



Of women in prison

Little Children [^] are Sacred (too)

The title of this paper refers to the recent report of the *Report of the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse* which was delivered to the Chief Minister of the Northern Territory on 30 April 2007 and released to the public on 15 June 2007. This is not to detract from or diminish the importance of this report, but rather to draw from the important principle underlying the report. That principle is that children's needs are paramount and that the unmet needs of children today become the problems of society tomorrow.

The reason for focusing on the needs of children is that this paper will discuss the importance of children having contact with their mothers who are incarcerated, with particular emphasis on the need for young children to have regular and ongoing contact with their mothers who are in prison in the NT.

Incarceration in the NT

By way of context, the age demographics of the NT population are unique to the Territory. In the 2006 Census release on 27 June 2007, the median age of Territorians was 31 years, the youngest of any jurisdiction and more than six years below the national average of 37 years.

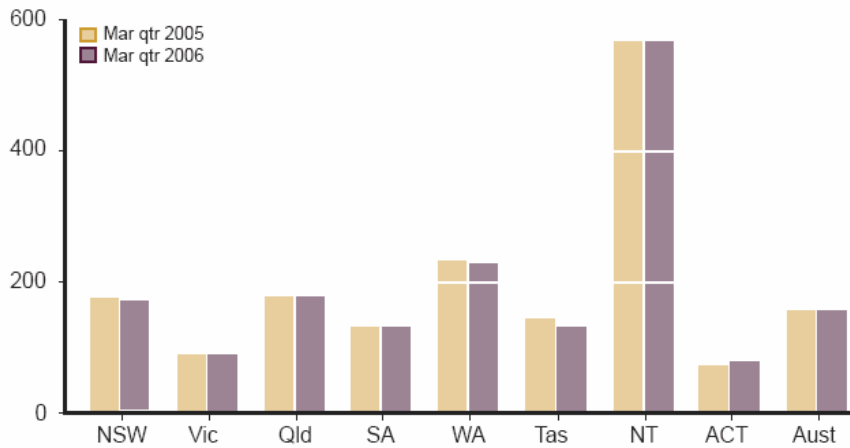
Young people are more likely to be incarcerated. They are also more likely to have young children.

The NT has by far the highest incarceration rate in Australia, at more than 3 times the national average and, if compared to other countries, one of the highest in the world, as the graph below¹ shows.

The Northern Territory imprisonment rate is 570 prisoners per 100,000 adult population, far greater than the two closest jurisdictions, Western Australia (230) and Queensland (180).

¹ 4512.0 - Corrective Services, Australia, Mar 2007
[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/2C494C3A9FBD2C11CA257300001AE022/\\$File/45120_mar%202007.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/2C494C3A9FBD2C11CA257300001AE022/$File/45120_mar%202007.pdf)

Figure 13: average daily imprisonment rate ^(a), by state and territory



(a) Rate per 100,000 adult population

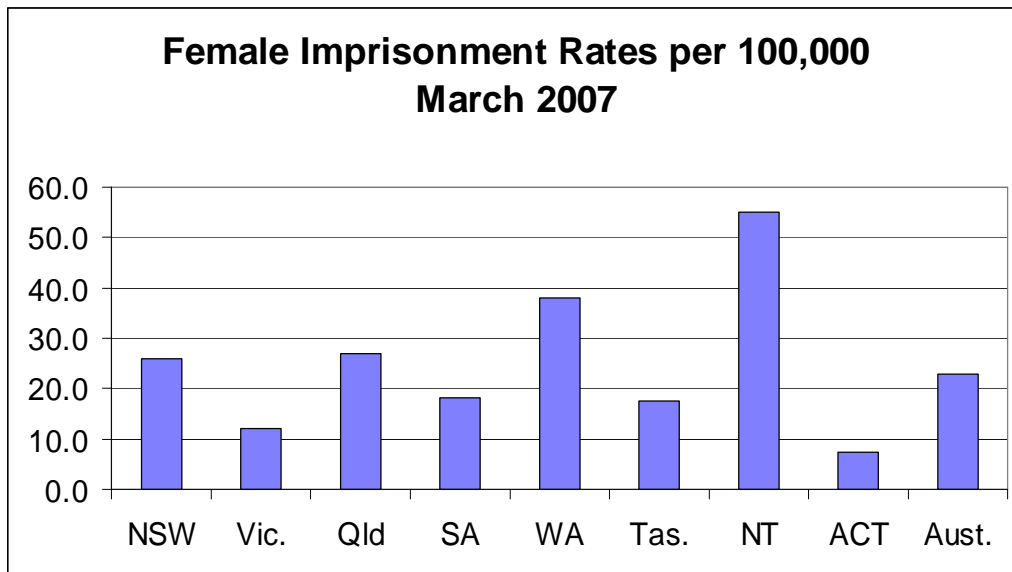
Given the extent of imprisonment in the NT, it is important that people who have contact with the criminal justice system have the ability and opportunity to integrate back into the community and lead positive and productive lives, which may also break the intergenerational offending cycle.

The most recent figures from the NT office of crime prevention state that 82% of the prisoner population is Indigenous.

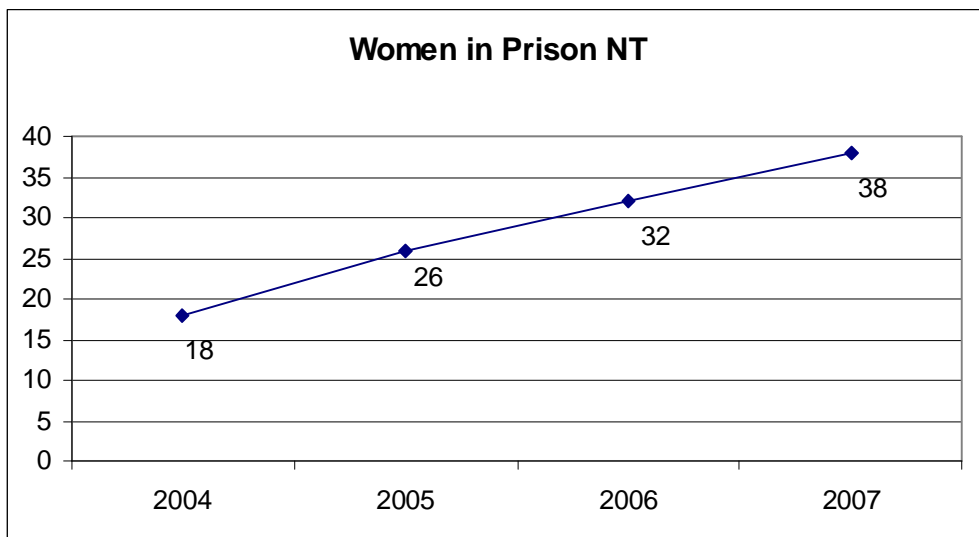
For this reason, a focus on factors specific to Indigenous prisoners and their families is clearly justified and required.

The next 3 graphs have been compiled from the ABS Series 4512.0 - Corrective Services, Australia, March 2007 which were released on 22 June 2007.

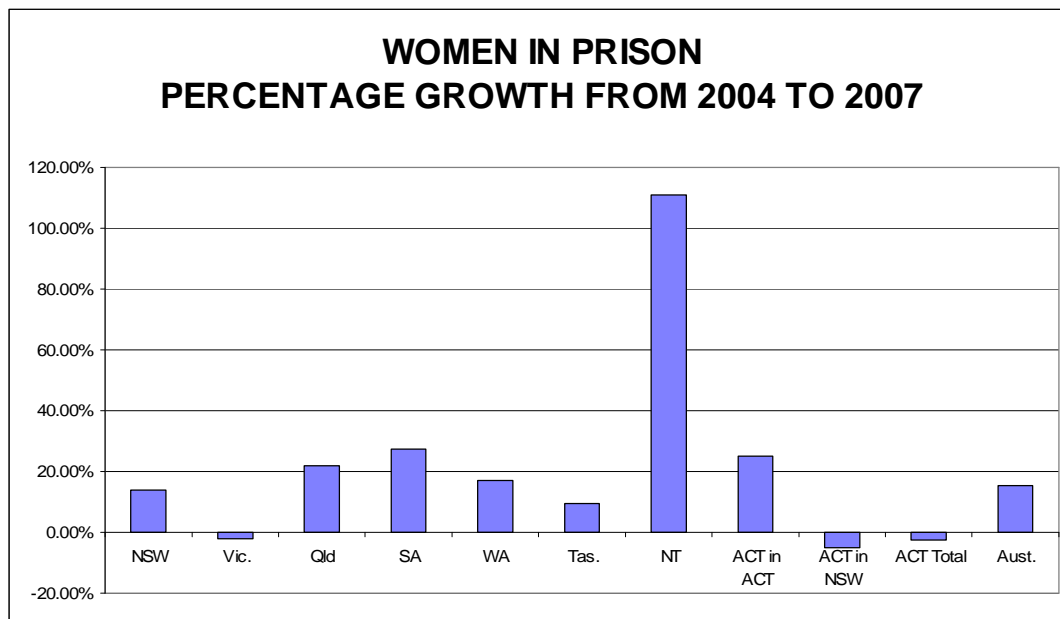
The first graph shows the rate of women in prison per 100,000 of the population. Once again the NT is leading the way with a far greater rate than any other jurisdiction.



The second graph shows the growth in the number of women in NT prisons since 2004. As you can see the increase is steady and steep, with the number of women in prison having more than doubled during this period.



The third graph compares the growth rate of women in prison in the NT with other jurisdictions.



One impact of this growth is that the prison facilities which were constructed for women in Darwin some 30 years ago are well out of date and inadequate in terms of space.

In Alice Springs Correctional Centre, there were no purpose built facilities for women. The current facilities are makeshift, but at least they allow women to be close to their country and family.

Impact on Children of Mothers in Gaol

The UN Convention on the Rights of the Child, to which Australia is a signatory, specifically binds states to decision making processes which give the interests of the child priority. Article 3(1) requires that 'in all actions concerning children, 'the best interests of the child shall be the primary consideration'. Article 9(3) states:

'State parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interest.

It would never be assumed that in all cases the best interests of the child will be served by a child having contact with a parent. However, there will be very few cases when the best interests of the child will be met by limited or little contact between mother and child.

The separation of a child from their parent causes suffering to the child – in some cases the suffering may be greater than the parent in prison. The child is punished for the crimes of the parent.

The impact which a separation from a parent has on a child is well documented:

- Loss of attachment bond to parent (particularly between 6 months and 4 years);
- Physical health problems
- Hostile and aggressive behaviour
- Use of drugs and alcohol
- Truancy
- Disciplinary problems
- Withdrawal
- Fearfulness
- Bedwetting
- Poor school performance
- Excessive crying
- Nightmares
- Problems in relationships with others
- Anxiety and depression

The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families was released by HREOC in 1997, 10 years ago.

That Inquiry found that the past forced separation of Indigenous children from their families and communities has resulted in a loss of parenting skills, as well as a range of other pervasive adverse impacts. These impacts include unresolved grief and loss, depression, violence, behavioural problems and mental illness. These issues also impact on parenting ability and in turn increase the likelihood of the involvement of child protection services.

The arguments in relation to the long term benefits to the community of maintaining strong bonds between the offender and child are the prospects of rehabilitation of the offender.

We know that families play a vital role in maintaining social ties which assist in reintegrating prisoners into the community. Therefore positive ties with family and community are linked to a reduction in re-offending.

Importantly, special programs designed to support mothers in maintaining contact with their children can result in development of strong parenting skills, which may otherwise be absent or lacking.

The need for a more meaningful relationship with children and their imprisoned parent was recognised by the Australian Government in 2003.

The national programme, managed by Good Beginnings Australia Ltd², assisted children and families of prisoners by, for instance, conducting early childhood development training programmes for parents in prison and providing transport for children who want to visit their parents in prison.

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[http://www.crimeprevention.gov.au/agd/www/rwpattach.nsf/viewasattachmentPersonal/\(C99C9C662AE008709B6A1B06BCF8E5CF\)-Risdon+Evaluation.pdf/\\$file/Risdon+Evaluation.pdf](http://www.crimeprevention.gov.au/agd/www/rwpattach.nsf/viewasattachmentPersonal/(C99C9C662AE008709B6A1B06BCF8E5CF)-Risdon+Evaluation.pdf/$file/Risdon+Evaluation.pdf)

This program recognised that for those who are incarcerated, reuniting with their families, and bonding with their children, can be their greatest hope. A successful reunion can also reduce the likelihood of an individual re-offending or, in the case of their children, offending at all.

It also recognised that the children of prisoners are caught up in situations of which they have little understanding and no control, while distressed parents also have trouble knowing what to tell their children.

The program was funded by the Australian Government with the hope that the Northern Territory and other states would fund the program on an ongoing basis following the trial period. Despite a positive evaluation funding for the program did not continue and it ceased in December 2004.

The NT Framework

The Standard Guidelines for Corrections in Australia establish specific principles in relation to children residing in prison³

Children Residing in Prison

- 2.53 If the Administering Department provides for children and infants to reside with their primary care giver in prison, comprehensive and well structured policies and programmes should be developed where the interests of the children are paramount.
- 2.54 Children and infants should be allowed to reside with their primary care giver in prison only after the Administering Department is satisfied that it is in the best interest of the child/ren to do so and there is no mechanism for the primary care giver to complete her/his sentence in the community (for example via home detention).
- 2.55 The accommodation for primary care givers and their children should, wherever possible be domestic rather than custodial.
- 2.56 While prisoners are responsible for the care of their children living in the prison, the Administering Department should take reasonable steps to ensure a safe environment for children.

The NT allows for accommodation of children under the age of 5 in the prison. Section 53 provides:

53. Children may be accommodated

(1) The Director may allow a female prisoner who gives birth to a child or who has children under the age of 5 years, to have that child or those children accommodated with her in a prison.

(2) The Director shall provide adequate accommodation for the children of a female prisoner allowed under this section to have her children accommodated with her in a prison.

³ http://www.nt.gov.au/justice/docs/corrservs/Standard_Guidelines_2004.pdf, p 23

Commissioner's Directives 2.4.6, clauses 5.4 and 5.6.1 give the Director the authority to consider accommodating a baby or child under the age of 5 years in the prison, taking into account:

- a. accommodation arrangements;
- b. facilities available;
- c. the offence for which the prisoner is being held;
- d. the safety and good order of the Correctional Centre;
- e. the likely length of stay;
- f. family support;
- g. the interests of the child; and
- h. any other relevant factors.

In practice, children rarely remain with their mother beyond 8 weeks after birth. Primarily this is due to the lack of appropriate infrastructure.

The *Prisons (Correctional Services) Act* also allows for leave from prison.

63. Director may grant leave for special purposes

The Director may, on such terms and conditions as he or she thinks fit, grant leave of absence to a prisoner from a prison or police prison for any reason he or she thinks fit, including –

- (a) the education and training of the prisoner;
- (b) the employment of the prisoner;
- (c) compassionate reasons;
- (d) the health of the prisoner;
- (e) the recreation of the prisoner;
- (f) participation in community projects by the prisoner;
- (g) the integration into the community of the prisoner; or
- (h) such other reasons as he or she thinks fit.

In other jurisdictions such as NSW and WA, this provision has been used to allow women to spend time at home or at another suitable facility with their children. We note that there is no specific reference to the interests of children of prisoners in this section.

This could be used to overcome the issue of inadequate facilities in the NT.

Conclusion

While the loss of liberty through imprisonment is a punishment, it is equally important that children of prisoners do not suffer by the deeds of their parents.

While prisoners must be provided with an opportunity to rehabilitate and reintegrate into their family, social and cultural networks, for mothers in prison, the focus of rehabilitation should be the wellbeing of their children. This may be achieved by access to substance misuse and parenting programs however there can be no substitute for enhancing the bonds between mother and child through ongoing contact.

We recommend a review of the needs of children of prisoners, with a focus on the best interests of the children and with particular attention being paid to reforms which would enable greater contact between prisoners and their children.

We recommend, as a matter of priority the following key areas which have the potential to have a positive impact on the lives of children of prisoners:

- Legislative Amendment

A review of key legislation such as the *Sentencing Act* and the *Prisons (Correctional Services) Act* is required to place a direct emphasis on the best interests of children impacted on by those Acts.

The Prisons (Correctional Services) Act should contain specific provisions supporting the rights of children of prisoners to have contact with, and reside with their parents. As stated above, this can occur by the facility of prisoner leave. Section 63 of the Act should specifically list the best interests of a child of a prisoner as basis for granting leave to a prisoner.

- Infrastructure supporting child and parent contact

The overwhelming barrier to contact between prisoners and their children is the lack of appropriate infrastructure. We strongly support the allocation of programming and infrastructure resources to enable the children of prisoners to have contact with, and reside with their parents.

§ Programs supporting child and parent contact

Appropriate programs such as anger management and parenting skills should be delivered in conjunction with mother and child contact, as was recommended by the *Good Beginnings* Evaluation Report.