



TOP END WOMEN'S LEGAL SERVICE INC.

FREE LEGAL ADVICE FOR WOMEN

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The Commissioners
Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

Submission via website

Dear Commissioners

Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (*Disability Royal Commission*)

In May 2020 TEWLS had the opportunity to meet with representatives of the Disability Royal Commission (*the Commission*), following which an initial submission was made to the Commission on 17 July 2020. We enclose our submission of 17 July 2020 for your reference.

The Top End Women's Legal Service (*TEWLS*) welcomes the opportunity to make this further submission to the Commission, with a particular focus on the experience of women incarcerated at the Darwin Correctional Centre (*DCC*).

About TEWLS

TEWLS is a community legal centre focussed on the advancement of women's rights. We provide legal advice, information, casework services, representation, legal education and advocacy to women living in the Greater Darwin region. Our work is high quality, responsive, culturally appropriate, and free to all women.

TEWLS' service area and targeted outreach services include:

- Darwin;
- Palmerston;
- Darwin's four women's shelters, for women and children escaping domestic and family violence (*DFV*), as well as homelessness;
- Six Indigenous communities in the Greater Darwin region; and
- the DCC.

TEWLS is the only service to provide face-to-face civil and family law legal assistance to women incarcerated at DCC.

We provide legal assistance in the areas of civil and family law, with the most frequently requested areas of assistance being family law, DFV, housing and tenancy, consumer law, credit and debt, fines, sexual assault, discrimination, compensation for victims of crime, and complaints.

The vision of our service is to foster a community in which all women enjoy and are entitled to legal and social justice. TEWLS continues to advocate for holistic, culturally safe and specialist responses, and in particular responses that aim to redress inequalities experienced by women.

Our Submission

In line with the broad scope of the Disability Royal Commission, this further submission will focus on the experience of women incarcerated at DCC, specifically in the context of complex and multifaceted trauma symptomology and foundations experienced by women at DCC, and the need for specialist, external services to address this need.

A. Introduction

TEWLS' holistic service provision, premised on best practice linked-up, multidisciplinary connectivity, where counselling and related support services are cognisant and inclusive of DFV, advocates for services to be made available for women incarcerated at DCC to reduce recidivism and improve post-incarceration pathways.

Our submission reflects a strong evidence base indicating that a significant majority of women incarcerated have DFV indicators, which can serve as a foundational basis and establish vulnerabilities for a broad range of subsequent harmful addictive behaviours and incarceration.

B. Background – the NT context

In the last decade, the number of women in NT prisons has more than doubled,¹ with Aboriginal women significantly overrepresented.² Aboriginal women account for 82 per cent of the NT women's prison population,³ yet make up only 15 per cent of the NT female population.⁴ As at December 2020 there are 94 women incarcerated in the Northern Territory, of which 77 are Aboriginal and Torres Strait Islander women and 18 are non-indigenous women.⁵

Incarcerated women are some of the most marginalised, vulnerable persons in Australia. Many incarcerated women have histories of poverty, housing insecurity, unemployment, poor education, poor health and, significantly, violence and abuse.⁶ Approximately 90 per cent of women incarcerated in Australia are survivors of physical, sexual or emotional violence in either childhood or adulthood and the majority have experienced multiple forms of violence.⁷

¹ ABS, *Corrective Services* (Catalogue No 45120, Time Series June Qtr 2007 to December Qtr 2020, December 2020).

² ABS, *Prisoners in Australia* (Catalogue No 45170, December 2020).

³ ABS (n 2).

⁴ ABS, *Estimates of Aboriginal and Torres Strait Islander Australians* (Catalogue No. 3238.0.55.001, August 2018).

⁵ ABS (n 2).

⁶ Debbie Kilroy, 'Women in Prison in Australia' (Paper presented at the National Judicial College of Australia Conference, Australian National University, 6-7 February 2016) < <https://njca.com.au/wp-content/uploads/2017/12/Kilroy-Debbie-Women-in-Prison-in-Australia-paper.pdf>>.

⁷ H. Johnson, 'Drugs and Crime: A Study of Incarcerated Female Offenders' (2004) *Australian*

There is currently no mental health or specialist DFV counselling services available for the women in Sector 4 of the DCC.

Consecutive reports and inquiries have recognised the high prevalence of trauma among women in prison and called for counselling to be made available.⁸ Yet, despite this longstanding recognition and persistent advocacy, women prisoners remain underserved and the excuses of 'insufficient numbers of women' and 'resource constraints' continue to be employed.⁹

Women prisoners need culturally-informed mental health services to address complex trauma. Without these tailored services, they continue to be at increased risk of 'self-medicating, substance abuse, unemployment, mental illness and family breakdown',¹⁰ leading in turn to offending and re-offending.

C. LHC DCC Project and Data Collected

In the period 2019-2020 TEWLS conducted Legal Health Checks with women incarcerated at DCC (**LHC DCC Project**). A Legal Health Check (**LHC**) is a legal screening tool adapted by TEWLS to 'diagnose' the precursors to incarceration and to identify the multiple legal needs of women incarcerated in Darwin.

The final report, released in August 2020, is titled "Women Incarcerated at Darwin Correctional Centre – Advocating for and Shining a Light on Women Ordinarily Invisible at a Policy, Systems and Structural Level" (**LHC DCC Report**). The report is **enclosed** for your reference.

Final data from the LHC DCC Report reveals the following telling statistics:

- 76% of women identified as Aboriginal and/or Torres Strait Islander
- 76% of women had experienced DFV either as a child or an adult
- 66% of women had been incarcerated at least once before
- 76% of women had received an injury from a violent act
- 74% of women had issues with alcohol and/or other drugs
- 53% of women who chose to answer had a pre-existing mental health condition
- 78% of women were mothers, and 30% had prior involvement with Child Welfare authorities
- 63% of those women who had experienced DFV said they would talk to a specialist counsellor if one was available

The significant take-away from the LHC DCC Report, and the 'number 1 ask' from women in DCC who participated in the LHC DCC Project, is this:

Institute of Criminology 27 cited in Ombudsman (NT), *Women in Prison - Complaints from Women Prisoners at Darwin Correctional Centre*, Investigation Report (2008) 140.

⁸ See e.g. Australian Law Reform Commission (ALRC), *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017); Ombudsman (n 7); Kilroy (n 6).

⁹ Ombudsman (n 7).

¹⁰ Silke Meyer, 'Women in Prison: Histories of Trauma and Abuse Highlight the Need for Specialised Care', *SBS News* (online), 2 December 2016 < <https://www.sbs.com.au/news/women-in-prison-histories-of-trauma-and-abuse-highlight-the-need-for-specialised-care>>.

There is an immediate and urgent need for specialist domestic and family violence counselling and therapeutic casework to meet the needs of the women incarcerated in DCC, and to reduce recidivism in the Top End.

The Productivity Commission's Mental Health Inquiry Report, released publicly on 16 November 2020, highlights that 65% of women in prison report having a previous diagnosis of mental illness,¹¹ being a much higher proportion than that of the general population at 22%.¹² At DCC, the figure from the snapshot of LHC Project Participants stands at 53%. This paints a clear picture of the level of service provision required to adequately service the cohort.

D. Case Examples

We include below two recent anonymised client stories which demonstrate the shortfalls in the provision of mental health services to women at the DCC. The stories also reflect the extent to which women at DCC have experienced significant DFV and are now experiencing the associated trauma which has flowed from past events.

Case Example 1

Pippa is an Aboriginal woman incarcerated for offences committed whilst intoxicated. TEWLS has assisted Pippa over many years, where Pippa cycles in and out of incarceration. Relevantly, Pippa is a long-term victim of domestic and family violence, where the perpetrator will often search for Pippa in the long grass to recommence the cycle of their relationship.*

Whilst over the years Pippa has identified the want to see a domestic and family violence counsellor - often giving instructions that the violence with her ex-partner makes her feel "no good" and "low" and is often the cause for her drinking - TEWLS has been unable to facilitate this holistic servicing. Recently, upon re-entering incarceration after a six-month break, Pippa gave instructions that her ex-partner had sexually assaulted her. Whilst assisting Pippa to make relevant reports to Police and updating her civil matters with these instructions, TEWLS were finally able to connect Pippa with counselling (sexual assault counselling).

Case Example 2

Shalayne was incarcerated at DCC when she asked TEWLS for help with a domestic violence order. In providing that assistance, TEWLS also addressed issues relating to consumer contracts, court fines, and debt matters.*

Shalayne disclosed 'historical' sexual assaults for the first time during legal appointments and a victim of crime compensation application was lodged. TEWLS facilitated an external specialist NGO sexual assault counselling service to attend Shalayne and other women incarcerated in Darwin. Prior to this, incarcerated women had no access to sexual assault

¹¹ Productivity Commission, "Mental Health Inquiry Report" (2020), at page 1016, citing the AIHW, "The Health of Australia's Prisoners" (2018), Cat. no. PHE 246, Canberra.

¹² Productivity Commission, "Mental Health Inquiry Report" (2020), at page 1016, citing the AIHW, "Mental Health Services - in Brief" (2018), Cat. no. HSE 211, Canberra.

counselling at the prison.

Although Shalayne could be referred to the external specialist sexual assault counselling service, there is currently no specialised service available to Shalayne within DCC to address the trauma associated with years of domestic and family violence she experienced.

In contrast to the lack of mental health services available to our clients, TEWLS' experience is that each of the above client experiences would have been different had they presented with similar issues outside of DCC. It is our view that the presentations would have been met with the timely provision of mental health services, including holistic health services for immediate and ongoing DFV-related mental health support.

E. What does this mean and where to from here?

There is currently no external, specialist service providing domestic violence counselling to the 76% of women in the DCC who experienced DFV as a child or adult, and we submit this needs to change as a matter of priority.

In the Northern Territory, there are two government funded health services that provide medical assistance to incarcerated clients at the DCC:

1. The Prison Health Service provides medical assistance; and
2. The Forensic Mental Health Service provides at-risk assessments and temporary case management of persons who enter DCC mentally unwell.

Private providers and primary health services may also provide specialist mental health services to prisoners in the Northern Territory, an example being TEWLS' work to facilitate the introduction of NGO sexual assault counselling service, Ruby Gaea to the DCC in 2016, to provide services to incarcerated women who experienced high levels of sexual assault and associated traumas.

The complex matrix of women's addiction behaviours equally requires and deserves a strategy of holistic and comprehensive linked-up service provision. Whilst we understand that the DCC supports and would welcome a visiting external specialist DFV counsellor, this is not currently available to women who are incarcerated within the DCC due to resource restraints.

An essential component of specialist DFV counselling is independence. It is vital that any specialist providing these services is external to the DCC and independent of the DCC and respective Departments. This is necessary to ensure a robust, best-practise, therapeutic framework that permits connectivity and the ability to move forward post-release.

TEWLS perceives the provision of heightened services as an innovative and new opportunity that may be effective in the NT context to showcase results with a small group of women incarcerated in the DCC.

Conclusion

The current specialist DFV counselling gap at the DCC is a lost opportunity. In not providing holistic, wrap-around servicing, women are unable to address their own trauma and health. This means that

upon return to the community, these women are unable to break out of their own cycle of detention. Holistic servicing, including culturally safe and appropriate mental health services, is a critical step in breaking the cycle of recidivism.

We appreciate the opportunity to make this further submission to highlight need and to support the ongoing development for women incarcerated in the Top End of the Northern Territory, and nationally.

We thank you for consideration of this submission. We would be pleased to be contacted by phone on (08) 8982 3000 or email to admin@tewls.org.au should you wish to discuss this submission further.

Yours faithfully,

TOP END WOMEN'S LEGAL SERVICE



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