



THE 'PIPELINE' FROM OUT-OF-HOME CARE TO PRISON¹



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 who grew up in out-of-home care ('care') is unacceptable. It perpetuates the disadvantage and vulnerability they experienced in childhood.
- Imprisonment has 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.
- Prison is an ineffective response to offences committed by women who have experienced trauma, abuse and neglect in childhood. Women in the justice system experience a wide range of social and economic issues and pose minimal risk to the community. Much more can be done to tackle these issues before imprisonment becomes the only option.
- The reintegration of women into society after a custodial sentence is a whole-of-government issue and requires community support.

Rationale

- Many women now in prison were removed from their families and placed in care as children because they were victims of abuse and neglect. For too many such women, the care system entrenches their vulnerability and disadvantage and puts them on a path to prison.
- There is a transgenerational element to the care to prison pipeline—Women in prison may themselves have parents and grandparents who grew up in care. Many have had their own children removed and placed in care.
- Attempts to reform the care system have largely ignored the impact on the people that the system is intended to assist. They have failed to address the increased likelihood of involvement with the criminal justice system among people who grow up in care.³
- There is a historical legacy to the care to prison pipeline—arising from previous government policies. Children were charged—with being abandoned or neglected and often treated as criminals by police, courts and child welfare agencies. For some women, this was the start of their criminal careers.⁴
- Indigenous women have been deeply affected by government child removal and community dislocation policies and practices. Indigenous women today continue to be affected by the policies that created the Stolen Generation.
- Today's care system remains criminogenic⁵ with an over-reliance on police to manage 'challenging behaviour' and high levels of surveillance and reporting of bail breaches. Children in care have been criminalised for minor matters which would not have drawn police attention if committed by a child living in their family home.
- As a consequence of these factors, children who have been in care enter the justice system at a younger age, become more deeply enmeshed and continue offending for longer than people with no care experience.⁶
- As adults, people in prison who grew up in care have significantly different offending rates and patterns of drug and alcohol use and mental health outcomes, and a greater likelihood of pre- and post-custodial homelessness.⁷
- Indigenous people removed from their families as children are more likely to come to police attention.⁸ Indigenous adults in prison who have been removed as children are more likely to have been jailed multiple times and to have significantly worse mental health and suicide histories.⁹

KWOOP calls for

- Investigation of the interplay of the factors that contribute to very high levels of incarceration of women who were in care as children.
- Targeted initiatives to provide pathways for women who were in care as children away from custodial sentencing and towards community-based support.

Context – Women in prison in NSW

- There were 946 women in prison in August 2019. It is understood that since then there has been a 20% reduction due to COVID-related changes in policing and court procedures.
- 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.
- Around 40% of Aboriginal women were on remand, that is, awaiting court for bail or sentencing.
- 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.

KWOOP Profile of women in prison in NSW, March 2020

-
- ¹ The Australian Law Reform Commission and Human Rights and Equal Opportunity Commission (1997). Seen and Heard: Priority for Children in the Legal Process: Report of the National Inquiry into Children and the Legal Process, Report No 84. Sydney Australia; NSW Government. NSW Parliament. Legislative Council Standing Committee on Law and Justice. Crime Prevention through Social Support: Second Report (2000); NSW Legislative Council, Select Committee Inquiry on the Increase in Prisoner Population (2001).
- ² Corston report (2007). A review of women with particular vulnerabilities in the Criminal Justice System. Home Office UK.
- ³ 'John Murray & Dr Kath McFarlane' for KWOOP. 2020
- ⁴ SBS NITV 'Guilty of being Aboriginal' <https://www.sbs.com.au/nitv/feature/guilty-being-aboriginal-0>
- ⁵ Sentencing Advisory Council (2019) Crossover Kids: Vulnerable Children in the Youth Justice System. Sentencing Advisory Council. Melbourne, VIC, Australia.
- ⁶ McFarlane, K (2018) 'Care-Criminalisation: The Involvement of Children in Out-of-Home Care in the New South Wales Criminal Justice System' 51(3) Australian & New Zealand Journal of Criminology 412
- ⁷ Carnie, J., and Broderick, R. (2012) Prisoners who have been in Care as 'Looked After Children' 13th Survey Bulletin. Scottish Prison Service Strategy Unit. Scotland.
- ⁸ Australian Institute of Health and Welfare 2018. Aboriginal and Torres Strait Islander Stolen Generations and descendants: numbers, demographic characteristics and selected outcomes. Cat. no. IHW 195. Canberra: AIHW.
- ⁹ Egger, S., and Butler, T. (2000) 'The long-term factors associated with removal from parents amongst Indigenous prisoners in NSW' Australian and New Zealand Journal of Public Health. Vol 24, No 4.