

Women In Prison 2019

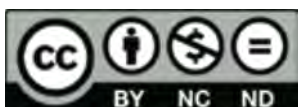
A human rights consultation report



ANTI DISCRIMINATION
COMMISSION QUEENSLAND

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Foreword

In 2004, the Commission received a submission from the advocacy group for female prisoners, Sisters Inside Inc, requesting the Commission to inquire into possible discrimination on the basis of sex, race, and disability within Queensland women's prisons. In response to the wide range of matters raised by Sisters Inside, the Commission conducted a thorough review on the treatment of women in Queensland prisons, and published the *Women In Prison* report in 2006.

Ten years on from the report, and with the numbers of women being incarcerated steadily increasing, the Commission commenced a follow-up consultation, led by Deputy Commissioner Neroli Holmes. This report is the result of that consultation and documents both progress and ongoing concerns on the human rights of women in Queensland prisons.

Whilst the report is primarily focussed on the conditions experienced by women in Queensland's prisons, it is clear that a paradigm shift is required – away from 19th century punitive approaches, and towards responses that properly reflect the goal of ensuring community safety by supporting women to live fulfilling lives in their communities.

This report is the latest of several released in recent years focussing on aspects of the Queensland correctional system and the over-representation of Indigenous people in Australian prisons. All have called for sweeping changes. Although there appears to be growing awareness amongst government that major reform is vital, courage and leadership will be required to develop and implement a coherent plan to reduce the number of women in Queensland prisons.

The Commission wishes to acknowledge the assistance we have received from Queensland Corrective Services, Sisters Inside, consultation participants and the organisations that took the time to meet with us. We are grateful to the General Manager of each of the prisons we visited, and their staff, for facilitating visits to their facilities.

Finally, as with our 2006 report, we owe our sincere thanks to the women who spoke to us of their experiences, often when they were still separated from their homes and families by incarceration. Many wanted to be interviewed in the hope of improving the situation for other women who may enter the Queensland correctional system in the future.

We trust this report goes some way to doing just that. I am proud to commend this report to the public on behalf of the Commission.



Scott McDougall

Queensland Anti-Discrimination Commissioner

Acknowledgements

The Commission wishes to acknowledge the work of our staff on this consultation and subsequent report: Deputy Commissioner Neroli Holmes, former Commissioner Kevin Cocks AM, Liz Bond, Sharon Young, Anne Franzmann, Erin Leach, Helen Bannerman, Warren Edwards, Kate Marsh and Coral Logan.

We are grateful to Queensland Corrective Service Commissioners Mark Rallings and Peter Martin APM for their support of this consultation and report, and prison General Managers and their senior staff and officers for facilitating our visits and making our consultations possible.

Our sincere thanks go also to the women who shared their prison experiences with us, and the NGOs who supported and took part in the consultation.

The Commission also acknowledges the experiences of victims of crime, and in no way wish to diminish any pain or suffering resulting from acts committed against them.

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Glossary

The following terms and abbreviations are used in this report.

Term	Explanation
Bangkok Rules	United Nations <i>Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders</i> .
BWCC	Brisbane Women's Correctional Centre
classification	A security classification is determined for each prisoner (maximum, high, and low) based on the nature of the offence, the risk of escape, the risk of committing a further offence, and the risk to themselves and others. This determines centre placement options as well as access to training and work programs.
CROC	<i>Convention on the Rights of the Child</i> : a United Nations treaty that sets out the rights of children including social, health, and cultural rights.
CREST	Community Re-Entry Services Team: in-prison staff who provide support to women pre and post-release.
disability	Includes women with physical, intellectual, psychiatric, cognitive, neurological, and sensory impairments.
doubling-up	Most cells in Qld correctional centres are generally 8.5m ² single cells which are designed to cater for one person. Doubling-up is the practice of placing a second prisoner in a single cell, which may contain a purpose built bunk, trundle bed or a mattress on the floor.
dry cell	A cell without a toilet that is used when a prisoner is suspected of having ingested a prohibited item. Prisoners are provided with a receptacle in which they are required to pass urine and faeces, so that these can be searched.
high security facility	Accommodation in high security facilities is often behind razor wire with blocks of cells that have a common area. There are currently three high security facilities at BWCC, SQCC and TWCC.
HJC	Helana Jones Centre, a community custody facility for women at Albion in Brisbane.
IEP	Incentive and Earned Privileges: programs that reward prisoners' positive behaviour and institutional conduct by giving access to privileges such as TV, personal property, sports and craft.
Indigenous	The words 'Indigenous' and 'Aboriginal and Torres Strait Islander' are used interchangeably in this report to refer to the Aboriginal peoples and Torres Strait Islander peoples of Australia. We understand that some Aboriginal peoples and Torres Strait

Term	Explanation
	Islander peoples are not comfortable with some of these words. Only respect is meant when these words are used.
justice reinvestment	Justice reinvestment proposes re-directing money spent on prisons to community-based initiatives that aim to address the underlying causes of crime, promising to cut crime and save money.
low security facility	Low security facilities have markedly less reliance on physical containment than secure custody. To be placed in a low security facility, prisoners must have a low security classification and be assessed as a suitable placement. Low security beds for women prisoners are located in South-East Queensland at Numinbah, and HJC, and at TWCC.
MARA	A pre and post-release support service for women exiting custody that seeks to address homelessness from a gendered perspective, including options supporting reunification with children, preventing domestic violence, and addressing trauma. It operates mainly in South-East Qld.
Nelson Mandela Rules	<i>United Nations Standard Minimum Rules for the Treatment of Prisoners</i> (rev), 2015.
Ombudsman's Report	<i>Overcrowding at Brisbane Women's Correctional Centre</i> , 2016.
RoC search	A search involving removal of clothes.
safety unit/detention unit/ crisis support unit	These units contain cells segregated from the main facility and include a padded cell with restraining devices. They are used for women on safety or separate confinement orders, who are placed there to ensure they do not harm themselves or others, or suffer harm from other prisoners.
Sofronoff review	<i>Queensland Parole System Review: Final Report</i> , 2016
Southern Queensland Correctional Centre	On 3 July 2018, the Qld Government announced a plan to convert SQCC at Gatton into a second secure South-East Qld women's correctional centre which occurred in August 2018.
systemic disadvantage	A situation that perpetuates and reinforces disadvantage for a group or class of people so that they become trapped in a cycle of disadvantage that may include poverty, homelessness, unemployment, poor health, and educational disadvantage.
systemic discrimination	Systemic discrimination is the creation, perpetuation, or reinforcement of persistent patterns of inequality among disadvantaged groups. It is usually the result of seemingly neutral legislation, policies, procedures, practices or organisational structures that certain groups are less able to comply with, or fit in with.
transgender	In this report we use the word 'transgender' to refer to a prisoner's gender identity where the prisoner identifies as a member of the opposite sex by living or seeking to live as a member of that sex;

Term	Explanation
	or is a person of indeterminate sex and seeks to live as a member of a particular sex. This definition is taken from the <i>Anti-Discrimination Act 1991</i> .
trauma-informed practice	A framework for human service delivery that is based on knowledge and understanding of how trauma affects people's lives and their service needs. It means that service providers have an awareness and sensitivity to the way in which clients' presentation and service needs can be understood in the context of their trauma history.
TWCC	Townsville Women's Correctional Centre which includes high and low security facilities.
Yogyakarta Principles	A document that affirms human rights obligations in relation to sexual orientation and gender identity which was adopted in 2006 at an international meeting of human rights groups.

Executive Summary

In June 2004, the Anti-Discrimination Commission Queensland received a submission from the advocacy group for female prisoners, Sisters Inside Inc. Of concern to Sisters Inside was the treatment of female prisoners generally, in particular Indigenous women and women with disabilities within the Queensland corrections system. The Commission conducted a review to research and consult on the treatment of women in Queensland prisons on the basis of gender, race and disability, and released our Women in Prison report in March 2006.

Ten years later, in September 2016, the Queensland Ombudsman released a report into overcrowding at Brisbane Women's Correctional Centre (BWCC). At the time of the report, BWCC was the most overcrowded prison in the state. The Ombudsman's report found:

The level of overcrowding at BWCC, when compared with men's prisons and coupled with the inadequate living conditions for prisoners, creates the circumstances where the administration of BWCC is improperly discriminatory towards female prisoners.

As a result, the Anti-Discrimination Commission Queensland commenced a consultation in 2017 with current and former female prisoners, Queensland Corrective Services staff, non-government organisations working with the justice system, and advocates, in order to assess what progress had been made since the release of Women in Prison in 2006.

We found that in many ways, the situation had not improved in the intervening decade.

The female prison population swelled by 59% between 2006 and 2016. Recently, overcrowding resulting from that increase has impacted several other parts of the prison system and negatively affected female prisoners, both during and after incarceration. With the opening of the new Southern Queensland Correctional Centre for Women in late 2018, overcrowding and its negative consequences has been solved for the present time.

The over-representation of Aboriginal and Torres Strait Islander women within the female prison population is of serious concern. Over one third (35%) of female prisoners are Aboriginal and Torres Strait Islander women. Not only are they statistically more likely to be incarcerated, Aboriginal and Torres Strait Islander women fare worse in prison than their non-Indigenous counterparts. They are more likely than non-Indigenous women to be held in high security prisons, make up almost half of the female prisoners on safety orders or separate confinements, and are more likely to return to prison for breach of parole. It is clear that the system is not designed with them in mind, and does not respond well to the complex and specific needs of Aboriginal and Torres Strait Islander women in prison.

The entirety of the female prisoner population has suffered from the limited availability of supports both during and after incarceration.

The large increase in the numbers of female prisoners in the past decade have stretched the limited resources available in prisons for counselling and substance abuse programs. Many women in prison have backgrounds involving complex trauma, with high levels of sexual abuse and substance problems compared to the general population, but have little or no access to support for these issues inside prison.

Lack of support was also apparent when women transitioned from prison to living in the community once they have served their sentences. Recently, enhanced transitional support has been developed and is now being offered to women as they exit prison.

The lack of available, appropriate, and affordable housing has taken its toll on women exiting prison. Both short-term transitional housing and longer-term accommodation are in short supply, impacting heavily on women trying to reintegrate into society. The critical shortage of housing has resulted in women being refused bail or parole. The lack of housing may also be a contributing factor to women offending and reoffending. Recently, an intergovernmental taskforce has started to address this critical housing shortage.

The number of prisoners incarcerated on remand has also increased in recent years. A lack of timely and adequate legal assistance can prevent women from successfully seeking bail, diversion from custody, or making early guilty pleas when appropriate. Until recently, women in prison on remand who are released from prison on short notice did not receive any intervention or dedicated re-entry services, resulting in many breaching bail and returning to prison. The MARA project which commenced in 2016-17 is now providing a level of re-entry assistance to these women.

The large numbers of women in prison for short sentences is a critical contributing factor to the problem of overcrowding. Half of female prisoners are there for less than three months. The disruption that these short sentences cause prisoners and their families was described in the Productivity Commission's draft report into imprisonment and recidivism in 2019:

Although prison is intended to punish offenders, costs extend beyond the direct effect on the prisoner during the term they serve. These costs include forgone employment, as well as higher rates of unemployment, social exclusion, homelessness and poor mental health following release. Prison disrupts parent–child relationships, alters the networks of familial support and places new burdens on government services such as schools and family support services. Studies suggest that the indirect costs of imprisonment may be in the order of \$40,000 per year for each prisoner.

This report contains 46 recommendations to improve the prison system and outcomes for female prisoners. Of particular importance are those relating to justice reinvestment and diversion programs.

Justice reinvestment involves the reallocation of funds from the criminal justice system to community-led, place-based initiatives to address the drivers of crime and incarceration. Its aim is to prevent incarceration by

providing early intervention and crime prevention, while at the same time strengthening communities and building local capacity.

Hand in hand with justice reinvestment and crime prevention strategies sits the greater use of diversion programs. Enabling low risk prisoners to be managed in the community in non-custodial services, rather than incarcerated for short sentences, can aid rehabilitation, improve community safety, and enhance continuity of family and community relationships, leading to better outcomes for women and lower recidivism rates, as well as lower costs for the criminal justice system. In other words, diversion programs for low risk prisoners can be alternatives to dealing with women's offending that are less costly to our community and less disruptive to their families. Coupled with greater supports for women in prison, like trauma-informed care and more access to counselling and education programs, these initiatives have the potential to change the way our prison system operates, for the better.

This report is the fourth into the Queensland correctional system in three years, following the Ombudsman's report into overcrowding at BWCC, the 2016 review into the Queensland parole system headed by Walter Sofranoff QC, and the 2019 draft Productivity Commission report into imprisonment and recidivism in Queensland. Together, they make a strong case for sweeping changes to aspects of the criminal justice system. This growing body of evidence and the need for change cannot and should not be ignored. The Anti-Discrimination Commission Queensland is proud to add to this body of work, but we also call for action. The time for reports is past. It is time for comprehensive action to divert women from prison and support them to fulfil valuable roles in their families and communities.

Recommendations

Justice system impacts

Recommendation 1: justice reinvestment

The Queensland Government supports the establishment of an independent justice reinvestment body, the purpose of which would be to promote the reinvestment of resources from the criminal justice system to community-led, place-based initiatives that address the drivers of crime and incarceration, and to provide expertise on the implementation of justice reinvestment.

Its functions would include:

- providing technical expertise in relation to justice reinvestment;
- assisting in developing justice reinvestment plans in local sites; and
- maintaining a database of evidence-based justice reinvestment strategies.

The justice reinvestment body should be overseen by a board with Aboriginal and Torres Strait Islander leadership.

Recommendation 2: justice reinvestment

The Queensland Government supports justice reinvestment trials initiated in partnership with Aboriginal and Torres Strait Islander communities, including through:

- facilitating access to localised data related to criminal justice and other relevant government service provision, and associated costs;
- supporting local justice reinvestment initiatives; and
- facilitating participation by, and coordination between, relevant government departments and agencies.

Recommendation 3: data analysis (postcodes)

The Queensland Government periodically analyses the home location postcodes of women prisoners to determine which communities are contributing disproportionately to the prison population, with a view to directing resources to those locations.

Recommendation 4: failing to apply for bail

The Queensland Government funds specialised duty lawyer assistance for vulnerable prisoners, and legal representation for Magistrates Court guilty pleas and trials.

Recommendation 5: high number of remand prisoners

Queensland Corrective Services Sentence Management Unit case-manages women on remand to ensure they get a call from a lawyer within the first week of entering prison. Also, that one week prior to the sentencing hearing, if a woman hasn't had contact with a legal representative, Sentence Management Unit organises this as part of the woman's progression plan.

Recommendation 6: substance abuse-related crime

The Queensland Government increases available resources for therapeutic substance abuse programs, both in and out of custody.

Recommendation 7: diversion programs

- a. The Queensland Government takes action so that low risk Aboriginal and Torres Strait Islander women are diverted from prison into non-custodial services.
- b. The Queensland Government places greater focus on providing wrap-around community engagement and facilitated support to help all eligible low risk women commit to a managed plan that enables them to stay in the community, rather than being placed in custody.

Recommendation 8: parole

Queensland Corrective Services ensures that the case management framework for prisoners includes systems to:

- help prisoners understand their right to apply for parole;
- prompt prisoners to put in their parole application when it is due; and
- provide assistance to prisoners if their English literacy is poor.

Recommendation 9: domestic violence

The Queensland Government examines new domestic violence laws and policies for unintended adverse consequences (including incarceration) for Aboriginal and Torres Strait Islander women.

Recommendation 10: bail applicants and housing

The Queensland Government continues to seek alternative solutions to imprisoning women on remand who would otherwise be eligible for bail, but for the fact they do not have a suitable home address.

Recommendation 11: transitional and long-term housing

- a. The Queensland Government ensures that early intervention and efficient planning and service coordination are implemented to address the housing issues affecting women when seeking bail and parole, diversion from prison, transition from prison, and post-prison.
- b. Queensland Corrective Services continues the development and funding of models involving partnerships with the Department of

Housing, NGOs, and individual women to enable women to be placed in supported accommodation, thereby assisting their successful return to the community.

Recommendation 12: independent prison oversight

Queensland Corrective Services and the Queensland Government review Part 12A of the *Corrective Services Act 2006* with a view to repealing those sections.

Individual needs

Recommendation 13: trauma-informed practice

Queensland Corrective Services implements trauma-informed practices in Queensland's women's prisons in line with the latest research.

Recommendation 14: programs for Aboriginal and Torres Strait Islander women

Queensland Corrective Services undertakes a comprehensive review of services and programs available to Aboriginal and Torres Strait Islander women prisoners.

The review should address areas in which Aboriginal and Torres Strait Islander women have access to fewer facilities and services than men, or appear to be systemically disadvantaged (on the basis of both race and gender) during their imprisonment.

Particular attention should be given to providing:

- more access to diversionary programs;
- more psychological and other supports to prevent risk of harm to themselves or others while in prison;
- more educational supports;
- more transitional supports when leaving prison; and
- more family supports both within, and on leaving prison.

Recommendation 15: women with disabilities

Queensland Corrective Services:

- a. investigates implementing screening of prisoners for neurocognitive disability;
- b. provides officers with training, skill development, and advice on how to deal with specific types of disability, and the types of adjustments that could be made to enable prisoners with disability to have full and effective access to prison life on an equitable basis;
- c. provides more specialist support to ensure that highly vulnerable women in prison safety units have full access to prison life on an equitable basis; and

- d. makes reasonable adjustments to enable women with physical, mental, and intellectual disabilities to have equal opportunities to be located in low security facilities.

Recommendation 16: transgender prisoners

Queensland Corrective Services:

- a. provides regular training to QCS officers on issues that have an impact on the human rights of transgender prisoners, and also provides induction training on transgender issues to all other people who work in prisons, prior to commencing duties; and
- b. offers one of three options to trans-identified prisoners prior to a strip-search:
 - male officer(s) only;
 - female officer(s) only; or
 - a split search (male and female officer/s), depending on the area of the body being searched.

Queensland Health:

- c. provides appropriate gender health services to transgender prisoners across Queensland without the need for the prisoner to transfer between prisons to access such services.

Recommendation 17: young women

Queensland Corrective Services matches community volunteer sponsors to young women leaving prison in order to provide transitional and post-release support.

Family and parenting

Recommendation 18: family and parenting

The Attorney-General takes steps to amend the *Penalties and Sentences Act 1992* to include the principle that the best interests of the child be a factor to be considered when sentencing a person with a dependent child.

Recommendation 19: family and parenting statistics

Queensland Corrective Services takes a lead role in working with other relevant departments to improve the collection of data about the number of children in Queensland affected by the imprisonment of a parent.

Recommendation 20: contact with, visits by, and care of children

Queensland Corrective Services:

- a. facilitates prisoners' contact with their children, their children's guardians, and legal representatives;
- b. encourages and facilitates children's visits to women prisoners; and
- c. ensures decisions about early conditional release (parole) favourably take into account women prisoners' care-taking responsibilities.

Recommendation 21: use of technology to maintain family contact

Queensland Corrective Services:

- a. increases the number of telephones available for prisoners' use in women's prisons; and
- b. investigates opportunities for Skyping capability to enhance prisoners contact with approved family members.

Recommendation 22: bereavements

Queensland Corrective Services implements a formal bereavement protocol to be observed when a family member of a prisoner dies.

Accommodation

Recommendation 23: accommodation at Brisbane Women's Correctional Centre

Queensland Corrective Services and other agencies implement initiatives to reduce the drivers of growth in prison numbers at BWCC, as proposed by the Ombudsman's report on overcrowding.

Queensland Corrective Services, if overcrowding occurs again in future, should:

- a. cease the practice of compelling women to sleep on floors;
- b. improve privacy for the use of toilet facilities in secure cells, as proposed by the Ombudsman's report on overcrowding;
- c. take action to prevent the occurrence of incidents caused by incompatibility of cell mates when women are doubled-up in cells, regardless of whether women have raised any issue with the authorities;
- d. ensure sufficient food is being provided to prisoners at BWCC, and ensure it is shared equitably in overcrowded units;
- e. increase the number of microwaves, toasters, washing, and drying machines available for use by women in overcrowded units;

- f. remedy plumbing issues that result in frequent bad odours and overflowing toilets in cells at BWCC; and
- g. provide sufficient cleaning products at all times to ensure the cleanliness of toilet and shower facilities in cells and units.

Recommendation 24: accommodation at Numinbah Correctional Centre

Queensland Corrective Services:

- a. provides prisoners and their families with information about the free bus service to the prison at the time the women are transferred to NCC, and displays signs at the centre to alert prisoners to the availability of the service;
- b. ensures facilities at NCC are made accessible for people with disability; and
- c. explores means of assisting and enabling external service providers to make it worth their while to visit and provide services at NCC.

Recommendation 25: accommodation at Helana Jones Centre

Queensland Corrective Services ensures facilities at HJC are made accessible for people with disability, and that women prisoners who have a disability have the same opportunity as other women to be placed in this low security facility.

Recommendation 26: accommodation at Townsville Women's Correctional Centre

Queensland Corrective Services:

- a. ensures the low custody facilities at TWCC are made accessible for people with disability, and that women who have a disability have the same opportunity as other women to be placed in the low security facility; and
- b. considers establishing a low security facility located close to the city centre of Townsville to serve the same purpose as the Helana Jones Centre in South-East Queensland.

Respect for the person

Recommendation 27: privacy

Queensland Corrective Services investigates options to improve privacy in shared cells (including creative solutions used to provide privacy to young people when showering in shared rooms at detention centres) as proposed by the Ombudsman's report on overcrowding if doubling up of cells is required in future.

Recommendation 28: personal hygiene

Queensland Corrective Service and Queensland Police Service ensure Brisbane City watch house staff:

- a. respect the prisoner's dignity, particularly with regard to providing clean and adequate clothing and access to hygiene items;
- b. provide access to adequate exercise; and
- c. protect women prisoners from male prisoners within the watch house when women are held at the Brisbane City watch house for a prolonged period, because they cannot be accommodated in BWCC.

Queensland Corrective Services at BWCC:

- a. ensures that sanitary pads are dispensed to women when needed, without delay; and
- b. ensures that women have access to sufficient underclothing so it can be changed and washed as often as necessary to maintain hygiene.

Recommendation 29: strip searches

Queensland Corrective Services:

- a. supervises and monitors staff undertaking non-routine strip searches to ensure the process is not used inappropriately, or for any reason other than detecting or retrieving concealed contraband;
- b. ensures officers respect a prisoner's dignity, including at times when a prisoner is placed in a dry cell, or is undertaking urine testing; and
- c. actively investigates and implements new, non-invasive screening technology to replace routine removal of clothing (ROC) searches in women's prisons.

Management of prisoners

Recommendation 30: classification

Queensland Corrective Services develops and implements classification methods that address the gender-specific needs and circumstances of women prisoners, and ensures appropriate and individualised planning and implementation to maximise potential for early rehabilitation, treatment, and reintegration into society.

Recommendation 31: low security prisoners in high security prisons

Queensland Corrective Services ensures that prisoners who have a low security classification are held in a low security prison, to the greatest extent possible.

Recommendation 32: ban on progression to low security for life sentences

The Queensland Government reviews the policy restricting the placement of female prisoners convicted for murder, a sexual offence, or with a serious violent offence declaration, with a view to reintroducing appropriate candidates to low security facilities.

Recommendation 33: incentive and earned privileges programs

Queensland Corrective Services reviews any Incentives and Enhancement programs in place at women's prisons to ensure processes are transparent, accord with natural justice principles, and do not constitute potential indirect discrimination on the basis of race or disability.

Recommendation 34: segregation and seclusion

- a. The Queensland Government takes steps to ensure the overcrowding of women in Queensland prisons does not reoccur in the future.
- b. The Queensland Government replaces the BWCC Safety Unit with new accommodation designed to take into account key needs, including mental health.
- c. Relevant Queensland Government agencies (including the Department of Justice, Corrective Services, Queensland Health, and Department of Communities) examine ways of diverting individuals with complex mental health support needs or behavioural disorders from prison.

Rehabilitation

Recommendation 35: programs for prisoners

Queensland Corrective Services increases the number and diversity of rehabilitation programs (including short-term programs) and training and education opportunities available to prisoners, as proposed by the Sofronoff review report.

Recommendation 36: Pathways programs

Queensland Corrective Services:

- a. increases the number of Pathways programs and places offered to women prisoners;
- b. broadens the eligibility to a greater number of prisoners; and
- c. offers the program at TWCC.

Recommendation 37: rehabilitation facilities and programs at BWCC

Queensland Corrective Services increases resources for rehabilitation, including physical facilities, times, and staff available to deliver programs in BWCC.

Recommendation 38: education and vocational programs

Queensland Corrective Services:

- a. provides more variety in women's vocational programs, and considers courses such as Certificate III programs in fitness, outdoor power tools, welding, and forklift driving;
- b. introduces regular opportunities for career counselling for women seeking to undertake training and education;
- c. places greater emphasis on measuring educational outcomes, while continuing to measure participation in education and training;
- d. develops partnerships and scholarships with learning institutions to assist women who cannot afford to pay for training, and who do not have access to loans schemes; and
- e. investigates means to ensure women at Numinbah have equitable access to vocational training, similar to low security men's prisons.

Recommendation 39: work

Queensland Corrective Services:

- a. investigates and eliminates potential systemic discrimination of Aboriginal and Torres Strait Islander women prisoners in accessing work camps; and
- b. investigates the merits of reinstituting a work release program.

Recommendation 40: sport and recreation

Queensland Corrective Services:

- a. provides additional, dedicated officer support at each prison to assist with community liaison, and to recruit and support volunteers to work with prisoners; and
- b. provides more support for Aboriginal and Torres Strait Islander women at BWCC, including a dedicated cultural space, art tuition, and greater emphasis on NAIDOC activities.

Health

Recommendation 41: health care

- a. Queensland Corrective Services ensures that the medical units at BWCC and TWCC are sufficiently resourced to provide timely and responsive healthcare that is equivalent to that available in the wider community.
- b. Queensland Corrective Services and Queensland Health provide extra resources at the point when a prisoner is received into prison to contact the prisoner's medical practitioner to ascertain their care regime and needs, and take follow-up action.
- c. Queensland Health implements the Coroner's 2010 recommendations on guidelines for continuity of care and pain management of prisoners.
- d. Queensland Corrective Services reviews their facilities and practices, and improves them so that the needs of hearing-impaired prisoners are met.
- e. Queensland Health provides sufficient resources for medical staff to deliver primary health education sessions to groups of prisoners on a regular basis.

Recommendation 42: mental health

- a. Queensland Corrective Services upgrades clinic facilities at BWCC to provide an interview room for the prison mental health service.
- b. Queensland Corrective Services and Queensland Health provide all women's prisons with appropriate and improved mental health services.
- c. Queensland Health and other external service providers are funded to enable integrated and holistic counselling and psychosocial support for women in prison with distress and trauma.

Recommendation 43: substance abuse

Queensland Corrective Services and Queensland Health:

- a. provide more resources to assist women to manage their substance abuse issues, including engaging a full-time drug/alcohol practitioner at BWCC; and
- b. investigate how a prison-based needle exchange program might be trialled in women's prisons in Queensland.

Transition and post-prison support

Recommendation 44: post-prison support

Queensland Corrective Services:

- a. expands its re-entry services to ensure that all prisoners have access to services, including specialty services, to assist remandees and short-sentenced prisoners, as proposed by the Sofronoff review report; and
- b. gives particular attention to providing post-prison support to women who reside outside the South-East Queensland and Townsville regions.

Prison staff and technology

Recommendation 45: prison staff

Queensland Corrective Services:

- a. ensures that there is a clear expectation from QCS leadership, and through formal staff training, that all staff demonstrate and treat prisoners with the respect due to their inherent dignity and value as human beings;
- b. increases the training and professional development opportunities of prison staff; and
- c. ensures staff performance and management systems and procedures place an emphasis on developing relationship and communication skills.

Recommendation 46: use of technology

Queensland Corrective Services investigates the benefits of greater use of technology to enhance prisoner support and administration.

1. Background

Previous reviews

In June 2004, the Anti-Discrimination Commission Queensland (the ADCQ) received a submission from Sisters Inside, an advocacy group for female prisoners. The treatment of female prisoners within the Queensland corrections system — especially Aboriginal and Torres Strait Islander women, prisoners who are mothers of dependent children, women from culturally and linguistically diverse backgrounds, and women with disabilities — was of particular concern to Sisters Inside.

The ADCQ conducted a broad review of the treatment of women prisoners in Queensland with a focus on the impact of the prison system on women prisoners. The *Women in Prison* report was released in March 2006 and identified particular practices that may discriminate against some women prisoners. Having identified potential discriminatory practices, the Report made 68 recommendations, many of which were supported in whole or in part by the Queensland Department of Corrective Services.¹

In 2016, the Queensland Ombudsman undertook an investigation into action taken by Queensland Corrective Services in response to overcrowding at Brisbane Women's Correctional Centre (BWCC). The investigation found that the Brisbane Women's Correctional Centre was the most overcrowded prison in Queensland, and that 'the extent of overcrowding at BWCC means female prisoners in south-east Queensland were being treated less favourably than male prisoners.'² In the Ombudsman's opinion, this amounts to improperly discriminatory administrative action for the purposes of the *Ombudsman Act 2001*. The opinions and recommendations made by the Ombudsman are relevant to the current consultation by the Anti-Discrimination Commission Queensland.

In November 2016, the final report of the *Queensland Parole System Review* undertaken by Walter Sofronoff QC (as he then was) was published.³ Many of his recommendations, and the reasons for them, are relevant to this consultation on the services and conditions experienced by women prisoners in Queensland.

¹ Queensland Department of Corrective Services, *Response to the Anti-Discrimination Commission Queensland Women in Prison Report* (the Department, 2006).

² Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre* (the Ombudsman, 2016) vii.

³ Walter Sofronoff QC, *Queensland Parole System Review: Final Report* (Queensland Government, 2016). Mr Sofronoff QC was appointed President of the Queensland Court of Appeal in March 2017.

Scope of current review

The Anti-Discrimination Commission Queensland has the function under section 235(e) of the *Anti-Discrimination Act 1991*

to consult with various organisations to ascertain means of improving services and conditions affecting groups that are subject to contraventions of the Act.

To this end, in 2017 we consulted with individuals and organisations about the treatment of women prisoners in Queensland prisons.

The consultations took account of the issues raised in our 2006 *Women in Prison* report⁴ and the Government's response to that report; the Queensland Ombudsman's report, *Overcrowding at Brisbane Women's Correctional Centre*; and the Sofronoff parole review, *Queensland Parole System Review* report.

The consultations included an updated assessment of Queensland Corrections' policies and practices on the treatment of women prisoners against the benchmark of international human rights instruments, including the *International Covenant on Civil and Political Rights*, the United Nations *Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules), and the United Nations *Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules).

The Commission's consultations examined operational practices in the following areas involving fundamental human rights:

- accommodation;
- privacy;
- searches;
- segregation and seclusion;
- classification;
- educational and vocational programs;
- opportunities for work, and for sport and recreation;
- support for women to maintain relationships with families and dependent children;
- treatment of pregnant women, breastfeeding mothers, and provisions for women to have their young children reside with them while in detention;
- personal hygiene for women prisoners;
- appropriate health care for women, including mental health care, drug and alcohol services, and reproductive health care;
- prisoners' ability to observe their religion;
- programs, including community corrections programs, transitional programs, and support for women leaving detention;
- staffing; and
- independent monitoring.

⁴ Anti-Discrimination Commission Queensland, *Women in Prison*, (the Commission, 2006).

We noted discrepancies in equity (between men and women) of programs, education, work, and other resources provided to prisoners in Queensland prisons. The Commission focussed on the treatment of vulnerable women within the prison population, such as Aboriginal and Torres Strait Islander women, women with disabilities (including mental illnesses), women from culturally and linguistically diverse backgrounds, and transgender women.

Methodology

This consultation report is informed by a range of sources including: primary documents and data; interviews with the Minister and the Commissioner, Queensland Corrective Services (QCS); QCS management and staff (including Together Union delegates), current and former prisoners, service providers, other stakeholders; and through site visits.

QCS has been helpful and cooperative in accommodating requests made by the ADCQ in these consultations, and has actively assisted by providing information and data, and in facilitating interviews and visits.

Visits

The Anti-Discrimination Commission Queensland's consultation team visited Brisbane Women's Correctional Centre (BWCC), Townsville Women's Correctional Centre (TWCC), Numinbah Correctional Centre (NCC), and the Helana Jones Centre. We were granted access to areas of the prison including residential units, education buildings, visits areas, health centres, safety and detention units (at BWCC and TWCC) and the protection unit (at BWCC). We observed the Mothers and Children's Program at BWCC and the Helana Jones Centre.

These visits were useful and informative, and the ADCQ is grateful to QCS for arranging and hosting those visits.

Forums

The ADCQ held a series of group forums for women detainees in BWCC, TWCC, and the Helana Jones Centre to contribute to the consultation and raise any issues. All participants attended as volunteers, and a full explanation of the purpose and ground rules regarding confidentiality was given at the start of each focus group. No prison staff attended the prisoner focus groups. As part of the consultation, individual interviews were also conducted with twenty prisoners.

We also held a group forum with ex-prisoners at the premises of the non-government service provider and advocacy group, Sisters Inside.

All group members consented to discussions being taped, and we explained that all material would be made anonymous. Each group lasted about two hours, and no payments or inducements were given, as this may have biased participation. Analysis consisted of an initial debriefing with a summary developed from the notes. Insufficient resources meant tapes were not fully transcribed, though they were listened to in full, and quotes extracted to illustrate issues raised.

Source documents

The ADCQ sought and received access to a range of primary documents and data from QCS which informed the consultation. These included records of disciplinary action and segregation; attendance records for education and programs; and removal of clothing searches at all high security correctional centres over a period of a week.

Interviews

During the consultation, interviews were conducted with QCS management and staff, non-government agencies providing programs and services to women, and through care service providers. The details of those consultations are given in Appendix 1.

International human rights instruments

The *Standard Minimum Rules for the Treatment of Prisoners* was adopted by the United Nations (UN) Congress on the Prevention of Crime and the Treatment of Offenders more than fifty years ago, and applies to all prisoners.⁵

A revised *Standard Minimum Rules* was adopted by the UN General Assembly on 17 December 2015, and is known as the 'Nelson Mandela Rules'.⁶ The Rules contain important human rights principles for prisoners, including their 'inherent dignity and value as human beings' outlined in Rule 1:

All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.

⁵ United Nations *Standard Minimum Rules for the Treatment of Prisoners* (1955).

⁶ United Nations *Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules). (2015).

With the increase in the number of women prisoners worldwide, the *Standard Minimum Rules* failed to draw sufficient attention to women's particular needs. Consequently, in 2010 the UN General Assembly adopted the *United Nations Rules on the Treatment of Women Prisoners and the Non-custodial Measures for Women Offenders* (the Bangkok Rules) and invited Member States to take the specific needs and realities of women as prisoners into consideration when developing relevant legislation, procedures and policies, and to draw on the Bangkok Rules, as appropriate.⁷

As well as the rules developed by the UN specifically for the treatment of prisoners, an extensive body of international human rights protections has been developed, and Australia has agreed to abide by these.⁸ The commitments made by Australia under these instruments apply to prisoners as well as non-prisoners. The instruments are the:

- *International Covenant on Civil and Political Rights*;
- *International Covenant on Economic, Social and Cultural Rights*;
- *International Convention on the Elimination of All Forms of Racial Discrimination*;
- *Convention on the Elimination of All Forms of Discrimination against Women*;
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*;
- *Convention on the Rights of the Child*; and the
- *Convention on the Rights of Persons with Disabilities*.

The *Declaration on the Rights of Indigenous Peoples*, while not legally binding, is supported by the Australian Government.

Human rights and prisoners

A basic human rights principle is that all people deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the person. A prison deprives a prisoner of their right to liberty, but should not deprive them of other rights. The legal framework that protects the human rights of prisoners is a combination of state and federal laws based on international instruments Australia has signed, acceded to, or ratified.

⁷ United Nations, *Standard Minimum Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules).

⁸ Australian Government, Department of Foreign Affairs and Trade, Treaties (website).

In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.

Rule 22, Nelson Mandela Rules

Commonwealth and Queensland laws and guidelines

The *Standard Guidelines for Corrections in Australia* provide guidance on appropriate outcomes or goals to be achieved by correctional services, rather than a set of absolute standards or laws to be enforced.⁹ They represent a statement of national intent, around which each Australian state and territory jurisdiction (including Queensland) develops its own range of relevant legislative, policy, and performance standards that can be amended to reflect best practice and community demands at state and territory level.

A number of Commonwealth laws also protect Queensland prisoners from discrimination.¹⁰

Queensland legislation

Prisons in Queensland operate under the *Corrective Services Act 2006* (Qld) (the CSA), the *Corrective Services Regulation 2017*, and a series of Corrective Service policies and procedures.

The purpose of corrective services is set out in section 3 of the CSA. Section 3 states:

3: Purpose:

(1) The purpose of corrective services is community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders.

(2) This Act recognises that every member of society has certain basic human entitlements, and that, for this reason, an offender's entitlements, other than those that are necessarily diminished

⁹ *Standard Guidelines for Corrections in Australia*, Revised 2012.

¹⁰ They include the *Racial Discrimination Act 1975* and the *Disability Discrimination Act 1992*.

because of imprisonment or another court sentence, should be safeguarded.

(3) This Act also recognises—

(a) the need to respect an offender's dignity; and

(b) the special needs of some offenders by taking into account—

(i) an offender's age, sex or cultural background; and

(ii) any disability an offender has.

The *Anti-Discrimination Act 1991* (Qld) (the ADA) was passed by the Queensland Parliament to promote equality of opportunity for everyone by protecting them from unfair discrimination, sexual harassment, and other associated objectionable conduct. Prisoners can make complaints to the Anti-Discrimination Commission alleging unlawful discrimination, including discrimination on the basis of sex, race, impairment, sexuality, religious belief or activity, gender identity, and family responsibilities.¹¹ Complaints that cannot be conciliated by the Anti-Discrimination Commission can be referred to the Queensland Civil and Administrative Tribunal for determination, or the Queensland Industrial Relations Commission if they are about work.

¹¹ Prisoners' rights to complain under the *Anti-Discrimination Act 1991* differ from non-prisoners, due to Part 12A of the *Corrective Services Act* which commenced in 2008.

2. Justice system impacts

Queensland's Commissioner of Police, Mr Ian Stewart, has recently stated:

arresting more people and putting more people in jail is not the answer to making Australia a great nation....as a community we've got to look at smarter ways of dealing with people who make minor errors and ones that can be perhaps diverted from the criminal justice system rather than being subsumed by it.¹²

The Anti-Discrimination Commission Queensland agrees with the Police Commissioner's comments.

A number of systemic issues relating to the operation of the criminal justice system were raised during our consultation, and, if dealt with in a 'smarter' way, could result in fewer women being in prison for relatively minor offences. We have noted a number of issues contributing to the high incarceration rate of women which, if addressed, may result in a fairer and more cost-effective criminal justice system for women prisoners, particularly those with individual or additional needs.

Cost of imprisonment

The Productivity Commission's 2019 *Report on Government Services* calculates that Queensland's net operating expenditure 'per prisoner per day' was \$181.55 in 2017-18 equating to \$1.57 million per day for the number of current prisoners (based on the 2017-18 average daily state).¹³ According to the Sofronoff review, the approximate average cost to government of accommodating prisoners at 'above built capacity' is \$111 per prisoner per day.¹⁴

'Prison is a blunt, harmful, and extremely expensive way to try to control crime, and there are better and more effective ways of cutting crime.'

Smart Justice, Justice reinvestment: investing in communities not prisons [Fact sheet] (Smart Justice, 2 July 2015).

¹² 'Top Cop says jail not the answer to crime', *The Courier Mail* (Brisbane), 1 August 2017.

¹³ Australian Government, Productivity Commission, *Report on Government Services 2016*, (Productivity Commission, 2016), Chapter 8, Corrective services, Table 8A.9.

¹⁴ Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, 63 at [284].

Justice reinvestment

Justice reinvestment is an approach that tackles the causes of crime and provides a viable option as our prison expansion costs become unsustainable. It redirects money spent on prisons to community-based initiatives that aim to address the underlying causes of crime. The benefits of justice reinvestment have been canvassed by the Australian Law Reform Commission in its report *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*.¹⁵

In the United Kingdom, a social return on investment analysis of alternatives to incarceration for women found that, over ten years, for every £1 spent on alternatives to prison, £14 worth of social value was generated to women and their children, victims and society. Professor Julie Stubbs has observed that:

*This demonstrates the paradox of women's imprisonment, in that while the number of women imprisoned relative to men is small, the potential negative impact it has on society is very large; women's incarceration is very likely to diminish the prospects of future generations since women are an important 'resource' for their communities and families, and especially their children.*¹⁶

The Australian Bureau of Statistics (ABS), the Australian Institute of Criminology (AIC) and other independent, non-government organisations have monitored imprisonment rates and other social data of people who come into contact with the criminal justice system for some years. In their September 2012 paper, the AIC identified areas in Queensland that produced chronic and costly offenders, according to their postcodes.¹⁷

Prior to the AIC research, Professor Tony Vinson analysed indicators of disadvantage, including imprisonment, to map the most disadvantaged areas in Australia in his 2007 study, *Dropping off the Edge: the distribution of disadvantage in Australia*.¹⁸ Professor Vinson found that 3% of Australia's postcodes account for a disproportionate amount of disadvantage. These areas had at least twice the rate of unemployment, criminal convictions, imprisonment, child maltreatment, disability support recipients, and psychiatric admissions. Some of those most disadvantaged communities in Queensland are areas with high Aboriginal populations.

¹⁵ Australian Law Reform Commission, *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, ALRC Report 133 (2017), chapter 4.

¹⁶ Julie Stubbs, 'Downsizing Prisons in an Age of Austerity? Justice Reinvestment and Women's Imprisonment' [2014] *UNSWLRS* 46, 18.

¹⁷ Troy Allard, April Chrzanowski, and Anna Stewart, 'Targeting crime prevention to reduce offending: Identifying communities that generate chronic and costly offenders', (2012) *Trends & issues in crime and criminal justice* no. 445, 2.

¹⁸ Tony Vinson, *Dropping off the Edge: the distribution of disadvantage in Australia* (Jesuit Social Services and Catholic Social Services Australia, 2007).

The *Dropping off the Edge* report found that just 1.7% of postcodes and communities across Australia account for more than seven times their share of top rank positions on the major factors that cause intergenerational poverty,¹⁹ and further stated that:

Our findings demand recognition of a common pattern associated with inadequate education and training – unemployment, low income, poor health and ‘making ends meet’ by criminal means, resulting in high rates of convictions and imprisonment.

In 2015, a subsequent *Dropping off the Edge* report revealed that those localities identified as extremely disadvantaged in the 2007 report continued to be disadvantaged. The report looks at the ‘complex web of disadvantage’ in these communities that have high levels of youth disengagement, long-term unemployment, and prison admissions.²⁰

The Commission concurs with the recommendations 4-1 and 4-2 made by Australian Law Reform Commission’s Pathways To Justice report in relation to justice reinvestment.²¹

Recommendation 1: justice reinvestment

The Queensland Government supports the establishment of an independent justice reinvestment body, the purpose of which would be to promote the reinvestment of resources from the criminal justice system to community-led, place-based initiatives that address the drivers of crime and incarceration, and to provide expertise on the implementation of justice reinvestment.

Its functions would include:

- providing technical expertise in relation to justice reinvestment;
- assisting in developing justice reinvestment plans in local sites; and
- maintaining a database of evidence-based justice reinvestment strategies.

The justice reinvestment body should be overseen by a board with Aboriginal and Torres Strait Islander leadership.

¹⁹ Ibid, xi.

²⁰ Tony Vinson and Margaret Rawsthorne, *Dropping off the Edge: persistent communal disadvantage in Australia* (Jesuit Social Services and Catholic Social Services Australia, 2015).

²¹ Australian Law Reform Commission, *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, above n 65, Recommendation 4-2.

Recommendation 2: justice reinvestment

The Queensland Government supports justice reinvestment trials initiated in partnership with Aboriginal and Torres Strait Islander communities, including through:

- facilitating access to localised data related to criminal justice and other relevant government service provision, and associated costs;
- supporting local justice reinvestment initiatives; and
- facilitating participation by, and coordination between, relevant government departments and agencies.

Recommendation 3: data analysis (postcodes)

The Queensland Government periodically analyses the home location postcodes of women prisoners to determine which communities are contributing disproportionately to the prison population, with a view to directing resources to those locations.

Blockages in the justice system

Lack of timely legal assistance

Our consultation found that many women are not receiving timely legal assistance, and sometimes the legal services they are provided with are inadequate.

Very few of the many women on remand have legal assistance. During our consultation, we were told that some women mistakenly think the duty lawyer who appeared in court with them on their arrest is their long-term legal representative. Some women remain in custody on remand for six to seven months for a first offence breach of a domestic violence (DV) order, while waiting for their matter to be prepared by the Department of Public Prosecutions (DPP). Routinely, these women are released when they next appear in court.

Legal Aid Queensland provides a limited criminal law legal service for all prisons. While social inclusion issues such as homelessness, mental health and disability are considered in granting aid there is no guarantee of aid for Magistrates Court guilty pleas or trials.

The first four weeks after a person is arrested is the most critical time. If they are remanded to custody with no legal advice, in that time they can lose their job, their house, and their children.

Prisoner's Legal Service suggests that providing basic legal advice would help the flowthrough of people before Magistrates, and make the system more efficient and effective. More successful grants of bail, early guilty pleas, and appropriate diversion from custody could be facilitated with timely legal advice and assistance.

Failing to apply for bail

Experienced criminal justice lawyers we consulted suggested that many women are on remand in prison, and have not sought bail. They are of the opinion that some less experienced duty lawyers are not seeking bail when it would be appropriate to do so, and that lawyers working with Aboriginal and Torres Strait Islander clients need specialist training to work and communicate effectively with these clients in order to get clear and relevant instructions to put before the court. Considering the cost of imprisonment, significant savings could be made if bail applications were made on behalf of women **before** they were remanded to custody.

The success of the Queensland Corrective Services-funded Supreme Court Bail Program delivered to women **after** they go to Queensland prisons illustrates the merits of such programs.

Recommendation 4: failing to apply for bail

The Queensland Government funds specialised duty lawyer assistance for vulnerable prisoners and legal representation for Magistrates Court guilty pleas and trials.

High number of remand prisoners

Women's prisons (and in fact the majority of all Queensland prisons) hold a high number of remand prisoners, and this number has increased steeply over the past five years. The Sofronoff review stated:

Queensland's remand population is consistent with other Australian jurisdictions, with 31 per cent of all prisoners held in Australia being unsentenced. In 2015–16 the flow of prisoners on remand through the system in Queensland was examined by QCS and it was found that a total of 5,568 prisoners were admitted on remand in that year. Approximately 48 per cent of the prisoners spent less than two months on remand, almost 30 per cent were released from remand to freedom or to a non-custodial sanction, with 70 per cent sentenced to imprisonment. It was found 43 per cent of the prisoners sentenced to imprisonment were released on the same day to court ordered parole.²²

²² Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, 59–60 (citations omitted).

Many remand prisoners are released when they appear before the court without having to serve further time in prison, because they are found not guilty, are given a community order, or deemed to have served their time. We were told ‘many women sit in remand for months, not knowing what is happening to their case.’ During our consultation, we heard that some remand prisoners are being held in prison for periods longer than their final sentence, and are concerned that delays or other blockages in the justice system are leaving people in prison for periods longer than warranted.

Recommendation 5: high number of remand prisoners

Queensland Corrective Services Sentence Management Unit case-manages women on remand to ensure they get a call from a lawyer within the first week of entering prison. Also, that one week prior to the sentencing hearing, if a woman hasn’t had contact with a legal representative, Sentence Management Unit organises this as part of the woman’s progression plan.

We were also told that many Aboriginal or Torres Strait Islander women are in on remand for bail breaches, such as failing to appear in court on their designated court date. Better support and diversion programs may assist with this.

Short notice release from prison was an issue commonly raised with us during our consultation.

The Sofronoff review commented that a re-entry service

to assist remandees who are discharged at short notice is an important feature lacking in Queensland... the remand prisoner population in Queensland is significant, yet they do not receive intervention or dedicated re-entry services and the other services provided are limited. I consider this is an important aspect that must be examined further by government.²³

The Commission supports the Sofronoff review’s observation, and Recommendation No. 33:

Queensland Corrective Services should expand its re-entry services to ensure that all prisoners have access to the services, including specialty services to assist remandees and short sentenced prisoners.²⁴

In response to the significant growth of the female remand population, QCS initiated funding for the Supreme Court Bail Program delivered by the independent community organisation, Sisters Inside.

²³ Ibid 159 at [796].

²⁴ Ibid 160. The Queensland Government response to the Sofronoff review has indicated that it will expand re-entry services for prisoners.

A Sisters Inside-appointed solicitor triages remanded prisoners to determine their eligibility for the program, and provides support during their bail application. The solicitor is assisted by two prisoners who have been trained as peer bail clerks. The key focus of the program is to support women to address the issues that may have contributed to being remanded in custody, such as lack of accommodation.²⁵

At 6 February 2019, 92 prisoners had successfully applied for, and were released on bail. This allows the women to return to their communities and families, while awaiting determination of their court matters. It also produces cost savings by reducing the number of women in custody who could otherwise be safely supported in the community. QCS extended the pilot program to Townsville Women's Correctional Centre, and has been delivered by Sisters Inside since January 2017.

The Department of Child Safety, Youth and Women recently appointed Sisters Inside to operate a Women's Bail Assistance program in South East Queensland and North Queensland. The purpose of this program is to assist women on remand access accommodation once they have been released to bail.²⁶

Substance abuse-related crime

Our consultation heard that there are insufficient resources and programs available to adequately address substance abuse issues for prisoners. This view has been supported by recent news stories and academic research.²⁷

Responses to the extensive problem of substance abuse-related crime could include pre and post-court interventions — such as police diversion schemes, bail programs, deferred and suspended sentences, conditional sentences and treatment regimes — both in and out of custody.

Encouragingly, in August 2017 new legislative framework and funding was introduced to support the reintroduction of the Drug Court program in Queensland.²⁸ A drug court forms an integral part of a criminal justice system, and addresses high-risk and high-needs offenders. The Queensland Drug and Specialist Court Review report stated that:

Drug courts provide a number of cost-related and social benefits to the community, operating as an alternative to imprisonment and addressing the underlying issues related to their offending. Although difficult to quantify, the health and social benefits of drug courts, not just for the offender but for their family and community,

²⁵ Queensland Government, *Corrections News*, 22 December 2016.

²⁶ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

²⁷ Emilia Terzon, 'Queensland corrections system "pathetic" over drug rehab, Supreme Court judge says' *ABC News Online*, 25 August 2017; Christine Bond, Samantha Jefferies, and Heron Loban, *Exploring Indigenous and Non-Indigenous Sentencing in Queensland*, (Department of the Premier and Cabinet, Indigenous Criminal Justice Agenda, 2011), 81.

²⁸ *Penalties and Sentences (Drug and Alcohol Treatment Orders) and Other Legislation Amendment Bill 2017* (Qld).

*are equally important. These benefits include reductions in drug use and associated health issues, easing the burden these offenders place on the health system, the reunification of families, babies born drug-free, the retention of stable accommodation, engagement of offenders in employment, education and training, and a reduction in offending.*²⁹

A Drug Court was established in Queensland as a pilot in 2000, and expanded upon and made permanent in 2006, but was discontinued in 2013. The Court operated as a post-sentence option in five locations across Queensland (Beenleigh, Ipswich, and Southport in South-East Queensland, and Cairns and Townsville in North Queensland).

Recently, as part of implementation of the Sofronoff Review recommendations, \$3 million per annum was allocated to QCS to increase the number of substance abuse programs delivered in prisons and also in community corrections. This has allowed an increase in intensive alcohol and other drug (AOD) programs in prisons, implementation of new individual intervention services and programs specifically targeted to women, youth and Indigenous offenders.³⁰

Research shows that, for Aboriginal and Torres Strait Islander offenders, there are substantial benefits to residential treatment programs for substance abuse issues, rather than sentencing the person to prison.³¹

A more therapeutic approach is likely to:

- assist rehabilitation;
- decrease the number of people who use drugs becoming involved in the criminal justice system;
- produce better health outcomes; and
- result in significant savings to the taxpayer.

Recommendation 6: substance abuse-related crime

The Queensland Government continues to increase available resources for therapeutic substance abuse programs, both in and out of custody.

²⁹ Queensland Drug and Specialist Courts Review, Report summary and recommendations (Queensland Courts, 2016) 4.

³⁰ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

³¹ Deloitte Access Economics, *An economic analysis for Aboriginal and Torres Strait Islander offenders: prison vs residential treatment* (Australian National Council on Drugs, 2012).

Diversion programs

The 2006 *Women in Prison* report noted that diversion from custody programs for suitable candidates were inadequate.³²

Currently, Queensland courts offer a number of diversionary processes, and several programs that were disbanded in 2013 have recently been reintroduced, including the Drug Court.³³

The Queensland Integrated Court Referrals (QICR) program has been introduced in four locations across Queensland.³⁴ The QICR is a court process that helps defendants in the Magistrates Court access treatment and support services through short-term, bail-based referrals. The services help defendants address the contributors to their offending, specifically:

- problematic substance use;
- mental illness;
- impaired decision-making capacity; and
- homelessness, or risk of homelessness.

The Murri Court has also been re-established in 14 locations across the state after being disbanded in 2013, and links Aboriginal and Torres Strait Islander defendants to cultural and support services to help them make changes in their lives and stop offending.³⁵ Elders, or respected members of the community, are in the courtroom to guide and encourage defendants, and help magistrates understand more about defendants' personal and cultural circumstances.

The recent reinstatement of these programs may assist in diverting more women from custody. However, the number of women who continue to be placed in prison on remand for what, ultimately, may be a very short sentence is costly, as well as being highly disruptive to the individual and her dependant family members.³⁶ Funding for more community-based sentencing alternatives and interventionist courts (such as the DV Court) to facilitate diversion from prison is highly desirable.³⁷ Imposing a custodial sentence should always be a last resort.

³² Anti-Discrimination Commission Queensland, *Women in Prison* report, above n 4, Recommendations 35 and 55.

³³ Queensland Courts, Department of Justice and Attorney-General, Court programs [website].

³⁴ Brisbane, Cairns, Ipswich, and Southport.

³⁵ Murri Courts are located in the Magistrates and Childrens Courts in Brisbane, Caboolture, Cairns, Cherbourg, Cleveland, Mackay, Maroochydore, Mount Isa, Richlands, Rockhampton, St George, Toowoomba, Townsville, and Wynnun.

³⁶ It is also concerning that people who default on fines can still be imprisoned in Queensland, because unpaid SPER fines have resulted in loss of a driver's license and the defaulter ends up before the courts, due to being charged with driving while disqualified.

³⁷ Emilia Terzon, 'Indigenous elders join magistrates in special court for offenders willing to rehabilitate' *ABC News Online*, 7 June 2017; Christine Bond, Samantha Jefferies, and Heron. Loban, *Exploring Indigenous and Non-Indigenous Sentencing in Queensland*, above n 22.

The Commission is encouraged by recent proposals for ‘healing centres’ in remote areas, staffed and run by Aboriginal and Torres Strait Islander community members that would focus on dealing with underlying social issues in order to rehabilitate people.³⁸

Recommendation 7: diversion programs

- a. The Queensland Government takes action so that low risk Aboriginal and Torres Strait Islander women are diverted from prison into non-custodial services.
- b. The Queensland Government places greater focus on providing wrap-around community engagement and facilitated support to help all eligible low risk women commit to a managed plan that enables them to stay in the community, rather than being placed in custody.

Parole

The November 2016 report of the *Queensland Parole System Review* undertaken by Walter Sofronoff QC comprehensively examined the parole system in Queensland. Since the release of that report, the government has announced an injection of funding of \$265 million over six years to reform the parole system in line with all but two of the report’s recommendations.³⁹ Many of those recommendations address issues that arose throughout the Commission’s consultation.

In particular, an issue raised with us concerned the challenges of applying for parole, which is initiated by the prisoner through submitting a complex written form.⁴⁰ This greatly disadvantages women with low literacy, who may end up serving a full term due to their failure to meet the written requirements of the parole application system. The Prisoners Legal Service *Safe Way Home: Parole Application Handbook* is a comprehensive and useful resource for a highly literate prisoner, but it is very complex and challenging for a person with low literacy. Some Aboriginal and Torres Strait Islander prisoners, prisoners from diverse cultural backgrounds, and prisoners with intellectual or cognitive disabilities are the most disadvantaged. No legal aid grants are given to assist prisoners with their parole applications.

If a prisoner manages to submit an application, they may still receive a preliminary refusal of parole, with the Parole Board seeking more information. We were told that parole is often refused if extra written material is not provided by a prisoner, even if due to their lack of literacy or comprehension skills.

³⁸ ‘Rehabilitation on the Cards’ *Koori Mail*, 9 August 2017, 9; Allyson Horn, ‘Remote “healing centres” instead of jail could fight Indigenous recidivism: Corrective Services expert’ *ABC News Online*, 14 June 2017.

³⁹ Queensland Government, *Budget Measures 2017–18: Expense measures*.

⁴⁰ Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, 124.

During our consultations, we also heard concerns that sometimes allegedly inaccurate prison officer notes about prisoners are provided to the Parole Board. Prisoners said that they have no means to challenge or review those submissions, apart from undertaking right to information requests.

The Sofronoff review described the process of compiling material for a QCS parole panel, and the preparation of a report for the Parole Board. It was critical of the process, and recommended that QCS should abandon its fragmented approach to case management, including the parole panels. The review was concerned that inadequate processes for assessing prisoners 'lead to decisions and recommendations being made on the basis of unstructured judgment rather than maintaining consistent formal assessment to aid decision-making.'⁴¹

The review recommended a new case management system and a new parole application process.⁴² A new Parole Board Queensland commenced operations in July 2017 supported by a new parole process. QCS has advised the parole application process is under review, including the establishment of Parole and Assessment Units to support the parole application process.⁴³

Within the case management framework, women need a system to help them understand their right to apply for parole, prompt them to put in their parole application, and assist if their English literacy is poor. The parole application system should be transparent, and include a means for a prisoner to challenge and make submissions about information before the Parole Board that they believe is inaccurate or incorrect.

Recommendation 8: parole

Queensland Corrective Services ensures that the case management framework for prisoners includes systems to:

- help prisoners understand their right to apply for parole;
- prompt prisoners to put in their parole application when it is due; and
- provide assistance to prisoners if their English literacy is poor.

⁴¹ Ibid 128 at [648].

⁴² Ibid 121 to 124, and Recommendations 12 to 16.

⁴³ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

Domestic violence

Domestic violence (DV) has been comprehensively examined in the *Not Now, Not Ever: Putting an end to domestic and family violence in Queensland* inquiry and report.⁴⁴ Following release of the report, the Queensland Government enacted new legislation resulting in some significant changes to domestic violence laws.⁴⁵

The right to live a life free of violence is a basic human right, and the Commission endorses the protection and support of victims of domestic violence.⁴⁶

During our consultations, the Prisoners Legal Service and Sisters Inside reported that over the past two years there have been large increases in women remanded in custody for domestic violence or breaches of DV orders. We are informed that Legal Aid is not available to people sentenced to prison for less than six months, and that many women in prison for breaches of DV orders are in prison for their first offence.

Sisters Inside informed us that, in particular, imprisonment rates for women charged with domestic violence have risen significantly in North Queensland. They suggest that changes to DV laws and arrest policies have led to an increase in women associated with domestic violence being arrested, and that, on occasions, the police arrest a woman, as well as, or instead of, the male perpetrator. They attest that many Aboriginal and Torres Strait Islander women are in Townsville Women's Correctional Centre (TWCC) for breaches of DV or bail orders (for example, not having contact with a DV partner/ ex-partner.) Sisters Inside suggest that this type of order is sometimes impossible for Aboriginal and Torres Strait Islander women to comply with in communities where many people share housing with the woman, and that non-contact orders are sometimes 'setting Aboriginal and Torres Strait Islander women up to fail.'

The Commission understands that when domestic violence is criminalised, rates of dual arrests and rates of arrests of women can significantly increase, due to the pressure on police to make arrests in complicated circumstances.⁴⁷ Some academic discussions around the criminalisation of domestic violence argue that a strong focus on criminal justice policies risks greater state control of women, and that such a focus

⁴⁴ Special Taskforce on Domestic and Family Violence in Queensland, *Not now, not ever: putting an end to domestic and family violence in Queensland* (Department of Communities, Child Safety and Disability Services, 2015).

⁴⁵ The *Criminal Law (Domestic Violence) Amendment Act 2015* was passed on 15 October 2015. Changes were made to the *Domestic and Family Violence Protection Act 2012* on 17 December 2015, and further amendments were made to *Criminal Law (Domestic Violence) Amendment Act* in 2016.

⁴⁶ *Universal Declaration of Human Rights*, Articles 3 and 5.

⁴⁷ Jackson McInerney, 'Should criminal charges apply in more domestic violence cases' ABC Radio, *Law Report*, 14 August 2015.

may expose women themselves to the greater chance of arrest for domestic violence, other offending, and to the removal of their children.⁴⁸

The preferred approach to domestic violence is a holistic one; education, health, and social policy are all crucial in this area. Professor Heather Douglas from the University of Queensland has said, 'Research has shown both the potential value of criminal prosecution for those who have experienced domestic violence but it has also shown that there are dangers.'⁴⁹

We suggest that appropriate agencies investigate what is allegedly happening to women charged with DV to determine if there are unintended consequences associated with the recent changes to domestic violence criminal laws.

Recommendation 9: domestic violence

The Queensland Government examines new domestic violence laws and policies for unintended adverse consequences (including incarceration) for Aboriginal and Torres Strait Islander women in North Queensland.

Housing issues

Lack of short and long-term affordable housing is an issue in many parts of Australia, including areas in Queensland, and there are no quick or easy answers to this issue. In response to contemporary housing needs, the *Queensland Housing Strategy 2017–2027* was released in June 2017.⁵⁰ The strategy states that:

Housing and homelessness services will take a more holistic and person-centred approach, and people will be linked to the support they need to improve their wellbeing and self-reliance, and access and sustain safe and secure tenancies.

It also states:

Vulnerable Queenslanders will have access to, and will sustain housing through early intervention, referrals, coordinated support, and personalised assistance.

Housing and support will be proactively delivered to provide pathways and support broader human services outcomes for vulnerable Queenslanders.⁵¹

⁴⁸ Heather Douglas, 'The criminal law's response to domestic violence: what's going on?' (2008) 30(3) *Sydney Law Review* 439. See also Heather Douglas and Robin Fitzgerald, 'How Indigenous women have become targets in a domestic violence system intended to protect them' *The Conversation*, 14 September, 2018.

⁴⁹ Heather Douglas, 'The criminal law's response to domestic violence: what's going on?' 469.

⁵⁰ Queensland Department of Housing and Public Works, *Queensland Housing Strategy 2017–2027* (the Department, 2017).

⁵¹ *Ibid* 17.

Housing issues are having an adverse impact on many women in prison consulted during this review, as discussed in more detail below.

Suitable housing for bail applicants

When appearing in court for the first time after their arrest, women who would otherwise be eligible for bail are being refused bail because they are homeless and have nowhere to go.⁵²

Aboriginal and Torres Strait Islander women, in particular, who may have a home are also being refused bail because their home is not seen as suitable. The reason their home is unsuitable is that other people with a criminal history also reside in that home.

The Department of Child Safety, Youth and Women has recently appointed Sisters Inside to operate a women's bail assistance program in both south east and north Queensland to assist women on remand to access accommodation once they have been released to bail. The program is currently in the implementation phase.⁵³

Recommendation 10: bail applicants and housing

The Queensland Government continue to seek alternative solutions to imprisoning women on remand who would otherwise be eligible for bail, but for the fact they do not have a suitable home address.

Parole Board requirement of address

We heard that Aboriginal and Torres Strait Islander women (and other women) are being refused parole because their home is assessed by the Parole Board as not being suitable, because other people with a criminal history also reside at that address, or because the woman simply has no home.⁵⁴

For many Aboriginal and Torres Strait Islander women, and particularly those who live in Aboriginal and Torres Strait Islander communities, living with family members (who may also have a criminal history) is the best, and only, home they will ever have. They will inevitably return to this home once their full prison sentence has been served.

QCS has advised the home assessment practice was amended in mid 2017, whereby living with other people with a criminal history does not necessarily mean a negative report, especially when this is the environment the parolee will live in long term. The objective now is that if

⁵² Walter Sofronoff QC, *Queensland Parole System Review: Final Report* above n 3, 160 at [798].

⁵³ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

⁵⁴ Ibid 160.

a person is released on parole, a parole officer can provide some support to the person whilst they are living in their usual home environment.⁵⁵

This is a welcome change. If the Parole Board continued to insist that these women find an alternative address in order to succeed in their parole application, this is a term with which they cannot comply, and may be a form of indirect race discrimination.⁵⁶

Through our consultations, many women prisoners with no home to return to said that they are placed in a 'catch 22' situation when seeking parole. They said that the Parole Board is often not willing to grant parole unless a prisoner has arranged transitional accommodation, and can confirm the address and the arrangements they have made. Frequently, and for good reasons, housing providers will not commit to allocating transitional housing to a person, unless they know specifically what date they will be moving into it. For a prisoner to negotiate with a housing provider to secure a transitional home, they need to have certainty about when they will be moving into that home. This puts homeless women in an impossible position to successfully apply for parole. They may spend a longer period in prison than others simply because they are unable to negotiate an address for a transitional home.

Lack of transitional and long-term housing

Many women leaving prison have no home to go to. There is a shortage of transitional and long-term accommodation for homeless women in Queensland, and it is apparent that more homeless women are leaving prison than there is available accommodation. The Sofronoff report recommended that:

*An intergovernmental taskforce, with representation from the Department of Housing and Public Works, Queensland Corrective Services and the Department of the Premier and Cabinet, should be established to examine the issue of the availability of suitable long term accommodation for prisoners and parolees.*⁵⁷

Women leaving prison are attempting to access standard accommodation available to homeless people, and they encounter many barriers in finding a place.⁵⁸ This means that some women stay in jail until the end of their sentence, even though they may be eligible to access parole. It also means women may be at greater risk of reoffending once they have left prison, because of their homelessness. Early intervention, and efficient planning and service coordination is critical when assisting people exiting prison.

⁵⁵ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

⁵⁶ *Anti-Discrimination Act 1991* (Qld), sections 11 and 101.

⁵⁷ Walter Sofronoff QC, *Queensland Parole System Review: Final Report* above n3, 161, Recommendation No. 34.

⁵⁸ For instance, some accommodation providers are not prepared to accept more than three women at a time who have just left prison.

We are pleased to note that an intergovernmental taskforce, with representation from a number of agencies was established in 2017 to examine the issue of the availability of suitable long term accommodation for prisoners and parolees. We have been informed that a number of initiatives have been identified through this taskforce, which are in the planning phase.⁵⁹

Through community organisations, QCS has recently funded transitional services to women in South-East Queensland — the MARA project ('Mara' is a cultural word for women) — and has several initiatives underway to address housing issues. To assist with the major gap in housing availability MARA has approached private rental providers and engaged in head leasing agreements. Women are accommodated in subsidised housing whilst MARA supports them to gain long-term accommodation with the Department of Housing and Public Works (DHPW), Community Housing Providers or via the private rental market. In February 2019, MARA had six properties dedicated to women with 13 women through this initiative.

In January 2018 MARA commenced provision of support to women in the 'Next Step Home – Women on parole' pilot program(a joint initiative with DHPW). This pilot program aims to provide women, who would otherwise be homeless or at risk of being homeless on release from custody, with timely access to secure and appropriate housing and coordinated support services. Women receive support while in custody, transitioning out of prison and in the community. Dedicated DHPW staff work in collaboration with MARA to provide a coordinated person-centred tenancy and individual support services to women.

As of 4 February 2019, a total of 67 women had been assisted through this support housing pilot in SEQ. It is anticipated 120 women will be supported over a three year period.⁶⁰

Re-entry accommodation — particularly longer-term accommodation, together with funding to provide continuous support for high-needs women exiting prison — is a service that requires ongoing development and funding in Queensland. The Cairnlea model in Victoria and Drew House in the USA are examples of a possible model of housing solutions for women with a high need for support.

The Cairnlea model

The Cairnlea Housing and Support Model was conceived at a time when policymakers and government departments, including Corrections Victoria, were concentrating on the development of transitional support frameworks. At this time, the connection between the provision of post-release support, the prevention of homelessness, and the reduction of

⁵⁹ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

⁶⁰ Queensland Corrective Services letter to Anti-Discrimination Commission Queensland, 19 February 2019.

recidivism was also formally recognised within the Victorian Homelessness Strategy, which included funding for a number of transitional programs for men and women being released from Victorian prisons.

The aim of the program was to provide safe, stable, and affordable long-term housing with access to support, as needed, for women who have left prison. The Cairnlea model comprised six housing properties for women who have experienced incarceration and who have demonstrated the ability to maintain tenancy post-release.

Cairnlea housing and support model is a separate, long-term housing and support option that is distinct from the provision of support during the post-release transition. In an evaluation of the service, all those interviewed emphasised the importance of ensuring that the Cairnlea houses are geographically and operationally distinct from the transitional housing programs that women access immediately post-release.⁶¹

Drew House

Drew House is a partnership between the Kings County (Brooklyn, New York) District Attorney's Office and Housing + Solutions, a non-profit supportive housing provider. This program allows select women charged with felony offenses to fulfill the Court's mandates while living with their children in a supportive housing apartment. Felony charges are dismissed after completion to prevent future disenfranchisement. The Drew House Model provides supportive housing in a non-secure setting as an alternative to incarceration for women with minor children. All mothers with felony charges are eligible for consideration on a case by case basis (those charged with violent felony offenses are eligible for consideration if the crime did not result in serious injury and the victim approves.) Participants are ordered to reside in Drew House until the court determines the terms of their mandate are completed (generally between 12 and 24 months).

The case and housing managers use a strengths-based, relational approach in partnering with women individually and as a group to decrease risks associated with future criminal justice contact and to promote independence. Staff also model prosocial behavior, assist women in attaining and maintaining self-sufficiency through employment and public assistance, support positive relationships with family and partners, and connect participants with education and vocational training. Support in seeking post-mandate independent housing is also provided.

The case manager works to connect families to needed primary and specialty health care and developmental support services, such as Early Intervention. An evaluation found 'Allowing select women charged with felonies and their children to reside in Drew House strengthened these families without compromising public safety.' It also found no participants were charged with an additional crime while living in the house and that

⁶¹ Marie Seagrave, Bree Carlton and Shelley Mallett, *Cairnlea Housing & Support Model: Evaluation Report* (Monash University, 2010).

the Drew House program supported family preservation, especially with younger children.⁶²

Recommendation 11: transitional and long-term housing

- a. The Queensland Government ensures that early intervention and efficient planning and service coordination are implemented to address the housing issues affecting women when seeking bail and parole, diversion from prison, transition from prison, and post-prison.
- b. Queensland Corrective Services continues the development and funding of models involving partnerships with the Department of Housing, NGOs, and individual women to enable women to be placed in supported accommodation, thereby assisting their successful return to the community.

Independent oversight of prisons in Queensland

The Sofronoff review noted that although there are multiple layers of accountability and investigation powers in the operation of Queensland Corrective Services (QCS), Queensland is one of a few jurisdictions in Australasia that does not operate an independent inspectorate to oversee and critically examine the operations of the correctional system.⁶³

Mr Sofronoff QC was of the view that the establishment of an independent body to scrutinise the operations of QCS is necessary to reassure the Queensland public that the system is operating effectively, efficiently, appropriately, and within its powers where the detention, management, and treatment of persons is concerned. He made a recommendation to this effect (Recommendation No.88).⁶⁴ The Queensland Government has responded that it will establish an independent inspectorate based on the conditions outlined in Recommendation 88.⁶⁵

The establishment of such a body is essential as Australia has now ratified the Optional Protocol to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT). OPCAT is an international agreement adopted by governments to prevent abuse of people in detention, and to open those places to regular independent

⁶² National Resource Centre on Justice Involved Women, *Innovator profile: Drew House*.

⁶³ Walter Sofronoff QC, *Queensland Parole System Review: Final Report* above n 3, 236, 240.

⁶⁴ Ibid 248. The 2006 *Women in Prison Report*, above n 4, made a similar recommendation. See recommendation 67.

⁶⁵ Queensland Government, Response to *Queensland Parole System Review* recommendations above n 39.

inspections. The convention directly deals with the need to provide and strengthen the protection for persons deprived of their liberty, including those who are in prison. Australia became a signatory in 2009, declared its intention to ratify OPCAT by the end of 2017, and on 15 December 2017, the Australian Government announced it had ratified the treaty.

Discrimination complaints

One area where prisoners are denied the same human rights as other people in Queensland is their ability to make a complaint of discrimination under the *Anti-Discrimination Act 1991*. The 2008 amendments to the *Corrective Services Act 2006* mean that prisoners have more limited complaint rights than other people in Queensland.⁶⁶ Human rights apply to all people regardless of their status as prisoners or otherwise.

Making a complaint under the *Anti-Discrimination Act 1991* provides an opportunity for independent handling of a prisoner's complaint, and ensures protection against unlawful discrimination. The requirement that a prisoner must satisfy a series of pre-conditions before they are entitled to make a discrimination complaint against correctional centre staff or the State is a significant hurdle for prisoners, and inhibits and delays the independent oversight of such complaints. The Commission suggests that now is an appropriate time for QCS and the Queensland Government to review whether these provisions ought to remain in the *Corrective Services Act*.

Recommendation 12: independent prison oversight

Queensland Corrective Services and the Queensland Government should review Part 12A of the *Corrective Services Act 2006* with a view to repealing those sections.

⁶⁶ *Corrective Services Act 2006* (Qld) Part 12A.

3. Women prisoners

Locations of women's prisons

Queensland currently has six prisons for women and two work camps.⁶⁷ Three of those prisons (Brisbane Women's, Southern Queensland and Townsville Women's) are high security facilities. Four of the prisons are located in South-East Queensland and two in Townsville. Historically, women prisoners constitute a very small percentage of the total Queensland prison population.

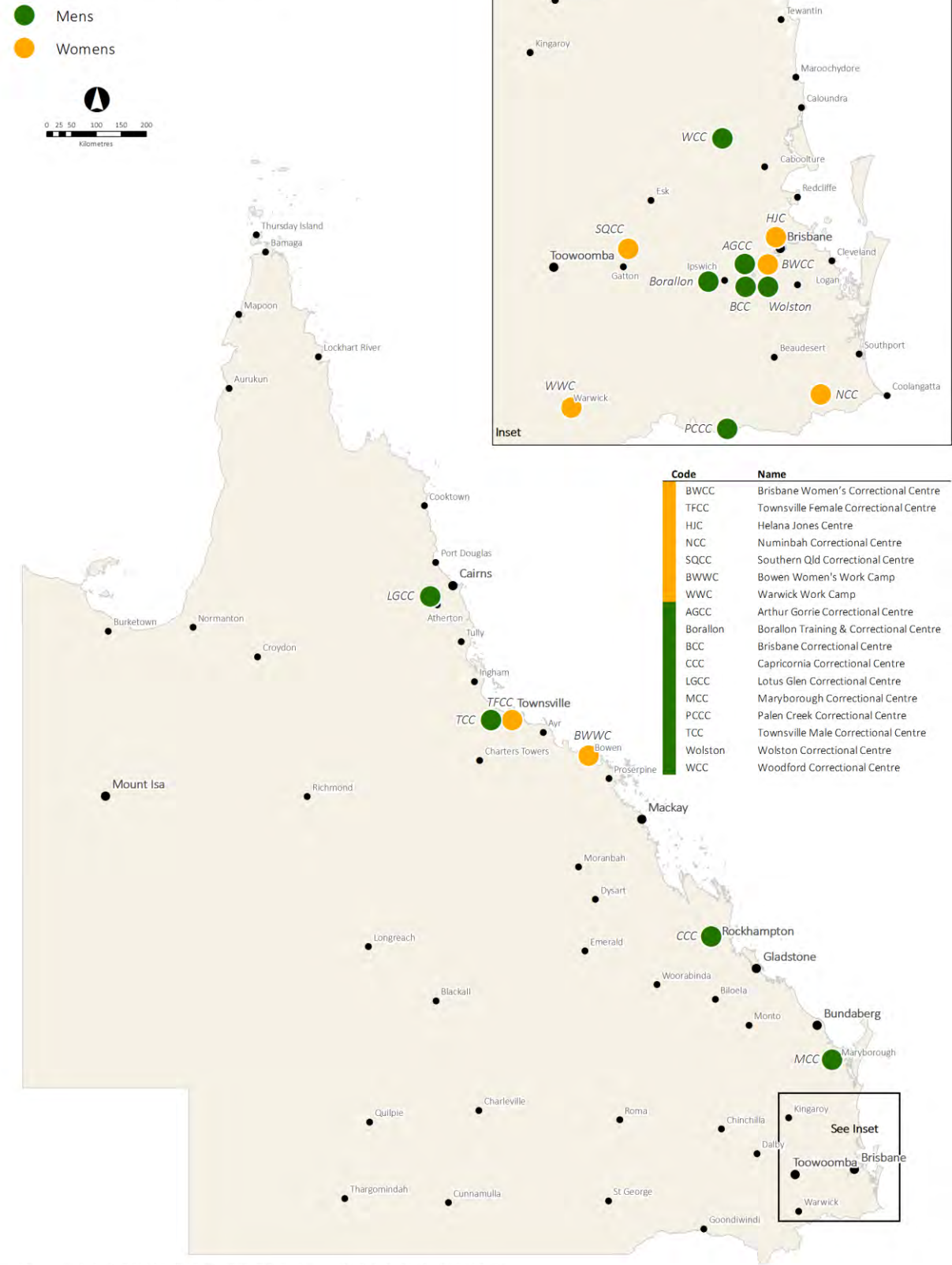
In July 2018 the Queensland Government announced the conversion of the Southern Queensland Correctional Centre (SQCC) into a women's' prison which occurred in August 2018. This 302-cell, high security prison is at Gatton, which is 100 kilometres west of Brisbane. The prison was originally designed for women prisoners, but was subsequently used as a men's prison.

This conversion means that overcrowding in the women's prison system discussed in this report has been resolved in the short term. This will impact on improving women prisoner's access to health care, education, and vocational training. It should also improve challenges to safety posed by operating in overcrowded female facilities. This prison is operated privately by the company Serco.

There are 13 facilities for men, as well as 11 work camps, located throughout the state. The following map shows the location of facilities for men and women in Queensland.

⁶⁷ They are: Brisbane Women's Correctional Centre, Townsville Women's Correctional Centre x 2 (high and low), Southern Queensland Correctional Centre, Numinbah Correctional Centre, and Helana Jones Centre. There are also two work camps associated with women's prisons, located at Warwick and Bowen.

PRISONS IN QUEENSLAND



Increasing numbers and overcrowding

Since the Commission's 2006 *Women in Prison* report, there has been a rapid increase in the number of women in Queensland prisons. The imprisonment rate of women in Queensland is the third highest in Australia, and while the male prisoner population is rising, the female population is rising faster.⁶⁸

Over the past decade, the total number of women in prison in Australia has increased by 66 per cent, and the increase in Aboriginal and Torres Strait Islander prisoner numbers accounts for most of that growth.

This trend is not confined to Queensland or to Australia. In countries around the world, toughening criminal justice policies has meant that a growing number of women are being imprisoned for petty offences.⁶⁹

Table 1 shows the increase in prisoner population in Queensland between 2006 and 2016 by gender and Indigenous status.

Table 1: Prisoner population in Queensland between 2006 and 2016 by gender and Indigenous status

Average daily prisoner population								
	2006-07		2013-14		2014-15		2015-16	
Male	5225	92%	6063	91%	6497	91%	6849	91%
Female	424	8%	630	9%	669	9%	673	9%
Average daily prisoner population	5649		6693		7167		7522	
Aboriginal and Torres Strait Islander	1519	27%	2108	31%	2284	32%	2444	32%
Non-Indigenous	4130	73%	4585	69%	4882	68%	5078	68%

Source: Productivity Commission Report on Government Services 2017 Table 8A.4 & 8A.6; Report Government Services 2016 Table 8A.1; Report on Government Services 2015 Table 8A.1; and Report on Government Services 2008 Table 8A.1.

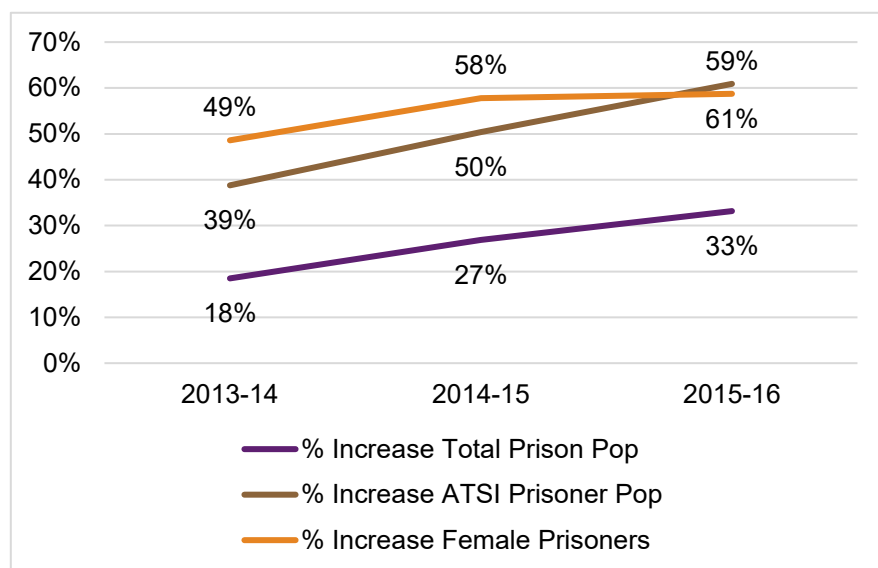
⁶⁸ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n 2, 7.

⁶⁹ United Nations Office on Drugs and Crime, *Handbook on Women and Imprisonment*, (United Nations, 2nd ed, 2014).

The following graph shows the percentage increase in the prisoner population (total, Aboriginal and Torres Strait Islander, and female) using 2006–07 as a base. It indicates a significant increase in the total prison population which had grown by 33% by 2015–16. The growth in the Aboriginal and Torres Strait Islander population was 61%, and the growth in female prisoners was 59%.

The rates of incarceration are increasing, and this is particularly the case with female prisoners.

Graph 1: Prisoner population in Queensland between 2006 and 2016 by gender and Indigenous status



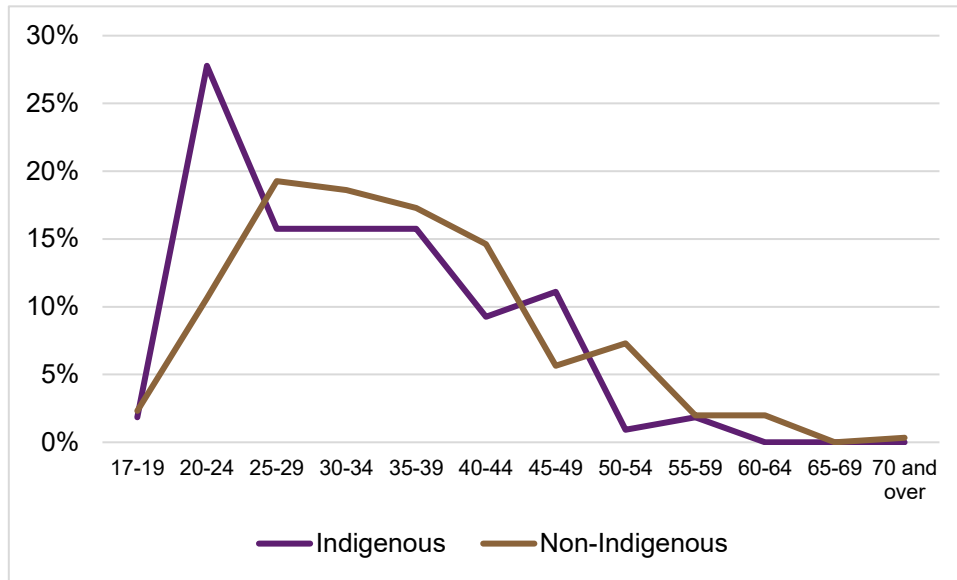
Source: Queensland Corrective Services (unpublished administrative data).

Age profiles of female prisoners

Most female prisoners are aged under 40 years, however there are significant differences in the ages of Indigenous and non-Indigenous female prisoners.

In 2006–07 the Indigenous female prisoner population was significantly younger than the Non-Indigenous prisoner population with 30% of the Indigenous population being under 24 compared to 13% for the non-Indigenous population.

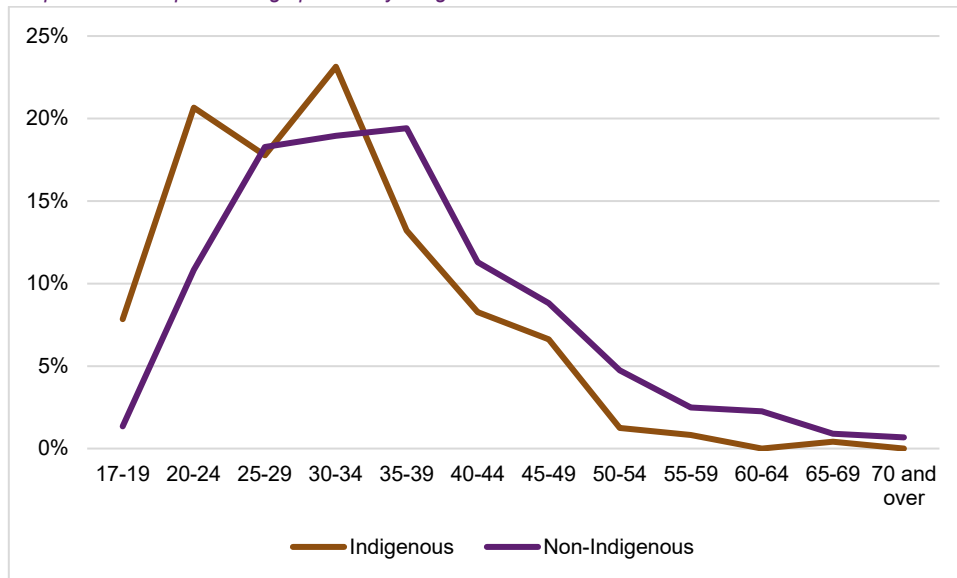
Graph 1: Female prisoner age profiles by Indigenous status in 2006-07



Source: Queensland Corrective Services (unpublished administrative data).

In 2015–16 the situation remained about the same, with 29% of the Indigenous female prisoner population being aged under 24 compared to 12% for the non-Indigenous population.

Graph 2: Female prisoner age profiles by indigenous status in 2015-16



Source: Queensland Corrective Services (unpublished administrative data).

Ethnic background

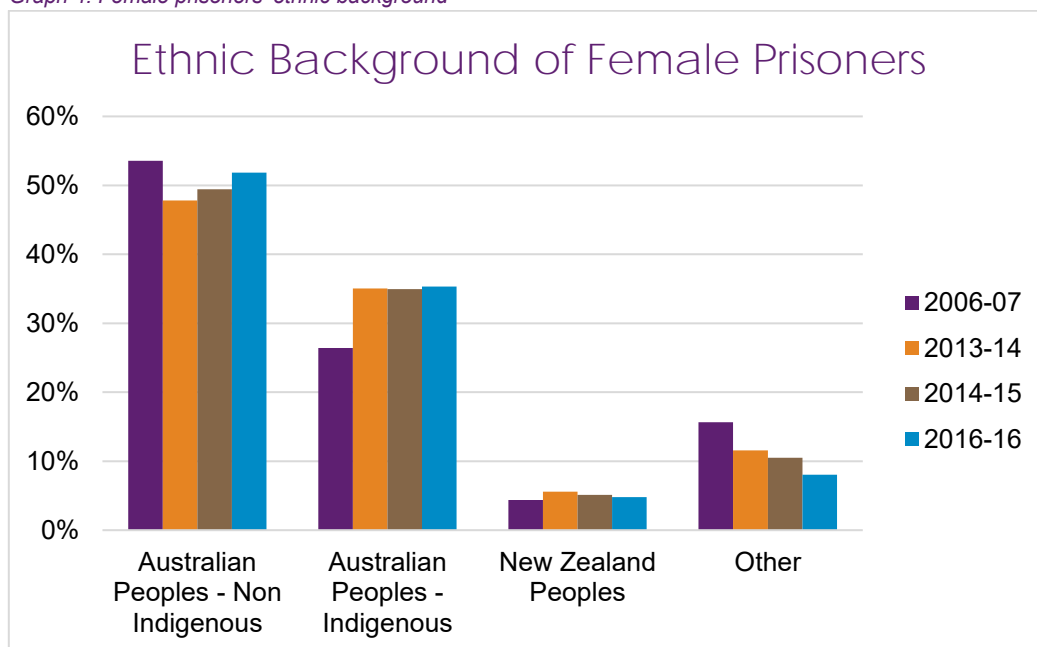
The following table shows the distribution of the female prisoner cohort by ethnic background and how it has changed over time. It shows a significant increase in the proportion of Indigenous prisoners from 2006–07 to 2013–14, and a maintenance of that increase from 26% to 35% of the female prisoner population.

Table 2: Female prisoners' ethnic background

	2006–07	2013–14	2014–15	2015–16
Australian peoples: non-Indigenous	54%	48%	49%	52%
Australian Peoples: Indigenous	26%	35%	35%	35%
New Zealand peoples	4%	6%	5%	5%
Other	16%	12%	11%	8%
Total	100%	100%	100%	100%

Source: Queensland Corrective Services (unpublished administrative data).

Graph 4: Female prisoners' ethnic background



Source: Queensland Corrective Services (unpublished administrative data).

Religious background

The majority of prisoners in Queensland who identified as having a faith stated that they are Christian. However, the largest group stated that they have no religion, and there are small numbers of prisoners from the Buddhist, Hindu, Islam, and Jewish faiths in both male and female prisons.

Table 3: Prisoners by gender and religious status

As at	30/06/2007		30/06/2013		30/06/2014		30/06/2015		30/06/2016	
Religion	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Buddhism	4	74	6	58	8	49	6	69	4	68
Christianity	231	2171	199	1742	240	1874	249	1793	206	1896
Hinduism	1	4	2	9	2	6	2	8	1	14
Islam	1	72	4	132	5	131	2	141	3	132
Judaism	0	5	1	1	2	2	1	3	1	2
Other religions	1	21	1	20	2	22	2	16	2	15
Secular Beliefs	0	3	3	6	3	4	1	6	1	2
No religion	171	2775	320	3571	403	4290	441	4552	467	4905
Total	409	5125	536	5539	665	6378	704	6588	685	7034

Source: Queensland Corrective Services (unpublished administrative data).

Type of offence

Indigenous women are more likely to be in prison for offences categorised as 'acts intended to cause injury' than non-Indigenous women. This observation is not replicated to the same degree in the male prisoner population, as shown in Table 5.

Non-Indigenous women are much more likely to be in prison for fraud and deception related offences, and for illicit drug offences than non-Indigenous women. This observation is also replicated in the male prisoner population.

Table 4: Female prisoners by type of offence and Indigenous status between 2007 and 2016

Most Serious Offence (ASOC Divisions)		as at:		30/06/2007		30/06/2013		30/06/2014		30/06/2015		30/06/2016	
				Female Prisoners									
				I	N-I	I	N-I	I	N-I	I	N-I	I	N-I
1.	Homicide and related offences			18	39	12	41	14	37	14	43	13	29
2.	Acts Intended to Cause Injury			46	41	67	39	92	56	91	65	97	67
3.	Sexual Assault and Related Offences			0	7	2	5	2	5	1	8	2	8
4.	Dangerous and Negligent Acts Endangering Persons			1	11	4	8	4	14	5	6	6	10
5.	Abduction, Harassment and other offences against the person			0	0	0	0	0	3	0	4	1	1
6.	Robbery, Extortion and Related Offences			1	18	15	24	31	30	20	31	22	21
7.	Unlawful Entry with Intent/ Burglary, Break and Enter			13	32	30	44	31	41	33	47	35	50
8.	Theft and Related Offences			3	15	13	22	16	32	25	46	17	58
9.	Fraud, Deception and Related Offences			6	63	6	75	6	82	10	72	8	72
10.	Illicit Drug Offences			3	44	6	69	10	83	10	96	17	93
11.	Prohibited and Regulated Weapons and Explosives Offences			0	0	0	0	0	1	0	1	1	2
12.	Property Damage and Environmental Pollution			3	3	4	9	3	8	5	8	2	6
13.	Public Order Offences			2	0	5	1	2	1	7	1	1	1
14.	Traffic and Vehicle Regulatory Offences			2	8	6	2	3	12	2	5	0	6
15.	Offences Against Justice Procedures, Government Security and Government Operations			8	12	8	14	19	24	21	24	19	17
16.	Miscellaneous Offences			0	2	0	3	0	3	1	1	1	2
Inadequately Described				0	0	0	0	0	0	0	0	0	0
Unknown				2	6	2	0	0	0	1	0	0	0
Totals				108	301	180	356	233	432	246	458	242	443
Total - Females				409		536		665		704		685	

Source: Queensland Corrective Services (unpublished administrative data).

Table 5: Male prisoners by type of offence and Indigenous status between 2007 and 2016

		as at:		30/06/2007		30/06/2013		30/06/2014		30/06/2015		30/06/2016	
		Male Prisoners											
		I	N-I	I	N-I	I	N-I	I	N-I	I	N-I		
1.	Homicide and related offences	108	431	114	408	121	405	130	443	126	467		
2.	Acts Intended to Cause Injury	463	646	563	687	723	770	717	823	781	977		
3.	Sexual Assault and Related Offences	214	572	215	504	191	545	223	577	213	621		
4.	Dangerous and Negligent Acts Endangering Persons	31	90	30	80	41	104	37	91	40	110		
5.	Abduction, Harassment and other offences against the person	3	17	5	18	4	21	8	26	9	50		
6.	Robbery, Extortion and Related Offences	103	339	185	406	216	465	219	431	217	416		
7.	Unlawful Entry with Intent/ Burglary, Break and Enter	198	497	300	558	346	653	338	612	380	629		
8.	Theft and Related Offences	51	132	62	152	66	205	82	220	82	255		
9.	Fraud, Deception and Related Offences	6	141	18	136	16	145	8	168	18	156		
10.	Illicit Drug Offences	16	421	38	470	51	590	45	679	58	657		
11.	Prohibited and Regulated Weapons and Explosives Offences	0	2	3	9	1	15	1	13	1	19		
12.	Property Damage and Environmental Pollution	21	45	28	61	41	78	26	73	22	75		
13.	Public Order Offences	12	16	19	10	19	12	20	22	17	19		
14.	Traffic and Vehicle Regulatory Offences	55	142	39	69	30	67	26	72	12	56		
15.	Offences Against Justice Procedures, Government Security and Government Operations	126	117	134	108	189	168	190	223	241	264		
16.	Miscellaneous Offences	2	19	0	7	0	3	0	3	1	3		
Unknown^		17	72	16	87	11	66	7	35	7	35		
Totals		1426	3699	1769	3770	2066	4312	2077	4511	2225	4809		
Total - Males		5125		5539		6378		6588		7034			
All Prisoners		5534		6075		7043		7292		7719			

Source: Queensland Corrective Services (unpublished administrative data).

I = Indigenous

N-I = Non-Indigenous

^ = Unknown MSO includes prisoners who were recently admitted into custody & did not have a verified sentence calculation completed as at the date listed. Therefore the MSO has not been determined. There is often a slight time delay between a person being sentenced and the sentence calculation being finalised. The 'Unknown' category represents <2% of the population.

Duration of stay in custody

The majority of women in Queensland prisons are there for very short periods of time. Half of the women in prison in Queensland are there for less than 3 months, and this has been a consistent situation in the ten year period from 2006 to 2017. The average stay in prison for women is less than six months.

Table 6: Duration of stay in custody by gender and Indigenous status

Financial Year	Female			Male		
	N-I	I	Total Female	N-I	I	Total Male
Average duration of stay (sentence + remand), months						
2006/07	5.1	5.2	5.1	9.5	8.1	9.1
2013/14	5.2	3.8	4.7	6.8	6.4	6.6
2014/15	5.3	4.5	5.0	6.8	6.2	6.7
2015/16	5.9	4.5	5.3	7.3	6.6	7.1
2016/17 to 31 May	5.6	5.2	5.4	7.4	6.7	7.1
Median duration of stay (sentence + remand), months						
2006/07	2.8	2.7	2.8	3.9	3.9	3.9
2013/14	2.3	2.4	2.3	3.1	3.0	3.0
2014/15	2.5	2.4	2.5	3.2	3.4	3.3
2015/16	2.7	2.7	2.7	3.6	3.7	3.6
2016/17 to 31 May	2.8	2.8	2.8	3.7	3.8	3.8
Average duration of stay on remand, months						
2006/07	2.7	2.4	2.6	4.3	3.4	4.0
2013/14	3.4	2.6	3.1	3.7	3.0	3.4
2014/15	3.3	2.6	3.0	3.9	3.3	3.7
2015/16	3.0	2.6	2.8	3.9	3.1	3.6
2016/17 to 31 May	3.1	2.6	2.9	4.1	3.2	3.8

Median duration of stay on remand, months						
2006/07	1.4	1.2	1.3	2.2	1.9	2.1
2013/14	1.5	1.3	1.4	1.8	1.6	1.7
2014/15	1.6	1.4	1.5	1.9	1.9	1.9
2015/16	1.5	1.6	1.6	2.0	1.8	1.9
2016/17 to 31 May	1.6	1.6	1.6	2.2	1.9	2.1
Notes:						
1. Average and median duration of stay (sentence + remand) - for prisoners discharged from custody during 2006/07, 2013/14, 2014/15, 2015/16 and 2016/17 to 31 May 2017. This is a duration of stay between admission and discharge from custody.						
2. Average and median duration of stay on remand - for prisoners sentenced or released from custody unsentenced during 2006/07, 2013/14, 2014/15, 2015/16 and 2016/17 to 31 May 2017. This is a duration of stay between admission and sentencing, or between admission and discharge if no sentence imposed, or period on remand after serving a sentence until discharge or re-sentencing.						

Source: Queensland Corrective Services (unpublished administrative data).

4. Individual needs

Women in the prison system

Female prisoners are among the most disadvantaged and vulnerable groups in our society. Many have:

- experienced sexual and/or physical abuse prior to imprisonment;
- high-level mental health care needs, often as a result of domestic violence and abuse;
- high levels of drug and alcohol dependency;
- caring responsibilities for children, families, and others.

Historically, prisons and prison systems have been built and organised to fit requirements of male prisoners. Female prisoners have always been a small proportion of the prison population, and the general supports and services needed to achieve rehabilitation goals and reduce recidivism have been designed for the much larger, male prison population.

Many prison authorities are now aware of the need to develop policies and practices that acknowledge the gender-specific needs of female prisoners — although, in practice, this has been challenging for a range of reasons.⁷⁰ Such policies and practices should ‘encompass all aspects of their care, including physical and mental health, substance abuse, education, employment, parenting, finances, housing and psychological wellbeing. Personal empowerment, community connectedness and integration of services are also key features of good corrections policies designed for women and have the greatest chance of assisting women and reducing recidivism.’⁷¹

Trauma-informed practice

Academic research has informed a growing awareness that past traumatic experiences can play a significant role in women’s criminal justice involvement, adjustment within institutional settings, and success in the community. Trauma-informed practice is a framework for human service delivery that is based on knowledge and understanding of how trauma affects people's lives and their service needs. It means that service providers have an awareness and sensitivity to the way in which clients' presentation and service needs can be understood in the context of their trauma history. The broad

⁷⁰ Reasons cited include the relatively small population with few dedicated rehabilitation staff, sentence length (with a significant number of women serving less than 6 months), co-morbid substance and mental health issues, and estrangement from children and social supports. See Karen Heseltine, Andrew Day, and Rick Sarre, *Prison-based correctional offender rehabilitation programs: The 2009 national picture in Australia* (Australian Institute of Criminology 2011) p 32.

⁷¹ Lorana Bartels and Antonette Gaffney, *Good practice in women's prisons: a literature review* (Australian Institute of Criminology 2011) AIC Reports Technical and Background Paper 41, p 11.

principles of trauma-informed practice require prisons to provide women with opportunities to experience safety, trust, choice, collaboration, and empowerment. Examples of trauma-informed practice in prisons are now beginning to emerge.⁷²

Adopting trauma-informed practice in women's prisons is warranted for a number of reasons:

- An extremely high prevalence of trauma exists among women prisoners.
- Some of the basic features of women's prisons can function as significant trauma triggers for women prisoners.
- Evidence suggests that the lack of trauma-informed practices in facilities has a negative effect, and compromises prisoners' mental health and success inside and outside of facilities.
- Creating a trauma-informed culture can contribute to greater institutional safety and security.⁷³

When prison staff adopt trauma-informed practices, this can lead to a notable decrease in behaviours such as prisoner-on-staff and prisoner-on-prisoner assaults, the use of segregation, suicide attempts, and the need for mental health watches.⁷⁴

Recommendation 13: trauma-informed practice

Queensland Corrective Services implements trauma-informed practices in Queensland's women's prisons in line with the latest research.

Aboriginal and Torres Strait Islander women

Bangkok Rules

Rule 54:

Prison authorities shall recognize that women prisoners from different religious and cultural backgrounds have distinctive needs and may face multiple forms of discrimination in their access to gender- and culture-relevant programmes and services. Accordingly, prison authorities shall provide comprehensive programmes and services that address these needs, in consultation with women prisoners themselves and the relevant groups.

⁷² Innovator profile: Lyn Bissonnette, Massachusetts Correctional Institution – Framingham, National Resource Centre on Justice Involved Women.

⁷³ Ibid.

⁷⁴ Ibid.

Rule 55:

Pre- and post-release services shall be reviewed to ensure that they are appropriate and accessible to indigenous women prisoners and to women prisoners from ethnic and racial groups, in consultation with the relevant groups.

Extreme disadvantage

Even before entering prison, many Aboriginal and Torres Strait Islander women are trapped in a cycle of disadvantage that may include poverty, domestic violence, homelessness, unemployment, poor health, and lack of educational opportunity.

Statistically, Aboriginal and Torres Strait Islander women have a much tougher experience of prison than non-Indigenous women, and appear to face significant challenges in complying with prison regimes.

Aboriginal and Torres Strait Islander people make up 4% of Queensland's population.

Statistics from 2016 show that Aboriginal and Torres Strait Islander women accounted for:

- 35% of women in prison;
- 33% of women on remand;
- 40% of women held in high security prisons;
- 49% of all Breaches of Discipline;
- 48% of separate confinements;
- 44% of safety orders; and
- were more likely than non-Indigenous women to return to prison for breach of parole.

Compared with Aboriginal and Torres Strait Islander male prisoners, Aboriginal and Torres Strait Islander women prisoners are statistically more likely to be:

- held in secure custody;
- involved in a breach of discipline decision;
- held in separate confinement;
- on a safety order; and
- less likely to be part of a work camp.

Statistics: Aboriginal and Torres Strait Islander prisoners

In 2006, Aboriginal and Torres Strait Islander people made up just 3% of Queensland's population. By 2016 this had increased to 4% of the Queensland population.⁷⁵

The statistics in the following tables indicate that for Aboriginal and Torres Strait Islander women prisoners, matters have deteriorated since 2006, and there has been no improvement in the systemic disadvantage experienced by that cohort of prisoners while in prison.

Incarceration rates

The disproportionate rate of imprisonment of Aboriginal and Torres Strait Islander peoples in Australia has been a longstanding concern. In the ten-year period from 2006 to 2016, while the incarceration of women in prison in Queensland increased significantly, the incarceration rate of Aboriginal and Torres Strait Islander women had the most dramatic increase from 26% to 35% of the prison population.

Table 7: Summary of the proportion of Indigenous versus non-Indigenous female prisoners in Queensland 2006–2016

	Female Prisoners				
	Indigenous		Non-Indigenous		Total
2006/07	108	26%	301	74%	409
2013/14	233	35%	432	65%	665
2014/15	246	35%	458	65%	704
2015/16	242	35%	443	65%	685

Source: Queensland Corrective Services (unpublished administrative data).

Over the same period, the male Indigenous imprisonment rate rose from 28% to 32% — far less than the dramatic increase in the representation of female Indigenous prisoners.

Table 8: Summary of the proportion of Indigenous versus non-Indigenous male prisoners in Queensland 2006–2016

	Male Prisoners				
	Indigenous		Non-Indigenous		Total
2006/07	1426	28%	3699	72%	5125
2013/14	2066	32%	4312	68%	6378
2014/15	2077	32%	4511	68%	6588
2015/16	2225	32%	4809	68%	7034

Source: Queensland Corrective Services (unpublished administrative data).

⁷⁵ Anti-Discrimination Commission Queensland, *Women in Prison*, above n 4, p 107; and Australian Bureau of Statistics, *Aboriginal and Torres Strait Islander Population* (28 June 2017) 2071.0 – Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016.

Prisoners on remand

The disproportionate rate of imprisonment of Aboriginal and Torres Strait Islander peoples is reflected in the number of Indigenous persons being held on remand in Queensland prisons.

Table 9: Summary of the proportion of Indigenous versus non-Indigenous female prisoners on remand

	Female Prisoners				
As at	Indigenous		Non-Indigenous		Total
30.06.07	27	27%	74	73%	101
30.06.13	34	28%	87	72%	121
30.06.14	59	35%	105	64%	164
30.06.15	57	31%	123	68%	180
30.06.16	74	33%	149	67%	223

Source: Queensland Corrective Services (unpublished administrative data).

Table 10: Summary of the proportion of Indigenous versus non-Indigenous male prisoners on remand

	Male Prisoners				
As at	Indigenous		Non-Indigenous		Total
30.06.07	301	29%	739	71%	1040
30.06.13	349	29%	861	71%	1210
30.06.14	453	30%	1052	70%	1505
30.06.15	418	28%	1093	72%	1511
30.06.16	542	28%	1408	72%	1950

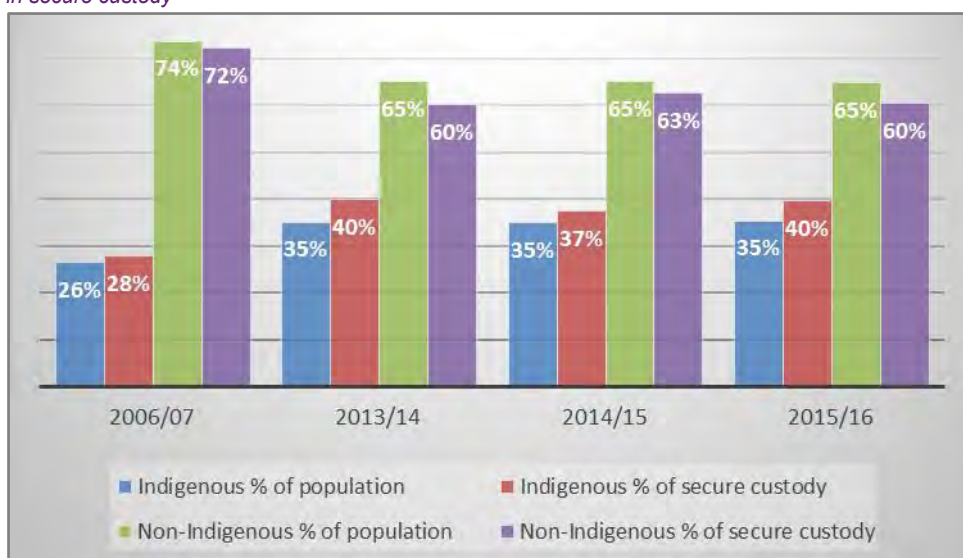
Source: Queensland Corrective Services (unpublished administrative data).

Both male and female Indigenous prisoners are held on remand at around the same high rates.

Prisoners in secure custody

In 2006, we noted that female Indigenous prisoners in Queensland were more likely than female non-Indigenous prisoners to be imprisoned in secure custody prisons, rather than open custody prisons. This trend has continued and increased over the last 10 years.

Graph 3: Female prisoner comparison: proportion of Indigenous and non-Indigenous prisoners in prison population to proportion of Indigenous and non-Indigenous prisoners in secure custody

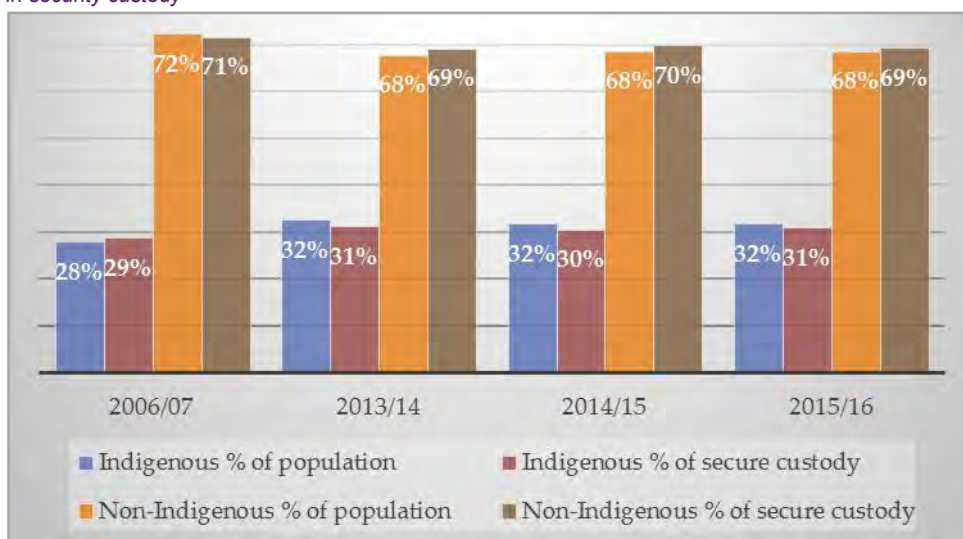


Source: Queensland Corrective Services (unpublished administrative data).

In 2006–07, female Indigenous prisoners represented 26% of the total female prison population, but 28% of women in secure custody. By 2015–16, female Indigenous prisoners were 35% of the total female prison population, and 40% of women in secure custody.

Female Indigenous prisoners are more likely to be imprisoned in secure custody than male Indigenous prisoners.

Graph 4: Male prisoner comparison: proportion of Indigenous and non-Indigenous prisoners in prison population to proportion of Indigenous and non-Indigenous prisoners in security custody



Source: Queensland Corrective Services (unpublished administrative data).

In contrast to the female prisoner population, the disparities between Indigenous and non-Indigenous prisoners in secure custody are not as evident for the male prisoner population.

Breaches of discipline

Table 11: Number of decisions to deal with breach of discipline of female prisoners (s113 & s120 CSA) by Indigenous status

	Female prisoners				
	Indigenous		Non-Indigenous		Total
2006–07	83	49%	84	51%	167
2013–14	293	43%	392	57%	685
2014–15	415	45%	500	55%	915
2015–16	455	49%	467	51%	922

Source: Queensland Corrective Services (unpublished administrative data).

In our 2006 report, we noted that female Indigenous prisoners in Queensland are more likely than female non-Indigenous prisoners to be subjected to a breach of discipline. This trend has continued.

In 2006–07, female Indigenous prisoners represented 26% of the total female prison population, but were subject to 49% of the decisions to deal with breaches of discipline.

By 2015–16 Indigenous, female prisoners constituted 35% of the total female prison population, and were again the subject of 49% of the decisions to deal with breaches of discipline.

Table 12: Number of decisions to deal with breaches of discipline of male prisoners (s113 & s120 CSA) by Indigenous status

	Male prisoners				
	Indigenous		Non-Indigenous		Total
2006–07	730	32%	1543	68%	2273
2013–14	1241	37%	2077	63%	3318
2014–15	1762	36%	3126	64%	4888
2015–16	2081	34%	3980	66%	6061

Source: Queensland Corrective Services (unpublished administrative data).

In contrast to the female prisoner population, the large disparities between Indigenous and non-Indigenous prisoners are not as evident in the male prisoner population.

In 2006–07, when Indigenous male prisoners represented 28% of the total male prison population, they were subject to 32% of the decisions to deal with breaches of discipline. In 2015–2016, when representing 32% of the total male prison population, Indigenous males were subject to 34% of those decisions.

Segregation and seclusion

In our 2006 report, we noted that female Indigenous prisoners in Queensland are more likely than female non-Indigenous prisoners to be subjected to segregation and seclusion. This trend has continued.

Table 13: Breaches resulting in a final determination of separate confinement (s121) of female prisoners by Indigenous status

	Female prisoners				
	Indigenous		Non-Indigenous		Total
2006–07	33	39%	51	61%	84
2013–14	170	45%	209	55%	379
2014–15	237	48%	260	52%	497
2015–16	259	48%	276	52%	535

Source: Queensland Corrective Services (unpublished administrative data).

In 2006–2007, when Indigenous female prisoners represented 26% of the total female prison population, they were the subject of 39% of breaches resulting in a final determination of separate confinement. In 2015–2016, when Indigenous female prisoners constituted 35% of the total female prison population, they were the subject of 48% of breaches resulting in a final determination of separate confinement.

Table 14: Breaches resulting in a final determination of separate confinement (s121) of male prisoners by Indigenous status

	Male prisoners				
	Indigenous		Non-Indigenous		Total
2006–07	425	33%	855	67%	1280
2013–14	419	36%	734	64%	1153
2014–15	769	36%	1376	64%	2145
4015–16	708	36%	1271	64%	1979

Source: Queensland Corrective Services (unpublished administrative data).

In contrast to the female prisoner population, the disparities between Indigenous and non-Indigenous prisoners being subjected to separate confinement are not as great for the male prisoner population.

Male Indigenous prisoners in the 2006–2007 period (who represented 28% of the total male prison population) were the subject of 33% of breaches resulting in a final determination of separate confinement. Male Indigenous prisoners in the 2015–20016 period (who represented 32% of the total male prison population) were the subject of 36% of breaches resulting in a final determination of separate confinement.

Table 15: Female prisoners on safety orders (ss 51(1) and 59 CSA) by Indigenous status

	Female prisoners				
	Indigenous		Non-Indigenous		Total
2006–07	128	36%	226	64%	354
2013–14	388	44%	491	56%	879
2014–15	452	45%	561	55%	1013
2015–16	516	44%	645	56%	1161

Source: Queensland Corrective Services (unpublished administrative data).

Indigenous female prisoners are many times more likely to be the subject of a safety order than non-Indigenous female prisoners.

In 2006–07 when female Indigenous prisoners represented 26% of the total female prison population, they were the subject of 36% of the safety orders, and in 2015–16 when constituting 35% of the total female prison population they were the subject of 44% of safety orders. This is a consistent pattern, with Indigenous females being the subject of 44% of safety orders in the periods 2013 to 2016.

Table 16: Male prisoners on safety orders (ss 51(1) and 59 CSA) by Indigenous status

	Male prisoners				
	Indigenous		Non-Indigenous		Total
2006–07	550	30%	1269	70%	1819
2013–14	1715	34%	3323	66%	5038
2014–15	2473	34%	4812	66%	7285
2015–16	2740	34%	5336	66%	8076

Source: Queensland Corrective Services (unpublished administrative data).

Indigenous female prisoners are also more likely to be the subject of a safety order than Indigenous male prisoners. Indigenous male prisoners who in 2006–2007 represented 28% of the total male prison population were the subject of 30% of the safety orders. In 2015–16, when representing 32% of the total male prison population, they were the subject of 34% of the safety orders.

Access to parole

Table 17: Female prisoners discharged from custody to parole by Indigenous status

	Female prisoners				
	Indigenous		Non-Indigenous		Total
2006–07	63	33%	129	67%	192
2013–14	172	42%	236	58%	408
2014–15	214	45%	265	55%	479
2015–16	206	40%	308	60%	514
2016–17	227	40%	338	60%	565

Source: Queensland Corrective Services (unpublished administrative data).

Female Indigenous prisoners are being granted court and board-ordered parole at higher rates than non-Indigenous female prisoners. In 2006–2007, when female Indigenous prisoners were 26% of the female prison population, they represented 32% of the women who successfully accessed parole. In 2015–2016 when they represented 33% of the female prison population, they represented 40% of the women who successfully accessed parole.

Table 18: Number & percentage of female prisoners eligible for parole but released at full term

	Female prisoners				
	Indigenous		Non-Indigenous		Total
2006–07	27	53%	24	47%	51
2013–14	8	42%	11	58%	19
2014–15	5	28%	13	72%	18
2015–16	7	33%	14	67%	21
2016–17	11	55%	9	45%	20

Source: Queensland Corrective Services (unpublished administrative data).

It is of concern that in every period there are a relatively small number of Indigenous and non-Indigenous female prisoners eligible for parole who, for whatever reason, do not seek parole, but remain in prison until they are released at full term. It is pleasing to see that this number has been decreasing since the 2006–2007 period. The challenges for some prisoners to successfully apply for parole have been discussed earlier in this report.⁷⁶

Parole suspensions

Aboriginal and Torres Strait Islander prisoners, both male and female, have had significantly higher levels of return to prison on parole suspensions than non-Indigenous prisoners. The levels of parole breaches are relatively high across all cohorts, and in the 2013–2014 and 2014–2015 periods nearly half of all female prisoners, and more

⁷⁶ See 3: Justice system impacts, from page 31 of this report.

than half of all male prisoners discharged to parole returned to custody on parole suspension.

Table 19: Prisoners discharged on parole returned to custody on parole suspension by gender and Indigenous status

	Female and Male prisoners					
	Female Indigenous	Female non-Indigenous	Total Female	Male Indigenous	Male non-Indigenous	Total Male
2006–07	38%	28%	31%	33%	31%	32%
2013–14	56%	42%	48%	63%	52%	56%
2014–15	48%	44%	46%	59%	49%	53%
2015–16	38%	22%	28%	56%	40%	46%

Source: Queensland Corrective Services (unpublished administrative data).

The parole system has been scrutinised and analysed by Walter Sofronoff QC, and his 2016 report's recommendations for reform of the parole system are now in the process of being implemented.

Work

Aboriginal and Torres Strait Islander women are much less likely to work in a work camp compared to non-Indigenous women. They are also much less likely to be part of a work camp than Aboriginal and Torres Strait Islander men.⁷⁷

Aboriginal and Torres Strait Islander staff

While Queensland's women prisons continue to have such high numbers of Aboriginal and Torres Strait Islander prisoners, it is important that there is an increased emphasis on recruiting (and retaining) Aboriginal and Torres Strait Islander staff to work with those women.

Table 20: Percentage of prison staff by Indigenous status as at 30 June

	2014	2015	2016
Brisbane WCC	2.7%	1.7%	3.9%
Townsville CC	7.3%	6.1%	5.8%
Numinbah CC	2.4%	2.4%	2.1%

Source: Queensland Corrective Services (unpublished administrative data).

⁷⁷ See 10: Rehabilitation, from page 144 of this report.

Issues: Aboriginal and Torres Strait Islander women

In our 2006 *Women in Prison Report*, we identified a number of areas in the justice and correction systems that appeared to be perpetuating high levels of inequality for Aboriginal and Torres Strait Islander women.⁷⁸ These inequalities indicated potential systemic discrimination, and the statistics given above show that significant inequalities continue to exist.

Achieving equality of outcomes for Aboriginal and Torres Strait Islander women requires changes at many levels across the wider community, to remove the underlying social and economic disadvantages identified more than two decades ago in the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC).⁷⁹

Systemic discrimination is the creation, perpetuation, or reinforcement of persistent patterns of inequality among disadvantaged groups. It is usually the result of seemingly neutral legislation, policies, procedures, practices or organisational structures.

Canada – Human Rights Commission, Protecting their rights: a systemic review of women's rights in correctional centres for federally sentenced women (2003).

The historic and continuing disadvantages experienced by Aboriginal and Torres Strait Islander women place them at a further disadvantage when they are in prison. The system does not take account of their position, and statistically, they are less likely to be able to access the same opportunities as non-Indigenous women to benefit from safe and secure custody, rehabilitation, and to reintegrate back into the community.

Given their disproportionate imprisonment rate, corrective and other services need to be delivered in a manner that address these women's particular needs. For instance, this could include:

- *More supports to prevent risk of self-harm.* Research shows that comparing Aboriginal and Torres Strait Islander and non-Indigenous male and female prison entrants, Aboriginal and Torres Strait Islander women were the most likely group to report a history of self-harm. More than one-third of this group (38%) had a history of self-harm, while 14% had recent thoughts of self-

⁷⁸ Anti-Discrimination Commission Queensland, *Women in Prison Report*, above n 4, pp 107–111.

⁷⁹ Royal Commission into Aboriginal Deaths in Custody, *Reports* (1987–1991).

harm.⁸⁰ The significantly higher level of admissions of Aboriginal and Torres Strait Islander women to Safety Units indicates this issue warrants attention.

- *More transitional supports.* Unlike men, women have fewer transitional supports near their communities of origin. ATSILS (the Aboriginal and Torres Strait Islander Legal Service), for example, has a women's transition program that only operates in a radius around Brisbane and Townsville. ATSILS men's program operates near all male prisons, and also at Cairns, Rockhampton, and Murgon. The higher levels of return to prison on parole suspensions of Aboriginal and Torres Strait Islander women than non-Indigenous women indicate the issue warrants further attention.
- *More educational supports.* Aboriginal and Torres Strait Islander women prisoners face additional challenges, such as (usually) poorer access to education and training opportunities.
- *More family support.* Many women have problems in gaining access and custody of children when out of prison. Some women also encounter particular difficulties in returning to unsafe environments.⁸¹

Models, services, and programs that have largely been developed around the needs of non-Indigenous and Aboriginal and Torres Strait Islander male prisoners are unlikely to benefit Aboriginal and Torres Strait Islander women in the prison system, or to achieve equal outcomes during or after their imprisonment.

QCS has taken steps, and a number of external providers have been funded to cater for some of the needs of Aboriginal and Torres Strait Islander women prisoners. They include, for example:

- ATSILS provide legal services within the women's prisons.
- Once a month, Murri Elders (from Brisbane and Cherbourg) visit BWCC, Elders from Brisbane, Cherbourg, Cunnamulla, Inala and Ipswich visit women at SQCC, and Kalwun Elders visit NWCC.
- Support is provided by Aboriginal and Torres Strait Islander chaplains who are regularly available in women's prisons, and Aboriginal and Torres Strait Islander peer support workers recruited as part of peer support programs in each prison.
- Culturally sensitive rehabilitation programs, including the Positive Futures Program (a strengths-based program addressing substance abuse and violence), are offered in all women's prisons.
- In TWCC, an Indigenous Leadership program is provided by Bindal Sharks.

⁸⁰ Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 50.

⁸¹ Council of Australian Governments, *Prison to work report* (2016) 6, 85–92.

- Sisters Inside is funded to provide a number of programs in both BWCC and TWCC (e.g. Building on Women's Strength program (BOWS)).
- Special Aboriginal and Torres Strait Islander activities, such as art classes, occur in some prisons.
- TWCC has a cultural place for Aboriginal and Torres Strait Islander women.
- NAIDOC week celebrations and activities occur in prisons each year.
- Until October 2017, Gallang Place in Brisbane provided some women six months' post-release transitional support. A new pilot transition service funded by Queensland Health and delivered by the Institute for Urban Indigenous Health (IUIH) commenced in January 2018. The service is to be provided to women referred to IUIH by the Indigenous Mental Health team working within BWCC. IUIH intend to commence work with clients six weeks prior to their release from prison, and work with them for six months post-release. There are no geographic limitations on assisting clients, and contact will be maintained by phone, if they reside outside the usual South-East Queensland IUIH service area.
- ATSILS' Prisoner Throughcare Program provides intensive case management support to 25 women per year who are at high risk of recidivism. The Program commences six months prior to their release, and continues for one year post-release. The women's program operates in a radius around Brisbane and Townsville.
- A number of Aboriginal and Torres Strait Islander staff are employed by QCS in BWCC and TWCC.
- In February 2019 the Parole Board Queensland had seven out of 24 community board members who identify as Aboriginal or Torres Strait Islander.
- QCS states the number of Cultural Liaison Officer positions within the Probation and Parole workforce is to increase, with up to 11 positions to be recruited by 2019.

QCS also, on some occasions, permits special activities that engage with Aboriginal and Torres Strait Islander (and other) prisoners. For example, for several years Griffith University PhD candidate, Sarah Woodland, has worked with women prisoners at BWCC on a number of drama projects. In 2017, prisoners were involved in a theatre performance project 'Barambah' about the history of Cherbourg and the Stolen Generations. Participating in drama and theatre can have very positive outcomes for prisoners, and we encourage QCS to continue to make such projects a regular experience for women prisoners.

To address areas in which Aboriginal and Torres Strait Islander women appear to be systemically disadvantaged (on the basis of both race and gender) during their imprisonment, and to cater for their different and distinctive needs, we recommend that a review of services and programs currently available to Aboriginal and Torres Strait Islander women prisoners be undertaken. This should include

consultation with Aboriginal and Torres Strait Islander women prisoners themselves about how to enhance and improve the programs and services available in prison, and on release.

Aboriginal and Torres Strait Islander women prisoners also raised the following points during our consultations:

- NAIDOC week: In BWCC, women stated that since 2011 families had not been invited or helped to participate in NAIDOC week activities, and they would like this to occur.
- Cultural place: Unlike TWCC and some men's prisons, BWCC has no Cultural place.
- Art program: Unlike the nearby men's prison, BWCC does not have a dedicated Aboriginal or Torres Strait Islander art tutor, and women asked for the same opportunities as men in this regard.

Recommendation 14: Aboriginal and Torres Strait Islander women

Queensland Corrective Services undertakes a comprehensive review of services and programs available to Aboriginal and Torres Strait Islander women prisoners.

The review should address areas in which Aboriginal and Torres Strait Islander women have access to fewer facilities and services than men, or appear to be systemically disadvantaged (on the basis of both race and gender) during their imprisonment.

Particular attention should be given to providing:

- more access to diversionary programs;
- more psychological and other supports to prevent risk of harm to themselves or others while in prison;
- more educational supports;
- more transitional supports when leaving prison; and
- more family supports both within, and on leaving prison.

Women with disabilities

Nelson Mandela Rules

Rule 5(2):

Prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis.

Prisoners with mental disabilities and /or health conditions

Rule 109

Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible.

If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals.

The health-care service shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

Rule 110

It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric aftercare.

Statistics: prisoners with disability

Disability in the general population

In 2016, the Australian Bureau of Statistics (ABS) reported that 18.3% of all Australians had a disability.⁸² In 2012, 2.9% of Australians had an intellectual disability,⁸³ and 3.4% of Australians reported having a psychological disability.⁸⁴

⁸² Australian Bureau of Statistics, 4450.0 – *Supplementary Disability Survey, 2016* (30 June 2016); Queensland Government, *Disability statistics* (27 March 2018).

⁸³ Australian Bureau of Statistics, 4433.0.55.003 – *Intellectual Disability, Australia, 2012* (30 June 2016).

⁸⁴ The Australian Bureau of Statistics 2012 *Survey of Disability, Ageing and Carers* (SDAC) uses the term psychological disability to refer to: a nervous or emotional condition which causes restrictions in everyday activities that has lasted, or is expected to last for six months or more; or a mental illness for which help or supervision is required that has lasted, or is expected to last for six months or more; or

The Aboriginal and Torres Strait Islander population has a higher disability rate than other Australians (23.4% in 2012).⁸⁵ Research also suggests there are higher rates of psychological disability and cognitive or intellectual impairment in the Aboriginal and Torres Strait Islander population.⁸⁶

Disability in the Australian prison population

Prisoners as a group have more disabilities than the general population, including physical, cognitive or intellectual, and mental illness.⁸⁷

Currently, little is known about prisoners with physical disabilities. A recent study found:

- Long-term health conditions or disabilities that limit activities (24%), or restrict participation in education (12%) or employment (16%), were reported by 30% of prison entrants, with some affected in more than one of those areas.
- Women were more likely than men to have activity limitations (34% compared with 23%).
- Activity limitations and employment restrictions were more common among non-Indigenous entrants (26% and 18% respectively) than Aboriginal and Torres Strait Islander people entering prison (21% and 12% respectively).
- Across each of the areas (work, education, and other activities) limitations /restrictions increased with age, and 45% of the oldest entrants reported having some form of limitation/restriction.⁸⁸

Adults with intellectual disability are significantly over-represented among prisoners, particularly Aboriginal and Torres Strait Islander prisoners.⁸⁹ An Australian study that looked at cognitive disability found that up to 12% of the prison population has intellectual disability, and up to 30% has borderline intellectual disability.⁹⁰ Australian studies have also found that prisoners experience mental

a brain injury, including stroke, which results in a mental illness or nervous and emotional condition which causes restrictions in everyday activities.

⁸⁵ Australian Bureau of Statistics, 4433.0.55.005 – *Aboriginal and Torres Strait Islander People with a Disability, 2012* (18 April 2017)

⁸⁶ Mick Gooda, 'Mental illness and cognitive disability in Aboriginal and Torres Strait Islander prisoners – a human rights approach' (Speech delivered at the 22nd Annual THeMHS Conference – National Mental Health Services Conference 'Recovering citizenship', Cairns, 23 August 2012; Queensland Government, *Disability statistics* (27 March 2018).

⁸⁷ Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 36, 54, 61, 80.

⁸⁸ *Ibid*, 80–81.

⁸⁹ Mick Gooda, 'Mental illness and cognitive disability in Aboriginal and Torres Strait Islander prisoners – a human rights approach' (Speech delivered at the 22nd Annual THeMHS Conference – National Mental Health Services Conference 'Recovering citizenship', Cairns, 23 August 2012).

⁹⁰ Eileen Baldry, Melissa Clarence, Leanne Dowse, Julian Trollor 'Reducing Vulnerability to Harm in Adults With Cognitive Disabilities in the Australian Criminal Justice System' (2013) 10(3) *Journal of Policy and Practice in Intellectual Disabilities* 10(3) 2013, 222–229.

health problems at considerably higher levels compared with the general population.⁹¹

We are pleased to be informed that QCS is currently undertaking two external research projects to gain a better understanding of the prevalence of disabilities in Queensland prisons. It is anticipated the results will be available in the second half of 2019.⁹²

The criminal justice system is poorly suited to respond to complex needs arising from mental illness, disability, acquired brain injury, and substance abuse. The Human Rights Law Centre and Change the Record Coalition argue that the role of prison

*has become, in many cases, simply to 'warehouse' or 'manage' people who fall into these categories, without providing appropriate or adequate support in addressing the underlying issues.*⁹³

This situation ignores the underlying issues have led to these people to becoming incarcerated in the first place.

Queensland prisons and disability

Screening for disabilities

In 2006, we expressed concern that, at that time, QCS did not gather statistics on women with intellectual disability and/or mental illness in any systematic manner.⁹⁴ QCS now has a more systematic approach to screening for disability. This is an important part of understanding the needs of an individual prisoner, and the prison population as a whole. It can also assist in identifying adjustments a prisoner may need while in prison.

QCS has advised that on the day of admission into custody, each prisoner is asked a series of questions during the Immediate Risk Needs Assessment (IRNA). The questions are designed to highlight any immediate issues for the management of the prisoner. The IRNA will only be repeated when the prisoner leaves QCS custody, and if they return at a later date. The IRNA is not a standardised or validated assessment or diagnosis. It reflects prisoner responses and the observations of the correctional counsellor or psychologist who is completing it.

Intellectual disability

For a period after 2006, but prior to 2014, QCS intake questions regarding intellectual disability were as follows:

- Has the prisoner attended a special school?

⁹¹ Lubica Forsythe and Kerryn Adams, 'Mental health, abuse, drug use and crime: does gender matter?' (2009) 384 *Trends & issues in crime and criminal justice*.

⁹² Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

⁹³ Australian Law Reform Commission, *Pathways to Justice*, above n 35, [11.32].

⁹⁴ Anti-Discrimination Commission Queensland, *Women in Prison*, above n 4, 66.

- Has the prisoner attended a sheltered workshop?
- Was the prisoner receiving a pension for sickness or a disability prior to imprisonment?
- Is the prisoner unable to write their name and address on paper?

In August 2014, the IRNA questions regarding intellectual disability changed to align with four screening questions of the Hayes Abilities Screening Index (HASI). The HASI is a screening tool for intellectual disability. It correlates significantly with standardised tests for intelligence and adaptive behaviour.⁹⁵ Many more prisoners were identified by QCS as having an intellectual disability after the implementation of more accurate screening using the HASI Index.

Mental health

Current prison practice is that if psychiatric or psychological risks or needs are identified, the assessing officer must make a referral to a psychologist (if the assessing officer is not a psychologist) for further assessment. If the assessment finds that a prisoner has a history or current diagnosis of mental illness, or has had previous contact with a mental health service provider, the assessing officer must make a referral to Prison Mental Health Service for assessment.

Neurocognitive disability (NCD)

Neurocognitive disability is any type of brain damage or neurological disruption causing partial or functional disability or psychosocial maladjustment.⁹⁶ It can change an individual's thinking and behaviour and can result in poor concentration and attention, lack of insight, poor impulse control, memory problems, poor planning and problem solving, sensory overload and fatigue, and other symptoms.

NCD remains chronically undiagnosed and largely misunderstood, and evidence indicates that people with cognitive impairment are over-represented in the criminal justice system.⁹⁷ Cognitive decline can be observed and tested by cognitive assessment. However, the Hayes Abilities Screening Index, which focusses on intellectual disability, will not systematically identify people with NCD.

A newly-developed protocol and methodology, known as the Guddi Protocol, has potential to establish the extent of NCD in prisoners at the time they enter prison.⁹⁸ This could help generate meaningful data,

⁹⁵ Refer to the Hayes Ability Screening Index website for more information.

⁹⁶ For example, impairments may be due to an accident, stroke, lack of oxygen, trauma, vascular disease, Alzheimer's disease, infection, foetal alcohol syndrome disorder (FASD) etc.

⁹⁷ See Eileen Baldry, Leanne Dowse, and Melissa Clarence, 'People with mental and cognitive disabilities: pathways into prison' (Background Paper for Outlaws to Inclusion Conference, February 2012) p 5.

⁹⁸ Clare Townsend, Michelle McIntyre, Ali Lakhani, Courtney Wright, Paul White, Jason Bishara, Jennifer Cullen, 'Inclusion of marginalised Aboriginal and Torres Strait Islander Peoples with neurocognitive disability in the National Disability Insurance Scheme (NDIS)' (2018) 5(2) *Disability and the Global South* 1531–1552; Clare Townsend, Paul White, Jennifer Cullen, Courtney J Wright, and Heidi Zeeman, 'Making every Australian count: challenges for the National Disability Insurance Scheme (NDIS) and the equal

and assist QCS to manage behaviours evidenced during incarceration and in adapting programs and services to support desistance from crime.

QCS data on disability

QCS has provided the Commission with data on prisoners with disability, with a caveat that caution should be used when inferring conclusions from the data.

The data showed that:

- There are lower levels of physical disability in women prisoners in Queensland than the general population.
- Compared to the general population, both female and male prisoners in Queensland have a higher rate of intellectual disability than the general Queensland population.⁹⁹
- Many more prisoners were identified as having an intellectual or cognitive disability after August 2014 when the more reliable Hayes Abilities Screening Index was introduced.¹⁰⁰
- A significantly higher number of Aboriginal and Torres Strait Islander prisoners were identified as having an intellectual disability.
- Compared to the general population, both female and male prisoners have a higher rate of psychiatric disability. In recent periods, between a quarter and one-third of all prisoners have been referred to psychiatric or psychological services at the time of admission.¹⁰¹

Physical disability

Table 21: Female prisoners with physical disability flagged during admission

as at	Female prisoners									
	30.06.2007		30.06.2013		30.06.2014		30.06.2015		30.06.2016	
Medical/disability flagged at admission	90	22%	87	16%	95	14%	122	17%	88	13%
Not flagged at admission	319	78%	449	84%	570	86%	582	83%	597	87%
TOTAL	409		536		665		704		685	

Source: Queensland Corrective Services (unpublished administrative data).

inclusion of homeless Aboriginal and Torres Strait Islander Peoples with neurocognitive disability' (2018) 42 *Australian Health Review* 227–229.

⁹⁹ See table 22, page 81 of this report.

¹⁰⁰ See table 22, page 81 of this report.

¹⁰¹ See table 24, page 83 of this report.

Intellectual disability

Table 22: Intellectual disability risk/need identified during admission¹⁰²

Caution should be used when inferring conclusions from the below data										
as at:	30/06/2007		30/06/2013		30/06/2014		30/06/2015 ~		30/06/2016 ~	
	Female Prisoners									
	I	N-I	I	N-I	I	N-I	I	N-I	I	N-I
Intellectual Disability individual risks/needs flagged during admission*	0	2	2	3	1	2	13	15	16	15
Proportion of total female prisoners in custody as at 30 June	0.0%	0.7%	1.1%	0.8%	0.4%	0.5%	5.3%	3.3%	6.6%	3.4%
	Male Prisoners									
	I	N-I	I	N-I	I	N-I	I	N-I	I	N-I
Intellectual Disability individual risks/needs flagged during admission*	14	51	17	47	28	59	143	226	168	248
Proportion of total male prisoners in custody as at 30 June	1.0%	1.4%	1.0%	1.2%	1.4%	1.4%	6.9%	5.0%	7.6%	5.2%
I = Indigenous = Non-Indigenous										

Source: Queensland Corrective Services (unpublished administrative data).

¹⁰² * On the day of each admission into custody, each prisoner is asked a series of questions during the Immediate Risk Needs Assessment (IRNA). The questions are designed to highlight any immediate issues for the management of the prisoner. The IRNA will only be repeated when the prisoner leaves QCS custody and returns at a later date.

The IRNA is not a standardised or validated assessment or diagnosis. It reflects prisoner responses and the observations of the correctional counsellor or psychologist who is completing it. Questions currently asked in relation to intellectual disability prior to 2014 were:

Has the prisoner attended a special school?

Has the prisoner attended a sheltered workshop?

Was the prisoner receiving a pension for sickness or a disability prior to imprisonment?

Is the prisoner unable to write their name and address on paper?

The responses to the above questions inform whether the officer activates the 'Intellectual Disability' in the IRNA summary page. The above table is a count of these activations for prisoners currently in custody. A prisoner who remains in custody for an extended period will have an IRNA record which is historic and not necessarily a reflection of their current situation.

~ In August 2014, the IRNA questions in relation to intellectual disability changed to align with the four screening questions (HQ) of the Hayes Abilities Screening Index (HASI).

The HASI is a screening tool for intellectual disability only. It correlates significantly with standardised tests for intelligence and adaptive behaviour, but is not a standardised diagnostic test. Refer to www.hasi.com.au for further information.

In late 2005, Queensland Corrective Services (QCS) transferred to a new offender management information system. At that time, historical data transferred to the new system. For prisoners in custody prior to 2005, and continuously in custody since that time, no IRNA responses are available.

Table 23: CI Warning Flag present

as at:	30/06/2013		30/06/2014		30/06/2015		30/06/2016	
	Female Prisoners							
	I	N-I	I	N-I	I	N-I	I	N-I
Cognitive Impairment Warning Flag present	1	3	1	1	5	5	7	3
Cognitive Impairment Warning Flag not present	179	353	232	431	241	453	235	440
Totals	180	356	233	432	246	458	242	443
Total - Females	536		665		704		685	
	Male Prisoners							
	I	N-I	I	N-I	I	N-I	I	N-I
Cognitive Impairment Warning Flag present	17	50	15	49	110	185	163	226
Cognitive Impairment Warning Flag not present	1752	3720	2051	4263	1967	4326	2062	4583
Totals	1769	3770	2066	4312	2077	4511	2225	4809
Total – Males	5539		6378		6588		7034	
All Prisoners	6075		7043		7292		7719	
* The Cognitive Impairment Warning Flag was introduced in November 2011. Initially activated/deactivated based on information/assessment obtained from a psychologist or doctor during custodial assessment or in sentencing documents. In August 2014 the activation of this flag changed to all prisoners with a positive response to two or more of the four HASI questions in the IRNA at point of admission. This practice change has increased the number of prisoners screened as possibly having an intellectual disability requiring further assessment.								
I = Indigenous N-I = Non-Indigenous								

Source: Queensland Corrective Services (unpublished administrative data).

Mental health

Table 24: Psychiatric/Psychological referral made at time of admission

Caution should be used when inferring conclusions from the below data										
	30/06/2007		30/06/2013		30/06/2014		30/06/2015		30/06/2016	
	Female Prisoners									
	I	N-I	I	N-I	I	N-I	I	N-I	I	N-I
Referral made to ‘Psychiatric & Psychological’ services during admission process^	18	54	13	105	73	150	63	155	71	146
Referral not made to ‘Psychiatric & Psychological’ services during admission process^	78	178	137	521	160	282	183	303	170	297
No response available	12	69	0	0	0	0	0	0	1	0
Totals	108	301	180	356	233	432	246	458	242	443
Total - Female	409		536		665		704		685	
	Male Prisoners									
	I	N-I	I	N-I	I	N-I	I	N-I	I	N-I
Referral made to ‘Psychiatric & Psychological’ services during admission process^	191	785	396	1281	476	1530	542	1720	595	1793
Referral not made to ‘Psychiatric & Psychological’ services during admission process^	1026	2162	1372	2488	1589	2781	1534	2790	1629	3015
No response available	209	752	1	1	1	1	1	1	1	1
Totals	1426	3699	1769	3770	2066	4312	2077	4511	2225	4809
Total - Male	5125		5539		6378		6588		7034	
All Prisoners	5534		6075		7043		7292		7719	
I = Indigenous; N-I = non-Indigenous										
^ On the day of each admission into custody each prisoner is asked a series of questions during the Immediate Risk Needs Assessment (IRNA). The questions are designed to highlight any immediate issues for the management of the prisoner. The IRNA will only be repeated with the prisoner leaves QCS custody and returns at a later date. The IRNA is not a standardised or validated assessment or diagnosis. It reflects prisoner responses and the observations of the correctional counsellor or psychologist who is completing it. Based on the response to particular questions, a referral may be generated for additional actions. The above table is a count of these referral for prisoners currently in custody on the reference dates for 'Psychiatric & Psychological' intervention. Current practice is that if Psychiatric and Psychological risk/needs are identified, the assessing officer must make a referral to a Psychologist (if the assessing officer is not a psychologist) for further assessment. If it is identified during the assessment that a prisoner has a history or a current diagnosis of mental illness, or has had previous contact with a mental health service provider, the assessing officer must make a referral to Prison Mental Health Service for assessment. A prisoner who remains in custody for an extended period will have an IRNA record which is historic and not necessarily a reflection of their current situation.										

Source: Queensland Corrective Services (unpublished administrative data).

Adjustments for prisoners with disability

QCS procedures outline some considerations and adjustments that are made for prisoners identified as having a disability. They include:

- Staff are instructed that the Cognitive Impairment (CI) warning flag should be raised for prisoners with scores of less than 85 on the Hayes Ability Screening Index (or less than 90 if aged under 18 years), and staff should consider the most appropriate placement for prisoners with a CI flag upon admission.¹⁰³
- Prisoners identified as being vulnerable due to intellectual difficulties (that is those with the Cognitive Impairment (CI) warning flag activated) should be provided with the Easy Read Prisoner Handbook to accompany the induction manual at the time of their induction.¹⁰⁴
- Staff are referred to the Positive Interactions handbook for practical tips on communicating and working with prisoners with a CI flag.¹⁰⁵

Other adjustments occur for prisoners with disability. For example:

- Adjustments were made for a long-term female prisoner who was deaf, including: access to Skype to enable regular family contact,¹⁰⁶ providing her with her own DVD player (she could not hear the TV), and attempting to arrange captioned TV for her.
- To assist prisoners with intellectual or learning disabilities access numeracy and literacy programs, BWCC has a volunteer program with one-on-one tutoring.
- It was clear to the Commission that a number of prison officers in each of the prisons we visited were making thoughtful attempts to provide adjustments for prisoners with disabilities, and particularly those with intellectual disabilities, when they were aware of the disability.

We have been advised that as part of the 2018-19 State Budget, QCS was allocated funding of \$2.86 million to improve service delivery for people with disability and mental illness. A Service Delivery Reform (SDR) project has been established which is focusing on supporting prisoners with a disability apply for the NDIS and building an evidence-base of the prevalence of disabilities in Queensland correctional centres.¹⁰⁷

¹⁰³ Queensland Corrective Services, Custodial Operations Practice Directive, Admission and Induction 20/01/2017.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ BWCC had challenges with Skype not working, meaning the prisoner has not had as many contacts as planned.

¹⁰⁷ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

Issues: prisoners with disability

Skills training for staff

Several QCS officers we spoke with would like to receive more skills and training on how to deal with specific types of disability, and the types of adjustments that could be made to enable such prisoners to 'have full and effective access to prison life on an equitable basis.'¹⁰⁸ Some officers felt that more specialist support was required to ensure that highly vulnerable prisoners in prison safety units had full access to prison life on an equitable basis.

Access to low security facilities

Prison guidelines state that, 'if a prisoner possesses physical and/or mental disabilities it will impact on whether a prisoner can be considered for immediate placement in a low security corrective services facility.'¹⁰⁹ This report has identified the lack of accessible accommodation in low security facilities for prisoners with mobility difficulties.¹¹⁰ Reasonable adjustments ought to be available to enable prisoners with physical, intellectual, or mental illness to have opportunities to be located in low security facilities.

Other issues affecting prisoners with disability

In further sections, this report will discuss the:

- inadequate services available in TWCC for a woman prisoner who had been held in the safety unit for 134 days on remand in the safety unit, with significant periods of time in the padded cell;¹¹¹
- challenges that prison overcrowding and cell-sharing pose for women with mental or intellectual disabilities;¹¹² and
- lack of access to mental health, counselling and trauma services for many prisoners.¹¹³

¹⁰⁸ *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules), above n 6, rule 5(2).

¹⁰⁹ Queensland Corrective Services, Custodial Operations Practice Directive, Classification and placement, 31/3/2014.

¹¹⁰ See 6: Accommodation, from page 105 of this report.

¹¹¹ See 8: Management of Prisoners, Segregation and Seclusion, from page 141 of this report.

¹¹² *Ibid.*

¹¹³ See 10: Health, from page 165 of this report.

Recommendation 15: women with disabilities

Queensland Corrective Services:

- a. investigates implementing screening of prisoners for neurocognitive disability;
- b. provides officers with training, skill development, and advice on how to deal with specific types of disability, and the types of adjustments that could be made to enable prisoners with disability to have full and effective access to prison life on an equitable basis;
- c. provides more specialist support to ensure that highly vulnerable women in prison safety units have full access to prison life on an equitable basis; and
- d. makes reasonable adjustments to enable prisoners with physical, mental, and intellectual disabilities to have equal opportunities to be located in low security facilities.

Transgender prisoners

The Yogyakarta Principles

Principal 9 of the Yogyakarta Principles outlines the rights of persons with diverse sexual orientation and gender identity to treatment with humanity and respect while in detention.

The principal requires authorities to:

- Ensure that placement in detention avoids further marginalising persons on the basis of sexual orientation or gender identity or subjecting them to risk of violence, ill-treatment or physical, mental or sexual abuse;
- Provide adequate access to medical care and counselling appropriate to the needs of those in custody, recognising any particular needs of persons on the basis of their sexual orientation or gender identity, including with regard to reproductive health, access to HIV/AIDS information and therapy and access to hormonal or other therapy as well as to gender-reassignment treatments where desired;
- Ensure, to the extent possible, that all prisoners participate in decisions regarding the place of detention appropriate to their sexual orientation and gender identity;
- Put protective measures in place for all prisoners vulnerable to violence or abuse on the basis of their sexual orientation, gender identity or gender expression and ensure, so far as is reasonably practicable, that such protective measures involve no greater restriction of their rights than is experienced by the general prison population;
- Provide for the independent monitoring of detention facilities by the State as well as by non-governmental organisations including organisations working in the spheres of sexual orientation and gender identity;
- Undertake programmes of training and awareness-raising for prison personnel and all other officials in the public and private sector who are engaged in detention facilities, regarding international human rights standards and principles of equality and non-discrimination, including in relation to sexual orientation and gender identity.

Studies suggest that transgender prisoners are more likely to experience problems in prison than the general prison population, including: sexual assault, blackmail, contraction of sexually transmissible infections, mental health issues, lack of social support, denial of hormone therapy, and

mortality. Despite this, there are few estimates of the proportion of prisoners who identify as transgender.¹¹⁴

At the time we visited women's prisons in 2017, we did not speak with any prisoners who openly identified as transgender. However, a number of transgender prisoners who were assigned male at birth but who identify as female were located within the male prisons.

Issues: transgender prisoners

In Queensland prisons, the issues that most often affect transgender prisoners are:

- the way in which an individual is identified by prison authorities and officials, and how they are addressed within the prison;
- placement decisions, including whether a prisoner is placed in a male or female facility, is isolated, is placed in a protection unit, or is required to share a cell;
- provision of appropriate clothing to reflect the prisoner's gender identity;
- ability to purchase items to reflect their gender identity, such as hair dye, hair removal cream, shaving equipment, and makeup;
- strip searches and substance testing;
- access to medical treatment and hormones;
- access to programs and privileges;
- sexual assault including rape by other prisoners;
- lack of training and awareness of issues impacting on transgender people by prison officers; and
- privacy, including 'outing' a transgender prisoner.

In recent years, QCS has undertaken extensive stakeholder consultation on its processes and procedures for transgender prisoner management, and QCS instructions and associated practice directives now provide more detailed guidance on admission and induction, risk management, classification and placement, accommodation, case management, and prisoner entitlements. Prisoners who identify as transgender are to be referred to by their preferred name and the pronoun consistent with their acquired gender. Custodial operation documents require transgender prisoners to be 'managed on an individualised, case by case basis, through a multidisciplinary approach.'

¹¹⁴ Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 16; Sandor von Dresner, K, LA Underwood, E Suaraz, and T Franklin, 'Providing Counselling for Transgendered Inmates: A Survey of Correctional Services.' (2013) 7(4) *International Journal of Behavioural Consultation and Therapy* 38–44.

The Commission recognises the complexity of decision-making for prison authorities in determining the appropriate placement of transgender prisoners to ensure their personal safety and human rights. Each decision needs to be determined on an individualised, case-by-case basis. Unique solutions may need to be devised to safely house particular individuals who are highly vulnerable to exploitation and abuse. Such solutions should also preserve the prisoner's other rights to equitable treatment in prison.

To the extent possible, individual prisoners should participate in decisions regarding their place of detention, and their preference for being placed in a male or female prison should be a substantial consideration in decision-making. The biological sex of the prisoner (including whether they are pre or post-operative) should not be the primary determining factor in decision-making.

To ensure the dignity and safety of the transgender prisoner, a transgender prisoner should be offered one of three options prior to conducting a strip-search:

- male officer(s) only;
- female officer(s) only; or
- a split search (male and female officer(s), depending on the area of the body being searched).

It is noted that the QCS policy only mentions that transgender prisoners 'may not have the genitalia of the gender with which the prisoner identifies'. The policy should more clearly address this issue. Corrections Services Canada has recently implemented a progressive operational practice for strip searches and pat downs which we recommend to QCS.¹¹⁵

Another recent significant change has occurred in Queensland prisons, and transgender prisoners can now be prescribed hormone replacement therapy (HRT) while in prison in situations where they may not have had a diagnosis of gender dysphoria prior to entering prison.¹¹⁶ However, there still remains a critical lack of access to expert medical assistance for transgender prisoners in each of the health service regions across Queensland in which prisons are located. We have been informed that transgender prisoners seeking expert gender health services are being transferred to Lotus Glen Men's Prison in far North Queensland in order to access the medical assistance they require.¹¹⁷ This transfer option may not be possible for all prisoners who require such health services, as it may result in location in a prison far away from family. It is important that Queensland Health provide appropriate gender health services to

¹¹⁵ Corrections Service Canada, *Interim Policy Bulletin 584* Bill C-16 (Gender Identity of Expression) 27 December 2017.

¹¹⁶ See *Sinden v State of Queensland* [2012] QCAT 284 (5 July 2012).

¹¹⁷ The Commission is informed that these services are provided by experts from Cairns Sexual Health Clinic.

prisoners across Queensland. Prisoners should not have to transfer to a prison in Far North Queensland in order to receive health services.

The recent improvements to QCS policies are commendable. To ensure their full implementation, it is important that QCS officers are trained so that they have a greater awareness of issues impacting on transgender people and their human rights.¹¹⁸ All other officials in the public and private sector who are engaged in detention facilities should also be provided with induction training on the key issues impacting on transgender prisoners by QCS, prior to commencing duties within a prison.

Recommendation 16: transgender prisoners

Queensland Corrective Services:

- a. provides regular training to QCS officers on issues that have an impact on the human rights of transgender prisoners, and also provides induction training on transgender issues to all other people who work in prisons, prior to commencing duties; and
- b. offers one of three options to trans-identified prisoners prior to a strip-search:
 - male officer(s) only;
 - female officer(s) only; or
 - a split search (male and female officer/s), depending on the area of the body being searched).

Queensland Health:

- c. provides appropriate gender health services to transgender prisoners across Queensland without the need for the prisoner to transfer between prisons to access such services.

¹¹⁸ The LGBTI Legal Service, Queensland Aids Council, and the Commission offer training covering these issues.

Culturally and linguistically diverse women

Bangkok Rules

Rule 54:

Prison authorities shall recognize that women prisoners from different religious and cultural backgrounds have distinctive needs and may face multiple forms of discrimination in their access to gender- and culture-relevant programmes and services. Accordingly, prison authorities shall provide comprehensive programmes and services that address these needs, in consultation with women prisoners themselves and the relevant groups.

Rule 55:

Pre- and post-release services shall be reviewed to ensure that they are appropriate and accessible to indigenous women prisoners and to women prisoners from ethnic and racial groups, in consultation with the relevant groups.

QCS policies: culturally and linguistically diverse prisoners

While most women prisoners in Queensland are Australians or New Zealanders, data provided by QCS indicates that the women's prison population is diverse, and prisoners come from a variety of religious and cultural backgrounds.¹¹⁹

QCS policies recognise this diversity, and give officers guidance on accommodating the different needs of these prisoners. For example, the QCS policy outlines circumstances when it may be necessary to arrange an interpreter to overcome communication barriers (including instances when a professional interpreter should be used.)¹²⁰

In particular, QCS specifies that on admission and induction, language support (interpreter services) and cultural support (such as involvement of a cultural liaison officer) should be provided, where practicable and available, to prisoners with identified needs. The process must be flexible, responsive to the needs of the prisoners, and utilise a variety of visual aids and resources to ensure effective transfer and retention of

¹¹⁹ See Table 2: Female prisoners' ethnic background (page 55 of this report) and Table 3: Prisoners by gender and religious status (page 56).

¹²⁰ Queensland Corrective Services, Custodial Operations Practice Directive, Accommodation and Case Management, 21 September 2017.

information to prisoners with special needs, and incorporate culturally appropriate style and pace.¹²¹

QCS permits alternative food options if there is a cultural, religious, or lifestyle requirement. Each prisoner must apply through the General Manager of the prison, who will consider the request on a case by case basis.¹²²

Prisoners may receive visits from religious visitors and chaplains.¹²³ We also heard of helpful assistance being provided by QCS welfare officers to assist a prisoner to obtain religious articles necessary for religious observances, and providing private space for those activities to occur.¹²⁴

Issues: culturally and linguistically diverse prisoners

During the Commission's consultation, the following matters were raised with us:

- One prisoner on parole raised a concern that, under her parole conditions, she was not permitted to visit the Thai Buddhist temple she had attended on a weekly basis prior to her imprisonment. After four months on parole, she was permitted to visit a Chinese Buddhist temple with her parole supervisor.
- An allegation was made that two Chinese prisoners held in Numinbah WCC were not permitted to converse with each other in Mandarin.
- An allegation was made that an Aboriginal woman who gave birth while in TWCC, was not permitted to speak to her new baby in her traditional language (Walpiri).

The Commission is not in a position to investigate such allegations in the absence of a complaint. In certain circumstances, requiring persons to only speak in the English language may be indirect discrimination under the *Anti-Discrimination Act*.¹²⁵ QCS is encouraged to ensure any conditions it imposes on prisoners regarding religious practice or language use can be justified and are reasonable.

¹²¹ Queensland Corrective Services, Custodial Operations Practice Directive, Admission and Induction Practice Directive, implementation date 28/9/17.

¹²² Queensland Corrective Services, Custodial Operations Practice Directive, Accommodation and Case Management, 21/09/2017.

¹²³ Corrective Services Regulation 2017 reg 25.

¹²⁴ QCS staff assisted a Muslim female prisoner to obtain a prayer mat and to observe religious requirements during Ramadan.

¹²⁵ *Anti-Discrimination Act 1991* (Qld), section 11.

Young women

Seventeen-year-old prisoners

In February 2018, legislation commenced that brings Queensland into line with the United Nations *Convention on the Rights of the Child* and the law in all other Australian jurisdictions. Young people aged seventeen will now be dealt with in the youth justice system.¹²⁶ This is significant, as prior 2018 seventeen-year-olds were treated as adults under the criminal law in Queensland. This meant that if they were sentenced to imprisonment or remanded in custody, they were incarcerated in adult prisons. This is inconsistent with the United Nations *Convention on the Rights of the Child*.¹²⁷

The *Youth Justice (Transitional) Regulation 2018*, commenced in February 2018, allowed for seventeen-year-olds who were in adult prison, on adult community-based orders, or involved in adult court proceedings, to be considered for transfer to the youth justice system. Decisions about transferring seventeen-year-olds to detention from adult prison were made based on the safety and best interests of the child, staff, and the wider community.¹²⁸

As at February 2019 we have been informed that there are no longer any 17 year old Queensland prisoners in QCS custody.¹²⁹

Other young women

Young women leaving prison would benefit from having a community volunteer sponsor to assist their resiliency, and help guide them as they exit prison. QCS building a capacity to recruit and facilitate such volunteers could provide a useful, extra support for young women as they leave prison. We think there is merit in QCS further exploring the idea of using volunteers for such a purpose.

Recommendation 17: young women

Queensland Corrective Services matches community volunteer sponsors to young women leaving prison in order to provide transitional and post-release support.

¹²⁶ *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016*. Unfortunately, some transitional issues appear to be emerging with the changes in legislation. An increasing number of young people are detained in watch houses for periods of up to a week or more, because there has not been sufficient space in youth detention centres. See Tim Swanston, 'Week-long "inhumane" watch house detention for 14 yo Queensland boy sparks police complaint', *ABC News Online*, 18 May 2018.

¹²⁷ See the Commission's 2006 *Women in Prison report*, above n 4, 115.

¹²⁸ Department of Child Safety, Youth and Women, Queensland Government *Youth justice* [website].

¹²⁹ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

5. Family and parenting

Convention on the Rights of the Child:

Article 3:

(1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

(2) States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

Bangkok Rules

Rule 4:

Women prisoners shall be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services.

Rule 23:

Disciplinary sanctions for women prisoners shall not include a prohibition of family contact, especially with children.

Rule 26:

Women prisoners' contact with their families, including their children, and their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.

Rule 28:

Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible.

Rule 43:

Prison authorities shall encourage and, where possible, also facilitate visits to women prisoners as an important prerequisite to ensuring their mental well-being and social reintegration.

Rule 45:

Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.

Rule 63:

Decisions regarding early conditional release (parole) shall favourably take into account women prisoners' caretaking responsibilities, as well as their specific social reintegration needs.

Women prisoners as mothers and primary carers

In Australia, surprisingly little is known about the extent to which Australian children are affected by parental (maternal and paternal) imprisonment. Data is not routinely collected on the parental status of prisoners, and therefore there are no nationwide figures.¹³⁰

Many female prisoners are mothers or primary caregivers, and their time in prison can have major consequences for their children and families.¹³¹ The problems for their children can include isolation, behavioural difficulties at school, anxiety, insecurity, withdrawal, anger, and mental health concerns.¹³² Some female prisoners are single parents, and being removed to prison often leaves their children without adequate care and support.¹³³

'I do want to hammer home a very simple principle of reform that needs to be a golden thread running through the prison system and the agencies that surround it. That principle is that relationships are fundamentally important if people are to change.'

Lord Farmer, author of United Kingdom's Ministry of Justice 2017 review on the importance of family and other relational ties to prisoners' rehabilitation

¹³⁰ Susan Dennison, Anna Stewart, and Kate Freiberg 'A prevalence study of children with imprisoned fathers: annual and lifetime estimates' (2013) 48(3) *Australian Journal of Social Issues* p 339.

¹³¹ Catherine Flynn, 'Responding to the children of women in prison: Making the invisible visible', (2011) 19 *Family Relationships Quarterly*.

¹³² *Ibid.*

¹³³ See stories on pages 100-101 of this report.

In 2006, the Commission recommended the Queensland Government consider alternatives to custody — including home detention, periodic detention and community service orders — for women with dependent children.¹³⁴ Further, we recommended that the *Penalties and Sentences Act 1992* be amended to include the principle that the best interests of the child be a factor to be considered when sentencing a person with a dependent child.¹³⁵ This is consistent with s 16A(2)(p) of the *Crimes Act 1914* (Cth) which contains a requirement that a sentencing court must take into account ‘the probable effect that any sentence or order under consideration would have on any of the person’s family or dependants’. The *Crimes (Sentencing Act) 2005* (ACT) and the *Sentencing Act 2017* (SA) contain similar provisions.¹³⁶

These recommendations were not acted on by the Queensland Government in 2006, and are still relevant today.

Recommendation 18: family and parenting

The Attorney-General takes steps to amend the Penalties and Sentences Act 1992 to include the principle that the best interests of the child be a factor to be considered when sentencing a person with a dependent child.

Family and parenting statistics

QCS does not collect data on the number of female prisoners with children under the age of 18 years, or the number of female prisoners with a child under five years of age. It does not keep data on the care arrangements for dependent children under 18 years who have a mother in custody. There is no QCS data on whether such children are in state residential care, non-family foster care, or with family (other parent, grandparents, or other family).

The Commission believes this data is relevant to ensuring the best interests of prisoners’ children are considered, and should be collected routinely.

QCS was able to provide the following data to the Commission.

¹³⁴ Anti-Discrimination Commission Queensland, *Women in Prison* report, above n 4, 14, Recommendation 55.

¹³⁵ Anti-Discrimination Commission Queensland, *Women in Prison* report, above n 4, 14, Recommendation 57. See also *R v Illin* [2014] QCA 285 (18 November 2014) and *R v Chong*; ex parte A-G (Qld) [2008] QCA 22 (22 February 2008).

¹³⁶ *Crimes (Sentencing Act) 2005* (ACT) section 33, and *Sentencing Act 2017* (SA) sections 86, 105, 114, 115, and 120.

Table 25: Prisoners: pregnancy and child birth data and children residing in prison between 2006–2007 and 2016–2017

Brisbane Women's Correctional Centre		2006–07*	2013–14*	2014–15	2015–16	2016–17 (to 09/06/2017)
Female prisoners with children aged under 5 years who have had their child reside with them while in prison by Indigenous status.	I			1	3	4
	N-I			5	9	9
Number of female prisoners who were pregnant during their incarceration.				11	67	59
From the above, number of these prisoners who gave birth during their time in custody				2	6	11
*2006/07 and 2013/14 data not available						
Townsville Women's Correctional Centre		2006–07*	2013–14	2014–15	2015–16	2016–17 (to 09/06/2017)
Female prisoners with children aged under 5 years who have had their child reside with them while in prison by Indigenous status.	I		2	3	1	3
	N-I		5	7	6	7
Number of female prisoners who were pregnant during their incarceration.			16	17	15	26
From the above, number of these prisoners who gave birth during their time in custody			3	7	3	5
* 2006/07 data not available						
Helana Jones Community Correctional Centre		2006–07*	2013–14	2014–15	2015–16	2016–17 (to 09/06/2017)
Female prisoners with children aged under 5 years who have had their child reside with them while in prison by Indigenous status.	I		2	2	0	1
	N-I		5	6	15	10
Number of female prisoners who were pregnant during their incarceration.			6	7	10	11
From the above, number of these prisoners who gave birth during their time in custody			2	1	2	2
*2006/07 data not available						

NB: All reported figures are based off manual records therefore reliability of the information is based on the individual performance of the person inputting the data. Strategies were implemented in 2015-16 to protect and maintain manual data records.

Source: Queensland Corrective Services (unpublished administrative data).

In the year 2016–2017 a total of 96 women in Queensland prisons were recorded as being pregnant, and 18 women gave birth. During the same period 34 children aged under 5 years resided with their mothers in prison.

Rule 68, Family and parent, of the *Bangkok rules* states:

Efforts shall be made to organize and promote research on the number of children affected by their mothers' confrontation with the criminal justice system, and imprisonment in particular, and the impact of this on the children, in order to contribute to policy formulation and programme development, taking into account the best interests of the children.

Recommendation 19: family and parenting statistics

Queensland Corrective Services takes a lead role in working with other relevant departments to improve the collection of data about the number of children in Queensland affected by the imprisonment of a parent.

Family and parenting: current practice

Children residing with their mothers in prison

As at July 2017, BWCC, the secure portion of TWCC, and HJCC all had accommodation where children under primary school age could live with their mothers. The newly opened SQCC also has two parental support units. HJCC also permits primary school-aged children between the ages of five and six years to reside with their mother for periods during school holidays or on weekends. BWCC, TWCC and HJCC all have well-functioning play groups, and strong working relationships with officers working in child safety and child health to assist mothers with young children residing with them in prison.

The BWCC employs a mothers and children support worker who provides services to mothers whose children reside with them and to expectant mothers. BWCC also employs a general welfare officer to assist prisoners. However, TWC does not have a specialist case manager / parental liaison officer to support families.

At the time of our consultation in June 2017, QCS informed us that the mothers' and children's units would be removed from the secure BWCC and TWCC, and relocated to the low security Numinbah Correctional Centre and FLO centre in Townsville. In February 2019 QCS advised that Numinbah CC and FLO now have units for mothers and children, however had decided not to remove such units from secure custody prisons, as it is important that women are able to have the opportunity to have children accommodated with them regardless of classification

The Commission supports this decision, which enables women to continue the caring role for young children regardless of their

classification. However the obstacles for providing a stimulating, child-friendly environment for young children in a secure prison (with its rigid rules and routines) are formidable. For example, the following issues in the secure women's prisons are of concern:

Secure prison lockdowns

Any time a unit is required to be locked down, young children are 'locked down' with their mothers inside their residential unit. A long lockdown period is very hard on toddlers and their mothers, as children cannot go outdoors to play when lockdowns occur.

Secure prison rules that impact on children

The strict rules imposed in secure prisons can impact on normal childhood behaviours. Rules that we believe unnecessarily adversely impact on young children were brought to our attention.

The first such rule is at BWCC. When on the oval outside the parent unit, a mother must either have their child secured in a pram, or if the child is over three years of age and walking independently, the mother must hold the child's hand.¹³⁷ We were informed this rule is imposed because of a concern about snakes in open areas. While appreciating this concern, young children still need the opportunity to run and play on the oval, which is the only large outdoor environment available to them (similar to going to a local neighbourhood park). Safety issues should be able to be managed in an alternative manner, without the need for constant hand-holding. QCS have advised us that they will look at this rule to identify whether changes should be made.¹³⁸

We are informed by QCS that when inducted into the parent support unit by prison officers, mothers are advised verbally and in writing that if they have any concerns about the safety and/or welfare of a child in the unit they must immediately notify a staff member. Despite this, a prisoner mother alleged on one occasion a prison officer imposed a requirement that a prisoner is not allowed to call a guard at night, unless there is a medical emergency. She informed us that her baby was constantly screaming one night, because he was teething. After contacting the night duty prison officer to request some baby Panadol to relieve the baby's distress, the prisoner said she was abused by the officer who told her it was not a medical emergency. Any such night-time 'medical emergency' rule is not a rule that considers the best interests of the child. Prison officers working in units where young children are accommodated need to be reminded that a child's needs are the priority no matter what the time of day.

¹³⁷ Queensland Corrective Services, BWCC Parental Support Unit Rules (updated 29.03.2017).

¹³⁸ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

Other dependent children

For most children, once their mother has been imprisoned, they are physically separated from her while she is in prison. Such children may reside with family (other parent, grandparents, or other family) with non-family foster carers, or go into State residential care.

A report on the rights and status of children of prisoners says:

*The children of prisoners are the invisible victims of crime and the penal system. They have done no wrong, yet they suffer the stigma of criminality. Their rights to nurture are affected both by the criminal action of their parent and by the state's response to it in the name of justice.*¹³⁹

We heard a number of stories in which older dependent children of female prisoners were greatly impacted by their mother's imprisonment.

T's story (June 2017)

T's mum, M, was very anxious about her 20-year-old daughter who had been self-harming while M was in prison. M had already lost one daughter who died in a car accident, and she was terrified that while she was in prison, she might lose T as well.

T, who has autism, had lived with M (a single mum) in a housing commission house. They moved to a private rental house when M got a well-paid job, but when M lost her job, they became homeless, so they moved into a friend's house.

Around this time, M's older daughter (T's sister) was killed in a car accident. Things fell apart for M, and in 2015, she was found guilty of a driving offence and sent to jail for three months. T lived interstate with her aunt while her mother was imprisoned. When M was released she had no accommodation, so both M and T moved into a share house with M's friend. However the share house did not work out (the friend did not get on with T), and again M and T were homeless.

M relapsed into drug use, reoffended (drug use and supply, and dangerous operation of a motor vehicle) and in late 2016 was sentenced to an 11-month prison term. T couch surfed with friends, and again, it did not work out.

After T threatened to jump in front of a train, T sought help for her mental health in hospital. Youth services found her accommodation in a unit, but provided T very limited support. T, still grieving the death of her sister, and upset that her Mum was absent, continues to threaten self-harm. M manages to make

¹³⁹ Kathleen Marshall, *Not Seen. Not Heard. Not Guilty: The Rights and Status of the Children of Prisoners in Scotland* (Scotland's Commissioner for Children and Young People, 2008) 8.

phone calls to T while in prison, but she had not been able to speak to Youth Services about her concerns for her daughter.

Even though Youth Services organised new ID for T (which had been lost when T was homeless), with all her difficulties, T had been unable to visit M in the six months since she went to prison.

A week prior to the Commission's visit to the prison, T telephoned the prison to try to speak with M. A miscommunication occurred when she spoke to prison staff, and T mistakenly believed M had been released from prison. As M had not turned up at T's accommodation, T became distraught thinking her mother had left her. She self-harmed by drinking from a bottle of 'Mr Muscle' (a cleaning product) and was taken to hospital.

M managed to speak to T in hospital with the assistance of the prison staff. A few days later, T telephoned the prison to try and speak with a counsellor, but got very upset after speaking to a prison officer who informed her that her Mum's release date was in November 2017. T had desperately been hoping her Mum would be released on parole prior to that date.

M was highly concerned about her daughter, the state of her mental health, her inability to cope on her own, the lack of suitable support for her, her continued self-harming, and the fact that she still not had been able to visit the prison to see and get support from her Mum.

A's story (June 2017)

A has three children aged four, 13, and 15. Her four-year-old son lives with his father. After A went to prison to serve a 16-month sentence, her daughters (aged 13 and 15) initially stayed with various friends and family. However, since Christmas 2016 both girls have been homeless. A's 13-year-old daughter was raped while living on the streets.

A was extremely anxious about the welfare of her daughters, and her inability while in prison to arrange adequate accommodation and support for them. She had great difficulty making phone calls to arrange places at a homeless shelter for them, and felt very aggrieved at what she saw as the lack of help from the prison counsellor to assist with this task. Ultimately, A contacted the Department of Child Safety to help find suitable accommodation. Neither of the girls was attending school.

The girls visited A in prison on four occasions with the assistance of Sisters Inside. While she was in BWCC, her son visited A once to attend the playgroup — which she described as 'awesome'. When her children visited her, A was actively discouraged from touching them, and was told 'you can't console your children'.

A said there was a lack of support for helping her daughters. She would like a network to try and help them. In her view, there was a

huge need for more assistance for prisoner's children 'on the outside'.

Recommendation 20: contact with, visits by, and care of children

Queensland Corrective Services:

- a. facilitates prisoners' contact with their children, their children's guardians, and legal representatives; and
- b. encourages and facilitates children's visits to women prisoners;
- c. ensures decisions regarding early conditional release (parole) favourably take into account women prisoners' care-taking responsibilities.

Maintaining family relationships

As there are very few women's prisons in Queensland, women are often imprisoned a long distance from their children.¹⁴⁰ Long-distance imprisonment reduces opportunities for prison visits¹⁴¹, and makes it more difficult to maintain relationships, particularly with young children. Prison authorities also informed us that, in their experience, for a range of reasons (including remoteness), women prisoners receive far fewer visits than male prisoners.

Aside from visiting a prisoner in prison, the main way to maintain relationships with families is through phone contact. Videoconferencing (if available) and letters are also used to maintain family relationships during a period of imprisonment.

Phone availability

In BWCC, there are inadequate phone lines available for the number of prisoners who want to access those phones,¹⁴² and in TWCC, there is also competition for phone use. There are peak times to make calls: when children and families are at home after school and work. Competition for use of phones results in conflict and a pecking order among prisoners. The women told us that the usual length of a phone call made by a woman during peak periods is 10 to 15 minutes, but that phones are not available for use when the prison is in lockdown.

¹⁴⁰ Women prisons in Queensland are located in South-East Queensland at Wacol, Brisbane, Numinbah, and in North Queensland at Townsville.

¹⁴¹ For instance, a woman in TWCC informed us that she only receives visits from her children residing in Bundaberg twice a year.

¹⁴² In BWCC, each Secure Unit has one phone available. In Residential Units, there are 4 phones available. BWCC recently doubled the number of phones in Residential Units, but further expansion is limited, due to the capacity of existing cables. In TWCC there is one phone in each Secure Unit, and 4 phones in the Residential units.

The cost of making phone calls from prison is high,¹⁴³ and prisoners with limited financial resources and larger families are at a disadvantage in trying to maintain relationships through phone contact. The *Bangkok Rules* state that authorities should take measures to counterbalance disadvantages faced by women detained in institutions located far from home. Increasing available phones for prisoner use would facilitate prisoner's attempts to maintain contact with their families.

Video conferencing

Videoconferencing facilities exist in both BWCC and TWCC. In BWCC the technology is mainly used for legal and court matters, and is very rarely available for use for family contact, where such contact is possible.

Videoconferencing requires compatible technology to exist both at the prison and where the other person is located. Some Aboriginal and Torres Strait Islander communities sometimes have such facilities, but women in TWCC advised that the Palm Island video link was not working at the time of our visit in June 2017.

Internet access for Skyping family

Skyping for family contact is rarely used in Queensland women's prisons.¹⁴⁴ We are informed that some private prisons in Queensland are now trialling electronic communication between prisoners and approved outside contacts. The Commission believes that using Skype to enhance prisoners' contact with approved family members would greatly enhance a prisoner's ability to maintain stronger relationships with families, particularly young children.¹⁴⁵

QCS is encouraged to further explore this opportunity for women whose families are situated in locations remote from the prison in which they are held.¹⁴⁶

¹⁴³ Many women make STD calls to their families who live long distances from most women's prisons; some call mobile numbers, as many households no longer have land lines. The small amount of wages women who work in prison earn assists with the cost of calls, but many women mentioned the cost of calls was too high to maintain adequate contact.

¹⁴⁴ There is one long-term, deaf prisoner in BWCC, who had access to Skyping for family contact.

¹⁴⁵ However, care should be taken that Skyping does not replace the existing 'in person' visits. See Jenifer Njoku 'These families are going into debt just to Skype with their loved ones in jail' *The Tempest*, 5 August 2017, and Jack Smith IV, 'The End of Prison Visitation' *Mic* [2016].

¹⁴⁶ Victoria is introducing Skyping into its women prisons. See Victorian Ombudsman, *Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre*, November 2017, Recommendation 12, 105. See also: Lord Farmer, Ministry of Justice United Kingdom, *The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime*, above n 67, 15; and Children of Prisoners Europe, *Skype calls introduced for prisoners at HMP Magilligan, Northern Ireland*, above n 66.



Recommendation 21: use of technology to maintain family contact

Queensland Corrective Services:

- a. increases the number of telephones available for prisoners' use in women's prisons; and
- b. investigates opportunities for Skyping capability to enhance prisoners contact with approved family members.

Bereavements

We were informed that there is no formal bereavement protocol to be observed when a family member of a prisoner dies, and some women felt there was a lack of support even when officials are aware of bereavement. This can be a very difficult time for a prisoner and impacts on their wellbeing. The following suggestions were made to us:

- If possible, telephone contact with a terminally ill family member should be facilitated prior to their death.
- A chaplain should be informed, and contact made with the prisoner after notification of a death.
- A 'grieving session' should be offered, in which the prisoner is allowed support from other prisoners of her choice.
- A follow-up contact should be offered with the prison psychologist.

Prisoners can seek permission to attend a funeral; however, the prisoner or their family must fund the leave of absence, including the costs of prison officials to accompany them.



Recommendation 22: bereavements

Queensland Corrective Services implements a formal bereavement protocol to be observed when a family member of a prisoner dies.

6. Accommodation

Nelson Mandela Rules

Rule 12:

1. Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

2. Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the prison.

Rule 13:

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

Brisbane Women's Correctional Centre (BWCC)

Brisbane Women's Correctional Centre is a purpose-built prison to accommodate women, and is located in the western fringe of Brisbane approximately 2.5 kilometres from the suburban train station at Wacol.¹⁴⁷ It is a secure prison facility, and when opened in 1999 had a built capacity to accommodate 267 women.

BWCC houses both remand and sentenced prisoners, mainstream and protected prisoners. About ten per cent of the BWCC prison population are protected prisoners who are separated from other prisoners for a variety of reasons. These women are housed in a separate, secure facility that is effectively a prison within a prison.

In June 2017, BWCC housed female prisoners as young as 17 years, as did all other Queensland women's prisons.¹⁴⁸ However, there has been a

¹⁴⁷ A free shuttle bus service for visitors to the prison runs four days a week (Thursday, Friday, Saturday and Sunday).

¹⁴⁸ The government has detailed a timeline to integrate 17-year-olds into the Youth Justice System. Staged transitioning began in November 2017, and the *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act* commenced on 12 February 2018. From 12 February 2018, new offenders aged 17 and under will be dealt with in the Youth Justice System, and all 17-year-olds currently on adult community-based orders will be transferred to the Youth Justice System. The plan also includes supervised bail

change in government policy since the 2006 *Women in Prison* report, and after November 2017, 17-year-olds have been transitioned out of adult prisons. This is a significant step in enhancing the human rights of young people, and ensures Queensland is complying with its obligation under the *Convention of the Rights of the Child*.¹⁴⁹

BWCC provides a variety of accommodation.

s18: Accommodation: (1) Whenever practicable, each prisoner in a corrective services facility must be provided with his or her own room.

Corrective Services Act 2006

Secure accommodation

Secure accommodation units consist of a central common area surrounded by a number of cells.¹⁵⁰ Some units were designed to accommodate 16 prisoners, others for 24 prisoners. The common area for each unit contains attached tables and chairs, microwave, fridge, telephone, washing machine facilities, and an area to make tea and coffee. The individual cells were designed for, and contain facilities for, one prisoner: a bed, a desk, a wall storage unit for personal items, a toilet, basin, and shower. During the recent period of overcrowding a number of cells were modified to contain bunk beds, and in June 2017 all the secure units in BWCC were overcrowded. At that time prisoners were routinely doubled-up in cells, and many women were sleeping on mattresses placed on the floor. Since the opening of the new SQCC for women in late 2018, this practice has ceased.

Protection Unit accommodation

A secure protection unit at BWCC houses prisoners who need protection because of the nature of their crime, difficulties with other prisoners, or their status as protected witnesses. These cells were designed and built to contain one prisoner, and adjoin a small, shared exercise area. A common room contains a microwave, fridge, telephone, washing machine facilities, and reading materials. All of the area occupied by the Protection Unit is enclosed by caged walls.

accommodation services as an option for 14 to 17-year-olds from November 2017, and separate zones within Brisbane Youth Detention Centre and Cleveland Youth Detention Centre for 10 to 13-year-olds.

¹⁴⁹ Anti-Discrimination Commission Queensland, *Women in Prison* above n 4; see recommendation 49 and discussion at pages 115 to 116.

¹⁵⁰ A standard cell is 8.4 m².

Safety Unit accommodation

The Safety Unit (formerly known as the Crisis Support Unit) provides low hazard containment for prisoners identified as having intent to suicide or self-harm, or to harm others. The Safety Unit consists of a number of segregated cells surrounding a modest, central common area with a small, caged exercise yard adjacent to the unit. The unit features a padded cell with restraining devices.

Detention Unit accommodation

The prison also has a Detention Unit that is separate from other accommodation in the prison. The Detention Unit is used for segregating prisoners for breaches of discipline, or where a special treatment order has been made for the safety of a prisoner,¹⁵¹ or for the security or good order of the facility. The Detention Unit consists of four separate confinement cells and two special treatment cells, all of which are minimally furnished with adjacent toilet and showering facilities.

Prisoners who are housed in the secure units are provided with plated meals prepared in the main kitchen of the facility.

Residential accommodation

The other main accommodation in BWCC is residential housing units, originally designed to accommodate 142 inmates. The units are clustered four to a block and are designed to house six prisoners per unit. Campus style, they consist of a communal living area, a separate cell for each inmate, and access to a shared bathroom, kitchen, and laundry. Residents do their own cooking and share cleaning responsibilities. In June 2017, the residential units were overcrowded and each unit was holding up to ten prisoners, meaning that four women were sleeping on mattresses on the floor. Since the opening of the new SQCC for women in late 2018, this practice has ceased.

Mothers and young children accommodation

In June 2017, a number of the residential units accommodated prisoners who had their baby or young child living with them in prison.¹⁵² Whether or not a young child resides with their mother is determined by the person in charge of the prison facility, based on what is in the best interests of the child. If the decision-maker believes it is warranted, the decision about

¹⁵¹ *Corrective Services Act 2006* (Qld) s 53.

¹⁵² In June 2017, the Commission was informed by QCS that plans were being developed to transfer all mothers' and children's accommodation to Numinbah WCC.

where the child resides can be varied during the time the mother is in prison.

Children who are five years or more are not permitted to reside in prison, as the facilities are deemed to be unsuitable for their needs. Children sleep in their mothers' cells, which are large enough to accommodate a child's cot or bed. There is a small, fenced playground with some climbing equipment adjoining the units that is accessible during the day. Mothers and children also have access to a formal playgroup with skilled external facilitators attending once a week.

Lockdown routines

From October 2018, the usual daily lockdown routine in the secure units or individual residential units of BWCC was:

7:25am ¹⁵³ to 10.30am	unlocked from cell (in secure) or from residential unit
10.30am to 12.00pm	locked into unit(secure mainstream only)
12.00pm to 3:00pm	unlocked from unit
3:00pm to 4:45pm	locked into unit(secure mainstream only)
4:45pm to 6:15pm	unlocked from unit
6:15pm to 7:25am	locked into cell (in secure) or into residential unit

This routine means that women in secure units are locked in their cell overnight for at least 13 hours in a regular day. Women are locked into their unit blocks for up to 17.5 hours a day. On the last Wednesday of every month there is also a lockdown period in which staff undertake professional development, resulting in prisoners being locked down for an even longer period on that day.. Women advised us that there were many disruptions to the usual routine, and they were frequently locked down for much longer periods.¹⁵⁴

Accommodation issues at BWCC

Overcrowding

When we visited BWCC in 2017 the major issue with accommodation was overcrowding, and this was the subject of the Queensland Ombudsman's

¹⁵³ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

¹⁵⁴ Shortages of staff result in lockdowns. This could occur for a range of reasons, for example, a prisoner needing to be escorted by officers to an appointment outside the prison.

2016 *Overcrowding at Brisbane Women's Correctional Centre* report. The issues raised by the Ombudsman in his report were still apparent at BWCC in June 2017, and were a major concern for the prisoners with whom we consulted. With the opening of the SQCC in late 2018, overcrowding was no longer an issue at BWCC.

BWCC's single cell capacity is 267.¹⁵⁵ On 12 June 2017, there were 390 prisoners in the Centre. As at 12 February 2019, there were 264 prisoners at BWCC.

However, if current rates of imprisonment of women continue in the future, it is anticipated that women's prisons in Queensland will again be at full single cell capacity some time in 2020. If the overcrowding issues we observed in 2017 are to be avoided in the future, rates of imprisonment will need drop significantly, or plans and funding will need to put in place for building yet another women's prison.

Privacy and lack of space

Placing two women to a cell has a major impact on privacy, and will be discussed in Part 7 of this report (Respect for the person).

In 2017 in the secure units, there was inadequate space when two prisoners were locked in a single cell. While some secure cells have two bunks, many do not.¹⁵⁶ In secure cells, having a mattress on the floor obstructs access to the desk, toilet, and shower. No residential units have bunk beds so, if doubling-up occurs, a mattress is placed on the floor for the second person. Sharing a cell requires women to negotiate who sleeps on the mattress on the floor, or in which bunk.

In all shared cells, there was a lack of storage space for possessions.

The lack of space and privacy creates and exacerbates interpersonal issues, particularly if the women who are doubled-up do not get on well with each other. Prison culture means women rarely raise issues of incompatibility with prison authorities. Rather, prisoners deal with issues by fighting or hurting another prisoner. If women are forced to share cells, prison authorities need to watch closely and observe signs of prisoner incompatibility, and take remedial action to prevent such incidents occurring.¹⁵⁷

¹⁵⁵ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre* above n 2, page 9.

¹⁵⁶ Thirty bunks were installed at the Brisbane Women's Correctional Centre in 2014 at a cost of \$10,000 each. The cost is high because of the amount of modification required to make sure the bunks are ligature proof, structurally designed to cantilever off adjacent walls, with specially designed access ladders sealed to prevent contraband, and robust enough to resist damage. Walter Sofronoff QC, *Queensland Parole System Review: Final Report* above n 3, 64 at [288].

¹⁵⁷ Standard Guidelines for Corrections in Australia, above n 9, guideline 2.5.

Competition for food and use of basic facilities

In 2017 in both secure and residential units, women told us about the competition and conflict over food that arises from overcrowding. Some women in secure units said that insufficient food was provided for the number of prisoners in the units, and this was resulting in fights about food.¹⁵⁸ Some residential prisoners said that the food was not being shared fairly, or was being stolen.

One woman who had previous experience of the prison system in Western Australia compared her experience in BWCC saying:

It's horrible, there are fights over food, food is rationed and there is not enough,... WA had plenty of milk, coffee, sugar — it was not rationed.

Women in secure were concerned about competition for the use of appliances (microwave, toaster, washing and drying machines) with only one of each appliance available in each unit to service up to 47 women. Women in both secure and residential units were concerned about competition to use phones, particularly in peak periods.¹⁵⁹

With the opening of the SQCC in late 2018, these matters ceased to be acute issues at BWCC. The current rates of imprisonment need to drop significantly, if these types of overcrowding issues are to be avoided in the near future.

Plumbing and cleanliness

Overcrowding in 2017 put a strain on the prison's plumbing system, and caused frequent toilet blockages, and, on occasions, bad sewerage odours. We were informed that toilet overflows were common, and happened up to three or four times a week.¹⁶⁰ When this occurred in a doubled-up cell, the mattress on the floor may become wet with toilet water, giving rise to obvious hygiene issues, as well as discomfort and disruption. In doubled-up cells, even when the toilet is functioning properly, a hygiene issue existed with bedding being on the floor so close to the toilet.

A concern raised by women in 2017 was that cleaning products to clean the toilet and shower facilities in cells were lacking. When supplies of usual cleaning products were insufficient, women reported that they used their shampoo to try to clean facilities.

¹⁵⁸ They were particularly concerned about insufficient fresh fruit and vegetables for the numbers in the unit.

¹⁵⁹ See 12: Opportunities for use of technology, from page 185.

¹⁶⁰ One woman reported that on numerous occasions in the time she had been in custody (four-and-a-half years) she had to use another 'receptacle' other than the toilet, because it was blocked.

With the opening of the SQCC in late 2018, these matters ceased to be issues at BWCC. Current rates of imprisonment need to drop significantly, if these types of issues arising again are to be avoided in the future.

Recommendation 23: accommodation at Brisbane Women's Correctional Centre

Queensland Corrective Services and other agencies implement initiatives to reduce the drivers of growth in prison numbers at BWCC, as proposed by the Ombudsman's report on overcrowding.

Should overcrowding occur again in the future, Queensland Corrective Services:

- a. ceases the practice of compelling women to sleep on floors;
- b. improves privacy for the use of toilet facilities in secure cells, as proposed by the Ombudsman's report on overcrowding;
- c. takes action to prevent the occurrence of incidents caused by incompatibility of cell mates if at any time women are doubled-up in cells, regardless of whether women have raised any issue with the authorities;
- d. ensures sufficient food is provided to prisoners at, and ensures it is shared equitably in overcrowded units; and
- e. increases the number of microwaves, toasters, washing and drying machines available for use by women.

Queensland Corrective Services:

- f. remedies plumbing issues that result in frequent bad odours and overflowing toilets at BWCC; and
- g. provides sufficient cleaning products at all times to ensure the cleanliness of toilet and shower facilities in cells and units.

Numinbah Correction Centre and Warwick Work Camp

Numinbah Correctional Centre (NCC) is located in the Numinbah Valley in the Gold Coast hinterland, 100 kilometers south of Brisbane.¹⁶¹ NCC is an open custody prison for women, situated on a 770-hectare reserve, much of which is a working beef cattle farm.

NCC was built for male prisoners in 1939. A women's annex was situated in the prison from 1998 to 2012 adjacent to the men's accommodation. This shared facility between men and women was of concern to the Commission, as outlined in the 2006 *Women in Prison Report*. Male

¹⁶¹ A bus service for visitors operates from Roma St, Brisbane on Sundays to service the visiting time of 9.45 am to 11.45am.

prisoners left the prison in March 2012, and the facility transitioned to a female-only, low custody prison at that time.

The facility can accommodate 119 prisoners, but on 14 July 2017 only 105 women were in the prison.

NCC encourages a self-directed rehabilitation model to prepare prisoners for release to the community or community-based supervision. Women can be transferred to NCC from BWCC, SQCC and TWCC to serve both short and long term sentences.

The prison facility is unfenced and includes a reception and visitors' area, a medical room, and spaces for programs and activities. Visitors are permitted to visit the prison on Saturdays and Sundays from 9.45am to 11.45pm.¹⁶²

Demolition work was undertaken on old-style hut accommodation used by male prisoners, and new, independent-style accommodation for female prisoners was completed in 2012. The different styles of accommodation allow for incentive and behaviour-based progression through the available accommodation styles. They consist of:

- **Main unit:** consists of six demountable buildings, each containing 10 bedrooms. Ten rooms are fitted with a double-up arrangement.
- **Long house:** a 24-bed, self-contained accommodation block for prisoners awaiting further progression.
- **Terrace houses:** a residential-based living model which consists of five houses, each containing six single bedrooms. Prisoners in these units participate in an independent living model and are self-contained. Prisoners are provided with rations and are required to plan menus and prepare their own food.
- **Parental support unit:** In 2017, QCS gave approval for women to apply to have their children with them at Numinbah.¹⁶³ Two of the terrace houses will be used to accommodate up to six mothers and six preschool-age children. All women, irrespective of classification, will be eligible to have children reside with them at Numinbah. If a BWCC prisoner applies, and she has not been granted a low security classification, the application will be deferred pending the granting of low security classification.

¹⁶² There are also five Family Visit Days per year which are of four hours duration from 09.45am to 1.45pm. In October 2018 and January 2019 there was a mid-week school holiday child visit held from 9am to 2pm where school aged children spent the day with their mothers engaged in activities and games etc. QCS advises these will be a regular feature during school holidays.

¹⁶³ The parental support unit had not commenced operating at Numinbah at the time the Commission visited in July 2017.

Warwick Women's Work Camp (WWWC)

The WWWW is aligned to NCC, and provides for employment and progression opportunities for prisoners accommodated at NCC. It is located within the Warwick showgrounds, and can accommodate a maximum of 10 prisoners. This facility, which opened in 1995, has two residential buildings (one with dormitory sleeping accommodation, kitchen, dining, and living areas) and the other consisting of single-room dongas with an adjoining open-air, covered living space. Women usually travel to and stay at Warwick for 14 days, then return to Numinbah for five days. At Warwick, women are engaged in a range of community-based activities, including building restoration and painting, landscape maintenance, mowing, rodeo, and other work.

Accommodation issues at NCC

The major challenge with the accommodation at NCC is the distance the prison is away from prisoners' families and visitors. There is a free bus service to the prison from Roma Street in central Brisbane, but it only operates one day a week on Sundays. Some prisoners informed us they and their families were not aware of this service until some time after their admission to the prison. They suggested that better publicity about the bus service should be provided, and signs posted in places prisoners regularly access within NCC. With the parental support unit being established at Numinbah, regular access for family visits is an important issue.

The distance of Numinbah from Brisbane also means it is not economic or feasible for many service providers located in Brisbane and other centres to provide their services in Numinbah. Education service providers, such as TAFE and other paid and voluntary service providers who can provide recreational activities and other support, are challenged by the distance (and the small number of prisoners). In some instances, services are not provided or cease due to this issue.¹⁶⁴

Lack of access for persons with a disability requiring a wheelchair was also apparent in many of the buildings at NCC. A number of the residential accommodation buildings and other building facilities appeared to have no access for wheelchairs. It is important that women prisoners who have a disability have the same opportunity as other women to be placed in the low security prison at Numinbah, and to have use of all its facilities.

¹⁶⁴ For instance, it was not viable for the yoga teacher in Brisbane to travel to Numinbah regularly to teach yoga, as it would mean a 200 km round trip.

Recommendation 24: accommodation at Numinbah Correctional Centre

Queensland Corrective Services:

- a. provides prisoners and their families with information about the free bus service to the prison at the time the women are transferred to NCC, and display signs at the centre to alert prisoners to the availability of the service;
- b. ensures facilities at NCC are made accessible for people with disability; and
- c. explores means of assisting and enabling external service providers to make it worth their while to visit and provide services at NCC.

Helana Jones Centre

The Helana Jones Centre (HJC) is designated as a community correctional centre, and is a low security facility for women only, located at Albion in inner city Brisbane. The HJC opened in 1989, and has capacity for 29 women, as well as up to 8 children.

HJC accommodates women serving both short and longer term sentences. Women are usually placed at HJC after serving time in BWCC or the Numinbah Correctional Centre.

Prisoners are given passes to attend community service, work, medical appointments, and to do their shopping. This allows them to gain skills in areas that many people take for granted, such as using public transport and budgeting. Staff at the centre also help to prepare a prisoner for release by setting up meetings to regain care of their children, arrange accommodation, Centrelink, bank accounts, and identification documents.

The facility consists of a hostel and a house.

The HJC hostel includes accommodation for women with children under five years. Children residing at the centre sleep in the same room as their mother, and the centre has a fenced play area with several pieces of playground equipment.

The house accommodates eight women. Women residing in the house have fewer restrictions than those in the hostel. They do their own cooking, and their daily routines are similar to life outside a correctional institution. No children are accommodated in the house.

Accommodation issues at HJC

Because the buildings at HJC are relatively old, accessibility for people with disabilities is not to contemporary standards. It is important that

women prisoners who have a disability have the same opportunity as other women to be placed in the low security prison, and to have use of all its facilities.

Recommendation 25: accommodation at Helana Jones Centre

Queensland Corrective Services should ensure facilities at HJC are made accessible for people with disability, and that women prisoners who have a disability have the same opportunity as other women to be placed in this low security facility.

Townsville Women's Correctional Centre (TWCC) and Bowen Work Camp

Townsville Women's Correctional Centre (TWCC) consists of a high security prison, a low custody centre (known as FLO), and the Bowen Work Camp. The high security part of the prison was opened in 2008, and replaced an old, worn-out facility that was operational when the Commission produced its 2006 *Women in Prison* report. The TWCC is located next to the men's prison at Stuart, 12 kilometres west of Townsville. A free bus service is available for visitors to the Townsville Correctional Centre.¹⁶⁵

TWCC high security area

Accommodation in the high security area of the prison is behind razor wire and consists of:

- **Secure accommodation:** has four blocks of secure accommodation units consisting of a central common area surrounded by 16 cells. The common area for each unit contains attached tables and chairs, microwave, fridge, telephone, washing machine, and an area to make tea and coffee. The individual cells in each unit were designed for, and contain facilities for, one prisoner: a bed, a desk, a wall storage unit for personal items, a toilet, basin, and shower.
- While the secure units were built to have capacity to accommodate 64 women in single cells, QCS will accommodate up to 96 women in the secure area, and will double women up in cells, if necessary.

¹⁶⁵ North Queensland Prisoners Aid Society provides this service.

- **Detention unit:** consists of six individual cells and a small exercise yard.
- **Safety unit:** has single-cell capacity for four prisoners, but can accommodate six, if double-ups are required.
- **Medical unit:** can accommodate four prisoners.

Women prisoners who are housed in the secure units are provided with plated meals that are prepared in the main kitchen of the facility. There is no protection unit at TWCC, and women who require protection are transferred to BWCC for the duration of their sentence.

TWCC residential area

- **Residential accommodation:** The residential housing units were originally designed to accommodate 90 prisoners. The units are clustered in blocks and each block is designed to house six prisoners per unit. Campus style, they consist of a communal living area, a separate cell for each prisoner, and access to a shared bathroom, kitchen, and laundry. Residents do their own cooking and share cleaning responsibilities. QCS will accommodate up to 120 women in residential units by doubling women up in cells, if required.
- **Mothers and babies unit:** Two units in the residential accommodation area can accommodate up to four women and their young children under five years of age. Children sleep in their mothers' cells, which are large enough to take a child's cot or bed. A small, fenced playground adjoining the units is accessible during the day, and has climbing equipment. Mothers and children also have access to a formal playgroup with skilled external facilitators attending once a week. In June 2017, senior management at TWCC mentioned plans to move the mothers and babies unit to the low security area of TWCC.¹⁶⁶

TWCC low custody area

The low security portion of the women's prison is located across the road from the main secure facility. While the area is not surrounded by razor wire, it is enclosed by a high, chain wire fence with a gate. The gate is unlocked during the day, but locked at 7 pm at night. The gate is secured at night for staff and prisoner safety, to prevent unauthorised people coming into the facility at night. The buildings in the low custody area are surrounded by gardens, with several shaded, open-area seating facilities and a barbeque area.

¹⁶⁶ TWCC management stated the aim was to move three women with children to a converted house in the low custody area.

The accommodation in the low custody area is based on a residential, independent living model in which prisoners are housed in self-contained units, are provided with rations, and required to plan menus and prepare their own food. It can accommodate 24 women in single bedrooms, or up to 36 women, if doubling-up is necessary. The accommodation consists of:

- House 1 – Top Level of an older style Queenslander with three bedrooms accommodating six women;
- House 2 – Bottom Level of House 1 with three bedrooms accommodating six women;
- House 3 – Older style Queenslander with three bedrooms accommodating six women;
- Houses 4, 5, 6 – New construction with six single bedrooms accommodating six women per house.
- House 7 – Parental Support Unit with six single bedrooms for three women and their children.

Each house has an open plan living area, kitchen, dining area, shared bathroom and laundry.

Accommodation issues at TWCC

In 2017 the overcrowding in BWCC meant that, on some occasions, women who would ordinarily be housed in BWCC were displaced to TWCC to relieve overcrowding. This resulted in changes to the prison profile at TWCC, and it was suggested to the Commission that, due to the influence of women prisoners from South-East Queensland, some negative cultural behaviours were being introduced into the prison that did not exist previously. Solving the overcrowding issues in BWCC has an added benefit for TWCC.

The frequency and length of lockdowns due to staff shortages was also an issue at TWCC. We were informed that the secure units have had a series of rolling lockdowns, and that every three weeks the secure units are locked down for virtually the whole day. Unscheduled lockdowns will occur if there are staff shortages, or if staff are absent from the prison to escort a prisoner attending hospital. It was alleged that on one occasion women were locked down for 26 hours in their cells with no access to any items to relieve boredom (books, cards, or TV). Meals were passed through the doors of the cell and were not consumed in the common area in the usual way. Confining women to their cells for this length of time without a break should not occur.¹⁶⁷

In the low custody facility at TWCC, accommodation in the two Queenslander-style houses is relatively old, so accessibility for people with disabilities is not to contemporary standards. The new units appear to

¹⁶⁷ The *Standard Minimum Rules for the Treatment of Prisoners*, above n 5, Rule 21 states: 'Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits'.

have a level of access internally, although the Commission is not able to verify if it is to current standards. Entering the units is not currently possible for a person in a wheelchair.

It is important that women prisoners who have a disability have the same opportunity as other women to be placed in the low security prison, and to use its facilities.

Unlike BWCC, TWCC does not have a low security facility that serves the same purpose as HJCC located close to the city centre of Townsville. TWCC would benefit from having a facility where low security women prisoners live close to the city and are given passes to attend community service, work, medical appointments, take their children to playgroups and preschool, and do their shopping. This would allow women to gain skills and confidence in using public transport, budgeting and other aspects of daily living, and assist them to return to a normal life on leaving prison.



Recommendation 26: accommodation at Townsville Women's Correctional Centre

Queensland Corrective Services:

- a. ensures the low custody facilities at TWCC are made accessible for people with disability, and that women who have a disability have the same opportunity as other women to be placed in the low security facility; and
- b. considers establishing a low security facility located close to the city centre of Townsville to serve the same purpose as the Helana Jones Centre in South-East Queensland.

7. Respect for the person

No one shall be subjected to arbitrary interference with his privacy...

Article 12, Universal Declaration of Human Rights

All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

Rule 1, Nelson Mandela Rules

Privacy

The most significant privacy issue identified by the Commission in our June 2017 consultation was the lack of privacy arising through the sharing of single-bed cells in secure units, caused by the current overcrowding in BWCC. This is summed up by a woman we spoke with who said:

*You have no privacy at all when you walk through the gates. Your dignity is gone.*¹⁶⁸

Women who share cells in the secure units were locked down for 14 hours every night, and had no privacy at all while using the toilet or shower during that time.

Both the Ombudsman and Walter Sofronoff QC in their 2016 reports expressed their concerns about privacy and dignity for women at BWCC. Mr Sofronoff QC said:

*A single prisoner cell is approximately 8.5m², containing a bed, shower, toilet, fixed desk and allocated space for personal effects. When doubled-up, a mattress is typically placed on the floor and the prisoner must sleep with his or her head next to an exposed toilet to allow for nightly welfare checks by custodial officers. The Ombudsman was of the view that this arrangement impinges on a prisoner's dignity and privacy. It obviously does. Due to the high proportion of prisoners doubled-up at Brisbane Women's Correctional Centre, women are receiving less favourable treatment than male prisoners who are doubled-up a significantly lesser rate.*¹⁶⁹

¹⁶⁸ BWCC prisoner comment, June 2017.

¹⁶⁹ Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, 62 at [280].

With the opening of the SQCC for women in late 2018, privacy matters as a result of cell sharing ceased to be an issue at BWCC. Current rates of imprisonment need to drop significantly so women are not again required to share cells, to avoid these privacy issues arising again in the future.

Other issues prisoners raised about privacy were:

- concerns about QCS officers discussing a prisoner's private information with each other (in the form of gossip) rather than for legitimate operational reasons; and
- allegations that male officers walk through the urine testing area at TWCC.

Recommendation 27: privacy

Queensland Corrective Services investigates options to improve privacy in shared cells (including creative solutions used to provide privacy to young people when showering in shared rooms at detention centres) as proposed by the Ombudsman's report on overcrowding if doubling up of cells is required in the future.

Personal hygiene

Nelson Mandela Rules

Rule 18:

1. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

2. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

Rule 19:

2. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

Bangkok Rules

Rule 5:

The accommodation of women prisoners shall have facilities and materials required to meet women's specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.

Personal hygiene issues identified during consultation

Brisbane City watch house issues

The following information was related to us by 'R', a female prisoner who was middle-aged and of medium to large stature.

R's story

R had been detained in Brisbane City watch house for seven nights and eight days. The reason for the lengthy stay in the watch house was due to overcrowding in BWCC. During this period, she was provided with one tracksuit top and one pair of tracksuit pants. R was not provided with a bra, any underwear, socks and shoes, or thongs, but was provided with a blanket and a bar of soap, though no shampoo or other toiletries. R was permitted a shower each morning, but was required to put on the same tracksuit pants and top each day.

R said her cellmate had her menstrual period during this time. The cellmate had to stick the adhesive tape on her menstrual pad to her tracksuit pants. R stated, 'There was blood everywhere. They eventually gave her an incontinence nappy, and a clean pair of pants.'

R was permitted to access the exercise yard twice in 8 days¹⁷⁰ and alleged that when women went into the yard, male prisoners in the watch house would 'watch and go crazy, masturbating against the glass, upsetting the young girls.'

On day five, R suffered a panic attack and was taken to the Princess Alexandra hospital. She was shackled and handcuffed, and had to walk through the accident and emergency section of the hospital in her dirty clothes, with no shoes.

On day eight, R was transferred to BWCC and asked to be transferred wearing her civilian clothing. As these had been packed away, she was denied this request. For the transfer, the dirty tracksuit pants and top were replaced with 'a man's singlet, and a pair of men's nylon football shorts, no undies, no bra, and no shoes.'

After putting on these clothes, R was required to wait for approximately an hour in the public area at the front of the watch house in view of all watch house staff, incoming prison officers,

¹⁷⁰ Watch house procedures state at Chapter 16.21.15 (iv) that the watch house manager is to 'where practicable, allow a prisoner one hour of exercise daily under supervision'. Queensland Police, *Operational Procedures Manual* Issue 65.2, Public Edition, 9 August 2018. In contrast, *Corrective Service Regulation 2017* (Qld) 4(d) states a prisoner undergoing separate confinement must be 'given the opportunity to exercise, in the fresh air, for at least 2 daylight hours a day...'

and prisoners. R said that her eight days experience at the watch house was ‘humiliating, overwhelming, disgusting, and demoralising.’

There are procedures for holding prisoners at watch houses, including when they cannot be accommodated in a corrective services centre.¹⁷¹ The Commission is concerned that in situations where a prisoner is kept at the watch house for long periods, the *Standard Minimum Rules for the Treatment of Prisoners* are not being adequately followed. Insufficient attention is being given to respect for the individual’s dignity, particularly with regard to providing clean and adequate clothing, and access to hygiene items and toiletries.¹⁷² Denying women clean underwear, clothing, and adequate hygiene products for long periods while they are held at a watch house may also constitute indirect discrimination.¹⁷³

In 2017 because of overcrowding at BWCC, women endured harsher conditions at the Brisbane City watch house for longer periods of time than men. This may, arguably, be direct discrimination on the basis of sex. With the opening of the SQCC for women in late 2018, overcrowding ceased to be an issue at BWCC.

BWCC issues

Prisoners expressed concern to us about inadequacies in providing for women’s hygiene needs.

Prisoner 1

While in the detention unit, she got her period at 9 pm one evening, and called the (male) guard to request a sanitary pad. He did not give her a pad, and she had to use toilet paper instead. A pad was given to her about 9 am the next day.

Prisoner 2

When detained in the secure unit, all her underwear was stolen (aside from those she was wearing). Prisoners only have access to the prisoner’s clothing store/exchange on the weekend. She was not able to access the store to replace the underwear because she was working and had not been called up to attend the store. She had to wash and dry her one remaining set of underwear every night.

¹⁷¹ Queensland Police, *Operational Procedures Manual* Issue 65.2, Public Edition, 9 August 2018. See chapter 16.21.13.

¹⁷² The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) considers that the failure to provide such basic necessities can amount to degrading treatment.

¹⁷³ *Anti-Discrimination Act 1991* (Qld) section 11.

Recommendation 28: personal hygiene

Queensland Corrective Service and Queensland Police Service ensure Brisbane City watch house staff:

- a. respect the prisoner's dignity, particularly with regard to providing clean and adequate clothing and access to hygiene items;
- b. provide access to adequate exercise; and
- c. protect women prisoners from male prisoners within the watch house when women are held at the Brisbane City watch house for a prolonged period, because they cannot be accommodated in BWCC.

Queensland Corrective Services at BWCC:

- a. ensures that sanitary pads are dispensed to women when needed, without delay; and
- b. ensures that women have access to sufficient underclothing so it can be changed and washed as often as necessary to maintain hygiene.

Searches

The Bangkok Rules

Rule 19:

Effective measures shall be taken to ensure that women prisoners' dignity and respect are protected during personal searches, which shall only be carried out by women staff who have been properly trained in appropriate searching methods and in accordance with established procedures.

Rule 20:

Alternative screening methods, such as scans, shall be developed to replace strip searches and invasive body searches, in order to avoid the harmful psychological and possible physical impact of invasive body searches.

Rule 21:

Prison staff shall demonstrate competence, professionalism and sensitivity and shall preserve respect and dignity when searching both children in prison with their mother and children visiting prisoners.

The Queensland *Corrective Services Act 2006* and Regulation outline the circumstances in which searches may occur and who can undertake those searches. The Act also permits a requirement for prisoners to provide test samples (for example, urine and blood samples.)¹⁷⁴ Searches involving the removal of clothes (ROC) or strip searches are also authorised under the Act, and the procedure is documented.

Strip searching and human rights

Prison officers are required to ensure the security of prisons and the welfare of prisoners in its care. The major objective of strip searching is to prevent the entry of illicit drugs and other prohibited items, including equipment that could be used to escape from prison, used for self-harm, or other types of harm.

The Commission's 2006 *Women in Prison* report discussed the practice of strip searching women prisoners in detail. What we observed in 2006 is still relevant in 2017. The 2006 report said: ¹⁷⁵

¹⁷⁴ *Corrective Services Act 2006* (Qld) sections 33 to 43, and *Corrective Services Regulation 2017* (Qld) regulations 9 and 10.

¹⁷⁵ Anti-Discrimination Commission Queensland, *Women in Prison*, above n 4, 69 to 76. It was also the subject of an Ombudsman investigation report in 2014, *Strip Searching of Female Prisoners: An investigation into the strip search practices at Townsville Women's Correctional Centre*.

Being compulsorily required to strip-search in front of prison officers is a demeaning and humiliating experience for any human being, male or female. Even if a strip-search is conducted in a totally professional and impersonal manner, the humiliation is compounded by the fact that prisoners then have to be supervised and relate on a daily basis with prison officers who have observed them in a naked and vulnerable state. In our western society where public nakedness is far removed from the accepted norm, this immediately reduces the dignity of any relationship between the prison guard and prisoner.

However, for a woman who has been sexually abused, strip-searching can be more than a humiliating and undignified experience. In some instances, it can re-traumatise women who have already been greatly traumatised by childhood or adult sexual abuse. The vast majority of female prisoners who spoke to the ADCQ said strip-searching diminished their self-esteem as human beings and greatly emphasised feelings of vulnerability and worthlessness. Strip-searching can greatly undermine the best attempts being made by prison authorities to rehabilitate women prisoners, through programs and counselling to rebuild self-esteem, cognitive and assertiveness skills.

Given the invasive nature of strip searching, one of the recommendations made in our 2006 report, which was accepted by QCS, was that prison authorities at all times be aware of the development and use of any new technologies or less intrusive methods of search that can replace the need for routine strip searching in secure prisons. Any equally effective and viable, but less intrusive and humiliating, alternatives that are developed should replace routine strip searching.¹⁷⁶

Recent reports indicate other jurisdictions, including Victoria¹⁷⁷ and certain states in the USA, are now using full body scanners in women's prisons to look for drugs and other contraband.¹⁷⁸ Prisoners are scanned before they enter prison housing units or join the general prison population. Only prisoners who are pregnant are not scanned. Those whose scans show something irregular or suspicious and refuse to remove it, or tell officers what it is, are removed to a dry cell. Other technologies such as the BOSS (Body Orifice Security Scanner) chair can detect metal on inmates who sit on the chair, including SIM cards and mobile phones, whether switched

¹⁷⁶ Anti-Discrimination Commission Queensland, *Women in Prison*, above n 4, Recommendation 19. This recommendation was accepted by QCS in its response to the report: Queensland Department of Corrective Services, *Response to the Anti-Discrimination Commission Queensland Women in Prison Report*, above n1. A similar recommendation has been made by the Inspector of Custodial Services in Western Australia. See Office of the Inspector of Custodial Services, Government of Western Australia, *Report of an Announced Inspection of Bandyup Women's Prison*: 93 (October 2014) recommendation 19

¹⁷⁷ Victoria's secure women's prison has trialled the \$240,000 Soter RS Security Body Scanner, a low-dose X-ray machine that shows items hidden on or in the body within seconds. See Matt Johnston, 'Women's jail tests a full-body scanner to detect drugs or weapons' *Herald Sun* (Melbourne) 16 August 2010

¹⁷⁸ Rich Van Wyk, 'Jails using body scanners to stop deadly smuggling' *WTHR Channel 13 Indiana News*, 7 June 2017.

on or not. The BOSS chair, described as non-invasive, is already used in certain correctional facilities in Western Australia and Queensland.¹⁷⁹

With the opening of SQCC for women in late 2018, non-invasive search technologies are now being used for the first time in a secure women's prison in Queensland to replace routine strip searching. It is highly desirable that this technology is made available in all secure women's prisons in Queensland.

Strip searching data

The Commission requested data from Queensland Corrective Services about the number of strip searches requiring the removal of clothing. Corrective Services advised that as data is recorded in multiple paper-based registers in the various units within each prison, providing 10 years' worth of data would have been a significantly resource and manually intensive process.

Following discussions with the Commission, Corrective Services agreed to provide manually compiled data for all correctional centres for a randomly selected week in 2017, to show a snapshot of searches conducted in Queensland prisons. During the selected week (29 May to 4 June 2017) a total of 282 removal of clothing strip searches were undertaken within BWCC and TWCC, and 3488 searches were conducted in the men's prisons. Six articles were seized from women as a consequence of the searches, compared to 10 articles from men, a comparatively high number for the 708 women compared to the 7701 men imprisoned during the same week.

¹⁷⁹ 'Body Orifice Security Scanner: The new way Goulburn jail stops inmates smuggle in mobile phones', *The Sydney Morning Herald*, 8 January 2016.

Table 26: Number of strip searches conducted at QCS prisons for week 29 May–4 June 2017

Correctional facility*	Average daily State of prisoners**	Average daily number of Indigenous prisoners**	Number of searches conducted**
Princess Alexander Hospital Secure Unit	NA	NA	26
Woodford Correctional Centre	1276	265	452
Capricornia Correctional Centre	637	243	195
Townsville Correctional Centre	782	463	117
Southern Queensland Correctional Centre	402	108	213
Brisbane Correctional Centre	898	142	445
Wolston Correctional Centre	741	116	401
Arthur Gorrie Correctional Centre	1169	200	768
Borallon Training and Correctional Centre	246	43	112
Maryborough Correctional Centre	655	193	310
Lotus Glen Correctional Centre	895	643	449
Brisbane Women's Correctional Centre	508	150	232
Townsville Women's Correctional Centre	200	114	50
Total	8409	2680	3770
* Searches for low security facilities have been included in its associated high security correctional centre.			
** for week 29 May - 4 June 2017			

Source: Queensland Corrective Services (unpublished administrative data).

Table 27: Number of articles seized in strip searches conducted at QCS prisons for week 29 May–4 June 2017

Search requiring removal of clothing - by gender status	Number of searches requiring removal of clothing where articles seized
Male	10
Female	6
Total	16

Source: Queensland Corrective Services (unpublished administrative data).

Search issues raised in consultations

Removal of clothing (ROC) searches

Some women in BWCC were concerned that there is an inconsistency in the way in which ROC (or strip) searches are conducted, depending on which officer is conducting the search, and who is being searched. They felt that in some instances, non-routine ROC searches were being undertaken by certain officers whose motive was to 'pick on or punish some people', rather than having a bona fide reason under the CSA warranting a ROC search.¹⁸⁰ They claimed that a 'cheeky' comment made by a prisoner, or being observed hugging, touching, or embracing another prisoner could result in a strip search by certain officers.¹⁸¹ Some women also claimed that, on occasions, they were required to be fully undressed during ROC searches, rather than being permitted to undergo the 'top and tail' process.

Urine tests

Women also expressed concerns about the conduct of routine urine testing, where they were not permitted to use toilet paper before putting on their underwear, after the provision of a urine sample. They felt this was an undignified process, and left them feeling uncomfortable and having to wear soiled underwear. They did not understand the reason for this requirement.

Dry cells

Two women raised concerns about their treatment when confined to a 'dry cell', which exist in the medical and detention units at BWCC. A dry cell is a cell without a toilet that is used when a prisoner is suspected of having ingested a prohibited item. Prisoners are provided with a receptacle in which they are required to pass urine and faeces, so that these can be searched.

The women's concern is the lack of respect they felt was shown to them by some officers when they were confined to these cells. One prisoner alleged that, on occasions, prison officers would sift through the used receptacle in front of her, or would leave used receptacles in the cell for prolonged periods. When she requested that the used receptacle be removed from the cell, she alleged officers laughed at her when she showed her distress.

¹⁸⁰ For a non-routine ROC search, the delegated officer must be satisfied the search is necessary for the security or good order of the facility and /or the safe custody and welfare of prisoners, or they must reasonably suspect the prisoner has a prohibited thing concealed on their person. *Corrective Services Act* s 36, 37.

¹⁸¹ Strip searches should only be carried out as a means of detecting or retrieving concealed contraband. *Standard Guidelines for Corrections Australia*, above n 9, Rule 1.56.



Recommendation 29: strip searches

Queensland Corrective Services:

- a. supervises and monitors staff undertaking non-routine strip searches to ensure the process is not used inappropriately, or for any reason other than detecting or retrieving concealed contraband;
- b. ensures officers respect a prisoner's dignity, including at times when a prisoner is placed in a dry cell, or is undertaking urine testing; and
- c. implements new, non-invasive screening technology to replace routine ROC/ strip searches in all secure women's prisons.

8. Management of prisoners

Classification

Bangkok Rules

Rule 40:

Prison administrators shall develop and implement classification methods addressing the gender-specific needs and circumstances of women prisoners to ensure appropriate and individualized planning and implementation towards those prisoners' early rehabilitation, treatment and reintegration into society.

Rule 41:

The gender-sensitive risk assessment and classification of prisoners shall:

- 1. Take into account the generally lower risk posed by women prisoners to others, as well as the particularly harmful effects that high security measures and increased levels of isolation can have on women prisoners;*
- 2. Enable essential information about women's backgrounds, such as violence they may have experienced, history of mental disability and substance abuse, as well as parental and other caretaking responsibilities, to be taken into account in the allocation and sentence planning process;*
- 3. Ensure that women's sentence plans include rehabilitative programmes and services that match their gender-specific needs;*
- 4. Ensure that those with mental health-care needs are housed in accommodation which is not restrictive, and at the lowest possible security level, and receive appropriate treatment, rather than being placed in higher security level facilities solely due to their mental health problems.*

When a woman prisoner is admitted to prison, she is classified as either a high or low security prisoner.¹⁸²

¹⁸² Queensland Corrective Services, Custodial Operations Practice Directive: Classification and Placement 31/03/2014. Prisoners who are females, under 18 years, or are displaying acutely suicidal or self-harm behaviour (or ideation) will not be classified as maximum security.

A prisoner's security classification is decided taking account of the:

- nature of the offence for which the prisoner has been charged or convicted;
- risk of the prisoner escaping, or attempting to escape from custody;
- risk of the prisoner committing a further offence and the impact the commission of the further offence is likely to have on the community;
- risk the prisoner poses to himself or herself, and other prisoners, staff members and the security of the corrective services facility.¹⁸³

A prisoner's classification has a significant impact on their day-to-day life. It largely determines:

- the prison and what part of a prison they are placed in;
- for those eligible, their suitability for immediate placement in a low security prison;
- what work they may be allowed to undertake in prison; and
- their engagement and progress in education, programs, and activities.

QCS must review the security classification for a prisoner who has a high security classification at intervals of no longer than one year. If a female prisoner is serving a total period of imprisonment of three years or less and she is not serving a sentence for absconding from supervision, or asexual or violent offences, she may be considered for immediate placement in a low security corrective services facility.

Because a prisoner's classification has such an impact upon their prison life, it is important that there is both validity and reliability in the processes and tools for assigning a classification.

Our 2006 *Women in Prison* report was concerned that the classification system at that time may potentially discriminate against women and prisoners from various minority groups.¹⁸⁴ The recent Sofronoff parole review examined the classification of prisoners in some detail,¹⁸⁵ including the immediate risk assessment, rehabilitation needs assessment, and parole application assessment, and at paragraph [593] stated:

As is apparent, other correctional services in Australia have chosen to use widely validated and accessible tools. QCS is using several un-validated tools that it has developed. The use of a reliable, validated tool would undoubtedly withstand greater external scrutiny

¹⁸³ *Corrective Services Act 2006* (Qld) section 12.

¹⁸⁴ Anti-Discrimination Commission Queensland, *Women in Prison*, above n 4, 41 to 49.

¹⁸⁵ Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, 107 to 118.

than internally developed, non-validated assessments currently being used by QCS.

The Sofronoff review recommended that the risk and need assessments used by QCS in the custodial and probation and parole setting be replaced by a validated assessment, and the assessment to be used by QCS should be implemented after external expert advice is sought regarding the appropriate tool for the jurisdiction.¹⁸⁶ These recommendations were accepted by the government, and we understand are now in the process of being implemented.

In these circumstances the commentary on the Bangkok rules 40 and 41 is highly relevant regarding the classification of women prisoners. It says:

Rule 63 of the SMR emphasizes the need for a flexible system of classification, and underlines that the same level of security does not need to apply to all prisoners in one institution...

...women are often discriminated against in the application of this principle, due to one or a combination of a series of factors. Firstly, since the same classification instruments are used for women and men in the vast majority of prisons worldwide, despite women's different needs and circumstances, information about a history of domestic violence, sexual abuse, and parental responsibility are areas in which screening is lacking for women. As a result classification and screening procedures do not provide essential information about the women, which may increase the probability of their placement in a higher security level than appropriate, while reducing possibilities of providing suitable prisoner programmes matching individual needs. A further problem is that "needs" are often assessed as risk factors during assessments, which can mean that prisoners with mental disabilities may be seen as requiring a higher level of security, rather than the opposite. Such misclassification affects women more so than men due to the higher level of mental health problems among women offenders... this rule emphasizes the need to develop gender sensitive assessment and classification methods for women prisoners.

Since our 2006 *Women in Prison* report, more research has been undertaken on risk/needs classification tools that have been validated for female prisoners that ought to be considered in implementing the Sofronoff recommendations.¹⁸⁷

¹⁸⁶ Ibid, 118.

¹⁸⁷ See Patricia Van Voorhis et al, *Achieving Accurate Pictures of Risk and Identifying Gender Responsive Needs: Two New Assessments for Women Offenders*. (US Department of Justice, National Institute of Corrections, 2008.) The Washington Department of Corrections develops gender-responsive policies and procedures under its Gender Responsive Initiative. Goals of the initiative include: implementing a gender-responsive assessment tool, developing a corresponding case management process, and ensuring the classification system accurately assesses the female population.

Recommendation 30: classification

Queensland Corrective Services develops and implements classification methods that address the gender-specific needs and circumstances of women prisoners, and ensures appropriate and individualised planning and implementation to maximise potential for early rehabilitation, treatment, and reintegration into society.

Table 28: Women and men prisoners by security classification

Women prisoners by security classification										
As at	30/06/2007		30/06/2013		30/06/2014		30/06/2015		30/06/2016	
Low	113	28%	162	30%	185	28%	224	32%	224	33%
High	245	60%	296	55%	354	53%	385	55%	387	56%
Unclass	51	12%	78	15%	126	19%	95	13%	74	11%
Total	409		536		665		704		685	
Men prisoners by security classification										
As at	30/06/2007		30/06/2013		30/06/2014		30/06/2015		30/06/2016	
Low	879	17%	746	13%	872	14%	876	13%	849	12%
High	3915	76%	4107	74%	4814	75%	5067	77%	5518	78%
Max	9	<1%	14	<1%	31	<1%	19	0<1%	19	<1%
Unclass	322	6%	672	12%	661	10%	626	10%	648	9%
Total	5125		5539		6378		6588		7034	

Source: Queensland Corrective Services (unpublished administrative data).

The tables above show that many more women prisoners in Queensland are classified as low security prisoners than male prisoners.

In 2007, 27% of women were classified as low security prisoners in contrast to 17% of men. In 2016, 33% of women were classified as low security prisoners in contrast to 12% of men.

Classification issues raised in consultation

The following issues were identified during our consultation:

Low security prisoners being held in high security prisons

Ideally, prisoners should be held at the lowest level of security appropriate for their circumstances to ensure maximum opportunities for rehabilitation. Those who have a low security classification ought to be held in a low security prison.

Because there are so few women's prisons in Queensland, women often serve their sentences in high security prisons even after they receive a low security classification. This means they are being kept behind high electrified fences, subjected to highly enforced rules, increased lockdowns, increased numbers of strip searches (particularly when families visit), and a lack of independence compared to those held in low security prisons.

Table 29: Summary (custody types) of women and men prisoners

Summary (custody type) of Female prisoners										
As at	30/06/2007		30/06/2013		30/06/2014		30/06/2015		30/06/2016	
Open custody	97	24%	99	18%	128	19%	158	22%	175	26%
Secure custody	312	76%	437	82%	537	81%	546	78%	510	74%
Total	409		536		665		704		685	
Summary (custody type) of Male prisoners										
As at	30/06/2007		30/06/2013		30/06/2014		30/06/2015		30/06/2016	
Open custody	631	12%	424	8%	519	8%	514	8%	458	6.50%
Secure custody	4494	88%	5115	92%	5859	92%	6074	92%	6576	93.50%
Total	5125		5539		6378		6588		7034	

Source: Queensland Corrective Services (unpublished administrative data).

The above tables show that more women prisoners are held in open custody prisons than male prisoners. However, when a comparison is made between women and men's classification levels, and whether their custody type aligns with their classification, for each of the nominated dates in 2007 and 2013–2016 proportionally many more low security classification women than low security classification men are being held in high security prisons.

For the years 2013–2015, about a third of the women who were classified as low security were being held in a high security prison.

The figures indicate that women are being disadvantaged in comparison to men in not having an equal opportunity to have their security classification match their custody type. This is potentially a form of discrimination covered by the *Anti-Discrimination Act*.

Recommendation 31: low security prisoners in high security prisons

Queensland Corrective Services ensures that prisoners who have a low security classification are held in a low security prison, to the greatest extent possible.

Overcrowding impacts on prisoners' progression

In 2017 due to the overcrowding at BWCC, there was limited capacity for an orderly progression of longer-term prisoners to move from higher security to lower security areas of the secure prison, and then into the low security facilities. We were informed that the previous progression model has gone, and that prisoners with the lowest risk will now 'jump the queue' to low custody assessments and placements.¹⁸⁸

Long-term women prisoners in BWCC expressed concerns about this issue. The opening of SQCC to women in late 2018 and the consequential elimination of overcrowding at BWCC has remedied this situation for the present time.

In TWCC, in 2017 there did appear to be a clear prisoner pathway from secure accommodation to residential accommodation, then to low custody accommodation.

Ban on prisoners with life sentences progressing to a low security facility

Because of a number of escapes by men from low security facilities, a directive was issued by QCS that permanently prohibited the placement of sexual offenders and prisoners convicted of murder or serious violent offences in low security facilities, no matter how good their behaviour was over the period of their sentence.¹⁸⁹ As a result, nearly all such prisoners are released from high security prisons with no opportunity for resettlement or reintegration into the community before their release from prison.¹⁹⁰

A number of QCS staff expressed the view that suitable 'lifers' should be placed in low security prisons, as they assist with stability, culture, and

¹⁸⁸ Meeting with BWCC Management staff, 12/6/2017

¹⁸⁹ Queensland Corrective Services, Custodial Operations Practice Directive: Classification and Placement, Appendix 1: Criteria for placement in Low Security (2016).

¹⁹⁰ A 2014 judicial review application in relation to this directive resulted in one female prisoner on a life sentence being permitted to reside in a low security facility in Townsville. See *Deemal-Hall v Newman and Anor*, unreported decision of the Supreme Court of Queensland.

grounding the population. Keeping **all** low security women 'lifers' in the secure BWCC or TWCC for their whole sentence does not assist their reintegration into the community, nor is it an appropriate administrative decision.

The *Sofronoff* review recommended this policy directive be reviewed.¹⁹¹ It was one of only two (out of 92) recommendations that the government did not support. The government response was:

*Even if it can be argued that some such prisoners constitute a relative low risk to community safety, the possibility of an escape by an offender in a low security program undermines the community's confidence in our system. This recommendation cannot be supported at this point in time.*¹⁹²

The Commission supports the Sofronoff report recommendation that the policy should be reviewed, particularly in relation to low security women prisoners who pose very little risk to prison security or of reoffending.

Recommendation 32: ban on progression to low security for life sentences

The Queensland Government reviews the policy restricting the placement of female prisoners convicted for murder, a sexual offence, or with a serious violent offence declaration, with a view to reintroducing appropriate candidates to low security facilities.

Low security prisoners — reluctance to pursue appeals

We were informed that some low security women prisoners placed at Numinbah prison have been reluctant to pursue their appeal rights, as they are concerned this will result in them being returned to the secure BWCC for court appearances and other reasons. It is important that prisoners are not disadvantaged in their placement in low security facilities, simply because they wish to pursue their legal appeal rights.

Access to CREST transitions program

We were informed in 2017 that for women in TWCC to access the CREST (Community Re-Entry Services Team) transitions program¹⁹³ they have to be assessed as a 'high risk' prisoner, and that fewer women than men were accessing the CREST program because 'risk' is assessed higher if the prisoner has perpetrated violence. Women prisoners are more often a

¹⁹¹ Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, 184, Recommendation 58.

¹⁹² Queensland Government, *Response to Queensland Parole System Review recommendations*, above n 39.

¹⁹³ CREST is a corrective services re-entry program being offered in Far North and Central Queensland. CREST works to help people plan their release, connecting them to the right community supports, including health, housing, employment, drug and alcohol services.

victim of violence than a perpetrator; however, they still may have very high transition support needs.

In addition, if a prisoner is assessed as 'high risk', they cannot then be transferred to the low security FLO facility. If a prisoner is assessed as 'low risk' and is placed in FLO, they cannot access the CREST program even though it may be a great benefit for their rehabilitation and successful transfer into the community. This appears to the Commission to indicate a systemic problem. We urge QCS to review this policy, and to ensure that women are not placed in an unfortunate 'catch 22' position where they are unable access low security placement as well as access to a transitions programs, where many ought to be eligible to both.

In February 2019 we were informed that 'QCS is actively working to improve re-entry services in TWCC and that the CREST re-entry services has now been expanded so that all prisoners may access re-entry services should they wish to.'

Incentive and Earned Privileges program at BWCC and TWCC

Creating a culture within a prison that is positive and safe for prisoners as well as staff is a challenge, but is in the interests of all involved in the prison and corrections regime. Encouraging prisoners to take responsibility for their behaviour can be an important component of creating a healthy prison culture. The Nelson Mandela Rules state:

*The prison regime should seek to minimize any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.*¹⁹⁴

In 2017 both BWCC and TWCC, an incentive and earned privileges program existed which is designed to encourage positive institutional conduct by prisoners.¹⁹⁵

In TWCC the program is based on a positive support model in which prisoners who demonstrate good behaviour are granted increased access to privileges, such as TV in their cell, personal property, activities (sports and craft), special events, in-cell hobbies, hairdresser appointments, and other privileges. Levels start at bronze and progress through to silver, gold, platinum, and finally to diamond level.

¹⁹⁴ The United Nations *Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules) above n 6, Rule 5.

¹⁹⁵ Queensland Corrective Services publication: *BWCC Fact sheet: Incentives and Enhancement Program Frequently Asked Questions* states a committee 'will look for good case notes, your general institutional conduct including whether you have had any breaches or incidents recently.'

In 2017 in BWCC, the program was behaviour-based, and had three levels — basic, standard and enhanced — each with different privileges linked to accommodation, activities, work, and canteen spending limits. To move through the levels, a prisoner had to apply in writing using an internal request form. They had to state the reasons why they thought they should move to a higher privilege level, and a committee of corrective service officers would assess the request and determine if progression was warranted (a negative decision could be appealed). If a prisoner was alleged to have failed to obey a direction or to have engaged in antisocial behaviour, they could be issued with an IEP (Incentive and Earned Privileges) warning notice, and the committee could downgrade them to a lower privilege level.

While the Incentive and Earned Privileges program apparently works well at TWCC, a number of women at BWCC in 2017 were concerned about its operation. Their concerns were:

- **Lack of accountability:** Unlike the breach process under the *Corrective Services Act*, it was asserted that the IEP breach process gives no opportunity for the prisoner to fully understand the allegations made against them, and to respond prior to a decision being made.¹⁹⁶ In some cases, a breach of the IEP could have the same consequences to a prisoner as a breach under the *Corrective Services Act*, but without the same opportunity for accountability and natural justice.¹⁹⁷
- Certain 'privileges' under the incentives program may, in some instances, be entitlements, mandated by standards or legislation.¹⁹⁸
- **Requirement for prisoner to provide written information to progress to a higher IEP level:** This requirement disadvantages prisoners who are illiterate, or who have a low level literacy, and those who do not have English as a first language. It was suggested that, due to this requirement, some prisoners never apply to be progressed to a higher level, and remain on the standard level for the duration of their sentence (even though their behaviour ought to entitle them to progress to a higher level).¹⁹⁹

Some women complained that the lack of accountability in the application of the IEP meant, on occasions, it was being used as extra punishment in addition to that imposed by the court. The *Standard Guidelines for Corrections in Australia* states:

¹⁹⁶ The IEP warning notice contained a simple tick box list stating the concern — for example, 'How you follow instructions and directions from staff.'

¹⁹⁷ Natural justice principles require that a person is informed of and understands the allegations against them, and has a right to be heard before an adverse decision is made against them.

¹⁹⁸ For example, prisoners should be allowed access to a range of sports, recreational and cultural activities, *Standard Guidelines for Corrections in Australia*, above n 9, Rule 2.53.

¹⁹⁹ This requirement may constitute indirect discrimination on the basis of race or disability under the *Anti-Discrimination Act 1991* (Qld) section 11.

People are sent to prison as punishment not for punishment. Prison systems should ensure that prisoners are not further punished for their crimes over and above the sentence imposed by the Court.²⁰⁰

In February 2019 we were informed by QCS that there is no longer an IEP process in place at BWCC, and that the role and function of BWCC as remand and reception centre does not support an IEP model.

We are informed that SQCC also has an IEP program, but no detail of how it works.

There are many alternative ways to develop a safe and positive prison environment, and the Women's Village at Washington Corrections Center for Women is one example.

The Women's Village at Washington Corrections Center for Women (WCCW)

The Women's Village is an effort developed primarily by inmates for inmates. It started in February 2011 with about a dozen women at WCCW who were long-term offenders who wished to create a safe and positive environment in which to live and work — for both women and staff. Some staff were also involved in the creation of the Village; a Mental Health Provider and the Associate of Programs provided oversight. About 350 offenders currently participate in The Village.


The Village is open to all women. While other programs at the facility are incentive-based — that is, offenders can only participate when they display good behavior — the women who started The Village thought that the inmates who needed it the most were those women with infractions. Membership in The Village is therefore granted based on commitment, not behavior.

Overall, we have witnessed intangible benefits from the Women's Village such as increased offender accountability, women with enhanced self-esteem and a greater sense of civic responsibility, and less tension between offenders and staff. We've also seen an increase in participation in classes and programming.

As women are empowered to change, the environment will change, as well. The facility will become a more secure, stable environment as people change themselves and their behaviour. WCCW will become a place of growth, learning and rehabilitation. This will result in the added benefit of releasing healthy, whole, well-equipped and educated women back into the community.²⁰¹

²⁰⁰ *Standard Guidelines for Corrections in Australia*, above n 9, Guideline 1.21.

²⁰¹ National Resource Centre of Justice Involved Women, Innovator: Superintendent Jane Parnell and Washington Corrections Center for Women: Progress in implementing gender-responsive action plan/women's village concept.



Recommendation 33: incentive and earned privileges programs

Queensland Corrective Services reviews any Incentives and Enhancement programs in place at women's prisons to ensure its processes are transparent, accord with natural justice principles, and do not constitute potential indirect discrimination on the basis of race or disability.

Segregation and Seclusion

Bangkok Rules

Rule 22: Punishment by close confinement or disciplinary segregation shall not be applied to pregnant women, women with infants and breastfeeding mothers in prison.

Nelson Mandela Rules

Rule 36: Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well ordered community life.

Rule 37: The following shall always be subject to authorization by law or by the regulation of the competent administrative authority:

(d) Any form of involuntary separation from the general prison population, such as solitary confinement, isolation, segregation, special care units or restricted housing, whether as a disciplinary sanction or for the maintenance of order and security, including promulgating policies and procedures governing the use and review of, admission to and release from any form of involuntary separation.

Standard Guidelines for Corrections in Australia

Guideline 1.85:

Every prisoner who is placed in segregation... should be visited daily by a member of the prison management, or approved delegate, and as frequently as practicable (preferably daily) by a representative of the medical officer. The medical officer or their representative should advise the officer in charge of the prison if they consider the termination or alteration of the segregation is necessary on grounds of physical or mental health.

Separate confinement for breach of discipline

In Queensland, prisoners can be segregated or secluded from the general prison population through the making of a safety order,²⁰² or through the application of the disciplinary process for a breach of discipline or an offence.²⁰³

If QCS is satisfied there has been a major breach of discipline, a prisoner may be ordered to undergo separate confinement.²⁰⁴ Separate confinement may also be ordered for a minor breach of discipline, if the prisoner has habitually committed minor breaches of discipline and was warned that the next breach could result in the prisoner being separately confined.

Segregation issues raised in consultation

In both BWCC and TWCC, women on safety orders may be placed in the safety unit or the detention unit.

BWCC

The Safety Unit at BWCC (previously known as the Crisis Support Unit) consists of a number of segregated cells surrounding a small caged-in exercise yard. The unit has a padded cell with restraining devices. The number of cells dedicated to women on safety or separate confinement orders has increased since 2006. In 2017, as well as the cells in the safety unit and the eight existing cells in the detention unit, there were also 10 cells in S5 unit being used as overflow cells for prisoners on these orders. The cells contain very little: a bed with a suicide-proof mattress. No personal property is kept in the cells.

At the time of our visits in 2017, the physical environment of the safety unit at BWCC was worn out, oppressive, and depressing. It is clearly a very difficult place for prisoners to be in, and must also be a challenging environment for prison officers who work there. The unit has no therapeutic purpose; it is simply physical space in which to place a prisoner to ensure she does not hurt herself or others, or suffer harm from other prisoners. Supervising staff in the safety unit we spoke with were attempting to assist women placed in this environment, but their capacity, resources, and training to do so, is extremely constrained.

Prisoners who have difficulty coping with prison regimes can self-harm, or hurt other prisoners, which results in them being placed on a safety order or in the detention unit. The overcrowding issues at BWCC appear to be

²⁰² *Corrective Services Act 2006* (Qld) sections 53 to 59.

²⁰³ *Corrective Services Act 2006* (Qld) sections 113 to 121.

²⁰⁴ *Corrective Services Regulation 2017* (Qld) regulation 6 outlines what may constitute a breach of discipline.

impacting on the ability of some prisoners to cope with the already difficult life inside prison. As discussed earlier, overcrowding leading to doubling-up in cells and competition for food and everyday resources (phones, toasters, etc.) results in tensions and sometimes fights between women.

One woman we spoke with at BWCC in 2017, who disclosed she had mental health issues (low moods and self-harm issues), has on occasion voluntarily requested QCS to place her in the detention unit in order to gain some quite space and to safeguard her mental health. She disclosed that she found it particularly distressing when double-up cellmates self-harm. She felt the noisy, overcrowded, and stressful environment was destructive to her best efforts to focus on her rehabilitation.

The Ombudsman has examined the increase in incidents of self-harm and assaults in BWCC. He concluded:

While I cannot confirm that there is a causal link between overcrowding and consequential doubling-up at BWCC and the increase in the number of incidents of assault, self-harm and attempted suicide, the statistics show that the number of incidents has increased disproportionately to the increase in prison numbers.²⁰⁵

With the opening of the new SQCC in late 2018 for women the overcrowding issues at BWCC have been remedied for the present time. Prior to that time there was little opportunity to improve the extremely limited services and conditions available to women in those segregated environments in the prison. The human rights of those prisoners were being compromised, due to the stresses resulting from overcrowding.

TWCC

TWCC also has a safety unit with four cells and a detention unit with six cells and a similar configuration to those at BWCC. At the time of our visit to TWCC in June 2017, all six women occupying the detention unit cells were on safety orders.

We were particularly concerned about the situation of a woman who had been held in the safety unit of TWCC, and was released on parole the day we visited the prison.²⁰⁶ She had spent 134 days on remand in the safety unit, with significant periods of time in the padded cell within the unit. During this time, she frequently engaged in incidents of self-harm involving banging her head violently against the walls of her cell. In order to prevent injury during these periods, QCS had to confine her to the padded cell, put protection on her head, and require her to wear a

²⁰⁵ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n 2, 26.

²⁰⁶ The woman was in prison for offences associated with repeatedly calling triple 0 and verbally abusing the operator over a two-month period. See Christie Anderson, 'Woman spared jail after making 150 prank triple-0 calls' *Townsville Bulletin*, 21 June 2017.

straightjacket so she could not physically remove the head protection. When behaving in this manner, she had to be under constant supervision by a QCS officer, who would observe her through a small glass window on the door of the padded cell. Even so, on occasions she could still injure herself on the metal rim surrounding the observation glass window in the door of the padded cell. QCS advised us they had requested the Queensland Health Prison Mental Health service to assess and assist with this prisoner. We are informed they were advised that the prisoner had 'behavioural' issues and no mental health conditions warranting treatment by the mental health service.²⁰⁷

The Commission appreciates that finding a satisfactory way to manage and assist this particular individual is challenging for all the agencies concerned, including the emergency service, Queensland Police Service, the Courts, QCS, and Queensland Health. However, confining her for prolonged periods in the prison safety unit in a padded cell with no professional intervention to assist her manage her behaviours, is not an acceptable outcome in protecting the human rights of this individual, or in dealing with her behaviours that led to her offending.²⁰⁸ It is clear that QCS has no capacity or expertise to satisfactorily deal with such individuals in the prison environment, and other solutions need to be found.

Recommendation 34: segregation and seclusion

- a. The Queensland Government takes steps to ensure that overcrowding of women in Queensland prisons does not reoccur in the future.
- b. The Queensland Government replaces the BWCC Safety Unit with new accommodation designed to take into account key needs, including mental health.
- c. Relevant Queensland Government agencies (including the Department of Justice, QCS, Queensland Health, and Department of Communities) examine ways of diverting individuals with complex mental health support needs or behavioural disorders from prison.

²⁰⁷ The Commission understands that the primary difference between a behaviour disorder and psychiatric disorder is the presence of choice. Psychiatric conditions are considered to be involuntary, while in behaviour disorders choices are essential. Physiological and psychological factors (internal factors) dominate in mental disorders, whereas in behavioural disorders sociological factors (external factors) dominate. While many behavioral disorders cannot be cured, proper treatment can ensure these conditions are effectively managed, allowing those who suffer from them to live balanced, productive lives. Cognitive behavioral therapy treatment (CBT) is the most commonly used method for managing the symptoms of behavioral disorders.

²⁰⁸ This woman offended again within 9 days of being released from prison, making phone calls from a public phone near to a backpacker hostel where she was staying, and was again placed in prison on her arrest. She was sentenced to a further 97 days imprisonment, but was released at sentencing in October 2017, having already served that time. Her probation requirements for her previous offences were changed, so that she could leave Queensland and live with her sister in Victoria, where it was planned that she would receive treatment and a mental health plan through a local GP. See 'Emergency hoaxter in court again', *Townsville Bulletin*, 4 October 2017.

9. Rehabilitation

Nelson Mandela Rules

Rule 4

1. The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.

2. To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.

The Bangkok Rules

Rule 12

Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-prison custodial settings.

Rule 60

Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. Such programmes shall take account of the need to provide care for children and women-only services.

Modern correctional administrations invest resources in offender rehabilitation programs in the belief that such efforts have a greater impact on reducing recidivism than incarceration alone, and that ultimately this investment will reduce reoffending and improve community safety.

Currently, the increasing Queensland prisoner population has placed significant strain on the delivery of rehabilitation services.²⁰⁹ The Sofronoff review examined rehabilitation programs offered in Queensland's prisons in detail, and stated:

It has been well established that the provision of relevant courses in prison reduces the risk of reoffending.... there is no doubt that the failure to provide the money to ensure that sufficient courses are offered so that all prisoners wishing to undertake a course can be accommodated places the community at risk.

These failures are due solely to the failure of successive governments to apply the necessary money to the problem of community safety from crime and criminals. Longer sentences for serious crimes have their uses and have obvious political benefits and high security prisons serve a function. But, these are ineffective and expensive ways to protect Queenslanders from crime. The cheapest and most effective ways to reduce reoffending require direct engagement with prisoners to change behaviour. This is by means of targeted treatment and conditioning in prison and professional support and supervision on parole.²¹⁰

Rehabilitation programs

The *Corrective Services Act 2006* states the purpose of corrective services is 'community safety and crime prevention through the humane containment, supervision and **rehabilitation** of offenders' (emphasis added).²¹¹ It also requires QCS to establish programs and services:

- to help prisoners reintegrate into the community after their release from custody, including by acquiring skills; and
- to initiate, keep and improve relationships between offenders and members of their families and the community; and
- to help rehabilitate offenders.²¹²

Women in prison, including those in prison for short terms, need access to rehabilitation programs throughout their sentence. The women in prison we consulted wanted access to programs, and many see this as a chance to change and improve themselves and their lives.

²⁰⁹ Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, 131 at [661].

²¹⁰ *Ibid* 7 to 8, at [50] and [51].

²¹¹ *Corrective Services Act 2006* (Qld) section 3.

²¹² *Corrective Services Act 2006* (Qld) section 266.

Programs offered in Women's Prisons

A range of rehabilitation programs is offered to women in Queensland prisons.

In 2019 we were informed that QCS has a number of procurement processes underway seeking a new suite of substance misuse programs ranging from counselling and short interventions through to intensive group based programs. Programs specifically designed for women are being sought through this process, and will be implemented in mid 2019.²¹³

Table 30: Programs delivered at Queensland women's prisons

Snapshot of programs delivered at QCS prisons holding women	TWCC	BWCC	NCC	SQCC
Individual substance misuse counselling (substance abuse, delivered by Artius-BWCC & NCC, Gallang Place- BWCC,				
Short Substance Intervention (substance abuse, delivered by external contractors including Salvation Army- TWCC, Artius- BWCC & NCC, Gallang Place- BWCC, Lives Lived Well - NCC)*				
Low intensity substance intervention (substance abuse delivered by QCS or Serco staff)				
Low Intensity substance intervention (substance abuse delivered by external contractors including Salvation Army, Artius, Bridges)*				
Pathways High Intensity (6 month program -substance abuse)*				
Pathways Challenge to Change (10 week program - substance abuse)*				
Substance Abuse Maintenance Intervention (substance abuse delivered by QCS staff)				
Turning Point preparatory program				
Making Choices Women's Program (general offending)				
Parenting programs (delivered by Save the children through QCS funding and new programs for remandees to be implemented by Shine for kids through CSYW funding)				
Playgroup				
Strong Not Tough: Adult Resilience Program (resilience and wellbeing)				
Domestic violence and sexual assault counselling (delivered by Sisters Inside through CSYW funding)				
Reflections Group (victims of domestic violence delivered by DVPC)				

Source: Queensland Corrective Services (unpublished administrative data).

²¹³ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

In addition to the above, Numinbah Correctional Centre also offers Alcoholic and Narcotic Anonymous and Positive Parenting programs.

HJCC offers a series of programs and services, some of which are delivered within the centre, some on a one-on-one basis, and some where the woman attends a program outside the facility. Some of the programs are:

- 'Circle of Security': an emotion-based program for mothers and pregnant women;
- financial counselling (provided by Relationships Australia or United Care Services);
- gambling counselling (with Relationships Australia at Spring Hill);
- 'Amend' program: assisting mothers to end the need for drugs (an Anglicare program that can follow the woman when she is released from prison if she is in the catchment areas of Brisbane / Gold Coast);
- QulHN (Queensland Injectable Health Network) counselling for women whose lives are affected by substance use; and
- general counselling (provided by Nundah Neighborhood Centre).

HJCC does not currently provide alcohol or narcotics anonymous (AA or NA) group programs within the centre. However, we were informed that a woman may attend external meetings of these programs with a volunteer sponsor, or have one-on-one meetings (with a sponsor) within the centre.²¹⁴

SPER debt reduction program

Many women come to prison with unpaid fines, and this burden greatly hinders their capacity to manage their financial affairs when they leave prison.

At the time of our consultation, an innovative pilot program was being trialled at HJCC through which prisoners who have a debt registered with the State Penalties Enforcement Registry (SPER) may be eligible to have unpaid fines or penalties converted to unpaid community work.²¹⁵ The prisoner performs unpaid community work while incarcerated to pay off their debt.²¹⁶ Rather than recommencing their lives outside prison under a significant burden of debt, this program should be of major benefit to women and men leaving prison to re-establish their lives with a 'cleaner slate'.

²¹⁴ Meeting with Manger of HJC on 7/7/2017.

²¹⁵ In December 2017, the State Penalties Enforcement Registry (SPER) introduced a new program called Work and Development Orders (WDOs) to enable people in QCS in financial hardship to resolve their debt through unpaid community work. See the website: Queensland Government, Overdue fines: Unpaid community work (18 April 2018).

Access to programs

In his 2016 report on the overcrowding in Brisbane Women's Correctional Centre, the Ombudsman drew attention to the:

- very low proportion of program places available as a proportion of the total number of prisoners moving through the centre in a year;
- lack of an increase in offender development staff, in spite of the increasing numbers of prisoners; and
- decrease in the number of program completions, even though there was a significant increase in the average prison population.²¹⁷

The Ombudsman recommended that QCS increases program delivery and transitional services provided to prisoners at BWCC to ensure more prisoners are able to receive the benefit of the programs and services that QCS is required to provide under the *Corrective Services Act*.²¹⁸

QCS has advised that access to a wider range of programs and services at female facilities has occurred since 2016. This has allowed a significantly higher level of program completions to be achieved.

Table 31: Program completions in Queensland women's prisons

Location	Program completions in 2016-17	Program completions in 2017-18	Program completions in 2018-19 (to end of Dec 2019)
Townsville Women's Correctional Centre	177	135	129
Brisbane Women's Correctional Centre	176	222	92
Southern Queensland Correctional Centre			(from August 2018) 21
Numinbah Correctional Centre	85	87	99
TOTAL	438	444	341

Source: Queensland Corrective Services (unpublished administrative data).

²¹⁷ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n2, 28 to 30.

²¹⁸ Ibid 41.

Short-term prisoners

Prisoners serving less than 12 months do not receive a rehabilitation needs assessment, nor do they have access to most of the programs delivered by QCS. The majority of women in prison are serving sentences of less than 12 months,²¹⁹ and those on remand are also ineligible for most programs.

In 2017-18, the most common length of stay in custody was one to two months with more than 50% of the prisoner population serving less than four months in custody.

In addition, QCS knows a small proportion of the total prisoner population's actual release date. For example on 31 August 2018, only 13.1% had an actual known release date, due to a high number of prisoners on remand or their release date being a decision of Parole Board Queensland.²²⁰

This short time spent in custody coupled with limited notice of a prisoner's actual release date can make referral to programs and interventions services difficult. The challenge on how to rehabilitate prisoners who are in prison (sometimes repeatedly) for very short terms needs to be further researched and considered by QCS, and other relevant justice system decision makers (including relevant ministers and government policy advisors.)

Recommendation 35: programs for prisoners

Queensland Corrective Services increases the number and diversity of rehabilitation programs and training and education opportunities available to prisoners, as proposed by the Sofronoff review report.

Pathways programs limited access

Two Pathways programs are run in Queensland prisons:

- high intensity substance abuse (126 hours over 6 months); and
- Challenge to Change (50 hours over 3 months).

However, these programs are only offered to the highest risk prisoners. To enrol, a prisoner must be eligible for parole, and each program is allocated only 12 to 14 places. Women on remand and women serving less than 12 months are not eligible for the Pathways substance abuse programs.²²¹

²¹⁹ See Table 6: Duration of stay in custody by gender and Indigenous status, at page 59 of this report.

²²⁰ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

²²¹ The Commission was advised by the Offender Development team in BWCC that remand prisoners were eligible to access the low-intensity substance intervention program (LISI).

Many women wish to undertake a Pathways program and, given the high numbers of prisoners with substance abuse issues, many would benefit from it.²²²

Pathways programs are not offered to women in TWCC, and to attend the programs women have to transfer to BWCC. This means that participants would be further away from their families for between three and six months. A Pathways program is available for men in Townsville, and men undertaking the program do not have to move further from their community and families.²²³

'You are here for too long, you are not here for long enough, there are too many of you, or you have bad behaviour.'

Female prisoner on the reasons given for lack of access to programs while incarcerated

Recommendation 36: Pathways programs

Queensland Corrective Services:

- a. increases the number of Pathways programs and places offered to women prisoners;
- b. broadens the eligibility to a greater number of prisoners; and
- c. offers the program at TWCC.

BWCC rehabilitation program issues

Space, time, and eligibility for programs

In 2017 overcrowding at BWCC meant that there was insufficient physical space for classrooms, time between lockdowns, and staff to run programs. The need and demand for programs could not be met with existing resources. With the opening of the new SQCC in late 2018 for women the overcrowding issues at BWCC have been remedied for the present time.

Women who are working while in prison are unable to access programs because they do not have any time after finishing work before lockdown.

In our consultations, we received a number of suggestions to help resolve these issues, including:

²²² Emilia Terzon, 'Queensland corrections system "pathetic" over drug rehab, Supreme Court judge says', above n 25.

²²³ This may be an instance of direct discrimination on the basis of sex under the *Anti-Discrimination Act 1991* (Qld).

- create more time for programs throughout the day by having a later lockdown time, currently 6pm; and
- run programs more than five days a week.

Parole requirements

Women also were concerned about the delay in delivering programs for women on long-term sentences, and the long waiting lists for programs.

The Parole Board expects prisoners to complete specific programs in order to be granted parole. Often, this requirement cannot be met because of long waiting lists for the programs. We heard that even though women were eligible to apply for parole, it would not be granted as they had not completed the requisite programs.²²⁴

With the opening of the new SQCC in late 2018, delays in program delivery ought to have been alleviated at the current time. This will only be a short term solution if the imprisonment of women continues at current rates.

Recommendation 37: rehabilitation facilities and programs at Brisbane Women's Correctional Centre

Queensland Corrective Services increases resources for rehabilitation, including physical facilities, times, and staff available to deliver programs in BWCC.

Education and vocational programs

Many women entering prison have poor employment histories, limited education, and lower literacy levels than the general Australian population.

For these women, access to accredited education and training provides the opportunity to gain competencies which will make them more employable when they leave prison. This helps to reduce the risk of reoffending, and maximises the chances of successful reintegration into the community.²²⁵ A study that reviewed the contribution of vocational education to reducing recidivism in Queensland found that 32 per cent of prisoners who did not participate in vocational education and training

²²⁴ The Sofronoff review, above n 3, at 7 raised concerns about this issue.

²²⁵ Australian Government, Productivity Commission, *Report on Government Services 2017*, Volume C Justice (Productivity Commission, 2017).

(VET) before their initial release returned to custody within two years, while only 23 per cent of VET participants returned.²²⁶

Education and training available to women in Queensland prisons includes literacy and numeracy courses,²²⁷ secondary level education including year 12 tertiary preparation, tertiary education, and vocational education and training. In-prison education courses are delivered by external providers — primarily TAFE — with non-teaching, correctional education officers determining service needs and coordinating service provision.

Vocational education includes: a range of short courses (e.g. first aid, food preparation, General Construction Induction Card (white card)), courses at Certificate I–III levels, and diploma level courses. However, the focus is on foundation and Certificate levels I–II.²²⁸

An innovative new model for prisoner training is being trialled at the men's prison, Borallon Training and Correctional Centre. Borallon is a 492 built cell capacity prison, and has a dedicated TAFE campus, and a business (Australian Framing Solutions) onsite, which gives prisoners the opportunity to learn a trade while in prison.²²⁹ This model offers significant benefits to prisoners, and the Commission urges QCS to consider implementing a similar model in a women's prison.

Queensland Corrections is also a participant in the University of Southern Queensland's 'Making the Connection' university preparation program. The program was developed specifically for prisoners, and makes a range of courses available from a custom-designed USQ server.²³⁰

Educational engagement statistics

In 2015–16, the national average of eligible prisoners who participated in accredited education and training courses was 34.4 per cent. Of this average, vocational education and training courses had the highest participation levels (24.7 per cent), followed by pre-Certificate level I courses (6.6 per cent), secondary school education (5.0 per cent), and higher education (1.7 per cent).

²²⁶ Victor Callan and John Gardner, 'The role of VET in recidivism in Australia', in Susan Dawe (ed), *Vocational education and training for adult prisoners and offenders in Australia: research readings*. (National Centre for Vocational Education Research, 2007) 34 to 46.

²²⁷ For prisoners with intellectual or learning disabilities, we were informed that BWCC has a volunteer program which provides one-on-one tutoring.

²²⁸ *A Future Beyond the Wall Project, Adult prisoner participation in education, training and employment in Australia, 2008-15* (University of NSW, 2016) 26.

²²⁹ Melanie Vujkovic, 'Prison inmates pick up trades behind bars in unique Queensland correctional centre' *ABC News*, 21 June 2017.

²³⁰ *Future Beyond the Wall Project, Adult prisoner participation in education, training and employment in Australia, 2008-15*, above n 163, 26.

In Queensland, 35.6% of eligible prisoners were involved in education or training.²³¹ Of those prisoners, 13.4% were undertaking pre-Certificate level I courses, 2.3% were undertaking secondary education, 14.4 % were engaged in vocational education and training,²³² and 6.2 % were undertaking higher education (the highest of all Australian states and territories).²³³

Since 2006 there has been a decline in the number of women undertaking full-time study. Over this period, the women's prison population has significantly increased, so we would expect to see a proportionate increase in the number of women undertaking full-time education. There was also a decrease in men undertaking full-time education until 2015–16, when there was a significant increase.

Table 32: Prisoners who have accessed all vocational education/training by Indigenous status and gender

status and gender

	Female Prisoners				Male Prisoners				
	Indigenous		Non-Indigenous		Indigenous		Non-Indigenous		Total
2006/07	83	28%	216	72%	1067	24%	3361	76%	4727
2013/14	212	32%	451	68%	1420	30%	3336	70%	5419
2014/15	191	36%	337	64%	1425	33%	2955	67%	4908
2015/16	338	37%	571	63%	1576	31%	3588	69%	6073
This table captures the number of distinct prisoners who participated in an AEVET program during the relevant financial year. Source: Queensland Corrective Services (unpublished administrative data) extracted from Reporting Services, AEVET Statistics Report									

Source: Queensland Corrective Services (unpublished administrative data).

Education issues identified during consultation

Limited vocational training

Certificate qualifications are available in four levels. The higher level the certificate, the more in-depth the content and the longer the course duration. Certificate II courses are considered entry-level courses, and usually do not require prerequisites (or prior knowledge or education).²³⁴

²³¹ Australian Government, Productivity Commission, *Report on Government Services 2017*, Volume C Justice, above n 160.

²³² With ACT the highest at 55% and Queensland the second lowest at 14.4%.

²³³ Australian Government, Productivity Commission, *Report on Government Services 2017*, above n 160, Volume C Justice, Table 8A 10.

²³⁴ Such courses are ideal if the student is new to studying (or hasn't taken a course in a long time) or if they need a very basic introduction to a particular field. It gives a taste of what an industry has to offer, and provides skills so a student can improve their employment opportunities.

A Certificate III qualification is useful to start a new career or develop skills in a specific area.²³⁵

Up to ten prisoners at BWCC have the opportunity to undertake a Certificate II in hairdressing. However, women from all four prisons commented on the need for more variety in vocational programs, and suggested courses such as the Certificate III in fitness, and courses in non-traditional female courses, such as outdoor power tools, woodwork, welding, and forklift driving.

Longer-term prisoners from all four women's prisons raised the issue that they are only permitted to complete one Certificate III course for free. If they wish to complete other Certificate III courses, they have to pay, but could complete any Certificate II course available within the prison without payment. Many women do not have the capacity to pay for training.

Career advice

Several women suggested they would benefit from career advice, and in particular, being directed to courses in careers and industries in which their criminal conviction would not be a barrier to employment. They suggested a careers education day be scheduled regularly within each prison, with representatives from TAFE, USQ, and other providers attending to answer questions and provide information.

Measuring educational success

The current emphasis in QCS is to measure participation in education and training, rather than achievements or outcomes. We heard that there should be a greater emphasis on outcomes, while still measuring participation.

Paying for education

While many women may be eligible to apply for student loans to access vocational and tertiary education,²³⁶ some who do not have Australian citizenship are not eligible, and need to pay up front for any higher level education they undertake. Most do not have the funds to do this, and so have no access to higher level vocational or tertiary education while in prison. Partnerships and scholarships with learning institutions may assist these women to gain skills for when they leave prison.

²³⁵ To gain entry to a Certificate III course, students need to have completed the Year 10 School Certificate (or equivalent), or a Certificate II.

²³⁶ The Australian Government administers the Higher Education Loan Program (HELP) which consists of four HELP loans schemes and the VET Student Loans program to assist students with the cost of their fees. See the Australian Government's StudyAssist website for more details.

The strategy used by the Women's Village at Washington Corrections Centre for Women could be considered for Queensland's women's prisons.

Perhaps one of the most striking benefits of the Women's Village has been an increase in educational opportunities for the women. Since there were no public funds for higher education in correctional facilities in Washington, the Education Subcommittee sent requests to colleges and universities in our area asking professors to volunteer their time to teach the same classes at WCCW that they teach to students in their universities. Out of this work the Freedom Education Project Puget Sound (FEPPS) was developed. This program has provided more than 12 college courses in WCCW since 2012 in which the women can receive college credits.

Jane Parnell, Superintendent of the Washington Corrections Center for Women

BWCC overcrowding and education programs

In 2017, the overcrowding and shortage of space at BWCC restricted the ability to provide education programs for women. Shortage of adequate classroom space produced competition for space and times to run criminogenic and education programs, and on one occasion, a plan for a Certificate III in Outdoor Power Tools could not proceed, due to lack of workshop space. On occasions, there were waiting lists for programs, and a shortage of computers to meet the demand.

With the opening of the new SQCC in late 2018, constraints in education program delivery at BWCC have been alleviated at the current time. However, this will only be a short term solution if the imprisonment of women continues at current rates.

Numinbah

Women at NCC were concerned about the lack of variety in TAFE courses, and the requirement to have minimum numbers for courses, particularly longer courses. The small size of NCC and its distance from major centres mean that these are likely to be ongoing issues.

Given the landscaping and agricultural opportunities available at NCC, women requested the space and opportunity to undertake small machinery and agricultural training.

TWCC

The lack of variety in TAFE courses was also raised by women at TWCC. In addition, recently several women undertaking tertiary education were only given access to university resources after the course commenced, with the result that several weeks of study needed to be condensed into a shorter period.

Recommendation 38: education and vocational programs

Queensland Corrective Services:

- a. provides more variety in women's vocational programs, and considers courses such as Certificate III programs in fitness, outdoor power tools, welding, and forklift driving;
- b. introduces regular opportunities for career counselling for women seeking to undertake training and education;
- c. places greater emphasis on measuring educational outcomes, while continuing to measure participation in education and training;
- d. develops partnerships and scholarships with learning institutions to assist women who cannot afford to pay for training, and who do not have access to loans schemes;
- e. investigates means to ensure women at Numinbah have equitable access to vocational training, similar to other low security men's prisons.

Work

Nelson Mandela Rules

Rule 96:

Sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation, subject to a determination of physical and mental fitness by a physician or other qualified health-care professionals.

Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

Rule 98:

So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.

Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.

Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, prisoners shall be able to choose the type of work they wish to perform.

Rule 103:

There shall be a system of equitable remuneration of the work of prisoners.

Under the system, prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.

The system should also provide that a part of the earnings should be set aside by the prison administration so as to constitute a savings fund to be handed over to the prisoner on his or her release.

All Queensland women's prisons have opportunities for prisoners to work in prison services. This type of work focuses on service tasks within the prison that enable it to function. It includes work in the kitchen, gardening, cleaning, as bulk store workers, support workers, or in the laundry.

Prison industry work includes activities undertaken on a commercial basis, and can range from craft-based industries, such as soft toy manufacturing, through to rural produce, such as meat production. Service agreements between individual prison industries and local contractors can also result in work in light industry and assembly. Ideally, such work should assist women to gain transferable skills that may help them get a job on release.

Statistics: prison employment

In 2015–16, the national average of eligible prisoner population employed was 74.9 per cent. Most prisoners were employed in service industries (45.4 per cent) or in commercial industries (28.8 per cent), with only a small percentage (0.7 per cent) on work release.²³⁷

In Queensland in 2015–16, 38.5 per cent of prisoners were employed in service industries, and 30.3 per cent in commercial industries. There are no work release schemes in Queensland.

²³⁷ Australian Government, Productivity Commission, *Report on Government Services 2017*, above n 160, Volume C Justice, table 8A.11.

Table 33: Prisoners who have accessed work by gender and work type provided by QCS

	2006/07		2013/14		2014/15		2015/16	
	Female	Male	Female	Male	Female	Male	Female	Male
Commercial Industries	93	1141	159	1295	167	1366	175	1513
Prison Services and Community Work	124	1684	208	1733	223	1807	230	1915
Total employed	217	2825	367	3028	390	3173	405	3428
Full-time education	10	203	8	136	9	135	7	340
Not employed	155	2142	219	2905	251	3172	214	3058
Total prison population	382	5170	594	6069	650	6480	626	6826
Employment rate (all types)	57%	55%	62%	50%	60%	49%	65%	50%
<p>Notes:</p> <p>Prisoner employment data is a manual collection from correctional centres at the end of each calendar month. The above figures are based on the average of the last day of each month.</p> <p>Aboriginal and Torres Strait Islander status is not collected as part of employment data.</p> <p>Commercial Industries includes work undertaken by prisoners for external clients on a fee for service basis, e.g. book binding, laundry services, assembly work.</p> <p>Prisoner Services includes work undertaken by prisoners inside the prison to support its operations, e.g. meal preparation, cleaning, gardening)</p> <p>Community Work includes work undertaken by prisoners on a non-commercial basis to support the community external to the prison.</p> <p>Full-time education is prisoners engaged in full time education and training and who are not engaged in the other employment categories.</p> <p>Not employed includes prisoners who refuse to work, prisoners on remand who are not required to work, prisoner unable to work for legitimate reasons (illness, age), fine defaulters, short stay prisoners and prisoners waitlisted to undertake prison employment but there is no work currently available for them to undertake.</p>								

Source: Queensland Corrective Services (unpublished administrative data).

The table above shows that women prisoners are consistently accessing work at equivalent, or higher rates, than male prisoners.

Table 34: Prisoners who have accessed work camps by gender and Indigenous status

	Female Prisoners				Male Prisoners			
	Indigenous		Non-Indigenous		Indigenous		Non-Indigenous	
2006/07	0		0		77	23%	252	77%
2013/14	11	16%	56	84%	139	38%	226	62%
2014/15	10	18%	47	82%	135	36%	236	64%
2015/16	15	20%	59	80%	114	28%	291	72%

Source: Queensland Corrective Services (unpublished administrative data).

Table 305: Female prisoners accessing work camps by Indigenous status

Female Prisoners	2006/07	2013/14	2014/15	2015/16
Indigenous % of population	26%	35%	35%	35%
Indigenous % accessing work camps		16%	18%	20%
Non-Indigenous % of population	74%	65%	65%	65%
Non-Indigenous % accessing work camps		84%	82%	80%

Source: Queensland Corrective Services (unpublished administrative data).

Table 36: Male prisoners accessing work camps by Indigenous status

Male Prisoners	2006/07	2013/14	2014/15	2015/16
Indigenous % of population	28%	32%	32%	32%
Indigenous % accessing work camps	23%	38%	36%	28%
Non-Indigenous % of population	72%	68%	68%	68%
Non-Indigenous % accessing work camps	77%	62%	64%	72%

Source: Queensland Corrective Services (unpublished administrative data).

The tables above show that Indigenous females are much less likely to work in a work camp compared to non-Indigenous females. They are also much less likely to be part of a work camp than Indigenous men. This indicates potential systemic discrimination on the basis of race and sex.

Work opportunities

BWCC

BWCC provides industry work in rag cutting and assembling fire safety equipment for high-rise buildings. We were advised by the industry supervisor that quality control was of a high standard in the latter industry, and the women who worked in it spoke about how proud they were of their work, and recognised its importance and value.

Numinbah CC

NCC employment opportunities were in landscaping, farm work, and animal management. Farm work included working with a herd of beef cattle (including preparing cattle to exhibit at various agricultural shows) and propagation and planting of trees to supply leaves for koalas at a local animal sanctuary.

NCC also provided opportunities for women to attend community service sites on a daily basis to undertake volunteer work at not-for-profit organisations in the local area, including animal welfare, PCYC, aged care, and show society groups. Additionally, up to ten women at a time worked at the Warwick Women's Work Camp, undertaking a range of community work.

Internal community work included recycling spectacles for the Lions glasses project, making reusable shopping bags for a local community organisation, and sewing hygiene kits for the 'Days For Girls' project.²³⁸

In the 2015–16 year, women associated with NCC performed 42,651 hours of community service. The women we spoke to took pride in their community service work, and greatly valued the opportunity to help others. The Commission commends QCS on the work it has undertaken with local organisations to develop partnerships and relationships that benefit both the women in NCC, and the broader community.

Helana Jones C

All women in HJC are engaged in meaningful activities (education/programs) or work over an 8-hour period each weekday. Work opportunities include leaving the centre to perform community service work at local cemeteries (mowing, whipper-snipping etc.) and preparing food for meals on wheels at Wesley Mission. Some women have opportunities to undertake unpaid work experience, however paid work opportunities are very rare.

Townsville

Industry work at the secure section of TWCC consisted of these services for Townsville hospital:

- **linen service:** sorting and packaging clean laundry into specified bundles; and
- **tailoring work:** mending hospital linen items.

In the low security FLO centre, a number of women had community work with the RSPCA, and those at the Bowen Work Camp undertook community work with the local council.

Work issues raised in consultation

At both BWCC and TWCC high security prisons, women raised concerns that when the prisons were full, or over capacity, there was insufficient work available for prisoners who were seeking work. At the low security FLO and HJCC prisons, women spoke of a need for more work outside the prison.

The Council of Australian Governments has recently observed:

To increase the likelihood of prisoners moving into employment after their release, work also needs to be done to connect prisoners

²³⁸ Days for Girls is dedicated to creating a freer, more dignified, and educated world, through providing lasting access to feminine hygiene solutions and health education.

*with prospective employers before they leave prison, including identifying what support a prisoner might need upon release, such as complying with parole conditions. Establishing this connection prior to a prisoner's release also removes the shame and stigma they may feel about revealing their criminal history, as they have been employed with this already known.*²³⁹

Currently, there are no QCS work release programs for women or men in Queensland. A number of people consulted, including QCS staff, non-government service providers, and women prisoners suggested that a work release program ought to be reinstated.

- The following work issues were raised during our consultations:
- differing pay rates at different facilities;
- lack of outside work for low security women;
- less opportunities than men, such as apprenticeships at Borallon; and
- no work release programs available.

Recommendation 39: work

Queensland Corrective Services:

- a. investigates and eliminates potential systemic discrimination of Aboriginal and Torres Strait Islander women prisoners in accessing work camps; and
- b. investigates the merits of reinstituting a work release program.

²³⁹ Council of Australian Governments, *Prison to work report* (2016) 5.

Sport and recreation opportunities

Nelson Mandela Rules

Rule 23:

1. *Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.*
2. *Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.*

Rule 64:

Every prison shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Rule 105

Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.

Sport and recreation facilities

Outdoor recreational facilities at each prison are as follows:

- BWCC has an oval, a gym and two tennis courts.
- TWCC secure unit has an oval and a gym, and women in FLO have a large garden area in which to exercise outdoors, and a tennis court that converts to a basketball court.
- Numinbah has two tennis courts, a gym, and recreation room with a pool table and other facilities.
- HJCC permits women to walk to the local park every afternoon for an hour on weekdays, and for two hours on weekends. If children are visiting their mothers, they can accompany them, taking sporting equipment, such as softball bats and soccer balls.

All have a library facility.

Various other recreational/cultural opportunities may include:

- yoga (BWCC);
- art (BWCC has an art room which can accommodate 20 women at a time, with art activities each day.);
- craft hobbies: prisoners can purchase craft materials from the internal shopping list in secure prisons, or after visiting nearby shopping centres(HJCC);
- animal caring (RSPCA cat care program at BWCC, and the Animal Welfare League's 'pups in prison' program at NCC);
- one-off activities, such as therapeutic theatre (In early 2017, a group of Indigenous women at BWCC rehearsed and performed a play with the assistance of a volunteer from Griffith University.); and
- NAIDOC activities.

Sport and recreation issues raised in consultations

Volunteers

A number of people we talked with suggested that QCS promote a more formalised program of recruiting and supporting suitable volunteers to visit prisons to assist with activities and programs that facilitate rehabilitation and prevent recidivism. The Nelson Mandela Rules state that community agencies should be enlisted wherever possible to assist prison staff with the task of social rehabilitation.²⁴⁰

Volunteers are already used for activities at various prisons, such as literacy support at BWCC and HJCC; and various programs at HJCC including positive lifestyles and 'beauty within' programs, card making, woodworking, and children's cooking. Each prison would benefit from having a dedicated officer to assist with community liaison and to recruit and support volunteers. Suggestions for activities outsiders could assist with in prison included public speaking, debating groups, knitting groups, reading circles, slam poetry, and hip-hop dancing. Recruiting suitable volunteer mentors to assist and support women when they leave prison should also be considered.

BWCC: sport and recreation issues

In 2017 the overcrowding at BWCC limited the time available for women to access the available facilities.²⁴¹ With the opening of the new SQCC in late 2018, the problem in accessing recreational facilities at BWCC has

²⁴⁰ United Nations *Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules).(2015), above n 6, Rule 88.

²⁴¹ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n 2, 39.

been alleviated at the current time. However, this will only be a short term solution if the imprisonment of women continues at current rates.

Aboriginal and Torres Strait Islander women spoke of the cessation of a much-valued art tuition program. They felt women were being disadvantaged, as the nearby men's prison employed a dedicated art tutor for Aboriginal and Torres Strait Islander men.

BWCC does not have a dedicated 'cultural space' for Aboriginal and Torres Strait Islander prisoners, whereas men's prisons in Queensland have such a space.²⁴²

We also heard concerns from women about the level of support for NAIDOC week activities, and the fact that families had not participated since 2011. However, women did speak very favourably of the drama performance in 2017 with the support of Griffith University, and suggested such activities should occur much more frequently.

Numinbah CC

The yoga tuition activity at NCC ceased because of the remoteness of the facility, and it was not viable for the tutor to travel from Brisbane to provide the service.

Women also hoped that the dedicated woodworking area in the facility could be reopened with the assistance of a woodwork tutor.

Recommendation 40: sport and recreation

Queensland Corrective Services:

- a. provides additional, dedicated officer support at each prison to assist with community liaison, and to recruit and support volunteers to work with prisoners; and
- b. provides more support for Aboriginal and Torres Strait Islander women at BWCC, including a dedicated cultural space, art tuition, and greater emphasis on NAIDOC activities.

²⁴² *Corrective Services Act 2006* (Qld), section 150 states:

Prison amenities: When establishing a new prison, the chief executive must ensure appropriate provision is made in the prison for each of the following—

- (a) a meeting place for Aboriginal and Torres Strait Islander prisoners that—
 - (i) promotes communication; and
 - (ii) endorses the prisoners' indigenous cultural heritage.

10. Health

The Nelson Mandela Rules address the provision of health care to prisoners, and include: principles of equivalence (to the community standard); independence; multidisciplinary care, including psychological and psychiatric, and dental; and continuity of care in the community upon release from prison.

These rules are reflected in the Australian context. The Corrective Services Administrators' 2012 *Standard Guidelines for Corrections in Australia* specifically reference health care provision in prisons, including equivalence of care, access to both primary and specialist health professionals, medical examination within 24 hours of being received into prison, continuity of care between the community and prison, care for pregnant female prisoners, mental health, and disability.

The Bangkok Rules supplement the Nelson Mandela Rules to address the particular needs of women prisoners.

Bangkok Rules

Rule 8:

The right of women prisoners to medical confidentiality, including specifically the right not to share information and not to undergo screening in relation to their reproductive health history, shall be respected at all times.

Rule 10:

- 1. Gender-specific health-care services at least equivalent to those available in the community shall be provided to women prisoners.*
- 2. If a woman prisoner requests that she be examined or treated by a woman physician or nurse, a woman physician or nurse shall be made available, to the extent possible, except for situations requiring urgent medical intervention. If a male medical practitioner undertakes the examination contrary to the wishes of the woman prisoner, a woman staff member shall be present during the examination.*

Rule 12:

Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in noncustodial settings.

Rule 13:

Prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support.

Rule 15:

Prison health services shall provide or facilitate specialized treatment programmes designed for women substance abusers, taking into account prior victimization, the special needs of pregnant women and women with children, as well as their diverse cultural backgrounds.

Rule 16:

Developing and implementing strategies, in consultation with mental health-care and social welfare services, to prevent suicide and self-harm among women prisoners and providing appropriate, gender-specific and specialized support to those at risk shall be part of a comprehensive policy of mental health care in women's prisons.

Rule 17:

Women prisoners shall receive education and information about preventive health-care measures, including on HIV, sexually transmitted diseases and other blood-borne diseases, as well as gender-specific health conditions.

Rule 18:

Preventive health-care measures of particular relevance to women, such as Papanicolaou tests and screening for breast and gynaecological cancer, shall be offered to women prisoners on an equal basis with women of the same age in the community.

Rule 62:

The provision of gender-sensitive, trauma-informed, women-only substance abuse treatment programmes in the community and women's access to such treatment shall be improved, for crime prevention as well as for diversion and alternative sentencing purposes.

Health services in women's prisons

Since 2008, primary health services and mental health services in women's prisons have been provided and funded by Queensland Health. Previously, health services were provided by Queensland Corrective Services. The primary health service is predominantly a nurse-led care model, with a general practitioner (GP) generally available for consultations three days a week.

It is widely accepted that prisoners, and women prisoners in particular, have greater health needs than many others in the general population.²⁴³ The concept of community equivalence has been adopted as a benchmark for the delivery of prisoner health services. However, some authorities argue that there is an obligation to provide health care at a *greater* standard than in the community, to account for the increased need in prison. Equivalence then should be the minimum, rather than the ideal.²⁴⁴

Providing and operating health services in a prison environment is not straightforward. For example:

- Regimes and processes in place in a prison environment may make the goal of equivalence and continuity of care between the community and prison difficult to achieve, especially upon entry.
- Delays in being able to establish communication with a prisoner's community-based general practitioner or psychiatrist, or to confirm existing prescriptions, may lead to disruptions to regular medications, or changes to established medication practices. Such issues may leave prisoners at increased risk of mental instability at the particularly difficult time of transition into prison.
- Uncertainty surrounding exact discharge dates, which can be affected by, for example, applications for bail and parole, increases the difficulties associated with continuity of care in the community following release.²⁴⁵

Health issues raised in consultation

Overcrowding and delays in health care

In his 2016–17 annual report, the Queensland Health Ombudsman expressed concern about the high volume of complaints from correctional facilities across Queensland, and reported that the office had 'commenced a systemic investigation to address the various issues simultaneously'. One of the broader state-wide themes identified by the Health Ombudsman in complaints made to that office was overcrowding of correctional facilities, which creates significant pressure on health services to provide timely and responsive health care.²⁴⁶ This was an issue that also arose on numerous occasions during our consultations.

In 2017 in BWCC, while the health centre had a dedicated and committed team offering quality health care, the physical facility was cramped and

²⁴³ Australian Institute of Health and Welfare, *Prisoner Health Services in Australia 2012*, Bulletin 123 (August 2014) p 8.

²⁴⁴ Ibid 7.

²⁴⁵ Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015* (AIHW 2015) 4.

²⁴⁶ Office of the Health Ombudsman, Queensland Government, *2016–2017 annual report* (2017) 45.

overcrowded, with inadequate space and staff to deal with the high demand for health services. Of necessity, a triage system operated. However, women with not insignificant health concerns complained of delays in treatment. The women in the protection unit of BWCC, in particular, were concerned about the delays and their lack of access to the health clinic, which they directly attributed to the overcrowding in BWCC. Women at Helana Jones Centre also spoke of delays in the visits by the nurse practitioner to the centre.

We were also told of instances of the wrong administration of medications, missed medications, and frequent prison lockdowns which impede medication rounds. It was suggested during our consultations that extra resourcing for medical rounds may alleviate some of these issues.

Women in TWCC complained about waiting lists to consult an optometrist as no regular service was offered in prison, and they have to wait until the list is full for a visit to the optometrist to occur.

In 2017 in BWCC the delays in primary health delivery were not achieving the benchmark of community equivalence of medical care.

With the opening of the new SQCC in late 2018, the problems in accessing health services at BWCC will have been alleviated for the current time. However, this will only be a short term solution if the imprisonment of women continues at current rates.

*'Nurses are good, put in form, seen within 48 hours.
Doctor's list is huge — wait six months if it is not urgent.'*

Female prisoner on access to health care while incarcerated

Continuity of health care

Another common issue raised with us at all the women's prisons we visited was the failure to continue with medical treatment that women had commenced prior to entering prison. Examples included failures to continue with medication to relieve pain associated with a back or other injuries, and to provide oxygen for a woman with emphysema.

We were informed that some matters raised in TWCC resulted in complaints to the Health Ombudsman and resulted in resumption of the pre-prison treatment regime. Women should not have to resort to making such complaints in order to achieve continuity of care. Many women will not have the capacity to do so, which could result in tragic outcomes.

Following the death in custody in 2010 of a woman prisoner in TWCC, the Coroner made recommendations about continuity of care and pain management guidelines. He commented:

I completely agree with Dr Hoskins' observation: 'we do people a great disservice if they have a genuine need for pain relief and we fail to prescribe it when they are deprived of their liberty'.²⁴⁷

Shortfalls in these matters still appear to be occurring within prisons, despite the coroner's recommendations.

Coroner's recommendations following death in custody in TWCC

- **Continuity of care:** In view of the lengthy and unnecessary interruption of the deceased's prescribed medication after her incarceration, I recommend Queensland Health urgently develop guidelines to assist visiting medical officers engaged by Offender Health Services to make appropriate judgements concerning continuity of care for newly received prisoners and implement procedures that ensure verification of existing prescriptions occurs in a timely fashion.
- **Pain management guidelines:** In view of the inadequate pain management provided to the deceased in this case and the paucity of guidelines available to OHS staff on how to respond to chronic pain, a disproportionately common complaint among their patient population, I recommend that Queensland Health urgently develop guidelines to assist visiting medical officers engaged by Offender Health Services make appropriate judgements concerning the assessment and treatment of the condition.

Providing more resources at the point when a prisoner is received into the prison — in order to make contact and take follow-up action with the prisoner's medical practitioner — may alleviate some of the problems currently occurring with ensuring continuity of care.

Hearing impairment issues

We spoke to several women who had concerns related to their hearing issues (hearing loss or deafness).

One woman in TWCC was sent to jail without her hearing aids, and stated that they were stolen from her home while she was in custody. She had no capacity to replace the aids, and received no help from authorities to do so. This severely limited her ability to function in jail.

²⁴⁷ Office of the State Coroner, Queensland Courts, *Findings of inquest into the death of Tracey Lee Inglis* (9 December 2011) 11.

Another woman complained that as a result of a bad ear infection, she had experienced significant loss of hearing functionality, but had not been permitted to have a hearing test.

Aboriginal and Torres Strait Islander people generally experience disproportionately higher levels of hearing impairment and deafness than non-Indigenous people. So, a significant proportion of Aboriginal and Torres Strait Islander prisoners will have a hearing loss.

Statistics of hearing loss among the general prison population are not readily available, and the extent of hearing loss among Indigenous Australians in custody is unknown, though informed estimates suggest that the incidence may be very high indeed. The implications for Indigenous Australians who may have been convicted and incarcerated with an undiagnosed hearing loss could be most profound. The lack of diagnosis will impact on a prisoner's ability to cope with the demands of the prison system, and their ability to participate in rehabilitation programs may be compromised.

On 13 May 2010 the Senate Community Affairs References Committee tabled its report titled *Hear Us: Inquiry into Hearing Health in Australia*.²⁴⁸ The report focused on the prevalence of hearing loss in Australia and the issues faced by people with a hearing impairment. These issues included: access and services, educational opportunities, and lack of support in the criminal justice system. The Committee recommended:

*that correctional facilities in which greater than 10 per cent of the population is Indigenous review their facilities and practices, and improve them so that the needs of hearing impaired prisoners are met.*²⁴⁹

Other health issues

Male doctors

Some women in TWCC expressed a preference to see a female doctor. Currently, only a male GP works at the facility. Bangkok Rule 10 states:

If a woman prisoner requests that she be examined or treated by a woman physician or nurse, a woman physician or nurse shall be made available, to the extent possible, except for situations requiring urgent medical intervention.

If a male medical practitioner undertakes the examination contrary to the wishes of the woman prisoner, a woman staff member shall be present during the examination.

²⁴⁸ Senate Community Affairs References Committee, Parliament of Australia, *Hear Us: Inquiry into Hearing Health in Australia* (2010).

²⁴⁹ Ibid Recommendation 34 (chapter eight), xxii.

Health education

Medical staff and some women prisoners spoke of a need for regular, primary health education sessions that could assist in better health outcomes for women with commonly-diagnosed conditions, such as diabetes and Hepatitis C.

Prison provides an opportunity for this important health education to occur for a cohort of women who may not have that opportunity outside of prison.

Recommendation 41: health care

- a. Queensland Corrective Services ensures that the medical units at BWCC and TWCC are sufficiently resourced to provide timely and responsive healthcare that is equivalent to that available in the wider community.
- b. Queensland Corrective Services and Queensland Health provide extra resources at the point when a prisoner is received into prison to contact the prisoner's medical practitioner to ascertain their care regime and needs, and take follow-up action.
- c. Queensland Health implements the Coroner's 2010 recommendations on guidelines for continuity of care and pain management.
- d. Queensland Corrective Services reviews their facilities and practices, and improves them so that the needs of hearing-impaired prisoners are met.
- e. Queensland Health provides sufficient resources for medical staff to deliver primary health education sessions to groups of prisoners on a regular basis.

Mental health

Compared to the general population — and to male prisoners — women prisoners have particularly high needs for mental health care, and for assistance to deal with trauma and distress.²⁵⁰ Currently, women's prisons in Queensland are not adequately resourced to meet either of these needs.²⁵¹

²⁵⁰ Among both prison entrants and discharges, men were more likely than women to assess their own mental health as being very good or excellent. Just over one-third (35%) of male entrants (compared with 17% of female entrants) gave this rating, as did 44% of male and 25% of female discharges. See Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 43.

Women were more likely than men to report high, or very high levels of distress — 45% of female prison entrants and 29% of male entrants and a corresponding 32% and 17% of prison discharges. See Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 40.

²⁵¹ The BWCC primary health team currently has access to a mental health nurse practitioner on a half time basis.

Nelson Mandela Rules

Rule 25:

- 1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.*
- 2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.*

The Bangkok Rules

Rule 12:

Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-custodial settings.

Prison mental health service

This service is provided by Queensland Health, and operates across the state. A committed and compassionate group of professionals work in the service, but it has very limited capacity to service the high needs, female prisoner population.

At BWCC, the service operates within the very crowded primary health unit, with inadequate private rooms and facilities for consulting patients, and has no interview room from which it can work. To adequately provide the special healthcare needed by many women prisoners, it requires better facilities and greater resourcing than is currently provided.

In the segregation section of this report, we raised concerns about the inadequate level of mental health support available in TWCC, and the adverse consequences for prisoners and staff.

The Commission notes that the Queensland Government has recently committed to expand mental health services provided to prisoners with more complex and severe mental health needs.²⁵²

²⁵² Queensland Government, Response to Queensland Parole System Review recommendations, [3].

Trauma-related care

Psychologists are employed at SQCC, BWCC and TWCC, who perform an important role in monitoring and assisting high-needs prisoners. In so doing, they ensure the safety and security of both the prisoner and the prison. However, according to both QCS and the psychologists themselves, their primary role is one of risk management (safety and security), rather than health, welfare, and rehabilitation, and their client is QCS — not the prisoner. In their role, psychologists are largely reactive rather than proactive, and the model upon which they operate is deficit-based, rather than strengths-based.

While outside services (such as SOLAS in TWCC) provide high-level support to eligible women, generally there is insufficient access to trusted counsellors and psychosocial support within the prison to provide trauma-related care.

The Prison Mental Health service has received funding to deliver the Indigenous Mental Health Intervention Program (IMHIP) to assist Aboriginal and Torres Strait Islander prisoners to deal with trauma and other issues.

Despite these initiatives, the Ombudsman has recently formed the opinion that QCS has failed to provide sufficient psychological services to meet the needs of prisoners in BWCC.²⁵³

Too often women are prescribed medication to overcome their symptoms and distress, rather than addressing the underlying reasons that lead to mental health problems. Queensland Health, or external providers, need greater access to funding and facilities to allow all female prisoners with a history of physical and sexual abuse, domestic violence, and other trauma to seek individual assessment and support.

The Commission commends QCS for instigating and supporting peer support workers in women's prisons. Many women with whom we consulted regard them as a valuable and trusted form of support and assistance.

²⁵³ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n2, 40 and 42.

Recommendation 42: mental health

- a. Queensland Corrective Services upgrades clinic facilities at BWCC to provide an interview room for the prison mental health service.
- b. Queensland Corrective Services and Queensland Health provide all women's prisons with appropriate and improved mental health services.
- c. Queensland Health and other external service providers are funded to enable integrated and holistic counselling and psychosocial support for women in prison with distress and trauma.

Substance abuse

Prison health services shall provide or facilitate specialized treatment programmes designed for women substance abusers, taking into account prior victimisation, the special needs of pregnant women and women with children, as well as their diverse cultural backgrounds.

Rule 15, Bangkok Rules

Illicit drug use by people entering prison is significantly higher than that of the general community. For many drug types, prison entrants were more than two to three times as likely as the general community to report recent use.²⁵⁴ Across Australia, the proportions of males and females entering prison who reported illicit drug use were similar in 2015 (67% and 65% respectively).²⁵⁵

In 2015, the drug most likely to be used by people entering prison — methamphetamine — was also the drug type with the largest difference in use, compared to the general community, being reported at least 10 times as often by prison entrants as by the general community.²⁵⁶

Women prisoners we consulted were very open about their problems with substance abuse prior to (and sometimes within) prison. Many were very keen to access help to deal with their substance abuse, and to reduce its

²⁵⁴ Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 100.

²⁵⁵ *Ibid* 97.

²⁵⁶ *Ibid*.

negative impact on their lives. Most could not access any assistance, or the level of assistance they needed, to make a difference while in prison. In June 2017, the Health Clinic at BWCC had the services of a part-time drug and alcohol practitioner. However, the level of need warrants more resources, and the employment of at least one full-time practitioner to undertake this work.

The Sofronoff report noted the disparity between the level of rehabilitation for substance abuse that is needed, and what is delivered in Queensland prisons, and recommended that QCS increases the number of high-intensity substance abuse programs available to prisoners.²⁵⁷

The Ombudsman was of the opinion that the number of program opportunities to address substance abuse at BWCC had not kept pace with the increase in the prisoner population.²⁵⁸

The Queensland Government is now in the process of expanding rehabilitation, drug, and alcohol treatment services in prisons. QCS advises us that \$3 million per annum over 6 years has been allocated, and interim services have been implemented in 2017-18 allowing new individual intervention services and implementation of programs specifically targeted to youth, women and Indigenous offenders. In addition, QCS is currently procuring a new suite of substance abuse programs ranging from counselling to short interventions through to intensive group based programs. Programs specifically designed for women are being sought in the procurement process, with implementation due in mid 2019.²⁵⁹

Opiate substitution program

Women (58%) were more likely than men (43%) to report injecting drug use prior to entering prison.²⁶⁰ The use of heroin and other analgesics (including opiates/opioids) by people entering prison is reported at 9% and 8% respectively.²⁶¹

Treatment with an opioid substitution treatment (OST) can improve physical and mental health, reduce cravings, demand for illicit drugs, and drug-related crime. In 2017, unlike many other Australian states, Queensland did not initiate opiate substitution programs for female prisoners who were not on a program prior to entering prison.²⁶²

²⁵⁷ Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, 152.

²⁵⁸ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n 2, 40.

²⁵⁹ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

²⁶⁰ Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 100.

²⁶¹ *Ibid*, Chapter 12: Illicit drug use and needle sharing, 96–106.

²⁶² Note: We were advised by the Nurse Unit Manager at BWCC that some prisoners with a high risk of reoffending may have a program initiated six weeks prior to their release.

As at February 2019 we are pleased to be informed by QCS that the Queensland Government has now commenced expanding opioid substitution treatment across all Queensland prisons and that initiation and maintenance opiate substitution programs are now available in each of the women's prisons in Queensland.²⁶³

Needle replacement

Prison reduces illicit drug use mainly because opportunities to obtain and use drugs are reduced. However, one research study found that among a group of injecting drug users with a history of imprisonment, almost one-half had injected while in prison.²⁶⁴

Women prisoners we consulted stated that many prisoners use drugs within prison, and that those women injecting drugs are using dirty needles. Sharing needles and syringes carries risks of spreading communicable diseases.

Among both men and women prisoners, injecting drug users (IDUs) were more likely than non-IDUs to test positive to Hepatitis C. More than one-half (56%) of male IDUs and two-thirds (67%) of female IDUs tested positive, compared with 4% of male and 6% of female non-IDUs.²⁶⁵

In some countries, needle exchange programs have been extended to prisons resulting in decreased needle sharing and bloodborne virus transmission, with no evidence of major unintended negative consequences.²⁶⁶ While there are currently no such programs operating in Australian prisons, in 2015 the Australian Capital Territory Government announced that a trial of a prison-based NSP (needle and syringe program) would be conducted, subject to the support of the majority of prison staff. Such support was not forthcoming.²⁶⁷

Given the risk of bloodborne virus transmission in prisons and the high numbers of women in prison who are injecting drug users who have hepatitis C, the Commission suggests that consideration ought to be given to how a prison-based needle exchange program might be trialled and implemented in female prisons in Queensland.

²⁶³ Letter from Queensland Corrective Services to Anti-Discrimination Commission Queensland, 19 February 2019.

²⁶⁴ Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 102.

²⁶⁵ *Ibid*, 56.

²⁶⁶ Australian Institute of Health and Welfare, *The health of Australia's prisoners 2015*, above n 199, 102. See also Scott Rutter, Kate Dolan, Alex Wodak, and Hans Heilpern, *Prison-based syringe exchange: a review of international research and program development* (National Drug & Alcohol Research Centre, 2001) NDARC Technical Report No. 112.

²⁶⁷ Christopher Knaus, 'Guards vote down prison needle exchange, health advocates threaten legal action', *The Canberra Times* (Canberra) 16 September 2016.



Recommendation 43: substance abuse

Queensland Corrective Services and Queensland Health:

- a. continue to provide more resources to assist women to manage their substance abuse issues, including engaging a full-time drug/alcohol practitioner at BWCC; and
- b. investigate how a prison-based needle exchange program might be trialled in women's prisons in Queensland.

11. Transition and post-prison support

Bangkok Rules

Rule 45:

Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.

Rule 46:

Prison authorities, in cooperation with probation and/or social welfare services, local community groups and non-governmental organizations, shall design and implement comprehensive pre- and post-release reintegration programmes which take into account the gender-specific needs of women.

Rule 47:

Additional support following release shall be provided to released women prisoners who need psychological, medical, legal and practical help to ensure their successful social reintegration, in cooperation with services in the community.

The reintegration of prisoners into the community after release was a major issue examined by both the Sofronoff *Parole System Review* and the Ombudsman's report into *Overcrowding at Brisbane Women's Correctional Centre*. The problem as stated by Mr Sofronoff QC is:

When a prisoner returns to the community they may have nothing but the clothes they come to prison in, a small amount of money they earned in custody and the emergency payment they receive from Centrelink. I am informed this is a common picture. There are certainly exceptions, with support from family and friends, some offenders are able to navigate this difficult period with success. But arguably, without appropriate support, it is not a picture that ends with success.²⁶⁸

In 2015–16 the Ombudsman found that only half the prisoners discharged from BWCC received any kind of transition-related service,²⁶⁹ and a large

²⁶⁸ Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, page 155 at [774].

²⁶⁹ Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n 2, p 32.

contributor to the overcrowding at BWCC at that time was the increasing number of prisoners who returned because their parole was suspended or cancelled.²⁷⁰ Recognising that the available reintegration services were insufficient to meet demand, the government approved additional funding of \$1 million per annum from 2016–17 to implement a new gender-specific female re-entry service — the MARA project.

MARA project

The MARA project is being delivered at women's prisons and at probation and parole offices in South-East Queensland.²⁷¹ MARA is the Maltese word for 'woman'.

The MARA project has adopted a co-design approach in which non-government organisations work in partnership with government and service users (prisoners/offenders) to design a gender-specific service that aims to reduce prisoner numbers at BWCC.²⁷² It is a gender specific service based on a trauma informed approach. The current MARA services consist of inreach and outreach services.

MARA inreach services

This service is based within BWCC, NCC, and HJC, and SQCC (until May 2019) and helps prisoners to make contact with external agencies who can assist them to re-enter the community. Support involves connecting and referring women with external agencies to address their individual needs. At an induction session shortly after entering prison, a group presentation is provided by MARA to ensure all women are aware of the service available to them pre and post release as well as providing an opportunity to provide helpful resources and information to the women. This includes each prisoner being provided with The Lady Musgrave Trust booklet, *The Handy Guide for Homeless Women*.²⁷³

Prisoners can request (through correctional centre staff) to speak with a MARA inreach worker about their needs and what support options are available upon, or prior to, release. A MARA worker will meet the woman in prison to determine how they can assist that woman. This is an open access service now available to all prisoners in BWCC, NCC, and HJC.²⁷⁴

²⁷⁰ In May 2015, approximately 50% of the prisoners at BWCC who were sentenced had been returned to prison because their parole order was suspended and /or cancelled. See Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n2, p 49.

²⁷¹ Women in TWCC are provided transition and post-prison support by the CREST program, which also provides services to men in North Qld.

²⁷² Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n2, p 32.

²⁷³ The Lady Musgrave Trust, *The Handy Guide for Homeless Women in Brisbane* (2018-2019) and *The Handy Guide for Homeless Women in Regional Queensland*.

²⁷⁴ In 2017 MARA advised the Commission that at that time it was not formally contracted to work with women who were fully sentenced or released prior to October 2016 (the date MARA's contract commenced.)

For remanded prisoners, due to unknown and/or short notice release timeframes, planning can be difficult. Remanded prisoners can access all inreach services including being provided with information and resources on community based services, assistance in dealing with child safety, drug and alcohol referrals, help to organise identification documents, access to Centrelink, and access to housing clinics (which provide assistance to complete and lodge Department of Housing application forms). If released at short notice, a remanded prisoner can contact MARA post release to recommence reintegration planning and support. A 'late release' pack has been developed for these women, where if notified, MARA assist with overnight motel accommodation.

MARA outreach services

MARA takes a holistic approach providing pre and post-release support to some women exiting prison into the South-East Queensland area.

Outreach support commences in prison with detailed re-entry planning driven by the woman and her needs. Support can commence up to three months prior to release and, depending on the needs of the woman, support may follow through to the community for up to nine months post-release.²⁷⁵ All women exiting a correctional centre that intend to reside in the geographic area serviced by MARA are eligible for support.²⁷⁶

Outreach support includes creating referral pathways to support organisations in the community. These organisations assist women coming up for release to create supportive relationships (for rehabilitation, mental health, DV etc) with other agencies such as Child Safety and the Department of Housing.

MARA advised that a worker commences a relationship with a prisoner in the three months prior to her release. Then, on the day of her release the worker will: collect the woman from the prison; take her to her probation / parole appointment, to Centrelink to commence payment of social security benefits, to a chain store to purchase basic clothing and personal items (and food if necessary); and to her accommodation. The worker will reconnect with the woman again in the next two days to work on her goals, which she will have determined in custody with MARA's assistance. The worker will see the woman two or three times a week over the month following her release. MARA slowly reduces its support as the woman

²⁷⁵ Interview with MARA project leaders Sue Lea on 26 July 2017 and Amy Compton-Keen on 27 February 2019.

²⁷⁶ In 2017 the area MARA provided services was the area from the NSW boarder north to Maroochydore, and west to Inala and Ipswich. In January 2018 the service area was extended to include Toowoomba. MARA does not work in the areas west of Toowoomba, or in areas north of the Sunshine Coast. If women are moving out of the south-east region, MARA will attempt to link women to services in their region.

build links with local community services, but maintains contact with the woman for the next nine months, if necessary.

In July 2016, MARA also had short-term funding for a community crisis program to work with women on probation/parole who were not coping, to assist in stabilising their lives so as to avoid potential returns to prison.

MARA informed the Commission that more women are approaching them for assistance prior to leaving prison, and that those women who have been provided with support are achieving much better outcomes, with a significantly reduced recidivism rate. Data collection and appropriate evaluation of this new program are essential, particularly to determine if it is having an impact on reducing the number of women returning to prison.²⁷⁷

Emerging issues: transition and post-prison

There are still gaps in transition and post-prison supports provided to women prisoners.

Women, who are released from prison on bail or remand are now receive some assistance with planning for their release, but the current level of assistance needs to be stabilised and enhanced.

Women in prison on remand who are homeless, and who are seeking to use the Lady Musgrave Trust booklet *A Handy Guide for Homeless Women in Qld* are not permitted to make phone calls themselves to agencies or numbers listed in the book while in prison.

L's story (2017)

L, an Aboriginal woman, said that the last three times she was released from prison she had been released at 5 pm on a Friday.

Each time, she had no transition plan, no money in her pocket, no-one to meet her, nowhere to go, and no one to help her to organise Centrelink. She was given a \$10 Go card, a Woolworths voucher for \$20, a phone card for \$10, and a shopping bag.

She would walk 2.5 km from BWCC to Wacol station where there was a public phone, and make calls to try to find somewhere to stay. Her mother lived in rural south-western Queensland, so was unable to help her.

²⁷⁷ See Queensland Ombudsman, *Overcrowding at Brisbane Women's Correctional Centre*, above n2, Recommendations 4 and 5, p 58, and Walter Sofronoff QC, *Queensland Parole System Review: Final Report*, above n 3, Recommendation 32, page 160.

Each time L left prison, she would end up breaching parole and 'doing crime again'. She said she:

'needed some sort of plan, a game plan, for when I walk out the gate. They are letting people out to nothing — you are lucky if you have a family.'

Women exiting prison who do not live within MARA's service area have much less support than they need. Many women do not come from, or intend to reside in, South-East Queensland on their release. Apart from women released from Townsville (who have access to the CREST transition program) women from areas west of Toowoomba, Roma, Bundaberg, Rockhampton, and other areas of Queensland have no dedicated transitional support.

MARA was of the view, along with many other organisations and individuals we consulted, that lack of housing was the biggest identified gap in post-prison support for prisoners, particularly women. The acute lack of both long and short-term housing for prisoners and parolees has already been discussed in this report.

Recommendation 44: post-prison support

Queensland Corrective Services:

- a. continues to expand its re-entry services to ensure that all prisoners have access to services, including specialty services, to assist remandees and short-sentenced prisoners, as proposed by the Sofronoff review report; and
- b. gives particular attention to providing post-prison support to women who reside outside the South-East Queensland and Townsville regions.

12. Prison staff and technology

Bangkok Rules: Institutional personnel and training

Rule 29:

Capacity-building for staff employed in women's prisons shall enable them to address the special social reintegration requirements of women prisoners and manage safe and rehabilitative facilities. Capacity-building measures for women staff shall also include access to senior positions with key responsibility for the development of policies and strategies relating to the treatment and care of women prisoners.

Rule 33:

All staff assigned to work with women prisoners shall receive training relating to the gender-specific needs and human rights of women prisoners.

Rule 35:

Prison staff shall be trained to detect mental health-care needs and risk of self-harm and suicide among women prisoners and to offer assistance by providing support and referring such cases to specialists.

Prison staff

The role of prison officers

Prison culture

Creating a safe rehabilitative facility — with a culture of respect for both prisoners and staff — is key to the successful management of a prison. The competence, training, experience, and attitudes of prison staff have a major influence on prison environment.²⁷⁸ 'Right' relationships (between staff and management, and staff and prisoners) are critical to ensuring a well-ordered and humane prison.²⁷⁹

²⁷⁸ Michael W Ross, Pamela M Diamond, Alison Liebling, and William G. Saylor, (2008). 'Measurement of prison social climate: A comparison of an inmate measure in England and the USA' (2008) 10(4) *Punishment & Society* 447-474.

²⁷⁹ Ibid.

Long-term prisoners we consulted said they valued a:

- General Manager who 'walks around and knows prisoners';
- prison regime that is open, transparent, and consistent;
- prison in which rules and ethics are known and observed by all (staff and prisoners); and
- prison in which staff are seen to be fair-handed.

Respected staff are confident, boundaried, clear, vigilant, and knowledgeable.²⁸⁰

Most prison staff the Commission met and observed appeared to have appropriate and respectful relationships with prisoners. While working in crowded, and sometimes challenging conditions with scarce resources, officers sought to achieve positive outcomes for the women they were working with.

However, we were concerned to hear numerous mentions of a very small number of staff in one prison. Prisoners consistently stated that these staff did not respect the prisoners and had very poor relationships with them.

Comments were made that these particular officers 'needed a re-adjustment of attitude' and 'should find another line of work, they are very judgmental.'

We suggest that QCS staff performance management systems and procedures should place an emphasis on developing relationship and communication skills.

Professional development

Many prison staff were keen to further develop their professional skills. Capacity building produces many benefits, including attracting and retaining quality staff, and improving safety and rehabilitation outcomes.

Suggestions for enhanced professional development included:

- trauma-informed care training, including how to operationalise the principles of trauma-informed practice;²⁸¹
- senior officer exchange programs with other jurisdictions (to be exposed to innovative practice);
- regular, official in-service training and competency testing in suicide and self-harm prevention, working with persons with intellectual and

²⁸⁰ Ben Crewe, Alison Liebling, and Susie Hulley, 'Staff culture, use of authority and prisoner quality of life in public and private sector prisons' (2011) 44(1) *Australian and New Zealand Journal of Criminology* 94–115.

²⁸¹ The Massachusetts Correctional Institution at Framingham (MCI Framingham) is pioneering the implementation of trauma-informed practice for the women housed within the facility.

- other disabilities, cultural competence and safety, and other topical matters for custodial officers; and
- encouraging custodial officers to increase their professional skills beyond basic Certificate III and IV levels, by undertaking further diploma level training in counselling and mental health.

Recommendation 45: prison staff

Queensland Corrective Services:

- ensures that there is a clear expectation from QCS leadership, and through formal staff training, that all staff demonstrate and treat prisoners with the respect due to their inherent dignity and value as human beings;
- increases the training and professional development opportunities of prison staff; and
- ensures staff performance and management systems and procedures place an emphasis on developing relationship and communication skills.

Opportunities for use of technology

The Commission's consultation revealed that there is limited use of technology in Queensland's women's prisons, and appropriate use of technology could greatly improve the ability of prisoners to maintain relationships with their children and other family members. Increased use of technology could also enhance efficiency, including better use of scarce resources for enhanced outcomes.

Technology for efficiency and better use of resources

During our consultations, senior staff at BWCC spoke about the opportunities that technology could offer to enhance efficiency within the prison, and to empower prisoners to self-manage and plan their day.²⁸² Discussions covered prisoner support technology that establishes a 'kiosks' system to: allow a prisoner to make purchases via buy up lists, facilitates making phone calls, and records a prisoner's account balances. Technology could also be used to help prisoners access information

²⁸² A 'structured day' concept was an outcome of the change management process at Bandyup Women's Prison in Western Australia which embraced a women-centred philosophy. The structured day program is a five-day-a-week program, the arrangement of which can largely be self-determined by the prisoners. Each day is divided into two blocks, from 9.00 am to 11.30 am and from 1.00 pm to 3.30 pm, thus providing 10 blocks (or sessions) each week. These sessions can be made up of work, education, offender treatment programs and community/recreation programs, or a combination of all of these. The choices a prisoner makes as to how to organise her 10 sessions each week determines the level of gratuity payment she receives. The development of an appropriately women-centred system for managing the payment of gratuities was also part of the change process.

about their sentences, book visits to facilities and services within the prison, and register for training programs.

It was suggested that technology that enables electronic logging of prisoners could facilitate their movement around prisons, and reduce the need for staff escort duties and their presence to physically lock and unlock doors.

The women prisoners we consulted raised the issue of the amount of form filling in they had to undertake to access services in prison, and to assert rights. They told us that forms get lost frequently and that some seem to take a long time to process. We were told 'everything requires paperwork'; 'inexperienced staff struggle to get things done'; 'everything is so slow; you wait for weeks for anything to happen e.g. new phone contact, getting clothes for baby etc.'

The Commission has also become aware of the alleged loss of written documents in the prison administrative systems when prisoners attempt to exercise their rights to make a discrimination complaint under the *Anti-Discrimination Act*.

Under the *Corrective Service Act 2006*, a prisoner must satisfy a series of pre-conditions before they are entitled to make a discrimination complaint against correctional centre staff or the State. Firstly, a prisoner must make a written complaint about the matter to the chief executive at the corrective services facility where they are detained, and wait four months.²⁸³ Secondly, they must make a written complaint to an official visitor about the alleged contravention and wait a further one month.²⁸⁴

The Commission is aware of several cases in which a prisoner complainant says they have complied with these pre-conditions, but the respondent State says they cannot locate the relevant paperwork. On some occasions, the respondent State has conceded that forms may have been lost or misfiled.

Greater use of technology may possibly enhance accurate record keeping, and allow for more transparent tracking of the lodgement and progress of forms and other documentation through the administrative system.

Recommendation 46: use of technology

Queensland Corrective Services should investigate the possible benefits of a greater use of technology to enhance prisoner support and administration.

²⁸³ *Corrective Services Act 2006* (Qld) section 319E.

²⁸⁴ *Corrective Services Act 2006* (Qld) section 319F. These waiting periods are reduced if the Chief Executive or Official Visitor notifies the prisoner in writing that they have finished dealing with the complaint earlier.

13. Conclusion

It is clear that the recent overcrowding of the main women's prison in South-East Queensland has had a detrimental impact on Queensland Corrective Services' ability to comply with human rights standards for women prisons (the Bangkok Rules). In Brisbane Women's Correctional Centre, prisoners' privacy and hygiene, the ability to deliver rehabilitation programs, and timeliness in the delivery of health services have recently been seriously compromised by overcrowding.

Aside from overcrowding, the continuing over-representation of Aboriginal and Torres Strait Islander women, women with mental health issues, and women with intellectual disabilities in our prisons is of major concern. Our current correctional system regimes are ill-equipped and under-resourced to deal with these women, and existing rehabilitation and transition programs are too few in number and do not adequately address their needs.

The capacity of the prison system to improve outcomes for these women would be improved through such measures as: implementing trauma-informed practice, including integrated and holistic counselling and psychosocial supports for prisoners with distress and trauma; ensuring staff performance management systems and procedures emphasise developing relationship and communication skills; and increasing the opportunities for professional development of correctional staff.

Diverting those women who have committed offences resulting in short periods of imprisonment from the prison system ought to be a high priority for politicians and officials who oversee the justice system. The current system is costly to the taxpayer and highly disruptive to the lives of the women and their dependent children. There are alternative and better ways to deal with women who have offended in relatively minor ways.

Finally, addressing the underlying issues leading to offending and imprisonment must become the future focus of government, rather than building more prisons and imprisoning greater numbers of prisoners. The current rate of growth in the prison population is financially unsustainable and a poor reflection on our community's ability to address problems caused by disadvantage and marginalisation.

Justice reinvestment in localities identified with high levels of offending, improved provision of public housing; and increasing the availability of substance abuse treatment programs for those in need are some of the most significant means to prevent many of the behaviours and circumstances that currently lead to offending, and the consequential growth in imprisonment rates.

14. Appendixes

Appendix 1: Prison visits and focus groups

Date	Visited
12, 13, 14, 15, 16, 26 June and 10 August 2017	BWCC
20 and 21 June 2017	TWCC
7 July 2017	Helen Jones Centre
17 July 2017	Numinbah CC
23 June 2017	Ex – prisoners focus group

Other stakeholder interviews

Dte	Interview
16 May 2017	Minister and Commissioner for Corrective Services
23 May 2017	Prisoners Legal Service
24 May 2017	Legal Aid Queensland
30 May 2017	QCS Policy and Legislation
19 June 2017	Sisters Inside Townsville
23 June 2017	Sisters Inside Brisbane
26 June 2017	Aboriginal and Torres Strait Islander Legal Service
26 July 2017	MARA
22 February 2018	Institute for Urban Indigenous Health

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Appendix 3: Bibliography

International instruments

Links to major instruments are available from the Universal Human Rights Instruments page of the United Nations Office of the High Commissioner Human Rights web page.

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx>

Australian Government, Department of Foreign Affairs and Trade, *Treaties*.

<https://dfat.gov.au/international-relations/treaties/Pages/treaties.aspx>

United Nations, Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>

United Nations, *Standard Minimum Rules for the Treatment of Prisoners* (1955).

<https://www.ohchr.org/en/professionalinterest/pages/treatmentofprisoners.aspx>

United Nations *Standard Minimum Rules for the Treatment of Prisoners* (2015) (the Nelson Mandela Rules) http://www.un.org/en/events/mandeladay/mandela_rules.shtml

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The Yogyakarta Principles (2006, 2017) <http://yogyakartaprinciples.org/principles-en/>

Legislation

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