

# Justice Inquiry into Prison

Carmel Benjamin AM – 24<sup>st</sup> October 2021

This submission is not about prison. It is about the women who have become caught up in the criminal justice system.

Their lives may have been very different to ours, but they belong to our community every bit as much as we do, and we have a responsibility to try to understand their circumstances. Prisoners have been hidden away throughout history. Their story is indeed a bleak one and must be told.

As I write, there are 507 women (and 7,149 men) in prison in Vic. The cost of this in human terms is appalling. They are separated from children; their jobs are lost, as is their accommodation and all meagre possessions of the poor and disadvantaged. The Council of Australian Governments reports that the daily cost per prisoner last year was \$323.45, nearly 17 million dollars --- an enormous burden on the community, and I wonder if it is wisely spent?

Life chances and life choices can change the pathway to the future, and in saying that, I draw attention to the community's responsibility for its citizens. In this instance, the disadvantaged alienated and marginalised women who have been in prison because of bad choices, inadequate parenting, poor education, unemployment, mental, physical and dental health issues, to name a few.

A single mum caught up in the criminal justice system is indeed a very lonely figure. The anguish of separation from her children and the grave difficulties of later re-joining them add a harsh and cruel additional punishment to the term of imprisonment.

This poem was given to me when I was a Prison Visitor to both HM Prison Fairlea and Tarrengower :

### You Were Never There

You were never there to tuck me into bed  
No, you were never there at night when I was scared  
Mummy, where were you when I needed you most  
Mummy tell me why all alone I had to cope

The other kids at school, well they all had a mum  
The other kids, the other kids they all had someone  
I never had a close friend, one to call my own  
Someone just to laugh with - I always cried alone

When I needed bandages there was no one round to care  
No-one to feed me chicken soup when I was in despair  
Mummy when you left me, I might as well have died.  
Mummy when you left me I wonder if you cried.

Then, when I got older the emptiness it grew  
In every room, in every crowd I was trying to find you  
All the endless, empty bars in this great hollow city  
Faceless people on the streets and roads that hold no pity.

Still alone I travelled following the sun  
Each time loneliness came to me I just got up and run  
Mummy did I do something wrong? Tell me was I bad  
To make you give away the little girl you had?

When a woman is taken into custody, she leaves her children behind. When I was working in our courts during the 1970s, I watched in horror as babies were taken out of their mother's arms after she was sentenced to a term of imprisonment and removed from the court with no chance of organising the care of her children. All that the children know is that their mother has deserted them.

So what life chance took me into the world of women in prison?

After training as an Honorary Probation Officer to look after children who would be assigned to my care by the Children's Court, a friend invited me to join the then Prisoners Aid Society to work with the children and the wives of men in custody. Later, after being appointed to the newly formed Prison Advisory Council, I met Dame Phyllis

Frost, who asked me to join the Victorian Women's Prison Council, and for some 30 years, I worked with her and that Council. I also became an Official Prison Visitor to Fairlea then to the Melbourne Metropolitan Correctional Centre, renamed the Dame Phyllis Frost Centre, in November 2000. That same year I established 'woman2woman' to support women during their difficult transition from prison back into the community.

Over recent years, and primarily due to drug abuse, there has been an alarming increase in the female prison populations worldwide. In Victoria, this was made worse by the 2018 increase in our Bail laws which made Remand an option for an expanded list of offences. So now, even when a woman's offending is relatively minor, her chance of being granted bail can be impossibly low. Many women are refused bail because they do not have an address, live in their car, are couch surfing, or cannot return home because of family violence.

The Bail reforms were passed after the brutal murder of Jill Meagher by Adrian Bayley in September 2012, and primarily as a result of those laws, in the past almost ten years the number of women entering the prison on Remand that is unsentenced, has trebled. For Aboriginal and Torres Strait Islander women, the number has increased five-fold.

Like Britain, the USA and Canada, Australia reports that the proportion of women prisoners who have been the victims of child sexual assault and domestic violence is significantly higher than random samples in the community. They also have a substantial level of psychopathology in line with overseas studies of female prison populations. This is especially true of personality disorders, alcohol and drug dependence, depression, disorders of impulse and appetite and deliberate self-harm, as well as high levels of hostility.

Unsurprisingly, the growing research on a 'violence breeds violence' hypothesis suggests that being abused or neglected as a child increases the risk of delinquency and adult criminal behaviour and further abuse as an adult. And through our relatively recent

Royal Commissions into Family Violence and Sexual Abuse, we now know the shocking extent of these problems.

Michele Pathe, a forensic psychiatrist at Swinburne University, said, "In no other area of psychiatry have I been so impressed by the extent of deprivation and disadvantage that characterises this group". The last decade of research on child abuse, spouse abuse, incest and rape, demonstrates the long-lasting effects on adult mental health and the social skills of female offenders with traumatic backgrounds.

It is no wonder that there are higher self-mutilation and suicides rates among female prisoners than other women in the community.

Sometimes their lives have been damaged by chance, sometimes by a stranger, but most frequently by family members or friends. And tragically, they are further damaged when sentenced to a term of imprisonment.

There is no doubt that in hiding convicted criminals away 'out-of-sight' in prison, we do away with our responsibility for many of the social conditions that perpetuate their circumstances and impact their criminality. There has been an alarming increase in their premature deaths after leaving prison at the end of their sentences. Many women do not have a permanent home. Some women return to violent relationships or 'sleep rough' on a park bench or under a bridge, which of course, puts them at considerable physical risk.

Generally, members of the community lack interest in their welfare.

As prisons fill, there is a temptation to build another one to accommodate more women as they come from the courts. But building new prisons only repeats the problems of the past. The current expansion of the Dame Phyllis Frost Centre at an estimated cost

of \$100 to \$200 will not stop female crime. Instead, I suggest that any such plans in the future give way to a much-needed increase in housing for deprived families so that they can live together with dignity.

Prison is "the greatest power the State wields over its citizens" said Melbourne born and internationally acclaimed academic Norval Morris, Adviser to President John Kennedy and Professor of Law and Criminology at the Chicago University, and it is! It is a power that, once exercised, is extremely difficult and very expensive to challenge, let alone reverse. Being sentenced to a term of imprisonment has a lasting impact on the individuals concerned and the broader community. It is not the answer to their criminal behaviour. Sanctions that are alternatives to custody exist, and in cases of minor offending, a mentoring program that models appropriate behaviour for women with deprived backgrounds is also available.

Criminal conduct is not a lower class monopoly. It exists across society, but the same is not true of the distribution of punishment, which falls overwhelmingly and systematically on the mentally ill, poor and disadvantaged who have little or no access to costly legal representation.

I am not attempting to excuse the anti-social, criminal behaviour that ends in the imprisonment of convicted women. I am reporting on the backgrounds of women I have known, and I want you to understand their circumstances.