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### **Call for input current issues and good practice in prison management**

Feminist Legal Clinic Inc. is a community legal service based in Sydney and established to advance the human rights of women and girls. We are also the Australian country contact for Women's Declaration International.

We have limited time to make this submission and will focus only on a couple of areas of significant concern.

#### ***Overincarceration of Women***

The imprisonment rate for Australian women, particularly indigenous women, has been rising disproportionately for over a decade.<sup>1</sup> Research indicates that this reflects a change in attitude of the police and judiciary to one that espouses 'equality with a vengeance', rather than an actual increase in the number of crimes committed by females.

Many of the women in custody are unsentenced prisoners on remand, frequently in relation to minor charges. Some may well turn out to have been falsely accused, as in the case of Kathleen Folbigg.<sup>2</sup> Folbigg was recently released after serving over 20 years and being unfairly labelled as Australia's worst female serial killer in a devastating miscarriage of justice.

There are indications that many women are being unfairly charged following false allegations by their male partners. In Queensland, research has found that almost half

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<sup>1</sup> <https://www.pc.gov.au/research/completed/prison-dilemma/prison-dilemma.pdf>  
<http://classic.austlii.edu.au/au/journals/PrecedentAULA/2018/43.html>

<sup>2</sup> <https://theconversation.com/kathleen-folbigg-is-free-but-people-pardoned-and-exonerated-of-crimes-face-unique-challenges-when-released-from-prison-207017>

the women murdered by an intimate partner had previously been labelled by police as the perpetrator of domestic violence.<sup>3</sup> Mistaking family violence victims as perpetrators is a trend found throughout Australia.<sup>4</sup> As a solicitor engaged by Legal Aid to represent women who are victims of domestic violence, I have seen countless examples of this, including cases where women have been falsely imprisoned.

Unfair deprivation of liberty already inflicts mental suffering, but this is exacerbated for women where it also involves forcible separation from the children in their care. The separation of a mother from her baby or child is surely one of the most cruel and inhumane punishments for both the mother and her innocent offspring. However, in our experience, a woman's caregiving responsibilities are given very little consideration by the judiciary when determining bail or sentencing.

We ask that you recommend against any imprisonment of women with caregiving responsibilities when they are facing relatively minor or non-violent charges or are yet to have been found guilty.

### ***Unsafe conditions within Women's Prisons***

The conditions in Australian prisons are degrading and expose female prisoners, who typically have a history of trauma, to brutalising treatment and leave them vulnerable to further male violence. A NSW prison officer has just been gaoled on 27 charges of sexually assaulting female detainees at Dillwynia correctional centre.<sup>5</sup> Despite these assaults, security cameras have still not been installed to guard against future abuses.

We ask that you recommend that only female staff are employed in women's correctional centres, in recognition of the vulnerability of women in detention to male sexual violence.

Male prison officers are not the only potential source of harm for female inmates. Extreme gender identity ideology is the most recent threat to the safety of women in Australian correctional centres. Male criminals who identify as trans women, including some who are violent sexual offenders, are now being increasingly accommodated in Australian women's prisons.<sup>6</sup> Additionally, female prison officers are being coerced into strip searching these men who claim to be women but who often retain intact male genitalia.

Campaigns against housing male predators in Australian women's gaols have, to date, fallen on deaf ears.<sup>7</sup> Reports of sexual assaults and other crimes by men identifying

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<sup>3</sup> [https://www.theguardian.com/australia-news/2021/may/03/women-murdered-by-husbands-labelled-perpetrators-of-domestic-violence-by-queensland-police?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/australia-news/2021/may/03/women-murdered-by-husbands-labelled-perpetrators-of-domestic-violence-by-queensland-police?CMP=Share_iOSApp_Other)

<sup>4</sup> <https://www.abc.net.au/news/2023-11-19/tasmania-police-misidentifying-family-violence-victims-abusers/103102134>  
<https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268>

<sup>5</sup> <https://www.theguardian.com/australia-news/2023/oct/06/wayne-gregory-astill-inquiry-womens-prison-cameras-sexual-assault>

<sup>6</sup> [https://www.womensforaustralia.org/men\\_in\\_womens\\_prisons\\_is\\_a\\_human\\_rights\\_violation](https://www.womensforaustralia.org/men_in_womens_prisons_is_a_human_rights_violation)  
<https://feministlegal.org/fighting-for-the-rights-of-our-vulnerable-sisters-in-prison-jessica-williams/>

<sup>7</sup> [https://www.womensforaustralia.org/petition\\_2208\\_prison](https://www.womensforaustralia.org/petition_2208_prison)

as trans women are largely suppressed in local mainstream media with the result that the outrage is confined to a small number of well-informed feminists. Meanwhile the broader community continues in the false belief that 'this never happens'.<sup>8</sup>

Australia has already seen the deleterious effect of placing males in women's gaols. In the late 1990s a convicted killer, Noel Crompton 'Maddison' Hall was accused of rape and assault against women prisoners. Hall was also HIV positive at the time and at least one woman is alleged to have become pregnant from his attacks.<sup>9</sup> Since then there have been further documented instances of violent and sexually predatory criminals choosing to identify as women and seeking to be accommodated in correctional centres for females.<sup>10</sup>

We ask that you strongly recommend against any continuation of policies or laws that enable males who identify as women to be accommodated in women's prisons as this potentially subjects the women detained in these facilities to additional cruel, inhumane and degrading punishment.

We hope this information is of some use and we look forward to hearing from you if there is any item on which you would like us to expand.



Anna Kerr  
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Feminist Legal Clinic Inc.  
*Organization in Special Consultative Status with the Economic and Social Council (ECOSOC) since 2023.*

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[https://www.womensforaustralia.org/campaign\\_to\\_remove\\_male\\_sex\\_offender\\_from\\_women\\_s\\_prison\\_heats\\_up](https://www.womensforaustralia.org/campaign_to_remove_male_sex_offender_from_women_s_prison_heats_up)

<sup>8</sup> <https://www.facebook.com/groups/1722756661380462/>

<sup>9</sup> <https://www.smh.com.au/national/did-hall-get-fellow-prisoner-pregnant-20060922-gdofw2.html>

<sup>10</sup> <https://www.womenarehuman.com/transgender-serial-killer-who-hates-women-will-soon-be-eligible-for-parole/>  
<https://www.news.com.au/national/courts-law/7eleven-axe-attacker-evie-amati-involved-in-jail-fight/news-story/c7315afcb7805e6ec520cf7575fbf4a0>