

## Sisters Inside Inc.

ABN 94 859 410 728

P.O. Box 3407  
South Brisbane Qld 4104

Ph: (07) 3844 5066  
Fax: (07) 3844 2788

Email: [admin@sistersinside.com.au](mailto:admin@sistersinside.com.au)  
Web: [www.sistersinside.com.au](http://www.sistersinside.com.au)



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

13 January 2017

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

**By email only:** [ALRCIncarcerationInquiry@ag.gov.au](mailto:ALRCIncarcerationInquiry@ag.gov.au)

Dear Sir/Madam

### **ALRC inquiry into the incarceration rate of Indigenous Australians**

We refer to the draft terms of reference for the ALRC inquiry into the incarceration rate of Indigenous Australians. We make the following comments on the draft terms of reference.

#### **Focus on imprisonment of Aboriginal and Torres Strait Islander women**

We believe the terms of reference for the Inquiry must include a specific focus on women, to allow the ALRC to consider the gendered impact of laws, legal frameworks, legal institutions and law enforcement bodies.

Aboriginal and Torres Strait Islander women are the fastest growing prison population in Australia. As at 30 June 2015, the imprisonment rate for Aboriginal and Torres Strait Islander women had grown faster than for men since 2000, increasing 118.7% compared with 50.6% for men<sup>1</sup>.

In 2015, Indigenous women were around 33% of the women in Queensland's prisons<sup>2</sup> (but only around 4% of Queensland's population<sup>3</sup>). Approximately 80% of Aboriginal and Torres Strait Islander women in prison had a prior experience of imprisonment<sup>4</sup>. In contrast, only 60% of non-Indigenous men and 45.1% of non-Indigenous women had previously been in prison<sup>5</sup>.

Almost all women prisoners are victims of violence and sexual abuse<sup>6</sup>. Many women (and their children) also experience poverty and homelessness before, and as a result of,

---

<sup>1</sup> Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators* (2016, Productivity Commission, Canberra), 112.

<sup>2</sup> ABS, *4517.0 - Prisoners in Australia 2015* (Latest issue, 11 December 2015), Table 20.

<sup>3</sup> ABS, *3238.0.55.001 - Estimates of Aboriginal and Torres Strait Islander Australians, June 2011* (Latest issue, 30 August 2013).

<sup>4</sup> ABS, above n 3, Table 29.

<sup>5</sup> *Ibid.*

<sup>6</sup> See Debbie Kilroy, 'Women in prison in Australia' (Panel presentation delivered at Current Issues in Sentencing Conference, National Judicial College of Australia and the ANU College of Law, Canberra, 6-7 February 2016).

women's imprisonment<sup>7</sup>. Prison is itself criminogenic and perpetuates cycles of violence and trauma.

It is widely accepted that women in prison have a different pattern of offending from men, which can be understood in the context of their traumatic lived experiences<sup>8</sup> including institutionalised racism.

The vast majority of women prisoners have committed minor, non-violent offences<sup>9</sup>. For those few women found guilty of violent offences, these are rarely committed against strangers.

Many women who enter prison are the sole and primary caregivers for their children<sup>10</sup>. Forced separation as a result of imprisonment traumatises women and children. Imprisonment also often triggers the involvement of child protection authorities, leading to removal, intergenerational trauma and surveillance by the State.

In our view, the imprisonment of Aboriginal and Torres Strait Islander mothers is directly linked to the ongoing over-representation of their children in the child protection system.

Unless the ALRC undertakes a gendered analysis of imprisonment, the findings of the Inquiry will not truly reflect the factors contributing to the rising rates of Aboriginal and Torres Strait Islander imprisonment.

### **Data sources**

We note the ALRC will have regard to existing data and research relevant to the high rates of Aboriginal and Torres Strait Islander imprisonment.

In our view, it is important that the ALRC also reviews a small sample of court transcripts and/or files to understand the gendered and racialised application of the law by legal institutions and policing.

For example, our experience is that Magistrates often refuse bail to “protect” women from homelessness or domestic violence. However, because these decisions are not routinely published, systemic issues and trends are not identified.

The case sample could be limited to 50 files per jurisdiction, and to certain types of offences and/or only people on remand.

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

---

<sup>7</sup> See generally, Sisters Inside, Submission No 69 to Legal and Constitutional Affairs Committee, *Value of a justice reinvestment approach to criminal justice in Australia*, 2013, 4.

<sup>8</sup> See generally, Debbie Kilroy, above n 6.

<sup>9</sup> This is demonstrated by the average period women spend in prison in Queensland. In 2015, the average stay was 4.96 weeks, with 94% of women serving less than 12 months. See Queensland Corrective Services (2015) *SEQ Womens Re-entry Services: Industry Briefing*, 17 December, Department of Justice and Attorney-General (ppt)

<sup>10</sup> See generally, ADCQ, *Women in Prison* (March 2006), 119-123.

Yours faithfully

Debbie Kilroy

Chief Executive Officer  
**Sisters Inside Inc**