

DOING TIME FOR MEN'S CRIMES

How Male Violence is Driving Record
Numbers of Women into Australian Prisons



**NOVEMBER
2024**

Prepared by

THE JUSTICE MAP

www.justicemap.org.au

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ABOUT THE JUSTICE MAP

The Justice Map is a research and consultation project founded and led by women with lived experience of prison and/or of having family members in prison. We are comprehensively mapping the criminal justice advocacy landscape to find out what is working, what is missing, and what needs to be done. We have spent over 6,000 hours researching, interviewing, and yarning with people who have lived experience and expertise, as well as professional advocates pushing for a more ambitious, holistic, and effective justice system, rather than the punitive system we have now. What emerged is reflected gendered themes from Australia's national conversation on family and domestic violence.

We found a system that is designed by men, for men. A punitive system which criminalises women who have experienced violence and then perpetuates more violence. These are stories that need to be told—some of many that expose the systemic injustices endured by women, and inspire a reimagining of a 'justice' rooted in healing, harm reduction and community-led solutions. Aboriginal and Torres Strait Islander people should be aware that this document does contain images and names of people who have passed away.

SUPPORTERS

We are immensely grateful to the many supporters and generous funders who have made this work possible. As a predominantly volunteer-run initiative, we have been humbled by the extraordinary number of individuals and organisations who have offered their time, resources, and expertise over the years. While it is impossible to name everyone who has contributed, their collective support has been vital in bringing this project to life.

A special acknowledgement goes to **Sue Ball** at the **Legal Services Board of Victoria**. Sue's support for our first research report was instrumental in enabling us to contribute to significant legal changes and recommendations, including the *Spent Convictions Act 2021 (Vic)*, the *Inquiry into Victoria's Criminal Justice System (2022)*, and the *Inquiry into Children Affected by Parental Incarceration (2022)*. Thank you, Sue, for believing in our vision and providing the crucial backing that set us on this path.

We also extend deep gratitude to **Koondée Woonga-gat Toor-rong**, Australia's first First Nations-led philanthropic fund, and its former CEO, **John Harding**, for supporting our Victorian Yarning Circles. Your commitment to this project has been invaluable.

The **Victorian Women's Benevolent Trust** deserves special recognition for funding this report, allowing us to focus on the unique experiences of women.

We are especially thankful to **Carolyn Ludovici** and the **Snow Foundation** for supporting our research in the Australian Capital Territory. This funding significantly enriched our comparative jurisdictional analysis and provided vital insights from First Nations men and women recently released from the Alexander Maconochie Centre. We are deeply appreciative of the Snow Foundation's patience and understanding during delays caused by COVID-19, as well as their efforts to connect us with a vibrant network of like-minded organisations. The Snow Foundation's commitment to projects like ours—the "little guys" as the late Terry Snow AM would put it—has been transformative.

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SUPPORTERS

A big thank you to **Charlie Nicholls**, founder of **KART Digital**, for your dedication to this project over the years. Your expertise in helping us to communicate effectively as well as translate our work visually has been critical in reaching our audience.

We also thank the **Reichstein Foundation** and the **Australian Communities Foundation** for their early support, which gave us the foundation to grow this initiative.

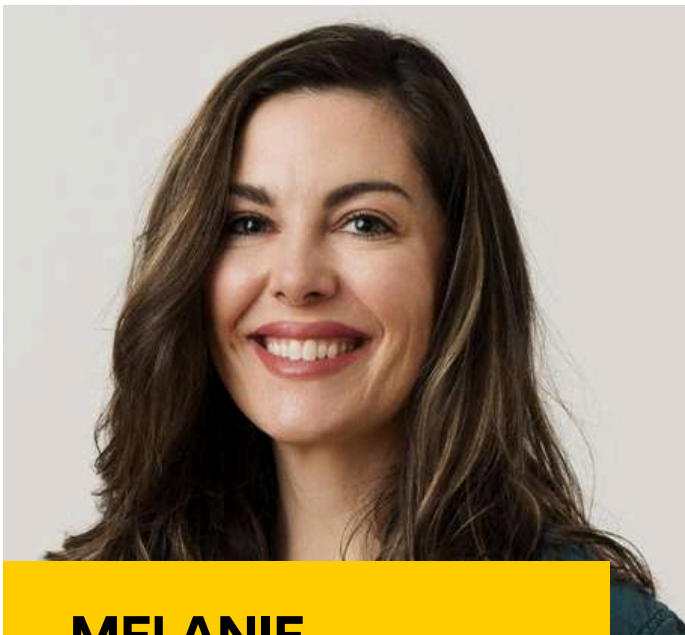
Finally, our gratitude goes to the **Flemington and Kensington Community Legal Centre** and the **Inner Melbourne Community Legal Centre** for their generous in-kind support over the years, including auspicing and assistance that has helped sustain and expand our work beyond what we ever initially imagined.

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OUR TEAM

Melanie Wilde and Naomi Murphy founded this project with a shared vision of creating meaningful social change, driven by lived experience. They sought to craft a report in a new way—centering the voices of First Nations people and those with lived experience—to provide a more authentic and impactful perspective. This vision brought together a team of extraordinary advocates and collaborators, all united by a commitment to justice. For this particular report on women, the leadership and expertise of Melanie Wilde, Grace Orange, Naomi Murphy, Rachael Hambleton, and Denham Sadler have been instrumental in shaping its direction and insights.



MELANIE WILDE

Co-Founder
and Project Director

Melanie Wilde is a nationally recognised leader in mental health and justice advocacy. As CEO of the Foundation for Social Health, she is spearheading a groundbreaking national initiative to address Australia’s loneliness crisis. Previously, Melanie was CEO of the ACT’s peak body for community-based mental health services and held executive roles at Victoria’s Federation of Community Legal Centres, the Foundation for Alcohol Research and Education, CARE and in the Change the Record and Smart Justice coalitions. She is also the founder of See Your Change Consulting, advising over 40 boards and executive teams on strategy, governance, impact evaluation and advocacy.

An Anne Wexler-Fulbright Public Policy Scholar with a Master’s in Public Administration from New York University, Melanie also held a research fellowship at NYU, where her work focused on how advocacy rooted in lived experience drives social change. In 2013 she was named one of UN Women Australia’s “100 Women Who Has Made a Significant Difference to Canberra,” a recognition later acknowledged in Federal Parliament.

OUR TEAM



NAOMI MURPHY

Co-Founder and
Yarning Circle Director

Naomi Murphy is a Wakka Wakka-Gungarri-Irish woman, proud Mum of 3 living respectfully on Darumbal Country (Rockhampton) with bloodlines and connections across Queensland. She is a well-known justice advocate, and the recipient of the 2018 Fellowship for Indigenous Leadership Award in Victoria. In 2019, Naomi presented testimony of her own lived experience around Criminal Record Discrimination at the Victorian State Parliament inquiry into Spent Conviction legislation, and arranged a series of community meetings. Her advocacy proved catalytic in persuading the enquiry to recommend a Spent Convictions Scheme for Victoria.

Naomi has lifetime of lived experiences in many social justice issues such as homelessness, DV, justice systems, mental health and being the child of a Stolen Generation Mother, that have impacted First Nations women for decades and advocates, volunteers, works tirelessly to support First Nations women and children. Naomi was living on Gunnai-Kurnai Country Gippsland for over 25 years working in the Koorie community in many roles across justice, education, family services and community development.

Naomi is Chair of Woor-Dungin, First Nations person board member of Flat Out (Narrrm) and GMAR volunteer in Victoria and Queensland.

Naomi has been a cultural mentor supporting First Nations women incarcerated at Dame Phyllis Frost Prison Narrrm and now supports First Nations youth in the justice and child removal system in Central Queensland.

OUR TEAM



RACHAEL HAMBLETON

Strategy and
Advocacy Director

Rachael Hambleton is a dedicated advocate based in Narm, with extensive experience in advocacy and for-purpose strategy. She is a Board Member at Flat Out, an organisation that supports and advocates for women, trans, and gender-diverse people impacted by homelessness and the criminal legal system in Victoria. She also operates a consultancy practice, where she supports for-purpose organisations to develop strategies that strengthen their programs, advocacy, fundraising, and grant-making efforts, and collaborates with others dedicated to transformative social change.

Throughout her career, Rachael has worked with, consulted to, and served on the boards of a range of civil society and philanthropic organisations, including: the Reichstein Foundation, Human Rights Law Centre, Justice Connect, Refugee Legal, Lawyers For Animals, and Reprieve Australia (now known as Capital Punishment Justice Project). She was the inaugural manager of the Law & Justice Funders Network, led the Victorian Women's Benevolent Trust (the grant-making arm of the Victorian Women's Trust and Australia's first feminist funding body), and served as Co-Convenor (Co-Chair) of the Victorian Gay & Lesbian Rights Lobby (now known as Victorian Pride Lobby).

Rachael's approach is deeply informed by her belief in the power of community-led solutions and her commitment to challenging structural inequities. Her personal experiences of parental incarceration, as well as navigating systems and services that frequently fail those they purport to serve, has shaped her focus on crafting meaningful change that addresses the root causes of harm, and prioritises self-determination and accountability.

OUR TEAM



**GRACE
ORANGE**

Research
and Data Director

Grace Orange brings expertise in research and analysis, producing high-quality insights to inform policy development and tackle systemic inequities. Grace applies her unique skillset to the Justice Map, supporting the high standard of our outputs and ambition of our recommendations. Currently pursuing her Juris Doctor with a focus on human rights law, Grace is driven to advance reforms that deliver true justice for our people, families, and communities.



**DENHAM
SADLER**

Senior Editor

Denham Sadler is a freelance journalist based in Narm, with a focus on criminal justice reform. He writes regularly for publications including The Saturday Paper, Crikey and the Guardian, covering issues including criminal justice reform, community law and social welfare. He is also a member of Liberty Victoria's Rights Advocacy Project in the criminal justice team. His professional communications expertise and dedication to exposing inequality and injustice are invaluable to the project.

OUR TEAM

OUR STEERING COMMITTEE



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Deadly Connections



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Deadly Connections

OUR TEAM

OUR STEERING COMMITTEE



SOPHIE TREVITT AM

Change the Record



KARLY WARNER

Aboriginal Legal Service
NSW and ACT



STAN WINFORD

RMIT Centre for
Innovative Justice

ACKNOWLEDGEMENTS

The Justice Map acknowledges the Traditional Owners of the lands on which this report was planned, researched, written, and launched. We pay our respect to their Elders—past, present—and extend our deep gratitude to those whose knowledge and lived experiences have profoundly shaped and inspired this report.

We recognise the enduring injustices that First Nations communities continue to face due to colonisation and discrimination.

Through our work, we particularly honour the First Nations women who spoke with us in Yarning Circles and interviews, who courageously shared their truths, and who entrusted us with their stories. We celebrate their resilience and the generations of mothers, grandmothers, and families who continue to bear witness and pass down truths about what has taken place in this country, and to hold fiercely to the hope that we can do better.

We remember our friend Jasmine “Jazzy” Crawford-Nobels, and other women who died preventable deaths in custody in recent years, many during the life of this project, including Ms Dhu, Tanya Day, Veronica Nelson and Aunty Sherry. We say their names, we remember them, and we commit to pushing for the changes that would have saved their lives.

DEDICATION

This report is dedicated to two very special members of the Justice Map team, Jasmine and Sophie.



Jasmine – “Jazzy” – Crawford-Nobels was a friend and colleague to many members of the Justice Map team and our wider community. She had a lot to say about the experience of women in the prison system, and particularly about the health system failures that are destroying women’s lives. She was part of a campaign called “Free Our Sisters” which forged many of the relationships from which the Justice Map grew, and she was looking forward to being involved.

Jazzy died several days after being released from Victoria’s Dame Phyllis Frost Centre in October 2020. She was released into a COVID-19 lockdown context and was left alone in a hotel room, where she died from an unintentional overdose while experiencing mental health challenges exacerbated by loneliness and isolation.

The two weeks post-release are the most dangerous time for people who have been in prison. This is especially the case for women who are up to 22 times more likely to die from a drug overdose in the first two weeks post-release compared to the general population of women, particularly if they are First Nations.¹ A heartbreaking irony is that this was an issue Jazzy had advocated passionately about, and she had been clear in explaining what the solutions are. Changes that, if implemented, would have saved her life. Changes that we are urging in the recommendations we have included in this report.

Jazzy was a big personality – joyful, hilarious, fearless and charismatic. She was a gifted poet, actor, writer and speaker – a natural performer and orator who lit up every stage and every room. We loved her. We miss her. We grieve the many more years of life that she deserved to have had.

¹ Louise Stewart et al, ‘Risk of Death in Prisoners after Release from Jail’ (2004) 28(1) *Australian and New Zealand Journal of Public Health* 32.

DEDICATION



Sophie Trevitt AM was a member of our Steering Committee and the highly respected Executive Director of Change the Record—Australia’s national justice advocacy coalition.

A brilliant human rights lawyer, Sophie fought for the rights of incarcerated First Nations children and families whose lives had been shaped by domestic violence and criminalisation. Her work took her from Arnhem Land to Alice Springs and the halls of Canberra. Sophie was a driving force behind campaigns to raise the age of criminal responsibility and to end harmful practices like the use of spit hoods. Even in her final days fighting brain cancer, she was still on the radio, still writing op-eds, and still using every moment she had left to campaign for justice.

Sophie was a courageous and determined person, who was not afraid to challenge powerful institutions and individuals, even at great personal cost. In 2023, this courage was recognised when Sophie was awarded Liberty Victoria’s Voltaire Award. In 2024, the Australian National University posthumously honoured her as Young Alumna of the Year. Politicians across Australia’s parliaments, regardless of party, paid tribute to Sophie, and she was posthumously appointed a Member of the Order of Australia.

In remembering Sophie, what stands out even more than her achievements is her warmth and humanity. She would somehow find time to bake for the entire team, even while juggling multiple court cases, running a marathon, briefing a human rights inquiry and organising a protest action. She was an Aunty to every baby. She delighted in bringing people together. She had a way of weaving joy and kindness into everything she did.

Since Sophie’s passing, a question has emerged within the community that mourns and celebrates her: What would Sophie do? It’s the question to ask yourself when the world feels heavy. Because Sophie’s answer was always the same: she would resist despair. She would act. With love, with hope and always in collaboration with others.

NOTE ON LANGUAGE

The famous cognitive linguist Anat Shenker Osorio has a simple refrain: “words mean things.” She reminds us that the words we use have meanings beyond the literal – they tap into existing associations in our mind.² The word ‘justice’, for example, is associated with fairness—indeed, the Oxford dictionary lists ‘fairness’, ‘fair play’ and ‘equity’ as its synonyms. It is unreasonable to describe the criminal legal system, with its profound over-representation of First Nations people, as ‘just’.

We have also been deliberate in choosing how we describe people caught up in the criminal legal system. When we write about this group, we write about ourselves, our families, our friends, and the people in our Yarning Circles who trusted us with their stories. We believe in accountability as a process of taking responsibility for harm, acknowledging its impact, and actively working toward repair. True accountability also requires addressing the deeper underlying causes of harm and the conditions that enable it—naming the *why* behind the harm. Those who have experienced harm should have access to resources and avenues of accountability that allow them to heal, regain agency, and rebuild their lives. While accountability is essential, we reject dehumanising labels such as ‘criminals’ and ‘offenders’, which creates binaries and diminishes agency. Similarly, we avoid metaphors like the ‘cycle’ of crime, which frames crime as an inevitable force of nature rather than a construct shaped by culture, courts, and parliaments. Words mean things. The language we use to describe human beings—particularly those who have faced trauma and exclusion—shapes how they are perceived and, ultimately, how they are treated.

Framing matters because the way we define problems determines the solutions we pursue. When the people in the criminal legal system are seen as ‘the problem,’ proposed solutions will often revert to the status quo: increased funding for band-aid programs and services, many run by large, undemocratic organisations and companies to which governments have outsourced their responsibilities, or superficial legal reforms. Such approaches fail to reduce harm or enhance safety because they both fail to address the social conditions that drive harm and perpetuate harm. When we recognise that the mass incarceration crisis in this country is the outcome of deliberate and ineffective policy choices made by successive governments, we can turn to the many successful evidence-based solutions.

In this report, we use the term ‘**First Nations**’ to reflect the growing preference within communities when referring to Aboriginal and Torres Strait Islander peoples connected to the land now called Australia.³

We use the term ‘**family and domestic violence**’ to include threatening, coercive, dominating, controlling or abusive behaviour. This behaviour may occur within a broad scope of relationship types, including current and former romantic relationships, kinship and family groups recognised by various communities and cultures, and between relatives, guardians, carers, and other ‘family-like’ relationships.

² Anat Shenker-Osorio, ‘Pulling Back the Curtain to Reveal What’s Possible’, *The Forge* (22 July 2020) <<https://forgeorganizing.org/article/pulling-back-curtain-reveal-whats-possible>>.

³ Australian Institute of Aboriginal and Torres Strait Islander Studies, ‘Australia’s First Peoples’ <<https://aiatsis.gov.au/explore/australias-first-peoples>>.

The women we describe within this report have experienced significant injustices at various points in their lives, especially when their right to liberty is taken away by prison. For this reason, we use the term '**prison system**' to describe the institutions and organisations perpetuating the imprisonment of women.

Finally, we recognise that there are significant gaps in data that would allow for a more detailed analysis of the issues covered in this report across the gender spectrum, particularly including the experiences of people who identify as non-binary or transgender within a prison system that provides only men's or women's prisons, and largely tracks data on this basis. For this reason, our scope as it relates to gender is limited to a binary analysis of men and women, and we recommend more detailed data on gender be collected and published.



EXECUTIVE SUMMARY

” *Jail was like my father: cruel, violent and controlling. But it kept me alive. I hated it, but at least I could survive there. Outside, I often felt like I wouldn’t survive.*

Yarning Circle participant, July 2023, ACT ⁴

” *The function of freedom is to free someone else.*

Toni Morrison

A strong and wide-reaching movement to end violence against women has swept across Australia in recent years. Mass protests and high-profile reports demanding justice and respect have an established presence in the news and social media, putting pressure on the federal government to address men’s violence. And yet, women in prison barely get a mention in the *National Plan to End Violence Against Women and Children*; a joint initiative between the Federal, State, and Territory governments.⁵

⁴ Naomi Murphy and Melanie Wilde, Yarning Circle Held at Ngunnawal Bush Healing Farm, ACT (25 July 2023).

⁵ Commonwealth of Australia (Department of Social Services), *National Plan to End Violence against Women and Children 2022–2032* (Report, 17 October 2022)

<https://www.dss.gov.au/sites/default/files/documents/10_2023/national-plan-end-violence-against-women-and-children-2022-2032.pdf>.

Consequently, none of the actions to implement the plan relate to the prison system. Additionally, there was not a single First Nations woman included on a recent expert panel appointed by the Federal government to conduct a Rapid Review of Prevention Approaches to End Gender-Based Violence.⁶

WOMEN IN PRISON: A GROUP MOST IMPACTED BY VIOLENCE

” “Most of the women in the [Fitzroy Legal Service] sample (55.6%, n=60) disclosed an experience of domestic and family violence (DFV) that was relevant to their criminal law matter [...] According to Corrections Victoria, 65% of women in prison in 2018 reported being a victim of DFV. The [Victorian Crime Statistics Agency (CSA)] reports that in 2018, 43% of women in prison on remand were recorded by police as a victim in at least one DFV incident in the two years prior and 41% were recorded as an alleged perpetrator. However, CSA does not provide data on rates of misidentification.”

Emma Russell, Hui Zhou, and Gabriela Franich, *Gendered Justice: The Policing and Criminalisation of Victim-Survivors of Domestic and Family Violence Report, 2022*⁷

740,000

Women and girls are currently incarcerated around the world.

Australia is part of a global trend of locking up increasing numbers of women, and we are outpacing most other countries. More than 740,000 women and girls are currently incarcerated around the world, a figure that is rising at an alarming rate.

60%

The rate at which the imprisonment of women and girls worldwide has increased since 2000.

Since the year 2000, the number of women and girls in prison worldwide has increased by nearly 60%, far outpacing global population growth (around 30%) and the increase in the numbers of men in prison over the same period (22%).

⁶ Elena Campbell et al, *Unlocking the Prevention Potential: Accelerating Action to End Domestic, Family and Sexual Violence* (Report, 23 August 2024).

⁷ Emma Russell, Hui Zhou and Gabriela Franich, *Gendered Injustice: The Policing and Criminalisation of Victim-Survivors of Domestic and Family Violence* (Fitzroy Legal Service, 2022).

Women in prison are a cohort who are acutely impacted by male violence in this country, especially First Nations women in prison. A shocking 85 percent of women in prison have experienced family and domestic violence, while 98 percent have a history of victimisation and trauma.¹⁰ A study also found that 80 to 85 per cent of women in Australian prisons are victim-survivors of incest or other forms of abuse, and another found that, for at least 65 per cent of women in prison, this sexual abuse first occurred when they were children.¹¹ These alarming statistics are not new; for decades, advocates, researchers, commissions and inquiries have highlighted the devastating links between male violence, trauma, and women's imprisonment.

Women end up in prison for very different reasons to men. Primarily, women are being punished for men's violence, and the trauma that results from it. Women are criminalised for harming their own bodies through drugs, not for hurting others. They are also criminalised for minor property offences and 'public order' offences (for example, being drunk in public, 'loitering', trespassing.) Only a tiny fraction have seriously hurt another person. In the few cases where a woman has hurt someone, it was usually her violent partner.¹²

The factors driving women's risk of imprisonment—including poverty, homelessness, mental illness and addiction—intersect strongly with experiences of violence. Essentially, men's violence pushes women, especially First Nations women, into the justice system.

No other country on earth imprisons any group at rates as high—or as rapidly rising—as Australia imprisons First Nations women, relative to their population size.

CRIMINALISATION OF SURVIVAL

“In many countries the proportion of women held in pretrial detention is equivalent to, or larger than that of convicted female prisoners. In some countries the rate is growing faster than that of male pretrial detainees, [...] The majority of these women do not need to be in prison at all. Most are charged with minor and non-violent offences and do not pose a risk to the public. Many are imprisoned due to their poverty and inability to pay fines. A large proportion is in need of treatment for mental disabilities or substance dependence, rather than isolation from society. Many are victims themselves but are imprisoned due to discriminatory legislation and practices. Community sanctions and measures would serve the social reintegration requirements of a vast majority much more effectively than imprisonment”.

United Nations Office on Drugs and Crime, *Handbook on Women and Imprisonment*, 2014¹³

¹⁰ Cat Woods, 'Women in Prison', *LSJ Online* (online, 17 January 2023)

<[¹¹ 'Facts and Figures', *Blue Knot* \(2022\) <<https://blueknot.org.au/resources/facts-and-figures/>>; see also Debbie Kilroy, *Women in Prison in Australia* \(Conference Paper, Current Issues in Sentencing Conference, 6 February 2016\) <\[www.njca.com.au/wp-content/uploads/2023/03/Kilroy-Debbie-Women-in-Prison-in-Australia-paper.pdf\]\(http://www.njca.com.au/wp-content/uploads/2023/03/Kilroy-Debbie-Women-in-Prison-in-Australia-paper.pdf\)>.](https://lsj.com.au/articles/women-in-prison/#:~:text=Meyer%20reported%20that%20approximately%2098,been%20the%20victims%20of%20violence.>.</p></div><div data-bbox=)

¹² Rachel Carbonell, 'When Mum Goes to Prison', *ABC News* (online, 23 June 2017) <<http://www.abc.net.au/news/2017-06-23/when-mum-goes-to-prison-impact-of-jail-on-families/8583640>>; NSW Government, *Safety and Justice Report* (November 2016) 19; Kilroy (n 11) 2; NSW Bureau of Crime Statistic and Research, *Recent Trends in the NSW Female Prison Population* (Media release, 21 March 2018); Gail Mason and Julie Stubbs, 'Beyond Prison: Women, Incarceration and Justice?: Introduction' (2010) 22(2) *Current Issues in Criminal Justice* 189.

¹³ United Nations Office on Drugs and Crime, *Handbook on Women and Imprisonment* (United Nations Publishing, 2nd ed, 2014) 4.

Men's violence not only harms women directly, but also shapes legal and policy responses that disproportionately punish women. Across Australia, governments have repeatedly responded to highly publicised acts of male violence with rushed and reactionary legal reforms, while disregarding the more considered, evidence-based recommendations of their own multi-million-dollar inquiries. Triggered by high-profile tragedies including the murder of Jill Meagher in Victoria in 2012, the Lindt Café siege in Sydney in 2014, the Bourke Street car attack in Melbourne in 2017, and the murder of Teresa Bradford in Queensland in 2017—these reforms have focused on tightening bail, parole, and sentencing laws without demonstrating that they will reduce harm or enhance safety. While intended to address risks posed by violent men, these changes have inadvertently, but predictably, trapped increasing numbers of women in the justice system. The impact has been particularly devastating for First Nations women, who are now, in per capita terms, the fastest-growing prison population in the entire world.¹⁴

One Victorian example starkly illustrates this trend. In 2018, bail reforms were introduced after James Gargasoulas drove his car into Melbourne's Bourke Street mall during a drug-induced psychosis, killing six people and seriously injuring twenty-seven more. The amendments to the Bail Act 1977 that followed led to a spike in women held on remand, many for non-violent offences. These women are overwhelmingly survivors of violence themselves, with trauma histories that are ignored by a system more focused on the appearance of risk-aversion than justice or long-term harm reduction. This pattern is not unique to Victoria. In Queensland and New South Wales, similar legislative overhauls following public tragedies have increased the amount of people incarcerated while they wait for a trial, creating a pipeline that funnels vulnerable women into prison under the guise of community safety.¹⁵ This is not merely an "unintended consequence" of legal changes; it reflects a deeper structural failure to consider how laws designed to manage male violence disproportionately ensnare women.

Critically, these reforms operate in a legal culture that targets survivors of systemic disadvantage. As legislative changes make bail and parole harder to access, women are more commonly detained for offences directly linked to their experiences of poverty, homelessness, or coercive control. Far from enhancing community safety, these policies perpetuate violence—first at the hands of men and then through the punitive violence of the state.

Governments can no longer claim ignorance of these impacts. The surge in women's imprisonment has been widely documented, yet little to no action has been taken to address it. This is not just a failure of foresight but an active policy choice: the state has prioritised a tough-on-crime narrative over the well-being of women. The result is a justice system that effectively punishes women for surviving male violence, criminalising their survival strategies while ignoring the root causes of their criminalisation.

¹⁴ Thalia Anthony, 'FactCheck: Are First Australians the Most Imprisoned People on Earth?', *The Conversation* (online, 6 June 2017) <<https://theconversation.com/factcheck-are-first-australians-the-most-imprisoned-people-on-earth-78528>>.

¹⁵ Lachlan Auld and Julia Quilter, 'Changing the Rules on Bail: An Analysis of Recent Legislative Reforms in Three Australian Jurisdictions' (2020) 43(2) *UNSW Law Journal* 642.

MISGUIDED LAWS AND PERPETRATOR MISIDENTIFICATION

” *“The criminal justice system is not currently equipped to deal with the complexity and nuance that coercive control presents, as there is not yet a common understanding of the role of coercive control in family violence, nor is there sufficient consistency in responding to family violence more generally across the system. Therefore, victim-survivors cannot be guaranteed an appropriately safe response when they engage with the justice system [...] the criminal justice system was never established to deal with the level of complexity posed by family violence, as the criminal justice system was designed to respond to incident-based offences and isolated events or criminal acts between strangers, largely men”.*

Safe and Equal, Responding to Coercive Control in Victoria: Broadening the Conversation Beyond Criminalisation Report, 2021

In addition, even efforts to protect women by criminalising domestic violence, such as the growing movement to criminalise coercive control, is having unintended effects of further traumatising women due to the lack of a gender lens in Australia’s application of these laws. Perpetrator misidentification is widespread, with women ending up in prison as a result of laws that were purportedly developed to prevent and punish the violence used against them.

The women we spoke to repeatedly described the prison system as a perpetrator of violence in its own right. They describe the violence they experience in the prison system in various ways, including: emotional abuse from severing their connection with their children, and causing and exacerbating mental illness; financial abuse through extremely low-paid labour and poor prospects of post-release employment; sexual violence and humiliation in the form of strip searching; and victim-blaming and punishment, as though offending was not already an act of survival. By virtue of being in prison, women lose their housing and are released into homelessness, without so much as a public transport ticket let alone a job. Government support for women to survive post-release is so woefully inadequate that women are almost encouraged to return to the men who used violence against them in the first place. The message this sends to women is not only that they don’t matter, but also that they deserve to have violence used against them.

Every person has the right to an adequate standard of living, including housing and food, and to be free from violence. It is well past time to keep women out of prison, protect those inside, and release women back into the community with the support they need to thrive. Our governments have the power to enact meaningful and considered change; it is up to us to demand they exercise it.

WHERE TO FROM HERE?

Transforming this crisis requires that governments implement recommendations.

For there to be any positive progress to address Australia's incarceration crisis, the voices of women with a lived experience of prison must be central to law and policy decisions, including those relating to male violence. The current legal system is failing women at every turn, particularly First Nations women.

Successive governments have created systems that perpetuate trauma, violence and inequity and punish women for attempting to survive in a world shaped by men's violence. And this failure is not accidental, but the result of deliberate choices by governments at all levels to prioritise punitive policies over prevention, care and equity.

But this crisis is not inevitable, and it is not irreversible.

To address this crisis, we must confront the intersecting issues that perpetuate these harms, and respond to them with effective solutions such as increased access to safe and secure housing, a health-based approach to addiction treatment, mental ill-health supports and improved systems around how domestic and family violence is responded to. There are proven examples in Australia and around the world of this being effectively done, and it's urgent that action is taken now to address this escalating crisis.

SUMMARY OF RECOMMENDATIONS

The over-incarceration of women, particularly First Nations women, demands urgent action to build systems that foster safety, equity, and healing. Governments must move beyond reliance on policing and prisons, which fail to address the root causes of harm and perpetuate cycles of inequality.

A proactive approach that tackles the underlying drivers of harm—poverty, housing insecurity, systemic discrimination, addiction, and intergenerational trauma—offers a chance to create lasting safety. Instead of punitive measures, we must invest in the conditions that allow individuals and communities to thrive.

Research across sociology, criminology, and economics consistently shows that addressing social determinants like poverty, housing, education, and healthcare reduces crime. Meeting basic needs and providing adequate support dismantles the drivers of harm, reducing violence and fostering well-being.

Recognising the distinctive features of women's experiences before, during, and after incarceration, we propose the following recommendations:

- 1 Adopt a public health response:** Address mental health and addiction issues with community-based, culturally safe health services.
- 2 Launch a Federal Inquiry into women in prison:** Analyse best practices and ensure recommendations lead to measurable, accountable outcomes.
- 3 Create a national dataset on women's incarceration:** Track intersectional factors affecting women, with community-led data collection to build trust.
- 4 Implement a whole-systems approach:** Coordinate health, housing, and social services to reduce women's incarceration across all states.
- 5 Fund community-led prevention and intervention:** Invest in culturally safe, trauma-informed programs to address harm and support healing, particularly for First Nations women.
- 6 Expand women-centred services:** Develop holistic rehabilitation programs addressing trauma, addiction, and domestic violence.
- 7 Improve housing access:** Provide secure, trauma-informed crisis and long-term housing for women at risk of or exiting incarceration.
- 8 Commit to universal basic services:** Invest in free healthcare, housing, childcare, and addiction treatment to address drivers of incarceration.
- 9 Pilot Women's Residential Centres:** Establish trauma-informed alternatives to prison, co-designed with First Nations communities.
- 10 Decriminalise poverty-driven survival strategies:** Reform laws that criminalise homelessness, unpaid fines, and drug use; prioritise harm reduction.

- 11 Introduce gender-specific sentencing:** Require pre-sentence reports that consider women's social, psychological, and family factors.
- 12 Support survivor-centred restorative justice:** Fully fund services for victim-survivors alongside restorative justice programs.
- 13 Fund First Nations justice agreements:** Back community-led efforts to address violence and promote healing among First Nations women.
- 14 Set national justice targets:** Collaborate with First Nations organisations to close the incarceration and violence gap by 2040.
- 15 Expand restorative justice:** Scale up programs that emphasise accountability and healing over punishment.
- 16 Scale the Alternative to Custody Program:** Replicate the successful Alice Springs program in other cities.
- 17 Establish police oversight bodies:** Create independent mechanisms to investigate police misconduct and address systemic over-policing.
- 18 Ensure implementation of expert recommendations:** Establish a national oversight body to hold governments accountable for justice reforms.

METHODOLOGY

This report takes a different approach to traditional academic and NGO literature, which often assumes the prison system is broken, and that its disproportionate impact on marginalised populations—especially First Nations women—is an unintended consequence of badly designed policy. Instead we approached this work with the following guiding principles:

1) We spoke to people with lived experience first

We grounded this report in conversations with people who are currently, or have recently been, in prison—especially First Nations people.

We held Yarning Circles with courageous people willing to speak with us while under surveillance within the prison walls, as well as those in post-release First Nations healing centres. We held these Yarning Circles ahead of engaging with the literature, interviewing professional experts, or identifying questions for investigation. We also ensured that members of both our Leadership Team and Steering Committee were people with lived experience of the prison system.

In speaking with people whose lives have been profoundly shaped and intergenerationally impacted by the criminal justice system, it was clear that today's system cannot be severed from its history.

In particular, we reflected that we, as justice advocates, must do better at anchoring our understanding and advocacy in the history of colonisation. We have endeavoured to do this by applying an intersectional lens throughout this report, including by paying specific attention to the ways in which the issues explored impact upon First Nations women, and by providing historical context to our discussion of criminalised and incarcerated people.

2) We asked original questions

It also became clear to us that, in order to focus our conversation on what is wrong with the system (rather than those it targets), we needed to pursue issues that had not been widely interrogated. This meant asking questions about who is benefiting from the current punitive system, and who is responsible for the policy and budgeting decisions being made. We asked ourselves questions that were tough to answer because they are complex, and often required tracking down information that is hard to find.

3) We broke through siloes

To build a comprehensive understanding of the drivers of mass incarceration, it was critical to combine interdisciplinary standpoints—noting that the literature is overwhelmingly, though perhaps unsurprisingly, dominated by legal perspectives. While our team does include many lawyers, we also have a diverse range of lived expertise, as well as labour economists, doctors, a statistician, a journalist, political campaigners and a range of other advocates who have combined their rich, varied lenses. Rather than isolating incarceration

as a singular issue within the justice system, we have instead examined the ways in which multiple areas of public policy intersect to produce our current reality, and considered how cross-sector collaborations can drive change. Our focus and recommendations have been shaped by what we heard.

DATA COLLECTION AND CONTEXT

Yarning Circles

From 2020 to 2023, we conducted Yarning Circles with First Nations people currently imprisoned or recently released. This culturally significant methodology allowed for open, respectful, and meaningful dialogue. Designed and facilitated by Naomi Murphy, our Yarning Circles Lead and Justice Map Co-Founder, the sessions focused on understanding the lived experiences of incarceration and reintegration. Melanie Wilde, Justice Map Project Director and Co-Founder, also attended each session, alongside other team members who supported transcription and documentation.

The grounded theory approach was used to analyse these discussions, allowing themes and insights to emerge organically from participants' narratives. This approach prioritises the voices of those involved, rather than imposing predetermined frameworks.

LOCATION AND PARTICIPANTS

Victoria (2020-2021):

- Hopkins Correctional Centre: 16 men
- Tarrengower Prison: 6 women
- Wulgunggo Ngalu Aboriginal Men's Healing Centre: 24 men
- Winja Ulupna Drug and Alcohol Recovery: 3 women

Australian Capital Territory (2023):

Alexander Maconochie Centre (AMC) – Post-release:

- Ngunnawal Bush Healing Centre: 7 women, 12 men
- Yeddung Mara Aboriginal Corporation: 10 women, 11 men

This report draws extensively on the insights from the ACT Yarning Circles while integrating relevant data from Victoria, particularly for comparative purposes. The focus has been on understanding the unique experiences of the women we spoke to, as their voices highlighted critical dimensions of the systemic issues explored.

JURISDICTIONAL INSIGHTS: ACT VS. VICTORIA

The Australian Capital Territory (ACT) and Victoria offered distinct yet complementary contexts for examining incarceration and post-release experiences:

ACT: With only one adult facility, the Alexander Maconochie Centre, the ACT operates under the Corrections Management Act 2007. This legislation emphasises human rights standards, requiring detainees to be treated with dignity and respect. These principles, coupled with the ACT's centralised system, provided a unique lens for understanding the lived experiences of incarceration within a human rights-based framework.

Victoria: As a larger jurisdiction with a broader network of prisons, Victoria presents a contrasting model. Its emphasis on rehabilitation and reintegration programs highlights efforts to reduce recidivism and support community reentry. The diversity of programs and approaches in Victoria allowed us to examine the effectiveness of various strategies when compared to the ACT's unified framework.

The comparative insights between these two jurisdictions enriched our findings, shedding light on how different correctional approaches impact the experiences and outcomes for people in prison. By integrating these perspectives, the Yarning Circles captured a comprehensive view of systemic dynamics, enabling us to formulate actionable recommendations grounded in lived reality.



INTRODUCTION

Women are doing time for men's crimes —Christina's story

” *Lots of crimes are committed under the influence of drugs. You're a different person and you have these needs that have to be met. If you can't get your drugs and you don't have the money then you need to do crime. [The courts] need to address the underlying issue, [the arrested person] is a drug addict. They should be in treatment, not in prison. It's not like we want to do crime [...] we have to because we're drug addicts. That's my experience.*

Christina*, lived experience advocate.¹⁶

While conducting the research that underpins this report, members of the Justice Map team lost a friend and colleague; Christina. Christina was an advocate with lived experience of addiction and imprisonment. Several members of the team were lucky to have known and worked with her.

Women's incarceration in Australia is driven by deeply interconnected factors: domestic and family violence, homelessness, being misidentified as perpetrators by police, punitive bail and parole laws, and inadequate access to restorative programs. These systemic failures compound each other. Women who

¹⁶ Interview with Christina (Conducted by Denham Sadler, April 2019) taken in preparation for the following article; Denham Sadler, 'Campaign To Keep Women Out of Jail', *The Saturday Paper* (online, 6 April 2019) <<https://www.thesaturdaypaper.com.au/news/politics/2019/04/06/campaign-keep-women-out-jail/15544692007952?cb=1613194754>> * (Christina is a pseudonym to protect her anonymity).

experience violence and abuse often face homelessness, leading to minor offences that result in imprisonment. Without a stable address, they may be denied bail or parole, trapping them in prolonged cycles of incarceration and re-release into the same circumstances that led them to prison in the first place.

The devastating impact of these failures is exemplified through Christina's story.

Christina was clever, bubbly and very funny. She had a way of bringing laughter, authenticity, spice and mischief to every space. Like almost every woman in prison, she had experienced profound trauma and abuse since childhood. She became addicted to alcohol as a coping mechanism when she was a teenager. This later developed into a dependency on crystal methamphetamine, known as 'ice'. Christina once said that she didn't know if she would have lived past her teenage years if she had not used alcohol and drugs, because they were the only supports available to her at that time.

Throughout her 20s, Christina was incarcerated three times for property theft—she stole to support her dependency. On each occasion, Christina begged the court to send her to rehabilitation instead of prison. Each time, the system failed her. After her third period of incarceration, Christina asked to be released into a rehabilitation program. The prison could not find a program for her. Determined to access treatment, she managed to find a program on her own and was placed on a six-month waiting list. Instead of applying for parole when she became eligible, she chose to remain in prison for a further six months until a spot became available in the program. She later told *The Age* journalist Miki Perkins how she “literally got the prison chaplain to drive her straight to rehab”.¹⁷

Christina was articulate and well-read. She had undertaken training in counselling and was not afraid to speak up about the kinds of supports that she and other women in the criminal legal system needed. Jill Faulkner, a social worker who met Christina during her time in the Victorian Dame Phyllis Frost Centre prison, described her as an “unstoppable warrior woman” in demanding her right to receive counselling and support for her pain and distress, to be able to attend a group that might offer kindness, and a thread to help her weave her experiences together.¹⁸ Yet Christina's consistent experience was that the opportunities for connection and support that she and other women needed were few and far between.

Christina's determination to access rehabilitation paid off and she spent several years in recovery. During this time, Christina became a successful advocate and peer support worker, employed by two community legal centres. She addressed government decision-makers, politicians, lawyers, students and community workers. She told her story in the media on several occasions. She often spoke with colleagues about her ongoing struggles, particularly with loneliness. She emerged as a natural leader, an extrovert whose bubbly personality, strong convictions and generosity energised those around her.

¹⁷ Miki Perkins, 'The Government Is Criminalising the Very Women It Should Support', *The Age* (online, 10 February 2019) <<https://www.theage.com.au/national/victoria/the-government-is-criminalising-the-very-women-it-should-support-20190207-p50wf6.html>>.

¹⁸ Interview with Jill Faulkner, Program Director of “Women Transforming Justice” at Fitzroy Legal Centre (28 January 2021).

When Christina relapsed—a part of the journey to recovery that is inevitable for most people—she was once again swiftly incarcerated for a low-level crime. Some months later, she was released into Victoria’s Stage 4 COVID-19 lockdowns. Christina found herself homeless and was put into a hotel room on a short-term basis with limited support. One social worker was assigned to check in on her. Her family and friends report that they were not allowed to visit her without prior approval from this social worker.

A few days later, Christina died alone in her hotel room of an overdose. It took more than 24 hours for police to respond to a welfare check requested by her mother. 6

During her time as an advocate, Christina repeatedly spoke about the importance of women’s access to housing and to immediate rehabilitation. She once addressed a room full of lawyers, social workers, professors, bureaucrats and senior decision-makers, including federal and state Ministers. She gave a powerful speech about the uphill battle she had fought in trying to access rehabilitation and mental health support. She warned that, without immediate action, more women would die.

She called out the decision-makers who were present.

She said: do it now.

¹⁷ Miki Perkins, 'The Government Is Criminalising the Very Women It Should Support', *The Age* (online, 10 February 2019) <<https://www.theage.com.au/national/victoria/the-government-is-criminalising-the-very-women-it-should-support-20190207-p50wf6.html>>.

¹⁸ Interview with Jill Faulkner, Program Director of “Women Transforming Justice” at Fitzroy Legal Centre (28 January 2021).

WOMEN ARE DOING TIME BECAUSE THEY ARE VICTIM-SURVIVORS OF FAMILY AND DOMESTIC VIOLENCE

” Among people incarcerated in women’s prisons, past abuse—family violence, sexual violence and/or domestic violence—is so prevalent we now have a term for it: the abuse-to-prison pipeline. Until recently, this was a largely ignored pathway. For instance, [...] many women imprisoned for the death of their partner or ex-partner had experienced sustained abuse from that partner.

But there’s no government data on what percentage of women incarcerated for murder or manslaughter had been abused by the person they killed. That’s in large part because of the way our adversarial criminal legal system works—a prosecutor’s job is to convict (or wring a guilty plea from a defendant), not to examine the underlying causes for why harm or violence happened.

Victoria Law, author, *Resistance Behind Bars: The Struggles of Incarcerated Women*, 2009.

There is a clear and proven link between domestic and family violence victimisation and incarceration in Australia. Up to 98 percent of women in prison have histories of victimisation and trauma, and close to 85 percent are survivors of violence.¹⁹ For First Nations women these figures are even higher.²⁰ A shift in thinking and policy-making to recognise that incarcerated women are also victim-survivors is crucial to more effective policy-making, centred on a health-based approach that can address the root causes of harm and avoid women being incarcerated in the first place.

KEY STATISTICS

Nearly **50%**

of women murdered by an intimate partner in Queensland were previously labelled by police as the perpetrator of domestic violence²¹

Up to **98%**

women in prison had experienced physical abuse²²

Over **70%**

of women in prison have lived with domestic and family violence²³

Up to **90%**

have survived childhood sexual assault²⁴

Up to **90%**

of all girls in youth detention facilities have been sexually assaulted²⁵

¹⁹ Kilroy (n 11) 1.

²⁰ Ibid.

²¹ Australia’s National Research Organisation for Women’s Safety (ANROWS), *Accurately Identifying the ‘person Most in Need of Protection’ in Domestic and Family Violence Law* (Research Report, Issue 23, November 2020).

²² Sisters Inside and the Institute for Collaborative Race Research, Submission No 39 to the Commission of Inquiry, Independent Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence (13 July 2022) <<https://www.qpsdfvinquiry.qld.gov.au/public-hearings/assets/exhibits/week-4/annexure-a.pdf>>.

²³ Sisters Inside, Submission to Discussion Paper 2, *Women’s Safety and Justice Taskforce*, Queensland (2021) <https://humanrights.gov.au/sites/default/files/sisters_inside_attachment3_redacted_0.pdf>.

²⁴ Ibid.

²⁵ Murdoch Children’s Research Institute, Submission to the Victorian Law Reform Commission, *Inquiry on Improving the Response of the Justice System to Sexual Offences* (17 December 2020) <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/Sub_5_Willoughby_et_al_Justice_Health_Unit_final.pdf>.

Debbie Kilroy OAM—the founder of independent community organisation, Sisters Inside—explains that the majority of imprisoned women have committed minor, non-violent offences.²⁶ These offences are often “driven by their lived experience of abuse and direct consequences of this victimisation”. Kilroy argues that for those that are imprisoned for violent offences, the offences are usually committed against their “violent partners”, suggesting that there is often a direct link between criminalisation and family violence victimisation. For these women, abuse and violence is normalised.²⁷

The Victorian Royal Commission into Family Violence (RCFV)—which was established in 2015 after a number of domestic and family violence related murders in Victoria, most notably the 2014 murder of Luke Batty by his father—also found that the act that led to imprisonment was often as a result of “trauma or under duress or coercion from a violent partner”.²⁸

“ I’ve had DHS in the background since I was three. My grandfather [...] is a registered sex offender, and he tampered with me when I was younger. So they’ve been involved since that happened.

And when I started having children, they stepped in and started to push me around and say ‘you can’t do this, you can’t do that’. I’ve had four kids, and two of them I’ve had to bury’.

Yarning Circle participant, Canberra, 2023²⁹

“ My dad had care of my kids, and he was remanded to custody himself for three counts of child abuse. I’m in here, I can’t do anything, and my soon to be ex-husband was part of that.

Yarning Circle participant, Canberra, 2023³⁰

Family violence protection orders were frequently found to be an entry into the criminal justice system for victim-survivors of family violence. Police-issued orders were found to be the most problematic as police “were consistently misidentifying female victims of family violence as primary aggressors”.³¹

Jillard and Mansour found that an alarming number of family violence victim-survivors were being misidentified as defendants in protection orders. In fact, around two-thirds of the clients represented by NSW Women’s Legal Services “instructed that they were the primary victim of violence in their relationship”.³² The majority of these orders were made by police, highlighting widespread systemic shortcomings in accurately identifying and responding to family violence dynamics.³³ The authors provide strong critical

²⁶ Sisters Inside (n 23).

²⁷ Andrew Day et al, *The Forgotten Victims: Prisoner Experience of Victimisation and Engagement with the Criminal Justice System*, vol 2018 (Australia’s National Research Organisation for Women’s Safety, 1st ed, 2018).

²⁸ *Royal Commission into Family Violence Volume V* (Full Report, March 2016) 37 <<http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Vol-V.pdf>>.

²⁹ Murphy and Wilde (n 4).

³⁰ Ibid.

³¹ Hayley Gleeson and Julia Baird, ‘Why Are Our Prisons Full of Domestic Violence Victims?’, *ABC News* (online, 20 December 2018) <<https://www.abc.net.au/news/2018-12-20/womens-prisons-full-of-domestic-violence-victims/10599232>>.

³² Alicia Jillard and Julia Mansour, ‘Women Victims of Violence Defending Intervention Orders’ (2014) 39(4) *Alternative Law Journal* 235.

³³ Ibid 326.

³⁴ Ibid.

analysis of how family violence victim-survivors can end up in the criminal justice system, including by being mislabelled as abusers themselves. However, as they acknowledged, research remains currently very limited in this area, with significant gaps in much-needed data collection that hinders a comprehensive understanding of and response to this issue.³⁵

For women named as defendants in family violence protection orders, breaches of these orders can be an entry into the criminal justice system. An Australian Law Reform Commission (ALRC) report found that police issued protection orders without the consent of the parties involved, placing women at a greater risk of breaching the order. These breaches, which can stem from unrealistic or inappropriate conditions of the orders, often lead to criminal charges.³⁶

For First Nations people, the risk of being breached was even more significant, particularly for those in remote communities who lack “access to legal advice” or “functional English literacy skills” to apply to vary the order.³⁷ “Full non-contact orders” were virtually impossible to comply with in remote communities where all residents live in close proximity.³⁸ Police-issued orders involving First Nations women are common, often because women avoid seeking orders themselves, due to deep mistrust in the system. Douglas and Fitzgerald’s research also supported these findings, particularly demonstrating that domestic violence protection orders are pushing many women who are victim-survivors of family violence into the criminal justice system.³⁹

“ Every time the ex would come to town, he would get intoxicated and want to come around and see the kids, and he could, because there was no orders out, because that’s not how we [First Nations peoples] do it. He would just walk into my house and take my daughter, and I would call the police, but there was nothing that they would do because, because there was no order.

He would come past the house and break in [...] and he and I would be into it. And when I say that, I mean, like an argument would start, and then, you know, it would get violent [...] I would call the police, and by the time they got there, he’d be gone. It happened like heaps of times, and then they actually got sick of it.

I didn’t want to get the order out, because it’s kind of seen in the community as it’s a bit of a shame job.

Naomi Murphy⁴⁰

The family violence protection system in Victoria needs to better protect women experiencing family violence. Victim-survivors are falling through the cracks in this system and landing in prisons.

³⁶ Australian Law Reform Commission, *Family Violence: A National Legal Response* (Report, No 114, October 2010) 370.

³⁷ *Ibid* 375.

³⁸ *Ibid* 373.

³⁹ Heather Douglas and Robin Fitzgerald, ‘The Domestic Violence Protection Order System as Entry to the Criminal Justice System for Aboriginal and Torres Strait Islander People’ (2018) 7(3) *International Journal for Crime, Justice and Social Democracy* 41.

⁴⁰ Interview with Naomi Murphy (Conducted by Grace Orange, 17 November 2024).

” I found myself running around the streets at a young age and just wanted to be out there instead of going home. I started stealing to survive really just to feed myself, mum and that was just charged up all the time [...] I didn't want to go back there.

And running away from DHS and welfare trying to dodge them fellows, you know, back and forth from Adelaide back to Victoria with my mum dodging my dad and yeah, on the run.

Yarning Circle participant, Tarrengower Prison, 2021.⁴¹

Research by Australia's National Research Organisation for Women's Safety (ANROWS) found that almost half of the women murdered by an intimate partner in Queensland had previously been labelled by police as the perpetrator of domestic violence.⁴²

Clearly the police are still navigating the complexities of understanding and responding to violence appropriately. Duty failures by the police have been subject to scrutiny by the RCFV. It is time to concede that the role of police in domestic and family violence incidents is more problematic for victim-survivors than it is helpful.

INVISIBLE BARS: THE STORIES BEHIND THE STATS

The prevalence of a history of domestic and sexual violence in women in prison has been acknowledged and reported on for decades. The 2009 report *Invisible Bars: the Stories Behind the Stats* includes the stories of many women who were incarcerated in the Australian Capital Territory.⁴³ Over half of the women who participated in the study declared they had been victims of childhood sexual abuse and most were also survivors of adult violence and trauma.⁴⁴ Almost all of the women who participated reported having experienced domestic violence as an adult.⁴⁵ The report details consistent themes of intergenerational trauma, experiences of violence, mental ill-health and struggling with addiction.⁴⁶ We have known about these issues and the contributing factors behind the incarceration of women, but are yet to address these underlying issues.

” I have been exposed to alcoholism and drug abuse, domestic violence and sexual abuse from the time I was born and now I was exposing my own children. It is like watching a mirror image of my life through my daughter.

It is systemic torture [...] you're doing this for my safety and to protect me but it really all stems down to sexual abuse.

All my childhood and young adult life I had been exposed to and involved in domestic violence.

Woman incarcerated in Canberra, 2009.⁴⁷

⁴¹ Naomi Murphy and Melanie Wilde, Yarning Circle Held at Tarrengower Prison, Victoria (19 April 2021).

⁴² Australia's National Research Organisation for Women's Safety (ANROWS) (n 21).

⁴³ Deb Wybron and Kiri Dicker, ACT Women and Prisons, *Invisible Bars: The Stories Behind the Stats* (Report, May 2009).

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

WOMEN ARE DOING TIME BECAUSE VIOLENCE HAS SHATTERED THEIR HEALTH

” People with severe mental health issues should not be incarcerated due to a poorly funded and inadequately resourced community health system.

Sam Biondo, submission to the Victorian Mental Health Royal Commission, 2019.⁴⁸

Controlling, oppressive, and punitive environments worsen mental health for all people, particularly those who have suffered from past traumas. As such, prisons are not only disproportionately filled with people who experience mental illness, but they are also causing mental illness in people who did not previously experience it, and exacerbating mental health conditions that were previously manageable.

It is worth noting the historical context behind today's incarceration of people with mental health conditions and addictions. An understanding of this history demonstrates that Australia has taken steps toward a public health approach in the past. Sadly, this progress was short-lived: but remains a precedent that the governments could build on.

In the 19th century, 'lunatic asylums', proliferating across Western Europe, emerged in Australia. The asylums were similar to prisons, their purpose being to 'receive and secure the ungovernable from society.'⁴⁹ From the beginning, whether those deemed 'insane' ended up in these prison-like asylums depended on wealth and status. Convicts deemed insane were institutionalised, while wealthy settlers were ignored by the government and treated by private physicians.⁵⁰

In the late 19th century there was growing awareness of the abusive practices in Australia's asylums.⁵¹ In 1898, Australia legislated a Lunacy Act similar to that of the British Lunacy Act 1845 which required asylums to be properly regulated by the Lunacy Commission. Mental illness, or 'lunacy', was increasingly approached as a medical issue. Asylums became known as psychiatric institutions and doctors replaced the prison-guard-like asylum superintendents.

During the late 20th and early 21st century, the process of deinstitutionalisation and subsequent policy changes have driven a substantial reduction in psychiatric hospital beds from 30,000 in the early 1960s to around 6,000 nationally today.⁵² At the same time, the demand for mental health services has increased alongside population growth and has outpaced the establishment of community-based services.⁵³

⁴⁸ Victorian Alcohol & Drug Association and Justice Health Unit, Melbourne School of Population and Global Health, The University of Melbourne, *Inequalities and Inequities Experienced by People with Mental Health and Substance Use Issues Involved in the Criminal Justice System* (Report to the Royal Commission into Victoria's Mental Health System, 5 July 2019) <https://www.vaada.org.au/wp-content/uploads/2019/07/Melbourne-Uni-JusticeHealth_VAADA_RoyalCommission_FINAL-003.pdf>.

⁴⁹ Lila Vrkleviski, Kathy Eljiz and David Greenfield, 'The Evolution and Devolution of Mental Health Services in Australia' (2017) 9(10) *Inquiries Journal* <<http://www.inquiriesjournal.com/a?id=1654>>.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Department of Health and Ageing, *National Mental Health Report 2005: Summary of Ten Years of Reform in Australia's Mental Health Services under the National Mental Health Strategy 1993-2003* (Commonwealth of Australia, 2005) 38.

⁵³ Kathleen Richmond and Pauline Savy, 'In Sight, in Mind: Mental Health Policy in the Era of Deinstitutionalisation' (2005) 14 *Health Sociology Review* 215.

As Christina's story demonstrates, prisons have since become the primary response for people who have been unable to receive care and treatment in the community. In particular, prisons are filling because of the failure to provide accessible and adequate treatment and support for people living with a mental illness, including drug and alcohol dependency. At least 80% of the people in our prisons are living with a mental illness.⁵⁴

People living with mental illness are often incarcerated rather than treated, largely because of the lack of appropriate mental health and other services. In Victoria, one in three people (32%) taken into police custody were meant to be receiving psychiatric treatment at the time of their arrest.⁵⁵ One police service estimates that half of all high-risk incidents that result in a police response involve mental illness.⁵⁶

A Productivity Commission report detailed that as high as a 60% shortfall had occurred in non-acute beds for mental health treatment in the public sector. In this context, non-acute care beds are for individuals who require inpatient treatment beyond 18 days, while acute care beds are for those who require active treatment in hospital for a time of up to 18 days.

Due to the reduction of available non-acute care beds in specialised facilities, sufferers of severe mental illness and related episodes are more frequently receiving treatment in emergency departments. This can lead to patients being prematurely discharged prior to receiving the full treatment they need in an effort to make beds available for further patients. Following premature discharge these individuals are susceptible to suicide as well as further breakdowns of mental health, aggressive behaviour and homelessness, all of which can result in incarceration and entry into the criminal legal system.

Women who are victim-survivors of domestic and family violence often experience associated mental health impacts. Women can turn to alcohol and drug misuse in order to cope with the severe trauma of these situations. Instead of being provided support and treatment for these conditions, women are criminalised because of them and imprisoned for non-violent crimes stemming from their experiences of domestic violence.

Studies have found that at least 80 percent of the people in Australian prisons are living with a mental illness.⁵⁷ Many were already experiencing mental ill-health before they were incarcerated, while others saw their mental health deteriorate due to the horrific conditions within prison and the trauma associated with it.

Women living with a mental illness are often incarcerated instead of being treated, in part due to a lack of appropriate mental health and other services. For example, in Victoria, one in three people taken into police custody were meant to be receiving psychiatric treatment at the time of their arrest.⁵⁸ One police service estimated that half of all high-risk incidents that resulted in a police response involved mental illness.⁵⁹

⁵⁴ Tony Butler et al, 'Mental Disorders in Australian Prisoners: A Comparison with a Community Sample' (2006) 40(8) *Australian and New Zealand Journal of Psychiatry* 272 By 'mental illness' in this context we mean that the illness 'causes severe disadvantage and drastically curtails the ability of the individual to live independently in the community', as defined by the National Community Advisory Group on Mental Health. (National Community Advisory Group on Mental Health, 1994, Let's Talk About Action, p.10).

⁵⁵ James Ogloff et al, 'Co-Occurring Mental Illness, Substance Use Disorders, and Antisocial Personality Disorder among Clients of Forensic Mental Health Services' (2015) 38(1) *Psychiatric Rehabilitation Journal* 16.

⁵⁶ Paul White and Harvey Whiteford, 'Prisons: Mental Health Institutions of the 21st Century?' (2006) 185(6) *The Medical Journal of Australia* 302.

⁵⁷ Butler et al (n 54).

⁵⁸ Ogloff et al (n 55).

⁵⁹ Paul White and Harvey Whiteford, 'Prisons: Mental Health Institutions of the 21st Century?' (2006) 185(6) *The Medical Journal of Australia* 302-3.

The incarceration of women in Australia can be seen as a failure of the public health system, particularly in dealing with people with mental illness and/or addiction issues. A Productivity Commission report found there is a shortfall as high as 60 percent in non-acute beds for mental health treatment in the public sector.⁶⁰

The Victorian Ombudsman found in a report in 2018 that there was an acute shortage of mental health treatment beds in the state, and that this was particularly impacting women.⁶¹ The Ombudsman found that this shortage was often leading to women spending extended periods of time in prison, in turn worsening their mental health conditions, if they had been found unfit to stand trial or not guilty due to mental impairment but had nowhere to go to receive treatment.⁶²

This was detailed in what Victorian Ombudsman Deborah Glass said was the “saddest case” she had investigated during her time in the role, involving a 39-year-old woman who had spent 18 months in prison. During this time, she was locked in her cell for up to 23 hours a day, where she would “scream with distress for hours on end”. The woman had been charged with breaching an intervention order taken out by her family who struggled to cope with her behaviour, but was found unfit to stand trial due to mental ill-health. Due to a lack of care and support in the community, she was imprisoned for 18 months, despite the judge saying she would likely have received a one month sentence if she had pleaded guilty and been sentenced.⁶³

” *Prison is not a therapeutic environment. Despite the care of individual prison officers and staff, her condition deteriorated markedly as a result of her 18 months in solitary confinement. Although valiant efforts are now being made to integrate her into the community, both she and society are still paying a high price.*

Victorian Ombudsman Deborah Glass, 2018⁶⁴

Many women are living with mental health illnesses as a result of their experiences of family and domestic violence. Instead of being able to access support and treatment for this, they are instead often criminalised for this in the face of shortfalls in a failing health system, and then placed in a prison system that is only serving to exacerbate their illnesses and re-traumatise them.

” *All that [domestic violence] went on for so long, for so many years, and then I was self-medicating, I started drinking, and then getting into drugs, and then that’s when I got into trouble with the police.*

That DV from him had an effect on my drinking [...] I didn’t have to drink, but there was no counselling services.

Naomi Murphy⁶⁵

⁶⁰ Stephen Allison et al, ‘Australia’s National Mental Health Service Planning Framework: Are Opinion-Based Algorithms Driving Mental Health Policy’ (2020) 54(12) *Australian & New Zealand Journal of Psychiatry* 1149.

⁶¹ Victorian Ombudsman, *Investigation into the Imprisonment of a Woman Found Unfit to Stand Trial* (Report, 16 October 2018) <<https://www.ombudsman.vic.gov.au/our-impact/investigation-reports/investigation-into-the-imprisonment-of-a-woman-found-unfit-to-stand-trial/>>.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Interview with Naomi Murphy (n 40).

KEY STATISTICS

At least **80%**

of people in prison are living with a mental illness⁶⁶

1 in 3

people taken into custody in Victoria were meant to be receiving psychiatric treatment at the time of their arrest⁶⁷

An estimated **50%**

of all high-risk incidents leading to a police response involved mental illness⁶⁸

There is a **60%**

Shortfall in non-acute beds for mental health treatment⁶⁹

Australian prisons are disproportionately filled with women who experience mental illness, and they are also causing mental illness in people who did not previously experience or exacerbating mental health conditions that were previously manageable.

Controlling, oppressive and punitive institutional environments worsen mental health for all people, particularly those who have suffered traumas in the past, such as the survivors of domestic violence. As the report will later detail, practices such as isolation, restricting visits from family and friends, overcrowding, poor access to health services and programs, and negative interactions with correctional officers have a major impact on the mental health of women in prison.

Prisons may also cause mental illness in people who had sound mental health before incarceration. The justice advocacy group Justice Action has collected evidence to demonstrate widespread reports of mental illness and trauma caused directly by the experience of incarceration – even in people who were not mentally unwell before entering prison.⁷⁰ A systematic review, published in Scandinavian peer-reviewed medical journal *Acta Psychiatrica*, concluded that mental health acutely worsens over the duration of incarceration.⁷¹

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⁶⁶ Butler et al (n 54).

⁶⁷ Ogloff et al (n 55).

⁶⁸ White and Whiteford (n 56).

⁶⁹ Allison et al (n 60).

⁷⁰ Justice Action, Submission No 174 to the Senate Select Committee on Mental Health, *Senate Inquiry into Mental Health* (18 May 2005) 4 <https://www.aph.gov.au/~media/wopapub/senate/committee/mentalhealth_ctte/submissions/sub174_pdf.ashx>.

⁷¹ Julian Walker et al, 'Changes in Mental State Associated with Prison Environments: A Systematic Review' (2014) 129(6) *Acta Psychiatrica Scandinavica* 427.

⁷² Debbie Kilroy, 'Sisters Inside – Debbie Kilroy on Women in Prison', *The Stringer* (online, 25 April 2013)

HOW PUNITIVE ADDICTION POLICIES HAVE DESTROYED WOMEN'S LIVES

The psychiatric impacts of prison are particularly acute for First Nations people. For example, First Nations women in prison are hospitalised for mental illness at triple the rate of First Nations women in the community.

Women can often experience drug and alcohol addiction as a result of their experiences of family and domestic violence. Instead of treating this like the health issue that it is, women experiencing addiction are far too often incarcerated for this.

This has targeted and disproportionately impacted marginalised groups, particularly women experiencing poverty and First Nations people. Australia's current drug policies continue to criminalise people experiencing addiction.

Drug and alcohol dependency are a major cause and consequence of mental illness among people in prison. People experiencing mental illness, particularly addiction, are commonly imprisoned for lower level offences, such as theft, public order and alcohol-related offences. This is despite research showing taxpayers save \$110,000 each time a person struggling with addiction is sent to rehabilitation instead of prison.⁷³

In a study of 803 people who entered Australian prisons in 2018, almost two-thirds had used illicit drugs in the previous year. People entering prison were four times as likely as the general population to report the use of illicit drugs in the previous 12 months.⁷⁴ Methamphetamine was the most commonly used illicit drug, with 43 percent of people entering prison having used it in the past year.⁷⁵

Addiction is a chronic brain disease with a strong genetic component that in most instances requires treatment. Despite increasing evidence that addiction is highly treatable, most individuals do not receive treatment while in Australian prisons. The Australian Medical Association reported in 2018 that "there is no agreed national design or structure that facilitates prevention or proper care for people with mental illness".⁷⁶ The increase in the number of drug-dependent people being imprisoned suggests that prisons are being used by governments in place of providing mental healthcare and addiction treatment.

The over-representation of people with mental illness, including addiction, in Australia's prisons represents the transfer of responsibility from the healthcare sector to the criminal justice sector. This transfer has occurred without provision of the necessary resources for the criminal justice system to effectively deliver treatment.

⁷³ Chip Le Grand, 'Rehab "a \$110k Saving over Jail"', *The Australian* (3 February 2013).

⁷⁴ Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2018* (30 May 2019) <<https://www.aihw.gov.au/reports/prisoners/health-australia-prisoners-2018/summary>>.

⁷⁵ Ibid.

⁷⁶ Australian Medical Association, 'Position Statement: Mental Health - 2018' (14 January 2018) <<https://www.ama.com.au/articles/mental-health-2018-0>>.

FIRST NATIONS WOMEN ARE DOING TIME BECAUSE MEN ARE KILLING THEM

” *You just don't feel like you matter. You just don't matter. You're nothing. You're literally just a number, you know. And it all goes back to colonisation.*

Naomi Murphy ⁷⁷

The recent Senate Inquiry into missing and murdered First Nations women and children lays bare the catastrophic intersection of male violence, systemic neglect, and colonial injustices. It provides irrefutable evidence of how these forces disproportionately target First Nations women, not only through direct harm but by criminalising their survival.

The Inquiry confirms that First Nations women are overrepresented in missing persons statistics, making up 20 percent of all currently missing women in Australia, despite being a much smaller proportion of the population. These women are also far less likely to be found, reflecting systemic failures in policing, data collection, and resource allocation. Moreover, the language used by institutions—labelling women as "missing" or "absent"—obscures the violence and systemic neglect that cause their disappearance, erasing the perpetrators and making the violence invisible.

Even more damning, the inquiry found that many First Nations women disappear due to systemic neglect. For example, the lack of cross-border cooperation in child protection cases often leaves women and children unprotected when fleeing violence. Children frequently vanish into cycles of harm as their cases fall through jurisdictional cracks, while women in crisis are ignored or blamed by a justice system that fails to recognise their trauma.

The inquiry exposes reactive legal policies and practices that criminalise First Nations women rather than protect them. Tightened bail and sentencing laws, often introduced in response to high-profile incidents of male violence, have disproportionately funnelled First Nations women into prisons. These women are often incarcerated for minor offences like property crimes or drug use—survival behaviours directly linked to the trauma of male violence and systemic exclusion.

Further, the inquiry documents the justice system's racial bias, with evidence showing that police are less likely to investigate cases of missing First Nations women. Misidentification of victims as perpetrators is rampant, particularly in family violence incidents, where First Nations women are frequently arrested for defending themselves against violent partners. This failure to address the root causes of violence leaves First Nations women as the fastest-growing prison population in the world.

⁷⁷ Interview with Naomi Murphy (n 40).

The report also emphasises the role of colonial structures in perpetuating violence, noting that the ongoing impacts of colonisation, such as poverty, homelessness, and intergenerational trauma, leave First Nations women vulnerable. These systemic drivers are not only ignored but exacerbated by punitive legal and social systems that fail to provide culturally safe or effective support.

The inquiry's findings are a damning indictment of Australia's justice system. First Nations women are not only being failed by systems meant to protect them—they are being actively harmed and imprisoned by those systems. These women are criminalised for their trauma, their survival strategies, and even for the failures of the state to keep them safe.

The Senate report calls for urgent reforms, including:

- * **Better data collection and accountability:** Ensuring consistent, high-quality data on missing and murdered First Nations women to drive systemic change.
- * **Culturally safe, trauma-informed supports:** Expanding Family Violence Prevention Legal Services and empowering First Nations women to lead the design of these services.
- * **Structural changes to policing and legal systems:** Addressing racial bias, promoting cultural awareness, and ending the misidentification of victims as perpetrators.
- * **Recognition of systemic violence:** Acknowledging the colonial structures that perpetuate violence and prioritising restorative and preventative solutions.⁷²

These findings are a stark reminder of the systemic violence and neglect that push First Nations women into prisons. Until these structural issues are addressed, First Nations women will continue to do time—not for crimes they commit, but for the crimes committed against them.

” *They send down this lawyer, this like white fella [...] and it was over within like five minutes. He's like, oh, you'll have to plead guilty [...] there was no questions about what I've been doing, how my life had been prior to that, those charges, it was just clean cut. Was like he'd just come out of law school. I mean, it's the Aboriginal legal service. He didn't ask me any questions about who I was in community, nothing cultural.*

I had no idea the repercussions of it, you know? So I'm stuck with this conviction that I could have easily fought.

Naomi Murphy⁷⁸

⁷⁸ Ibid.

WOMEN ARE DOING TIME BECAUSE VIOLENCE IS CREATING THE CONDITIONS FOR HOMELESSNESS

” Our remand numbers at the moment are massive—these are people who can’t get bail because they don’t have an address or they’ve breached bail conditions before by not coming to court. It’s a massive issue. The number one thing is safe, secure and stable housing.

Rocket Bretherton.⁷⁹

” If women were homeless or didn’t have stable and safe accommodation then that meant they would go into custody on remand. The prison then comes to serve as a homeless shelter because often they would be homeless or without safe housing because of domestic and family violence.⁸⁰

Housing is a key contributing factor to incarceration and recidivism rates around the country. According to the AIHW, more than 30 percent of women in prison did not have their own accommodation or rental agreement in the month before their incarceration, and nearly 10 percent were sleeping rough.⁸¹ Homelessness is a major driver in the criminalisation of women, and a major factor in them remaining in prison for longer due to a lack of access to bail and parole.

This is also compounded by the stigma that still surrounds a prison sentence impacting a woman’s ability to find employment once they are back in the community, making them more likely to again experience homelessness.

Poverty, homelessness and incarceration are deeply connected, and women are uniquely likely to experience poverty and homelessness.

In Australia and internationally, the most common way to define poverty is as 50 percent median household income.⁸² In 2015-16, this was \$433 per week for a single person with no children.⁸³ During that period, 13.4 percent of Australian women lived below the poverty line.⁸⁴ Poverty rates are higher for First Nations women, 32 percent of whom had an income of less than \$400 a week in 2016.⁸⁵ In addition, poverty rates for Australian women rise with age: about a third of single older women are living in poverty.⁸⁶

⁷⁹ Interview with Rocket Bretherton (Conducted via phone by Denham Sadler, 8 November 2024).

⁸⁰ Emma Russell quoted in; Denham Sadler, ‘Victoria’s “Broken” Bail Laws Are a Gendered Issue’, *The Justice Map* (25 February 2022) <<https://thejusticemap.substack.com/p/victorias-broken-bail-laws-are-a>>.

⁸¹ Australian Institute of Health and Welfare, *The Health and Welfare of Women in Australia’s Prisons* (17 November 2020) <<https://www.aihw.gov.au/getmedia/32d3a8dc-eb84-4a3b-90dc-79a1aba0efc6/aihw-phe-281.pdf?v=20230605184349&inline=true>>.

⁸² Peter Davidson et al, *Poverty in Australia*, 2018 (ACOSS/UNSW Poverty and Inequality Partnership Report No. 2, 2018) 18 <https://www.acoss.org.au/wp-content/uploads/2018/10/ACOSS_Poverty-in-Australia-Report_Web-Final.pdf>.

⁸³ Ibid 21.

⁸⁴ Ibid 24.

⁸⁵ Australian Bureau of Statistics, *Census of Population and Housing: Characteristics of Aboriginal and Torres Strait Islander Australians* (Statistical publication, 19 February 2018) <<https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/census-population-and-housing-characteristics-aboriginal-and-torres-strait-islander-australians/2016#income>>.

⁸⁶ Kay Patterson, Kathryn Proft and Joanna Maxwell, *Older Women’s Risk of Homelessness* (Background Paper, Australian Human Rights Commission) 11 <https://humanrights.gov.au/sites/default/files/document/publication/ahrc_ow_homelessness2019.pdf>.

Poverty leads to homelessness by reducing one's ability to pay for housing. While experiencing homelessness, women find it difficult to gain employment.⁸⁷ As a result, women who experience homelessness face an almost impossible task in attempting to leave poverty.

“ My nan raised me, but she never talked about her childhood. I only found out later, she was taken away from her family and never went back. It isn't only the things that she did say that got passed onto all of us, it is the silences too.

Yarning Circle participant, July 2023, Canberra.⁸⁸

Family violence is a key cause of women's homelessness, and is the most common reason given for accessing support services by people experiencing homelessness.⁸⁹ Women fleeing family violence must often do so by leaving their family home; it is rare for the other party to leave.⁹⁰ It is common for domestic abuse to involve isolating women from their social networks, often leaving women with no one they can ask to house them.⁹¹ Often, the abuser controls a victim's finances.⁹² Where family violence victim-survivors do not have access to financial resources and do not have a place to stay, they often end up living in insecure and temporary accommodation or sleeping rough.⁹³

According to the AIHW report, 24 percent of women were not in paid work and searching for work prior to entering prison; 15 percent were unable to work; and only 15 percent were engaging in secure work or undertaking study.⁹⁴ In contrast, in 2019-20 the unemployment rate for Australian women generally was 4.8 percent.⁹⁵ The report also found lower education levels in the women surveyed. For example, only 17 percent had completed Year 12, compared to 71 percent of the general female population.⁹⁶ These statistics reveal that criminalised women generally come from disadvantaged backgrounds.

To survive, women must have their basic needs met, such as food, shelter, and clothing. Single mothers also have the primary responsibility for meeting their children's needs. Where women cannot afford to meet their and their children's needs, and there is a lack of support services that they can access, they develop a range of survival strategies. Women experiencing homelessness are much less likely to panhandle or peddle than their male counterparts.⁹⁷ Instead, they are more likely to use strategies such as bartering, sex work, and petty crime, such as theft. In some cases, these strategies are their only options to feed themselves and their children.

⁸⁷ Guy Johnson, David Ribar and Anna Zhu, *Women's Homelessness: International Evidence on Causes, Consequences, Coping and Policies* (Working Paper No 7/11, Melbourne Institute of Applied Economic and Social Research, 3 March 2017) 18.

⁸⁸ Murphy and Wilde (n 4).

⁸⁹ Nicola Heath, 'A Tragic Reality: Domestic Violence Is the Main Cause of Homelessness for Women', SBS (online, 10 June 2020) <<https://www.sbs.com.au/topics/voices/culture/article/2017/06/29/tragic-reality-domestic-violence-main-cause-homelessness-women>>.

⁹⁰ Women's Health East, *Women and Homelessness* (Fact Sheet, March 2018) <https://whe.org.au/wp-content/uploads/2018/03/Women-and-Homelessness-Fact-Sheet-FINAL_1-3-18.pdf>

⁹¹ DV Connect, 'What Is Domestic Violence?' (meaning of 'social abuse') <<https://www.dvconnect.org/womensline/what-is-domestic-violence/>>.

⁹² Ibid (meaning of 'financial abuse').

⁹³ Women's Health East (n 90).

⁹⁴ Australian Institute of Health and Welfare (n 81) 5.

⁹⁵ Australian Bureau of Statistics, *Gender Indicators* (Statistical publication, 19 November 2024) <<https://www.abs.gov.au/statistics/people/people-and-communities/gender-indicators-australia/latest-release>>.

⁹⁶ Australian Institute of Health and Welfare (n 81) 5.

⁹⁷ Johnson, Ribar and Zhu (n 87) 21.

In addition, it is not uncommon for women to cope with the stress, stigma, and loneliness associated with poverty through the use of illicit drugs, which are “omnipresent” in temporary accommodation such as hostels.⁹⁸

In certain Australian jurisdictions, policy or judicial practice mean that bail or parole are denied to those without an address to be released to. For instance, in Victoria, a person cannot be released on parole unless they have a place to stay afterwards, which means that incarcerated people who do not have an address may have to stay in prison even if they meet other eligibility criteria for early release. For instance, one woman, who lost her home due to incarceration, had to stay in prison an extra five months beyond serving her minimum sentence. Eventually, she was released after Flat Out, a support service, helped her find a place to stay.⁹⁹ However, the resources of such services are limited and cannot help every woman. As a result, many women who do not have an address to return to are forced to stay in prison despite otherwise qualifying for parole.

“” *My parole keeps getting rescheduled. I've had the dates come up three times now, it's had to be postponed because of housing.*

Yarning Circle participant, July 2023, Canberra.¹⁰⁰

A 2010 Victorian Parliamentary Inquiry revealed instances of judges ordering “therapeutic remand” for women experiencing homelessness and substance dependency as a response to the inaccessibility of specialist drug and alcohol treatment programs for homeless women. This practice is based on the belief that women will be able to access programs in prison that they are unable to access outside. However, this misunderstands the nature of prison therapeutic programs, which are generally unavailable to those on remand. In addition, most remand time is spent in maximum security prisons, which have few therapeutic programs for inmates.¹⁰¹ As a result, women on “therapeutic remand” are unable to access programs to help them overcome addiction. In essence, they are kept in prison for the “crime” of being homeless and experiencing health issues like addiction.¹⁰²

Prisons are a key contributor to rising homelessness among criminalised groups. Lack of post-release services and housing pushes formerly incarcerated people into homelessness, including those who had stable housing before entry to prison.¹⁰³ Post-release information demonstrates that more than half (54 percent) of people leaving prison expected to be homeless on release: 44 percent planned to sleep in short term or emergency accommodation, 2 percent planning to sleep rough and 8 percent not knowing where they would sleep.¹⁰⁴ This demonstrates that spending time in prison further marginalises people, leaving them more likely to be homelessness upon release than upon entry.¹⁰⁵

⁹⁸ Kilroy, Debbie, ‘The Prison Merry-Go-Round: No Way Off’ (2005) 6(13) *Indigenous Law Bulletin* 25; Paula Mayock and Sarah Sheridan, ‘“At Home” in Prison? Women and the Homelessness-Incarceration Nexus’ (2013) 10 *Irish Probation Journal* 118, 127.

⁹⁹ Cate Altamura, ‘Beyond the Gate: Former Female Prisoners Failed by System’, *Independent Australia* (online, 28 July 2019) <<https://independentaustralia.net/life/life-display/beyond-the-gate-former-female-prisoners-failed-by-system,12938>>.

¹⁰⁰ Murphy and Wilde (n 41).

¹⁰¹ Drug and Crime Prevention Committee, Parliament of Victoria, *Inquiry into the Impact of Drug-Related Offending on Female Prisoner Numbers* (Interim Report, October 2010) 32.

¹⁰² Emma Russell and Cara Gledhill, ‘A Prison Is Not a Home: Troubling “Therapeutic Remand” for Criminalised Women’ (2014) 27(9) *Parity* 27, 28.

¹⁰³ Eileen Baldry, ‘Women in Transition: From Prison To...’ (2010) 22(2) *Current Issues in Criminal Justice* 253, 255.

¹⁰⁴ Australian Institute of Health and Welfare (n 74).

¹⁰⁵ *Ibid.*

This demonstrates that spending time in prison further marginalises people, leaving them more likely to be homeless upon release than upon entry.

” Women just get dumped out of jail. They’re just released into homelessness. It’s setting them up to fail. They don’t have anywhere to live, they’re kicking them out into homelessness.

Rocket Bretherton.¹⁰⁶

Homelessness forces people to carry out essential activities in public. Victoria’s public space offences make these activities, like sleeping or drinking, illegal in public. These laws represent policy decisions by successive Victorian governments’ to respond to poverty and homelessness with criminalisation, rather than support, housing and services.

A wealth of lived-experience accounts and qualitative survey data demonstrates that people experiencing homelessness are heavily charged with public space offences.¹⁰⁷ This systematically criminalises people who are homeless and living in poverty, contributing to mass incarceration in Victoria.¹⁰⁸ Public space laws that are criminalising people for undertaking everyday activities in public, or acts to support their survival include:

- Vagrancy,
- Loitering,
- Trespass,
- Public drinking,
- Anti-begging,
- Anti-sleeping and
- Anti-camping laws.¹⁰⁹

Australia’s superior courts have recognised that public space offences should not be used to criminalise homelessness or as “a punishment for poverty.”¹¹⁰ Further, the UN Special Rapporteur on Adequate Housing has argued that Australian Governments are criminalising homelessness and violating a number of rights that enable people to live free from marginalisation and punishment.¹¹¹

¹⁰⁶ Interview with Rocket Bretherton (n 79).

¹⁰⁷ Tamara Walsh et al, ‘National Study on the Criminalisation of Poverty and Homelessness’ (2019) 32(4) Parity 25.

¹⁰⁸ Ibid.

¹⁰⁹ Philip Lynch, ‘Begging for Change: Homelessness and the Law’ (2002) 26(3) *Melbourne University Law Review* 690, 694; Michael Horn and Michelle Cooke, *A Question of Begging: A Study of the Extent and Nature of Begging in the City of Melbourne* (Research Report, Hanover Welfare Services, 2001) 6–7; John Hagan and Bill McCarthy, *Mean Streets: Youth Crime and Homelessness* (Cambridge University Press, 1998) 53.

¹¹⁰ Scrutiny of Acts and Regulations Committee of Victoria, *Review of the Vagrancy Act 1966* (Final Report, Government Printer for the State of Victoria, 2002) 16; Lynch (n 108) 694; Horn and Cooke (n 108) 6–7; Hartley Dean, ‘Introduction’ in *Begging Questions: Street Level Economic Activity and Social Policy Failure* (The Policy Press, 1999) 1; Kate Driscoll and Liz Wood, *A Public Life: Disadvantage and Homelessness in the Capital City* (RMIT Department of Social Science and Social Work, 1998) 4–5, 7; Arthur Schafer, *Down and Out in Winnipeg and Toronto: The Ethics of Legislating Against Panhandling* (Caledon Institute of Social Policy, 1 August 1998) 3, 12; *Federated Anti-Poverty Groups of British Columbia v Vancouver (City)* [2002] BCSC 105 67] where this was the finding of the court.

¹¹¹ Miloon Kothari, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living* (11 May 2007) UN Doc No A/HRC/4/18/Add.2, [47].

LEGAL REFORMS TO ADDRESS MEN'S VIOLENCE PUSH WOMEN INTO PRISON

In January 2017, James Gargasoulas deliberately smashed his car into a crowd of pedestrians on Bourke Street in Melbourne. Six people died, including three-month-old baby Zachary Bryant, and 10-year-old Thalia Hakin. Twenty-seven more were seriously injured. Gargasoulas was on bail at the time, and the public outcry that he was not in prison on remand was palpable.

Within days, the Andrews government announced reforms to “toughen” Victoria’s bail laws. The reforms meant that individuals who were accused of committing a schedule 2 offence while on bail for a schedule 1 or 2 offence must show “exceptional circumstances” to access bail. This effectively led to Victorians being required to meet the highest possible legal test to be granted bail for low-level charges such as shoplifting or drug possession, even when these offences wouldn’t typically receive a prison sentence.

While these reforms were ostensibly aimed at stopping violent men from accessing bail and preventing them from committing further crimes, they have overwhelmingly pushed First Nations women into prison, who have typically been charged with non-violent offences. More than half of the women incarcerated in Victoria are now unsentenced, up from just over 20 percent in 2011, and in the decade to 2020 the number of unsentenced First Nations women in prison increased by 440 percent.

The Human Rights Law Centre studied the impact of these laws on women in Victoria, finding a 150 percent increase in remand rates of women over five years. Of these women, 9 out of 10 were on remand and unsentenced.¹¹² The vast majority are victim survivors of trauma and family violence and 70 percent have children they are now separated from, leaving them likely to be targeted by punitive child removal practices.¹¹³

It is a requirement in many Australian jurisdictions for an address to be included in a bail application for somewhere to live while they are on bail, including in Victoria. Women are typically criminalised for low-level offences, such as property crime and shoplifting—particularly those experiencing homelessness—and are then denied bail not due to the nature of their offending, but due to their situation of marginalisation in the community.

These bail laws, working in conjunction with parole amendments, represent the Victorian government’s systemic, carceral violence against women while claiming to protect them from male violence.

¹¹² Human Rights Law Centre, ‘Premier Andrews Must Act to End Over-Imprisonment of Women’ (25 February 2019) <<https://www.hrlc.org.au/news/2019/2/25/premier-andrews-must-act-to-end-over-imprisonment-of-women>>.

¹¹³ Emma Russell, Bree Carlton and Danielle Tyson, *A Constellation of Circumstances: The Drivers of Women’s Increasing Rates of Remand in Victoria* (Report, July 2020) 26, 32–33.

The death in custody of Gunditjmara, Dja Dja Wurrung, Wiradjuri and Yorta Yorta woman, Veronica Nelson, demonstrates how bail laws criminalise marginalised women, with devastating effects. On 30 December 2019, Ms Nelson was arrested and taken into custody in relation to shoplifting and outstanding warrants. After appearing without a lawyer, she was refused bail and locked up in pre-trial detention at the Dame Phyllis Frost Centre, a maximum security prison. Ms Nelson was distressed, in pain and made many calls for help.¹¹⁴ She was found dead in her cell three days after being incarcerated. Before the Victorian government implemented this punitive bail system, it is very unlikely Ms Nelson would have been remanded in prison.

Veronica Nelson's family, supported by First Nations communities, kept consistent pressure on the Victorian government to fix its broken bail laws. Their strong advocacy led to the introduction of the Bail Amendment Act 2023 (Vic), which came into effect in March 2024. The amendment includes provisions to address remand for low-level offences, particularly for First Nations people, and children. While it has been described as a step in the right direction, the Victorian Aboriginal Legal Service says it falls short of the reform which the First Nations communities and experts have been advocating for. For the purpose of this report, the Explanatory Memorandum claims the amendment addresses the remand of women, yet this is the only place where women are specifically mentioned.

Similar reforms have been made to parole rules in Victoria and other states, in effect making it far more difficult to access this service. A tightening of the parole system was made in Victoria following the murder of Jill Meagher. In response to this violent act by a man, the reforms to parole once again impacted women and First Nations charged with low-level, non-violent crimes the most.

State and territory governments around the country have repeatedly made punitive and restrictive reforms to bail and parole as a result of the violent acts of men. These have been knee-jerk, reactive and populist moves that have in reality served to punish and imprison a disproportionate amount of women rather than the men they are ostensibly targeted at.

¹¹⁴ Human Rights Law Centre, 'Death in Custody: Coronial Inquest into the Death of 37 Year Old Aboriginal Woman, Veronica Nelson, Begins' (16 July 2020) <<https://www.hrlc.org.au/news/2020/7/16/death-in-custody-coronial-inquest-death-aboriginal-woman-veronica-nelson-begins>>.

WOMEN ARE IMPRISONED IN A SYSTEM BUILT FOR MEN

Poverty leads to homelessness by reducing one's ability to pay for housing. While experiencing homelessness, women find it difficult to gain employment. As a result, women who experience homelessness face an almost impossible task in attempting to leave poverty.

” *Not only do women experience all the abuses facing incarcerated men, their gender allows the prison system—and a constellation of other institutions—to inflict additional injustices and violence on them. For instance, the majority of people in prison have children. When a father is imprisoned, he's likely to have family members who will care for his children. He may not always see or hear from them, but he's less likely to worry about losing them to foster care. When a mother is incarcerated, her children are five times more likely to end up in the foster care system. Until recently, however, navigating family court and custody issues were not considered prison issues because it wasn't an issue that affected the majority (incarcerated fathers).*

Victoria Law, author, *Resistance Behind Bars: The Struggles of Incarcerated Women*.¹¹⁵

Poverty leads to homelessness by reducing one's ability to pay for housing. While experiencing homelessness, women find it difficult to gain employment. As a result, women who experience homelessness face an almost impossible task in attempting to leave poverty.

” *We are strip searched after every visit. We are naked, told to bend over, touch our toes, spread our cheeks. If we've got our period, we have to take the tampon out in front of them. It's degrading and humiliating. When we do urines it's even worse; we piss in a bottle in front of them. If we can't or won't, we lose visits for three weeks.*

A woman who was incarcerated at HM Prison Fairlea.¹¹⁶

” *They strip-searched me when I was pregnant, in front of men. It's a violation, not just a search.*

Yarning Circle participant, July 2023, ACT.¹¹⁷

” *It's a men's jail and women are just stuck in there. The men roam around free, they're allowed to go to medical and visitations themselves, but we have to wait for an officer to escort us. A lot of the time we'd miss a visit because they didn't have enough officers. It's like women were an afterthought in a men's jail.*

Rocket Bretherton.¹¹⁸

¹¹⁵ Quote from interview in James Kilgore, 'To End Mass Incarceration, We Need to Bust the Myths That Prop It Up', *Truthout* (online, 6 April 2021) <<https://truthout.org/articles/to-end-mass-incarceration-we-need-to-bust-the-myths-that-prop-it-up/>>.

¹¹⁶ Amanda George, 'Strip Searches: Sexual Assault by the State' (1993) 18(1) *Alternative Law Journal* 31.

¹¹⁷ Murphy and Wilde (n 4).

¹¹⁸ Interview with Rocket Bretherton (n 79).

” I had an old sister, girl, I used to knock around with. So she was in there, then her daughter. She had her daughter in Parkville, then that daughter come out and is now in DPFC [Dame Phyllis Frost Centre], pregnant with her daughter. So it's just intergenerational, like literally getting pregnant and having a baby inside. And these women are just broken [...] There's nothing. There's no spirit in them.

I know a couple of Koori women that have lost babies in there because of the shitty health care and had to have come back to country like down to the valley to have a little funeral service.

Naomi Murphy¹¹⁹

PRISON RE-TRAUMATISES FAMILY AND DOMESTIC VIOLENCE SURVIVORS

” Jail was like my father: cruel, violent and controlling. But it kept me alive. I hated it, but at least I could survive there. Outside, I often felt like I wouldn't survive

Yarning Circle participant, July 2023, ACT.¹²⁰

Prison practices and the prison experience in general can be deeply re-traumatising for those that have experienced family and sexual violence in their childhood or adult lives. Although a stated purpose of sentencing is to establish conditions within which rehabilitation may be facilitated,¹²¹ for over 85 percent of women who have suffered prior abuse, prison perpetuates the harm they have suffered and can exacerbate the challenges that forced them into prison in the first place.¹²² Prison can replicate the feelings experienced in an abusive relationship by forcing those imprisoned to be “isolated from their families and support networks”. The lack of personal privacy and control over their own actions and daily routine can also replicate the characteristics of a family or sexual violence situation.

” I was strip searched, and which is normal practice when you go into the cells. But then that on that Monday, like, a week later, I found out I was pregnant [...] the more I was getting bigger, the closer I was getting to court and looking at having her in there. I was suicidal [...] I had no supports.

I guess just the thought of having her in there and knowing what it's like being in there and knowing other black women that have had their babies in there and lost their babies or had them taken off them straight after birth, just was enough to, you know, make me just have had the worst anxiety. Yeah, it was just like a living nightmare.

Naomi Murphy¹²³

¹¹⁹ Interview with Naomi Murphy (n 40).

¹²⁰ Murphy and Wilde (n 4).

¹²¹ Sentencing Act 1991 (Vic) s 5(1)(c).

¹²² Kilroy (n 11) 1.

¹²³ Interview with Naomi Murphy (n 40).

The strict rules imposed on those imprisoned by powerful authority figures and the requirement for “absolute obedience”,¹²⁴ as well as “dependence on prison staff for meeting the most basic and intimate needs”¹²⁵ can be extremely re-traumatising, reinvoking feelings of “submission and humiliation”.¹²⁶ Controlling prison practices, particularly strip-searching, can also replicate the abusive experience.¹²⁷ Sexual and physical assault within prison, from prisoners or guards, can also lead to further trauma and harm for imprisoned women.¹²⁸ These experiences women have in prison can increase incidents of self-harm and contribute to low self-esteem and self-blame “for being a victim”.¹²⁹¹³⁰

Sexual Violence Against Women in Australian Prisons

Sexual exploitation and assault in Australian women’s prisons represent a critical and largely underreported issue. Institutional opacity, fear of retaliation, and the inherent power imbalance between incarcerated women and correctional staff contribute to a culture where such abuses are both perpetrated and concealed. Research highlights that women in prison—already overwhelmingly survivors of family and sexual violence—face significant risks of further victimisation while in custody. This includes sexual harassment, coercion, and assault by correctional officers, contractors, and other individuals with access to the prison system.

Survivor testimonies shed light on the disturbing prevalence of sexual violence in prison environments. Women describe being coerced into sexual acts in exchange for privileges or protection, a dynamic that mirrors the control and manipulation they often experienced in abusive relationships prior to incarceration. For example, an investigation by Human Rights Watch found evidence of sexual misconduct in Australian prisons, including coercion and assault, with survivors reporting that their complaints were frequently dismissed or retaliated against.¹³¹ The fear of repercussions—such as solitary confinement or loss of visitation rights—prevents many women from reporting abuse, leaving them isolated and subjected to ongoing silencing and harm.

The lack of independent oversight mechanisms exacerbates the issue, allowing reports of sexual violence to go unchecked.¹³²

¹²⁴ Kilroy (n 11) 5.

¹²⁵ Morag MacDonald, ‘Women Prisoners, Mental Health, Violence and Abuse’ (2013) 36(3–4) *International Journal of Law and Psychiatry* 293, 296.

¹²⁶ *Royal Commission into Family Violence Volume V* (n 28) 243.

¹²⁷ Kilroy (n 11) 5.

¹²⁸ Day et al (n 26).

¹²⁹ Kilroy (n 11) 5.

¹³⁰ MacDonald (n 125) 296.

¹³¹ Kriti Sharma and Amy Braunschweiger, ‘Interview: The Horror of Australia’s Prisons Prisoners with Disabilities Serving Time in Solitary, Face Physical, Sexual Abuse’, *Human Rights Watch* (6 February 2018) <<https://www.hrw.org/news/2018/02/06/interview-horror-australias-prisons>>; Human Rights Watch, ‘I Needed Help, Instead I Was Punished’. *Abuse and Neglect of Prisoners with Disabilities in Australia* (Report, 2018) <<https://www.ccc.qld.gov.au/sites/default/files/Docs/Public-Hearings/Flaxton/Exhibits/Day%2006/Taskforce-Flaxton-Exhibit-49-Day-6-Human-Rights-Watch-I-needed-help-instead-I-was-punished.pdf>>.

¹³² Sharma and Braunschweiger (n 131); Human Rights Watch (n 131).

How Health, Support, Education and Cultural Programs Fail Women

” *Healthcare should be available when we need it, not weeks later. And it should be safe and private. There should be female health staff available because some of us have been through enough trauma—we need that choice.*

Yarning Circle participant, July 2023, ACT.¹³³

Eileen Baldry discusses how women’s post-release programs are based on the needs of male prisoners, despite being framed as gender neutral.¹³⁴ The vast majority of criminalised women in Australia serve a series of short sentences, unlike men, whose sentences are statistically longer.¹³⁵ This is one reason that the needs of criminalised women are different from those of criminalised men. However, most transitional programs assume that the person who is to benefit has spent a significant amount of time in prison. For example, thoroughfare policy depends on developing a case plan while in prison, but many criminalised women are not in prison for long enough for this to occur.¹³⁶ As a result, many criminalised women are locked out of the limited meaningful post-release services that exist.

” *There was no access to programs, no access to anything. It was the most depressing part of my life ever. I never felt as low as I did when I was there.*

Rocket Bretherton.¹³⁷

” *It’s almost like it teaches you to be more violent and angry. And it’s not a place of healing.*

Naomi Murphy.¹³⁸

There is a clear need for more First Nations culturally-appropriate supports and programs within Australian prisons. There is a need for more First Nations support workers in prisons, particularly those with a lived experience of incarceration and across a range of age groups. There is also a substantial need for First Nations-led and run support programs for First Nations people who are exiting prison.

¹³³ Murphy and Wilde (n 4).

¹³⁴ Baldry (n 103) 254.

¹³⁵ Ibid 255–6.

¹³⁶ Ibid 258.

¹³⁷ Interview with Rocket Bretherton (n 79).

¹³⁸ Interview with Naomi Murphy (n 40)

” More of the resource would need to go into the black voices within the prisons. Like, not just another, a place that’s run by the screws in there [...] respected elders and persons going into the prison and working with mob inside there, not coming, not being built from the prison itself, as in, not their model. It’s got to be our model. Not what they think is healing.

The one liaison worker [...] she was old, old Auntie there, you know, why not get a couple more young ones in to support her, Aboriginal workers? Why just one, working, trying to look after our women? as deadly as she was, you know, she didn’t actually have that lived experience either.

Naomi Murphy.¹³⁹

Debbie Kilroy identifies three groups of needs of criminalised women, especially those who are First Nations, which need to be addressed by post-release programs for criminalised women to succeed in their lives outside the prison. Firstly, affordable accommodation. Secondly, financial support, including training and employment and helping women access income support. Thirdly, facilitating personal development, which includes counselling and mental health care, facilitating family and community contact, drug and alcohol treatment programs, child care, training, as well as recreational activities.¹⁴⁰ There is a lack of effective and accessible programs to meet the needs of criminalised women, especially housing. For instance, in 2015–6, only half of those discharged from the Brisbane Women’s Correctional Centre received transition support.¹⁴¹ This contributes to high rates of re-incarceration.

” There are more programs for men, but not enough for women. Even though it’s supposed to be for everyone, Aboriginal women don’t get priority.

Yarning Circle participant, Canberra, 2023.¹⁴²

” In AMC they said I could do some training to learn about making cafe lattes, or I could do cooking classes. There was no real skills training for women. What about something that could actually help me turn my life around?

Yarning Circle participant, Canberra, 2023.¹⁴³

Entering prison can mean losing affordable and secure housing due to a loss in income, leading to difficulty in paying rents or mortgages. There is a lack of effective transition services to provide criminalised women with housing.¹⁴⁴ As a result, many criminalised women are released from prison into temporary housing or homelessness.

¹³⁹ Ibid.

¹⁴⁰ Kilroy, Debbie (n 98).

¹⁴¹ Anti-Discrimination Commission Queensland, *Women in Prison 2019* (Consultation Report, 2019) 178 <https://www.qhrc.qld.gov.au/_data/assets/pdf_file/0003/17139/2019.03.05-Women-In-Prison-2019-final-report-small.pdf>.

¹⁴² Murphy and Wilde (n 4).

¹⁴³ Ibid.

¹⁴⁴ Eileen Baldry and Ruth McCausland, ‘Mother Seeking Safe Home: Aboriginal Women Post-Release’ (2009) 21(2) *Current Issues in Criminal Justice* 288, 291.

” That’s how it’s framed [...] that you’re learning skills. So then when you are released, you’ve got an increased chance of a job. But from what I’ve experienced, that criminal record is the barrier.

Corrective Services can say it’s giving you skills, but it’s not just up to one organisation to make that change [...] those corporate employer groups need to be open to actually employing those people. Because they might use their services while it’s cheap labour, but they’re not going to take them on when it goes out when they’re released.

Lived experience advocate Eleni Psillakis.¹⁴⁵

In 2006, Eileen Baldry et al. interviewed criminalised women and men and found that women found it harder to find suitable accommodation after their release, including many being unable to stay with close family or their partner.¹⁴⁶ In addition, they found that none of the First Nations interviewees lived in a “stable family home” after their release, and that they largely relied on public housing. However, most of the First Nations women interviewed could not access public housing due to debt and poor relations with the relevant authority.¹⁴⁷

They also found that the female participants were more likely than men to return to prison within nine months post-release, with 43 percent of women returning to prison.¹⁴⁸ These figures were even more stark for First Nations women, 68 percent of whom returned to prison.¹⁴⁹ The reason for these figures was found to be the higher rates of social disadvantage amongst the female participants, and was strongly linked to a lack of accommodation.¹⁵⁰

PUNITIVE WELFARE POLICIES PUNISH WOMEN

Australia’s punitive ‘welfare’ policies systematically entrench poverty and drive women—particularly single mothers and survivors of male violence—into criminalisation and prison. These policies effectively punish women for their survival strategies in the face of systemic failures, forcing them into desperate situations where survival itself becomes criminalised.

Surveillance and Control: Policing Poverty

Punitive welfare measures, such as the Cashless Debit Card and ParentsNext, imposed invasive surveillance and rigid compliance requirements on women, particularly those already marginalised. The Cashless Debit

¹⁴⁵ Interview with Eleni Psillakis (Conducted by Grace Orange, 17 February 2021).

¹⁴⁶ Eileen Baldry et al, ‘Ex-Prisoners, Homelessness and the State in Australia’ (2006) 39(1) *Australian & New Zealand Journal of Criminology* 29, 26.

¹⁴⁷ Ibid 27.

¹⁴⁸ Ibid 26.

¹⁴⁹ Ibid 27.

¹⁵⁰ Ibid 26.

restricted access to cash, undermining women's ability to manage their finances, while ParentsNext forced single mothers to engage in "pre-approved activities" to avoid losing critical income support. These programs assumed that women, particularly single mothers, are inherently irresponsible or fraudulent and subject them to constant scrutiny. As Anne Summers' *The Choice: Violence or Poverty* highlights, these measures push women further into poverty, denying them the autonomy to rebuild their lives after escaping violence.¹⁵¹ These programs have recently ceased but still serve as strong reminders and examples of how punitive policies can unintentionally punish women and can funnel them into the criminal justice system.

Criminalisation of Welfare Non-Compliance

For many women, the punitive nature of welfare policies leads to criminalisation. Compliance failures—often a result of systemic barriers like inadequate childcare or housing—result in sanctions that leave women unable to meet basic needs. This drives them to engage in activities like petty theft or informal work to survive, further increasing their vulnerability to criminal prosecution. First Nations women, in particular, are disproportionately targeted by compliance frameworks, worsening their hyper-incarceration.

The Link Between Male Violence and Policy-Induced Poverty

Punitive welfare policies intersect devastatingly with male violence. Women escaping abusive relationships often rely on welfare systems as their only source of financial stability. Yet, rather than providing support, these systems penalise their survival. Survivors are forced into homelessness or back into abusive situations when welfare sanctions leave them with no means to live independently. Summers aptly describes this as "policy-induced poverty," where government policies themselves replicate the dynamics of coercion and control that these women have fled.¹⁵²

Driving Women Into the Justice System

The failure of welfare systems to adequately support vulnerable women often pushes them directly into the justice system. Women who lose housing due to welfare penalties are frequently denied bail or parole, as courts require a fixed address. Similarly, women who are unable to pay fines or debts—often tied to welfare penalties—are incarcerated at alarming rates. These policies criminalise women's poverty, punishing them for systemic issues beyond their control.

Change Is Urgent

Australia must dismantle punitive welfare policies that criminalise poverty and replace them with trauma-informed, gender-specific systems that address the root causes of women's vulnerability. This includes ensuring access to adequate financial support, affordable housing, and accessible employment pathways. Without systemic change, welfare policies will continue to act as a pipeline pushing women into prisons, punishing them not only for their poverty but also for the violence and coercion they have endured.

¹⁵¹ Anne Summers, *The Choice: Violence or Poverty* (Report, University of Technology Sydney, July 2022).

¹⁵² *Ibid.*

PATHWAYS TO CHANGE

“anything that increases options for survivors, including access to restorative options both as part of a criminal justice response, and also without requiring engagement with the criminal justice system is a good thing”.

Heidi Yates, ACT Victims of Crime Commissioner speaking at the *Symposium on Survivor Initiated-Restorative Justice as a Pathway to Justice for Sexual Assault*, 2021.¹⁵³

There are some positive policies locally and overseas that have attempted to address the interrelated issues contributing to the incarceration of women. These policies look to take a health-based approach to the underlying unique issues that lead to a woman interacting with the criminal justice system, rather than taking a punitive approach to offending that may have been caused by these factors. These include specific women’s centres as effective solutions, providing safe housing and support services. A number of nations, most notably the United Kingdom, have also undertaken inquiries and reviews into the incarceration of women, providing a foundation to begin making reforms to improve the crisis.

THE UK’S APPROACH TO ADDRESSING WOMEN’S IMPRISONMENT

The United Kingdom government conducted a broad-ranging UK Women in Prison inquiry in 2022, with an aim to “address female offending and reduce the number of women in custody”, and has a Female Offender Strategy 2022-2025.¹⁵⁴

A review announced in October will look at a number of avenues to reduce the sentences for thousands of women, including by scrapping short sentences, treating more people in the community and taking into account the impact of sentencing on people with caring responsibilities, something which disproportionately impacts women.¹⁵⁵

The UK government’s strategy also includes a focus on earlier intervention and improved community sentences, in an effort to reduce the number of women being sent to prison. The number of women in prison in the UK is falling, with a 21 percent decrease in the 10 years to 2022.¹⁵⁶

The UK has also launched new Problem Solving Courts, including one focused solely on women, where sentences are made to better address the actual drivers of offending.¹⁵⁷

¹⁵³ RegNet, ‘Survivor-Initiated Approaches to Justice’ (Video, School of Regulation and Global Governance, The Australian National University) <<https://regnet.anu.edu.au/school-regulation-and-global-governance/content-centre/multimedia/videos/survivor-initiated>>

¹⁵⁴ UK Ministry of Justice, *Female Offender Strategy Delivery Plan 2022 to 2025* (31 January 2023) <<https://www.gov.uk/government/publications/female-offender-strategy-delivery-plan-2022-to-2025>>.

¹⁵⁵ Rajeev Syal, ‘Fewer Women May Go to Jail in England and Wales in Sentencing Review’, *The Guardian* (online, 21 October 2024) <<https://www.theguardian.com/society/2024/oct/20/fewer-women-may-go-to-jail-in-england-and-wales-in-sentencing-review>>.

¹⁵⁶ UK Ministry of Justice (n 154).

¹⁵⁷ Interview with Rocket Bretherton (n 79).

The approach to this issue in the UK and its initial success provide a potential roadmap for Australia to follow in order for its female incarceration crisis to be addressed. While far from perfect, the inquiry and subsequent action in the UK provides a strong example and foundation for Australia to begin to face the reality of its female incarceration crisis and tangible actions that can be taken to improve the situation.

THE ALICE SPRINGS ALTERNATIVE TO CUSTODY PROGRAM

In 2019 an 18-month trial of the Alice Springs Alternative to Custody Program was launched, with an aim to reduce First Nations incarceration. It provides accommodation and rehabilitation programs for women in contact with the criminal justice system, with room for up to 10 First Nations women and their children.¹⁵⁸

An external review of the program found that as of mid-2022, 80 percent of the women who had completed the program did not go on to reoffend, compared to about 40 percent of women being released from prison. The review found that the program makes a “positive contribution to the physical health and wellbeing of participants and should continue to be supported”.¹⁵⁹

” *If women are supported to stay out in the community in safe, secure accommodation instead of being forced to go back to partners who bash the crap out of them just because they’ve got nowhere else to go. If we supported people to get safe, secure housing then our imprisonment rates would drop drastically.*

If there was more money in alternatives like rehabilitation, programs that support women with housing and safety, all the socio-economic factors that everyone takes for granted, if we started implementing small changes and put money into them, we would change the world, we’d reduce incarceration massively.

Rocket Bretherton¹⁶⁰

¹⁵⁸ Northern Territory Department of the Attorney-General and Justice, Alice Springs Alternative to Custody Program (Evaluation Report, 18 November 2022) <https://justice.nt.gov.au/_data/assets/pdf_file/0005/1257665/atc-evaluation-report-november2022.PDF>.

¹⁵⁹ Ibid.

¹⁶⁰ Interview with Rocket Bretherton (n 79).

EXPANDED RECOMMENDATIONS

” *Do it now.*

Christina, lived experience advocate¹⁶¹

The over-incarceration of women, particularly First Nations women, demands urgent action to dismantle systems that perpetuate harm and replace them with approaches that foster safety, equity, and healing. Governments must move beyond their reliance on policing and prisons—institutions that fail to address the root causes of harm and instead entrench injustice and inequality.

KEY PRINCIPLES

1 **Reorient resources to community-led solutions**

Crucially, none of our recommendations involve increasing resourcing flows to the prison system or to police. The over-allocation of funding to these areas, at the expense of critical social and community supports, is a major driver of mass incarceration in Australia. Policing and prisons dominate public spending, yet this does little to create safer communities. The excessive funding currently being allocated to these ‘ambulance at the bottom of the cliff’ approaches must be reallocated to properly resource effective evidence-based and community-led solutions.

2 **End the expansion of punitive systems**

We also do not recommend any measures which would increase police powers or widen the scope of the prison system or related punitive systems and institutions. Such measures only entrench harmful dynamics and delay the systemic changes urgently needed to address the root causes and impacts of mass incarceration.

3 **Address the root causes of harm to build safer communities**

By confronting the ‘why’ behind harm, governments can shift from a reactive approach to prevent violence and crime before it occurs. We call for a proactive approach that tackles the underlying drivers of harm—experiences of poverty, housing insecurity, systemic discrimination, disability, mental ill-health, addiction, and intergenerational trauma—and offers a chance to create lasting safety. This approach moves beyond an ineffective and expensive reliance on punitive measures, to focus instead on creating the conditions in which individuals and communities thrive.

Research across sociology, criminology, and economics consistently shows that addressing social determinants like poverty, housing, education, and healthcare reduces crime. When foundational supports are in place, basic needs are being met, and people are supported in overcoming challenges, the drivers of harm are dismantled, reducing violence and fostering long-term well-being.

¹⁶¹ Interview with Christina (n 16).

The following recommendations focus on evidence-based solutions that prioritise community well-being, healing, and self-determination. They centre the voices of those most impacted and call for urgent action to implement structural change. Governments at all levels must act decisively to transform these specific and action-oriented recommendations into tangible outcomes.

1 Adopt a public health response

The overwhelming majority of people in prison across Australia live with mental health conditions, including addiction to alcohol and other drugs. Punitive responses exacerbate these health issues, rather than treating them. Governments must adopt a holistic, health-based approach, including:

- Free and universally accessible community-based mental health care.
- Accessible addiction treatment programs.
- Trauma-informed support services tailored to the needs of First Nations people and other marginalised groups.

2 Launch a federal inquiry into women’s criminalisation and incarceration

Conduct a comprehensive federal inquiry into the unique challenges faced by women in prison, with terms of reference that include:

- A comparative analysis of the UK government’s Women in Prison inquiry and Female Offender Strategy to identify effective, evidence-based approaches.
- An examination of how systemic drivers of incarceration—such as poverty, housing insecurity and homelessness, systemic discrimination, mental ill-health, addiction, intergenerational trauma, and domestic and family violence—lead to the criminalisation and incarceration of women.
- A detailed evaluation of the abuse-to-prison pipeline, highlighting the role of male violence in driving women into the justice system.

To ensure impact, the inquiry must also examine why previous federal and state inquiries and commissions have failed to deliver meaningful change in Australia’s approach to law and justice, and why governments fail to implement the bulk of their recommendations. To avoid repeating this pattern and ‘kicking the can down the road’, this inquiry should mandate the development of a clear implementation framework, with accountability mechanisms to ensure timely action on its recommendations.

3 Establish a national dataset on incarceration, with a focus on intersectional disadvantages affecting women and children of incarcerated parents

Establish a comprehensive dataset that captures intersectional factors, disaggregated by gender, ethnicity, experiences of disability, and socio-economic background, with an emphasis on the over-incarceration of First Nations women. Key priorities include tracking:

- Pathways into prison and the role of trauma, victimisation, and systemic failures.
- Outcomes for women post-release, including housing stability, employment, rates of repeated contact with the criminal legal system, and reincarceration rates.
- Qualitative data from women with lived experience, particularly First Nations women, to ensure their voices and real-world experiences are central in shaping policy.
- The experiences of non-binary and transgender people, to capture the full spectrum of gendered experiences in the justice system.

When it comes to sharing personal information with government entities, trust is a significant barrier for many people and families impacted by incarceration. This mistrust is rooted in both ongoing and historical systemic harm. To ensure that data collection serves the needs of those most affected, funding for data collection should be directed to non-governmental and community-controlled organisations. These organisations, led by and accountable to impacted communities, are better positioned to collect data, monitor needs, and uphold the dignity and self-determination of individuals. By centring lived expertise and community leadership, this approach ensures that data collection is not exploitative but instead empowers those it seeks to serve.

4 Adopt a multi-agency, cross-state, whole-systems approach to reducing the incarceration of women

A multi-agency, cross-state, whole-systems approach must prioritise collaboration between health, housing, education, justice, social services, and community organisations. This approach should aim to dismantle the structural inequalities that drive women into contact with the criminal legal system and instead invest in systems of care, safety, and support. Key actions include:

- Developing national standards for policies and practices related to women in the criminal legal system, to ensure consistency across states and territories.
- Funding and resourcing initiatives led by women and communities directly impacted by incarceration, to design and implement solutions that reflect lived expertise.
- Recognising and responding to the unique pathways to incarceration for women, including their experiences of domestic and family violence and economic marginalisation.
- Provide sustained funding to First Nations-led and other community-controlled organisations that integrate housing, legal aid, health, mental health, and addiction recovery services.

5 Fund community-led prevention and intervention

Fund initiatives that empower communities to respond to harm and conflict through effective approaches that support healing. Invest in community-led, place-based solutions developed by those most impacted. Key priorities include:

- A comparative analysis of the UK government's Women in Prison inquiry and Female Offender Strategy to identify effective, evidence-based approaches.
- An examination of how systemic drivers of incarceration—such as poverty, housing insecurity and homelessness, systemic discrimination, mental ill-health, addiction, intergenerational trauma, and domestic and family violence—lead to the criminalisation and incarceration of women.
- A detailed evaluation of the abuse-to-prison pipeline, highlighting the role of male violence in driving women into the justice system.

6 Expand women-centred services nation-wide

Reallocate funding from punitive systems toward women-centred services that provide holistic, trauma-informed care, and address the drivers of incarceration in ways that work. Key priorities include:

- Establishing trauma-informed rehabilitation programs tailored to women's experiences of domestic and family violence, mental ill-health and addiction. These programs should focus on healing, recovery and skill-building to support long-term wellbeing.
- Funding women's centres that offer holistic wraparound support, such as culturally safe legal aid, counselling, housing assistance, childcare, employment pathways, and education.
- Ensuring that all services are culturally appropriate and accessible to First Nations women.

7 Improve access to housing

Redirect funding from ineffective prison and policing responses, to ensure the provision of long-term, secure housing for women at risk of incarceration and coming out of prison. Housing solutions must specifically address the needs of those facing homelessness, domestic and family violence, addiction, and other intersecting challenges, recognising that stable housing is foundational to breaking cycles of harm and criminalisation. Key priorities for action include:

- Acknowledging housing as a critical determinant of safety and well-being, and ensure that no woman is criminalised or incarcerated due to a lack of stable housing.
- Developing crisis housing that is:
 - culturally safe, gender-specific, and trauma-informed,
 - embedded with wraparound services, including legal aid, mental health care, addiction recovery, and employment assistance, to address the complex needs of residents,
 - accessible without burdensome eligibility requirements, recognising that many women fleeing harm may not have proof of income, readily available identification, or fixed addresses, and
 - paired with clear and supported transitions to long-term, affordable, and stable housing.
- Developing policies and funding mechanisms for long-term housing options that reduce the risk of criminalisation and create opportunities for healing and stability.
- Prioritising investment in community-driven and First Nations-led housing solutions.

8 Commit to universal basic services

Reallocate funding from prisons and policing to invest in free and universally accessible basic services—such as healthcare, childcare, mental health support, housing, and addiction treatment—to address the structural and social drivers of incarceration. Evidence from global models demonstrates that these approaches not only improve community safety and well-being but are also more cost-effective and humane than carceral solutions.

This approach should include investing in evidence-based harm reduction strategies, such as needle exchange programs, safe consumption spaces, and culturally safe addiction treatment services, to promote recovery and community safety.

9 Pilot women’s residential centres

Redirect funding from carceral systems to First Nations-led and community-driven initiatives to design and establish residential centres. These centres should provide supportive environments focused on healing, conflict resolution, and prevention without involving police or courts. Key priorities for action include:

- Enabling women to live with their children wherever possible, reducing the harms of family separation and supporting holistic healing for both mothers and their families.
- Offering wraparound, trauma-informed services that address the specific needs of women, such as mental health care, addiction recovery, housing support, employment assistance, and access to culturally appropriate services.
- Ensuring centres are accessible to all women, including those from diverse cultural backgrounds, LGBTQIA+ communities, and women with disabilities.

10 Decriminalise poverty-related survival strategies and amend laws that disproportionately lead to the incarceration of women

Review and amend laws that are leading to the incarceration of women. Key actions include:

- Abolishing mandatory sentencing laws and amending punitive bail and parole conditions that disproportionately lead to women's incarceration.
- Removing imprisonment as a penalty for unpaid fines and minor offences linked to poverty and disadvantage.
- Ending the criminalisation of people experiencing homelessness by abolishing public space offences for loitering, begging, or sleeping rough.
- Ending punitive responses to drug and alcohol use and instead responding with appropriate and specialised community-led treatment services.

11 Introduce pre-sentence reports and gender-specific sentencing

Research consistently shows that the incarceration of women—many of whom are primary caregivers—creates a ripple effect of harm, destabilising families and communities while perpetuating cycles of disadvantage. By prioritising non-custodial, community-based approaches, governments can reduce incarceration rates, address structural inequities, and build pathways to justice that centre dignity, safety, and support.

Government should ensure that all people receive mandatory pre-sentence reports that consider social, psychological and family factors, and implement gender-specific sentencing practices that reflect women's lived realities. Embed a presumption in favour of non-custodial sentences for women, particularly for non-violent offences. We recommend requiring courts to consider gender-specific factors in sentencing, including:

- A woman's history of trauma, victimisation, and coercion.
- The impact of incarceration on her children and family.
- Culturally specific factors for First Nations women and other marginalised groups, ensuring the inclusion of community voices and lived expertise.

12 Support survivor-centred restorative justice

Scale voluntary restorative justice programs that focus on accountability and healing. Build on successful models adapt them to diverse community needs.

13 Fund First Nations justice agreements

Support First Nations-led efforts to address systemic issues such as poverty, over-policing, and intergenerational trauma. Justice agreements must include measurable goals and funding commitments.

14 Set national justice targets

To address the over-incarceration of First Nations people and the disproportionate violence experienced by First Nations women, governments must commit to ambitious, measurable national justice targets. These targets must focus on dismantling systemic inequalities, reducing incarceration rates, and addressing the underlying drivers of harm, with specific actions such as:

- Prioritising investment in First Nations-led prevention programs.
- Setting benchmarks for reducing rates of bail refusals and remand for First Nations women.
- Holding governments accountable through annual public reporting on progress.

15 Expand restorative justice approaches

Restorative justice focuses on accountability, healing, and addressing the underlying causes of harm through processes that repair relationships and restore community well-being. Drawing on global evidence as well as the success of this approach in the Australian Capital Territory, we recommend developing and scaling voluntary restorative justice programs across all states and territories, ensuring accessibility to individuals affected by harm, including those in remote and marginalised communities.

16 Scale the Alternative to Custody Program

Provide funding to replicate and scale the successful Alice Springs *Alternative to Custody* Program to other urban and regional centres, ensuring culturally appropriate and community-led support models. This should be:

- Adapted to local contexts and co-designed with community organisations.
- Focused on providing housing, addiction recovery, mental health care, and child-inclusive services.
- Its outcomes are monitored and reported to inform best practices and improve effectiveness.

17 Establish independent police oversight bodies and mechanisms

Research suggests that police officers commit violence, including domestic and family violence, at higher rates than the general population—both in Australia and internationally. Additionally, the practice of police investigating police discourages victim-survivors from reporting violence, and even when criminal matters involving police perpetrators are reported, they are far less likely to lead to meaningful action or accountability. Key actions include:

- **National Independent Oversight Body**
 - Establish a fully independent national body with the authority to investigate allegations of police misconduct, abuse, and violence, free from police control or influence.
 - Redirect resources from internal affairs units to independent bodies.
- **National Standards for Investigating Misconduct**
 - Develop national guidelines for investigating police misconduct that require clear, documented procedures and timelines to ensure consistency, fairness, and transparency across jurisdictions.
- **Collaborate with First Nations Leaders**
 - Co-design oversight mechanisms with First Nations leaders to ensure they are culturally appropriate and address systemic discrimination and over-policing.
- **Introduce Civilian Oversight Boards**
 - Introduce local and state-based civilian oversight boards, comprised of community members, legal experts, and representatives from groups most affected by policing. These boards should review investigations, ensure transparency, and provide public reporting on outcomes.
- **Ensure Transparency through Body-Worn Cameras**
 - Mandate the use of body cameras for all police officers and require cameras in all police vehicles, with strict protocols for use, access, and penalties for tampering or disabling devices. Guarantee footage is available to oversight bodies for investigation purposes.
- **Empower Victims and Protect Whistleblowers**
 - Centre the voices of those harmed by police misconduct in the investigative process, ensuring they have input into outcomes and reparations.
 - Implement robust protections for victims, witnesses, and whistleblowers against retaliation or intimidation.
- **Prohibit Conflicts of Interest**
 - Prohibit current and former law enforcement from participating in investigations or prosecutions involving fellow officers.

18 Ensure implementation of expert recommendations

Over the decades, dozens of multi-million-dollar inquiries and reports have produced evidence-based recommendations that successive governments have largely failed to implement. A dedicated national oversight body is essential to ensure governments take measurable action in a timely fashion, honour their commitments, and deliver systemic change.

As a signatory to international agreements like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the United Nations Rules for the Treatment of Women Prisoners (Bangkok Rules), the Australian government is obligated to monitor and address gendered inequalities in the justice system. Policy levers—such as legislation, funding allocation, and systemic reform—lie within the control of governments.

Key actions include:

- Establish a national independent oversight body to ensure that governments not only respond to past and future agreements, commissions, inquiries, and reports relating to criminal justice. Governments must retain responsibility for responding to these issues, with the oversight body ensuring that this responsibility is met transparently and equitably.
- Include First Nations leaders, women with lived experience, and representatives from impacted communities in the oversight body to guide priorities and ensure culturally appropriate practices.
- The body should be required to publish regular, publicly accessible reports detailing government progress on meeting justice targets, implementing recommendations and upholding international agreements.
- Create mechanisms for independent, community-controlled reviews of government progress on justice reforms.

CONCLUSION

” *Whatever the future holds, we need to ask ourselves how a humane society can justify such treatment.*

Deborah Glass, Victorian Ombudsman.¹⁶²

” *No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.*

Nelson Mandela.¹⁶³

This report reveals a devastating reality: women in Australia are being systematically criminalised for surviving male violence. Through punitive laws, entrenched systemic failures, and a prison system designed by men for men, women are being imprisoned at unprecedented rates, especially First Nations women. These women are not only doing time for their own struggles—they are doing time for the crimes of the men who have abused, coerced, and controlled them.

The voices of women shared through this report make it impossible to ignore the truth: incarceration is not the solution. Women who have been brutalised by domestic violence, pushed into homelessness, or driven to addiction are being further punished by a state that offers little in the way of support and instead exacerbates their suffering. Strip searches, forced isolation, inadequate healthcare, and barriers to reconnecting with their families create environments that re-traumatise and destroy the very women the system claims to rehabilitate.

The numbers are damning. Up to 98% of incarcerated women have a history of victimisation and trauma. Homelessness affects more than 40% of women before incarceration and is a major barrier to bail or parole. Overwhelmingly, these women are survivors of family violence, mental illness, and addiction—problems that require health-based and community-driven solutions, not incarceration.

The testimonies from Yarning Circles bring this crisis into sharp focus. Women have spoken powerfully about their struggles to access housing, the re-traumatisation of prison, and the absence of meaningful support upon release. One participant likened prison to an abusive partner: “cruel, violent, and controlling.” Yet, as another noted, it is often the only place where women are kept alive—a tragic reflection of how society has failed them at every turn.

This report calls for urgent action. Governments must amend laws that disproportionately impact women, including bail, parole, and public space offences. They must fund effective community-led solutions like women’s residential centres and expand programs like the Alice Springs *Alternative to Custody Program*. Housing, mental health care, and addiction treatment must be prioritised to prevent the cycles of incarceration that destroy lives.

¹⁶² Victorian Ombudsman (n 61).

¹⁶³ UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, UN Doc A/RES/70/175 (8 January 2016).

Importantly, the voices of incarcerated women and those with lived experience must lead the conversation about solutions.

At its core, this issue is one of justice, humanity, and accountability. Women deserve a system that recognises their trauma and supports their survival—not one that criminalises it. As Christina warned before her death, if these changes are not made, more women will die. The time to act is now. Governments have the power, and we must demand they use it to create a justice system that truly delivers justice—for all.

THE JUSTICE MAP.

Doing Time For Men's Crimes:

How Male Violence is Driving
Record Numbers of Women
into Australian Prisons

REPORT 2024

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