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Sisters Inside Inc. is an independent community organisation which exists to advocate for the human rights of women in the criminal justice system

Women and the criminal legal system: Break down the binaries, tear down the walls

Submission from Sisters Inside Inc
to the Women's Safety and Justice Taskforce in response to
Discussion Paper 3

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Introduction

Established in 1992, Sisters Inside is an independent community organisation based in Queensland, which advocates for the collective human rights of women and girls in prison, and their families, and provides services to address their individual needs. Sisters Inside believes that no one is better than anyone else. People are neither “good” nor “bad” but rather, one’s environment and life circumstances play a major role in behaviour. Given complex factors lead to women and girls’ entering and returning to prison, Sisters Inside believes that improved opportunities can lead to a major transformation in criminalised women’s lives. Criminalisation is usually the outcome of repeated and intergenerational experiences of violence, poverty, homelessness, child removal and unemployment, resulting in complex health issues and substance use. Aboriginal and Torres Strait Islander women and girls are massively over-represented in prison due to the racism at the foundation of systems of social control.

This submission responds to the issues raised by the Women’s Safety and Justice Taskforce in Discussion Paper 3 regarding women’s experiences across the criminal justice system. Sisters Inside has actively participated in consultation with the Taskforce on issues relevant to criminalised women and girls, including attendance at the community consultation in Brisbane and facilitating meetings between Taskforce members, Sisters Inside staff and women with lived prison experience in Townsville and Brisbane. Informed by the contributions made in those forums, this submission brings together our insights about the relationship between the criminal legal system, imprisonment and heteropatriarchal, colonial and racial violence. We also outline recommendations for change.

Break down the binary: Connecting language and analysis

In this submission, we write about the experiences of *women*, *girls* and *people*. When we write about women and girls in this submission, we acknowledge that this language mirrors the gender binary that structures the criminal legal and prison systems (e.g. women and men are imprisoned in different prisons, and girls are imprisoned separately from boys, based in almost all cases on sex assigned at birth).¹ We recognise that trans and gender diverse people experience overlapping and systematic violence in the criminal legal system, and are disproportionately criminalised in connection with heteropatriarchal violence.² Where possible in this submission, we critically reflect on the gender binary and the way it contributes to the erasure of the unique experiences, needs and voices of trans and gender diverse people.

In this submission, we avoid using labels such as ‘victim’, ‘offender’, ‘survivor’ or ‘perpetrator’. We acknowledge that some woman and girls identify with and draw strength from identifying as ‘victim-survivors’ of violence, particularly sexual violence. Our concern is not with these terms at an individual level.³ Rather, we reject this binary terminology as a deliberate strategy to refuse how it limits the possibilities for deep and critical analysis about the relationship between violence against women and imprisonment.⁴

¹ See, e.g. Queensland Corrective Services, Custodial Operations Practice Directive – Transgender Prisoners (Implementation date: 3 June 2021), <https://www.publications.qld.gov.au/dataset/c85d0cd0-a020-4390-b2a3-5090e480d9e6/resource/c4782e0a-b06b-4877-96b0-fae43846dffc/download/copd-transgender.pdf>.

² See D Spade, *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law* (Duke University Press, 2015).

³ See e.g. discussion in A Cox, ‘The language of incarceration’ (2020) 1(1) *Incarceration: An international journal of imprisonment, detention and coercive confinement*, esp 7-9. <https://doi.org/10.1177/2632666320940859>.

⁴ We acknowledge the strategy of ‘refusal’ as both an Indigenous and abolitionist practice. See, e.g. on refusal, see A McQuire, ‘We can’t dismantle systems of violence unless we centre Aboriginal women’, *IndigenousX* (online), (online at 26 November 2018), <https://indigenousx.com.au/we-cant-dismantle-systems-of-violence-unless-we-centre-aboriginal-women/>; C Bond, ‘The audacity of anger’, *IndigenousX* (online), (online at 29 January 2018), <https://indigenousx.com.au/chelsea-bond-the-audacity-of-anger/>; A Simpson, *Mohawk Interruptus: Political Life*

At an analytical level, refusing the binary requires us to describe with greater precision the violence that women and girls experience, which in turn allows for more precise identification of who is responsible for that violence at individual, structural and systemic levels. We also see refusing binary terminology as a strategy to resist the dehumanisation that is foundational to colonial and carceral systems, and continues to sustain these systems.⁵ By making gender and race (both separately and together) a question of statistics, it undermines the imperative for structural analysis about *why* most women and girls in prison are victim-survivors of sexual, domestic and family violence and state violence, *why* the mass incarceration of Aboriginal and Torres Strait Islander women and girls continues, and *why* trans and gender diverse people are disproportionately imprisoned. The binary also operates insidiously to reinforce stereotypes about womanhood and motherhood,⁶ which are most damaging for Aboriginal and Torres Strait Islander women and girls who are always already perceived as falling short of the standards ascribe to middle class white womanhood.⁷

Conceptualising violence against women and the carceral state

Flowing on from the victim-survivor/offender binary, Discussion Paper 3 is effectively structured in two parts to consider “women and girls’ experiences across the criminal justice system as victims-survivors of sexual violence and also as accused persons and offenders” (as reflected in the title). The Discussion Paper identifies some cross-cutting issues but the distinction between the category of victim and offender is maintained even in consideration of these issues. By bifurcating women’s and girls’ experiences into the categories of either ‘victim-survivor’ or ‘offender’, the Taskforce risks limiting its analysis of how “patriarchal white sovereignty”⁸ operates to produce racial, colonial and gendered outcomes in and through the criminal legal system.

A fundamental argument of this submission is that imprisonment itself must be analysed, understood and critiqued as a mechanism of violence against women and girls. And imprisonment itself comprises authorised and routine forms of sexual violence, that disproportionately affect women and girls (i.e. strip searching⁹). To put it another way, imprisonment is not structurally separate from the intersecting forms of ‘disadvantage’ that the Taskforce describes in the Discussion Paper (see pp 11-16); rather, imprisonment represents an extension of the violence that women and girls experience *in connection with* overlapping and intersecting forms of marginalisation. The work of Darumbal and South Sea Islander scholar, Amy McQuire is instructive here.¹⁰ McQuire draws on African American scholar Patricia Hill Collins to argue that Aboriginal and Torres Strait

Across the Borders of Settler States (Duke University Press, 2014), esp ch 1; ER Meiners, *For the Children? Protecting Innocence in a Carceral State* (University of Minnesota Press, 2016), 192.

⁵ Tran et al, ‘Words matter: a call for humanizing and respectful language to describe people who experience incarceration’ (2018) 18(41) *BMC International Health and Human Rights*. <https://doi.org/10.1186/s12914-018-0180-4>. On dehumanisation, see C Watego, *Another Day in the Colony* (University of Queensland Press, 2021) 31-43.

⁶ See, e.g. C Lightowlers, ‘Drunk and Doubly Deviant? the Role of Gender and Intoxication in Sentencing Assault Offences’ (2019) 59(3) *The British Journal of Criminology* 693. <https://doi.org/10.1093/bjc/azy041>.

⁷ See, e.g. M Langton, ‘Rum, seduction and death: ‘Aboriginality’ and alcohol’ in G Cowlshaw & B Morris (eds.), *Race Matters: Indigenous Australians and ‘Our’ Society* (Aboriginal Studies Press, 1997) 77; C Watego, A Macoun, D Singh and E Strakosch, ‘Carceral feminism and coercive control: when Indigenous women aren’t seen as ideal victims, witnesses or women’, *The Conversation* (online), (online at 25 May 2021), <https://theconversation.com/carceral-feminism-and-coercive-control-when-indigenous-women-arent-seen-as-ideal-victims-witnesses-or-women-161091>.

⁸ A Moreton-Robinson, *The White Possessive: Property, Power and Indigenous Sovereignty* (University of Minnesota Press, 2015) 138-139. See also A Whittaker, ‘One-Punch Drunk: White masculinities as a property right in New South Wales’ assault causing death law reforms’ (2019) 45(2) *Australian Feminist Law Journal* 295. <https://doi.org/10.1080/13200968.2020.1794427>.

⁹ See J McCulloch & A George, ‘Naked power: Strip searching in women’s prisons’, in P Scraton & J McCulloch (eds), *The Violence of Incarceration* (Routledge, 1st edn. 2009), 107-123.

¹⁰ See A McQuire, *Mainstream feminism still blind to its racism*. *IndigenousX* (online), (online at 7 March 2018), <https://indigenoux.com.au/amy-mcquire-mainstream-feminism-still-blind-to-its-racism/>; A McQuire, ‘We can’t dismantle systems of violence unless we centre Aboriginal women’, *IndigenousX* (online), (online at 26 November

Islander women's experiences of individual and structural violence are erased by intersecting colonial and gendered logics, which centre the experiences of white women. In her work, Hill Collins explained that what counts as violence is determined not by the 'act', but by the power relations between the 'victim' and 'perpetrator'.¹¹ Hill Collins also argued that violence is the "conceptual glue" that binds together intersecting structures of domination.¹² Applying Hill Collins in the Australian context, McQuire argues that "we can't dismantle systems of violence until we centre Aboriginal women".¹³ Drawing on McQuire, therefore, we argue that strategies to address sexual violence and other forms of violence against women will not work if they ignore the colonial, racial and heteropatriarchal violence that is embedded in the criminal legal system.¹⁴ This means it is imperative to understand how the system functions for Aboriginal and Torres Strait Islander women and girls, in order to meaningfully transform it.

We see over and over again that once a woman or girl is labelled as an 'offender' it becomes almost impossible, in practical terms, for her to move beyond this label to be seen either as a 'victim' (deserving of care) or as a 'success story' (deserving of respect). Acts of authorised and routine violence in the criminal legal system and by officials are not seen as such, even in egregious circumstances,¹⁵ in large part because the dehumanisation of women and girls in prison and police custody provides ready-made justifications for these acts, omissions and administrative decisions.¹⁶ The promise of 'rehabilitation' – in official terms, with official recognition – is unachievable as most criminalised women and girls continue to be excluded from access to education, employment, housing, a liveable income, and other essential services. Of course, individual success should be celebrated, but not in service of erasing or minimising the realities of racism, colonialism, and structural violence that entrap women and girls in intergenerational cycles of criminalisation and imprisonment. The reality is that women and girls succeed *in spite of* imprisonment and formal 'rehabilitation' programs, not because of them.

2018), <https://indigenoux.com.au/we-cant-dismantle-systems-of-violence-unless-we-centre-aboriginal-women/>; A McQuire, 'Black and white witness'. *Meanjin* (Winter 2019), <https://meanjin.com.au/essays/black-and-white-witness>.

¹¹ P Hill Collins, 'The tie that binds: race, gender and US violence' (1998) 21(5) *Ethnic and Racial Studies* 917, 922. <https://doi.org/10.1080/014198798329720>.

¹² See *ibid*, 919; P Hill Collins, 'On violence, intersectionality and transversal politics' (2017) 40(9) *Ethnic and Racial Studies* 1460, 1466-1467. <https://doi.org/10.1080/01419870.2017.1317827>.

¹³ See A McQuire, 'We can't dismantle systems of violence unless we centre Aboriginal women', *IndigenousX* (online), (online at 26 November 2018), <https://indigenoux.com.au/we-cant-dismantle-systems-of-violence-unless-we-centre-aboriginal-women/>.

¹⁴ See also Sisters Inside's previous submissions to the Taskforce with ICRR in response to Discussion Papers 1 and 2. Sisters Inside and Institute for Collaborative Race Research, 'The State as Abuser: Coercive Control in the Colony' (Joint Submission on Discussion Paper 1 of the Women's Safety and Justice Taskforce, July 2021), <https://www.sistersinside.com.au/the-state-as-abuser-coercive-control-in-the-colony/>; Sisters Inside and Institute for Collaborative Race Research, 'It's time to talk about race, colonialism...and abolition' (Joint Submission on Discussion Paper 2 of the Women's Safety and Justice Taskforce, July 2021), <https://www.sistersinside.com.au/its-time-to-talk-about-race-colonialism-and-abolition/>.

¹⁵ H McGlade, 'Death in Geraldton: how Joyce Clarke became another Indigenous statistic', *Crikey* (online), (online at 25 October 2021), <https://www.crikey.com.au/2021/10/25/death-in-geraldton-how-joyce-cl Clarke-became-another-indigenous-statistic/>.

¹⁶ See C Watego, 'We just Black matter: Australia's indifference to Aboriginal lives and land', *The Conversation* (online), (online at 16 October 2017), <https://theconversation.com/we-just-black-matter-australias-indifference-to-aboriginal-lives-and-land-85168>.

Drivers of criminalisation and imprisonment

In this section, we briefly outline some of the key drivers of criminalisation and imprisonment, informed by our direct work with women and girls in prison. The most significant drivers of women's repeated criminalisation, imprisonment and contact with the criminal legal system are structural and systemic in nature, which are reflected in the individual accounts that women and girls with lived prison experience have provided to the Taskforce.

Colonisation and racism

As outlined in our previous submissions, colonisation and racism remain ongoing realities that structure the legal system's response to women and girls. This is visible in the high numbers of Aboriginal and Torres Strait Islander women and girls in prison and subject to intervention by other state systems of control (e.g. the child protection system). Mass incarceration of Aboriginal and Torres Strait Islander women and girls, and those from other racialised minorities, is also connected to disproportionate numbers of deaths in prison and police custody.¹⁷

Prisons are effectively an 'endpoint', where Aboriginal and Torres Strait Islander women and girls are pipelined following repeated experiences of racial violence, victimisation, and exclusion from support and services. We see this in the high rates of Aboriginal and Torres Strait Islander women who continue to be criminalised and imprisoned for domestic violence offences and frequently mis-identified by police as perpetrators.¹⁸ We also see it in the high number of Aboriginal and Torres Strait Islander girls who are removed from their families in the so-called child 'protection' system, apparently for their safety, and then seamlessly criminalised as children and moved into the adult prison system.¹⁹ Aboriginal and Torres Strait Islander women have repeatedly drawn attention to the racism embedded in policing practices, in connection with the colonial project²⁰ and the mainstream 'moral panic' that pathologises Aboriginal resistance in response to police brutality.²¹

¹⁷ See e.g. M Davis, 'A reflection on the Royal Commission into Aboriginal Deaths in Custody and its Consideration of Aboriginal Women's Issues' (2011) 15(1) *Australian Indigenous Law Review* 25.

¹⁸ H Nancarrow, K Thomas, V Ringland, & T Modini, 'Accurately identifying the "person most in need of protection" in domestic and family violence law' (Research report, ANROWS, 2020), <https://www.anrows.org.au/project/accurately-identifying-the-person-most-in-need-of-protection-in-domestic-and-family-violence-law/>. See also H Douglas & R Fitzgerald, 'The Domestic Violence Protection Order System as Entry to the Criminal Justice System for Aboriginal and Torres Strait Islander People' (2018) 7(3) *International Journal for Crime, Justice and Social Democracy* 41.

¹⁹ There is a significant lack of data and scholarly research on this issue. We draw on literature from NSW, which reflects our experience working with criminalised women and girls: K McFarlane, 'From Care to Custody: Young Women in Out-of-Home Care in the Criminal Justice System' (2010) 22(2) *Current Issues in Criminal Justice* 345; A Gerard, A McGrath, E Colvin & K McFarlane, 'I'm not getting out of bed!' The criminalisation of young people in residential care' (2019) 52(1) *Australian and New Zealand Journal of Criminology* 76; E Baldry, R McCausland, L Dowse & E McEntyre, 'A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system' (UNSW, Project Report, 2015), <https://www.mhdc.d.unsw.edu.au/>, esp at p37.

²⁰ See e.g. V Gorrie, *Black and Blue: A memoir of racism and resilience* (Scribe, 2021); A Porter & C Cuneen, 'Policing Settler Colonial Societies' in P Birch, M Kennedy & E Kruger (eds), *Australian Policing: Critical Issues in 21st Century Police Practice* (Routledge, 1st edn, 2020) 397; P Gregoire (interviewing A Porter), 'Questionable jurisdiction: Academic Amanda Porter on Policing First Nations', *Sydney Criminal Lawyers* (online), (online at 28 May 2021), <https://www.sydneycriminallawyers.com.au/blog/questionable-jurisdiction-academic-amanda-porter-on-policing-first-nations/>; P Gregoire (interviewing A Porter), 'The Inherent Racism of Australian Police: An Interview With Policing Academic Amanda Porter', *Sydney Criminal Lawyers* (online), (online at 11 June 2020), <https://www.sydneycriminallawyers.com.au/blog/the-inherent-racism-of-australian-police-an-interview-with-policing-academic-amanda-porter/>.

²¹ A Porter, 'Riotous or Righteous Behaviour? Representations of Subaltern Resistance in the Australian Mainstream Media' (2015) 26(3) *Current Issues in Criminal Justice* 289, <http://www8.austlii.edu.au/cgi-bin/viewdoc/au/journals/CICrimJust/2015/2.html>.

The racial violence of policing also operates in relation to state inaction and failures to address violence against missing and murdered Aboriginal and Torres Strait Islander women and children.²² Deficient investigative practices are increasingly coming under scrutiny through coronial inquests after years of advocacy by Aboriginal families.²³

Poverty and homelessness

Most criminalised women and girls experience significant poverty and homelessness prior to their imprisonment and, often return to circumstances of serious material deprivation on release from prison. Most criminalised women receive either the JobSeeker payment (for single women, over 22 years old, maximum of \$642.70 per fortnight²⁴) or Youth Allowance (for single women, 18-21 years old, maximum of \$530.40 per fortnight²⁵). A much smaller proportion of women receive the Disability Support Pension (maximum for independent singles between \$666.90 \$987.60 per fortnight, depending on age²⁶); however, this payment remains tightly controlled, with many criminalised women who might be eligible experiencing significant difficulties applying for it. Overall, these payments are inadequate for women's basic survival. In our experience, many girls leaving prison either return to unsafe placements in the child protection system, with inadequate access to personal income or to families living in poverty.

Public housing is effectively non-existent for criminalised women and girls (in the absence of specific programs for women in prison or girls accessing transitional housing).²⁷ Women in prison also experience administrative barriers to public housing, often having their applications lapse in prison and being required to re-apply to be on the waitlist after leaving prison or not being in a position to 'activate' their application until after release.²⁸ Sisters Inside workers that many women are excluded from various forms community housing because of their 'inactive' status with the Department of Housing in prison and administrative challenges to facilitate a change of status as part of the release process. Supported accommodation services also frequently screen women and girls based on their criminal history, further reducing quality housing options directly on release. Women frequently experience difficulty receiving approval to live with family or friends when they require official approval of their address (e.g. as part of the parole process) because personal contacts are often deemed unsuitable due to criminal history or related matters. This has a disproportionate impact on Aboriginal and Torres Strait Islander women and reflect the widespread criminalisation of Aboriginal and Torres Strait Islander peoples. This often leaves women with boarding houses as their only accommodation option. Boarding houses are unsafe and unsuitable for long-term accommodation, but Sisters Inside makes strategic use of them to facilitate women's transition from prison to more appropriate housing arrangements.

²² See A Porter & C Cunneen, above n 19, 403-405.

²³ A McQuire, 'Inquests to probe disappearances of Allison Bernard and Monique Clubb', *Presence* (online), (online at 14 December 2021), <https://amymcquire.substack.com/p/inquests-to-probe-disappearances?s=r>; J Hinchliffe, 'Allison Bernard vanished nine years ago. What came next is an uncomfortably Australian story.', *The Guardian* (online), (online at 9 April 2022), <https://www.theguardian.com/australia-news/2022/apr/09/allison-bernard-vanished-nine-years-ago-what-came-next-is-an-uncomfortably-australian-story>.

²⁴ Services Australia, 'JobSeeker payment – How much can you get' (Last updated 20 March 2022), <https://www.servicesaustralia.gov.au/how-much-jobseeker-payment-you-can-get?context=51411>.

²⁵ Services Australia, 'Youth allowance for job seekers – How much can you get' (Last updated 20 March 2022), <https://www.servicesaustralia.gov.au/how-much-youth-allowance-for-job-seekers-you-can-get?context=43921>.

²⁶ Services Australia, 'Disability Support Pension – Payment rates' (Last updated 20 March 2022), <https://www.servicesaustralia.gov.au/payment-rates-for-disability-support-pension?context=22276>.

²⁷ See e.g. on the public housing waitlist in Queensland, E Gramenz, 'Thousands of Queenslanders waiting for public housing amid 'crisis'', *ABC News* (online), (online at 22 September 2021), <https://www.abc.net.au/news/2021-09-22/qld-annual-figures-social-housing-waiting-list/100480968>.

²⁸ For current eligibility criteria, see Queensland Government, 'Housing for people leaving prison and detention' (Last updated 7 July 2021), <https://www.qld.gov.au/housing/public-community-housing/eligibility-applying-for-housing/leaving-prison-detention>.

JobSeeker and Youth Allowance payments continue to be insufficient for people to afford stable housing in the private market. Research by Anglicare in March 2021 found one advertised private rental property that would be affordable in the Greater Brisbane region for a single person receiving JobSeeker and zero affordable houses (including share houses) for a single person over 18 years old receiving Youth Allowance.²⁹ This analysis – based on financial affordability alone – is grim, and does not take into account the racism, stigma and other social barriers that many criminalised women and girls experience in the private rental market. COVID-19 and natural disasters (e.g. flooding) due to climate change are also worsening the housing crisis, and the full impact of these rolling crises is yet to be made clear.³⁰

Broader systemic failures in so-called 'care and protection' systems

Criminalised women and girls experience intersecting and overlapping forms of intervention by coercive state systems, while *at the same time* being under-served by and excluded from systems that provide access to material resources and support. We highlight several examples of these broader systemic failures in this section.

Despite high numbers of criminalised women with disabilities, most do not have access to funding through the NDIS and experience significant practical barriers to accessing funding packages.³¹ If women do have access to an NDIS package, it is often impossible in practise for women to maintain these supports through a period of imprisonment. In some cases, their imprisonment may be directly connected to the withdrawal of support by NDIS service providers in the period immediately preceding their imprisonment.

Equally, many women and girls experience high levels of racism, misogyny, ableism and other prejudice in connection with the health system, which reinforces poor health outcomes connected with poverty and homelessness.³² The recent Four Corners report into the premature deaths of three Aboriginal women in Doomadgee – two teenagers and a young mother – from rheumatic heart disease is illustrative of the violent way in which racism and misogyny play out in the health system to disregard the obvious and treatable health needs of Aboriginal and Torres Strait Islander women and girls.³³ Ms Dhu's death in police custody in Western Australia is illustrative of the additional layers of prejudice that criminalised women and girls experience in accessing health services; in addition to race and gender, the status of being imprisoned itself adds a further layer of structural stigma which results in obviously inadequate and violent medical treatment.³⁴ Women and girls we support frequently report having medical presentations 'treated' through the lens of drug use (whether or not that's the case), which frequently undermines access to appropriate medical care.

²⁹ Anglicare Southern Queensland, 'Rental Affordability Snapshot – Greater Brisbane metropolitan area' (2021), <https://anglicaresq.org.au/wp-content/uploads/2021/05/ASQ-Rental-Affordability-Snapshot-2021-final.pdf>, 6.

³⁰ See e.g. *ibid*, 9; E Gramenz, 'The rental market was tight before the south-east Queensland flood — what now for people who can't return home?', *ABC News* (online), (online at 5 March 2022), <https://www.abc.net.au/news/2022-03-05/qld-south-east-queensland-floods-rental-accommodation-crisis/100875170>.

³¹ See e.g. M Sotiri & S Russell, 'Locked Out: The implementation of the NDIS for people in prison in NSW: 2016-2019' (Community Restorative Centre, Report, March 2020), https://www.crcnsw.org.au/wp-content/uploads/2020/09/2020_CRC_NDIS_Report_Royal_Commission_March_2020.pdf.

³² See e.g. Australian Institute of Health and Welfare, 'Snapshot – Health of Prisoners' (Release date: 23 July 2020), <https://www.aihw.gov.au/reports/australias-health/health-of-prisoners>.

³³ Four Corners, 'Heart Failure', *ABC* (online), (online at 8 March 2022), <https://www.abc.net.au/4corners/heart-failure-an-investigation-into-the-hidden/13787308>.

³⁴ See e.g. P Klippmark & K Crawley, 'Justice for Ms Dhu: Accounting for Indigenous Deaths in Custody in Australia' (2018) 27(6) *Social & Legal Studies* 695, <https://doi.org/10.1177/0964663917734415>; Australian Health Practitioner Regulation Agency and the Medical Board of Australia, 'The death of Ms Dhu in police custody' (Media statement, 30 April 2021), <https://www.ahpra.gov.au/News/2021-04-30-Death-of-Ms-Dhu.aspx>.

Criminalised women and girls are also being failed by a lack of voluntary, publicly-funded services to address substance use and mental illness. The need for these services is not unique to criminalised women and girls, but they are often disproportionately affected by these issues and experience additional barriers to access (e.g. cost, discrimination because of criminal history). Private residential rehabilitation services are largely unregulated and completely unaffordable for people on low or fixed incomes, while the waitlists for more affordable services make them practically inaccessible.³⁵ Publicly-funded services, especially in relation to “withdrawal management (particularly inpatient), family units and non-residential specialist services for young people” remain seriously limited.³⁶ Public mental health services in Queensland are systematically under-funded, especially in the context of the rapidly rising need for mental health services across the community due to the COVID-19 pandemic.³⁷ Private services are inaccessible for people on low and fixed incomes, with the Medicare rebate being \$88 for psychological support while the industry standard fee for service is \$260.³⁸ This means most people can expect to pay a gap of around \$170 for psychological counselling, which is over a quarter of the JobSeeker fortnightly payment. Even where services might be bulk-billed, availability is non-existent; indeed, 47% of *all* private psychologists nationally have closed their books due to the high demand for their services.³⁹

Academic research is increasingly validating the idea of the ‘school-to-prison’ pipeline, especially in relation to Aboriginal and Torres Strait Islander children and children who experience structural disadvantage (e.g. disability, removal into out-of-home care).⁴⁰ It is worth quoting recent Queensland research findings at length relating to school exclusion:⁴¹

Suspension incidents proportionate to enrolments in Queensland government schools increased significantly during the 7 years from 2013 to 2019, and **at a faster pace for Indigenous than for non-Indigenous students, particularly during the primary school years**. Further analyses revealed that this was principally due to the rise in use of short suspensions, which we note were extended from 1–5 days duration (prior to 2014) to 1–10 days duration (from 2014) as part of the legislative changes expanding QLD state school principals’ powers to suspend. Recall also that this legislation stripped students and their families of the right to appeal short suspensions.

[...] exclusion incidents [...] increased significantly for Indigenous students but not for non-Indigenous. This increase was driven by incidents occurring in the secondary schooling years. (citations omitted, emphasis added)

³⁵ See e.g. recent commentary in the media, Z Hope, ‘Lack of oversight opens door to shonky rehab operators’, *Brisbane Times* (online), (online at 29 January 2022), <https://www.brisbanetimes.com.au/national/queensland/lack-of-oversight-opens-door-to-shonky-rehab-operators-20220128-p59ryh.html>.

³⁶ Queensland Network of Alcohol and Other Drug Agencies Ltd, Submission No 48 to Mental Health Select Committee, Queensland Parliament, *Inquiry into opportunities to improve mental health outcomes for Queenslanders*, (3 February 2022), 17.

³⁷ Evidence to Mental Health Select Committee, Public Briefing, *Inquiry into opportunities to improve mental health outcomes for Queenslanders*, Queensland Parliament, Brisbane, 20 January 2022, 2 (Associate Professor John Allan).

³⁸ Rural Health Connect, Submission No 71 to Mental Health Select Committee, Queensland Parliament, *Inquiry into opportunities to improve mental health outcomes for Queenslanders*, (4 February 2022), 2.

³⁹ Ibid.

⁴⁰ LJ Graham, C Killingly, KR Laurens & N Sweller, ‘Suspensions and expulsions could set our most vulnerable kids on a path to school drop-out, drug use and crime’, *The Conversation* (online), (online at 15 September 2021), <https://theconversation.com/suspensions-and-expulsions-could-set-our-most-vulnerable-kids-on-a-path-to-school-drop-out-drug-use-and-crime-166827>.

⁴¹ LJ Graham, C Killingly, KR Laurens & N Sweller, ‘Overrepresentation of Indigenous students in school suspension, exclusion, and enrolment cancellation in Queensland: is there a case for systemic inclusive school reform?’ (2022) *The Australian Educational Researcher*, <https://doi.org/10.1007/s13384-021-00504-1>.

Due to limitations in the data, it was not possible in this research to analyse the intersection of gender and race in relation to these trends. This ‘blindspot’ should not be considered accidental; international research highlights how girls are excluded from policy responses to address school exclusion and institutional violence, with the responses being crafted with boys in mind.⁴² In our experience, many girls we support have negative experiences of education, which are compounded by criminalisation, with the ultimate result that many girls are perceived to ‘disengage’ from education. This is not a ‘choice’; it is the outcome of systematic exclusion from education, and pervasive racial violence in the education system for Aboriginal and Torres Strait Islander girls.

Imprisonment and state violence

In addition to the structural factors that disproportionately impact women and girls in the free world, criminalisation and imprisonment are violent experiences that cause unique harm to women and girls. Some examples of state violence, with uniquely gendered impacts include:

- Separation from children and disruption of care relationships by arrest and imprisonment, as well as significant barriers to reunification with children on release (e.g. lack of contact with children in prison being used against women in reunification efforts or lack of housing to support women to resume care for their children). Research has found that most women in prison are mothers of dependent children or have caregiver responsibilities,⁴³ and up to 80% of Aboriginal and Torres Strait Islander women are mothers.⁴⁴ Separation causes significant harm and distress for the children of criminalised women.⁴⁵
- There is widespread lack of understanding (or wilful misunderstanding) in the criminal legal system about the context of women’s and girls’ lives and, consequently, their offences. Many women and girls in prison are charged with ‘low-level’ offences connected with poverty, homelessness or victimisation in the context of violent relationships.⁴⁶ Where women and girls are charged with offences of violence, there is often little analysis about the reasons for their use of violence, either by their lawyers or the courts, in the broader context of their lives and experiences and in the context of victimisation by officials/authorities.⁴⁷ There seems to be a tacit acceptance of some women and girls, and more broadly Aboriginal and Torres Strait Islander peoples, as ‘violent’ in the criminal legal system, which undermines the system’s legitimacy to address problems of interpersonal harm.⁴⁸

⁴² See A Osler, ‘Excluded girls: interpersonal, institutional and structural violence in schooling’ (2006) 18(6) *Gender and Education* 571, <https://doi.org/10.1080/09540250600980089>.

⁴³ See e.g. D Goulding, ‘Severed Connections: An Exploration of the Impact of Imprisonment on Women’s Familial and Social Connectedness’ (Murdoch University, 2004), <http://researchrepository.murdoch.edu.au/10995>.

⁴⁴ See e.g. L Behrendt, C Cunneen & T Libesman, *Indigenous Legal Relations in Australia* (Oxford University Press, 2009), 160; R Lawrie, ‘Speak Out Speak Strong: Researching the Needs of Aboriginal Women in Custody’ (2003) 8(2) *Australian Indigenous Law Reporter* 81, 82.

⁴⁵ See generally Flat Out Inc. and the Victorian Association for the Care and Resettlement of Offenders (VACRO), *Children: Unintended victims of legal process – A review of policies and legislation affecting children with incarcerated parents* (Discussion Paper, June 2006). Available at: http://www.flatout.org.au/wp-content/uploads/2012/04/Discussion_Paper_Hannon.pdf.

⁴⁶ See e.g. D Kilroy, ‘Women in Prison in Australia’, Presentation to National Judicial College of Australia and ANU College of Law, Current Issues in Sentencing Conference, 6-7 February 2016, Canberra.

⁴⁷ See e.g. M Wilson et al, ‘Violence in the lives of incarcerated Aboriginal mothers in Western Australia’ (2017) SAGE Open 1, <https://doi.org/10.1177/2158244016686814>.

⁴⁸ See e.g. C Watego (formerly Bond), D Singh & H Kajlich, ‘Not a One-Way Street: Understanding the Over-Representation of Aboriginal and Torres Strait Islander Peoples on Charges of Assaults Against Public Officers’, Report provided to Queensland Sentencing Advisory Council, *Inquiry into Penalties for Assaults on Police and Other Frontline Emergency Services Workers, Corrective Services Officers and Other Public Officers* (July 2020), https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0009/657648/not-a-one-way-street-report.pdf; Whittaker, above n 8.

- Routine and authorised sexual violence through strip searching in watch houses and prisons either as a 'preventative' method to identify contraband⁴⁹ or sometimes as a coercive 'medical' practice in response to self-harm or distress. Strip searching women and girls is sexual assault by the state, and it has a disproportionately negative impact on women and girls, most of whom are victim-survivors of sexual violence.⁵⁰
- Other forms of routine and authorised violence, such as the use of spit hoods, shackles and solitary confinement, which often have a disproportionately negative impact on women and girls, especially in the context of previous experiences domestic and sexual violence, as well as mental illness and disability.⁵¹

Lack of access to independent and quality healthcare in police watch houses and prisons for physical health, mental health and substance use issues, resulting in women leaving these places with health complications or 'new' health issues. Women and girls in watch houses frequently report delays in seeing medical staff or not being offered access to medical staff at all for treatment of acute health needs.

In prisons, health services are operated by Queensland Health and women report serious issues in accessing appropriate medical treatment, especially external and independent treatment in a hospital setting. In a sense, it is indicative of these deficiencies in care offered to prisoners that much of the Queensland Corrective Services Custodial Operations Practice Directive related to Health Needs is redacted.⁵² Women are required to complete forms and queue for medical treatment within prison health centres. This obviously poses significant challenges for women experiencing acute pain or in circumstances where women would rather not draw attention to their need for medical care. Where women are in serious pain or the health centre is inaccessible (e.g. overnight), women report difficulties having their needs taken seriously by prison officers (e.g. having to buzz repeatedly for care, delays in calling QAS).

⁴⁹ Queensland Corrective Services, Custodial Operations Practice Directive – Prisoner Search (Implementation Date: 18 March 2022), 5-6. Available at: <https://www.publications.qld.gov.au/dataset/c85d0cd0-a020-4390-b2a3-5090e480d9e6/resource/f3171e45-a4b6-4c8b-9597-4f687b266948/download/copd-prisoner-search-redacted.pdf>.

⁵⁰ See, e.g. A George, 'Strip searches: Sexual assault by the state' (1993) 18(1) *Alternative Law Journal* 31, <http://138.25.65.17/au/journals/AltLawJl/1993/8.pdf>; J McCulloch & A George, above n 9; Anti-Discrimination Commission of Queensland, *Women in Prison 2019: A Human Rights Consultation Report* (2019), 124-126. Available at: https://www.qhrc.qld.gov.au/_data/assets/pdf_file/0003/17139/2019.03.05-Women-In-Prison-2019-final-report-small.pdf.

⁵¹ See, e.g. Human Rights Watch, "I Needed Help, Instead I Was Punished": Abuse and Neglect of Prisoners with Disabilities in Australia (Report, 2018). Available at: https://www.hrw.org/sites/default/files/report_pdf/australia0218_web.pdf; T Walsh, H Blaber, C Smith, L Cornwall & K Blake, *Legal perspectives on solitary confinement in Queensland* (Report by University of Queensland and Prisoners Legal Service, 2020). Available at: <https://bel.uq.edu.au/research/human-rights/solitary-confinement>; Monash University and Castan Centre for Human Rights Law, *Use of Force in Detention and Other Closed Environments* (2020), ch 6. Available at: https://www.monash.edu/_data/assets/pdf_file/0005/2396597/Castan-Centre-for-Human-Rights-Law-Use-of-force-in-detention-and-other-closed-environments-2020.pdf; Z Averill & A Parkinson, 'Investigation exposes which states continue to use spit hoods on children', *NT News* (online), (online at 5 April 2022), <https://www.ntnews.com.au/news/indigenous-affairs/investigation-exposes-which-states-continue-to-use-spit-hoods-on-children/news-story/5ec097650f01c0d5dd46e363e8d7fc31?amp&nk=c84f2627a4dfdfac3a1e56fc600d960b-1649860086>.

⁵² Queensland Corrective Services, Custodial Operations Practice Directive – Health Needs (Implementation Date: 16 December 2021). Available at: <https://www.publications.qld.gov.au/dataset/c85d0cd0-a020-4390-b2a3-5090e480d9e6/resource/245396f4-2dff-480f-9d77-a5a8883772ee/download/health-health-needs-copd-redacted.pdf>. See also Crime and Corruption Commission, Taskforce Flaxton – An examination of corruption risks and corruption in Queensland prisons (December 2018), 14. Available at: <https://www.ccc.qld.gov.au/sites/default/files/Docs/Public-Hearings/Flaxton/Taskforce-Flaxton-An-examination-of-corruption-risks-and-corruption-in-qld-prisons-Report-2018.pdf>.

Women also routinely report demeaning interactions with health staff in prisons and the practice of responding to many of women's presenting health issues by offering Panadol remains anecdotally widespread. Women in prison also experience practical barriers accessing external services like dental care. Women report practical barriers to participation in the opioid substitution treatment program (also known as the methadone program) in prison, such as administrative rules limiting who can participate and lack of places. This undermines the possibility for effective access to substance use treatment in prisons.⁵³

In contrast to the lack of health care offered to women and girls in prison when they request it, there is a culture of prison officers and health staff jointly responding to women's mental distress with coercive practises such as the use of safety orders, physical and often violent removal of women into isolation (either in single cells or specialised cells/units), and high levels of sedation and medication use to manage serious mental illness or 'behavioural' issues. There is a lack of judicial or independent oversight of the use of safety orders.⁵⁴ As far as we are aware, there are no consistent, voluntary, independent general psychological available to women in prison to address mental health issues in prison. Sisters Inside operates a Sexual Assault Counselling Service, which is over-subscribed and unable to meet the full range of needs. We have operated this service since 1994; it was our first funded service, based on the requests of women in prison at that time and it remains just as relevant in 2022, despite the lack of funding certainty for this program.

- 'Quasi-criminalisation' in prison through breaches of discipline, which negatively impact women's prospects in relation to parole as institutional behaviour is often used to justify decisions by the Parole Board to delay or refuse release. 'Breaches of discipline' refer to the internal, administrative system for prison discipline established under chapter 3, part 1 of the *Corrective Services Act 2006* (Qld). In 2009, an investigation by the Queensland Ombudsman identified serious systemic issues in the use and determination of breaches of discipline by Queensland Corrective Services, including the over-use of 'major' breaches (that should have been recorded as 'minor'), lack of procedural fairness and lack of effective systems to monitor compliance with the legislative requirements.⁵⁵ Many of these issues persist⁵⁶ and there continues to be a lack of independent oversight or accountability for women in relation to breaches of discipline.
- Lack of access to education and training,⁵⁷ with the focus in adult prisons being on programs that address women's 'offending' or short courses that are not connected with realistic employment opportunities for criminalised women. Many women in prison are motivated to engage in education but have very little opportunity to do so, at their pace or in a self-directed and supported manner. The Anti-Discrimination Commission Queensland reported that since 2006, there has been a decline in the number of women in prison undertaking full-time study, despite

⁵³ There is very limited public information about the program. See C Lees, 'Opioid substitute program to expand to all prisons', *Townsville Bulletin* (online), (online at 28 February 2019), <https://www.townsvillebulletin.com.au/news/crime-court/opioid-substitute-program-to-expand-to-all-prisons/news-story/a185d47909b5ca2f6aaf7f049a30c9f4?amp&nk=e64154253bccfcdc8524fdf498a977f2-1650246023>.

⁵⁴ See discussion in T Walsh, H Blaber, C Smith, L Cornwall & K Blake, above n 51, 25.

⁵⁵ Queensland Ombudsman, *Justice on the Inside Report: A review of Queensland Corrective Services' management of breaches of discipline by prisoners* (October 2009). Available at: <https://www.ombudsman.qld.gov.au/improve-public-administration/investigative-reports-and-casebooks/archived-investigative-reports/justice-on-the-inside-report-2009>.

⁵⁶ See Crime and Corruption Commission, above n 54, 14-15.

⁵⁷ See generally discussion in Anti-Discrimination Commission Queensland, above n 50, 144-155.

the significant increase in women in prison since that time.⁵⁸ In our experience, women are not offered tailored support to plan for education in prison, including to develop basic skills in literacy and numeracy. Women report challenges enrolling in tertiary education, including practical barriers to participation in courses (e.g. not being allowed to access the internet, even on restricted devices) and having their aspirations dismissed by prison officers. Apart from the lack of evidence to support the effectiveness of so-called ‘rehabilitation’ programs in prison, even where they are provided, there are often long waitlists and certain categories of women in prison (e.g. women on remand) are excluded from participation.

- Arbitrary and dehumanising treatment by officers and other staff in prison, that exacerbates tensions between women in prison (e.g. disclosures of confidential information about women’s lives or sentences) and can interfere with women’s access to basic entitlements (e.g. limiting access to visit from family members and children or having visits cancelled due to ‘behaviour’). This issue is indicative of the total control that officers hold over women’s lives in the prison system.

Reproductive rights and antenatal care

In this section, we also draw specific attention to failures in relation to women’s reproductive rights and needs in prison.⁵⁹ In the 12-18 months, Sisters Inside has supported three pregnant women in prison who have lost pregnancies, including foetal deaths in the third trimester, in connection with what we perceive as structural failures in antenatal healthcare within the prison. We also remain highly concerned by reports from women in prison in recent years about Aboriginal women giving birth in prison cells, without medical or other support. Indeed, there is official recognition of this reality, with the Office of the Chief Nursing and Midwifery Officer recommending that “Service delivery should also consider midwifery-led models of care, given that some women birth without obstetric assistance in prison”.⁶⁰ However, it is not clear whether any midwives or nurses with midwifery experience are employed in Queensland prison health services.

In our view, the antenatal care offered to women in prison is demeaning and characterised by a lack of care and humanity towards women and their children. These are not new issues, but their prevalence seems to be accelerating. The women we spoke to for this submission wanted to discuss their experiences to ensure that no other woman had to go through the same thing. It is appalling that women in prison who have survived this institutional violence should bear the burden of driving accountability and change.

Ultimately, we believe no pregnant woman or person should ever be in prison, due to the obvious and systemic deficiencies in safety and the care that can be provided in the prison environment. In our submission, there is no potential to adequately reform the prison to address these issues.

⁵⁸ Ibid, 153.

⁵⁹ Although we use the terminology of ‘women’ in this section, in part to reflect the direct experiences of women we have supported, we recognise and affirm that pregnancy and birth are not the exclusive experiences of those who identify as women. Trans and gender diverse people with uteruses can and do birth babies.

⁶⁰ See Office of the Chief Nursing and Midwifery Officer, *Prison Health Services Addendum* (December 2019), Addendum to *Business Planning Framework: a tool for nursing and midwifery workload management* (Queensland Government, 5th edn, 2016), 11. Available at: https://www.health.qld.gov.au/data/assets/pdf_file/0024/932244/bpf-addendum-prison-health.pdf.

From working closely with women affected by these issues, some key issues include:

- Queensland Corrective Services does not facilitate access to adequate medical care in the early stages of pregnancy. For example, women have no ability to regularly see a trusted primary health care provider about concerns connected with their pregnancy (in the community, most women birthing in the public hospital system could continue to have unfettered appointments with their GP about any concerns until approximately 24 weeks,⁶¹ when antenatal care is usually managed through the relevant hospital);
- prison officers and prison health staff frequently ignore and minimise women's concerns about their pregnancies, including prison officers not facilitating prompt access to the health centre for assessment and prison health staff not escalating women's concerns to external services. The same is true of watch house staff, with women having told us about being denied immediate access to health care despite having established pregnancies and reporting bleeding;
- women routinely experience significant delays (i.e. several days) in seeing appropriately skilled medical professionals in a hospital setting with specialised equipment (e.g. ultrasound machines, CTG monitoring) to diagnose and treat pregnancy complications. These delays seem to be produced by a combination of Queensland Corrective Services delays relating to transport and/or referral by prison health staff;
- women are not offered meaningful or independent social support to address their unique needs during pregnancy or to prepare for birth (we note the relevant Custodial Operations Practice Directive refers to pregnancy and birth plans for pregnant women in prison,⁶² however based on our conversations with women, even if these plans are prepared, they do not seem to meaningfully impact women's experiences of pregnancy in prison);
- poor record-keeping practices between the prisons and hospital system, with women reporting that their discharge letters are not received by the prison and the prison does not arrange transport to the hospital for appointments and procedures;
- despite the procedure in the Custodial Operations Practice Directive,⁶³ it is practically impossible for women to successfully express breast milk in prison for newborn babies that are removed from their care, due to a lack of independent support and education about breastfeeding and the challenges of the prison environment (e.g. having adequate time and support to pump according to a newborn feeding schedule). Despite the known benefits of breast milk for infants,⁶⁴ the onus is put on women to make decisions in the absence of information and support;
- Queensland Corrective Services does not offer access to ongoing independent support or counselling, or contact with family as part of dealing with pregnancy complications or grief after pregnancy loss. Again, the onus is put on women to make these arrangements.

⁶¹ This might vary on the model of care, but we have based this position on direct experience and online information from RANZCOG: see RANZCOG, 'Antenatal care during pregnancy', <https://ranzcof.edu.au/womens-health/patient-information-resources/antenatal-care-during-pregnancy>.

⁶² See Queensland Corrective Services, Custodial Operations Practice Directive – Female Prisoners and Children (Implementation Date: 21 October 2021), 4-6. Available at: <https://www.publications.qld.gov.au/dataset/c85d0cd0-a020-4390-b2a3-5090e480d9e6/resource/92a032be-bb35-41a0-9006-23661fee2fe8/download/female-prisoners-and-children-redacted.pdf>.

⁶³ Ibid, 5.

⁶⁴ See e.g. Australian Breastfeeding Association, 'Health outcomes associated with infant feeding' (Last reviewed: January 2022). Available at: <https://www.breastfeeding.asn.au/bfinfo/health-outcomes-associated-infant-feeding>.

There are a number of legal issues connected with pregnancy in prison. First, there is no legal recognition of pregnancy in the *Bail Act* (1980), *Penalties and Sentences Act 1992* (Qld), or the *Corrective Services Act 2006* (Qld). This means there are very limited legal mechanisms requiring women's pregnancies to be considered in decisions about bail, sentencing and release from prison, or management in the prison environment.

Secondly, there is very limited accountability or oversight regarding antenatal care, pregnancy, birth and decisions in connection with newborns. This is a particularly serious gap in the context of the systemic issues relating to pregnancy loss that we have seen in the last 12-18 months. For example, there does not seem to be any automatic referral of foetal deaths in late-term pregnancies of women prisoners to the Coroner for investigation.⁶⁵ Indeed, stillbirths are explicitly excluded from the *Coroners Act 2003* (Qld).⁶⁶ Stillbirth is defined in schedule 2 to the *Births, Deaths and Marriages Registration Act 2003* (Qld). However, in accordance with this definition, to determine whether or not a child was stillborn remains a question of fact in connection with whether a newborn shows any signs of life after leaving the mother's body.⁶⁷ Therefore, because pregnancy loss in prison would not automatically be deemed a reportable death, even after 20 weeks' gestation, again the onus is put on women to 'prove' the death of their child ought to be investigated by the Coroner, which might involve disagreement with the attending medical staff, rather than on systemic accountability.

Lack of independent and voluntary services and very limited continuity of essential services

Another structural issue is the lack of independent and voluntary services in prison. In the 30 years that Sisters Inside has operated, we have been the only consistent, independent and voluntary services to support women and girls in Queensland prisons. In our experience, other services that may appear independent from Queensland Corrective Services or Youth Justice are (or become) closely aligned with the priorities of the public institution, rather than women's and girls' needs.⁶⁸ Alternatively, some independent services or programs may operate for a short period of time, but do not have continuity of funding or capacity to provide ongoing support for women and girls in their transition to the community.

Relatedly, there is very limited continuity of support or services between prison and the free world, which undermines the steps that women take to support their own needs. For example, as the Taskforce is aware, women in prison are not eligible to access Medicare. This significantly hampers women's ability to build connections with external health services in preparation for release. It also means that women are unable to access independent health services that are not routinely or reliably provided in prison. In practical terms, women lose contact with their primary health care services (or have that care 'suspended' in prison) and have to go through an extended and pointless process of having healthcare needs re-assessed in prison. There is no clear or systematic 'handover' process between health professionals and prisons to provide continuity of care for women's health needs.⁶⁹

⁶⁵ Queensland Health, Queensland Clinical Guidelines, Maternity and Neonatal Clinical Guidelines, Stillbirth care, 'Flowchart: Reporting' (Current as at 2019). Available at: <https://www.health.qld.gov.au/qcg/publications#maternity>.

⁶⁶ See *Coroners Act 2003* (Qld), s 96.

⁶⁷ See also *Barrett v Coroners Court of South Australia* [2010] SASFC 70.

⁶⁸ Relatedly, see discussion about this phenomenon in relation to custody visiting schemes in the UK and the need to pay attention to silences, see J Kendall, 'Custody visiting: The watchdog that didn't bark' (2022) 22(1) *Criminology and Criminal Justice* 115 (first published online in 2020), <https://doi.org/10.1177/1748895820967989>.

⁶⁹ For a discussion of these issues, see A Binns, 'Getting out from inside causes health concerns for everyone', NorDocs (online), (online at 2 April 2021), <https://nordocs.org.au/index.php/56-hot/1062-getting-out-from-inside-causes-health-concerns-for-everyone>.

Lack of accountability for systemic and structural failures

The issues that Sisters Inside raises in this submission are not new. For example, we raised almost exactly the same issues in our submissions to the Queensland Productivity Commission's Inquiry into Imprisonment and Recidivism in 2019.⁷⁰ There is a particular frustration that comes from repeatedly writing these accounts of systemic failings, without any expectation that our concerns or recommendations for change will be taken seriously by the Queensland Government.

We have very little confidence in the ability for transformative structural and systemic change to come from this process, even following the introduction of the *Human Rights Act 2019* (Qld). Fundamentally, there is an inconsistency between the issues that can be analysed and litigated in a human rights framework and the broad-based, structural nature of the intersecting issues that produce and sustain widespread violence against women and girls, in the context of colonisation and racism. In many ways, the COVID-19 pandemic and recent natural disasters across Queensland have worsened the situation for criminalised women and girls, as housing becomes even less available and affordable and oversight of prisons has been weakened in the intervening period.⁷¹

⁷⁰ Sisters Inside, Initial submission No 39 to Queensland Productivity Commission, *Inquiry into Imprisonment and Recidivism* (November 2018); Sisters Inside, Final submission to Queensland Productivity Commission, *Inquiry into Imprisonment and Recidivism* (June 2019). Available at: <https://www.treasury.qld.gov.au/queenslands-economy/office-of-productivity-and-red-tape-reduction/former-queensland-productivity-commission/> (it seems that due to an administrative error, both of our submissions are filed in Initial submissions volume 2).

⁷¹ See e.g. A Whittaker, 'No news is no news: COVID-19 and the opacity of Australian prisons' (2021) 33(1) *Current Issues in Criminal Justice* 111, <https://doi.org/10.1080/10345329.2020.1859964>.

Tear down the walls: Recommendations for change

There is close to 400 Aboriginal deaths in custody cases occurring prior to my brother's death, with no convictions afforded for the brutality by police/correctional officers of such violent events. I worry that Aboriginal deaths in custody have continued as common practice and in fact, normalised in prisons and police systems. I reflect on the symbolism of the Coroner's Court and how recommendations are largely made to change practices within the prison and strengthen the prisons ability to accommodate more Aboriginal peoples, rather than abolish the systemic racism that supports the prison industrial complex in the first instance. I think about the discourse this creates deriving from the lack of justice for our people's deaths. [...] To explain, I am in no way implying that coronial proceedings are not important to Aboriginal deaths in custody cases. [...] However, it is time for us to admit that institutional reform within prisons is not enough and that we need to shift the paradigm to one of practical transformation through decolonisation.⁷²

-Latoya Aroha Rule, sibling of Wayne 'Fella' Morrison and PhD candidate

Ruth Wilson Gilmore: "Racism is the state-sanctioned and/or extra-legal production and exploitation of group differentiated vulnerabilities to premature (social, civil and/or corporeal) death" What is the difference between this and slavery? What is, so to speak, the object of abolition? Not so much the abolition of prisons but the abolition of a society that could have prisons, that could have slavery, that could have the wage, and therefore not abolition as the elimination of anything but abolition as the founding of a new society.⁷³

-Stefano Harney & Fred Moten, American academics

As an abolitionist organisation, Sisters Inside advocates for an absolute end to imprisonment and social reliance on prisons to address violence, harm and related social issues. In doing so, we recognise and draw from the resilience, strength and expertise of criminalised women and girls in their own lives and as experts to inform policy. Although we do not expect to see the end of prisons in a single lifespan, we remain motivated by the reality that we must "imagine a constellation of alternative strategies and institutions [to remove] the prison from the social and ideological landscapes of our society"⁷⁴. In the spirit of this imaginative work, we offer the following recommendations for change.

Minimise criminalisation and imprisonment

In this section, we outline several recommendations to minimise criminalisation and imprisonment for women and girls.

Women's Centres not women's police stations

In the broader debates about violence against women connected with the Taskforce's work, some commentators have proposed the establishment of women's police stations. Sisters Inside opposes this recommendation. Further extensions of the carceral apparatus will not serve the interests of Aboriginal and Torres Strait Islander women or other women who are already marginalised by police responses to violence. As scholars Porter, Deslandes, McKinnon and Longbottom argue, there are limitations with the studies that support women's police stations *and* there is evidence that women's police stations do not work to address violence against women.⁷⁵ A particularly disturbing

⁷² L Aroha Rule, 'Who is accountable for our deaths?', *IndigenousX* (online), (online at 9 January 2019), <https://indigenousx.com.au/who-is-accountable-for-our-deaths/>.

⁷³ S Harney & F Moten, *The Undercommons: Fugitive Planning and Black Study* (Minor Compositions, 2013), 42.

⁷⁴ AY Davis, *Are Prisons Obsolete?* (Seven Stories Press, 2003), 107. Available online at: <https://www.feministes-radicales.org/wp-content/uploads/2010/11/Angela-Davis-Are-Prisons-Obsolete.pdf>.

⁷⁵ A Porter, A L Deslandes, C McKinnon & M Longbottom, 'Women's police stations in Australia: would they work for 'all' women?', *The Conversation* (online), (online at 17 September 2021), <https://theconversation.com/womens-police-stations-in-australia-would-they-work-for-all-women-165873>.

reality is the limitation of women's police stations to address violence against women when the perpetrator is also a police officer; indeed, this is a documented and structural failing of all policing.⁷⁶ Additionally, these scholars point out that women's police stations are not consistent with the concrete alternatives to address violence against Aboriginal and Torres Strait Islander women that have already been identified in research done in consultation with Aboriginal communities.⁷⁷ Relevantly, this research identified the need to focus on diverting people away from the criminal legal system, keeping children out of prison, keeping families together and investing resources in Aboriginal-controlled services.

Instead of women's police stations, the Queensland Government should fund Women's Centres to provide independent and voluntary social support for women and girls both separate from and in connection with the criminal legal system. These services could have a mandate to support both criminalised women and girls and women reporting domestic, family and sexual violence. They could operate both as a 'hub' to connect women and girls to relevant existing services in their communities, and to provide specialist support and care that addresses gaps in existing services for gendered violence. This model could be tailored to the particular location of the Women's Centre, to reflect differences in service provision between urban and regional settings. Aboriginal and Torres Strait Islander women and women with lived prison experience should be included in governance and leadership positions to ensure community control and representation. Sisters Inside has provided a detailed submission to the Government to fund a Women's Centre and are awaiting a response as to funding.

Alternatives to imprisonment through decriminalisation and diversion

Minimising the gendered impacts of imprisonment requires implementation of structural alternatives to criminalisation, for example: decriminalisation of minor and/or gendered offences (e.g. public nuisance, public drunkenness, evade fare, begging, possession of drugs under a certain quantity, sex work), implementation of adult cautioning, and greater use of justice mediation or restorative justice conferencing, even for violent offences.

We note the Queensland Productivity Commission previously recommended the Queensland Government should:⁷⁸

- seek to remove those activities from the *Criminal Code Act 1889* and other relevant legislation for which the benefits of being included do not outweigh the costs;
- reform drug laws, including decriminalising low-level possession offences; and
- introduce victim-focused restitution and restoration into the sentencing process.

It is apparent that more work is required to support these measures, including the review and reform of existing criminal offences to minimise the reach of the criminal law. The Queensland Government must commit resources to implement these recommendations as soon as possible.

⁷⁶ See also recent reports from NSW: H Gleeson, 'NSW police officers convicted of domestic violence have kept their jobs, despite force's claims of 'zero tolerance'', ABC News (online), (online at 14 April 2022), <https://www.abc.net.au/news/2022-04-14/nsw-police-officers-convicted-domestic-violence-kept-jobs/100982038>; H Gleeson, 'Josie's police officer partner was convicted of domestic violence. First, she had to face an 'army' in the NSW Police Force', ABC News (online), (online at 15 April 2022), <https://www.abc.net.au/news/2022-04-15/josie-officer-convicted-domestic-violence-nsw-police-force/100981846>.

⁷⁷ See H Blagg et al, Understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence (ANROWS Research Report, Issue 19, June 2020), <https://www.anrows.org.au/project/improving-family-violence-legal-and-support-services-for-indigenous-women/>.

⁷⁸ See Queensland Productivity Commission, Inquiry into Imprisonment and Recidivism (Final Report, August 2019), Recommendations 5, 6, 7 and 8. Available at: <https://qpc.blob.core.windows.net/wordpress/2020/01/FINAL-REPORT-Imprisonment-Volume-I-.pdf>.

Amend bail and sentencing laws to recognise the role of women as caregivers

Sisters Inside strongly supports amendments to the *Bail Act 1980* (Qld) and the *Penalties and Sentences Act 1992* (Qld) to require courts to consider the best interests of the child in bail and sentencing decisions. In our submission, decisions that support mothers to remain in the community providing direct care for their children, or maintaining regular contact with their children through reunification processes or alternative parenting arrangements, are in the best interests of the child. Legislative amendments could include a presumption that women providing direct care for children should not be remanded or sentenced to imprisonment. Additionally, legislation should require decision-makers to take into account the best interests of the child in making a decision, even when a mother does not live with her children, and to give reasons for their decision in relation to this matter.

Abolish all mandatory sentences

Sisters Inside opposes all forms of mandatory, minimum and presumptive sentencing. These have a disproportionate impact on Aboriginal and Torres Strait Islander people, and also operate irrationally in relation to women.⁷⁹ All forms of mandatory sentencing must be abolished, including all mandatory non-custodial penalties, e.g. mandatory disqualifications for driving offences, and mandatory community service under section 108B, *Penalties and Sentences Act 1992* (Qld).

Fund more independent legal and advocacy support services

There is an obvious lack of well-funded, independent and specialised services to support women and girls in contact with the criminal legal system. This is obvious to Sisters Inside across the course of our work with women in prison – from our advocacy work with the Supreme Court Bail Program, to direct support for women being sentenced, and advocacy support for women with the Parole Board. Greater resources need to be made available for legal and advocacy services that specialise in support for women and girls in the prison system, including more funding via Legal Aid for criminal law matters and other sources for independent advocacy services.

End state violence against women and girls

In this section, we outline recommendations to address state violence against women and girls.

End strip searches, use of restraints and solitary confinement

There are steps that the Queensland Government could take to end and minimise the most routine forms of authorised violence within the prison system.

First, we recommend that strip searching (or searches requiring the removal of clothing) must be abolished in all settings (i.e. in police watch houses, in prisons and medical settings). Consent must be the right of every woman and girl.

⁷⁹ See, e.g. Sisters Inside, Submission to Queensland Sentencing Advisory Council, *Serious violent offences scheme review, Terms of Reference and Issues Paper* (January 2022). Available at: https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0007/708604/11.-sisters-inside-submission.pdf.

Secondly, the Queensland Government must immediately implement legislation similar to South Australia to prohibit the use of spit hoods in all settings.⁸⁰ We draw attention to the tireless advocacy of Wayne ‘Fella’ Morrison’s family, whose work for justice saw this legislation passed in South Australia in November 2021 and we make this recommendation in line with their calls for a national ban.⁸¹

Thirdly, we recommend that solitary confinement, in all its forms, should be abolished. We support the recommendation of the joint report by the University of Queensland and Prisoners’ Legal Service into solitary confinement, namely:⁸²

1. That Queensland Corrective Services eliminate the use of solitary confinement, or segregation by any name.

Finally, we recommend that a further review must be undertaken to consider legislation to prohibit the use of other restrictive practices in prison and other closed settings.⁸³ This work would include detailed information about the current uses and justifications for other forms of physical restraint as well as chemical restraints in prisons.

Provide greater access to healthcare and disability support, including continuity of care
Access to health services without discrimination is a human right protected under section 37 of the *Human Rights Act 2019* (Qld). There are obvious systemic issues in respect of the healthcare available to women in prison, exacerbated by the reality that healthcare is, at least in practical terms, a ‘shared’ responsibility between Queensland Corrective Services and Queensland Health.

For most women in prison, the best option for appropriate management of their healthcare needs will be release into the community. Therefore, the Queensland Government must consider and implement legislative mechanisms for release on health grounds. These options could be considered in the context of an independent and public review by the Queensland Human Rights Commission.

⁸⁰ *Statutes Amendment (Spit Hood Prohibition) Act 2021* (SA).

⁸¹ R Kurmelovs, ‘“Overjoyed”: family of Wayne Fella Morrison hail South Australian spit hood ban’, *The Guardian* (online), (online at 18 November 2021), <https://www.theguardian.com/australia-news/2021/nov/18/overjoyed-family-of-wayne-fella-morrison-hail-south-australian-spit-hood-ban>.

⁸² See T Walsh, H Blaber, C Smith, L Cornwall & K Blake, above n 51.

⁸³ See e.g. M Burgess, ‘Restrictive practices – a broader perspective’, *Proctor* (online), (online at 10 December 2020), <https://www.glsproctor.com.au/2020/12/restrictive-practices-a-broader-perspective/>.

Provide specific legal protections for women in respect of reproductive rights and healthcare

As outlined above, we are very concerned about women's recent experiences in relation to pregnancy loss, foetal death and antenatal care. These anecdotal reports suggest systemic failures relating to women's reproductive rights in Queensland prisons. The issues for pregnant and birthing women in prison are not unique to Queensland. We note two recent investigations by the Prison and Probation Ombudsman in the United Kingdom in respect of two separate cases where women gave birth in prisons, without access to adequate or appropriate medical support.⁸⁴ One of those cases involved an 18 year old young woman whose calls for assistance were ignored by prison staff, resulting in her giving birth in her cell overnight, alone.⁸⁵ The baby did not survive, and the pathologist was unable to determine whether the baby was born alive or stillborn. In that case, the Ombudsman stated:⁸⁶

We consider that all pregnancies in prison should be treated as high risk by virtue of the fact that the woman is locked behind a door for a significant amount of time. In addition, there is likely to be a higher percentage of 'avoidant' mothers who have experienced trauma and who are fearful of engaging with maternity care.

Although the Ombudsman's findings in both cases are consistent with the reported experiences of women in Queensland prisons, we do not agree with the Ombudsman's recommendations. We support the calls of other organisations and academics that pregnant women should not be in prison.⁸⁷ Prison is an unsafe environment for pregnancy and birth, with recent data from the UK suggesting that "[w]omen in prison are five times more likely to have a stillbirth and twice as likely to give birth to a premature baby that needs special care".⁸⁸ Therefore, we recommend that the Queensland Government must introduce legislative amendments to the *Corrective Services Act 2006* (Qld), the *Bail Act 1980* (Qld) and the *Penalties and Sentences Act 2006* (Qld) to introduce a presumption that pregnant women should be released from prison or not serve any time in prison, especially after 20 weeks' gestation.⁸⁹

⁸⁴ Prisons and Probations Ombudsman, Independent investigation into the death of Baby A at HMP Bronzefield on 27 September 2019 (2021). Available at: <https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1g9rkjhkimgw/uploads/2021/09/F4055-19-Death-of-Baby-A-Bronzefield-26-09-2019-NC-Under-18-0.pdf>. Prisons and Probations Ombudsman, Independent investigation into the death of Baby B at HMP & YOI Styal on 18 June 2020 (2022). Available at: <https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1g9rkjhkimgw/uploads/2022/01/F4376-20-Death-of-Baby-B-Styal-18-06-2020-NC-Under-18-0.pdf>.

⁸⁵ Prisons and Probations Ombudsman (2021), above n 84.

⁸⁶ Ibid, [28].

⁸⁷ See e.g. D Taylor, 'Death of baby in Cheshire prison prompts investigation', The Guardian (online), (online at 20 June 2020, <https://www.theguardian.com/society/2020/jun/19/death-baby-cheshire-prison-prompts-investigation>; H Summers, 'Call to stop jailing pregnant women in England after baby dies in prison toilet', The Guardian (online), (online at 16 January 2022), <https://www.theguardian.com/society/2022/jan/16/call-to-stop-jailing-pregnant-women-in-england-after-baby-dies-in-prison-toilet>.

⁸⁸ N Murray & H Summers, 'Jailed women in UK five times more likely to suffer stillbirths, data shows', The Guardian (online), (online at 5 December 2021), <https://www.theguardian.com/society/2021/dec/05/jailed-women-in-uk-five-times-more-likely-to-suffer-stillbirths-data-shows>.

⁸⁹ We have chosen this period as it reflects the definition of stillbirth in the *Births, Deaths and Marriages Registration Act 2003* (Qld), sch 2. The birth of babies born after 20 weeks' gestation or weighing more than 400g must be registered.

We do not believe the best option is for pregnant woman to have their children in prison with them. There is already legislation and procedures in place for children to be accommodated with their mothers in Queensland prisons;⁹⁰ however, in our experience, this option is rarely made available to women in practice, especially Aboriginal and Torres Strait Islander mothers. Rather than being seen as a panacea, this option should be normalised as the ‘worst case scenario’, with legislative changes focused on getting pregnant women and women with newborn infants out of prison entirely.

Address administrative barriers to parole release and provide advocacy support

Ultimately, the only meaningful way to address persistent overcrowding in Queensland prisons is to reduce the number of women in prison. This requires legislative change to support women to access release, including on parole. As identified above, breaches of discipline represent a significant barrier to release. Issues have been raised with Queensland Corrective Services’ compliance with the existing legislative requirements relating to breaches of discipline, but there is no independent oversight or accountability for these deficiencies. Independent accountability mechanisms in respect of breaches of discipline, including access to independent legal and advocacy assistance for these matters, would assist women in the parole application process.

Address the structural drivers of criminalisation and imprisonment

In this section, we outline recommendations to address the structural drivers of imprisonment.

Guarantee safe, secure and affordable public housing

In our submission, the best option to end the cycle of imprisonment for women is for the Queensland Government to guarantee safe, secure and affordable public housing that meets the needs of women and their families. Recent academic research published by AHURI provides clear support for this recommendation, based on analysis of NSW data.⁹¹ That report found that:⁹²

- When people who leave prison are allocated public housing they report an 8.9% reduction in police incidents per year; 7.6% reduction in court appearances per year; 7.6% reduction in proven offences per year; 11.2% reduction in time in custody per year; time on supervised orders after an initial increase, down 7.8% per year; and justice costs per person down \$4,996 initially, then a further \$2,040 per year;
- When housing costs are taken into consideration, public housing generates a net benefit of \$5,200 to \$35,000 per person over five years, relative to the cost of providing assistance to an ex-prisoner in private rental or through homelessness services; and
- The research cohort’s median time from first prison exit to public housing is five years (mean 5.9 years). If public housing was provided sooner after exit from prison, the benefits to the individual and society would be expected to occur sooner and therefore be even greater.

AHURI recommends building (or otherwise making available) more public housing for people leaving prison, rather than pitting prisoners against others on the public housing waitlist.

⁹⁰ See *Corrective Services Act 2006* (Qld), s29.

⁹¹ C Martin et al, *Exiting prison with complex support needs: the role of housing assistance* (AHURI Inquiry into enhancing the coordination of housing supports for individuals leaving institutional settings, Final Report No 361, August 2021). Available at: https://www.ahuri.edu.au/sites/default/files/documents/2021-09/AHURI-Final-Report-361-Exiting-prison-with-complex-support-needs-the-role-of-housing-assistance_0.pdf.

⁹² For a useful summary, see AHURI, *Policy Evidence Summary, Based on AHURI Final Report No. 361: Exiting prison with complex support needs: the role of housing assistance* (August 2021). Available at: <https://www.ahuri.edu.au/sites/default/files/documents/2021-09/PES-361-Housing-support-for-ex-prisoners-challenges-and-opportunities.pdf>.

The Queensland Government must ensure greater availability of public housing that can be accessed soon after release for women and girls across urban, regional and remote geographic locations in Queensland. In addition to providing more public housing, the Queensland Government should extend and expand funding for programs such as Sisters Inside's partnership with the Department of Housing in North Queensland to provide specialist support for women to maintain their tenancies. Housing options for criminalised girls in the child protection system could be incorporated into similar programs.

Give women access to a liveable income

Although it is outside the remit of the Taskforce and the Queensland Government, Sisters Inside supports calls to 'raise the rate for good' in relation to JobSeeker and Youth Allowance payments, which calls for the base rate of payment to be increased from to at least \$70 per day.⁹³ This campaign represents the bare minimum; as the cost of living increases, it is simply impossible for women to survive on JobSeeker, Youth Allowance or even the Disability Support Pension.

As well as publicly calling on the federal government to increase payments, the Queensland Government has an obligation to consider mechanisms to support people who rely on fixed payments from Centrelink (Services Australia) as their only source of income. For example, the Queensland Government could consider free public transport, which would also have the benefit of abolishing criminalisation (and associated policing costs) connected with fare evasion.

Provide access to free and meaningful education and support for employment

To support women in prison to realise their personal goals in respect of their education, initiatives must be directed by women's interests or their identified needs, rather than Queensland Corrective Services. The Queensland Government should consider legislative changes that would support women to access free and meaningful education in the free world, while they are in prison. This could include legislating to allow access to the internet (for example, through devices with restricted access) to allow women to enrol in external courses and programs of study that can be continued upon release. It could also include legislative mechanisms to more consistently support temporary release for study (e.g. leaves of absence).

The Queensland Government must amend the *Working with Children (Risk Management and Screening) Act 2000* (Qld) the legislation governing the Blue Card system to end the legalised discrimination against criminalised women and girls.⁹⁴ The current provisions make it practically impossible for criminalised women and girls to pursue valuable careers as peer support workers. They also disproportionately impact Aboriginal and Torres Strait Islander women, including in relation to reunification with family members as carers through the child protection system.

Greater resourcing to support access to accountability mechanisms

Prisoners have access to only limited legal and advocacy support to facilitate complaints and accountability for individual issues, which are often reflective of systemic problems in the prison system. Sisters Inside supports greater resourcing for specialist independent legal and non-legal advocacy services to support criminalised women and girls to make complaints. This work is distinct from legal and advocacy work connected with bail, sentencing and release from prison, and could

⁹³ See ACOSS, 'Raise the Rate for Good' (website), <https://raisetherate.org.au/>.

⁹⁴ See Sisters Inside, Submission No 15 to Education, Employment and Small Business Committee, Queensland Parliament, *Working With Children Bills* (10 December 2018), <https://documents.parliament.qld.gov.au/com/EESBC-92D1/RN121356PW-E88D/submissions/00000015.pdf>; Sisters Inside, Submission No 3 to Legal Affairs and Safety Committee, Queensland Parliament, *Working with Children (Indigenous Communities) Amendment Bill 2021* (19 November 2021), <https://documents.parliament.qld.gov.au/com/LASC-C96E/WCICAB2021-050A/submissions/00000003.pdf>.

include support to gather information (e.g. through Information Privacy applications), identify appropriate complaints mechanisms, lodge complaints and, where appropriate, provide support to participate in complaints processes.

These services could be well-placed to identify patterns among individual complaints and therefore, to escalate issues with appropriate complaints bodies. For example, the Queensland Government has introduced the *Inspector of Detention Services Bill 2021* to appoint the Queensland Ombudsman as the Inspector of Detention Services. Although the Inspector's focus will be on systems reform, the relevant Department does acknowledge the potential for individual cases to lead to systemic reviews.⁹⁵ These services would also work to support women and girls to make appropriate complaints to the right bodies, given the often confusing and overlapping jurisdiction of bodies that accept complaints from prisoners.

Better data to monitor systemic changes and failures for women and girls

A key component of accountability is transparency. At present, there is very limited public data reported by the Queensland Government related to women and girls in prison. There are also gaps in the data that is collected by Queensland Corrective Services about women's lives. This means it is difficult to monitor systemic changes and failures for criminalised women and girls. We suggest the following data should be collected and, where possible, published in an appropriately de-identified statistical form:

- Number of women and girls in prison who are/have been: a) in out-of-home care or residential care; and b) otherwise subject to orders in the child protection system;
- Number of children of women in prison and care responsibilities prior to imprisonment;
- Number of pregnant women or pregnant people in prison and number of children born to prisoners, including Aboriginal and Torres Strait Islander status of children (where known).

This data should be collected and published in connection with Aboriginal and Torres Strait Islander status, so it is possible to see the intersection of race and gender in the operation of these systems.

⁹⁵ See Legal Affairs and Safety Committee, Queensland Parliament, *Inspector of Detention Services Bill 2021* (Report No. 21, 57th Parliament, January 2022), 17. See also discussion at pp14-16.