



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.¹

KWOOP Position

- 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.
- Prison is an ineffective sentencing solution for most women given custodial sentences. In particular, there is 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.
- The reintegration of women into society after a custodial sentence is a whole-of-government issue and requires community support.

Rationale

- The population of women in prison in NSW has risen sharply over recent years. This is not due to an increase in crime.
- Community-based sentencing options, programs and support are more effective than imprisonment in reducing crime.²
- The majority of women in prison serve short sentences for minor offences and get minimal support to assist their reintegration. The likelihood of return to custody increases with each term of imprisonment.
- Parental incarceration exacerbates the likelihood of successive generations' engagement in the criminal justice system. Children experience lifelong trauma due to maternal imprisonment.³
- Holistic community-based support, including from women with their own lived experience of incarceration, can change lives. It can keep women out of prison and in the community with their children, at far lower cost than imprisonment.
- There are opportunities for diversion from prison at all points along the justice continuum. As well as judicial diversionary programs that divert women before or at court, concerted efforts should be made to divert women from the justice system at the point of release, post-release and during the reintegration process.
- Community-based supervision and other community-based options can provide a genuine alternative to imprisonment. They must also have strong connections with community support services.
- Many post-release programs in effect play a diversionary role by helping women with complex court matters, providing advocacy to them and offering magistrates and judges community-based options that avoid the need for further imprisonment.
- Housing and financial insecurity, mental health issues, substance misuse and the impact of domestic and family violence are best addressed with each individual woman in the community.
- Magistrates welcome opportunities to divert women from custody where specific, targeted and appropriate support exists in the community.⁴
- Recent government policy and programming announcements show a willingness to move towards more humane approaches to women in the criminal justice system and are commended.
- The success of initiatives such as Drug Court show what can be achieved by diversionary programs.

¹ Corston report (2007). A review of women with particular vulnerabilities in the Criminal Justice System. Home Office UK.

² BOCSAR Database 2000 to 2018

³ Bowlby, J (1951) "Maternal Care and Mental Health." Bulletin of the World Health Organization 3 p355–534.
Poehlmann, J, (2005) "Representation of Attachment Relationships in Children of Incarcerated Mothers." Child Development 76 (3 p.679–96.

⁴ Deputy Chief Magistrate Jane Mottley speaking as a member of the Miranda Project Advisory Group and WAC Judge Dina Yehia in launching the Miranda Project 150916 and in her follow up in the District Court when she recommended its use. Chief Magistrate on NSW Graeme Henson, in a note to magistrates about the Miranda Project 2016 Judge Dive at NSW Drug Court supporting Miranda Project and Women's Justice Network.

KWOOP calls for

- The appointment of a public figure as a ‘diversion champion for women’, to highlight the positive outcomes achieved by community-based support instead of imprisonment.
- The establishment of an all-party intersectoral working group to promote initiatives that keep women out of the criminal justice system, safe and in the community.
- Women convicted of minor or non-violent crimes attracting sentences of less than 12 months to be able serve those sentences in the community, as in the UK Women Offender Strategy of June 2018.
- An investigation of diversionary options used in other jurisdictions, such as Problem-Solving Courts, Koori Courts and Drivers Courts.
- All Pre-Sentence Reports, whether oral or written, to include details of women’s family circumstances, such as any dependants and any mental health or domestic abuse issues. They should also set out locally available gender-informed community sentencing options, so that courts are aware of the full range of options for sentencing and for diverting women from custody.
- Expansion of existing diversionary options in NSW such as the Drug Court, to enable more women to have access to them, particularly in regional locations.
- Promotion of therapeutic jurisprudence and problem-solving approaches at all points of the justice continuum.⁵
- Promotion of diversion using existing legislated sentencing options through expansion of associated specialised services in the community, particularly in regional locations.⁶
- Additional training and resources for staff in mainstream services, such as housing and employment services, in order to increase their understanding of women who have been in prison and their often complex needs and their willingness to accept them as clients.

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

⁵ Therapeutic jurisprudence is an approach to crime that takes a positive approach, based on social science methods rather than retribution and punishment, to produce positive therapeutic consequences for the client and therefore the community. It is related to restorative justice which seeks to mend community and relationships. Problem-solving courts take this approach. The NSW Drug Court and the NSW Compulsory Drug Treatment Correctional Centre established by Astrid Birgen as a 4 year pilot and still operating in its 18th year, takes this approach which requires lawyers and courts to take a client centred- method of working.

⁶ Programs are detox such as residential Detour House and related services such as CRC’s Alcohol and Drugs Support program. Miranda Program is another example of associated services, providing holistic support, also Rosa Coordinated Community Care And Waminda, both in Nowra.