender Judgements: An Investigation of Sentencing and Remand in New Zealand*. Paper presented at the TASA Conference, University of Sydney.
- Johnson, A. (1995). Prison Culture, Violence and Sexuality. In J. Bessant & K. Carrington & S. Cook (Eds.), *Cultures of Crime and Violence: The Australian Experience* (pp. 125-129). Bundoora: La Trobe university Press in association with the Victorian Law Foundation.
- Jones, A. (1980). *Women Who Kill* (1st ed.). New York: Holt, Rinehart, and Winston.

- Jordan, B. K., Schlenger, W. E., Fairbank, W. E., & Caddell, J. M. (1996). Prevalence of Psychiatric Disorders among Incarcerated Women: Ii. *Archives of General Psychiatry*, 53, 513-519.
- Julian, F. H. (1993). Gender and Crime: Different Sex, Different Treatment? In C. C. Culliver (Ed.), *Female Criminality: The State of the Art* (pp. 343-361). New York: Garland.
- Katz, R. (2000). Explaining Girls' and Women's Crime and Desistence in the Context of Their Victimisation Experiences: A Developmental Test of Revised Strain Theory and the Life Course Perspective. *Violence against women*, 6(6), 633-661.
- Kauffman, K. (1988). *Prison Officers and Their World*. Cambridge, Massachusetts: Harvard University Press.
- Kelly, L. (1990). Journeying in Reverse: Possibilities and Problems in Feminist Research on Sexual Violence. In L. M. Gelsthorpe, A. (Ed.), *Feminist Perspectives in Criminology*. Buckingham: Open University Press.
- Kelly, L. (1996). When Does the Speaking Profit Us?: Reflections on the Challenges of Developing Feminist Perspectives on Abuse and Violence by Women. In M. Hester & L. Kelly & J. Radford (Eds.), *Women, Violence and Male Power: Feminist Activism, Research and Practice* (pp. 34-49). Buckingham; Bristol: Open University Press.
- Kelly, L., & Radford, J. (1996). 'Nothing Really Happened': The Invalidation of Women's Experiences of Sexual Violence. In M. Hester & L. Kelly & J. Radford (Eds.), *Women, Violence and Male Power: Feminist Activism, Research and Practice* (pp. 19-33). Buckingham; Bristol: Open University Press.
- Kelly, L., Regan, L., & Burton, S. (1992). Defending the Indefensible? Quantitative Methods and Feminist Research. In H. Hinds & A. Pheonix & J. Stacey (Eds.), *Working Out: New Directions in Women's Studies* (pp. 149-159). London: Falmer Press.
- Kempinen, C. (1983). Changes in the Sentencing Patterns of Male and Female Defendants. *The Prison Journal*, 63(2).
- Kilroy, D. (2000). The White Wall Syndrome. *Women in Prison*, 1(1), 38-41.
- Kilroy, D., & White, G. (2000). Women in Prison and Sexual Assault. *Women in Prison*, 1(1), 5-9.

- King, K. (1990). Producing Sex, Theory and Culture: Gay/Straight Remappings in Contemporary Feminism. In M. Hirsch & E. F. Keller (Eds.), *Conflicts in Feminism*. London: Routledge.
- Kleinmann, S., & Copp, M. (1993). *Emotions and Fieldwork*. California: Sage, Newbury Park.
- Krohn, M. D., Curry, J. P., & Nelson-Kilger, S. (1983). Is Chivalry Dead? An Analysis of Changes in Police Dispositions of Males and Females. *Criminology*, 21, 417-437.
- Kruttschnitt, C. (1982). Women, Crime and Dependency: An Application of the Theory of Law. *Criminology*, 19(4), 495-513.
- Kruttschnitt, C. (1992). "Female Crimes" of Legal Labels. In I. Moyer (Ed.), *The Changing Roles of Women in the Criminal Justice System: Offenders, Victims and Professionals* (pp. 81-98). Illinois: Waveland Press Inc.
- Law, L. (1997). Dancing on the Bar: Sex, Money and the Uneasy Politics of Third Space. In S. Pile & M. Keith (Eds.), *Geographies of Resistance*. London, New York: Routledge.
- Lewis, K., & Hayes, S. (1997). Health of Women Ex-Prisoners. *Psychiatry, Psychology and Law*, 4(1), 55-64.
- Liebling, A. (1992). *Suicides in Prison*. London: Routledge.
- Liebling, A. (1994). Suicide Amongst Women Prisoners. *The Howard Journal*, 33(1), 1-9.
- Lorber, J. (1997). *Gender and the Social Construction of Illness*. Thousand Oaks, CA: Sage Publications.
- MacDonald, M. (1995). *Representing Women: Myths of Femininity in the Popular Media*. London: Edward Arnold.
- MacDonald, S. (1993). The Socialization of the Natural and the Naturalization of the Social. In S. Ardener (Ed.), *Defining Females: The Nature of Women in Society*. Oxford: Berg Publishing.
- Mackay, M., & Smallacombe, S. (1996). Aboriginal Women as Offenders and Victims: The Case of Victoria. *Aboriginal Law Bulletin*, 3(80), 17-23.
- Maher, L. (1992). Reconstructing the Female Criminal: Women and Crack Cocaine. *Southern Californian Review of Law and Women's Studies*, 2(1), 131-154.



- Maher, L. (1997). *Sexed Work: Gender, Race and Resistance in a Brooklyn Drug Market*. New York: McGraw-Hill.
- Major, C. (1993). Women in Prison: A Cycle of Punishment and Sedation. *Connexions*, May/June, 3-7.
- Mann, C. R. (1995). Women of Color and the Criminal Justice System. In B. R. Price & N. J. Sokoloff (Eds.), *The Criminal Justice System and Women: Offenders, Victims and Workers*. New York: McGraw-Hill.
- May, T. (1991). *Probation: Politics, Policy and Practice*. Buckingham: Open University Press.
- McClanahan, S. F., McClelland, G. M., Abram, K. M., & Teplin, L. A. (1999). Pathways into Prostitution among Female Jail Detainees and Their Implications for Mental Health Service. *Psychiatric Services*, 50(12), 1606-1613.
- McClellan, D. (1994). Disparity in the Discipline of Male and Female Offenders in Texas Prisons. *Women and Criminal Justice*, 5(2), 71-98.
- McDowell, L. (1999). *Gender, Identity and Place: Understanding Feminist Geographies*. Minneapolis: University of Minneapolis Press.
- McDowell, L., & Sharp, J. P. (Eds.). (1997). *Space, Gender, Knowledge: Feminist Readings*. London: Arnold.
- McDowell, L., & Sharp, J. P. (Eds.). (1999). *A Feminist Glossary of Human Geography*. London; New York: Arnold.
- McNay, L. (2000). *Gender and Agency: Reconfiguring the Subject in Feminist and Social Theory*. Cambridge: Polity Press.
- McQuaide, S., & Ehrenreich, J. (1998). Women in Prisons: Approaches to Understanding the Lives of a Forgotten Population. *Affilia*(Summer 1998).
- Merry, S. E. (1990). *Getting Justice and Getting Even: Legal Consciousness among Working - Class Americans*. Chicago: The University of Chicago Press.
- Miles, M. B., & Huberman, A. M. (1984). *Qualitative Data Analysis: A Sourcebook of New Methods*. London: Sage.
- Mills, R. (1997). *In Public Places: The Trials of Aileen Wuornos and Tracey Wiggington*. Unpublished Doctoral, Griffith University, Brisbane.

- Moon, D. G., Fletcher, B. R., & Shaver, L. D. (1993). Perspectives on Correctional Organizations. In B. R. Fletcher & L. D. Shaver & D. G. Moon (Eds.), *Women Prisoners: A Forgotten Population* (pp. 93-109). Westport, Connecticut: Praeger Publishers.
- Moon, D. G., Thompson, R. J., & Bennett, R. (1993). Patterns of Substance Abuse among Women in Prison. In B. R. Fletcher & L. D. Shaver & D. G. Moon (Eds.), *Women Prisoners: A Forgotten Population* (pp. 45-54). Westport, Connecticut: Praeger Publishers.
- Moran-Ellis. (1995). Close to Home: The Experience of Researching Child Sexual Abuse. In M. Hester & L. Kelly & J. Radford (Eds.), *Women, Violence and Male Power: Feminist Activism, Research and Practice* (pp. 176-187). Buckingham, Bristol: Open University Press.
- Morgan, M. (1997). "Battered Woman Syndrome": Women's Experiences, Expert Evidence and Legal Discourse. Paper presented at the TASA, University of Wollongong, NSW.
- Morris, A. (1987). *Women, Crime and Criminal Justice*. Cambridge: Basil Blackwell.
- Morris, A., & Gelsthorpe, L. (1981a, December 1980). *False Clues and Female Crime*. Paper presented at the Women and Crime: Cropwood Round Table Conference, Cambridge.
- Morris, A., & Gelsthorpe, L. (1981b). *Women and Crime*. Cambridge: Institute of Criminology.
- Morris, A., & Gelsthorpe, L. (1991). Feminist Perspectives in Criminology: Transforming and Transgressing. *Women and Criminal Justice*, 2(2), 3-26.
- Morris, A., & Wilczynski, A. (Eds.). (1994). *Rocking the Cradle: Women Who Kill Their Children*. Berkeley: University of California Press.
- Morris, A., & Wilkinson, C. (1995). Responding to Female Prisoners' Needs. *The Prison Journal*, 75(3), 295-305.
- Morris, A., Wilkinson, C., Tisi, A., Woodrow, J., & Rockley, A. (1995). *Managing the Needs of Female Prisoners*. London: HMSO.
- Moulds, E. (1980). Chivalry and Paternalism: Disparities of Treatment in the Criminal Justice System. In S. Datesman & F. Scarpitti (Eds.), *Women Crime and Justice*. New York: Oxford University Press.

- Moyer. (1993). Women's Prisons: Issues and Controversies. In R. Muraskin & T. Alleman (Eds.), *It's a Crime: Women and Justice* (pp. 193-210). Englewood Cliffs, New Jersey: Regents/Prentice Hall.
- Moyer, I. (Ed.). (1992). *The Changing Roles of Women in the Criminal Justice System: Offenders, Victims, and Professionals*. Prospect Heights, Illinois: Waveland Press.
- Mukherjee, S. K., Scutt, J. A., & Australian Institute of Criminology. (1981). *Women and Crime*. Sydney: George Allen & Unwin for Australian Institute of Criminology.
- Myers, A., & Wight, S. (Eds.). (1996). *No Angels: Women Who Commit Violence*. London: Pandora.
- Naffine, N. (1987). *Female Crime: The Construction of Women in Criminology*. Sydney: Allen & Unwin.
- Naffine, N. (1990). *Law and the Sexes: Explorations in Feminist Jurisprudence*. Sydney: Allen & Unwin.
- Naffine, N. (1995). Sexing the Subject (of Law). In T. M. (Ed.), *Public and Private: Feminist Legal Debates* (pp. 18-39). Melbourne: Oxford University Press.
- Naffine, N. (1997). *Feminism and Criminology*: Allen & Unwin.
- Nagel, I., & Hagan, J. (1983). Gender and Crime: Offense Patterns and Criminal Court Sanctions. In M. Tonry & N. Morris (Eds.), *Crime and Justice* (Vol. 4). Chicago: The university of Chicago press.
- Nagel, I., & Weitzman, L. (1971). Women as Litigants. *Hastings Law Journal*, 23(171-198).
- Naylor, B. (1993). *Sentencing Female Offenders in the Magistrate's Court: Preliminary Report on a Pilot Study*. Paper presented at the Women and the law, Canberra.
- Newton, M. (1993). *Bad Girls Do It! An Encyclopedia of Female Murderers*. Port Townsend, Washington: Loompanics Unlimited.
- Nicholson, B. (1998, 26-27 June 1998). *Law Sites Revisited: Looking at Differences*. Paper presented at the Representing Justice Conference, Wollongong.
- Norris, C. (1993). Some Ethical Considerations on Fieldwork with the Police. In D. Hobbs & T. May (Eds.), *Interpreting the Field: Accounts of Ethnography* (pp. 123-143). Oxford: Clarendon Press.
- Oakley, A. (1981). *Subject Women*. New York: Pantheon Books.

- Oakley, A. (1986). Interviewing Women: A Contradiction in Terms? In A. Oakley (Ed.), *Telling the Truth About Jerusalem: A Collection of Essays and Poems*. Oxford: Basil Blackwell.
- Oakley, A. (1992). *Social Support and Motherhood*. Oxford: Blackwell.
- Office of the Director of Public Prosecutions. (1996). *Indigenous Women within the Criminal Justice System*. Brisbane: Office of the Director of Public Prosecutions.
- Okely, J. (1993). Privileged, Schooled and Finished. In S. Ardener (Ed.), *Defining Females: The Nature of Women in Society* (2nd ed.). Oxford, Providence: Berg.
- O'Neill, M. (1995). Researching Prostitution and Violence: Towards a Feminist Praxis. In M. Hester & L. Kelly & J. Radford (Eds.), *Women, Violence and Male Power: Feminist Activism, Research and Practice* (pp. 130-147). Philadelphia: Open University Press.
- Owen, B. (1998). *"in the Mix": Struggle and Survival in a Woman's Prison*. Albany: State University of New York Press.
- Owen, J. (1995). Women-Talk and Men-Talk: Defining and Resisting Victim Status? In R. E. Dobash & R. Dobash & L. Noaks (Eds.), *Gender and Crime* (pp. 246-268). Cardiff: University of Wales Press.
- Padel, U., & Stevenson, P. (1988). *Insiders: Women's Experience of Prison*. London: Virago Press.
- Parisi, N. (1982). Are Females Treated Differently? A Review of Theories and Evidence on Sentencing and Parole Decisions. In N. H. Rafter & E. A. Stanko (Eds.), *Judge, Lawyer, Victim, Thief: Woman, Gender Roles and Criminal Justice*. Boston: North Eastern University Press.
- Parker, S. (1998). *Courts and the Public*. Carlton South, Victoria, Australia.: Australian Institute of Judicial Administration Incorporated.
- Pearson, G. (1993). Foreword: Talking a Good Fight: Authenticity and Distance in the Ethnographer's Craft. In D. Hobbs & T. May (Eds.), *Interpreting the Field: Accounts of Ethnography* (pp. vii-xx). Oxford: Clarendon Press.
- Pinnuck, F. (1998). The Medication of Women Prisoners: A Cause for Concern. *Just Policy*, 12, 13-19.
- Player, E. (1994). Women's Prisons after Woolf. In E. Player & M. Jenkins (Eds.), *Prisons after Woolf: Reform through Riot*. London: Routledge.

- Pollak, O. (1950). *The Criminality of Women*. Pennsylvania: University of Pennsylvania Press.
- Pollock-Byrne, J. (1990). *Women, Prison and Crime*. Pacific Grove, California: Brooks/Cole Pub. Co.
- Pugh, A. (1990). My Statistics and Feminism - a True Story. In L. Stanley (Ed.), *Feminist Praxis: Research Theory and Epistemology in Feminist Sociology*. London: Routledge.
- Quadrell, C. (1991). *Nineteenth Century Australian Feminism, Louisa Lawson and the Dawn*. Unpublished Honours, Griffith University, Brisbane.
- Queensland Corrective Services Review, & Peach, F. J. (1999). *Corrections in the Balance: A Review of Corrective Services in Queensland*. Brisbane: Queensland Corrective Services Review.
- Queensland Department of Corrective Services. (2000). *Profile of Female Offenders under Community and Custodial Supervision in Queensland*. Brisbane: Department of Corrective Services.
- Rafter, N. H., & Heidensohn, F. (1995). Introduction: The Development of Feminist Perspectives on Crime. In N. H. Rafter & F. Heidensohn (Eds.), *International Feminist Perspectives in Criminology: Engendering a Discipline*. Philadelphia: Open University Press.
- Rafter, N. H., & Stanley, D. (1999). *Prisons in America: A Reference Handbook*. Santa Barbara, California: ABC-CLIO.
- Ramazanoglu, C. (1989). Improving Sociology: The Problems of Taking a Feminist Standpoint. *Sociology*, 23(3), 427-442.
- Reid, P., & Kelly, E. (1994). Research on Women of Colour: From Ignorance to Awareness. *Psychology of Women Quarterly*, 18, 477-486.
- Reinharz, S. (1992). *Feminist Methods in Social Research*. New York: Oxford University Press.
- Robson, E., & Nancarrow, J. (1995). Housing Needs of Women Released from Prison. In Women and Imprisonment Group (Ed.), *Women and Imprisonment*. Melbourne: Fitzroy Legal Service.
- Rock, P. (1993). *The Social World of an English Crown Court: Witness and Professionals in the Crown Court Centre at Wood Green*. Oxford: Clarendon Press.

- Roseneil, S. (1993). Greenham Revisited: Researching Myself and My Sisters. In D. Hobbs & T. Mays (Eds.), *Interpreting the Field: Accounts of Ethnography* (pp. 177-208). Oxford: Oxford University Press.
- Rosevear, W. (1994). *Drug and Alcohol Problems in Relation to Corrective Services*.
- Rosevear, W. (1997, 27 - 28 November, 1997). *Contrasts between Two Different Models for Prisons*. Paper presented at the Corrections Forum 1997: Future Directions in Prison Reform, Brisbane.
- Rosevear, W. (1998). Health in Prisons. *Inside Out* (38).
- Ross, R., & Fabiano, E. (1986). *Female Offenders: Correctional Afterthoughts*. Jefferson, NC: McFarland.
- Roughley, D. (1993). Queensland Prisons and the Transmission of Hiv Infection. *Criminology Australia* (January/February), 25-28.
- Russo, L. (2000). Prison Strip Searches: A Conflict of Interest between Women Inmates and Prisons. *Women in Prison*, 1(1), 27-36.
- Ryan, J. (2000). *Interim Report: Issues Relating to Women* (Select Committee on the Increase in prisoner population: issues relating to women 1). Sydney: New South Wales Legislative Council.
- Sarmas, L. (1994). Storytelling and the Law: A Case Study of Louth V Diprose. *Melbourne University Law Review*, 19, 701-728.
- Scraton, P. (1990). Scientific Knowledges or Masculine Discourses? Challenging Patriarchy in Criminology. In L. Gelsthorpe & A. Morris (Eds.), *Feminist Perspectives in Criminology*. Milton Keynes: Open University Press.
- Scutt, J. (1990). *Even in the Best of Homes: Violence in the Family*. North Carlton: McCulloch.
- Scutt, J. (1992). No 'Syndrome': The Reality for Battered Women. *Impact*, 22(5), 18-19.
- Scutt, J. (1993). The Incredible Woman: A Recurring Character in Criminal Law. In P. W. Eastal (Ed.), *Women and the Law Conference Proceedings*. Canberra: Australian Institute of Criminology.
- Scutt, J. (1995). Judicial Bias or Legal Bias? Battery, Women and the Law. In J. Bessant & K. Carrington & S. Cook (Eds.), *Cultures of Crime and Violence: The Australian Experience* (pp. 130-143). Victoria: La Trobe university Press.

- Scutt, J. (1997a). *The Incredible Woman: Power and Sexual Politics - Vol 1* (Vol. 1). Melbourne Victoria.: Artemis Publishing.
- Scutt, J. (1997b). *The Incredible Woman: Power and Sexual Politics - Vol 2* (Vol. 2). Melbourne, Victoria: Artemis Publishing.
- Shacklady-Smith, L. (1978). Sexist Assumptions and Female Delinquency. In C. Smart & B. Smart (Eds.), *Women, Sexuality and Social Control*. London: Routledge & Kegan Paul.
- Shaw, B. (2000, 31 October - 1 November). *The Management of Female Offenders: Achieving Strategic Change*. Paper presented at the Women in corrections: Staff and Clients Conference, Adelaide.
- Shaw, M. (1992). Issue of Power and Control: Women in Prison and Their Defenders. *British Journal of Criminology*, 32(4), 438-453.
- Shaw, M. (1995). Conceptualizing Violence by Women. In R. E. Dobash & R. P. Dobash & L. Noaks (Eds.), *Gender and Crime* (pp. 115-131). Cardiff: University of Wales Press.
- Sheehy, E., Stubbs, J., & Tolmie, J. (1992). Defending Battered Women on Trial: The Battered Woman Syndrome and Its Limitations. *Criminal Law Journal*, 16(6), 369-394.
- Sigurdson, C. (2000). The Mad, the Bad, and the Abandoned: The Mentally Ill in Prisons and Jails. *Corrections Today*(Dec 2000).
- Sim, J. (1990). *Medical Power in Prisons: The Prison Medical Service in England 1774-1989*. Milton Keynes, England; Philadelphia: Open University Press.
- Simmonds, F. N. (1992). Difference, Power and Knowledge: Black Women in Academia. In H. Hinds & A. Phoenix & J. Stacey (Eds.), *Working Out: New Directions for Women's Studies*. London: Falmer.
- Simon, R. J. (1975). *Women and Crime*. Lexington, MA: Lexington Books.
- Smart, C. (1976). *Women, Crime and Criminology: A Feminist Critique*. Boston: Routledge and Kegan Paul.
- Smart, C. (1984). *The Ties That Bind: Law, Marriage, and the Reproduction of Patriarchal Relations*. London; Boston; Melbourne: Routledge and Kegan Paul.
- Smart, C. (1995). *Law, Crime and Sexuality: Essays in Feminism*. London: Sage.

- Smith, B. (1989). Toward a Black Feminist Criticism. In E. Showalter (Ed.), *The New Feminist Criticism: Essays on Women, Literature, and Theory* (2nd ed.). London: Virago Press.
- Smith, C., & Borland, J. (1999). Minor Psychiatric Disturbance in Women Serving a Prison Sentence: The Use of the General Health Questionnaire in the Estimation of the Prevalence of Non-Psychotic Disturbance in Women Prisoners. *Legal and Criminological Psychology*, 4(Part 2), 273-284.
- Smith, D. (1988). Feminity as Discourse. In L. Roman & L. Christian-Smith & E. Ellsworth (Eds.), *Becoming Feminine: The Politics of Popular Culture* (pp. 37-59). London: Falmer Press.
- Spelman, E. (1990). *Inessential Women: Problems of Exclusion in Feminist Thought*. London: The Women's Press.
- Spradley, J., & McCurdy, D. (1972). *The Cultural Experience: Ethnography in Complex Society*. Prospect Heights, Illinois: Waveland Press.
- Stacey, J. (1988). Can There Be a Feminist Ethnography? *Women's Studies International Quarterly*, 11, 21-27.
- Stanley, L. (Ed.). (1990). *Feminist Praxis: Research, Theory and Epistemology in Feminist Sociology*. London: Routledge.
- Stanley, L., & Wise, S. (1993). *Breaking out Again: Feminist Consciousness and Feminist Research*. London: Routledge.
- Steffensmeier, D. (1980). Assessing the Impact of the Women's Movement on Sex-Based Differences in the Handling of Adult Criminal Defendants. *Crime and Delinquency*, 26(3), 344-357.
- Stevens, D. J. (1998). The Impact of Time Served and Regime on Prisoners' Anticipation of Crime: Female Prisonisation Effects. *The Howard Journal of Criminal Justice*, 37(2), 188-205.
- Stewart, A. (1994). Toward a Feminist Strategy for Studying Women's Lives. In C. E. Franz & A. Stewart (Eds.), *Women Creating Lives: Identities, Resilience, and Resistance*. (pp. 11-35). Boulder, San Francisco, Oxford: Westview Press.
- Stubbs, J., & Tolmie, J. (1994). Battered Woman Syndrome in Australia: A Challenge to Gender Bias in the Law? In J. Stubbs (Ed.), *Women, Male Violence and the Law* (pp.



192-225). Sydney, NSW: The Institute of Criminology, Sydney University Law School.

Tait, D. (1998). *Boundaries and Barriers: The Social Production of Space in Magistrates' Courts and Guardianship Tribunals*. Paper presented at the Representing Justice conference, Wollongong.

Taylor, A. (1993). *Women Drug Users*. Oxford: Clarendon Press.

Teplin, L. A., Abram, K. M., & McClelland, G. M. (1996). Prevalence of Psychiatric Disorders among Women: I. *Archives of General Psychiatry*, 53, 505-512.

Thornton, M. (1996). *Dissonance and Distrust: Women in the Legal Profession*. Melbourne: Oxford University Press.

Visher, C. (1983). Gender, Police Arrest Decisions and Notions of Chivalry. *Criminology*, 21, 5-28.

Walklate, S. (1995). *Gender and Crime: An Introduction*. London; New York: Prentice Hall / Harvester Wheatsheaf.

Ward, D., & Kassebaum, G. (1965). *Women's Prison: Sex and Social Structure*. Chicago: Aldine Publishing Company.

Ward, J. (1993). *Ambushed*. London: Vermillion.

Warren, M. (Ed.). (1981). *Comparing Female and Male Offenders* (Vol. 2). Beverly Hills: Sage Publications.

Wearing, B. (1996). *Gender: The Pain and Pleasure of Difference*. Melbourne, Australia: Addison Wesley Longman Australia Pty Ltd.

Webster, F. (2002). Do Bodies Matter? Sex, Gender and Politics. *Australian Feminist Studies*, 17(38), 191-205.

White, J., & Kowalski, R. (1994). Deconstructing the Myth of the Nonaggressive Woman. *Psychology of Women Quarterly*, 18, 487-508.

White, L. (1991). Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs G. In M. Fineman & N. Thomadsen (Eds.), *At the Boundaries of Law; Feminism and Legal Theory*. New York: Routledge.

Whiting, F. (1999, 8 August, 1999). Tighter Rein on Inmates. *Courier Mail*, pp. 46.

- Widom, C. S. (1981). Perspectives of Female Criminality: A Critical Examination of Assumptions. In A. Morris & L. Gelsthorpe (Eds.), *Women and Crime* (pp. 33-48). Cambridge: Institute of Criminology.
- Wilczynski, A. (1995). Child-Killing by Parents: Social, Legal and Gender Issues. In R. E. Dobash & R. P. Dobash & L. Noaks (Eds.), *Gender and Crime* (pp. 167-180). Cardiff: University of Wales Press.
- Wilkie, M. (1993a). *Sentencing Women: Pre-Sentencing Reports and Constructions of Female Offenders* (Research Report 9). Western Australia: University of Western Australia Crime Research Centre.
- Wilkie, M. (1993b). *Women Social Security Offenders: Experiences of the Criminal Justice System of Western Australia* (Research Report 8). Western Australia: The University of Western Australia Crime Research Centre.
- Wilkins, R. (1993). Taking It Personally: A Note on Emotions and Autobiography. *Sociology*, 27(1), 93-100.
- Wilkinson, C. (1997). Australian Drug Laws: Prohibition Versus Pragmatism. In C. Wilkinson & B. Saunders (Eds.), *Perspectives on Addiction: Making Sense of the Issues* (pp. 108-116). Perth, WA: William Montgomery Pty Ltd.
- Williamson, H. (1996). Systematic or Sentimental? The Place of Feelings in Social Research. In K. Carter & S. Delamont (Eds.), *Qualitative Research: The Emotional Dimension* (pp. 28-41). Aldershot, England: Avebury.
- Willis, J. (1987). Editorial: Pre-Trial Decision Making. *Australian and New Zealand Journal of Criminology*, 20(1-2), 1-2.
- Wincup, E. (1999). Researching Women Awaiting Trial: Dilemmas of Feminist Ethnography. In F. Brookman & L. Noaks & E. Wincup (Eds.), *Qualitative Research in Criminology* (pp. 112-129). Aldershot, Hants, England; Brookfield, Vt: Ashgate.
- Wittig, M. (1992). *The Straight Mind and Other Essays*. London: Harvester Wheatsheaf.
- Witz, A., Halford, S., & Savage, M. (1996). Organized Bodies: Gender, Sexuality, and Embodiment in Contemporary Organizations. In L. Adkins & V. Merchant (Eds.), *Sexualizing the Social: Power and the Organisation of Sexuality* (pp. 173-190). Basingstoke, England: Macmillan.
- Wolcott, H. F. (1994). *Transforming Qualitative Data: Description, Analysis and Interpretation*. Thousand Oaks, California: Sage Publications Inc.

- Worrall, A. (1981). Out of Place: Female Offenders in Court. *Probation Journal*, 28(3), 90-93.
- Worrall, A. (1987). Sisters in Law? Women Defendants and Women Magistrates. In P. Carlen & A. Worrall (Eds.), *Gender, Crime and Justice* (pp. 108-124). Milton Keynes: Open University Press.
- Worrall, A. (1990). *Offending Women: Female Lawbreakers and the Criminal Justice System*. London; New York: Routledge.
- Worrall, A. (1996). Gender, Criminal Justice and Probation. In G. McIvor (Ed.), *Working with Offenders*. London: Jessica Kingsley Publishers.
- Zajdow, G. (1998, 8-10 July. 1998). *It Was the Worst Stone in the Chemist's Bag: The Experience of Methadone*. Paper presented at the Australian and New Zealand Society of Criminology, ANA Hotel, Gold Coast.
- Zdenkowski, G. (1994). Contemporary Sentencing Issues, *The Australian Criminal Justice System - the Mid 1990s* (pp. 171-212). Australia: Butterworths.
- Zingraff, M., & Thomson, R. (1984). Differential Sentencing of Women and Men in the USA. *International Journal of the Sociology of Law*, 12(4), 401-413.