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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

16 April 2018

Taskforce Flaxton
Crime and Corruption Commission
GPO Box 3123
Brisbane QLD 4001

By email only: TaskforceFlaxton@ccc.qld.gov.au

Dear Mr MacSporran

Submission to Taskforce Flaxton

Thank you for the invitation to make a written submission to the Crime and Corruption Commission Taskforce Flaxton, in relation to corruption risks in Queensland prisons.

About Sisters Inside and this submission

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. We also believe that prisons are inherently criminogenic and violent institutions.

The unaccountable exercise of power within prisons both fosters corrupt conduct *and* makes it difficult to identify at all. There are also significant, systemic barriers to reporting corrupt conduct, including the potential for retribution, with impunity, by officers and lack of action in response to complaints. Systemic reforms must focus on greater transparency and accountability for decision-making by corrective services officers and prison management. However, we also note that prisons have remained unresponsive to well-intended administrative reforms and we urge a broader focus on decarceration to reduce the rising numbers of women in prison across Queensland.

We note Brisbane Women's Correctional Centre is the most overcrowded prison in Queensland. Corruption risks are exacerbated by overcrowding, which is itself a symptom of social reliance on imprisonment to address social or health problems such as homelessness, substance use, domestic and family violence, and mental illness.

In this brief submission, we identify several suggested areas of focus for Taskforce Flaxton's investigation based on our direct experience supporting women in prison in Queensland. We understand many of these issues may also be relevant to men in prison.

Disciplinary processes

Chapter 3 of the *Corrective Services Act 2006* (Qld) (the **Act**) sets out the process for internal breaches of discipline by prisoners, as well as several offences specific to prisoners. The current breach/charging process, as well as corrective services officers' exercise of their authority in responding to incidents, raises corruption risks. This is predominantly due to lack of routine, independent scrutiny of breach decisions and individual prison records (e.g. to review solitary confinement decisions).

In 2009, the Queensland Ombudsman investigated a sample of minor and major breach proceedings at three prisons, including Brisbane Women's Correctional Centreⁱ. That investigation found serious deficiencies in internal breach processes and practices. Notably, the Ombudsman formed the opinion that, in a significant number of cases, conduct constituting a minor breach was dealt with as a major breach, and punishment was routinely imposed without internal processes having been followed. The Ombudsman also found significant inconsistencies in penalties imposed for similar types of breaches and a failure to particularise the alleged breach.

In our experience, the breach of discipline process remains unfair and unaccountable for women in prison. Women report routinely losing privileges (e.g. visits, phone calls) and/or being punished by solitary confinement, in circumstances where it is not clear whether the alleged breach is made out or whether a hearing has taken place.

We have also observed higher rates of women being charged with assaults on corrective services officers (generally charged as 'serious assault' by virtue of the officer's position, not necessarily the seriousness of any incident or injury). In our experience, these charges may be brought against women already in solitary confinement and/or close to their parole eligibility or parole release dates. It is disturbing that women are further criminalised in prison, with the practical effect that the most marginalised women with significant and complex needs will never be released.

We also note the separate sanction process in place relating to women identified to have misused substances in prison (e.g. through urine testing). Women report arbitrary use of this sanction process, including lack of certainty regarding the results and arbitrary requirements before the level of sanction will be downgraded by the prison.

Misuse of disciplinary processes by corrective services officers may impact on a woman's ability to successfully apply for parole. Women are ill-equipped to respond to concerns raised by the Parole Board in circumstances where they do not have guaranteed access to their records and/or where no formal breach proceedings or other disciplinary processes were initiated (e.g. presumptive positive urine test).

Routine 'practices' with potential for abuse

Solitary confinement

Solitary confinement (referred to as 'separate confinement' in the Act) is known to have severe and harmful effects on people, especially in cases where isolation is involuntary, prolonged and/or the person has a mental illness, disability or other personal vulnerabilitiesⁱⁱ. Solitary confinement, and its use or potential use, is a corruption risk.

In addition to use of solitary confinement as explicit punishment (i.e. for actual or alleged disciplinary breaches), it is routinely used to 'manage' women in prison who are unwell or otherwise deemed 'uncontrollable' or 'difficult' by corrective services officers through the use of 'safety orders'. The overlapping use of solitary confinement for discipline and mental health management is a significant issue.

Part 2, Division 5 of the Act sets out a largely unaccountable process for making safety orders. Women on safety orders may have their access to privileges limited. It is not uncommon for women to be placed on rolling safety orders.

A recent report by Human Rights Watch, which investigated the treatment of people in prison with disabilities in Queensland and Western Australia, foundⁱⁱⁱ:

Women can be particularly affected [by solitary confinement]. A nurse at a women's prison said: "*Women with disabilities are overrepresented in punishment [detention] units. Some of the girls with mental health problems get sent "down the back" [punishment units] because they're seen as a management issue.*"

One Aboriginal woman with a psychosocial disability told Human Rights Watch:

It's hard, you have to wait two to three weeks to see a doctor. In the meantime you suffer. You put on weight from the meds and are in turmoil. You end up 'down the back' [to the punitive segregation unit] because of your mental health because you can't see a doctor. It's a cry for help but you get punished and put down the back. It's too long, you deteriorate.

Administrative processes relating to solitary confinement are not readily susceptible to reform; the risks for abuses of power or misuse of solitary confinement are too great.

Sexual assault by the state through strip searching

Sisters Inside considers strip searching to be sexual assault by the state. Like solitary confinement, it is a routine practice which has significantly detrimental effects on women and raises significant risks relating to abuse of power.

Mandatory strip searching is deeply (re)traumatising for criminalised women. Around 89% of women in prison are survivors of sexual assault, including a majority who have experienced child sexual abuse^{iv}. Women are routinely strip searched after visits with their children, family members and friends. Women in the Detention Unit and other specialist units also report high levels of strip searches.

The stated justifications for strip searching include the safety of women in prison and staff, to prevent contraband (especially drugs) entering the prison and as a deterrent for contraband^v.

In 2017, Queensland Corrective Services data indicates that women in Queensland prisons were strip searched 16,258 times^{vi}. 'Contraband' was recorded on less than 200 occasions (i.e. in 0.01% of cases). However, some of the records which indicate items were found, state the following:

19.05.2017	S6	<i>Suspicious behaviour non compliant</i>
20.07.2017	S6	<i>cuts to forearm supervisor advised</i>
28.07.2017	S6	<i>hair clips and non compliant with directions</i>
23.08.2017	S6	<i>New tatoos [sic]</i>
18.04.2018	S1	<i>tatoos [sic] not listed on IOMS</i>
23.11.2017	S1	<i>contraband [sic]</i>

In relation to drugs entering prison, where reception and visits data is separately recorded, almost no contraband is found and none of it is significant. This is consistent with the Victorian Ombudsman's recent findings regarding strip searching at the Dame Phyllis Frost Centre, and the Ombudsman's observation that drugs are clearly entering the prison through other means^{vii}.

A three-year pilot by Corrections Victoria between 2002 and 2005 found that despite (or arguably, because of) a reduction in strip searches (from 21,000 to 14,000 annually), there was a 40% reduction in urine positives and a reduction in the number of 'refusals' to urine tests. Additionally, the same amount of contraband was seized^{viii}.

In our view, strip searching is not justified for any of the expressed reasons, and it has the potential for significant misuse by corrective services officers, even with further administrative reforms.

Use of force and mechanical restraints

Use of force is commonplace in prison. The Human Rights Watch report cites several examples of use of force by corrective services officers against women in prison. For example, a social worker working in a women's prison states^{ix}:

If one of the girls is going through a psychotic episode, guards hold onto [a grudge] and as a result they are brutal. They would use fists, cuffs. They will lock her down for hours and hours and it can be 42 degrees Celsius (107 degrees Fahrenheit). No fan, no air conditioning, no water. They'll

[officers] bruise them [the prisoner]. They will strike them. Some are just on a power trip. They need to dominate.

Further, a psychiatrist working in the prison system states^x:

... if a woman is banging her head or smearing feces on the wall, five or six male staff will come in, hold her down to restrain her, strip her naked, and deprive her from using any bathing facilities. They do this even with women with [a] well-documented history of sexual assault. They justify it as a safety measure but there are times where it happens when it's not about safety. Officers get frustrated or annoyed with the person. But I don't think we should be retraumatizing people and a lot of the time we do.

We are also deeply concerned by anecdotal evidence of women being subject to prolonged periods in mechanical restraints, e.g. spit hoods or the use of shackles on medical visits, including for pregnant women.

The Act does not currently include any specific provisions regulating the use of mechanical restraints or the use of other types of force against people in prison^{xi}.


Administrative processes to request support or access employment

Women in prison are required to submit request forms to access almost all available support or assistance, e.g. assistance through Sisters Inside, non-urgent health care, training or employment. This process creates significant potential for corruption, as corrective services staff can ignore requests or require compliance with arbitrary or improper "rules" or requests before progressing a woman's request.


Women report repeatedly submitting requests to have their names put on the prison list to see Sisters Inside staff but these requests are often not passed on to us. Sisters Inside staff often only become aware of these requests when they opportunistically see women in prison (e.g. in the corridor).

Women also frequently raise issues with timely access to medical care. The arrangements between Queensland Corrective Services and Queensland Health often makes it difficult to determine the reasons for requests not being actioned. Women in prison must have prompt access to independent and high-quality health care. We support greater use of Leaves of Absence to allow women to receive health care from, and build connections with, community-based health providers.

In relation to employment, the matter of David Howard Wright clearly illustrates the power corrective services officers hold over women in prison and the potential for abuses of power. Mr Wright was a former corrective services officer in the kitchen at Brisbane Women's Correctional Centre who was convicted and sentenced to imprisonment for rape and indecent assault of 10 women working in the prison kitchen over a period of at least three years^{xii}. The potential for retribution by officers (with impunity), as well as the lack of "income" or financial resources in prison, puts women in prison employment in situations where they may feel unable to report corrupt or improper conduct.

I confirm that I am available to participate in the public hearing for Taskforce Flaxton in May 2018. Should you have any questions or require further information, please do not hesitate to contact me 

Yours sincerely



Debbie Kilroy
Chief Executive Officer
Sisters Inside Inc

ⁱ Queensland Ombudsman, *Justice on the Inside: A review of Queensland Corrective Services' management of breaches of discipline* (October 2009).

ⁱⁱ See, generally Ti Lamusse, 'Solitary confinement in New Zealand prisons', *Economic and Social Research Aotearoa* (January 2018).

ⁱⁱⁱ Human Rights Watch, *"I needed Help, Instead I Was Punished": Abuse and Neglect of Prisoners with Disabilities in Australia* (2018), 42.

^{iv} Debbie 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.

^v See, e.g. Queensland Ombudsman, *The Strip Searching of Female Prisoners Report: An investigation into the strip search practices at Townsville Women's Correctional Centre* (September 2014), 4; Department of Corrective Services, *Response to the Anti-Discrimination Commission Queensland Women in Prison Report* (March 2006), 10-11.

^{vi} Data disclosed to Sisters Inside under RTI request 180931 (28 February 2018).

^{vii} Victorian Ombudsman, *Implementing OPCAT in Victoria: Report and inspection of the Dame Phyllis Frost Centre*, 59 [419]

^{viii} Jude McCulloch and Amanda George, 'Naked power: Strip searching in women's prisons' in Phil Scraton and Jude McCulloch (eds), *The Violence of Incarceration* (Routledge, 2009) 107, 119.

^{ix} Human Rights Watch, above n iii, 34.

^x *Ibid*, 33.

^{xi} Cf the *Youth Justice Regulation 2016* (Qld), ss 18-20.

^{xii} Mr Wright's actual period of offending is likely to be longer. News coverage reported that he sexually assaulted women over a period of eight years: Tony Keim, 'Prison worker at Wacol's Women's Correctional Centre faces multiple rape charges', *The Courier Mail* (online), 10 August 2013. Available at: <http://www.couriermail.com.au/news/queensland/prison-worker-at-wacol8217s-women8217s-correctional-centre-faces-multiple-rape-charges/news-story/91b3ee49cd9eb6b7cf3cfd73780e8397>.