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LAW & ADVOCACY
CENTRE FOR WOMEN

Inquiry into Women's Pain

**Submission on behalf of the Law and Advocacy
Centre for Women Ltd**

July 2024

LACW acknowledges that we operate on First Nations land, and that our office is located on the stolen land of the Wurundjeri people of the Kulin Nation. We pay our respects to Elders past and present. We recognise that sovereignty over this land was never ceded, and it always was, and always will be Aboriginal land.

We acknowledge also that First Peoples experience disproportionate adverse impacts across the whole spectrum of the justice system – including as a result of discriminatory and racist policing practices, inter-generational trauma, and systemic failures leading to their gross over-representation in the prison system. We also recognise the resilience and strength of First Nations communities, and the leadership they have shown and continue to show in advocating for and implementing reforms to this system.

Preliminary submission

The real and enduring challenges faced by women when seeking care and support for pain are significantly amplified in a custodial setting.

It is LACW's submission that the Inquiry must consider the care, treatment and services provided to women for pain management in prison. We urge the Inquiry to listen to the lived experience of women who have sought care and support for pain whilst in prison.

About the Law and Advocacy Centre for Women

The Law and Advocacy Centre for Women Ltd ('LACW') is a community legal centre operating across the state of Victoria, Australia. It is the only legal service in Victoria whose primary focus is to provide a gender-specific approach to assisting women who are in, or at risk of entering, the criminal justice system. LACW was established in 2016, specifically in response to the rising rates of criminalisation and imprisonment for women. Its mandate is to combat these trends by providing a holistic approach to women in the justice system, providing a wraparound service that combines legal advice and representation with case management to address the underlying causes of women's criminalisation and imprisonment. The majority of LACW's legal work is in the provision of criminal defence advocacy. Other areas of practice include family violence intervention orders, infringements and fines, and victims of crime assistance. Approximately 30% of LACW's clients identify as First Nations women.

Women in Victorian prisons

The number of women held in Victorian prisons more than doubled over the decade between 2008 and 2018, growing from 248 in 2008 to 581 in 2018.¹ Between 2009 and 2019, the female prison population in Australia increased by 64 per cent, compared with 45 per cent for males.² First Nations women are grossly over-represented in these figures. The number of First Nations women in prison more than tripled between 2012 and 2018, growing from 42 to 147.³ Whilst this data was collected before the COVID-19 pandemic and the total number of women in Victorian prisons has since decreased to 281,⁴ remand numbers for First Nations women remain stubbornly high as a proportion.

Many of these women, including many of LACW's clients, have multiple and complex needs which require ongoing, long-term care both during custody and while in transition back to the community.⁵ Many women also enter prison with reproductive health needs, including pregnancy and post-partum care.

¹ Crime Statistics Agency, Characteristics and offending of women in prison in Victoria, 2012-2018, November 2019.

² Australian Institute of Health and Welfare, [The health and welfare of women in Australia's prisons](#), November 2020.

³ Crime Statistics Agency, Characteristics and offending of women in prison in Victoria, 2012-2018, November 2019.

⁴ Monthly time series prison and community corrections data: [Monthly time series prison and community corrections data | Corrections Victoria](#). Data as of 30 June 2024.

⁵ Australian Institute of Health and Welfare, [The health and welfare of women in Australia's prisons](#), November 2020.

Barriers to accessing appropriate medical care in prison

If a woman is in the community, she has freedom of movement and can make her own decisions about when attending hospital or specialist medical services is necessary based on her assessment of her own pain, rather than being subject to the decisions of prison staff and medical professionals. This is a subject that was raised by Coroner McGregor in his findings in relation to the tragic and preventable death of Veronica Nelson.⁶

Victorian prisons are required to provide an equivalent standard of health care to that which is provided to people in the community pursuant to section 22 of the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, which provides that *all persons deprived of liberty must be treated with humanity and with respect, and that an accused person who is detained ... must be treated in a way that is appropriate for a person who has not been convicted*. As noted by Coroner McGregor, although detention will inevitably impose some limits on a person's human rights, the right embodied in section 22 of the Charter acknowledges the vulnerability of people in detention.⁷

Coroner McGregor outlined a number of ways in which the care provided to Ms Nelson, including in relation to pain, had not been 'equivalent care'.⁸ This is consistent with the experience reported by many of our clients: that **imprisonment is a barrier to accessing appropriate care, treatment and services for pain and other medical conditions**.

Case example | Ectopic pregnancy and miscarriage in custody

LACW was representing a 27-year-old Aboriginal woman in relation to criminal law matters. She was pregnant when she was remanded in custody at the Dame Phyllis Frost Centre.

Soon after her remand, our client spoke with medical staff in the prison to request a termination of her pregnancy. Several days later, with her request yet to be actioned, she began to experience intense pain. Investigations revealed that she had experienced an ectopic twin pregnancy. Over the four weeks that followed, she suffered a septic miscarriage, underwent a surgical termination and insertion of an intrauterine device, and then suffered from endometritis and extremely heavy bleeding. In conversations with our staff during this period, she consistently reported significant pain that was not adequately managed.

Our client reported that she was not administered the full course of antibiotics prescribed to her following her miscarriage, which she understood had contributed to her subsequent infection. She also reported that her ongoing pain was not adequately treated at the prison. She was distressed by the lack of access to appropriate medical care and the lack of clarity around her treatment. LACW was advised by the Aboriginal Liaison Officer that they had to fight hard to have her medication issues (undermedication) taken seriously.

LACW has several other clients who may be willing to share their experiences of pain management in prison. Whilst we are not in a position to submit other client stories by the deadline for this submission, we are aware of reports of a number of unacceptable and dehumanising practices, including:

⁶ Coronial Finding into Death with Inquest (publicly available [here](#)), p.226 [648].

⁷ Ibid at [96].

⁸ Coronial Findings, p.225 [647].

- Pregnant clients being required to labour alone in their cell.
- Clients remaining shackled whilst in labour.
- Poor practices around pain management (undermedication and refusal of medication).
- Minimisation and mischaracterisation of pain, including in the context of substance withdrawal.
- Minimisation of pain symptoms and delayed transfer to hospital, where a client was ultimately diagnosed with golden staphylococcus.
- Inadequate physical brace for a broken limb, due to the metal component of the brace being removed.

We would welcome the opportunity to participate in targeted stakeholder engagement to discuss these issues further.

Thank you for the opportunity to provide a submission. For further information, please contact Laura Heffes, Director of Policy and Strategic Advocacy, at lheffes@lacw.org.au.