



CRC **community**
restorative
centre

Miranda Project
Program Manager

MARISA
MOLITERNO



CRC acknowledges the Traditional Custodians of the land on which we all work and live. We recognise their continuing connection to land, water, and community and pay respects to Elders past and present. We acknowledge that sovereignty was never ceded.

We acknowledge the tireless advocacy and work undertaken by First Nations people in advocating for systemic change in the criminal legal system.

This always was, always will be Aboriginal Land.



COMMUNITY RESTORATIVE CENTRE

- CRC is the lead NGO in NSW providing specialist support to people affected by the criminal justice system and their families, with a particular emphasis on the provision of post-release and reintegration programs for people with multiple and complex needs.
- All CRC programs aim to reduce recidivism, break entrenched cycles of criminal justice system involvement, and build pathways out of the criminal justice system.
- CRC recognises social determinants of criminalisation and the pathway from victimisation to criminalisation.
- CRC's Miranda Project works with women anywhere along the criminal justice system continuum who are also victims of/or at risk of Family/Domestic Violence, with a focus on diverting women away from the criminal justice system.

CONCERNS OF COERCIVE CONTROL DRAFT BILL

- The criminalisation of coercive control will increase the likelihood of criminalising marginalised women experiencing domestic and family violence, including First Nations women.
- Situating a response to coercive control in the criminal legal system requires women involving the police, which is problematic for marginalised women and in particular First Nations women.
- The criminal legal system is a blunt tool to address domestic and family violence, including coercive control.

CONTEXT OF COLONISATION

- The effects of colonisation, dispossession, oppression, racism and centuries of structural violence, continue to be felt by First Nations communities today and are perpetuated through governments systems of surveillance and control (police, prisons, child 'protection')
- This must be considered in the context of legislative changes, in particular changes that are centred on people's resistance and response to violence.
- First Nations people are the most incarcerated people on Earth.
- The number of First Nations parents in prison – particularly women has a direct effect on the number of First Nations children in OOHC.

CONTEXT OF WOMEN IN THE CRIMINAL JUSTICE SYSTEM

- Over-representation of First Nations women in NSW prisons
 - **17 times more** likely to be in prison than non-Indigenous women
 - **50% increase** in number of First Nations women in prison from 2013-2022
 - **69% increase** in First Nations women on remand from 2013 -2022
- High rates of victims of intimate partner violence - **71%**
- High rates of mental illness - **77%**
- High rates of cognitive impairment - **15%**
- High rates of mothers with at least one child under the age of 16 – **80%** for Aboriginal women
- Women released from prison are **16 times** more likely to die from violence than women of the same age in the general population

CRC recognises women's resistance to violence and pathways from victimisation to criminalisation

PATHWAY FROM VICTIMISATION TO CRIMINALISATION

Women are often incarcerated as either a direct or indirect result of victimisation:

- Choosing to commit a crime to get out of a violent and dangerous situation
- Violence is used to coerce behaviour that is criminalised
- Impacts of financial abuse, poverty and homelessness, resulting in survival crimes and risk-taking behaviours to have needs met
- Impacts of violence on mental health, emotional health, wellbeing and opportunities (or lack thereof)
- Resistance and responses to violence increasing risk of incarceration:
 - strategies to keep themselves and others safe and/or resist violence
 - strategies to cope, including using substances to manage physical, emotional and psychological pain
 - overt resistance to violence such as fighting back, using force to escape / protect themselves and others

Women labelled as a perpetrator of violence in an ADVO are often not the primary aggressor when looking at the full sequence of events.

NEGATIVE IMPACTS OF CRIMINAL JUSTICE INVOLVEMENT

Involvement with criminal justice system exacerbates disadvantage, trauma and risk including but not limited to:

- **Mental Health and Wellbeing:** nature and process of prison can re-traumatise and/or exacerbate mental health and wellbeing concerns.
- **Barriers to accessing services:** people frequently face stigma and discrimination when attempting to access services in the community.
- **Lack of housing options:** destabilising access to housing, jeopardising rental options and increasing risk of homelessness.
- **Financial independence:** difficulty accessing employment, balancing caring responsibilities and starting over financially.
- **Family and children:** losing contact with children, involvement with child protection system, and attempting to maintain children's safety.

CONCERN: INCREASED RISK OF WOMEN BEING CRIMINALISED

- Coercive control legislation can be used against victim survivors and women being misidentified as perpetrator of violence
 - Women often do not present in line with preconceived notions of what a victim looks like, what fear behaviour looks like
 - This has already been seen in context of ADVO, and assault related charges
- Concern regarding wording of meaning of “abusive behaviour” and meaning of “domestic abuse”
 - Women's protection of children being misconstrued as violence and coercive control
- The term “reasonable person”
 - This is based on preconceived notions of what a reasonable person. People CRC support often experience stigma and discrimination as a result of their criminalisation, mental health concerns, disability or use of substances.

CONCERN: RELIES ON WOMEN INVOLVING THE POLICE

- First Nations women will often not call police for assistance, in instances when police have been called will often experience adverse impacts.
- Police involvement often increases risks of:
 - racial discrimination
 - police mistreatment, risk of being harmed or risk of death in custody
 - exposing them to possible criminal justice involvement and /or child removal
 - possible violence or ostracising from community / family members
 - violence from person using harm
- The significance of personal histories/experiences with police as well as the broader contextual role police have played in enforcing colonial, structural and racial violence is a significant barrier that cannot be addressed with training and resources of police.
- This has already been evident in ADVO circumstances and the intersection with misidentification of victims as the primary aggressor.

CRIMINAL LEGAL SYSTEM IS A BLUNT TOOL TO ADDRESS FAMILY AND DOMESTIC VIOLENCE

- While governmental messaging that coercive control is not tolerated is a positive message, However, placing that response in the criminal legal system does not address the concerns women have in engaging the criminal legal system.
- While possible incarceration can incapacitate a perpetrator to a degree for a brief period of time it is not conducive for changing behaviour as prisons are by definition a controlling environment.
- There is no strong evidence that criminalisation deters from committing further acts of violence, yet there is evidence that imprisonment makes reoffending more likely.
- The criminal legal system often mirrors violence and reinforces gendered violence.

WHAT DOES WORK

- Primary prevention programs and initiatives delivered in a meaningful and culturally appropriate ways to address attitudes and belief structures.
- Targeted, responsive and specialised services available to victim survivors. Including:
 - for women who are marginalised and criminalised.
 - place based, violence informed and culturally led/informed services.
- Holistic, relational and long term models of support which are:
 - Individually tailored to woman's unique experience, centring their own expertise and knowledge of their own life, needs and wants.
 - reinforcing and building on their resistances and protective strategies in responding to violence.
- Safe and affordable housing options, to provide women genuine options should they wish to leave.
- Individually tailored, meaningful, programmes for people who use violence to change behaviour and underlying attitudes to work on drivers of committing violence.

MIRANDA PROJECT

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WHERE TO GET MORE INFORMATION

- Please reach out to us by contacting **(02) 9288 8700** and ask to speak with Miranda Project Team
- For more information about CRC, please visit <https://www.crcnsw.org.au/>
- For CRC AOD and reintegration program evaluation, please visit <https://www.crcnsw.org.au/advocacy/research/>
- KWOOP Coalition – https://www.sydneycommunityfoundation.org.au/find_a_fund/kwoop-keeping-women-out-of-prison/
- The Corston Report - <https://webarchive.nationalarchives.gov.uk/ukgwa/20130128112038/http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf>
- Insight Exchange - www.insightexchange.net