WOMEN IN PRISON

Primary document for the CJC/ICJ/WIPAN Forum NSW Parliament

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Parts of this paper have been extracted from the ‘Women in Prison Advocacy Networks’ chapter of the forthcoming international publication by the International Penal and Penitentiary Foundation (IPPF).

Cover Photo: Tracey Brannigan
Introduction

Prison policies, more often than not, overlook the special needs of women in prison. Amongst other issues, many women in prison have high levels of mental illness and drug or alcohol dependence as well as sexual and physical abuse and violence. Issues arising from gender-specific health care needs and family responsibilities are also frequently neglected for women in prison. Although women represent a small percentage of the total prison population, their numbers are increasing and the rate of increase is much greater than that of men.

Women in prison are often referred to as ‘high-needs and low-risk’, in contrast to men in prison for whom the inverse is true. As a result, women in prison have largely different needs to that of men in prison.

The experience of imprisonment can be destructive for both men and women prisoners. Overcrowding, inhumane living conditions and treatment, inadequate health and rehabilitation services, and a lack of educational services are all issues faced by prisoners in Australia as identified by the Australian Human Rights Commission.¹

This paper will be presented in four parts. First, the paper will present statistical information about the rising female prison population in Australia and trends in sentencing and remand - setting the scene for the rest of the paper. Second, the paper will consider the role of education and training in prison. Third, the paper will consider the special needs of women who have come into contact with the criminal justice system, focusing in particular on mental health, welfare and families. Fourth, the paper will consider some of the issues and failures of the system to address the transition from custody to the community on release.

Historical Context of Women’s Imprisonment

Female convicts who arrived in Australia from England and Ireland in the 18th and 19th century was sent to work in a ‘Female Factory’. Women would either work at these factories making ropes, flax or wool, or were sent to the home of settlers as domestic servants as a punishment.² Despite their criminal activity, many female convicts also had the opportunity to work as nurses or record-keepers under Governor Phillip’s system of labour. Female convicts could also be free of their servitude if they were chosen by free men to join in marriage.

After colonisation, the first prison for women was opened in Long Bay, NSW, in 1909.³ Today this prison is known as the State Reformatory for Women. It is still a prison, housing men prisoners from the Sydney metropolitan and non-metropolitan areas. Subsequently, in 1969 another training and detention centre was opened in Silverwater, Sydney and it accommodated female prisoners who had previously been in gaol in the Long Bay institution.⁴

⁴ Ibid.
Women imprisonment rates in Australia have been steadily increasing, in both the rate at which they are imprisoned and their percentage of the prison population. Women are currently being imprisoned at almost four times the number they were 20 years ago. More women are held in custody on remand than men. However it is difficult to compare statistics on the time in custody as women have shorter but more frequent periods of imprisonment. This first section will present statistical information on women in prison across Australia.

Figure 1: Increase in prisoner numbers for men & women in Australia from 1995 to 2013.

Figure 2: Rate of Female Imprisonment in Australia from 2001 to 2013.

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6 Compiled from Australian Bureau of Statistics Data, Report Catalogues 4517.0.
7 Compiled from Australian Bureau of Statistics Data, Report Catalogues 4517.0.
Figure 3: Rate of Male Imprisonment in Australia from 2001 to 2013.  

The Changing Prison Population of Australia from 1976 to 2013

<table>
<thead>
<tr>
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<td>No. of Women in Prison</td>
<td>230</td>
<td>835</td>
<td>1,484</td>
<td>1,823</td>
<td>2,228</td>
<td>2,028</td>
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<td>462</td>
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<td>606</td>
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<tr>
<td>No. of Men in Prison</td>
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<td>16,593</td>
<td>21,008</td>
<td>23,963</td>
<td>27,472</td>
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<tr>
<td>No. of People in Prison</td>
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<td>17,428</td>
<td>22,492</td>
<td>25,786</td>
<td>29,700</td>
<td>29,106</td>
<td>29,383</td>
<td>30,777</td>
</tr>
<tr>
<td>Percentage of Female Prisoners</td>
<td>2.75%</td>
<td>4.79%</td>
<td>6.60%</td>
<td>7.07%</td>
<td>7.50%</td>
<td>6.97%</td>
<td>7.49%</td>
<td>7.63%</td>
</tr>
</tbody>
</table>

Figure 4: Snapshot of the changing prison population of women in Australia from 1976 – 2013.

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8 Compiled from Australian Bureau of Statistics Data, Report Catalogues 4517.0.
The above figures mask the actual numbers of women who flow through Australian prisons over a year as the figures quoted are from stock (census) and not flow accounting. Flow accounting would produce a higher number of incarcerated women as it would include the women who serve shorter sentences than men, tend to be over-represented in remand prisons and flow in and out of Australian prisons over a year. It is estimated that the numbers may be double those indicated in the census figures. One of the most fundamental characteristics of prison populations is that they are constituted almost entirely of male prisoners. In June 2013 there were 28,427 males in Australian prisons and 2,350 females. That is, males accounted for almost 93% of the Australian prison population.

Since 2001 women had a 45.9% increase in the rate of imprisonment compared to 18.9% of the men’s rate of imprisonment. There are many possible reasons for this increase: changes in women’s criminal behaviour, in the characteristics of women offending or in official responses to female criminality.

In July 2000, the NSW Legislative Council Interim Report inquired into female and gender issues prevalent in the prison system. It considered the effectiveness of imprisonment on women (based on recidivism and cost effectiveness measures); causes of rising imprisonment rates; and post-release policies. The Interim report considered the adequacy of building a new prison and possible alternatives to combat the rising numbers. The findings of the report prioritised resources to be put into strategies to reduce the increase in the prison population as a greater priority than building new correctional facilities. Despite these findings, the project nevertheless went ahead resulting in a new women’s prison - Dillwynia Correctional Centre. One hundred and twenty six out of 127 submissions were against the proposal to build a new prison. The NSW Department of Corrective Services was the only submission in support of building a new women’s prison.

### Prison Data for Indigenous Women

There has been emerging literature in recent years on Indigenous women and imprisonment. The most recent Australian Bureau of Statistics data indicates that in 2013, there were on average 775 Indigenous women in full-time custody - the highest number on record. Indigenous women’s imprisonment rate for the March 2013 quarter was 420 per 100,000, around 15 times that of the general female population (see Figure 5). There is also a higher degree of overrepresentation for indigenous females than for Indigenous males (13.4 times). In addition, although Indigenous women’s imprisonment rate was lower than for Indigenous men, they accounted for a higher proportion of their respective prison population (33% versus 27%).

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This trend may be due to differences in the nature of offending. As discussed in Bartels’ research, Indigenous women are more likely to be imprisoned for violent offences than non-Indigenous women. Yet in contrast to the overall Indigenous sentencing rates, Indigenous women generally serve shorter sentences than their non-Indigenous counterparts, which suggest that they are being imprisoned for more minor offences, especially public order offences. The most recent data indicates that the median sentence for Indigenous women was half the length of non-Indigenous women’s sentences. While Bond and Jeffries found no evidence of judicial bias, a possible explanation for the apparent under-utilisation of community corrections orders for Indigenous women could be that having extensive prior records increases the likelihood of being imprisoned for minor offences.

21 Compiled from Australian Bureau of Statistics, Catalogues 4517.0.
Categories of Crime

Women tend to be involved in crime that is typically regarded as less serious, such as shoplifting, fraud and drug-related crimes. They tend not to commit the more serious types of crime such as homicide and assault. However, increases in the proportion of women in prison might be partially explained by changes in the types of crime women are committing. Crimes that are seen as more serious will attract more and longer sentences of imprisonment.

The following graph shows the proportion of women in prison who are serving sentences by their offence type from 2010 to 2013. These offence types were selected as they represent what could be considered crimes typically committed by males (the violent crimes) and those more typically associated with females (the non-violent crimes).

![Comparison of Offences Committed by Men and Women](image)

Figure 6: Comparison of Offences Committed by Men and Women in Australia from 2010 to 2013.²⁴

²⁴ Compiled from Australian Bureau of Statistics Data, Report Catalogues 4517.0 and 4512.
As previously mentioned, the available research suggests that ‘women commit fewer and less serious crimes’\(^{25}\) than men. Typically drug offences, fraud and property theft are identified as being ‘women’s offences’\(^{26}\) although the Australian Bureau of Statistics overview of national trends between 1999 and 2012 found significant increases in robbery, theft, assault and homicide. Taking New South Wales as an example, the top four offences for women coming to the attention of police were shoplifting, assault, fraud and possession/use of drugs.\(^{27}\) The top four offences for men were domestic violence assault, possession/use of drugs, assault and malicious damage to property. This trend showed increases in female participation in offending from 1999 to 2012 with breach of bail conditions up 14% and domestic violence assault up 12%.\(^{28}\) Breach of apprehended violence orders and malicious damage to property also increased.

The most serious offence with the highest proportion of offenders for women in Australia in this period was possession/use of illicit drugs, followed by acts intended to cause injury. Nationally, recent figures show that the most serious offence among female offenders was also in the illicit drug offence category (21.3%), followed by acts intended to cause injury.\(^{29}\) For men, this was reversed, the most serious offence (17.8%) was acts intended to cause injury, followed by illicit drug offences (14%).\(^{30}\)

Also in this period, women made up approximately half of offenders involved in prostitution and shoplifting, and more than one third of offenders involved in fraud. In contrast, men made up 98% of offenders involved in sexual offences, and more than 90% of offenders involved in armed robbery with firearm and burglary.\(^{31}\) Holmes concluded that more women offended, with this offending being of a more violent nature, or against justice procedures, than was the cause 10 years prior.\(^{32}\)

**Remand**

Over the last fifteen years throughout Australia, there has been a significant increase in unsentenced women being imprisoned on remand. The growing remand population is arguably due to police enforcement of bail laws and recent changes to the various Bail Acts that restrict the number of times an applicant can apply for bail.\(^{33}\) While on remand, women prisoners have limited access to programs, services and support and are further limited due to the prisons classification systems. Women prisoners on remand, as with male remandees, are usually kept at the highest classification rating.

Women prisoners on remand are more likely to be released from court with little support to re-establish their lives outside prison. As of June 2013 there were 642 women in prison in Australia on remand, equaling 27.32% of the total women’s prison population. The following graph demonstrates the significant increase from 1995 to 2013 of women on remand in Australian prisons.


\(^{26}\) It is important to note here that determining the most common types of offences according to gender depends on which data sources are used for analysis. Data collected, for example, by the Drug Use Monitoring program, or ‘persons of interest’ proceeded against by police, are more likely to reflect base-level patterns of offending, compared to data on prison populations, which reflect not just those offenders who come to the attention of police, but who are also subsequently sentenced by the courts (Forsyth & Adams, 2009).


\(^{28}\) It should be noted that caution needs to be exercised regarding this proposed shift, as it is not clear how dual arrest policies in relation to domestic violence are impacting these figures.

\(^{29}\) Compiled from Australian Bureau of Statistics Data, Report Catalogues 4517.0 and 4512.


Aggregate Sentence Length

Women tend to have shorter aggregate sentences and less time to serve in prison than men. The average aggregate sentence length for sentenced women prisoners in 2013 was 9 months compared to 17 months for men. Twenty two percent of the Australian women’s population is serving a sentence of less than 3 months compared to 18.7% of men. Furthermore, women were less likely to be serving longer periods of between five and ten years or over ten years, although similar proportions of men and women were serving life sentences. Women were more likely than men to be serving terms of 3 to 12 months. The expected time to serve refers to the period before the earliest expected date of release and is therefore shorter than aggregate sentence length.

Figure 8: Sentence length for men and women in Australia.

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34 Compiled from Australian Bureau of Statistics Data, Report Catalogues 4517.0 and 4512.
35 The average aggregate sentence length for sentenced women prisoners in 2013 was 9 months compared to 17 months for men. Twenty two percent of the Australian women’s population is serving a sentence of less than 3 months compared to 18.7% of men. Furthermore, women were less likely to be serving longer periods of between five and ten years or over ten years, although similar proportions of men and women were serving life sentences. Women were more likely than men to be serving terms of 3 to 12 months. The expected time to serve refers to the period before the earliest expected date of release and is therefore shorter than aggregate sentence length.

Prior Imprisonment

For both men and women, people who have been in prison on a prior occasion will be more likely to receive a term of imprisonment than those who have not. The rate of women returning to prison throughout Australia has increased. In 2013 the recidivism rate of Indigenous women was 66.8% and the recidivism rate of non-Indigenous women was 41.5%.

Earning Early Release

It is part of human nature to strive towards a goal that will provide benefits in return. The prospect of earning freedom provides an important incentive for individuals who have lost their liberty to improve themselves and also to cooperate with the system. To remove that opportunity is inhumane and leaves prisoners demoralised, passive and liable to be institutionalised. This boredom and passivity often leaves prisoners with nothing for stimulation but violence and drugs, and does nothing to prepare them for life on the outside. Unfortunately, political attempts to appear tough on crime have led to laws and policies that are unnecessarily harsh.

“Remissions”, “earned release” and “good time credits” refer to a structured system that aims to encourage self-improvement and positive behaviour in prisoners. This brings hope and a positive outlook to prisoners before and after release, allowing them to better adapt and equip for life outside of prison. It gives them a sense of responsibility and direction in life, thus converting them from passive recipients of punishment to active participants in their own lives. Earned release also benefits the system by giving it greater control over the prisoner, saving money and preventing prison over-population.

In 2006, the Law Council of Australia expressed its support of a system of earned remission in its submission to the Australian Law Reform Commission discussion paper, stating that where a prisoner behaved particularly well in prison and demonstrated real rehabilitation, then there should be a mechanism available to reduce the non-parole period. A 2006 report by the Australian Law Reform Commission supported in principle a system of earned remissions, but conceded that it would be difficult to implement on a federal level due to differing state laws. The report quoted a federal offender as saying:

“Remissions must be re-implemented to assist the rehabilitative process and to encourage good behaviour. It also allows the offender to be released without being imprisoned for longer than absolutely necessary. One must consider the point in time in an offender’s sentence where the sentence stops being rehabilitative and starts to become detrimental to a person’s psychological wellbeing. It would be in interest of society to release a rehabilitated offender

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38 Ibid.
39 Ibid.
40 Ibid.
41 Ibid.
42 Ibid.
43 Ibid.
44 Ibid.
45 Ibid.
47 Ibid.
from prison rather than an offender who has been profoundly affected by an excessively long sentence.” 48

The Nagle Royal Commission conducted in 1976-1978 recommended that NSW adopt a remission system where all remissions should be earned, and any remissions should be taken off both head sentence and the non-parole period.49 It considered that the system introduced in Victoria in 1975 should be adopted in New South Wales, suggesting further that it be based on the system that Alexander Maconochie introduced on Norfolk Island.50 The Commission considered that the system was worthwhile, but more emphasis should be placed on providing a proper incentive to the prisoner.51 This recommendation was adopted and provided prisoners proper incentive to work hard, behave well, and strive towards self-improvement, until it was repealed in 1989.52 One effect of the elimination of all forms of remission is that sentences have become longer and overcrowding in prisons has worsened since, in removing remissions, the Government has severely limited its options for managing the size of the prison population.53

Sentencing Options for Indigenous Women in Australia

When sentencing an offender, courts have a range of custodial and non-custodial sentencing options available to them, including imprisonment, suspended sentences, good behaviour orders, fines and discharges.54 At present, there are no specific legislative sentencing options for Indigenous women offenders, although Richard Edney has recommended that the VIC sentencing legislation be amended to make the ‘custody threshold’ higher for Indigenous offenders.55

A further relevant consideration is that of bail and remand. Fitzgerald found that the NSW Indigenous remand rate rose faster than the general imprisonment rate.56 Other NSW data indicated that there were eight Indigenous women on remand in 1991, compared with 61 in 2007, although this fell to 43 in 2010. Professor Eileen Baldry 57 has stated that ‘most Aboriginal women in prison in NSW are either on remand or serving sentences of less than 12 months’. Throughout Australia, remand practices impact on sentencing, especially on Indigenous women’s access to alternative sentencing options.

Indigenous Sentencing Courts

Indigenous sentencing courts have been introduced in Australia as a more culturally appropriate system of justice for Aboriginal and Torres Strait Islander peoples. By 2009, there were over 50 Indigenous sentencing courts operating in all Australian States and Territories except Tasmania.58 Practices vary, such as in the nature of offences that can be considered, but some common features include that the offender is Indigenous; has pleaded guilty or been found guilty of an offence in a summary hearing; and

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48 Ibid.
49 Ibid.
50 Ibid.
51 Ibid.
52 Ibid.
53 Ibid.
54 For example Crimes (Sentencing) Act 2005 s 9.
consents to having the matter heard in an Indigenous sentencing court. The Indigenous sentencing courts operate informally, and allow for an open exchange of information between judicial officers, the defendant, the victim and their communities.

Although there has been some debate about the appropriateness of Indigenous sentencing courts dealing with family violence - most of which is perpetrated against Indigenous women - there does not appear to be any extensive research on the issue of Indigenous women offenders in Indigenous sentencing courts.

Future directions in relation to the sentencing of Indigenous women may include a long awaited trial of abolishing short prison sentences in some States and Territories, and the development of legislation and case law to require sentencing officers to consider an offender’s Indigenous status.

Recommendations # 1 to 14 – See Appendix 2

The Special Needs of Women

In recognising the unique experiences of women in prison, the special needs of women must also be recognised. As many of the following factors are influential in shaping offending behaviour, they must be identified so that effective measures for dealing with the special needs of women in prison can be developed. (Bangkok Rules - See Appendix 1).

The gender specific needs of women in prison have been recognised by the international community in the form of the Bangkok Rules – also known as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders. The Bangkok Rules protect the rights of women in prison, and address their needs. States and Territories throughout Australia are encouraged to consider alternatives to imprisoning women, and prioritise funding organisations that provide such alternatives.

The United Nations General Assembly adopted the Bangkok Rules in 2010.

The Bangkok Rules have received little to no attention or recognition from any levels of Australian government. Australian prisons have continued in their traditional non-gendered approach to corrective services. As such it is essential for Australian Corrective Service departments to address the differing criminogenic backgrounds and needs of women in prison.

Whilst Australia has recognised the United Nations Standard Minimum Rules for the Treatment of Prisoners, which forms the basis for the Australia’s Standard Guidelines for Corrections in Australia, these guidelines do not incorporate or reference the Bangkok Rules.

Drug Use

Drug use is a significant contributing factor to women’s imprisonment in Australia. Theories on the causal relationship between drug use and crime in Australian literature have often overlooked the influence of gender as a confounding variable. However, research indicates that pathways into drug use and crime differ for males and females. Data from the Australian Institute of Criminology’s Drug Use Monitoring in Australia program found that female detainees were more likely to use ‘hard’ drugs and to have been arrested for a property crime. This study explored the relationship between drug use, offending, mental health and experiences of child abuse among a sample of police detainees. The relationship between experiences of mental illness, drug use and arrest was also stronger for female detainees.

Women in prison use illicit drugs differently to men, with more than 14% of women reporting use of ecstasy, 20% heroin, 30% tranquilizers, 38% analgesics and 44% methamphetamine compared with men in prison (respectively 9%, 14%, 15%, 15% and 36%). More women (56%) than men (42%) reported previous or current injecting drug use. Eighty percent (80%) of female prisoners are also daily smokers.

A number of ‘core programs’ exist in prisons throughout Australia, which target specific issues, including that of drug use. See ‘Education and Training: Core Programs’ for further information regarding such programs. Nevertheless, the programs and services, which are implemented in prisons, are still inadequate, inconsistent and not gender-specific in their approach.

Given the high rates of both women and men committing crime due to drug use, special drug courts have been set up in New South Wales, Queensland, South Australia, Victoria and Western Australia to establish and manage drug diversionary programs. Other agencies (for example, police, magistrates’ courts) have also set up their own drug diversion programs. In some Australian jurisdictions, programs catering specifically to the drug-related treatment needs of young people have also been established.

An intermediate measure of the design and working of these programs is the completion or graduation rate, which hovers between 30 and 40%. Offenders who complete a drug diversion program are less likely to reoffend during the intervention period as well as after graduating.

A low rate of completion reflects poorly upon the functioning of drug diversion programs. Although the low program completion rates may reflect the entrenched nature of drug abuse and addiction, there seems to be a need for significant practice changes for these programs to work effectively.

The eligibility requirements of some of these ‘drug court’ programs differ from state to state. In some cases, individuals with a particular problem that is under the consideration of a court may enrol themselves in these programs. The effectiveness of many of these programs has not been fully studied.

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71 Ibid.
Many women prisoners have experienced life difficulties that impact on their health and wellbeing prior to entering prison, including episodes of sexual, physical and/or psychological abuse.\textsuperscript{72} This is said to contribute to women prisoners having higher rates of mental health issues compared with women in the community. Eighty-four percent (84.5\%) of women in prison had a mental disorder compared with 19.1\% of women in the community.\textsuperscript{73} Women prisoners have been found to be 1.7 times more likely to have a mental illness than male prisoners, and non-Aboriginal women are significantly more likely than non-Aboriginal men to have attempted suicide.\textsuperscript{74} One Victorian study found that 84\% of women prisoners interviewed met the criteria for having a mental health problem.\textsuperscript{75} Forty-four percent (44\%) of these women had major depression and 36\% had post-traumatic stress disorder. Higher than both these groups was the percentage of women who had a drug-related mental health disorder. This was 57\%.\textsuperscript{76} The study states that this range of mental health problems is similar to those found in literature on the impact of childhood abuse including the subsequent development of mental health issues into adulthood.\textsuperscript{77}

As such, women are more likely than male prisoners to suffer from psychiatric disorders. This leads to cyclical ‘serial institutionalisation’ where a high proportion of women prisoners have dual and multiple diagnoses and are more likely to serve multiple sentences throughout life.

The 2009 Inmate Health Survey for NSW showed that 20\% of women in prison had been admitted to a psychiatric unit or hospital and 27\% of women in prison have attempted suicide.\textsuperscript{78} A further study completed by the Australian Institute of Health and Welfare (AIHW) in 2012 on Australian prisoners found that 49\% of women prisoners that had been discharged said there was no change in their mental health and wellbeing while in prison, compared with 35\% of males. Men were slightly more likely than women to say their mental health and wellbeing was a lot better (28\% and 25\% respectively) or a little/lot worse (9\% compared with 7\%).\textsuperscript{79}

People in detention have higher levels of cognitive impairment (intellectual disability, borderline intellectual disability and acquired brain injury) than is evident in the community. Average IQ among juveniles in detention is around 83 and in adult prison around 84,\textsuperscript{80} indicating significantly poorer cognitive functioning than the community average of 100. Of most concern is mounting evidence in Australia that women in prison - especially Indigenous women - require much higher levels of complex medical services (dual diagnosis, multiple diagnosis and disadvantage with associated multiple service needs) than male prisoners and their peers in the community.

The World Health Organisation stated that the most likely reason for the development or worsening of mental illness was due to “factors such as the disciplinary regime, lack of choice about activities and the people that they spend time with, and limited communication with family (especially children) and

\textsuperscript{73} Tye, Christine & Mullen, Paul, ‘Mental Disorders in Female Prisoners’, 40 Royal Australian and New Zealand College of Psychiatrists 3, 2006 pp. 266-271.
\textsuperscript{74} Department of Justice, Victorian Prisoner Health Survey. Deloitte Consulting, 2009.
\textsuperscript{75} Tye, Christine & Mullen, Paul, Mental Disorders in Female Prisoners, 40 Royal Australian and New Zealand College of Psychiatrists 3, 2006 pp. 266-271.
\textsuperscript{76} Tye, Christine & Mullen, Paul, Mental Disorders in Female Prisoners, 40 Royal Australian and New Zealand College of Psychiatrists 3, 2006 pp. 266-271.
\textsuperscript{77} Tye, Christine & Mullen, Paul, Mental Disorders in Female Prisoners, 40 Royal Australian and New Zealand College of Psychiatrists 3, 2006 pp. 266-271.
friends. The result is high levels of violence, aggression, self-harm and suicide”\(^8\). The primary concern remains that in the presence of only minor offences, it is disproportionate for women prisoners to suffer from such experiences under these sentences, as they are unlikely to be a danger to society.\(^9\) It becomes evident that the proportionality of punishment to the crime is unbalanced and unjust. Such strict sentences can, for example, lead to women’s children entering state care and the loss of housing, income and all personal possessions.

**Sexual Assault, Domestic/Family Violence and Trauma**

A high proportion of women in prison have experienced high levels of domestic violence, and physical and sexual assault. ‘Trauma’ describes the sequence of events of child sexual abuse and includes issues related to mental health, further sexual and physical re-victimisation, housing, employment, parenting, substance abuse and general wellbeing. Although symptoms of trauma are not the direct cause of women’s offending, they are significantly associated with women’s pathways to offending, such as drug and alcohol use, homelessness and mental health issues, as described above. Women’s sexual abuse histories are likely to be a central factor in women’s pathways to prison, particularly when these traumatic histories are located within contexts of social disadvantage.

Incarceration for women victim/survivors of sexual violence produces consequences for corrective services management. This is due to the way women offenders with a victimisation history experience the prison environment. Researchers have argued that prisons have been built with the male prisoner in mind.\(^8\) Since women — in particular women victim/survivors — have different and special needs, some policies and procedures found in penal environments may have a re-victimising effect on women.

**Gender Specific Health Care in Prison**

There are insufficient gender specific programs, including health care, for women in Australian prisons. Whilst the Special Rapporteur approved of the standard of specialised health care within prisons in Australia on his visit in 2010, he expressed concerns about the insufficiency of these programs, especially in relation to preventative health. He also expressed concerns about the length of delay prisoners face when seeking appropriate health services while in prison.\(^8\)

Two out of the seven women’s prison facilities in NSW offer sexual assault programs. These programs are run by qualified professionals and are independent of prison staff and officials. It is currently a pilot program being funded by the NSW Department of Attorney General & Justice. While the standard of these programs is generally high, they are insufficiently accessible for the number of women in prison who are in need of sexual assault counselling across the State. Information is not known regarding other specific ‘in-prison’ sexual assault programs being provided to women in other Australian States and Territories.

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\(^9\) Ibid.
**Strip Searching**

Women in prison undergo mandatory strip-searching when they are first inducted into prison, randomly throughout their complete period of incarceration, before and after every visit, when escorted from prison (to hospital, court or any other external escort) and upon release. Women in prison have higher incidences of prior sexual assault, domestic violence and other forms of abuse (and suffer post-traumatic stress at higher rates than male prisoners). As a result, women in prison often view strip-searching as a new occurrence of assault. Furthermore, there is no evidence that mandatory strip-searching actually carries out its stated purpose to prevent contraband. There are other proven ways to search for and prevent contraband. Mandatory strip-searching, as a non-consensual act, is dehumanising and humiliating and fails to accomplish its intended purpose. It is an unjustified assault on women prisoners by the State and thus breaches their human rights.

Subjecting a female prisoner to a mandatory strip search, other than one based on specific and reasonable suspicion of a criminal offence reinforces her powerlessness and loss of dignity. The strip-searching of women, and particularly women who are survivors of sexual assault, is an antiquated practice that can only result in their further degradation and humiliation. Alternative methods of detecting contraband such as scans should be used instead.

**Contact with Family**

Women in Australian prisons have varying levels of access to their family members and children through visitation. This is dependant on the prison, her classification rating, her behaviour, and whether the woman is on remand or a sentenced prisoner. The lower the security rating of the prison, the longer and more frequent visitation access is available. In most women’s prisons in NSW, as the security rating of the prison is increased, and based upon a sentenced woman prisoner, the visitation access for family members and/or children decreases to a visit of 1.5 hours a week, and the visit (again dependent on the prison), needs to be pre-booked.

The majority of the women prison population in Australia are mothers. Therefore it is particularly important for both mothers and children to have continuing contact with each other. It has been proven that women who keep in regular contact with their children have a far better relationship with their children once released. Therefore it is essential that mothers have frequent visitations with their children. However, since there are fewer women prisoners than the male prisoner population, women prisons tend to be ‘located in remote areas,’ making it difficult for children to visit their mothers. This also has an affect on Indigenous Australians as the ‘remoteness can… separate (them) from their communities and country.’ Under Human rights law protection, ongoing contact with family members is provided for. Also under Article 27 of the ICCPR, (International Covenant on Civil

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88 Ibid.
89 Ibid.
90 Ibid.
91 Ibid.
92 Ibid.
93 Ibid.
and Political Rights), ‘Indigenous women in prison have the right to enjoy their culture with members of their community’. 94

Some concerns raised by the women in prison and their families are the distances between the families and the female correctional centres, with women often being imprisoned far from their homes. 95 This restricts the ability for women to realise their visitation rights to the same extent as their male counterparts. Additionally, restrictions can be placed on certain women who have been confined to their cells or who have breached a prison regulation resulting in a non-contact visit that is limited in duration. 96

On any given day in Australia, approximately 38,000 children have a parent in prison. 97 It is known that in Victoria there is ‘no coordinated response by the child protection and justice systems to managing these children’s situations’. 98 Significant increases in imprisonment rates for women over the past two decades has resulted in increases in the number of children affected, and increased evidence of the problems experienced by children: isolation, behavioural difficulties at school, anxiety, insecurity, withdrawal, anger and mental health concerns. 99

**Women, Children and Primary Caregivers**

Even with the prison population steadily increasing, there is hardly any research on the effect on the children of prisoners. These children are referred to as “the forgotten victims of crime” and are an extremely vulnerable and young group, with the majority of children under six years old. 100 There are no special interventions provided by the government or welfare bodies dedicated to helping these children even though there are services provided to children who are affected by parental divorce.

As stated previously, there are around 38,000 children under 18 who have a parent in prison. 101 Approximately 72% of women in prisons are parents, with 62% having been the sole caregiver prior to incarceration. Ultimately, ‘women tend to have little or no access to their children during their period of incarceration, making it extremely difficult to maintain familial relationships.’ 102 The impact of this forced separation is exacerbated when one considers the fact that many of these women were the sole carers of these children prior to their incarceration, with the un-incarcerated fathers generally being unlikely to take on full-time parental responsibilities.

Women’s entry into the criminal legal system often reflects a culmination of the many disadvantages that women deal with on a daily basis. Largely because of women’s unpaid ‘labour’ in domestic child rearing, they are much more likely to face economic hardship, especially as single mothers.

Children of prisoners face a high chance of ending up in foster care and experiencing isolation, disruption, displacement, poverty and even physical and sexual abuse. They also face social isolation

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94 Article 27 ICCPR.
96 ibid.
102 Women in Prison Advocacy Network – Fact Sheet, WIPAN, p. 2. ; Also see J Griffin, ‘Call my name’, Program to Somebody’s Daughter Theatre Company production, 1994, regarding female prisoners consuming drugs and the effect on their children.
and withdrawal, social stigma and a range of strong emotions such as grief, depression and shame. Ultimately, this affects their education, employability and mental health. A woman who has had her children removed may never regain custody, let alone rebuild the relationship or overcome her own guilt. Additionally, women are far more likely than men to be released from prison to a broken family with no home and little to no personal or financial support.

In line with the gendered notion of the criminal body, there are few protocols for police to abide by when arresting an individual who has dependent children. By contrast, some jurisdictions have more instructions for arresting an offender with a pet. As there are fewer prison facilities for women, an incarcerated woman is ordinarily much farther away from her home and family than the average male prisoner. This increased distance causes substantial transportation problems for children of prisoners and as a result deprives women prisoners of contact with their children.

Prison officers know that inmates’ children are often their biggest anxiety, and contact visits are often used as disciplinary tools in petty power games with inmates. Although prison authorities admit that familial contact is the one factor that most enhances parole success, the jail system actively works to obstruct such contact. Many prisoners have commented that it was their guilt in losing their children that cemented their drug addictions.

Various members of parliament from the NSW government have referred to the success of the NSW Corrective Services, Mothers and Children program in NSW prisons. But despite the hundreds of mothers who have passed through NSW prisons, only twenty-one women had access to the full-time program between 1996 and 2000. A woman lucky enough to qualify for the Mothers and Children program in prison, faces an un-enviable 'choice' - to keep her child in a prison environment, or to face the pain of separation. It seems not only are innocent children to be punished, but women with dependent children are to be punished twice: both for their illegal act and for being a 'bad' mother.

In addition, the Child Protection Legislation Amendment Act 2014, which was recently passed in NSW, but is yet to be proclaimed, introduces rigid timeframes for making decisions about the realistic prospects of returning a child to their parents, which apply once a court has made interim orders. For children under 2 years old, it is a 6-month period and for children over 2 years old it is 12 months. It is very concerning that these rigid time frames are likely to have a disproportionate impact on women in prison who are often victims of domestic abuse, mentally ill, suffering from post-natal depression or from drug and alcohol abuse. The new legislation ignores the evidence that recovery from trauma or rehabilitation to the point that you can adequately demonstrate parenting capacity can take longer than 6 or 12 months. Also to lose hope that you will be able to get your children back is likely to undermine the success of such interventions. It is even more concerning that under the new laws a decision that there is no realistic possibility of getting your children back can more easily and quickly result in children being adopted. Such a consequence should not be decided on a deadline that discriminates against the vulnerable.

The legislation does allow for the possibility of restoration to a parent beyond the set time frames, but this is on the basis that the Children’s Court considers it “appropriate and in the best interests of the child".

Another change introduced by Child Protection Legislation Amendment Act 2014 is that adoption is

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104 Ibid.
106 Child Protection Legislation Amendment Act 2014, Sch 1 s 83(5).
107 Child Protection Legislation Amendment Act 2014, Sch 1 s 83(5A).
now made the first consideration before foster care. As we know, higher numbers of children waiting to be adopted does not automatically increase the number of prospective adoptive parents. This means that for those particular children who are waiting to be adopted, or undergoing an adoption process, they are left in a state of limbo as “adoption orphans”. Consequently, this may have negative emotional and psychological impacts on the children. It is “one of the worst possible outcomes” \(^{108}\), as without parents of some kind a sense of stability and security can be undermined.

Recommendations # 15 to 33 – See Appendix 2

Education and Training

Given that the development of personal skills and knowledge is crucial to the rehabilitation of women prisoners, problems surrounding education and training in women’s prisons must also be examined.

Education and Employment

Women are less likely than men to have access to education, rehabilitation and employment training programs while imprisoned. As unemployment has been found to be a strong predictor of recidivism, this inaccessibility can have negative implications for women post-release. In addition, prior to incarceration, women are less likely than men to be employed with unemployment rates of 69% compared with 46%. Women are also less likely to have employment organised prior to their release than men (10% and 31% respectively).

Corrective Service departments throughout Australia have introduced education and training programs in their prisons, and use course completions and reduced recidivism as measures of success. Importantly, programs that reduce recidivism rates, such as in-prison study and workplace integrated learning, provide the greatest return to the community in terms of reducing the costs of imprisonment as well as other policing and legal costs. Education and training in prison imparts specific and generic life skills; while workplace integrated learning recognises the importance of and promotes the social aspects of successful reintegration. As such, computers are an important tool to target recidivism through education and self-improvement. Computer literacy is an increasingly vital requirement for everyday life; it significantly affects education, vocational training and career prospects.

Women in prison can and do earn a higher wage by working in a prison industry than what they might earn if they choose to do a full-time educational course. In NSW, women undertaking full-time education are placed on the wage classification Level 1 and may progress to Level 3. This means that they can receive a wage that varies between $17.76 per week and $24.15 per week. By contrast, from participating in the prison work industry, women are able to increase their income earning ability to $35-65 per week. This results in minimal numbers of women in prison completing education. Additionally women are more likely than men to rely on their ‘prison wage’ to purchase their toiletries and personal items, as men more frequently have greater levels of family and financial support while in prison than do women.

In 2002, the decision in the court case of Middleton v Commissioner of Corrective Services of New South Wales, Justice Dowd discussed the role of education in rehabilitation stating that "it is hard to imagine a better rehabilitation tool than the gaining of tertiary qualifications of a sophisticated nature". The most important aspect of this scheme is that it encourages prisoner education. It is important to implement computers within prisons to allow prisoners to successfully move towards a TAFE or university qualification, and do so in a far more user-friendly method than any prison library or occasional prison educational course.

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114 ibid.
115 Women in Prison Advocacy Network, (WIPAN) 2013
Access to Programs and Services

Advocates for women prisoners throughout Australia have asserted that the programs and services available to women in prison are not comparable in quantity, quality, or variety to those provided to male prisoners, and contrary to the Bangkok Rules. The small number of women prisoners in custody is one of the main arguments for the low number of programs that focus on women prisoners’ particular and special needs.  

The tragic case of Tracy Brannigan in NSW highlights the need for active development and opportunities for women in prisons. Tracy and her family fought for her right to develop whilst in prison and as such she should have been able to use her prison time effectively. Instead Tracy was left frustrated with no computer in her cell or access to other productive alternatives. As a result of isolation from friends and family, sufficient monitoring, general inactivity and a lack of rehabilitation services, Tracy relapsed into drug use and died from a drug overdose in a NSW prison in February 2013. Her avoidable death in custody demonstrates the need for change and interventions in the women’s prison system.

Core Programs

In Australia, each prison has different ‘core programs’. Generally, these programs address issues like anger management, domestic violence (for perpetrators and survivors), alcohol and drugs and teach cognitive skills, literacy and numeracy. In the last ten to fifteen years these programs have differed in content for male and female prison populations. Programs designed specifically for women in various States and Territories address self-esteem, parenting, communication and assertiveness, skills and change, life choices and stress management.

During their incarceration, women prisoners may be offered and encouraged to attend a variety of core programs. The programs a woman attends or gains access to will largely depend on the length of her sentence, the nature of the offence, what prison she is located in and/or what actual program is available in that particular prison and an assessment to determine her needs and risk of re–offending. Unfortunately most women on remand in prison (unsentenced) across Australia do not generally have access to core programs.

Recommendations # 34 to 40 – See Appendix 2

116 Women in Prison Advocacy Network (WIPAN), 2013
Aftercare

Being deprived of one's liberty is a severe form of punishment. It has long been recognised that, aside from community safety or punishment, one of the major roles of prisons is to provide prisoners with opportunities for rehabilitation.\textsuperscript{119} The concept of rehabilitation is that the time spent in prison is an opportunity to provide prisoners with programs and activities to develop skills and resources that will assist them to live in society successfully upon release, without committing further breaches of the criminal law.\textsuperscript{120} However, successful rehabilitation also requires post-release support which women prisoners largely do not have access to upon their release.

Making Rehabilitation of Women Prisoners Effective

Genuine rehabilitation simply cannot be undertaken solely within the prison environment and must be undertaken at the post-release phase.

Factors such as employment, accommodation, drug abuse, mental health, sexual assualt and trauma are deeply implicated in offending for women, and need to be addressed in rehabilitation programs. Currently in Australia, the extent to which these factors can be meaningfully addressed prior to release continue to be very limited and ineffective.\textsuperscript{121}

The reduced availability of in-custody rehabilitation programs compared with men is discriminatory and has a negative effect on women’s rehabilitative prospects. Case management and programs must become available to women at the time of their incarceration, not just after their sentence. Almost 30\% of women in custody throughout Australia are on remand with no access to the rehabilitative programs that could improve their prospects for reintegration on release. Clients of the organisation WIPAN and also other post-release services for women prisoners have been made aware of women in prison who have had no opportunity to participate in programs from the date of receiving their sentence to their earliest date of release. A woman’s sentence includes the time spent on remand and consequently they can leave prison with no further custodial time to serve or for a short time after sentencing, making her ineligible for in-custody rehabilitation programs at all. This does nothing to assist women prisoners with the process of rehabilitating, one of the stated aims of all corrective services.

The whole of the custodial period is a time that should be used by Corrective Services to increase the likelihood and ability for women prisoners upon release to successfully reintegrate.

Homelessness

There are proven links between homelessness, offending and re-offending. Suitable, supported and stable housing is associated with staying out of prison. There is currently little in the way of systematic arrangements linking case-managed supported housing to women preparing to leave prison. This is particularly the case for those with complex needs.

Finding safe, stable and affordable housing is one of the major challenges faced by prisoners on release. Unstable housing or homelessness along with alcohol or other drugs issues significantly increases the

\textsuperscript{121} Howells, Kevin. ‘Treatment, Management and Rehabilitation of Women in Prison’, 2001.
risk of reoffending. As such, stable housing plays a critical role in assisting ex-prisoners to make a successful transition from prison to the community. Women exiting prison face greater challenges in accessing housing and experience higher levels of homelessness, debt, depression, isolation and social exclusion than that of men leaving prison, who are more likely to have family support than women.

There is a dearth of appropriate post-release support services for women. Professor Eileen Baldry found that homelessness was a predictor of return to prison for people recently released from prison in NSW and VIC and that Aboriginal women were significantly more likely to be homeless and return to prison quickly than that of other women or men. This study also found that this group of women was more likely to have been homeless prior to imprisonment and experiencing a vicious cycle post-release, of homelessness, worsening drug use, return to violent partners, poorer mental health and trauma associated with such violence and being unable to gain access to their children.

The lack of feasible accommodation on release has resulted in a significant number of women exiting prison to live on the streets, exposing them to conditions that perpetuate drug and alcohol relapses, and leave them vulnerable to sexual and physical violence. To avoid homelessness women may be driven to seek accommodation in unsafe environments, where domestic violence, substance abuse and criminal activity may be the norm.

Transition from Prison to Liberty

The issues touched upon here are obviously not the only issues impacting women prisoners upon their release or as part of their overall rehabilitation. A wide range of other factors could also be cited, such as alienation, unemployment, low self-esteem, access to children and their families. The manner in which these issues might be effectively addressed is not simple. No single agency can realistically be expected to assume responsibility for meeting such a diverse set of needs. Partnerships between government and non-government sectors would provide a more holistic and wrap around service for women pre-release and post-release, as per the Bangkok Rule # 46.

The non-government sector in Australia has long been active in attempting to cater to the special needs of women pre-release and post-release prison. This includes organisations such as Flat Out and VACRO in VIC; Sisters Inside, the Catholic Prison Ministry and Second Chance in QLD; Taryn House in South Australia; OutCare in Western Australia and Women in Prison Advocacy Network, Guthrie House and Community Restorative Centre (CRC) in NSW; all aiming to support women prisoners. While these initiatives are commendable, necessary and important, they receive inadequate funding, depend on volunteer labour and are at constant threat of reduced funding budgets and/or closure.

The government funded Probation, Parole and Community Supervision services in each State and Territory are also expected to assist with respect to post-release programs and re-integrating newly released women prisoners back into the community, similar to Bangkok Rule # 45.

Community Corrections provide some non-custodial programs, with post custodial orders including parole, release on licence, pre-release orders and some forms of home detention.

Recommendations # 41 to 46 – see Appendix 2

125 Australian Productivity Commission, 2010.
Appendices

Appendix 1 - Relevance of the ‘Bangkok Rules’ to women and children

Rule 48:
1. Pregnant or breastfeeding women prisoners shall receive advice on their health and diet under a program drawn up and monitored by a qualified health practitioner. Adequate and timely food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers.
2. Women prisoners shall not be discouraged from breastfeeding their children, unless there are specific health reasons to do so.
3. The medical and nutritional needs of women prisoners who have recently given birth, but whose babies are not with them in prison, shall be included in treatment programs.

Rule 49:
Decisions to allow children to stay with their mothers in prison shall be based on the best interests of the children. Children in prison with their mothers shall never be treated as prisoners.

Rule 50:
Women prisoners whose children are in prison with them shall be provided with the maximum possible opportunities to spend time with their children.

Rule 51:
1. Children living with their mothers in prison shall be provided with ongoing health-care services and specialists, in collaboration with community health services, shall monitor their development.
2. The environment provided for such children’s upbringing shall be as close as possible to that of a child outside prison.

Rule 52:
1. Decisions as to when a child is to be separated from its mother shall be based on individual assessments and the best interests of the child within the scope of relevant national laws.
2. The removal of the child from prison shall be undertaken with sensitivity, only when alternative care arrangements for the child have been identified and, in the case of foreign-national prisoners, in consultation with consular officials.
3. After children are separated from their mothers and placed with family or relatives or in other alternative care, women prisoners shall be given the maximum possible opportunity and facilities to meet with their children, when it is in the best interests of the children and when public safety is not compromised.

Relevance of the ‘Standard Minimum Rules for the Treatment of Prisoners’ to women and children: 127

Rule 79:
Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.

Rule 26:
Women prisoners’ contact with their families, including their children, their children’s guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.

Rule 27:
Where conjugal visits are allowed, women prisoners shall be able to exercise this right on an equal basis with men.

Rule 28:
Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible.

Rule 23:
1. In women’s institutions there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in a prison, it shall not be mentioned in the birth certificate.
2. Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

Do women currently have any human rights in Australian prisons?

Australia is a member of the International Covenant on Civil and Political Rights (ICCPR). The ICCPR has a number of provisions that are relevant to prisoners including:

- Article 7, which states that ‘(n)o one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment’
- Article 10(1), which provides that ‘(a)ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person’
- Article 10(3), which highlights that ‘(t)he penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation’ 128

All human rights are to be preserved while a person is in prison according to international human rights law, except for the right of liberty.\textsuperscript{129} See the United Nations General Assembly’s “Basic Principles for the Treatment of Prisoners” (Principle 5).\textsuperscript{130} As such prisoners still maintain among other things, ‘their right to life, personal security, privacy, the right to equality and not to be discriminated against’.\textsuperscript{131}

\textsuperscript{129} Ibid.
\textsuperscript{130} Office of the High Commissioner for Human Rights; Basic Principles for the Treatment of Prisoners; No: 5
\textsuperscript{131} Ibid.
## Appendix 2 - Recommendations

### Setting the Scene

<table>
<thead>
<tr>
<th></th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>1</td>
<td>States and Territories to set targets to reduce the number of women in prison by 5% per annum, using prison only as a last resort.</td>
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<td>2</td>
<td>The Australian Bureau of Statistics should maintain and release detailed statistical information that examines women in prison and men in prison separately. This will better facilitate the monitoring of changes to the female prison population.</td>
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<td>3</td>
<td>State governments should focus on resources and efforts on developing and supporting new and current programs that address the causes of crime and have a crime prevention focus. These include mentoring, community development and justice reinvestment programs.</td>
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<td>4</td>
<td>Public order offences committed by Indigenous women must only result in a custodial sentence in the most serious matters.</td>
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<td>5</td>
<td>Courts should place more focus on community corrections orders for women who offend, using incarceration only as a last resort.</td>
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<td>6</td>
<td>Minor drug offences should be decriminalised and resources should be devoted to drug rehabilitation programs.</td>
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<td>7</td>
<td>Courts to divert women with drug and alcohol dependence to services that provide the necessary community and health support for addressing their addictions.</td>
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<td>8</td>
<td>States and Territories to set targets to reduce the number of women held on remand.</td>
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<td>9</td>
<td>Bail laws should be reformed to address the fact that many women on remand tend to be serial recidivists. The criminal histories of women should not reduce their ability to get bail.</td>
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<td>10</td>
<td>Prisons should ensure that women held on remand have access to educational and vocational programs to increase their chances of reintegration upon release.</td>
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<td>11</td>
<td>Government to legislate for a system whereby women prisoners can earn early release through their personal efforts.</td>
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<td>12</td>
<td>Sentencing laws should be reformed to reduce mandatory sentencing and minimum non-parole periods.</td>
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<td>13</td>
<td>Further research should be conducted into the effectiveness of Indigenous Sentencing Courts.</td>
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<td>14</td>
<td>Sentencing policies to be culturally sensitive and recognise the unique and varied life experiences of Indigenous women offenders and victims.</td>
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<td>15.</td>
<td>Australia must recognise and implement the provisions contained within the Bangkok Rules.</td>
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<td>16.</td>
<td>States and Territories should raise public awareness regarding the varied and specific needs of women in prison. This includes public and media access to prisoners.</td>
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<td>17.</td>
<td>Woman prisons have a choice of external service provider for health, education and legal support.</td>
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<td>18.</td>
<td>States and Territories to decriminalise personal drug use in the same way that marijuana drug use only warrants a caution.</td>
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<td>19.</td>
<td>Women to be trained by community organisations to form inmate development committees and act as paid peer mentors to other women in prison.</td>
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<td>20.</td>
<td>Prison staff should be trained to adequately identify and address mental health and post-traumatic stress disorders experienced by women in prison.</td>
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<td>21.</td>
<td>Women’s facilities should provide more comprehensive mental health services that adopt a through care approach. Women should be provided with referrals to mental health services that they can access after leaving prison.</td>
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<td>22.</td>
<td>Resources should be diverted away from the criminal justice system to address the trauma that many women have experienced as a result of sexual, physical or psychological abuse.</td>
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<td>23.</td>
<td>Sexual assault programs should be available at all women’s facilities throughout the year in order to deal with the high number of sexual assault victims in women’s prisons.</td>
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<td>24.</td>
<td>Domestic violence programs should be available at all women’s facilities throughout the year.</td>
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<td>25.</td>
<td>Sentencing laws to be reformed to allow for the gender-specific needs of women to be given greater consideration.</td>
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<td>27.</td>
<td>Extend visiting duration and frequency to allow family members greater access to their female relatives while in prison.</td>
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<td>28.</td>
<td>Prisons and transport authorities to provide more regular transport services from local train stations to women’s facilities.</td>
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<td>29.</td>
<td>When making decisions about the long-term placement of children with mothers in prison, special understanding must be used, due to the disruptive effects of the mother’s imprisonment on their relationship with their children. Significant risk of harm factors is a separate issue.</td>
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<td>30.</td>
<td>When imprisonment removes a mother from her child, regular contact must be prioritised and legal aid should be available to advocate for the right of children to stay in contact with their parents where it is safe to do so.</td>
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<td>31.</td>
<td>Child protection cases must be decided on an individual and flexible basis without arbitrary time limits and with access to free legal assistance.</td>
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<td>32.</td>
<td>Clear guidelines should be available to assist the Children’s Court in relation to exercising their power under section 83 (5A) of the new legislation.</td>
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<td>33.</td>
<td>Further research must be undertaken into the impact of the proposed amended legislation and imprisonment on children and families. The NSW and National Children’s Commissions, the NSW Ombudsman and other relevant bodies must regularly review the impact of the new laws on these families.</td>
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Education and Training

34. Women in prison who choose to participate in education programs should receive the same levels of pay as women who work in a prison industry.
35. Correctional Centres to increase the variety of education courses available to women in prison and the frequency of their delivery.
36. Women who are able to finance their own education programs should be allowed access to external education facilities that give them the opportunity to attain a qualification online or via correspondence.
37. Each prison cell should have a computer with limited Internet access through secure servers, allowing women in prison to access education and information when they are being held in cells.
38. Core programs should be further developed to meet the gender specific needs of women in prison.
39. Core programs should be provided at all women’s centres and should be available to all women in prison including women on remand.
40. Correctional Centres to grant access to non-government organisations to provide specialist programs that the women would otherwise not have access to.

Aftercare

41. Shift the emphasis of the role of prisons from punishment to rehabilitation.
42. Women in prison should be assisted in making post-release living arrangements prior to their release from prison. This involves giving NGOs greater access to women in prison so as to increase their ability to help and/or support them.
43. Increase funding for the NGO programs that have proven effective at easing the transition from custody to the community.
44. State governments to fund the creation of more safe and affordable housing for women exiting prison.
45. Drug and alcohol programs should be based on a through care approach that ensures continued support of women post-release.
46. Increase the use of diversionary and non-custodial programs.