



TOP END WOMEN'S LEGAL SERVICE INC.

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4 September 2017

The Executive Director
Australian Law Reform Commission
GPO Box 3708
Sydney NSW 2001
Email: indigenous-incarceration@alrc.gov.au

Dear Executive Director,

Submission to the ALRC Discussion Paper – Incarceration Rates of Aboriginal and Torres Strait Islander Peoples

The Top End Women's Legal Service ("TEWLS") welcomes the opportunity to make a submission to the ALRC inquiry into the incarceration rates of Aboriginal and Torres Strait Islander peoples ("the Inquiry") in response to the Discussion Paper titled "Incarceration Rates of Aboriginal and Torres Strait Islander Peoples" ("the Discussion Paper").

Our submission will be focused on our experience of assisting Aboriginal and Torres Strait Islander women in the Northern Territory ("NT"), particularly through our civil outreach clinic to the Darwin Correctional Centre ("DCC"). In addition to the below submission, we **enclose** a copy of our submission to the Inquiry's draft terms of reference for your reference.

About TEWLS

TEWLS is a community legal centre focused on the advancement of women's rights. Founded in 1996, we are funded by the Commonwealth Departments of the Attorney General and Prime Minister & Cabinet to provide high quality and culturally appropriate legal advice, casework, community legal education, and advocacy to women living in the Top End of the NT, being the Greater Darwin region.

We provide advice and assistance in a number of areas of law, including:

- Family law;
- Domestic and family violence;
- Housing and tenancy;
- Debts, fines and welfare rights;
- Sexual assault;
- Discrimination;
- Compensation for victims of crime; and
- Complaints about government and other services.

We provide outreach services for Aboriginal and Torres Strait Islander women in the town communities surrounding Darwin, women incarcerated in the Darwin Correctional Precinct, and culturally and linguistically diverse women.

Our submission

I Background

According to the most recent NT Correctional Services and Youth Justice Annual Statistics,¹ the daily number of prisoners held in adult correctional institutions in 2015-2016 was 1,663,² of which an overwhelming majority (84%) identified as Indigenous.³ The estimated imprisonment rate for adult females in the NT for the same period was 161 per 100,000, representing a seven percent increase from the previous year. In comparison, the estimated national rate of female imprisonment is 31 per 100,000.⁴ On 30 June 2016, a census undertaken by the Department of Correctional Services NT showed that 82.5 percent of adult female prisoners in the NT identified as Indigenous.⁵

The NT operates two primary adult custodial correctional facilities, one each in Darwin and in Alice Springs. TEWLS attends the DCC on a tri-weekly basis to hold a free civil legal clinic for incarcerated women, where we have recently had to decrease our attendances as a result of an increase in casework flowing from the clinic. As noted in our previous submission to the Inquiry, service demand currently outweighs our capacity, where TEWLS continues to decline requests for increased service provision, including both legal clinics and community legal education sessions, due to restricted capacity.

In addition to our attendance to the DCC, TEWLS services Aboriginal and Torres Strait Islander women across the Top End, where we maintain a strong set of community networks in relation to issues uniquely and/or disproportionately affecting women. As such, TEWLS is well placed to observe the harrowing effects of incarceration upon Indigenous women.

II Response to the Discussion Paper

It is clear that current cycles of incarceration and violence are contributing to alarming levels of over representation of Indigenous Australians in the prison system, as well as a saturation of Indigenous children in the child protection system. TEWLS believes it is vital to invest in early intervention, prevention and diversion strategies to address the root of offending and reoffending in Indigenous communities, and decrease rates of imprisonment. In addition, TEWLS strongly supports the national adoption of a justice reinvestment model, such that local communities are strengthened, and offending and imprisonment is reduced.

As noted by the Aboriginal and Torres Strait Islander Social Justice Commissioner in 2002, "[t]he rising rate of over-representation of Indigenous women is occurring in the context of intolerably high levels of family violence, over-policing for selected offences, ill-health, unemployment and poverty."⁶ As a women's legal service, TEWLS' works systematically to empower and assist women to overcome barriers of gender, race, domestic violence and limited financial circumstances through the provision of legal information, advice, community legal education and advocacy. However, without changes at a national level to policy and programs, it is our view that this assistance will be unable to address the core issues impacting Indigenous women.

¹ Northern Territory of Australia, Department of the Attorney-General and Justice (2017), *Northern Territory Correctional Services and Youth Justice Annual Statistics 2015-2016*, <https://justice.nt.gov.au/__data/assets/pdf_file/0009/430110/2015-16-NTCS-Annual-Statistics.pdf>.

² Ibid, 4.

³ Ibid, 6.

⁴ Ibid, 7.

⁵ Ibid, 16.

⁶ Aboriginal and Torres Strait Islander Social Justice Commissioner (ATSISJC) 2001:15.

TEWLS affirms the following themes of the Discussion Paper, drawing on the direct experiences of our clients:

- Our clients' loss of accommodation during their incarceration, either as a result of their sentence period, being unable to negotiate with the Landlord, or being unable to access legal assistance at the required time, places strain on our clients and their families. Accommodation loss leaves relevant family members at risk of homelessness, as well as leaving the relevant client homeless upon her release from the DCC, thereby making these women vulnerable at risk of victimization and/or reoffending. Further, the client will be less likely to be granted parole if there is no accommodation waiting for her, meaning that she will be away from her family and community for a longer period of time;
- A high proportion of our clients have a large debt owing to the NT Government Fines Recovery Unit. In many cases, the client owes thousands of dollars, where it is unfeasible for her to pay the entire debt;
- Our clients' access to legal services is troubling and inadequate. TEWLS is currently able to attend the DCC only on a triweekly basis due to our restricted funding, where urgent civil legal assistance is unable to be provided;
- Our clients are unable to access generalist counselling services at the DCC, including specialist domestic and family violence counselling. We note that in 2016, TEWLS facilitated the entry of a sexual assault counselling service to the DCC, where we have been able to refer a high number of clients to receive appropriate support and related services; and
- Our clients do not have adequate access to medical services,⁷ where TEWLS has acted in various matters such that the issues will be captured at a local level.

In our experience, incarceration severely compounds the social disadvantage of our clients. In many cases, it also causes serious deterioration in existing mental health problems and trauma flowing from a history of sexual, physical, emotional and psychological abuse.

A Women to have specific recommendations flowing from the Inquiry

Women are frequently lost in the national conversation about Indigenous incarceration, while being subject to a devastating cycle of detention associated with domestic violence, child protection practices, and homelessness.⁸ While the Discussion Paper includes a particular section detailing the experiences of and issues faced by women, the questions put to responding parties were generalist; they did not take into account the different and specific needs of Indigenous women. Noting that the rate of incarceration of Indigenous women is one of the fastest growing in the country, we submit that that this oversight may lead to the results of the Inquiry being inappropriate for Indigenous women.

⁷ A 2016 report observed that in the Northern Territory correctional system, 'there are significant gaps in basic health care delivery - 115 prisoners each week are not seen by Health staff, and are deferred to the next week, which ... means that health staff will never catch up': Hamburger, K. et al, (2016), *A safer Northern Territory through correctional interventions: Report of the review of the Northern Territory Department of Correctional Services*, BDO Perth/Knowledge Consulting Brisbane (Final Report), <https://justice.nt.gov.au/__data/assets/pdf_file/0010/384454/NTDCS-Review-Final-Report-PDF-Redacted-Final.pdf> 89.

⁸ See e.g., Human Rights Law Centre and Change the Record, 'Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment' (May 2017).

On a local level, the Office of the Ombudsman NT has now undertaken two separate enquiries and made corresponding reports in relation to women in NT prisons.⁹ These reports are clear in their advocacy for solutions designed for women, as well as solutions specifically designed for Indigenous women. The Ombudsman NT note that between 2008 and 2015, there has been a “huge structural change confronting the justice system generally and Corrections in particular” as a result of the high increase in female incarceration rates.¹⁰ It is within this context that the Inquiry must include specific recommendations in relation to women as a distinct group with specific needs, including a recommendation that the needs of women be a key starting point for any new programs, policies and initiatives on the behalf of Government or service providers.

Further to the above and as a point of urgency, TEWLS strongly supports strong and reliable funding for specialist women’s services, including women’s legal services. It is our submission that specialist services are an essential contributing factor to a reduction in recidivism of Indigenous women, by way of accessible, culturally appropriate, holistic and evidence-based services.

B Recognising the differing forms of violence

As noted in the Inquiry’s terms of reference, the Inquiry is to have regard to Aboriginal and Torres Strait Islander experiences of violence, including family violence, as well as inter-generational trauma. TEWLS submits that it is essential for the Inquiry to recognise and differentiate between the following forms of violence so as to make appropriate recommendations:

1. Coercive and controlling violence – an ongoing pattern of use of threat, force, emotional abuse and other coercive means to unilaterally dominate a person and induce fear, submission and compliance in them. Its focus is on control; and
2. Lateral violence – often described as “internalized colonialism” and refers to the harm done by Aboriginal and Torres Strait Islander people to others in their families, organisations and communities. This includes physical violence or “fighting” between family and community members where there is an absence of coercive control.¹¹

We submit that responses to violence on community, and subsequently within the prison system, must recognise the above distinction such that appropriate rehabilitation, support and consequences follow.

C Research to be undertaken to ensure evidence-based responses

Further to the research referred to by the Inquiry, we submit that research must be undertaken in each jurisdiction in relation to the compilation of incarcerated people, beyond that currently provided by relevant Government reports. We note that it is our understanding that there has been no public research undertaken in the NT, such that there is no “snapshot” of incarcerated persons that would facilitate the targeting of police and practice. This research, to be led by community-based organisations, would provide an evidence for

⁹ *Women in Prison: Report of the investigation into complaints from women prisoners at Darwin Correctional Centre*, NT Ombudsman (2008); *Women in Prison II: Alice Springs Women’s Correctional Facility*, NT Ombudsman (2017).

¹⁰ *Women in Prison II: Alice Springs Women’s Correctional Facility*, NT Ombudsman (2017), 3.

¹¹ Domestic & Family Violence Network, ‘Submission to Alcohol Policies and Legislation Review in the Northern Territory’ (2017), <https://alcoholreview.nt.gov.au/__data/assets/pdf_file/0005/435596/Domestic-and-Family-Violence-Network-Submission.pdf>.

programs and service provision in relevant areas, such that specific needs and requirements would be captured.

D The role of interpreters in the NT

Contributing to clients' access to justice is the availability of Aboriginal and Torres Strait Islander interpreters in the NT; currently, services are unable to provide the same level of service to Aboriginal and Torres Strait Islander clients as they would to culturally and linguistically diverse clients as a result of the Aboriginal Interpreter Service's ("AIS") capacity. While the AIS is able to employ interpreters capturing most of the Aboriginal languages of the NT, incarcerated clients are often unable to access interpreters in a timely manner due to constrictions in relation to:

- The location of the interpreter;
- The gender of the interpreter, particularly in relation to key subject matter. We note that it is the experience of our clients that they are often unable to discuss interpersonal issues with the assistance of a male interpreter, for fear of "shame"; and
- The realities of the DCC, where there is often restricted capacity for services to meet with clients.

Without the assistance of an appropriate interpreter, it is our experience that matters are unable to be progressed in a timely and appropriate manner, consequently meaning that a client is further negatively impacted by their incarceration. We support strategies that would result in adequate access to and provision of interpreter services for our clients.

E Particular comments to the Discussion Paper

TEWLS wishes to make particular comment to the following questions and proposals posed by the Discussion Paper:

- **Question 4-1:** TEWLS supports the abolition of mandatory sentencing. We refer to and endorse the recommendations on this point of the Making Justice Work coalition,¹² of which TEWLS is a part, excluding domestic and family violence breach provisions;
- **Question 4-2:** TEWLS supports alternatives to short-sentences of imprisonment. We affirm, from our experience, that short-term imprisonment has a number of devastating consequences for women,¹³ including the loss of accommodation, children, and increased pressure on the women herself and her community.
- **Proposal 5-2:** TEWLS strongly supports the development of culturally appropriate programs that are readily available to Aboriginal and Torres Strait Islander female prisoners. We refer to comments in our earlier submission to the Inquiry,¹⁴ and particularly reiterate that:
 - Women at the DCC are unable to access generalist or specialist domestic and family violence counseling services, which leaves a devastating gap for those who suffer from mental health or other issues flowing from a history of trauma;
 - There are serious gaps in service provision for women who are serving short sentences; and
 - It is imperative to establish holistic service provision in order to prevent the continuation of a cycle of incarceration.

¹² See, e.g.: Making Justice Work (2013), 'Fact Sheet: Mandatory Sentencing', <http://docs.wixstatic.com/ugd/e6cfc4_bd726afbd3ec4083b31f2982a6191a74.pdf>.

¹³ See Discussion Paper, [4.43].

¹⁴ TEWLS, 'Submission to the ALRC inquiry into the incarceration rate of Indigenous Australians: Consultation draft of Terms of Reference' (2016), 8.

- **Proposal 6-2:** TEWLS supports in the introduction of work and development orders based on the NSW model as an alternative to high levels of debts being retained by our clients. We note that in the NT, it is our experience that clients are currently able to make an application to the court during their criminal proceedings to serve fines as sentence concurrent with the relevant criminal sentence, however, this is not possible for each client.

III Conclusion

We thank you for your consideration of the above and would be pleased to be contacted by phone on (08) 8982 3000 or email to admin_tewls@clc.net.au should you wish to discuss this submission further.

We look forward to the report of the ALRC and the recommendations in relation to the Inquiry.

Yours faithfully,

TOP END WOMEN'S LEGAL SERVICE INC.



Vanessa Lethlean
Managing Solicitor

Enclosed: Top End Women's Legal Service Inc – Submission to the ALRC inquiry into the incarceration rate of Indigenous Australians: Consultation draft of Terms of Reference dated 16 December 2016

Submission on the ALRC inquiry into the incarceration rate of Indigenous Australians

Your details

Name/organisation <i>(if you are providing a submission on behalf of an organisation, please provide the name of a contact person)</i>	Vanessa Lethlean Top End Women's Legal Service (TEWLS)
Contact details <i>(one or all of the following: postal address, email address or phone number)</i>	Top End Women's Legal Service (TEWLS) GPO Box 1901 Darwin, NT 0801 Telephone: (08) 8982 3000 Email: TEWLS@clc.net.au

Confidentiality

Submissions received may be published on the Attorney-General's Department webpage, except where requests have been made to keep them confidential or where they relate to particular cases or personal information.

Would you prefer this submission to remain confidential? YES / NO

11 December 2016

ALRC Incarceration Inquiry
Legal Assistance Branch
Attorney-General's Department
3-5 National Circuit
Barton, ACT 2600

By email: ALRCIncarcerationInquiry@ag.gov.au

Dear Sir or Madam,

Inquiry into the incarceration rate of Indigenous Australians submission

The Top End Women's Legal Service (**TEWLS**) welcomes the opportunity to respond to the consultation draft of terms of reference for the Australian Law Reform Commission (**ALRC**) inquiry into the incarceration rate of Indigenous Australians. Our response will be focused on the experience of Indigenous women in the NT, where cycles of incarceration and violence are contributing to alarming levels of over representation of Indigenous Australians in the prison system as well as a saturation of Indigenous children in the child protection system. TEWLS believes it is vital to invest in early intervention, prevention and diversion strategies to address the root of offending and reoffending in Indigenous communities, and cut imprisonment rates.

About TEWLS

TEWLS is a community legal centre focused on the advancement of women's rights. Founded in 1996, we are funded by the Commonwealth Attorney General's Department and the Department of the Prime Minister and Cabinet to provide high quality and culturally appropriate legal advice, casework, community legal education and advocacy to women living in the Top End of the NT.

We provide assistance in a number of areas of law including:

- Family law;
- Domestic and family violence;
- Housing and tenancy;
- Debts;
- Sexual Assault;
- Discrimination;
- Compensation for victims of crime; and
- Complaints.

Our Submission

I Background

As at June 2011, the population of the NT was 231,292;¹ Aboriginal and Torres Strait Islander Australians comprised 29.8 percent of the population, the highest proportion of any Australian state or territory. The NT also has the highest rate of incarceration of any Australian state or territory,² where “[i]ncarceration rates in the Northern Territory are not only four times higher than the national average, but even higher than the global outlier in incarceration rates, the United States.”³

Table A: Daily imprisonment rate as at June 2016⁴

Australia	NT
208 per 100,000 adults	934 per 100,000 adults
<i>Aboriginal and Torres Strait Islander</i>	<i>Aboriginal and Torres Strait Islander</i>
2,373 per 100,000 Aboriginal and Torres Strait Islander adults	2,958 per 100,000 Aboriginal and Torres Strait Islander adults

In the most recent report of the NT Department of Correctional Services,⁵ the daily number of prisoners held in adult correctional institutions in 2014-15 was 1,597, where 85 percent identified as Indigenous. Further, the daily number of adult females in custody in 2014-15 was 128, representing a 15 percent increase from the previous year. In 2014-15, the recidivism rate for the NT was 57.5 percent; over ten percent higher than the national recidivism rate of 44.3 percent. Incarceration rates of Indigenous women and Indigenous youth are of particular concern; noting a 2011 review of Indigenous incarceration rates found that Indigenous women are 21.5 times more likely to be incarcerated than non-Indigenous women,⁶ and a 2013 review of Indigenous youth incarceration rates found that the daily average detention rate for Aboriginal and Torres Strait Islander youth was around 24 times the rate for non-Indigenous youth.⁷

Indigenous, community and advocacy groups have long voiced concerns over the over-representation of Indigenous women and youth in Australian prisons, bringing both short and long-term Government responsibility, transparency and accountability into sharp focus.

¹ Australian Bureau of Statistics, Estimates of Aboriginal and Torres Strait Islander Australians, June 2011, Cat No 3238.0.55.001, ABS, Canberra.

² Australian Bureau of Statistics, Corrective Services, Australia, June Quarter 2016, Cat No 4512.0, ABS, Canberra.

³ Community Council for Australia, “The Australia We Want”, First Report, October 2016, Canberra, 10.

⁴ Australian Bureau of Statistics, Corrective Services, Australia, June Quarter 2016, Cat No 4512.0, ABS, Canberra.

⁵ Northern Territory Department of Correctional Services, Annual Statistics 2014-2015, Northern Territory Government 2016, Northern Territory.

⁶ Steering Committee for the Review of Government Service Provision 2011, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, Canberra.

⁷ Steering Committee for the Review of Government Service Provision 2014, *Overcoming Indigenous Disadvantage: Key Indicators 2014*, Productivity Commission, Canberra.

A Incarceration in the context of domestic violence, family violence, lateral violence and normalised violence

Domestic violence has been described as an “epidemic”,⁸ a “contagion” and a form of gendered violence.⁹ The characteristics of domestic violence are described by each jurisdiction in relevant legislation relating to domestic violence orders,¹⁰ with discussions around forms of violence intrinsic to both preventative and reactive models. In 2014-15, around 1 in 5 (21.8%) of Aboriginal and/or Torres Strait Islander adults reported being a victim of physical or threatened violence- similar to the rates in 2002 and 2008¹¹. In 2014-15, hospitalisation rates for Aboriginal and Torres Strait Islander family violence related assaults were 530 females per 100,000 female population and 191 males per 100,000 male population. This was 32 times the rate for non-Indigenous females and 23 times the rate for non-Indigenous males¹². Recognising the impacts of family violence, and, lateral and normalised violence are crucial in examinations of criminal behaviours, where behaving violently can become a learned response to stressful situations for children residing in families and/or communities where violence is perceived by many to be ‘normalised’.

In a recent decision of the NT Coroner, it was noted that incarceration of the relevant perpetrators as a response to domestic violence “did not seem to have the effect hoped for by the justice system. It seemed not to provide deterrence.”¹³ This was clear in two separate studies (in Queensland and Victoria) that both showed an overrepresentation of Aboriginal and Torres Strait Islander population (around 4 to 5 percent) breaching family/domestic violence protection orders¹⁴. In examining the over representation of Indigenous Australians in prison, consideration must be given to the impacts of domestic and family violence on the victim, children and the family unit, and the wider community as a whole.

II Our experience

In 2015-16, around 60 percent of TEWLS clients were experiencing or at risk of experiencing domestic and family violence; over 60 percent were on a low or nil income; and over 20 percent identified having a disability and/or mental illness. Additionally, in 2015-16, TEWLS provided double the amount of advices as the previous year, and triple the amount of casework, with women still being referred out due to capacity constraints.

Of specific note, TEWLS’ Indigenous Advancement Strategy (**IAS**) funding provides one 0.75 FTE lawyer and 0.75 FTE Indigenous Community / Project Officer to service seven outreach locations, including the fortnightly advice clinics to the Women’s Sector in the Darwin Correctional Precinct. In the 2015-16 financial year, service demands in the IAS funding stream

⁸ Australian Broadcasting Corporation, *Rosie Batty gives her valedictory speech as Australian of the Year* (25 January 2016) ABC < <http://www.abc.net.au/news/2016-01-25/rosie-batty-valedictory-speech-australian-of-the-year/7113516>>.

⁹ *Inquest into the deaths of Wendy Murphy and Natalie McCormack* [2016] NTLC 024, 1 (Cavanagh J).

¹⁰ See, eg, *Domestic and Family Violence Act* (NT).

¹¹ Steering Committee for the Review of Government Service Provision 2016, *Overcoming Indigenous Disadvantage: Key Indicators 2016: Overview*, Productivity Commission, Canberra, 20.

¹² Steering Committee for the Review of Government Service Provision 2016, *Overcoming Indigenous Disadvantage: Key Indicators 2016*, Productivity Commission, Canberra, 4.98.

¹³ *Inquest into the deaths of Wendy Murphy and Natalie McCormack* [2016] NTLC 024, 29 (Cavanagh J).

¹⁴ Stewart, A. 2000, ‘Who are the respondents of domestic violence protection orders?’ *Australian and New Zealand Journal of Criminology*, vol. 33, no. 1, pp. 77-90, and VLA 2015, *Characteristics of Respondents Charged with Breach of Family Violence Intervention Orders*, Research brief, Victoria Legal Aid.

experienced a 500 percent increase in both legal advice and casework. It is in this context of growing legal need that TEWLS provides this submission to the Commission.

In the first of "The Australia We Want" series, the Community Council for Australia noted "Australia is a society where the experiences of women are significantly different to the experiences of men."¹⁵ Relevantly to the Commission, the experiences of Indigenous women continue to differ from that of Indigenous men, with the rate of incarceration for Indigenous women now exceeding that of Indigenous men.¹⁶

As noted by the Aboriginal and Torres Strait Islander Social Justice Commissioner in 2002, "[t]he rising rate of over-representation of Indigenous women is occurring in the context of intolerably high levels of family violence, over-policing for selected offences, ill-health, unemployment and poverty."¹⁷ As a women's legal service, TEWLS' works systematically to empower and assist women to overcome barriers of gender, race, domestic violence and limited financial circumstances through the provision of legal information, advice, community legal education and advocacy.

In the context of servicing incarcerated women in the Women's Sector in the Darwin Correctional Precinct, TEWLS has had to decline requests for weekly rather than fortnightly attendance and additional community legal education sessions, due to restricted capacity. To fully address these and related needs, TEWLS would require an additional lawyer and an additional Indigenous Community / Project Officer.

A Cycle of detention

In any discussion of incarceration, cycles of detention and recidivism are at the forefront; it is through key factors that cycles of detention are perpetuated and grow, where factors include domestic and family violence, inequality and lack of access to appropriate support services.

In our submission, specific consideration must be given to the experiences of incarcerated women in the NT, where Aboriginal women continue to remain largely invisible to policy makers and program designers with very little attention devoted to their specific situation and addressing legal and related needs holistically.¹⁸

Almost all TEWLS Indigenous clients at the Darwin Correctional Precinct have experienced family violence, and suffer trauma as a consequence. Most clients have experienced the vortex of child protection contacts and/or orders both as children and as parents, and some have been incarcerated at Don Dale. Of note, the numbers of first time disclosures of sexual offences are increasing and TEWLS has organised for an external specialist sexual assault service, the Ruby Gaea Darwin Centre Against Sexual Violence Inc., to attend twice weekly at Darwin Correctional Precinct.

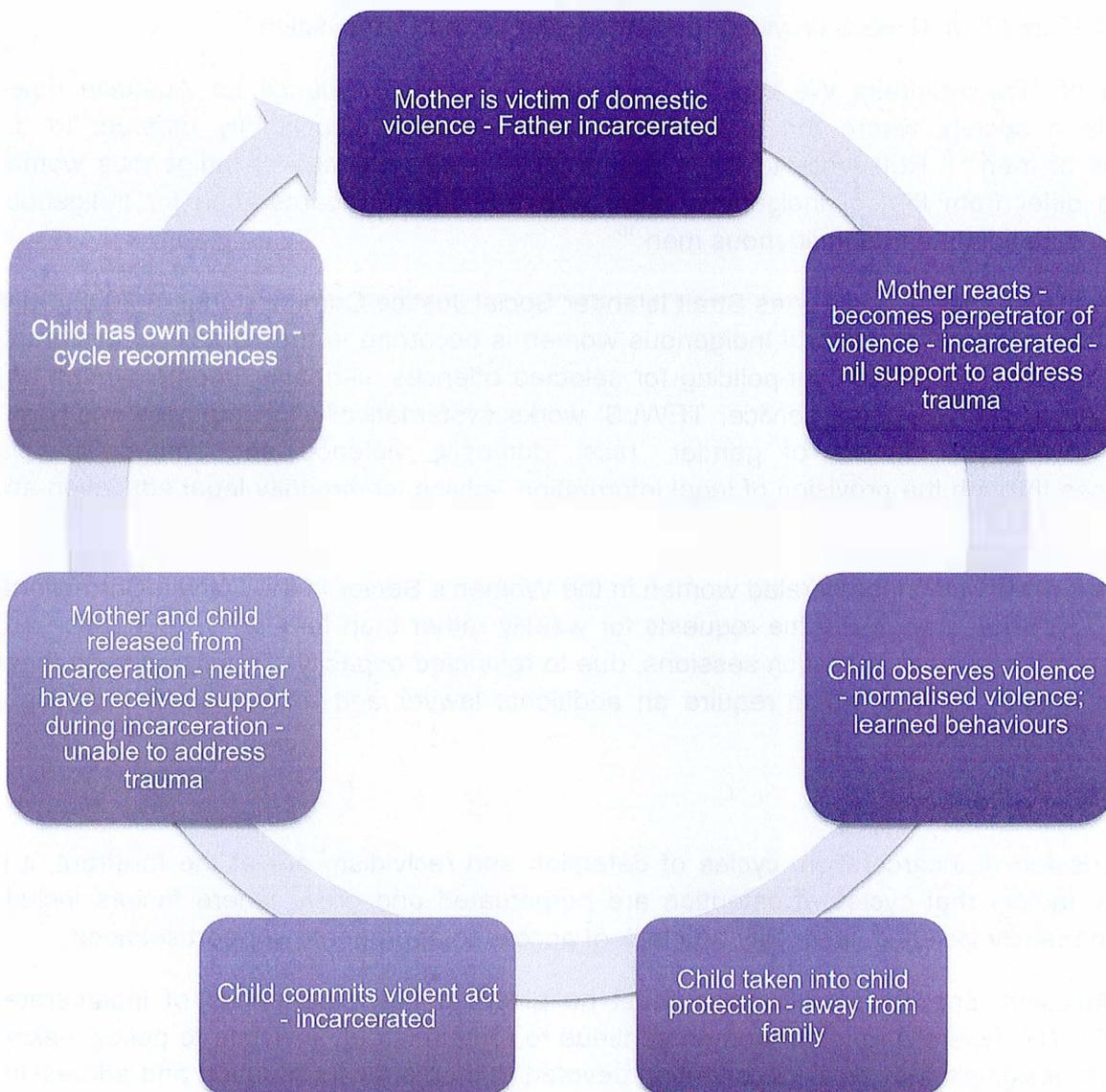
Diagram A: Example of an abridged cycle of incarcerated women

¹⁵ Community Council for Australia, *The Australia We Want*, October 2016, Canberra, 10.

¹⁶ Northern Territory Department of Correctional Services, *Annual Statistics 2014-2015*, Northern Territory Government 2016, Northern Territory.

¹⁷ Aboriginal and Torres Strait Islander Social Justice Commissioner (ATSISJC) 2001:15.

¹⁸ Aboriginal and Torres Strait Islander Social Justice Commissioner (ATSISJC) 2001:15.



B Holistic servicing gap for women in the Darwin Correctional Precinct

In our experience, there is a holistic servicing gap for women currently incarcerated in the Darwin Correctional Precinct. Women in the Precinct are currently able to access:

- TEWLS' fortnightly civil advice clinic;
- TEWLS community legal education workshops, run on an ad hoc basis (subject to capacity);
- Sexual assault counselling through Ruby Gaea Darwin Centre Against Sexual Violence Inc. – referrals from TEWLS – servicing commenced in mid 2016 on TEWLS initiative;
- YWCA Women of Worth (WoW) programs and support – only available to women with six months or less of sentence to go;
- Select programs offered by the Darwin Correctional Precinct including Alcohol and Other Drugs counselling and programs (typically tied to sentencing), work-based programs and literacy and numeracy programs.

Women are unable to access external generalist counselling services to address trauma, including where the particular woman has been a victim of domestic violence. This stands in contradiction to numerous reports regarding issues in custody, including a 2005 Victorian study which found that female prisoners saw mental health / well being as being the single biggest issue they faced in prison, and saw mental health as inextricably linked with other issues such as family violence, sexual abuse and addiction.¹⁹

In our submission, the current counselling gap at the Darwin Correctional Precinct is a lost opportunity. In not providing holistic, wrap-around servicing, women are unable to address their own trauma and mental health, meaning that upon their return to the community, they are unable to break out of their own cycle of detention. Holistic servicing, including culturally safe and appropriate mental health services, is a critical step in breaking the cycle of recidivism.

III Proposals

As noted by the NT Ombudsman in their 2008 report, “[w]omen constitute a small but growing part of the NT prisoner population. Their small numbers present both a challenge and an opportunity for the Territory to get things right.”²⁰ While the Commission has been charged with an investigation of youth incarceration and child protection systems in the NT, it is our submission that efforts must be taken to address the experiences of women in the NT, particularly Indigenous women, in order to effect the change sought by the Commission and the community as a whole.

A Additional Funding

Additional funding is sought for TEWLS to attend the Women's Sector at Darwin Correctional Precinct on a weekly basis, provide regular community legal education, and undertake a legal needs health check to create the first evidenced based research on the needs of Indigenous women incarcerated in the Northern Territory.

This would require funds of approximately \$200,000.00 per year to employ full time, one lawyer, one Indigenous Community /Project Officer and one counselor, to be housed at Darwin Centre Against Sexual Violence Inc.

B Adoption of a justice reinvestment model

Justice reinvestment is a data-driven approach to improve public safety, examine corrections and related criminal justice spending, manage and allocate criminal justice populations in a more cost-effective manner, and reinvest savings in strategies that can hold offenders accountable, decrease crime, and strengthen neighborhoods.²¹

¹⁹ Lorana Bartels, *Indigenous women's offending patterns: A literature review* (Australian Institute of Criminology Reports: Research and Public Policy Series: Report 107, AIC 2010) 12.

²⁰ Ombudsman NT, *Women in Prison NT: Report of the Investigation into complaints from women prisoners at DCC 2008*, Ombudsman NT, 11 April 2008.

²¹ See, eg, Mick Gooda 'Justice reinvestment and its importance to Aboriginal communities' (Speech delivered at the Aboriginal Legal Service Annual Conference, Novotel Hotel Wollongong, 1 August 2012).

The significant goals and outcomes of justice reinvestment are to:

1. Reduce spending on corrections and increase public safety – design, enact, and adopt new policies, practices, and programs that reduce recidivism, improve public safety, impact prison and jail populations, and otherwise help generate savings; and
2. Reinvest in strategies that can decrease crime and strengthen neighborhoods – determine how to invest a portion of the generated savings from policy changes such as reducing or averting growth in the jail and prison populations in strategies to increase public safety such as community-based treatment, probation, prevention-oriented policing strategies, and community-based recidivism reduction efforts.

TEWLS advocates the implementation of justice reinvestment principles to the incarceration of both youth and adults, as well as the child protection system in the Northern Territory.

C “Making Justice Work” coalition

The Making Justice Work coalition (**the Coalition**) has a wide membership base of organisations with the common interest of improving how to make justice work for the community. The focus of the Coalition’s work is to promote tangible actions the incoming government can take to make justice work better for all Territorians.

Coalition members, including TEWLS, promote evidence-based approaches to ‘law and order’ and community safety, and advocate the following principles:

1. Stronger measures are needed to prevent crime and deal with its causes;
2. Prison is not a solution;
3. Young people should be kept out of the criminal justice system where possible;
4. We should put offenders to work, not just lock them up; and
5. We should work with offenders and set them up to succeed, not fail.

It is our submission that the above principles should be utilised in any examination of the NT justice system, as well as NT child protection system.

D Culturally appropriate service provision

Cultural competency is foundational to effective policy, program performance, service provision and client outcomes. Base line prerequisite for success are frameworks that are culturally empowering, responsive and respectful of all community members of the Northern Territory.

It is our submission that all service provision in the Northern Territory must be culturally safe and appropriate so that community members are able to access and engage in services in a meaningful and effective way.

IV Conclusion

We thank you for your consideration of the above and would be pleased to be contacted should you wish to discuss this submission further.

Should you require further information, please do not hesitate to contact our office on (08) 8982 3000.

Yours sincerely,

TOP END WOMEN'S LEGAL SERVICE INC.

Vanessa Lethlean

Managing Solicitor

