

SISTER'S INSIDE INC.

Inquiry on Strategies to Prevent and Reduce Criminal Activity

in Queensland

Queensland Parliament: Legal Affairs and Community Safety Committee
July 2014

Submission Rationale

In Queensland one in every eleven prisoners is a woman.¹ Between 2012 and 2013 the female prison population rose 13% whereas the male prison population rose 8%.² Queensland is increasingly imprisoning more women as a percentage of the total prison population than the Australian average.³

When we consider that women commit less serious offences than men⁴ the appalling nature of those population statistics can be identified.

However, those statistics are given depth only when we put a face to them. Almost 100% of women prisoners come from economically and/or socially disadvantaged groups. Increasingly, prisons are employed as default (mental) health institutions, housing services and detoxification facilities.

Approximately 22% of the total prison population in Queensland is on remand.⁵ Increasingly judges and magistrates are imprisoning people on remand simply to ensure their access to critical services, particularly accommodation and mental health services.

The rate of recidivism is not addressed by the isolated inactivity which typifies imprisonment. In 2013, 65% of prisoners had known prior adult imprisonment.⁶

In circumstances where tough on crime credentials and political perceptions of the need for tougher penalties are key drivers of policy, it is critical that Parliament be reminded of and develop evidence-based policy having regard to the specific and individual circumstances that women prisoners and offenders face.

¹ Government Statistician. (2013). Prisoners in Queensland: 2013. (*Briefs*) Retrieved from: <http://www.qgso.qld.gov.au/products/briefs/prisoners-aus/prisoners-aus-2013.pdf>.

² Australian Bureau of Statistics. (2013). Prisoners in Australia, 2013. (*Statistics*) Retrieved from: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4517.0>.

³ Note 2.

⁴ Australian Bureau of Statistics. (2012). Women prisoners increasing at a faster rate than men (Media Release). Retrieved from http://www.abs.gov.au/ausstats/abs@.nsf/mediareleasesbytitle/1F2BD14CF87EE4AFC_A25751B001AC5FA?OpenDocument

⁵ Note 2.

SIS strongly supports the reinvestment of funding from punitive approaches driven by the criminal justice system, to prevention, early intervention, diversionary and rehabilitation services which, as will be demonstrated by this submission, genuinely address the economic, social and cultural needs of women and their families.

About Sister's Inside

The realities of our work mean that Sister's Inside (SIS) is uniquely placed to contribute to this inquiry. We see daily the realities of prison life and post-prison life for women and girls. SIS supports the children and wider families of women and girls in prison. As an organisation we see the wider consequences of policies and practices within the Queensland criminal justice system.

Established in 1992, Sisters Inside Inc. exists to advocate for the human rights of women in the criminal justice system and to address gaps in the services available to these women. We work alongside criminalised women to determine the best way to fulfil these roles. Sisters Inside provides services to women in prison and following their release from prison. We also work with young women in the juvenile justice system, and the children of criminalised women.

Since its inception, Sisters Inside has developed a unique model of service and highly successful programs which are informed by the wisdom of criminalised women themselves. Wherever possible, Sisters Inside employs staff with lived prison experience, including a focus on employing Aboriginal and Torres Strait Islander women and being guided by Aboriginal women Elders.

Terms of Reference

We have sought to address the terms of reference in the following way:

1. Criminal activity in Queensland and factors contributing to crime in Queensland

This section of the submission deals generally with the Committee's request for information on trends in criminal activity in Queensland and a discussion of the social and economic factors which contribute to crime in Queensland.

⁶ Note 2.

2. The arguments against imprisonment

This section of the submission deals with the failings of imprisonment through an examination of the rates of recidivism and the very negative experiences of women prisoners.

3. Effective crime prevention strategies

This section of the submission focuses on justice reinvestment and the need to address poverty as a precursor to any attempts to reduce recidivism in Queensland in the wider context. There is some discussion of diversionary programs and national experience.

4. Going forward

This section of the report discusses matters which should be addressed by Parliament and suggests a way forward to shift focus away from imprisonment to justice reinvestment type early intervention and diversionary avenues.

Criminal activity in Queensland and factors contributing to Crime in Queensland

Statistics and Characteristics

The latest prison population data suggests the following trends in Queensland⁷:

- A significant upwards trend in the percentage of women prisoners in the total prison population and a 13% increase in women prisoners between 2012 and 2013;
- A significant increase in the known prior imprisonment rates among the prison population with an increase from 60.2% in 2012 to 64.5% in 2013.
- An increase in the representation of women prisoners identifying as Aboriginal and Torres Strait Island.

Almost 100% of women prisoners come from economically and/or socially disadvantaged groups. We can say that:

- 32% of women prisoners in Queensland identified as Aboriginal or Torres Strait Islander;⁸
- 81% - 98% of women prisoners are survivors of physical and/or sexual abuse;⁹
- Indications are that over 50% of women prisoners were in care;
- 17-25% spent time in a juvenile prison;¹⁰
- 50-84% of women prisoners have a psychological/psychiatric disability;¹¹
- 50-92% of women prisoners have a history of alcohol and/or drug dependence;¹²
- 50-75% of women prisoners were unemployed prior to incarceration;
- 10-15% of women prisoners come from non-English speaking backgrounds.¹³

⁷ Note 2.

⁸ Note 2.

⁹ Quixley, Suzi & Kilroy, Debbie (2011) Working with Criminalised and Marginalised Women: A

starting point, 2nd edition, Sisters Inside, Brisbane at

www.sistersinside.com.au/resources.htm: 15.

¹⁰ Quixley & Kilroy 2011:16.

¹¹ Quixley & Kilroy 2011:19.

¹² Quixley & Kilroy 2011:16.

¹³ Quixley & Kilroy 2011:29.

It is to be noted that little research has been conducted in the areas of the number of women prisoners in care and the level of debt a woman prisoner will have at the time of her release. The data in those areas relies heavily on SIS research with women prisoners in Queensland.

Indigenous women are 16 times more likely to be incarcerated than non-indigenous women. Between 2000 and 2010 there was a 58.5% increase in incarceration for Indigenous women. In terms of the rate of recidivism by reference to prison population statistics 67% of all indigenous women had been incarcerated previously, as opposed to half of non-Indigenous women.¹⁴

The majority of women prisoners, between 80% and 85%, are mothers of dependent children, and were heads of single parent families prior to their incarceration.¹⁵ Moreover the average age of a woman prisoner in Queensland is 35 years with the average age of those prisoners who identify as Aboriginal and Torres Strait Islander being 31 years of age.¹⁶

Criminal Activity of Women

Between 2011/2012 and 2012/2013 the total number of female offenders in Queensland decreased by 3% and 72.3% of those women were dealt with for one police proceeding during the 2012/2013 year.¹⁷

According to the ABS Recorded Crime – Offender statistics, in 2013, approximately 25,000 women were proceeded against by police in Court actions and approximately 6,600 were proceeded against in non-Court actions. Non-Court actions refer to legal actions such as informal or formal caution/warnings, conferencing, counseling such as drug diversionary schemes or the issuing of penalty or infringement notices which do not require an appearance in Court. Across Queensland there was an 8% decrease between 2011/2012 and 2012/2013 in the number of non-Court actions. Public order offences accounted for 40% of the non-court actions (infringement

¹⁴ Debbie Kilroy, 'The over-representation of Aboriginal and Torres Strait Islander women in prison' (Recommendation Paper, Sister's Inside Inc, 2010), 1.

¹⁵ See Quixley & Kilroy 2011: 15; ADCQ 2006:119; Cerveri et al 2005; Kilroy 2000:3

¹⁶ Note 2.

¹⁷ Australian Bureau of Statistics (2013). 4519.0 Recorded Crime – Offenders.

(Statistics) Retrived from: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4519.0/>.

notices of public nuisance type offending) and illicit drug offending accounted for 30% of the total non-court actions recorded in Queensland.¹⁸

It was observed that the principal offences in Queensland were illicit drug offences and public order offences followed by theft offending. Those statistics were not broken down by sex but it was generally observed nationally that for women offenders theft represented 26% of principal offences and that public order offences represented 16% of principal offences.

In respect of women in prison, we can see that, based on the most recent statistics, approximately 62% of sentenced women prisoners committed offences which would be categorised as drug offending, property offending and regulatory and traffic offending.¹⁹ That offending is not personally violent offending.

It is also important to note that women, over men, generally receive heavier sentences for equivalent first offences.²⁰ In respect of the rates of recidivism it can be observed that 32% of imprisoned women returned to prison or a community based order within 2 years whereas only 14% of women sentenced to a community-based order re-offended.²¹

In Queensland the overall number of women being proceeded against by Police for criminal offending has decreased and yet the number of women being imprisoned has increased disproportionately. The majority of women offenders are non-violent offenders committing drug related offences and public order offences. There have been increased numbers of women on remand and a decrease in alternative sentencing options for women.

Queensland's criminal justice system is failing disadvantaged and marginalised women. Women in Queensland are being criminalised and imprisoned at an increasing rate and without any observed benefit to the community. Indeed the observations are consistent with the idea that imprisonment is failing Queensland.

¹⁸ Ibid.

¹⁹ Note 17.

²⁰ An AIC study found that 60% of imprisoned women in Australia are first time offenders as opposed to 2% of imprisoned men.

²¹ 2009 at 15

Poverty as a Contributor to Crime

Any attempt to divert women and children from the juvenile justice and criminal justice systems should be encouraged but must first address the fundamental issue of poverty.

Studies throughout Australia have found that prior to imprisonment 50%-75% of women prisoners were unemployed. As part of a prisoner health study conducted by the Australian Institute of Health and Welfare as at 30 June 2012 it was identified that 3 out of 4 prison entrants have not studied past year 10 and only 17% have completed year 12 studies. In addition, in 2007 according to the Department of Correctional Services in Queensland, 76% of women prisoners had not completed their secondary education. A 2004 SIS study found that 15% were homeless and 14% lived with their mother prior to imprisonment and that 53% of women prisoners were still in debt at the time of entering the prison system.²²

Single women and families on Centrelink benefits are experiencing increasing financial hardship as a real value of benefits decrease and the cost of living increases. With reductions in public housing throughout Australia over the past 30 years, most women and families on low incomes are forced to access housing through the private rental market. Little is left for the costs of daily living which have continued to increase generally faster than increases in the Consumer Price Index (CPI).

Family criminalisation as a contributor to crime

The social and economic profiles of criminalised women, criminalised children and young people and families impacted by the child protection system are identical. These characteristics have been summarised by the Queensland Child Protection Commission of Inquiry.²³

The prognosis for the children of women prisoners will have similarly deteriorated as a result of their incarceration. National and international evidence demonstrates that it is considerably more difficult and more expensive to intervene when there have

²² Quixley & Kilroy 2011: 17.

²³ Queensland Child Protection Commission of Inquiry 2012: 11-12.

been established offending behaviours by adolescents. Once a young person has experienced imprisonment, whether sentenced or on remand, their likelihood of further imprisonment is increased. Of particular concern are the horrifying rates of adolescent imprisonment, the failure to address young people who offend whilst in care and a lack of support for young people who offend following abuse.²⁴

The arguments against the imprisonment

The case against imprisonment from a statistics perspective is set out above. There is nothing within that material which suggests that imprisonment effectively reduces recidivism in women.

Further to that material the following observations are made. As a result of even a very short period of imprisonment (sentenced or on remand) women may lose:

- Their housing and employment.
- Many lose custody of their children, where their children all too often, go into state care.
- Any treatment regime which was being implemented for mental health issues or substance abuse will cease or at best be suspended.
- If the individual was participating in education or training they may permanently lose their place.
- Many will have accumulated debts and a poor credit rating, and have lost most of their household items and personal belongings as a result of their incarceration.
- They leave prison with a new or extended criminal record which is an added barrier to accessing employment, housing and other service.²⁵

Secondly, for women leaving prison these losses will appear as insurmountable obstacles. Many will engage in self harm and some will commit suicide. At least 40% will return to prison (17% within 12 months; 27% within 2 years).²⁶ One study

²⁴ Cashmore 2001: 38.

found that 70% of Aboriginal and Torres Strait Islander women returned to prison within 9 months.²⁷

It is clear from this material that imprisonment as a means of punishment has very limited effects on the rate of recidivism. In addition to the imprisonment itself, there are a number of social and economic consequences which flow from imprisonment.

The costs of imprisonment are notoriously high reportedly at approximately \$320 per prisoner per day.²⁸

However, of even greater concern are the long term social and economic costs associated with imprisonment. The social costs of imprisonment are self-evident. With increasing imprisonment amongst women and the consequent criminalisation of families, increasing numbers are drawn into the cycle of criminalisation, child protection, poverty and despair at great cost to the State. At the same time, these individuals are being drawn away from productive contributions which might otherwise be made to the community.

The wider angle costs involved in the incarceration of a single mother primarily the costs of incarceration itself along with the ongoing post-incarceration intervention and concurrent interaction with child protection regimes in our view far outweigh the costs involved in early intervention processes and regimes.

Custodial practices and long term effects on women are another factor relevant to the argument against imprisonment. Women who are placed in custody on remand are placed in high security prisons. Pursuant to section 12(1A) of the *Corrective Services Act 2006* a prisoner admitted on remand for an offence must only be

²⁵ Baldry, Eileen (2007) *Recidivism and the Role of Social Factors Post-release*, University of New South Wales at www.sydneyshove.org/Social_Factors_Post_Release.pdf.

²⁶ For indications of recidivism amongst women see Baldry 2003, Baldry 2007, Payne 2007.

²⁷ Baldry 2007.

²⁸ Tony Moore, Brisbane Times. *Queensland prisons hold record number of criminals*. 6 November 2013. Retrieved from: <http://www.brisbanetimes.com.au/queensland/queensland-prisons-hold-record-number-of-criminals-20131106-2x1tk.html#ixzz2jtpT316m>.

classified into a security classification of high or maximum. Pursuant to section 13 prisoners on remand cannot have that security classification reviewed. In practice in Queensland, female untried prisoners are not separated from convicted prisoners.

In addition there are issues surrounding the over-classification of women prisoners as dangerous when many commit small, non-violent crimes. This is exemplified by the number of high security classified women in Queensland where in 2013 approximately 54% of women in custody were classified as high security offenders.²⁹ This maximum classification also impacts on the availability of parole orders.

Problematically the misperception in dealing with women prisoners is that their identified needs are translated into risks without proper and appropriate recourse to address those needs. High security prisons accommodate women who require mental health or general health treatment because those facilities are not accessible at low security prisons. An immediate concern for many women is that high security prisons are geographically more accessible to their children.

The rates of self harm, suicide, mental health and family breakdown are exacerbated for women prisoners because of the practices they are exposed to. Those practices include for example strip searching of women prisoners by male officers. The long term social costs of repairing the damage caused to women in custody is not able to be readily quantified.

In addition, imprisonment has the negative effect of displacing any rehabilitative and treatment programs and regimes that the individual puts in place prior to incarceration. Throughout the period of imprisonment, short term courses may be offered but those programs are scheduled without consideration of women's availability and are subject to Queensland Corrective Services staff exercising a discretion to allow offender participation. Many women prisoners have reported not having assistance for their ongoing drug use (as high as 84%) where 50% of women prisoners continue to use drugs while in prison.

In relation to education generally, women are often prevented from doing full time study because they are discouraged by prison staff and because of the choice between low-security and therefore low-education facilities against high-security

²⁹ Note 2.

facilities. There are extremely poor library facilities and very limited access to electronic materials.

The long term economic costs of imprisoning women and children are in general difficult to calculate. Certainly, those impacts are much more costly in the long term than the immediate day to day costs to the tax-payer.

Effective crime prevention strategies

SIS believes that any alternative is better than prison.

SIS supports the development of a variety of prevention, early intervention, diversionary and rehabilitation measures. We recognise the limitations of some services and approaches and acknowledge the relative lack of success of many programs which have previously been implemented as alternatives to imprisonment.

Over the past 20 years, SIS has progressively developed principles, models and practices with a high success rate in diverting women from future imprisonment. That success is directly related to the mindset adopted by SIS in providing services. Some of the key attitudes and values that have underpinned the success of our service provision are:

- Every woman is entitled to have her human rights met - women are not expected to be grateful for services;
- Staff should respect women as equals, treat them as the experts in their own lives and respect their decisions about their needs (including when, and whether, to address issues in their lives);
- Women are entitled to privacy at all levels - staff should not treat any provision of personal information as a privilege, not a right, and never breach confidentiality;
- Recognising that criminalisation is largely driven by social and economic background rather than individual inadequacies;
- Staff must take responsibility for exploring their own personal values and educating themselves about criminalised women's context and culture;

- Staff must respect women's context and culture, step outside their comfort zone to meet women on their terms, be willing to admit their mistakes and always operate in the interests of women.³⁰

SIS services have been further enhanced through our recognition of shared experience as highly relevant when appointing staff.

In short, these principles have led to development of customised, responsive services which, wherever possible, address the varying needs of different women and children at different times. The mindset adopted by staff of SIS is directly related to the outcomes that SIS achieves with those who access the service.

In our view, any commitment to justice reinvestment and the building of a safer community would require an immediate focus on addressing poverty. Criminalised families overwhelmingly face social disadvantage and inequities in areas such as employment, income housing and health. A direct investment in these areas can be expected to reduce imprisonment rates amongst women and children.

To date, services have been involuntary or semi-voluntary and have been provided using prescriptive, formal, structured approaches. This applies to both services provided through corrections departments and those sub-contracted to large NGO's, particularly transitions programs. Few criminalised women will willingly engage with services which function in a way which reminds them of prison, or whose staff behave in a similar way to child protection, prison or parole officers.

There is a lack of understanding within the existing service provision entities of the needs of women post-release. Goulding's comprehensive study of the needs of women post-release noted the importance of recognising the full breadth of women's needs, including social isolation and loneliness and the needs of other family members.

The SIS Transition Support Program has been developed by combining the detailed recommendations of Goulding about women's post-release needs together with lessons from the pilot program A place to call home which SIS participated in. Attachedⁱ to this submission is the SIS Transition Support Program description.

³⁰ Quixley & Kilroy 2011:104-123.

The Community Services Industry is overloaded with programs which focus on coordination and referral rather than actual service provision. Case management is the current dominant approach to work with vulnerable and marginalised groups. The very fact that imprisonment continues to rise is an indication of the failure of the case management approach to service delivery. Most criminalised people are necessarily preoccupied with addressing the most urgent needs in their lives on any particular day which are not addressed by a case management scheme which denies the complex realities of the lives of most criminalised women and children.

Diversiory programs

In respect of diversionary programs, SIS notes that some diversionary programs have been discontinued, even where they are demonstrably effective. That is exemplified in Queensland by the defunding of the Special Circumstances Court in Queensland which occurred in December 2012.

SIS strongly supported the Special Circumstances Court Diversionary Program. The SIS program had a 96% success rate in diverting women from prison. As at June 2010, 30% of program participants were Aboriginal and Torres Strait Islander women. Every Aboriginal and Torres Strait Islander woman involved in the program between 2007 and 2010 either did not re-offend or had a reduced rate of offending throughout the three year period.

The Special Circumstances Court was successful because of the philosophy and approach taken by the diversionary program. The program addressed holistically the causes of criminalisation and sought to change behaviours rather than punish offenders. The approach involved an inclusive program where SIS staff provided ongoing support to the women participating in the program.

In addition to the value of the program to individual women, the SIS Special Circumstances Court program has been conservatively estimated to have saved \$250,000 in imprisonment costs alone.

In our view, this underlines the importance of national targets to maintain and further develop diversionary program options, including increased funding for diversionary courts, with dedicated funding to ensure culturally appropriate service provision to Aboriginal and Torres Strait Islander women and men utilising the programs.

National and International Experience

Both domestically and internationally, there are a number of alternatives to imprisonment for women which demonstrate that women's needs in the criminal justice sphere are not best served through imprisonment.³¹

In particular we point to the following examples:

- New South Wales
 - Miruma is an 11 bed residential diversion program for substance abuse and mental health issues for women. It involves intensive and tailored case management, supervision and engaging with community facilities. The service promotes general life skills and has experienced a 60% success rate for those remaining in the community for two years.
 - Guthrie House offers residential accommodation and drug/alcohol use for prisoners where women can bring their children. There is a focus on securing permanent housing for women and it involves both individual and group work. It is a 3 month program for 10 people including residential accommodation with 24 hour support. All participants of the program have gone into stable housing.
 - Video conferencing in NSW has enabled women to help their children with their homework and reading.
 - Mothering at a Distance is a 10 week program which addresses child mental health, social and behavioural problems and development and learning difficulties and the impact of intergenerational cycles of crime. To date 68% of those on the program have completed it and further funding has been approved.³²

- Victoria
 - The Neighbourhood Justice Centre is a multijurisdictional court offering community sanctions and supports for low level offenders. Offenders can receive access to community based sentences and support such as substance abuse treatment, mental health support and housing assistance. Eighty per

³¹ Ruby Moshenska, 'International good practice: alternatives to imprisonment for women' (Information Resource, Prison Reform Trust, 2013) 11.

³² Dr Lorana Bartels and Antonette Gaffney, 'Good practice in women's prisons: A literature review' (Technical and Background Paper no 41, Australian Institute of Criminology, 2011) 59.

cent of those involved with the program have criminal proceedings and support is offered to people attending Court. There is a monthly Community Justice Advisory Group meeting to connect the Centre to the community and it has been shown that those involved with the program are 14% less likely to reoffend versus other mainstream court options.

- Western Australia

- Boronia Pre-release centre for women offenders is a well developed and diverse women's prison estate. The focus of the centre is on mental health, mother-child relationships and culturally specific residential and treatment options. The pre-release centre is residential style and houses up to 82 women with communal kitchens and living spaces. Women have individual management plans and access to education 15 hours a day and meet regularly with staff. Women are employed while in the centre and have access to programs such as domestic violence, life skills and therapy generally. In the last 12 months prior to their release they can have periods of leave from prison to reconnect with their communities.³³

- Netherlands

- The Balancing the future, a new challenge, development partnership program is a program for women offenders in prison. There is a small section for mother to live with their children. The program takes a holistic approach but focuses on employment and provides pre-release support for employment, housing, health and welfare through individualised vocational guidance plan. The support follows for a period of 6-12 months post release and women are provided with community residential accommodation and community child care and child reunification with a community partner. Seven per cent of participants only have reoffended against 35% of the normal prison population.³⁴

What these various programs show is that there are alternatives to imprisonment which are currently being employed and which have a greater effect on reducing the rate of recidivism in women offenders than mainstream imprisonment.

³³ Dr Lorana Bartels and Antonette Gaffney, 'Good practice in women's prisons: A literature review' (Technical and Background Paper no 41, Australian Institute of Criminology, 2011) 21.

³⁴ European Commission Equal, Female Offenders Focusing on their Future

Going forward

As is evident throughout this submission, SIS frequently has to rely on anecdotal data or evidence from single studies to demonstrate the particular experiences and needs of women, particularly indigenous women, in the justice system. Too often SIS is told that our proposals are not sufficiently evidence-based. This, despite the fact that governments consistently refuse to collect even the most basic evidence on criminalised women and fail to produce the same data over several years to allow the identification of trends. There is a general absence of consistent, quality, accessible, gender-specific, culture-specific statistical data on criminalised women and children.

Corrections authorities in Queensland should be required to report on the background of prisoners including:

- Number of dependent children for whom each had primary care responsibility immediately before imprisonment;
- Pre-existing mental health diagnosis;
- Housing status;
- Income source;
- First language;
- Level of education attainment.

It is to be noted that SIS does not advocate collection of health and personal information. Our experience shows that women are unlikely to provide accurate information to prison authorities. Further, women prisoners report that this type of information has been inappropriately used as a basis for punishment within prisons throughout Australia.

SIS strongly supports the need for additional funding to enable improved data collection in relation to diversion programs including family violence support services. However, data collection alone does not ensure ongoing availability of successful diversionary services.

Sisters Inside believes that justice reinvestment would have a significant positive effect on the building of a safer community in Queensland. It would direct expenditure to areas that help, rather than harm, individuals, families, communities and society in both the short and long term.

ⁱ Attachment A is a copy of the Sisters Inside Transitions Program guideline