

**Deaths in Custody Watch Committee (WA) Inc.
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Submission to support the issues raised in petition no. 98.

We draw on the reports of the Office of the Inspector of Custodial Services (*Report of an Announced Inspection at Bandyup Women's Prison*, 2014), the Women Lawyers of Western Australia (Inc.) (*20th Anniversary Review of the 1994 Chief Justice's Gender Bias Taskforce Report*, 2014), and the Auditor-General (*Management of Adults on Bail*, 2015), in addition to the *2013–14 Annual Report of the Department of Corrective Services*.

'[The Department] needs to examine opportunities to reduce the number of women being held on remand.' (OICS 2014, p. 29)

'[I]t is timely that the government again investigate remand practices impacting upon women offenders.' (WLWA 2014, p. 571)

'[The] number of people granted bail but held in remand ... could be reduced if more support were provided to help them meet bail release conditions.' (A-G 2015, p. 6)

These expert bodies have all recommended the government find ways to reduce the number of women on remand. Instead, the Department of Corrective Services is planning for an increase in this number by converting Hakea into a women's remand facility. The DCS itself states that a key element of its 'modernising and streamlining' reform agenda is 'an effort to reduce the volume of individuals who are "processed" through the formal justice system, and often through custody' (DCS 2014, p. 73), key mechanisms of which are to reduce unnecessary remand and strengthen opportunities for bail (*ibid.*), but it is yet to announce how it intends to act on this. The Auditor-General puts the figure of 'unnecessary remand' at over 80% of people who are placed in custody until they can meet their bail conditions (2015, p. 7). The Deaths in Custody Watch Committee (and Bandyup Action Group subcommittee) believes that the DCS has effectively decided not to pursue its own agenda by converting part of Hakea into a women's remand facility. The DCS has not made clear which organisations and which advice it is following by going against its stated goals.

As the DCS is well aware, the number of women held on remand across the state more than doubled between July 2011 and July 2014 (OICS 2014, p. 28), and in the previous five years women's imprisonment increased at four times the rate of men's imprisonment (DCS 2014, p. 47). In addition, women are more likely to be held on remand than men, and Aboriginal women are by far the most likely to be on remand (OICS 2014, p. 28). Further, more than half the releases from Bandyup in 2013 and in 2014 were unsentenced women (53% and 63% respectively (Question on Notice 4135)). The majority of these women were released on bail but not before being processed into the prison system, with all the cost that this entails. We entreat the Department to make publicly available any research it has done on why the number of women on remand has increased so dramatically and the inherent, albeit unintended, discrimination in remand practices that sees women, and particularly Aboriginal women, overrepresented. Further, research must have been completed on the appropriateness of custody for the various cohorts of women placed on remand, e.g. women who are sole carers of children, women presenting with mental health issues, women who are survivors of violent assaults, and women with intellectual, physical or mental disabilities. We would understand this to be part of departmental 'due diligence' before deciding to go ahead with the Hakea conversion.

This submission focuses on the first point of our petition: **resourcing of a women-only hostel that can accommodate women on bail.**

Women on remand have not been convicted or sentenced, therefore, in keeping with all international standards (e.g. United Nations International Covenant on Civil and Political Rights), they should not be imprisoned. Not being able to provide a residential address and not being able to provide surety are

the two main reasons why bail is not granted (A-G 2015, p. 13), which is effectively discrimination against the poorer members of our society. It is incumbent upon the state government to show that is exploring all options *before* placing an unsentenced person into custody. Given that remand rates for women are so high, alternatives must be made available.

What alternatives to prison currently exist for women on remand?

The Auditor-General's report states, 'Other jurisdictions have introduced Bail Hostels as a low cost alternative that allows defendants without a fixed address to be released on bail. Corrective Services does not yet have the information to make an assessment on whether a similar initiative would work in Western Australia' (p. 15). This must be a priority for the Department and, again, we would be surprised if such an assessment had not been carried out before the decision was made to go ahead with the Hakea conversion. If such research has been conducted, we entreat the DCS to make it publicly available. If not, the DCS must explain why it has decided not to carry out such an assessment.

What are the benefits of a women-only hostel compared to sending women to a prison facility?

As the Auditor-General has stated, 'Avoiding an admission into the prison system saves resources and reduces the emotional stress on the defendant. But as well, defendants held in remand for long periods because they cannot meet basic bail conditions such as providing an address are exposed to other high risk defendants. Research suggests that this sort of exposure can lead to people becoming involved in more serious offences' (p. 15).

There are three benefits identified in this brief paragraph:

1. It saves the state resources (time, money and personnel).
2. It is better for the individual's emotional wellbeing.
3. It avoids the individual coming into contact with other defendants, and subsequent risk of recidivism (and consequent increased cost to the state).

In addition, we stress that a bail hostel is more appropriate for women than a prison facility because it allows women to remain with children/family and to continue in their caring roles and other responsibilities. Further, a bail hostel would more suitable for women charged with non-violent offences (who make up the majority of women on remand), rather than a maximum-security prison.

Building more prisons does not address the core problem of people being put into custody who should not be. Indeed, it will likely only give a temporary reprieve from overcrowding until once again there are more people being placed in custody than there are beds to accommodate them. We must address the reasons why women on remand are being placed in custody. Given all the recommendations from various bodies, it is unclear why the government has not acted on them. In addition, given the significant cost of the Hakea conversion, we believe it is fiscally irresponsible for the government to pursue it rather than sincerely attempt to reduce remand numbers.

One avenue of research we think would be worth pursuing (using the Bail Module at the Attorney-General's disposal) is looking into how many women on remand are ultimately given a sentence of imprisonment (a gap also identified in the *Gender Bias Review*).

We believe the Minister for Women's Interests and Minister for Child Protection, as well as the Attorney-General and Minister for Corrective Services, should read and respond to this submission.

Finally, with this petition, we are not suggesting that the government change its publicly stated policy and strategy. We are asking that the Department act according to its words and the advice of the experts it has at its disposal. If not, it must be transparent in explaining to the public why it is going against this advice.

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October 2015