
VIOLENT OFFENDING BY AND AGAINST INDIGENOUS WOMEN

by Lorana Bartels

INTRODUCTION

This paper considers the issue of Indigenous women and violence—both the violence they perpetrate and the violence they experience. As will be discussed further below, however, most Indigenous women who offend are themselves victims, and the nexus between offending and victimisation must therefore be considered. The paper also examines current and future responses to this violence and victimisation.

DATA QUALITY AND UNDER-REPORTING

One key point to note is in relation to data quality. As has been discussed previously,¹ many of the offender datasets report on gender *or* Indigenous status, but not the intersection of the two. In relation to victimisation, Hardman has argued that there is an inconsistent approach to asking about Indigenous status in relation to crime victims, resulting in ‘piecemeal and largely unreliable’ data.² Specifically, there are clear gaps in the information about Indigenous victims of sexual assault.³

Another linked issue is that Indigenous family and sexual violence is thought to be under-reported to a greater extent than in the general community,⁴ with up to 90 per cent of violence against Indigenous women not disclosed.⁵ Recent research by the Australian Institute of Criminology (‘AIC’)⁶ has examined reasons for this and potential responses.

INDIGENOUS WOMEN AS OFFENDERS

KEY STATISTICS ON INDIGENOUS WOMEN PRISONERS

The most recent data indicates that although imprisonment rates are nowhere near as high as for Indigenous men (380 versus 4,194 per 100,000), Indigenous women are over-represented to a greater extent, compared with the general female population (16.5 versus 13 times) and comprise a larger proportion of the women’s prison population (33 per cent versus 26 per cent for Indigenous men).⁷ In addition, the number of Indigenous women in full-time custody rose by 7 per cent between the 2011 and 2012 March quarters,

compared with a 5 per cent increase for Indigenous men and 2 per cent for the general female population.⁸ Indigenous women are also more likely to be repeat offenders, with 67 per cent of prisoners having been imprisoned previously, compared with 36 per cent of non-Indigenous women prisoners.⁹

INDIGENOUS WOMEN AND VIOLENT OFFENDING

A 2004 study published by the AIC as part of the Drug Use Careers of Offenders study found that 57 per cent of Indigenous women were serving their sentence for a violent offence, compared with 21 per cent of non-Indigenous women. In addition, 73 per cent of Indigenous women prisoners surveyed admitted to physically assaulting another person at some stage in their lives, with 16 per cent doing so on a regular basis, compared with 40 per cent and 5 per cent respectively for non-Indigenous women.¹⁰ The percentage who went on to become regular offenders was almost twice as high among Indigenous women (22 per cent versus 13 per cent).¹¹

According to the 2011 Australian Bureau of Statistics (‘ABS’) prison census data, acts intended to cause injury were the most common offence type for which Indigenous women were imprisoned, accounting for 33 per cent of all offences, compared with 11 per cent for non-Indigenous women. This confirms Behrendt, Cunneen and Liebesman’s assertion that ‘Indigenous women are more likely to be imprisoned for violence-related offences than non-Indigenous women’,¹² which they suggest may be in response to family violence.

This offending profile also conforms with data from Western Australia, which found that violent offences dominated Indigenous women’s apprehensions by police, and they were almost twice as likely to be apprehended for violent offences as for property offences (40 versus 22 per 1,000 people).¹³ Alarming, Indigenous women were arrested at more than 34 times the rate of non-Indigenous women for ‘offences against the person’ (homicide, assault, sexual assault, endangering persons, abduction

and robbery)—and were also five times more likely to be arrested for violent offences than non-Indigenous men. Over a third (36 per cent) of the 96 cases finalised against an Indigenous woman in the higher courts related to offences against the person.¹⁴

Finally, the data from the AIC's national homicide monitoring program indicates that Indigenous women are 14 times more likely than non-Indigenous women to commit homicide (5.3 versus 0.4 per 100,000),¹⁵ a ratio which has remained constant since 1990. According to the most recent AIC data, Indigenous women accounted for 28 per cent of Indigenous homicide offenders. The offender and victim were in a domestic or family relationship in 93 per cent of cases,¹⁶ and it is likely many of these cases involved women responding to violence against themselves.

In her 2010 report on prevalence and risk factors for Indigenous violent offenders, Wundersitz concluded:

[t]here has been a tendency to focus responses and interventions on Indigenous males while paying less attention to the violent offending of Indigenous females. Yet these data suggest that the incidence and nature of violent behaviour by Indigenous females requires closer scrutiny.¹⁷

INDIGENOUS WOMEN AS VICTIMS OF VIOLENCE

The issue of Indigenous women as victims of violence has been discussed at length in recent years,¹⁸ and will not be considered in detail. What is clear, however, is that Indigenous women experience violent and sexual victimisation at much higher rates, and more seriously, than non-Indigenous women, and much of this is likely to be in a domestic context.

The ABS has recently started reporting on the relationship between victims and offenders in some jurisdictions, and this confirms that Indigenous women are more likely to be assaulted or sexually assaulted by someone known to them—for example, 64 per cent of reported female Indigenous sexual assault victims in the Northern Territory ('NT') knew their assailant, compared with only 44 per cent of non-Indigenous women.¹⁹ For assault, the figures were 89 per cent and 64 per cent respectively in the NT and 93 per cent and 80 per cent in New South Wales ('NSW').

If anything, these figures probably under-represent the true picture, given that victims are less likely to report an assault or sexual assault when their assailant is known to them.²⁰ Nevertheless, these data clearly have implications for crime prevention, prosecution and

offender treatment,²¹ and go some way to demonstrating the interconnected relationships between Indigenous women and those who commit violence against them, as well as the challenges involved in responding to such violence.

As Stubbs and Tolmie have noted, 'Aboriginal women's options for dealing with male violence are limited, not just by their poverty and extreme economic inequality, but also by the racism of the wider community'.²² In addition, many Aboriginal women feel a positive duty to keep Indigenous families together,²³ thereby limiting their options further.

THE OFFENDING/VICTIMISATION NEXUS

I now want to consider the relationship between Indigenous women's exposure to violence and their own offending, as the evidence suggests the two issues are closely linked.²⁴ For example, a 2001 report by the NSW Aboriginal Justice Advisory Council found that:

at least 80 percent of the women surveyed said that their experience of abuse was an indirect cause of their offending. Some women revealed that the underlying cause of their drug and criminal habits was to avoid dealing with, or because they had not been able to address, the abuse that they had suffered as a child, in particular child sexual assault.²⁵

Lawrie's survey of NSW Indigenous women in prison found that 70 per cent had been subject to physical and sexual abuse as children; 78 per cent reported being physically assaulted and 44 per cent sexually assaulted as adults.²⁶ One of the key findings of the study was 'the clear link between child sexual assault, drug addiction and the patterns of offending behaviour that led' to the women's imprisonment.²⁷

In addition, a longitudinal study in Queensland found that 74 per cent of Indigenous females who had been maltreated as a child and received a police caution re-offended, compared with only 47 per cent of maltreated non-Indigenous females,²⁸ suggesting a stronger relationship between victimisation and recidivism for Indigenous than non-Indigenous females—which highlights the long-term implications of not dealing with victimisation adequately.

RESPONDING TO VIOLENCE AND VICTIMISATION

Clearly, there are real concerns about Indigenous women's violent offending and victimisation, and the relationship between the two. Unfortunately, there is little positive to say in terms of responses to Indigenous women's violence. Last year, Macklin and Gilbert

observed that there was ‘very little literature on preventing violent reoffending among Indigenous women’ and that conclusions could not yet be drawn about ‘effective treatment programs for Indigenous women who have committed violent offences’.²⁹ More generally, in a 2009 review of correctional programs in Australia, Heseltine, Sarre and Day commented that there had been ‘limited progress made in the development of programs for special needs groups, including female and Indigenous offenders’,³⁰ but did not give consideration to the specific needs of offenders who are both female *and* Indigenous.

There are some examples of promising initiatives for Indigenous women offenders,³¹ but there remains a need to ensure programs are properly evaluated, so their effectiveness can be determined. Critically, programs must be adequately resourced—for example, the South Australian Family and Community Healing Program was formally evaluated, with participants indicating that the ‘program equipped them with the skills and knowledge to move from a life of violence and to a journey of healing’, but the program was subsequently defunded.³² Recently, it was reported that the Queensland Government is proposing to defund the Special Circumstances Court, in spite of the program having ‘stopped 96 per cent of participating female prisoners returning to jail’.³³ Significantly, 30 per cent of the women who participated in that program were Indigenous.

In terms of victimisation, Cripps and McGlade observed that typical ‘western’ responses to family violence, such as women’s refuges and criminal justice responses, have ‘mostly been culturally inappropriate and ineffective’.³⁴ Taylor and Putt have called for research on community-oriented solutions to sexual violence in Indigenous communities and rehabilitative initiatives with offenders.³⁵ Willis has also suggested that services that take a flexible approach and include men as part of the healing process are more likely to be utilised by Indigenous victims and survivors,³⁶ while Cox suggests that ‘if you commence healing in an Indigenous community, it reduces the level of violence’.³⁷ Recently, Cripps and Davis highlighted some examples of good practice responses to Indigenous family violence, noting that ‘effective programs require the involvement of Indigenous communities’.³⁸

CONCLUSION

This paper presents a brief overview on Indigenous women and violence. Professor Julie Stubbs observed recently that:

While belated attention has begun to be paid to research and programs directed towards the victimisation of Indigenous

women – some of which recognise the overlap between victimisation and offending – there has been little attention given to the criminalisation of Indigenous women and their needs and interests within criminal justice.³⁹

If we are to break the ongoing cycle of violence by and against Indigenous women, we need to develop comprehensive and holistic responses which seek to heal Indigenous women and their communities in partnership with Indigenous communities.

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- 1 Lorana Bartels, ‘Indigenous Women’s Offending Patterns: A Literature Review’ (Research and Public Policy (‘RPP’) Series, No 107, Australian Institute of Criminology (‘AIC’), 2010).
- 2 Anastasia Hardman, ‘The Not-so-standard Indigenous Question: Identifying Aboriginal and Torres Strait Islander Victims’ (2010) 7(16) *Indigenous Law Bulletin* 17.
- 3 Dorinda Cox, ‘Working with Indigenous Survivors of Sexual Assault’ (ACCSA Wrap. No 5, Australian Institute of Family Studies, 2008).
- 4 Natalie Taylor and Judy Putt, ‘Adult Sexual Violence in Indigenous and Culturally and Linguistically Diverse Communities in Australia’ (Trends and Issues in Crime and Criminal Justice (‘T and I’), No 345, AIC, 2007); Joy Wundersitz, ‘Indigenous Perpetrators of Violence: Prevalence and Risk Factors for Offending’ (RPP, No 105, AIC, 2010); Matthew Willis, ‘Non-disclosure of Violence in Australian Indigenous Communities’ (T and I, No 405, AIC, 2011).
- 5 Taylor and Putt, *ibid.*
- 6 Willis, above n 4.
- 7 Australian Bureau of Statistics (ABS), ‘Corrective Services, Australia, March 2012’ (Cat 4512.0, ABS, 2012).
- 8 *Ibid.*
- 9 ABS, ‘Prisoners in Australia, 2011’ (Cat 4517.0, ABS, 2011).
- 10 Holly Johnson, ‘Drugs and Crime: A Study of Incarcerated Female Offenders’ (RPP, No 63, AIC, 2004).
- 11 *Ibid.*
- 12 Larissa Behrendt, Chris Cunneen and Terri Liebesman, *Indigenous Legal Relations in Australia* (Oxford University Press, 2009) 16.
- 13 Nini Loh et al, *Crime and Justice Statistics for Western Australia, 2005* (Crime Research Centre, 2007).
- 14 *Ibid.*
- 15 Jack Dearden and Warwick Jones, ‘Homicide in Australia: 2006-07 National Homicide Monitoring Program Annual Report’ (Monitoring Report No 1, AIC, 2008).
- 16 Marie Virueda and Jason Payne, ‘Homicide in Australia: 2007-08 National Homicide Monitoring Program Annual Report’ (Monitoring Report No 13, AIC, 2010).
- 17 Wundersitz, above n 4, 34.
- 18 See eg Steering Committee for the Review of Government Service Provision (‘SCRGSP’), *Overcoming Indigenous Disadvantage: Key Indicators 2011* (Productivity Commission, 2011); Willis, above n 4; Wundersitz, above n 4.

- 19 ABS, 'Recorded Crime - Victims, Australia, 2011' (Cat 4510.0, ABS, 2012).
- 20 Willis, above n 4.
- 21 Ibid.
- 22 Julie Stubbs and Julia Tolmie, 'Race, Gender, and the Battered Woman Syndrome: An Australian Case Study' (1995) 8 *Canadian Journal of Women and Law* 122, 133.
- 23 Caroline Norrington, 'Intersectionality: Indigenous Women' in Patricia Eastal (ed), *Women and the Law* (LexisNexis Butterworths, 2011) 228.
- 24 See Bartels, above n 1.
- 25 NSW Aboriginal Justice Advisory Council, *Holistic Community Justice: A Proposed Response to Aboriginal Family Violence* (NSW Attorney General's Department, 2001) 6.
- 26 Rowena Lawrie, *Speak Out, Speak Strong: Researching the Needs of Aboriginal Women in Custody* (NSW Aboriginal Justice Advisory Council, 2003).
- 27 Ibid, 5.
- 28 SCRGSP, *Overcoming Indigenous Disadvantage: Key Indicators 2009* (Productivity Commission, 2009).
- 29 Anna Macklin and Robyn Gilbert, 'Working with Indigenous Offenders to End Violence' (Brief No 11, Indigenous Justice Clearinghouse, 2011) 6.
- 30 Karen Heseltine, Andrew Day and Rick Sarre, 'Prison-based Correctional Rehabilitation Programs: The 2009 National Picture in Australia' (RPP, No 112, AIC, 2011) 40.
- 31 Lorana Bartels, 'Diversion Programs for Indigenous Women' (Research in Practice, No 13, AIC, 2010).
- 32 Ibid.
- 33 Tony Moore, 'Axe Hovers Over Diversionary Court', *Brisbane Times* (online), 5 July 2012 <<http://www.brisbanetimes.com.au/queensland/axe-hovers-over-diversionary-court-20120704-21h6e.html#ixzz1zi7QigsY>>.
- 34 Kyllie Cripps and Hannah McGlade, 'Indigenous Family Violence and Sexual Abuse: Considering Pathways Forward' (2008) 14 (2/3) *Journal of Family Studies* 240, 243.
- 35 Taylor and Putt, above n 4.
- 36 Willis, above n 4.
- 37 Dorinda Cox, 'Aboriginal Healing Project, Department of Health WA' (2008) 17 *Aware: ACSSA Newsletter* 18.
- 38 Kyllie Cripps and Megan Davis, 'Communities Working to Reduce Indigenous Family Violence' (Brief No 12, Indigenous Justice Clearinghouse, 2012) 5.
- 39 Julie Stubbs, 'Indigenous Women in Australian Criminal Justice: Over-represented But Rarely Acknowledged' (2011) 15 *Australian Indigenous Law Review* 47, 48.

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