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Sisters Inside Inc. is an independent community organisation which exists t advocate for the human rights of women in the criminal justice system

8 November 2017

Sabina Wynn
Australian Law Reform Commission

By email only: sabina.wynn@alrc.gov.au

Dear Ms Wynn

Inquiry into incarceration rates of Aboriginal and Torres Strait Islander peoples

We refer to the ALRC's Discussion Paper and the Inquiry into the incarceration rates of Aboriginal and Torres Strait Islander peoples. We make the following submission for consideration as part of the Inquiry. We apologise for the delay in providing this submission.

About Sisters Inside

Sisters Inside is an independent community organisation in Queensland that advocates for the human rights of women and children affected by the criminal justice system, and works alongside women and children to address their immediate, individual needs.

Our work is guided by our underpinning *Values and Vision*[1]. Over the past 24 years, Sisters Inside has developed a unique model of service and highly successful programs. All of our work is directly informed by the wisdom of criminalised women and, wherever possible, Sisters Inside employs staff with lived prison experience.

About this submission

This submission focuses on the experiences and needs of criminalised Aboriginal and Torres Strait Islander women. In making this submission, we do not intend to diminish the impact of imprisonment for Aboriginal and Torres Strait Islander men.

This submission is informed by our fundamental belief that prisons are a failed institution and an irrational response to social problems. Prisons do not deliver 'justice' or 'rehabilitation'. Rather, they further alienate socially marginalised groups in our communities, particularly Aboriginal and Torres Strait Islander women and girls. Instead of building or reforming prisons, we believe that criminal law policy should start from the position that a world without prisons is possible, and then identify the decarceration strategies that are required to realise this goal. 'Decarceration' refers to those strategies that build community resources, power and resilience, rather than relying on surveillance, supervision and coercion by Governments to address social problems.

[1] Sisters Inside Inc., 'Values and Visions'. Available at: www.sistersinside.com.au/values.htm

Unless otherwise stated, we use the words *prison* and *imprisonment* to refer to all forms of detention, custody and 'corrective' institutionalisation. We deliberately do not use the term *offender* to describe people in the criminal law system.

General comments

Criminalised Aboriginal and Torres Strait Islander women and prisons

> *All Indigenous women share the common experience of living in a society that deprecates us. An Indigenous woman's standpoint is shaped by the following themes. They include sharing an inalienable connection to land; a legacy of dispossession, racism and sexism; resisting and replacing disparaging images of ourselves with self-defined images; continuing our activism as mothers, sisters, aunts, daughters, grandmothers and community leaders, as well as negotiating sexual politics across and within cultures.*[2]

We welcome the inquiry's specific focus on Aboriginal and Torres Strait Islander women in Chapter 9 of the Discussion Paper.

From our inception, Sisters Inside has advocated for action to address the disproportionate over-representation of Aboriginal and Torres Strait Islander women and girls in Australian prisons. In the last two decades, over-imprisonment of Aboriginal and Torres Strait Islander women and girls has massively increased in Australia[3].

Criminalised Aboriginal and Torres Strait Islander women are the most socially marginalised and disadvantaged group in Australia's prisons. A comprehensive UNSW study relating to Aboriginal women with mental and cognitive disabilities found that those Aboriginal women:[4]

- were 3.7 times more likely than non-Aboriginal women to have been in out-of-home care;
- had their first police contact at a younger age, and significantly higher numbers of police contacts across their lives, than non-Aboriginal women;
- had significantly higher numbers of convictions – on average 23 convictions over their lifetime compared with 15.2 convictions for non-Aboriginal women;
- were 2.4 times more likely to have been in prison as children than non-Aboriginal women;
- were 2.2 times more likely to have been homeless at some point in their life than non-Aboriginal women; and
- had been recorded as victims of crime by police an average of 23 times in their life, whereas non-Aboriginal women were only reported as victims an average of 16 times across their lives.

Queensland research has found that 86% of Aboriginal and Torres Strait Islander women in prison had a diagnosed mental health disorder over a 12 month period – including substance misuse disorders (69%), anxiety disorders (51%), depressive disorders (29%) and psychotic disorders (23%)[5].

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[2] Aileen Moreton-Robinson, *Talkin' up to the white woman: Indigenous women and feminism* (University of Queensland Press, 2000), xvi.
[3] See Human Rights Law Centre and Change the Record, 'Over-represented and over-looked: the crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment' (May 2017), 10.
[4] See generally Eileen Baldry et al, 'A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system' (UNSW, October 2015).
[5] Edward Hefferan et al, 'Prevalence of mental illness among Aboriginal and Torres Strait Islander people in Queensland prisons' (2012) 197(1) *Medical Journal of Australia* 39.

Most Aboriginal and Torres Strait Islander women – between 80-85% – are mothers of dependent children or have caregiver responsibilities for children prior to their arrest and imprisonment.[6] Some women also have caregiver responsibilities for other family members prior to prison[7]. Separation from children and family has devastating consequences for women and their children, often serving to entrench the cycle of criminalisation, dispossession and disadvantage.

Poverty, homelessness and social exclusion are also drivers of criminalisation and imprisonment for women. The Newstart Allowance is the only source of income for many criminalised women prior to and after their imprisonment. The Newstart Allowance has not increased in real terms (i.e. greater than CPI) since 1994[8].

Although it is consistently stated that many Aboriginal and Torres Strait Islander women are in prison for acts of violence, it is likewise true that almost all criminalised women are survivors of domestic and family violence[9].

Many criminalised Aboriginal and Torres Strait Islander women and girls are survivors of sexual assault, including child sexual abuse[10]. Trauma related to child sexual abuse has a direct link with Post-Traumatic Stress Disorder (PTSD). Research involving 156 Aboriginal and Torres Strait Islander women at Brisbane Women's Correctional Centre in Queensland women with PTSD were nearly five times more likely than those without PTSD to have been a victim of sexual assault or rape; the mean age of experiencing these traumas was 9.3 years and 10.2 years respectively[11].

Most criminalised Aboriginal and Torres Strait Islander women have also experienced violence at the hands of the State by police officers, medical professionals or carers (while in child protection). Intergenerational institutional violence has a serious impact on women's ability to trust and respect State authorities.

Sisters Inside does not deny that women commit acts of violence. However, in our experience and based on the available data, we know that women's violence is usually against intimate partners or other family members – most commonly as a response to a long history of victimisation and abuse. Women rarely commit serious acts of violence against strangers.

The Queensland Sentencing Advisory Council recently published sentencing data in relation to manslaughter for the period from 2005-06 to 2015-16. Significantly, in relation to the 5 Aboriginal and Torres Strait Islander women convicted of manslaughter in this period, the data shows that in 4 cases (80%), the victim was an intimate partner or ex-partner and in the 1 other case (20%), the victim was another family member[12].

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[6] See, eg Larissa Behrendt, Chris Cunneen & Terri Liebesman, *Indigenous Legal Relations in Australia* (Oxford University Press, 2009); Lorana Bartels, 'Painting the Picture of Indigenous Women in Custody in Australia' (2012) 12(2) *QUT Law and Justice Journal* 1, 13; Department of Corrective Services (Western Australia), Profile of Women in Prison 2008 (Final Report, August 2009), 53.

[7] Dot Goulding, 'Severed Connections: An Exploration of the Impact of Imprisonment on Women's Familial and Social Connectedness' (2004). Available at: http://researchrepository.murdoch.edu.au/10995/

[8] Australian Council of Social Service and Social Policy Research Centre, 'Poverty in Australia' (5th edn, 2016), 29.

[9] See, eg Mandy Wilson et al, 'Violence in the lives of

[10] See generally Suzi Quixley & Debbie Kilroy, Working with Criminalised and Marginalised Women: A starting point (2nd edn, 2011).

[11] Ibid, 19.

[12] Queensland Sentencing Advisory Council, 'Sentencing spotlight on…manslaughter' (July 2017), 6 (table 1). In contrast, there were 32 non-Aboriginal and Torres Strait Islander women charged with manslaughter in the same period. In only 37.5% of cases, the victim was an intimate partner or ex-partner. In 28.1% of

The complex dynamics of violence in the lives of Aboriginal and Torres Strait Islander women cannot be addressed through the criminal law system. This is obvious from the rising number of women in prison for breaches of domestic violence protection orders.

Data provided by Queensland Corrective Services to Sisters Inside shows that in both 2014-15 and 2015-16, breach of the *Domestic and Family Violence Protection Act 2012* (Qld) was the tenth most common offence type for women in prison in Queensland (either on remand or sentenced). In 2015-16, women in prison had 227 offences for these breaches on their records. Also in 2015-16, 36 women were serving sentences of imprisonment for breaches of the *Domestic and Family Violence Prevention Act 2012* (Qld) as their most serious offence.[13]

Around 20% of the women assessed by Sisters Inside's Supreme Court Bail program in Townsville are remanded for breaches of domestic violence protection orders and reactive violence offences. Almost all of these women are Aboriginal and/or Torres Strait Islander.

According to data provided by Queensland Courts,[14] in 2015-16 there were 15,362 charges for breaches of domestic violence protection orders finalised across Queensland. Women were defendants for 1,780 of these charges, which is around 12% of the total number of charges. Of those women whose matters were finalised, 632 were Aboriginal and Torres Strait Islander women. 132 Aboriginal and Torres Strait Islander women were sentenced to a period of imprisonment for that offence (but not necessarily time to serve). In contrast, out of the 1,148 non-Indigenous women whose charges for breaches of DVOs were finalised, only 125 women were sentenced to periods of imprisonment. Therefore, proportionally, almost double the number of Aboriginal and Torres Strait Islander women were sentenced to a period of imprisonment.

Prisons are fundamentally violent environments, where women lose control of almost every aspect of their life, and their identity is effectively reduced to a number. Prisons also replicate and reinforce patterns of violence and abuse that women have experienced in the free world. For example, common prison practices such as strip searching re-traumatise women who are survivors of sexual assault. The main justification for strip searches is to prevent illicit drugs and other prohibited items from entering prisons[15]. In Queensland, women are routinely strip searched after contact visits with their children, family members and loved ones, and after returning from court.

In 2016, women were strip searched a total of 12,170 times at Queensland's largest (and most overcrowded) women's prison, Brisbane Women's Correctional Centre (**BWCC**) [16]. Women at BWCC were strip searched 3,376 times after visits. The only contraband found after visits was three cotton buds and a non-prison issued singlet. Contraband was also rarely detected upon reception – there were 5,090 reception store strip searches at BWCC in 2016 and the only recorded contraband was: 1 x mobile phone, 1 x SIM card, lighter, approx. 54 tablets, 1 x Seroquel tablet and a lip piercing (all found separately). These records

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cases, the victim was a family member; in 25% of cases, the victim was a known, non-family member (e.g. friend, neighbour, colleague); in 3.1% of cases, the victim was unknown to the defendant; and in 6.3% of cases, information about the defendant's relationship to the victim was not available.

[13] Received via email from Sonia Maloberti, A/Manager, Performance and Reporting, Queensland Corrective Services on 16 December 2016. A copy of this data can be provided on request.

[14] Received via email from Alexis Vayro, A/Senior Performance Information Advisor, Courts Performance and Reporting Unit, Department of Justice and Attorney-General on 27 March 2017. A copy of this data can be provided on request.

[15] See reference to QCS policy in Anti-Discrimination Commission Queensland, *Women in Prison: A report by the Anti-Discrimination Commission Queensland* (March 2006), 71. Available at: https://www.adcq.qld.gov.au/human-rights/women-in-prison-report.

[16] Sisters Inside Right to Information Request, Department of Justice and Attorney-General (Ref: 171000), submitted on 1 February 2017.

suggest that strip searches are completely ineffective to prevent drugs and other illicit contraband from entering prison.

There is evidence from a 2002 trial in Victorian prisons, put in place after sustained advocacy by prison activists, that reducing the number of strip searches leads to a reduction in women using drugs in prison (inferred from a reduction in urine positives). Additionally, the Victorian trial found there was a reduction in 'incidents' in the prison – staff assaults, prisoner assaults and self-harm incidents – and women who were involved in 'incidents' generally had significant mental health issues. The level of contraband seized remained unchanged[17].

Overall, the extreme and rising rate of over-representation of Aboriginal and Torres Strait Islander women in prison demonstrates the total failure of prisons and 'tough on crime' policies to address harm, violence and related social issues in our communities.

Imagining abolition: Thinking outside the bars

> *But whenever I thought we'd made progress, something happened— a beating, a kid in an isolation cell, an offhand remark by a superintendent or cottage supervisor that told me what I envisioned would never be allowed. Reformers come and reformers go. State institutions carry on. Nothing in their history suggests that they can sustain reform, no matter what money, staff, and programs are pumped into them. The same crises that have plagued them for 150 years intrude today. Though the casts may change, the players go on producing failure.*[18]

Although the above quote refers to youth reform schools (prisons) in the United States, it is equally relevant to the operation of adult prisons in Australia. Conventional reforms will not be effective in addressing the failures of prison. Prisons and punishment frameworks cannot appropriately respond to the complex trauma of Aboriginal and Torres Strait Islander women and the ongoing legacy of racism following colonisation.

Systemic changes are urgently needed to reduce the numbers of Aboriginal and Torres Strait Islander women and girls being pipelined from the child protection system to youth prisons and ultimately cycling through adult prisons. Urgent action is also required to stop the rising rate of Aboriginal and Torres Strait Islander children removed from the care of their mothers and families by child protection authorities[19].

Decarceration strategies that eradicate the foundations of structural inequality and racism must be the starting points for meaningful policy change in the criminal law system – for example, providing public/affordable and long-term housing, guaranteeing adequate income support through Centrelink, and providing access to free health care and rehabilitation.

If Aboriginal and Torres Strait Islander women are free, everyone will enjoy greater freedom and safety in our communities.

Below we have outlined our position on relevant questions and proposals in the Discussion Paper.

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[17] Jude McCulloch and Amanda George, 'Naked power: Strip searching in women's prisons' in Phil Scraton and Jude McCulloch (eds), *The Violence of Incarceration* (Routledge, 2009) 107, 119.
[18] Jerome G. Miller, *Last One over the Wall: The Massachusetts experiment in closing reform schools* (Ohio State University Press, 2nd edn, 1998), 18.
[19] Australian Institute of Health and Welfare, 'Child protection Australia 2015-16' (Child Welfare Series, Report No. 66, 2017), 46.

Bail and remand populations

We support changes to legislation to require Courts to take into account a person's Aboriginal and Torres Strait Islander status in bail decisions.

Any legislative requirement would have to be sufficiently flexible to allow for a range of appropriate and relevant information to be provided to the Court on behalf of a person applying for bail (e.g. not limited to information provided by named institutions, not required to be provided in a formal/cultural report etc). In our experience, the limited provisions of the *Bail Act 1980* (Qld) are not effective, especially for women who live in metropolitan areas or those living away from country.[20]

As indicated above, most Aboriginal and Torres Strait Islander women have dependent children or are caregivers to children. On this basis, we also strongly support changes to bail legislation to require Courts to consider parental status and facilitating ongoing contact with children.

To ensure consistent and effective decision-making and advocacy, amendments to bail legislation should be supported by official publications, such as practice manuals, bench books and/or practice directions. The publication could provide practical guidance in relation to the following matters:

- the types of information that will be considered to demonstrate Aboriginal and Torres Strait Islander status as a relevant consideration (e.g. letter from family member or relevant organisation);
- the appropriate weight to be given to criminal history, especially in relation to breaches of bail conditions, failures to appear and prior imprisonment – this is a significant barrier for many criminalised Aboriginal and Torres Strait Islander women;
- how Aboriginal and Torres Strait Islander status should be taken into account in imposing bail conditions (e.g. not banning people from communities or culturally significant places);
- the role of bail in supporting ongoing contact with children, even in situations where children are not living with their mother due to the involvement of Child Safety; and
- the inappropriateness of imposing bail conditions in situations of demonstrated disadvantage (e.g. a residential condition if there is credible information that a person is homeless).

The identified needs and priorities of Aboriginal and Torres Strait Islander leaders, communities and organisations must be prioritised by Australian Governments in implementing changes to the criminal law and social welfare systems.

Sentencing and Aboriginality

We support in principle legislative amendments to require Courts to take into account the unique systemic and background factors affecting Aboriginal and Torres Strait Islander peoples as a sentencing factor.

As most Aboriginal and Torres Strait Islander women are mothers, legislation should also be amended to explicitly require women's status as mothers and the best interests of their children to be taken into account. This should apply even in situations where the woman is

[20] The *Bail Act 1980* (Qld) requires information to be provided by community justice groups. In our experience, these provisions are not effective and bail decision-making should not be limited to information provided by community justice groups.

not the primary caregiver prior to sentence.

We agree with the observations in the Discussion Paper that many sentences proceed with inadequate information about a person's background, trauma history and support options. In this regard, specialist sentencing reports may assist the Court.

However, cost and time are significant practical barriers to specialist sentencing reports. If these reports were to be introduced, dedicated funding would have to be made available through Legal Aid commissions for this purpose, with the presumption that all Aboriginal and Torres Strait Islander peoples are eligible for funding if they choose to rely on a report. Aboriginal and Torres Strait Islander peoples must not languish in prisons waiting for funding for reports or for availability of report writers.

Even if explicit legislative amendments and specialist sentencing reports are introduced, we are still concerned that these initiatives will not meaningfully reduce over-imprisonment of Aboriginal and Torres Strait Islander women. This is because concepts of Aboriginality/Indigeneity are ultimately racialised and gendered in their interpretation. Additionally, these mechanisms will not address systemic racism and individual prejudice against Aboriginal and Torres Strait Islander peoples.

For example, Baldry and Cunneen refer to the case of *R v Trindall* (2005) NSWCCA 446 as an example of how the Court failed to recognise the gendered impacts of colonisation, including systemic family disruption, child removal and sexual assault, even though the Court considered the *Fernando* principles in that case[21].

Further, speaking about the *Gladue* case, Senator Kim Pate has stated[22]:

> *In fact, when you read the preliminary inquiry transcripts…you realize, no her sister had just been raped by him. He had just beaten her up and she was trying to get away, and it was in that context. Yet they only listened to the white, non-aboriginal witnesses. Most of the aboriginal witnesses were asked what beer they drank, so you already see a bias, not just a systemic bias but a very individual racialized bias against those individuals. When you read the Gladue sentencing decision, you realize it's probably an attempt to rectify the discriminatory treatment at the stage of the trial.*

We believe that prisons and sentences of imprisonment are not compatible with the concepts of reparation or restoration (Question 3-2).

Sentencing options

Mandatory and presumptive sentences

We support repeal of all mandatory and presumptive sentences. We would support a further review of relevant legislative provisions and note the role of Sentencing Advisory Councils in some jurisdictions that could undertake this work.

We suggest following provisions should be prioritised for review:

- all mandatory sentences of imprisonment and non-parole periods. Review of

[21] Eileen Baldry and Chris Cunneen, 'Imprisoned Indigenous women and the shadow of colonial patriarchy' (2014) 47(2) Australian and New Zealand Journal of Criminology 276, 288.
[22] Evidence to Standing Committee on Aboriginal Affairs and Northern Development, House of Commons, Canada, 1 December 2009, 1125 (Kim Pate).

mandatory sentences of imprisonment is particularly important to reduce the extreme over-imprisonment of Aboriginal and Torres Strait Islander women in Western Australian and the Northern Territory;
- mandatory sentences that apply to children;
- mandatory penalties related to driving offences; and
- mandatory non-custodial sentences, particularly when they are imposed in addition to imprisonment (e.g. section 108B, *Penalties and Sentences Act 1992* (Qld)). Mandatory community-based sentence set women up to fail because they often require compliance with two community-based orders (e.g. probation and community service *or* parole and community service). This is practically impossible for women in highly marginalised situations.

Short sentences and community-based sentences

Short sentences of actual imprisonment are incredibly detrimental for women and their families. Although we are sympathetic to the idea of abolishing short sentences, we are concerned about the real possibility of 'sentence creep', as identified by stakeholders in Western Australia[23]. Given that women currently serve shorter periods of imprisonment, 'sentence creep' is likely to have a disproportionate and negative effect on women.

If State and Territory Governments were considering abolishing short sentences, it would also be important to consider systemic alternatives such as decriminalisation of certain minor offences (e.g. public nuisance, evade fare, begging etc), the introduction of adult cautioning, and/or referral to restorative justice conferencing or mediation.

Prison programs, parole and unsupervised release

Given the high turnover of women on remand and serving short sentences, pre-established, time-specific programs with a 'beginning, middle and end' can be expected to have limited value. Programs of value would need to be ongoing, voluntary and sufficiently flexible to adjust to individual women's needs and period of imprisonment (e.g. numeracy/literacy tutoring, yarning circles, maintenance of class work for a course being taken on the outside). Another option is regular once-off workshops on topics affecting criminalised women (e.g. non-custodial parenting, dealing with the child protection system, women's rights, how to access public housing), which would best be provided by community organisations.

Aboriginal and Torres Strait Islander women and non-Indigenous women in all jurisdictions consistently report current prison programs are of negligible value and have little impact on their life after release from prison.

The majority of Aboriginal and Torres Strait Islander women's 'offending' is driven by entrenched, multi-generational racism, poverty and violence. Therefore, any program designed to reduce recidivism should provide women with support, strategies and skills to address these key drivers of criminalisation. In our view, for programs to be effective, they must be delivered by independent organisations with an understanding of the prison environment – not prison authorities[24].

Programs should also have continuity with community-based support services. For Aboriginal and Torres Strait Islander women, programs should be delivered by Elders or

[23] Department of the Attorney-General, *Statutory Review of the Sentencing Act 1995 (WA)* (October 2013), 57-58.
[24] See generally Debbie Kilroy, 'Providing Innovative Domestic and Family Violence Counselling and Prevention Programs with Women Prisoners', Paper presented at the *Stop Domestic Violence: Providing a platform for a unified national voice* conference, Brisbane, 5-7 December 2016.

practitioners endorsed by Aboriginal and Torres Strait Islander-controlled organisations. Other common denominators amongst criminalised women such as mental health issues, substance abuse and reactive violence, are *consequences* of these fundamental drivers rather than *causes* of criminalisation.

Given the inaccessibility and failure of programs, it is important that women's participation in prison programs is not a pre-requisite for parole.

We support the amendment of parole revocation schemes to abolish requirements for time spent on parole to be served again in prison if parole is revoked (Proposal 5-4).

Fines and drivers licences

We support the abolition of imprisonment for fine default (Proposal 6-1).

In order to have the same impact on every person, we support proposals for fines to be proportional to income rather than a fixed minimum amount. However, given the extreme economic disadvantage of most criminalised Aboriginal and Torres Strait Islander women, including women under income management with Centrelink, fines are not an appropriate sentence. Courts could make greater use of good behaviour orders/recognisances, which require a person to pay a sum of money if they commit another offence during the relevant period.

In our experience and based on our conversations with relevant academics in Queensland, Aboriginal and Torres Strait Islander women are over-represented among people issued with infringement notices or charged with public nuisance for language directed at police officers. Rather than removing offensive language provisions from infringement notice schemes, we consider offensive language should not be a criminal offence under any circumstances.

We note the Queensland Government's plan to introduce Work and Development Orders for fines. Sisters Inside intends to participate in the WDO scheme as an organisation through which women can repay their fines (e.g. by participating in our sexual assault counselling service in prison). As well as the ability to discharge fines debts through WDOs, there must be a clear and accessible process for having fines debts waived due to severe hardship, especially in cases where a debt may be several thousand or tens of thousands of dollars. It is practically impossible for large debts to be discharged via WDOs.

Additionally, we recommend the offender levy in Queensland be abolished as it disproportionately punishes Aboriginal and Torres Strait Islander peoples.

We consider licence suspension should not be used as an enforcement measure for unpaid fines.

Justice procedure offences – Breach of community-based sentences

In our experience, Aboriginal and Torres Strait Islander women are at high risk of breaching community-based sentences, due to sentence obligations which are incompatible with their parenting/caring responsibilities and statutory obligations.

In our experience, many Aboriginal and Torres Strait Islander women may face significant difficulties complying with supervised community-based sentences in addition to meeting their caring/parenting responsibilities and the requirements of Government bodies such as child protection authorities and Centrelink, as well as dealing with lack of stable housing

and/or unaffordable or inaccessible transport.

We support a process to identify the gaps and failures of supervised community-based sentences (including court-ordered parole). Sentencing Advisory Councils may be well-placed to undertake this review in relevant jurisdictions. Any further review must take into account the unique needs of Aboriginal and Torres Strait Islander women.

Aboriginal justice agreements

Addressing the over-imprisonment of Aboriginal and Torres Strait Islander women, men and children must be a national priority. We support the development of justice targets as part of the review of the Closing the Gap policy. Targets should include:

- not building or opening any new prisons; and
- reducing the number of young women (under 25 years old), older women (over 60 years old) and mothers in prison by at least 50% by 2025.

Access to justice issues

We support the establishment and funding of gender-appropriate and accessible interpreter services within the criminal legal system (Proposal 11-1).

We support the introduction of a statutory custody notification service (Proposal 11-3). This proposal should be implemented as a matter of urgency.

Police accountability

As indicated above, we are seeing rising rates of Aboriginal and Torres Strait Islander women charged with breaches of domestic violence protection orders, often in circumstances where the police (rather than the intimate partner) have applied to impose the order. The criminalisation of Aboriginal and Torres Strait Islander women for acts of domestic violence is unacceptable and totally inconsistent with the evidence that women and children are disproportionately survivors of violence.

We support an urgent review of the effectiveness of policing and the criminal law system to address domestic and family violence, especially in remote Aboriginal and Torres Strait Islander communities. Rather than relying on police, communities must be funded and supported to develop local, Indigenous-controlled responses to violence. Additionally, funding should be made available for appropriate crisis accommodation and related support services to allow women and children the choice to leave dangerous situations.

In our view, the only genuine ways to reduce over-policing and ensure police accountability are to reduce the number of police in remote communities and establish an independent body to investigate complaints against police. This is consistent with international human rights standards and recommendation 226 of the Royal Commission into Aboriginal Deaths in Custody.

We do not support diverting funds from direct investment in Aboriginal and Torres Strait Islander communities and organisations to “community” programs operated by the police.

Conclusion

Sisters Inside believes it is essential that the Inquiry findings clearly articulate the different criminogenic profile of Aboriginal and Torres Strait Islander women compared to men. As a result, the findings and recommendations should highlight the inappropriateness of applying or adapting programs, parole conditions, community-based sentences etc designed for men to women.

Please contact me on (07) 3844 5066 if you would like to further discuss anything in this letter further.

Yours faithfully

Debbie Kilroy

Chief Executive Officer
Sisters Inside Inc