



Most of the solutions to women's offending lie outside prison walls – in treatment for addictions and mental health problems, protection from domestic violence and coercive relationships, secure housing, debt and financial management, employment, education and skills development.²

KWOOP Position

- The over-representation of women in prison for substance use related offences is unacceptable as they tend to suffer serious long-term physical, psychological and social consequences.³ Mandatory sentences for minor drug related offences such as possessing even small amounts of drugs for own use is counter to trends around the world.
- Prison is an ineffective sentencing solution for most women who receive custodial sentences. There is an unnecessary over-incarceration of vulnerable women who experience a wide range of social, cultural and economic issues and who pose minimal risk to the community. Much more can be done to tackle these issues before imprisonment becomes the only option.
- Imprisonment carries significant human, cultural, social and economic costs, both short and long term, that are borne by individuals, their children, families and communities, as well as by government and society as a whole.
- The reintegration of women back into society after the end of their custodial sentences requires a whole-of-government approach and comprehensive community support.

Rationale

- Drug offences represent 16% of all sentences for women in NSW. 4% for Indigenous women and 22% for non-Indigenous women.⁴ This is the second highest reason for prison sentences for women.
- Though most health care professionals believe addiction is a disease/disorder, society and especially the criminal justice system still responds to it chiefly as a crime. Society thereby fosters addiction.⁵
- Decriminalisation of drug use does not mean legalisation. Decriminalisation is the removal of criminal penalties for certain types of drug use and possession. There is strong public support in Australia for decriminalisation.⁶
- Australia currently has a mixture of schemes for use and possession of illicit drugs. All states provide some type of decriminalisation for cannabis, mainly de facto. All states except NSW and Queensland provide de facto decriminalisation for other illicit drugs.
- In NSW, many people continue to be sent to court for possession of only minor quantities of drugs.⁷
- Women with substance use disorders are reported to have high rates of post-traumatic stress disorder⁸ and may also have experienced childhood adversity such as physical neglect, abuse or sexual abuse. Some adverse childhood experiences could also have been transgenerational.
- While in prison, most women do not receive the health-care services necessary for their complex needs to address their drug use disorders, other co-morbidities or reproductive health issues including prenatal care⁹. There is no plan for a comprehensive continuum of care when they leave the system.
- Pregnant women with substance use disorders have special needs with regard to their health.
- Although detoxification of substance-dependent women can be accomplished safely, successfully and at low cost, many prisons force these women to go "cold turkey." This leads to a lot of complications and especially if they are pregnant could result in the death of the foetus or serious damage to it.¹⁰
- Illegal drugs are often readily available in prisons.

KWOOOP calls for

- An investigation of the interplay of factors that contribute to incarceration of women due to substance use related offences.
- That drug addiction be regarded as a public health problem instead of a criminal justice problem.¹¹
- Referral of offenders to education/treatment instead of court. (Eligibility tends to be subject to criteria: such as that this be a first/second offence and criminal penalties may be enforced for non-compliance).
- Removing criminal penalties and replacing them with civil penalties (such as a fine). (Criminal penalties may apply for people who fail to comply with the civil penalty); or administrative penalties (such as a ban on attending a designated site).¹²
- The development of effective addiction programs for women in prison addressing the realities of the women's lives that allows transformation and not merely rehabilitation. This means comprehensive, integrated programs that understand and address the intersection of race, class, gender, and addiction and its complexities.
- Since it is understood that the opposite of addiction is connection, programs should be designed to enable the women to have access to appropriate services while they are incarcerated and while they are making the transition back into community.
- Separate violent and nonviolent offenders right from the start.¹³
- On a deeper level, it is imperative to honestly evaluate whether therapeutic, healing care can be provided in the regular prison system.
- The decriminalisation of drug use and possession in NSW within the next two years. Research evidence indicates that decriminalisation of drug use reduces the costs to society, especially the criminal justice system, reduces social costs to individuals, including improving employment prospects, does not increase drug use nor other crime as has been shown in those countries¹⁴ around the world which have decriminalised drug use and possession in various ways

Context – Women in prison in NSW

- There were 946 women in prison in August 2019
- There was a 33% increase in the number of women in prison between 2013 and 2019. This was not due to an increase in criminal activity.
- 58% of imprisoned women were on remand or serving a sentence of 12 months or less.
- 32% of women in custody were Aboriginal. This compares to 2.9% in the population as a whole.
- 60% of women in prison were mothers.
- Almost 24% of women in prison grew up in care and 14% said their parents had been in care as children. 18% of the children of prisoners in NSW are in out-of-home care.
- It costs approximately \$110,000 to keep a woman in custody for a year compared with approximately \$6,495 for women to receive support services in the community.

KWOOOP Profile of women in prison in NSW, March 2020

¹ Drug and Alcohol

² Corston report (2007). A review of women with particular vulnerabilities in the Criminal Justice System. Home Office UK.

^{3, 8, 9, 10} Women and Drug: Drug use, supply and their consequences. World Drug Report 2018; UNODC Research

⁵ Covington, S.S., Women in Prison: Approaches in the Treatment of Our Most Invisible Population. Institute for Relational Development, Center for Gender and Justice

⁶ Hughes, C., Ritter, A., Chalmers, J., Lancaster, K., Barratt, M., & Moxham-Hall, V. (2016) Decriminalisation of drug use and possession in Australia – A briefing note. Sydney: Drug Policy Modelling Program, National Drug and Alcohol Research Centre, UNSW

^{7, 11, 12, 13} NDARC– Decriminalisation of drug use and possession in Australia – A briefing note, Feb 2016

¹⁴ USA (11 states), Netherlands, Switzerland, France, Germany, Austria, Spain, Portugal, Belgium, Italy, Czech Republic, Denmark, Estonia, Ecuador, Armenia, India, Brazil, Peru, Colombia, Argentina, Mexico, Paraguay, Uruguay, Costa Rica, Jamaica