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Judicial College of Victoria: Voices from the inside

By Briley Miller

Incarceration rates for Aboriginal and Torres Strait Islander women continue to rise – it is important to understand how to support women to overcome complex challenges.

In its landmark report in 1991, the Royal Commission into Aboriginal Deaths in Custody exposed the unacceptable disproportionately high rate of over-representation of Aboriginal and Torres Strait Island people in custody.

Despite the comprehensive recommendations made by the report to address the issue, some three decades later the incarceration rates of Aboriginal and Torres Strait Island people have remained excessively high. They have increased in recent years due, to a significant degree, to the introduction of more stringent bail and sentencing laws.

Of particular concern has been the sharp increase in the incarceration rates of Aboriginal and Torres Strait Islander women. According to the Australian Law Reform Commission (ALRC), these women are 21.2 times more likely to be incarcerated than non-Indigenous women¹ and often experience a lifetime of complex challenges, including homelessness, intergenerational trauma, systemic racism, family violence, poverty, substance abuse and poor mental health.

Understanding why incarceration rates continue to rise and how judicial officers can best support women to overcome these challenges and break the cycle of offending was the subject of a recent Judicial College of Victoria Koori Twilight, run in collaboration with the County Court of Victoria and the Judicial Officers' Aboriginal Cultural Awareness Committee (JOACAC).²

Chairing the session, Judge in charge of Victoria's Koori County Court Irene Lawson said: "the issue of the over-representation of Indigenous people within the justice system is the sharp focus of current global and national movements, emphasising the need for real and genuine change".

Southern Barkindji woman based in Mildura, Darlene Thomas, has been on the frontline working with vulnerable members of the community for more than 20 years and can attest to the struggles Aboriginal women and children continue to face.

Mallee and District Aboriginal Service Social and Emotional Wellbeing Program coordinator Ms Thomas plays a pivotal role building trust with women inside the prison system.

"What I learned really quickly was that these women needed somebody to support them, to listen to them, be compassionate and advocate strongly for them to be able to access the services that they should have been able to access without advocacy."

In 2015 Ms Thomas managed the pilot for the Koori Women Diversion Program in Mildura, which was the first of its kind in the state. During the first three months of the program, which adheres to an intensive case management model, Darlene saw 15 women on intensive orders and 23 women on the waitlist.

The program was quickly granted ongoing funding, demonstrating that culturally appropriate programs delivered by Aboriginal and Torres Strait Islander organisations can produce high quality outcomes.

Jill Prior, who worked for years as principal legal officer at the Victorian Aboriginal Legal Service and acting principal at the Aboriginal Family Violence Prevention and Legal Service, noticed a gap in the ability of legal organisations to provide wrap-around services for women.

The Aboriginal women coming before her were "the most disadvantaged and marginalised members of the community, the most frequently before the courts, and the most frequently imprisoned".

Ms Prior now heads up the Law and Advocacy Centre for Women (LACW), which supports the individual and complex needs of Aboriginal women and provides a holistic and preventative case management approach, ensuring early engagement with therapeutic services to treat underlying causes of offending.

Ms Prior and Ms Thomas urged the judiciary to look at long-term impacts on children who are subject to parental incarceration and the need to work towards maintaining healthy relationships to ensure they do not contribute to the next generation of people coming before the courts.

Ms Prior said the experience for some new mothers is heartbreaking, referring to a recent time where four Aboriginal clients had given birth in custody and were being ferried to and from the Sunshine hospital to feed their newborn babies, then returning alone to the Dame Phyllis Frost Centre.

Ms Prior and Ms Thomas continue to support Aboriginal women through the coronavirus pandemic.

Ms Thomas leads weekly wellbeing forums online called "Apart but together" to help support and ensure women remain connected during isolation.

For Ms Prior it's business as usual. With more than 300 new cases opened at LACW since March 2020, she says the pandemic should not alter the treatment provided. "We can ensure that even in the absence of a number of face-to-face services people are still cared for in the same way." ■

Briley Miller is education coordinator at the JCV.

1. Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133), 28 March 2018.

2. The Judicial Officers' Aboriginal Cultural Awareness Committee, chaired by Justice Stephen Kaye, was established in 2007 to help build judicial officers' understanding of the cultural and socio-economic issues affecting Aboriginal persons who come before the courts.

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