

# The future of prisons beyond the pandemic

## Women's experiences in the criminal legal system

[Zahra Stardust](#)

*The COVID-19 crisis has spun the justice sector into disarray, demanding that we find new ways to organise society. As women in prison mobilise to support one another through the pandemic, their stories demonstrate that prisons never worked, but that there are viable alternatives. Despite its loss of funding and program restrictions, the Women's Justice Network shows why we need action now more than ever.*

The coronavirus pandemic has issued a damning critique to the Australian government urging it to rethink the fundamentally broken systems in which we live. COVID-19 has even more acutely exposed our grossly inequitable division of wealth, the exploitation of precarious and underpaid labour, the decimation of our social safety net and racialised practices of policing.

We cannot afford to continue on with business as usual.

As NSW starts to consider life beyond the pandemic (with only a [handful of new cases](#) each day), women with lived experience in the criminal legal system are calling for a different future.

People in correctional and detention facilities remain a [recognised risk group](#) for COVID-19. Even though no incarcerated person in Australia has tested positive (although [staff have](#)), the virus is, as Thalia Anthony describes, a '[ticking time bomb for the Australian prison system](#)'. Prisons are [notorious incubators and amplifiers](#) of infectious diseases, and Australian prisons are [already overcrowded](#) and lack social distancing.

In a pre-emptive response to avoid the prison [riots, escapes and deaths](#) in Italy, NSW rushed through legislation to become the first Australian state to make people nearing the end of their sentences [eligible for early release](#).

The adult prisoner population has [decreased since COVID-19](#) as more women on remand are being granted bail, however with limited accommodation and community support, they remain at risk of returning to prison. Six women, as part of a new Advisory Panel for the Women's Justice Network, want to ensure that women in prison are not "forgotten."



## ***Support in the time of COVID-19***

For over ten years, WJN has delivered strengths-based, client-centred services to support at-risk youth, women in prison, and women exiting custody. Originally inspired by the work of [Sisters Inside](#) in Queensland, and operating alongside other prisoner solidarity projects such as [Inside Out](#) in Victoria, WJN link women in prison with mentors on the outside through letter-writing, phone calls and face-to-face visits.

The former Women in Prison Advocacy Network has become even busier during the pandemic, [fundraising to save their programs](#) from closure. As they transition to virtual and phone support, CEO Gloria Larman reports a higher-than-usual demand for services by women “as they become isolated in their homes, refuges, rehabilitation centres with some falling through the cracks and living on the streets and finding refuge with unsafe partners.”

Even if they are granted early release, in NSW women can leave prison with nothing other than the clothes on their back, without public transport, phone, money or identification documents. Many lack adequate post-release support, cannot locate affordable accommodation (making it difficult to get parole) and experience barriers to gaining employment.

Others face the long journey of trying to regain custody of their children or return to homes where they have experienced family violence. With Stay at Home directions in place during the COVID-19 lockdown, [women’s domestic and family violence support services](#) fear that women are more likely to remain in residence with abusive partners due to increased lack of housing and support options.



## ***Women's stories from inside***

The “nothing about us without us” stance of the Women’s Justice Network is founded upon the principle that policy and programming should be designed and implemented by women who have been affected by the criminal process – that agendas should be set by women who know what it is like to be behind bars.

The 2019 [National Prisoner Census indicates](#) that across the nation, female prisoner numbers are finally decreasing after hitting [a peak high](#). In [2018](#), women prisoners were increasing at a rate far beyond their male counterparts and the number of women incarcerated had risen by 85% over the previous decade. NSW has the majority of women detained.

One of the driving motivations for the Advisory Panel is provide support, referrals and programs for women that were not available for them. For many women, incarceration is closely connected to stories of grief and trauma.

Frances, who was incarcerated following the deaths of both her 19-year-old son and then her husband, was featured in the [4Corners documentary Criminalising Women](#). She reflected on the feeling of being “left behind” when she was inside.

*“Women are treated as less important because they don’t make up ‘the numbers’ like the male prison population. So their needs are not always met and funding is less likely. My hope is to change this.”*

Feelings of isolation are likely to increase given that NSW prison visitations have been [suspended until further notice](#). Because visitation is recognised as a [human right](#) and [minimum standard](#) for the treatment of prisoners, this presents additional hardship for prisoners, and some courts are now taking COVID-19 into account in [sentencing decisions](#).

Although women are often incarcerated for minor offences, impact on their lives is immediate. Amendments to the *Bail Act NSW* in 2013 [eroded the presumption in favour of bail](#), meaning that punishment effectively begins far in advance of the sentencing process.

*“I don't think people understand the huge loss you experience. You lose your home, sometimes your partner, your children, your pets, often your parents and siblings, your clothing, your car, your job. Once you are charged it becomes public knowledge. Whether you get found guilty or not doesn't matter, your loss is immediate as soon as bail is refused.” – Fran*

## ***Listening to Women***

While one of the statutory purposes of sentencing is rehabilitation, for the large prison population who remains on remand, rehabilitative programs are not available. When Ally was in prison, she was desperate for trauma informed, private counselling, exercise programs, healthy food and activity programs.

But she was not eligible to access programs like IDAPT (the Intensive Drug and Alcohol Treatment Program) or RUSH (Real Understanding of Self Help). She experienced hallucinations, vomiting and nightmares during her withdrawal and when she was eventually sentenced, Ally received ‘time served’ plus two weeks. She was released without having received any support or counselling.

“I would like to see better access for women prisoners to support services, intensive case management, access to educational programs and activities, counselling, and a lot of focus on the reasons to led to the woman ending up in prison in the first place,” says Ally.

“A caring, holistic approach to rehabilitation. Most of these women have had very difficult lives, even before they reached prison, so I would like to be part of changing the current system into one that values this, over the current punitive punishment system, which only serves to re-traumatise.”

*“We need to treat these women with dignity and respect and care, and be there for them when they are released, help them reintegrate back into society, provide opportunities for them.” – Ally*

In spite of some recent programs now available to eligible women on short sentences (such as the High Intensity Program Units for women serving six months or less), they are not available to women on remand. The high remand population in NSW has been attributed to sentencing delays and backlog. Don Weatherburn from the NSW Bureau of Crime Statistics, suggests that [aggressive policing](#) contributes to court delays. In particular, the NSW Police’s [Suspect Targeting Management Plan](#), a police intelligence tool for the purposes of ‘predictive policing’ that targets people police believe are likely to commit future crime, is disproportionately used against Aboriginal people and youth.



## ***Racialized policing***

The failure of the ‘justice’ system is no more obvious than in the systems of racialised policing and state violence that have led to the disproportionate incarceration of Indigenous people in Australia, and [Indigenous women in particular](#). While Aboriginal and Torres Strait Islander Australians make up only 2-3% of the total Australian population, they represent [34% of the adult women prison population](#). Aboriginal and Torres Strait Islander prisoners comprise [83% of the adult prison population](#) in the Northern Territory.

For Indigenous women, who are typically arrested for minor offences, police contact can be fatal. Australia’s shameful history of deaths in custody include Ms Dhu, who was [subject to inhumane police treatment](#) before her death in a Western Australian prison, [Tanya Day](#) who sustained injuries and died in custody after she fell asleep on a train, and Veronica Baxter who died in custody [after making emergency calls from her cell in a men’s prison](#). Australia is now responsible for [432 deaths in custody](#) and [counting](#) since the 1991 Royal Commission without a single conviction.

As a young Indigenous person, Chloe experienced racialised targeting by police. Chloe’s own son was removed from her custody by FACS, a moment she describes as a traumatic life event and one which was a catalyst for her arrest. Twenty-three years after the [Bringing Them Home report](#), Aboriginal children continue to be removed from their families and remain overrepresented in out-of-home care at [10 times the rate of non-Indigenous children](#). Later, Chloe [gave birth to her son in prison](#).

## ***Centring the needs of women***

Kaz, a trans woman who grew up on a cattle station in central Queensland, hopes to change the sense of being alone for women in prison. Concerned about the over-representation of trans women in the criminal legal system, Kaz went on to study a Masters in Criminology, stating “I want people to know that the prison experience is NOT corrective and that many women are in prison because they have faced structural disadvantages in society or have been victims of abuse.”

Research indicates that women’s prisons are [full of victims of domestic and family violence](#) and that [sexual and gender minorities are over-represented](#) in the criminal legal system. A 2019 survey found that the prevalence of sexual violence among trans and gender diverse people [is exceptionally high](#).

The [Australian Human Rights Commission](#) reports that trans people face structural, institutional and state-sanctioned discrimination, harassment, exclusion and violence, and the [First Australian Trans Mental Health Study](#) found that health of trans people “is in a state of crisis”, with barriers in finding employment, low income, difficulty in changing identity documents and poor experiences of healthcare. Those that have worked in economies such as sex work, like Kaz, face more frequent contact with police and increased risk of arrest.

Internationally, transgender prisoners are [identified as a ‘special needs’ group](#) by the United Nations because they face particular vulnerabilities in prison. In some states in Australia, trans women are [detained in male prisons](#) and have [spoken out about their “terrifying” experiences](#).

Passionate about supporting trans women in prison to be safe from violence and harassment, Kaz is now the chair of the Trans and Gender Diverse Criminal Justice System Advisory Council, formed to provide recommendations to Corrective Services, Justice Health, NSW Police and courts about law and policy reform.

*“I believe what is important about our projects is raising visibility of the needs of incarcerated women. I believe it is important that they do not feel forgotten in the system.” – Kaz*



## ***Convictions never spent***

*“I have done my time, I have the right to live, I will not carry this stigma.” – Vicki*

Once women are released from custody, they face a competitive job market and ongoing stigma. Vicki, a mother of two grown children who used to work in the medical field, spent nine months in prison in 2012. She describes how this stigma still affects her. “I have left the prison, but the conviction still follows me”.

Despite the fact that women in prison are put to work in a range of capacities – from scrubbing toilets to untangling aeroplane headsets – for as little as \$23 per week (a labour system that should cause us serious alarm), women exiting prison face barriers to finding employment.

Vicki reflects, “I am determined to show today’s employers that I and other women that have been in prison are employable! But I just couldn’t get a job. I have a great resume. I also have good experience and training. If I can’t get a job, how can the other ladies, when they have done their time?”

In NSW there is no express legislation that prohibits employers from discriminating against a person because of their [criminal record](#). Such legislation has been introduced in Northern Territory and Tasmania, where discrimination is prohibited on the basis of ‘irrelevant’ criminal record.

In NSW, organisations such as [Dressed for Success](#) and [Thread Together](#) (who fight fashion waste by redistributing clothes) have provided free professional clothing and assistance in finding jobs for women who have left prison and sought assistance through WJN.

Vicki feels strongly that she should not be doubly punished for her crime. She is now committed to assisting women in the Central Coast to leave the justice system without stigma or discrimination so that they can build a new future. Introducing anti-discrimination protection is a crucial step to facilitate that future.

*“The most important part is that we will give women support, hope and a voice so they know that even though we are not in our greens, we are still here for them.”*

## ***Diversion and justice reinvestment***

Instead of investing in carceral responses, a key focus of WJN is upon diverting young people from the criminal legal system and using their life experiences and skills to support the next generation of youth. Jess believes that early intervention and access to relevant and affordable services is essential.

“By not labelling young people as ‘problem children’ but rather concentrating on the root cause of an individual’s behaviour, and creating hope for a better future, we can create opportunities for young people to live and thrive, not just survive.”

Rather than seeing prisons and punishment as individual fixes for what are essentially system problems (Angela Davis reminds us, incarceration is [not a solution to unemployment](#) or other social problems), this approach invests in women with lived experience to lead the response. This kind of peer-led policy and program design is integral to creating meaningful change.

*“What helped me was having somebody that believed in me. I couldn’t read or write, I didn’t think I could get a job. All I could hope for was minimum wage/Centrelink and a housing commission house. Without my friend, I would have ended up in jail or dead.” – Jess*

With a Bachelor of Psychology and a Masters in Social Work, Jess says “The driving force behind my decision to study was that I wanted to be the person I wish I had when I was younger. In my experience, the majority of the caseworkers, youth workers, counsellors and other service providers I was assigned

to come from a place of privilege (or my perception of privilege); wealthy, stable families, higher socioeconomic status and university educated. I found it hard to relate to them. They may understand theoretically but they lacked real-world lived experience.”

With NSW prisons currently at capacity, mentoring is both a cost-effective solution (estimated at \$12/day compared to the [\\$172.80 per day it costs](#) to incarcerate a person in NSW) and a more successful one: the mentoring program has [reduced recidivism by 93%](#) among those who completed it. Unlike prison, it works.

## ***Beyond prisons***

Ally, Chloe, Frances, Vicki, Jess, and Kaz are joining heightening calls for Australia to [“radically re-think” it’s prisons.](#)

Since the 1980s and 1990s, feminist movements against carceral violence have sought different solutions to inequality that [“traversed the prison walls.”](#) Academics, advocates and activists have demonstrated that [prisons don’t work](#), that they are a [tool of colonisation](#), and that they should [be abolished](#).

While the NSW Government has recently spent \$3.8billion on two new ‘rapid-built’ prisons, those who have experienced the pain of the prison system are calling for justice reinvestment – to divert the money spent on prisons into early intervention and diversion, into reintegration, shelters and refuges, counselling, accommodation, peer-support, programs and training – in short, to [build communities, not prisons.](#)

The COVID-19 pandemic is a stark reminder to us to look at how we treat our most marginalised people. The lives of Ally, Chloe, Fran, Vicki, Kaz and Jess would no doubt have been different, had they been able to access basic social services and structural supports. But their stories are ones of survival, strength and resilience. It’s time we listened. It’s time our governments trusted women in prison to lead the response.

*The Women’s Justice Network is fundraising and support to save their programs that have been impacted by COVID-19 – Central Coast Adult Mentoring Program, Healing from Within and Youth Mentoring Program. You can donate [here](#).*