

Submission
No 69

**INQUIRY INTO HIGH LEVEL OF FIRST NATIONS
PEOPLE IN CUSTODY AND OVERSIGHT AND REVIEW OF
DEATHS IN CUSTODY**

Organisation: Keeping Women Out of Prison

Date Received: 24 August 2020



KWOOP
Keeping Women Out of Prison
COALITION

24 August 2020

INQUIRY INTO THE HIGH LEVEL OF FIRST NATIONS PEOPLE IN CUSTODY AND OVERSIGHT AND REVIEW OF DEATHS IN CUSTODY

ABOUT KWOOP

The purpose of KWOOP is to influence systems, policy and practice in order to reduce the number of women in prison and to minimise the impacts on their families and children. The KWOOP Coalition works collaboratively with policy and law makers and is particularly concerned about the disproportionate incarceration of First Nations women. Our Vision is for better outcomes for women and children affected by the NSW criminal justice system.

KWOOP is auspiced by the Sydney Community Foundation and members include:

- The Sydney Community Foundation (SCF) through its Keeping Women out of Prison Fund (KWOOP), By My Side Fund and Sydney Women's Fund (SWF)
- Community Restorative Centre (CRC) through The Miranda Project
- Dress for Success Sydney – Success Works Project
- SHINE for Kids
- Women's Justice Network
- Zonta Club of Sydney
- UTS Australian Centre for Public and Population Health Research
- Corrective Services NSW
- Soroptimists NSW
- Kathleen York House
- Deadly Connections
- UNSW School of Social Sciences
- Individual academics and experts

A number of member organisations and individuals within the KWOOP Coalition are expert in relation to all of the Terms of Reference and are making comprehensive submissions addressing all the terms of the Inquiry.

Sydney Community Foundation, "The Bonython", 52 Victoria Street, Paddington 2021

Ph. 02 8030 7050 | E. KWOOP@sydneycommunityfoundation.org.au | www.sydneycommunityfoundation.org.au

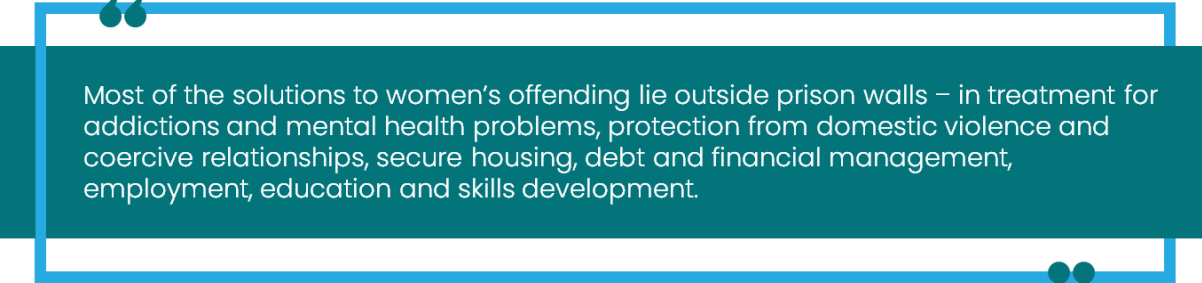
Tax deductible donations to support KWOOP can be made to the KWOOP Sub- Fund within the Sydney Community Foundation

KWOOP Submission

This submission draws on the Position Statements and Research undertaken by KWOOP in relation to women in prison and more specifically to mothers in custody in NSW prisons.

We therefore address Term or Reference (a) the unacceptably high level of First Nations people in custody in New South Wales and (e) Any other related matter.

We attach KWOOP's March 2020 Research Report *Profile of women in prison in NSW Part A: A Snapshot, and Part B Census of Services for women affected by the corrections system* to supplement our submission (Attachment 1)¹



Most of the solutions to women's offending lie outside prison walls – in treatment for addictions and mental health problems, protection from domestic violence and coercive relationships, secure housing, debt and financial management, employment, education and skills development.

2

An excerpt from the KWOOP report states: “ There is little contention in the international literature and research about the immense disadvantage experienced by incarcerated populations that both contributes to, and is exacerbated by, imprisonment. There is also little contention about the ineffectiveness of imprisonment as a strategy to control crime or address social disadvantage. Much of the enormous cost and socially detrimental impact of imprisonment could be avoided by enhancing community-based services and interventions that divert people from prison and reduce re-offending. While, clearly, judicial and legal frameworks and policing practices require exploration with regard to their impact on the significant increase in female incarceration (including an examination of bail legislation), there is also a pressing need to examine community-based options that can offer alternative pathways for women at risk of incarceration. Regrettably the level of support through community-based options is minimal and while funded services all do good work, funding uncertainty means they reach only a fraction of the women who could benefit by their support.

¹ Phelan L, Sotiri M, Scott M. 2020. Profile of women in prison in NSW. Part A: A Snapshot. Published by Keeping Women out of Prison (KWOOP) coalition, Sydney. ISBN 978-0-6480639-4-0

²Corston Report. A Review of women with particular vulnerabilities in the criminal justice system UK Dept of Justice 2007

Sydney Community Foundation, “The Bonython”, 52 Victoria Street, Paddington 2021

Ph. 02 8030 7050 | E. KWOOP@sydneycommunityfoundation.org.au | www.sydneycommunityfoundation.org.au

Tax deductible donations to support KWOOP can be made to the KWOOP Sub- Fund within the Sydney Community Foundation

KWOOP position in relation to Term of Reference (a)

- The over-representation of First Nations women in prison is totally unacceptable and further entrenches their disadvantage and vulnerability.
- Prison is an ineffective sentencing solution for most women given custodial sentences. There is an unnecessary, over-incarceration of vulnerable women who pose minimal risk to the community.
- Imprisonment carries with it, significant human, cultural, social and economic costs, both short and long term that are borne by imprisoned individuals, their children, families and communities as well as government and society
- Much more can be done to tackle the issues associated with women in the justice system before imprisonment becomes the only option.
- Culturally appropriate support is essential for First Nations women.
- Reintegration of First Nations women back into society after custodial sentences, and reducing recidivism is a whole-of-government issue and requires effective community support.

Rationale supporting KWOOP Position³

- First Nations women experience multiple factors of trauma and disadvantage that are major drivers of justice involvement. This is confirmed by social, health, justice and economic markers.
- Over-representation of First Nations women in Australian prisons is associated with perpetual grief, loss and trauma due to ongoing colonisation, racism and systemic disadvantage that impact on positive health and social and emotional wellbeing.
- The impact of cultural and social dislocation, child removal and loss of language have contributed to intergenerational trauma, disparities in health, marginalisation from essential services and incarceration.
- First Nations mothers in prison have significant health needs associated with unresolved trauma, physical and mental health, and psychological distress
- Incarceration also leads to loss of culture, identity, family, community and connection to the land. The cycle of trauma, disadvantage, poverty and incarceration continues, making communities less safe.
- The over-representation of women with disabilities in NSW prisons is especially pronounced among First Nations women.

³ KWOOP position statement on disproportionate incarceration of Indigenous women. See Attachment 2.

The 2019 KWOOP snapshot study of women in prison⁴ found that:

- 32% of women in custody in NSW were First Nations, although First Nations people make up only 2.9% of the NSW population.
- There had been a 33% increase in the number of women in prison in NSW since 2013. 58% of women were either on remand or serving a sentence of 12 months or less
- The rapid increase of 33% of women in prison since 2013 reflects over-representation of First Nations women. There was a 49% increase in sentencing of First Nations women compared with 6% increase in sentencing for other women in NSW.
- 87% of First Nations women had experienced prior incarceration (compared with 72% of other women in NSW.)
- Two thirds of First Nations women in prison were mothers
- There are high rates of mental health issues, disability and experiences of trauma and abuse among women in prison.
- There were approximately 950 women in NSW prisons in August 2019. Around 40% are on remand - they have been arrested and charged and are waiting for trial. 32% of women in custody are First Nations. The average age of women in custody is 35 years.
- Around 2,750 women were released from NSW prisons in the 12-month period prior to August 2019. 40% reoffend within the first 12 months. This represents an increase in reoffending rates over the last eight years of almost 40%.
- In NSW, there are 8 specialist women's services working with approximately 379 women at risk of re-imprisonment each year. These organisations vary in their focus, structures and services. The range of services they may offer include case-management and support, accommodation support and provision, mentoring, employment support and parenting support.
- A further estimated 236 women are able, on release from prison, to access non-gender specialist services. Most of these provide short term support and referral only.
- At best, only 22% of women (615 individuals) receive any kind of service on release from prison.

⁴ Phelan L, Sotiri M, Scott M. 2020. Profile of women in prison in NSW. Part A: A Snapshot. Published by Keeping Women out of Prison (KWOOP) coalition, Sydney. ISBN 978-0-6480639-4-0
Sydney Community Foundation, "The Bonython", 52 Victoria Street, Paddington 2021
Ph. 02 8030 7050 | E. KWOOP@sydneycommunityfoundation.org.au | www.sydneycommunityfoundation.org.au
Tax deductible donations to support KWOOP can be made to the KWOOP Sub- Fund within the Sydney Community Foundation

KWOOP calls for

1. Investigation of the interplay of factors that contribute to very high levels of incarceration of First Nations women and adoption of culturally appropriate strategies with demonstrated effectiveness to address these.
2. Targeted initiatives to provide diversionary pathways for First Nations women away from sentencing to community-based support including opportunities for healing and other culturally responsive strategies.
3. Culturally appropriate community programs to address the underlying factors that contribute to risk of contact with the justice system including intergenerational trauma, racism, discrimination and social and economic disadvantage.
4. Adoption of smarter justice approaches and preparedness to invest in innovative community-based initiatives focussed on early intervention, prevention and diversion.
5. Elevation of the voices of First Nations children, young people, women, families and communities including those with lived experience of the justice system.
6. Support for the work of First Nations community organisations and communities to develop and deliver smarter solutions that increase safety, address the root causes of violence against women, cut reoffending and imprisonment rates, and build stronger and safer communities as per recommendations of Change the Record (Blueprint for Change).⁵
7. Increased and sustained triennial funding for diversionary programs to reduce the number of women on remand and short sentences to avoid short and disruptive periods of incarceration. Funding to enable support programs across the state, in regional and remote communities.
8. Increased and sustained triennial funding should be available to contract non-government agencies who facilitate children visiting and maintaining contact with their parent while in prison.

Term of Reference (e) Any other Related Matter

KWOOP's first Position Paper (2016) underlined that children whose parents are imprisoned are a highly vulnerable group. We listed as one of our key areas of concern the:

High social cost on children, families and community – children of fathers in custody are generally in the care of their mothers in the community, however imprisoned mothers' children are not in the care of their fathers, but other familial care or out of home care. Parental incarceration increases the likelihood of children's future contact with the criminal justice system and perpetuates transgenerational disadvantage.

⁵ <https://drive.google.com/file/d/0B3OI0caEOuaFU3BNc3Zrbl9wa0U/view>

There is ad hoc service provision and a lack of clarity in law and policy as to how to respond to the children of prisoners and ensure their rights and needs are met. Currently there is no accurate count of how many children there are whose parents are in custody. With many women serving short sentences, and the high turnover of women entering prison within a 12-month period, there is constant disruption to these children's lives, schooling, care arrangements, health and welfare.

We called for:

Appointment of a specific officer in each of the departments of Education, Justice, Police, Health and Social Services, to work together with Corrective Services and children's agencies such as SHINE for Kids, to facilitate effective support for children when their parent goes to prison or enters the criminal justice system.

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) were adopted by the UN General Assembly December 2010 (Resolution A/RES/65/229) after a unanimous vote from 193 countries, including Australia. By voting for the Bangkok Rules, Australia acknowledged that women in the criminal justice system have gender-specific characteristics and needs and agreed to both respect and meet them.

KWOOP wishes to refer to our Submission to the Inquiry into Support for Children of Imprisoned Parents in NSW, which we also attach.

Attachments

Phelan L, Sotiri M, Scott M. 2020. Profile of women in prison in NSW. Part A: A Snapshot. Published by Keeping Women out of Prison (KWOOP) coalition, Sydney. ISBN 978-0-6480639-4-0

KWOOP position statement on disproportionate incarceration of Indigenous women 2020

KWOOP Submission to the Inquiry into Support for children of Imprisoned Parents in NSW
KWOOP 2016 Position Statement