



Sisters Inside Inc

Submission to Closing the Gap refresh (30 April 2018)

This submission has been prepared in response to the Closing the Gap refresh Discussion Paper. It outlines the commitments that Sisters Inside considers should be incorporated in a 'refreshed' Closing the Gap agenda to address over-imprisonment and end the removal of Aboriginal and Torres Strait Islander children from their families and communities. These issues require urgent attention and action at the national level.

About Sisters Inside

Established in 1992, Sisters Inside is an independent community organisation that advocates for the collective human rights of women and girls in prison, and their families, and works alongside criminalised women and girls to address their immediate individual needs.

Our work is guided by our *Values and Vision*. We believe prisons are an irrational response to social problems that serve to further alienate socially marginalised groups in our communities, especially Aboriginal and Torres Strait Islander people. We advocate for *decarceration* strategies to reduce the number of people in prison.

Sisters Inside acknowledges the ongoing effects of colonisation, which are clearly visible in the prison system and other systems of social control. We actively work towards self-determination of Aboriginal and Torres Strait Islander people through our programs and services, and advocacy.

Targets to address over-imprisonment

In the 10 years since the Closing the Gap campaign was initiated, the number of Aboriginal and Torres Strait Islander women in prison has exploded from 569 women to 1,106 women nationallyⁱ. Aboriginal and Torres Strait Islander women are 20 times as likely to be in prison than non-Indigenous womenⁱⁱ. The number and rate of Aboriginal and Torres Strait Islander children in youth prisons has also risen and, notably in Queensland, the number of girls in youth prisonsⁱⁱⁱ. Almost all of the young women in Queensland's youth prisons are Aboriginal and/or Torres Strait Islander.

The over-imprisonment of Aboriginal and Torres Strait Islander people is the ongoing legacy of colonisation, dispossession from country, child removal policies and intergenerational trauma. Entrenched poverty, homelessness, experiences of institutional and personal violence, and related mental health concerns, substance misuse and disability contribute to over-imprisonment^{iv}. Prison is itself 'criminogenic'; approximately 74% of Aboriginal and Torres Strait Islander women in prison in Queensland in 2017 had a prior experience of imprisonment, clearly demonstrating the failure of prisons and the criminal law system^v.

Relying on prisons to address social and economic problems arising from colonisation is a deliberate policy choice that undermines the health and wellbeing of Aboriginal and Torres Strait Islander people and communities. Prisons do not make any of us safer.

In the 2017 report from her visit to Australia, the *United Nations Special Rapporteur on the rights of indigenous peoples* called for targets in the Closing the Gap strategy to address the 'incarceration crisis'^{vi}. Sisters Inside agrees that national action is required to meaningfully reducing over-imprisonment and ending the use of imprisonment for all children and young people.

We support the following commitments in a refreshed Closing the Gap agenda:

- a national moratorium on the construction or commissioning of new prisons and new cells;
- a national commitment to shut youth prisons, to be achieved through strategies such as:
 - raising the minimum age of criminal responsibility^{vii}; and
 - moving all girls and young women out of youth prisons (a policy commitment made by the Western Australian government in August 2017^{viii});
- a national commitment to end the imprisonment of mothers of dependent children, by implementing alternatives to prison that allow women to remain with their children in the community; and
- a national commitment to end the drivers of over-imprisonment for Aboriginal and Torres Strait Islander women and children, especially poverty, homelessness and involvement in the child protection system.

Targets to end the removal of Aboriginal and Torres Strait Islander children from their families and communities

Aboriginal and Torres Strait Islander children are over 10 times more likely to be in out-of-home care than non-Indigenous childrenⁱ. Additionally, in 2016-17, Aboriginal and Torres Strait Islander children were approximately 4.6 times more likely to be subject to a care and protection order than 20 years ago^x. No doubt the increase in the numbers of Aboriginal and Torres Strait Islander women in prison has contributed, in part, to the rise rate of Aboriginal and Torres Strait Islander children in out-of-home care.

The removal of children from their families is deeply traumatic; for many Aboriginal and Torres Strait Islander people, the current child protection system understandably represents a continuation of early colonial policies of forced removals of children^{xi}. Once children are removed from their families and communities, they are at risk of being criminalised, especially in residential care institutions. There is evidence that girls in out-of-home care are more likely to be criminalised and pipelined into youth prisons^{xii}. Often, children face situations of harm after they are removed from their parents and families, either in foster care placements, residential care or youth prisons.

We support the following commitments in a refreshed Closing the Gap agenda to address the out-of-home care crisis for Aboriginal and Torres Strait Islander families:

- a national commitment to engage with Aboriginal and Torres Strait Islander advocacy groups and communities to make legislative and policy changes that ensure the best interests of Aboriginal and Torres Strait Islander children are met in all decisions involving child protection authorities (e.g. NSW Guiding principles for strengthening participation of local Aboriginal community in child protection decision making, developed by Grandmothers Against Removals NSW in partnership with the NSW Government^{xiii});
- a national commitment to end the use of residential care for all children;
- national reporting on the number of newborn children removed from the care of their parents, including specific data on child removals from mothers in prison or subject to criminal law supervision; and
- a national commitment to end the removal of children from their parents at birth, instead putting in place alternative, community-controlled services that support attachment and security.

ⁱ Based on ABS, *4517.0 Prisoners in Australia* data from 2008 and 2017.

ⁱⁱ ABS, *4517.0 Prisoners in Australia, 2017* (Released: 8 December 2017), table 21.

ⁱⁱⁱ See Sisters Inside, Submission to Independent Review of Youth Detention (October 2016), Appendix.

^{iv} See further, Sisters Inside, Letter submission to Australian Law Reform Commission Inquiry into incarceration rates of Aboriginal and Torres Strait Islander peoples (8 November 2017).

^v ABS, *4517.0 Prisoners in Australia, 2017* (Released: 8 December 2017), tables 29 and 30.

^{vi} *Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Australia*, UNHRC, 36th session, agenda item 3, UN Doc A/HRC/36/46/Add.2 (8 August 2017), [86].

^{vii} The Royal Commission into the Protection and Detention of Children in the Northern Territory recommended that the Northern Territory government raise the age of criminal responsibility to 12 years and further limit the ability for children under 14 years old to be sentenced to detention: Royal Commission into the Protection and Detention of Children in the Northern Territory, *Final Report* (November 2017), recommendation 27.1. The Independent Review of Youth Detention in Queensland also considered that raising the minimum age of criminal responsibility to 12 years would serve a number of useful ends: Independent Review of Youth Detention, Confidential Report (December 2016), p 171.

^{viii} Gary Adshead, 'Girl criminals to be moved to houses outside prison', *The West Australian (online)*, 7 August 2017. Available at: <https://thewest.com.au/news/crime/girl-criminals-to-be-moved-to-houses-outside-prison-ng-b88559374z>.

^{ix} Steering Committee for the Review of Government Service Provision, *Report on Government Services 2018*, table 16A.2.

^x Based on a comparison of *Report on Government Services* data from 1998 report and 2018 report, regarding rate of children on care and protection orders.

^{xi} See, e.g. Amy McQuire, 'Saving the children' are the three most dangerous words uttered by white people', *The Guardian (online)*, 14 March 2018. Available at: <https://www.theguardian.com/commentisfree/2018/mar/14/saving-the-children-are-the-three-most-dangerous-words-uttered-by-white-people>.

^{xii} Royal Commission into the Protection and Detention of Children in the Northern Territory, *Final Report* (November 2017), chapter 35, p 9.

^{xiii} NSW Family and Community Services, 'The Guiding Principles'. Available at: <https://www.facs.nsw.gov.au/about/reforms/aboriginal-outcomes/guiding-principles>.