



Australian Human
Rights Commission

Not just an afterthought

The experience of women
in immigration detention

December 2024



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The Australian Human Rights Commission acknowledges the Traditional Custodians of Country throughout Australia, and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders – past, present and future.

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Not just an afterthought: the experience of women in immigration detention.



Not just an afterthought

The experience of women
in immigration detention

December 2024

*'Human rights apply to everybody,
everyday. Not just to the majority,
or when it is convenient'.*

**Fenceline separating
canteen window
from Bass 1 outdoor
area (MIDC)**



Contents

1. Message from the Commissioner	7
2. Executive summary	8
3. Introduction	9
4. Background - Women in immigration detention	11
5. Inspection methodology	19
6. Relevant human rights standards	20
7. Issues and concerns impacting women across the detention network	21
Detention as a last resort.....	21
Meaningful activity	22
Use of operational quarantine	26
Gender-responsive training and staffing	28
Access to visitors and visiting facility conditions.....	31
The placement and care of transgender women	36
Women's health	39
Access to hair dye	42
8. Melbourne Immigration Detention Centre and Broadmeadows Residential Precinct	43
9. Centre specific issues and concerns	47
Mixed gender accommodation	47
Access to the canteen and gymnasium	49
10. Villawood Immigration Detention Centre	51
11. Centre specific issues and concerns	55
Proximity to the Lachlan compound and women's safety.....	55
High care accommodation in men's compounds.....	60
Other accommodation concerns.....	63
Inequitable access to facilities and services.....	64
12. Perth Immigration Detention Centre	66
Not suitable for long-term accommodation	68
13. Recommendations	70
Glossary of immigration detention related terms	77
Endnotes	79



‘Women ... should not be just an afterthought when it comes to their overall safety, treatment, and human rights’.

Visiting centre (MIDC South)

Message from the Commissioner

Human rights apply to everybody, everyday. Not just to the majority, or when it is convenient.

Women make up less than 6% of the total number of people currently detained in immigration detention in Australia. After visiting the facilities where women are held, our central conclusion is that they are too often an afterthought.

This can be seen in our observations throughout this Inspection Report about detention infrastructure, the provision of programs and activities, access to services and the delivery of staff training. There may only be a relatively small number of women in immigration detention, but that does not justify lower standards of treatment, or particular needs and vulnerabilities being either unrecognised or unmet.

To prepare this Inspection Report, the Australian Human Rights Commission visited immigration detention facilities New South Wales, Victoria and Western Australia for the specific purpose of examining the experience of women in immigration detention. We have ended up making 31 recommendations to better protect the human rights of women in immigration detention, as well as improving the quality of the work environment and support for staff. These include both recommendations specific to individual facilities, and others that are systemic in nature.

While some of these recommendations are specific to the experiences of women in immigration detention, there are other recommendations that reflect the same key concerns that we have raised for many years across numerous reports into conditions at immigration detention facilities in Australia.

The Department of Home Affairs (Department) has considered these recommendations, and their response has been published alongside this Report. They have agreed or partially agreed with 11 of our recommendations, disagreed with four, noted 15, and identified one recommendation that requires government consideration.

We would like to thank the Department for their assistance in facilitating these inspections, and their response to the Inspection Report. In particular, we would like to acknowledge the detention centre staff that we met during our inspection visits for the constructive approach they adopted, and the sincere efforts that many of them are making to address the types of issues raised throughout this Report.

It is disappointing to see a return to the Departmental practice of 'noting' recommendations. It is also notable that the Department considers that it has already met 15 of the 31 recommendations through existing arrangements. Our recommendations are based on both our own direct observations of existing arrangements and interviews conducted during inspection visits (including interviews with detention centre staff). If our Report has highlighted a disconnect between intended arrangements and their actual implementation, then we look forward to working constructively with the Department to help bridge that gap.

Women are clearly a minority in terms of the overall numbers in immigration detention in Australia. But they should not be just an afterthought when it comes to their overall safety, treatment, and human rights.



Lorraine Finlay
Human Rights Commissioner
Australian Human Rights Commission

Executive summary

In April and May 2024, the Commission visited the Broadmeadows Residential Precinct (BRP) and parts of the Melbourne Immigration Detention Centre (MIDC), the Villawood Immigration Detention Centre (VIDC), and the Perth Immigration Detention Centre (PIDC), all facilities where women are held. This Report documents the key observations arising from the Commission's inspection of these facilities. Some of the issues that the Commission identifies are specific to individual facilities and others are systemic in nature.

The Report finds that in an overwhelmingly male system, women in immigration detention are often an afterthought when it comes to detention infrastructure, the provision of programs and activities, equitable access to services and the delivery of staff training.

Women's experiences of detention differ substantially from men's, not only because they are minorities, but because they have particular needs and vulnerabilities that are often unrecognised and unmet. For many of the women, the negative impacts of detention are compounded by histories of abuse and trauma and heightened risk of exposure to violence and sexual harassment.

The Report finds that these impacts are exacerbated by the continued use of operational quarantine (separation from the main population without medical symptoms) and the probable separation from family supports owing to the limited accommodation available for women close to their families and the inadequacy of visiting facilities for those with children.

The Report finds that women have fewer opportunities for meaningful self-development, and the programs and activities offered are often unresponsive to their needs or not age appropriate. Staff working in these facilities often have no specific training on the vulnerabilities and needs of women in their care, which can result in routine activities being undertaken insensitively or exposing women to further trauma.

The Report emphasises concern about women being routinely exposed to the possibility of harassment and violence because many of the services that are available to them are located in male compounds or adjacent to them. In particular, the Report highlights concern about the co-location of men and women in the Broadmeadows Residential Precinct and, the safety of women at Villawood Immigration Detention Centre, who are housed next to a compound with registered sexual offenders.

The recommendations made in this Report are designed to assist the Department to improve the situation for women in immigration detention, ensuring they are managed safely, while also protecting their human rights.

Introduction

In 1998, the Australian Human Rights Commission's predecessor, the Human Rights and Equal Opportunity Commission, reported that '[immigration] detention is especially undesirable for vulnerable people such as single women, children, unaccompanied minors and those with special medical or psychological needs'.¹ The Commission in subsequent decades has continued to monitor Australia's use of immigration detention and undertaken targeted monitoring and reporting on these and other particular cohorts of people in detention.²

The experience of women in immigration detention has seldom featured as a distinct area of focus in the Commission's inspection reporting (with the notable exception of pregnant women and mothers³). This omission is not exclusive to the Commission's immigration detention monitoring work; the published monitoring reports of the Commonwealth Ombudsman have also, until recently,⁴ only infrequently focused on the specific experiences and needs of women in detention.⁵

This absence of focused reporting on women in immigration detention is not unique to Australia. The United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN SPT) has identified that across the globe, gender-specific perspectives on torture and ill-treatment have not been adequately discussed and the particular risks of ill-treatment and torture faced by women in detention have received limited attention.⁶

The United Nations Special Rapporteur on the Human Rights of Migrants has reported that '[t]he specific situations, demands, views and needs of migrant women in detention are often unmet...'.⁷ Further, the United Nations Special Rapporteur on Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (UN Special Rapporteur on Torture) has explained that women's needs in detention often go unnoticed and unmet because detention and detention regimes 'are typically designed for men'.⁸

While recognising that women make up only a small percentage of those detained in immigration detention globally, The United Nations Special Rapporteur on Violence Against Women and Girls, its Causes and Consequences (UN Special Rapporteur on Violence Against Women) has reported that:

Women migrants held in immigration detention are subject to similar conditions as incarcerated women, including sexual and physical violence, violations of privacy and inadequate health care. The lack or inadequacy of interpretation and translation services may make it difficult or even impossible for women foreign nationals to make complaints or object to abuses. Cultural differences can also exacerbate these problems, especially where women migrants are used to complying unquestioningly with the demands of men or individuals in authority.⁹

Against this context, it is important to emphasise that the United Nations Committee on the Elimination of Discrimination against Women (UN CEDAW Committee) has declared that the failure of detention facilities to meet the specific needs of women may constitute discrimination within the meaning of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹⁰

In their academic research on immigration detention, Esposito and Bosworth (2024) note that women have been 'overlooked and invisibilised'.¹¹ Esposito et al (2022) contend that empirical studies have rarely focused on the specific experiences of women.¹² Nevertheless, the existing qualitative research stresses that women in immigration detention face particular challenges and present gender-specific needs, vulnerabilities, and resiliencies. Most women in these studies reported experiences of gendered violence, including sexual, domestic or reproductive violence.¹³ Notwithstanding this reporting within academic writing, Esposito and Bosworth (2024) have also said that overall, women find it extremely difficult to disclose their experiences of victimisation to immigration authorities, particularly inside detention centres.¹⁴

In the Australian context, Rivas (2023) drawing on data from 629 Commonwealth Ombudsman's reports between June 2013 and June 2017 found that women in immigration detention in Australia experience significant structural and interpersonal violence.¹⁵ For example, 60 of the 252 women (or 23.8%) covered in the reports had experienced at least one type of violence during their detention by family, other people in detention, detention staff or others.¹⁶ Thirty of the 252 women (or 11.9%) experienced intimate partner violence (IPV) whilst detained.¹⁷ These forms of abuse occurred more frequently in closed immigration detention rather than community detention settings (with the exception of IPV). Rivas concluded that structural violence in the form of immigration detention creates a fertile ground for interpersonal violence (including gendered violence).¹⁸

Rivas (2022) also found that women held in immigration detention experience a range of physical health issues, including physical injuries, gastric issues, gynaecological issues, diabetes, and acute pain. Of the 252 women on which this research was based, 184 (or 73%) had at least one type of physical health issue reported by a professional during their detention.¹⁹

Rivas and Bull (2018), exploring the experiences of women in long term immigration detention in Australia, found that in addition to the length and conditions of detention, women reported that their mental health was affected by uncertainty and anxiety regarding their immigration case and the lack of control they had over their lives. This confirms the compounding effect of multiple environmental factors upon women's mental health.²⁰ Young and Gordon (2016) assessed the results from the Kessler-10 (K10) test, a self-reported psychological distress measure, from a sample of 1,384 people detained in onshore immigration detention, between February and June 2014. They, found that the overall mean K10 score was 16.64 with females scoring significantly higher than males.²¹

Women's experiences in immigration detention differ substantially from men's, not only because they are minorities in an overwhelmingly male system but also because they have particular experiences and needs that are often unrecognised and unmet. Consequently, their vulnerability is further compounded by the harsh experience of confinement, its associated uncertainty, the risk of deportation and 'can also evolve and develop over time, as in cases of extended detention.'²²

This thematic inspection Report aims to bring some visibility to their experiences and needs, within the current immigration detention context. The Report does not speak on behalf of women in detention but includes where possible, their own words, in order to highlight their personal experiences and perspectives and support the Commission's findings and recommendations.

The Report contains an overview of the key observations arising from the Commission's inspection of the facilities where women are currently held within the onshore detention network. In April and May 2024, the Commission visited the BRP and parts of the MIDC, the VIDC, and the PIDC. The Report reflects conditions for women as they were at the time of the inspection.

The Commission acknowledges the contributions made by: Ms Debbie Kilroy OAM, Chief Executive Officer of Sisters Inside; Dr Marianne van Galen-Dickie, Deportation Advocate with Sisters Inside; and Professor Penny Abbott, General Practitioner and the Chair of General Practice at Western Sydney University. Sisters Inside was contracted to provide a gendered and lived experience of incarceration perspective to the inspection process and Professor Penny Abbott was contracted as an independent custodial health consultant.

Ms Kilroy OAM, Dr van Galen-Dickie and Professor Abbott participated in the inspection visits and interviews alongside Commission staff and advised the Commission on issues relating to security management and training, gendered perspectives on detention practices and health care and other medical issues concerning women in immigration detention. The Commission also acknowledges the civil society organisations that provided submissions prior to the inspection, and all of the individual staff at the Commission who assisted with these inspections.

The Commission also acknowledges the assistance provided by the Department of Home Affairs (Department), and Australian Border Force (ABF) in facilitating the Commission's inspection. The Commission team was assisted during the inspection by staff from the Department, ABF and detention service providers, and the Commission is grateful for the assistance that was provided.

In accordance with the usual practice, the Commission provided a copy of this Report to the Department on 29 August 2024 to provide an opportunity for response to the Commission's findings and recommendations prior to publication. The response from the Department was received on 29 October 2024 and has been published alongside this Report.

Background – Women in immigration detention

Immigration detention is mandatory in Australia for all non-citizens who are in Australia without a valid visa (unlawful non-citizens).²³ Once detained, an unlawful non-citizen must remain in detention until either granted a visa or removed from Australia.²⁴ However, following the High Court's decision in *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] HCA 37, unlawful non-citizens cannot continue to be kept in immigration detention for the purpose of their removal from Australia if there is no real prospect of their removal becoming practicable in the reasonably foreseeable future.²⁵

The mandatory detention of an unlawful non-citizen is not based on an individual assessment of the need for detention. The Department's detention review processes do not consider whether detention is reasonable, necessary or proportionate on the basis of particular reasons specific to the individual, and in light of the available alternatives to closed detention. Unlawful non-citizens subject to immigration detention are usually detained in purpose-built immigration detention centres, with 7 being in operation as of August 2024.²⁶

The Commission has previously recommended that closed immigration detention should only be used in circumstances where it is strictly necessary to manage unacceptable risks to the community.²⁷ In some circumstances, individuals can be released from immigration detention centres into alternative, community-based arrangements. This may include release on short-term visas (such as a Bridging Visa E) or a residence determination, where the Minister determines that a person may reside in a specified place rather than being held in a detention centre.²⁸ Both of these options involve the Minister exercising a legal power that is personal, non-compellable, and discretionary.

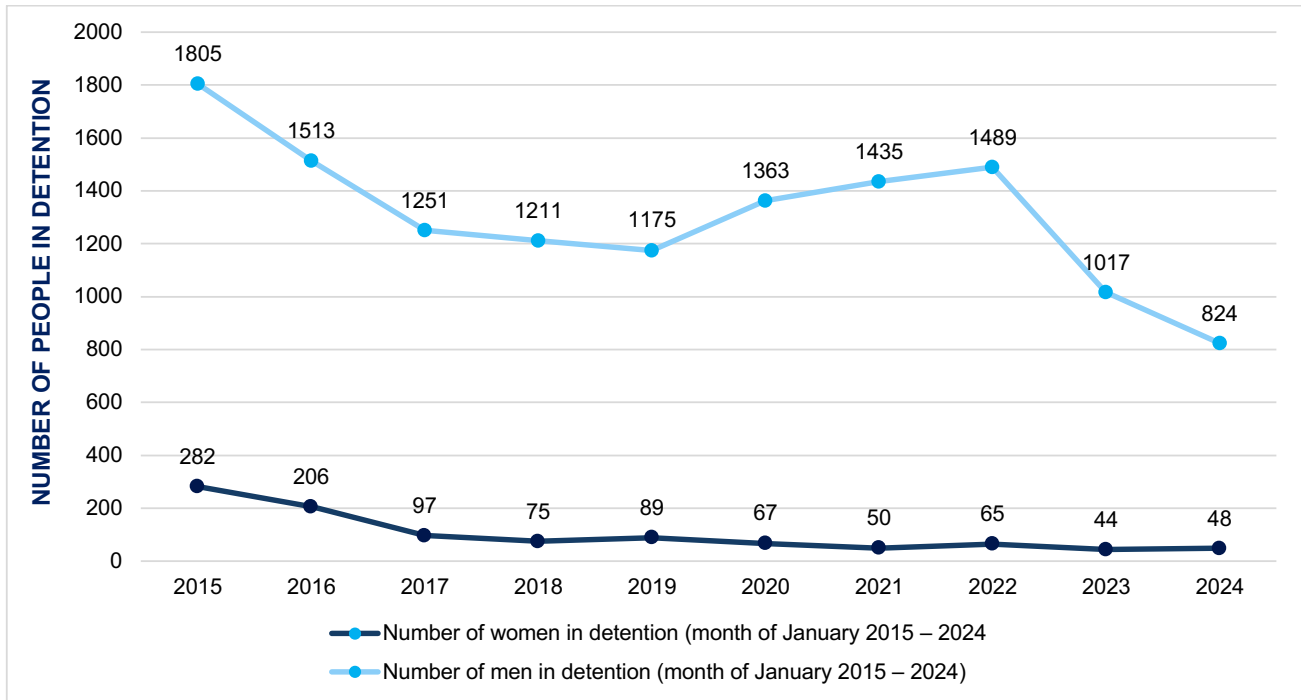
Since 1 July 2015, the ABF has been responsible for administering detention operations and removals, while the Department remains responsible for the overall policy framework for detention as well as matters relating to visa processing and status resolution. External contractors play a central role in the management of immigration detention facilities. Serco Australia Pty Limited (Serco) is the contracted detention services provider, responsible for the day-to-day running of the facilities, including security and provision of services and activities. International Health and Medical Services (IHMS) is the contracted health services provider, responsible for providing onsite physical and mental health services to people in detention.

The Australian Government also operates an offshore processing regime, which involves transferring people seeking asylum to third countries for their claims to be processed.²⁹ Regional processing arrangements were in place in Papua New Guinea until the end of 2021 and continue to operate in Nauru. The Commission has consistently expressed serious concerns about Australia's offshore processing arrangements and emphasised that transferring asylum seekers to third countries does not release Australia from its obligations under international human rights law.³⁰

While the Commission is also concerned about the experience of women detained in community-based arrangements and offshore processing,³¹ this thematic Report is limited in its scope to the experience of women in closed onshore immigration detention facilities.

The number of women in immigration detention

Figure One: Number of women and men in detention (during month of January 2015 – 2024)³²



Women make up a comparatively small percentage of the total global immigration detention population and the situation in Australia is no exception.

As demonstrated in Figure One, women have represented a small proportion of the total number of people detained in immigration detention in Australia over the 2015 – 2024 period. Whilst there is some fluctuation to their total numbers, from 2017 women have comprised less than 10% of the total immigration detention population in Australia (see Table One).

Table One: Number of women in immigration detention and their percentage of the total detention population (during month of January 2017 – 2024)³³

Year	Number of Women in Detention	Percentage of the total detention population
2017	97	7.2%
2018	75	5.8%
2019	89	7%
2020	67	4.7%
2021	50	3.4%
2022	65	4.2%
2023	44	4.1%
2024	48	5.5%

As of 30 June 2024, there were 50 women in held immigration detention facilities across the onshore detention network (including Alternative Places of Detention (APODs)).³⁴ Women made up 5.73% of the total detained population and the largest proportion of women were detained at VIDC (27 women), PIDC (6 women) and BRP (6 women).³⁵

Length of detention for women in immigration detention

The average period in closed immigration detention has continued to decline from previous years. At its peak on 31 January 2023, it reached 806 days.³⁶ As of 30 June 2024, the average period in detention was 565 days.³⁷ At this time, 354 people (or 38.6% of the entire population) had been detained for greater than one year.³⁸

While the Commission welcomes the continued declining average period, it remains concerned that the period remains far higher than in comparable jurisdictions. For example, in Canada the average period of detention in the 2023 – 2024 financial year was only 19 days.³⁹ Across the 2012 – 2024 financial year period, the average length of detention in Canada was 20.7 days and the average median length of stay was 3.2 days.⁴⁰

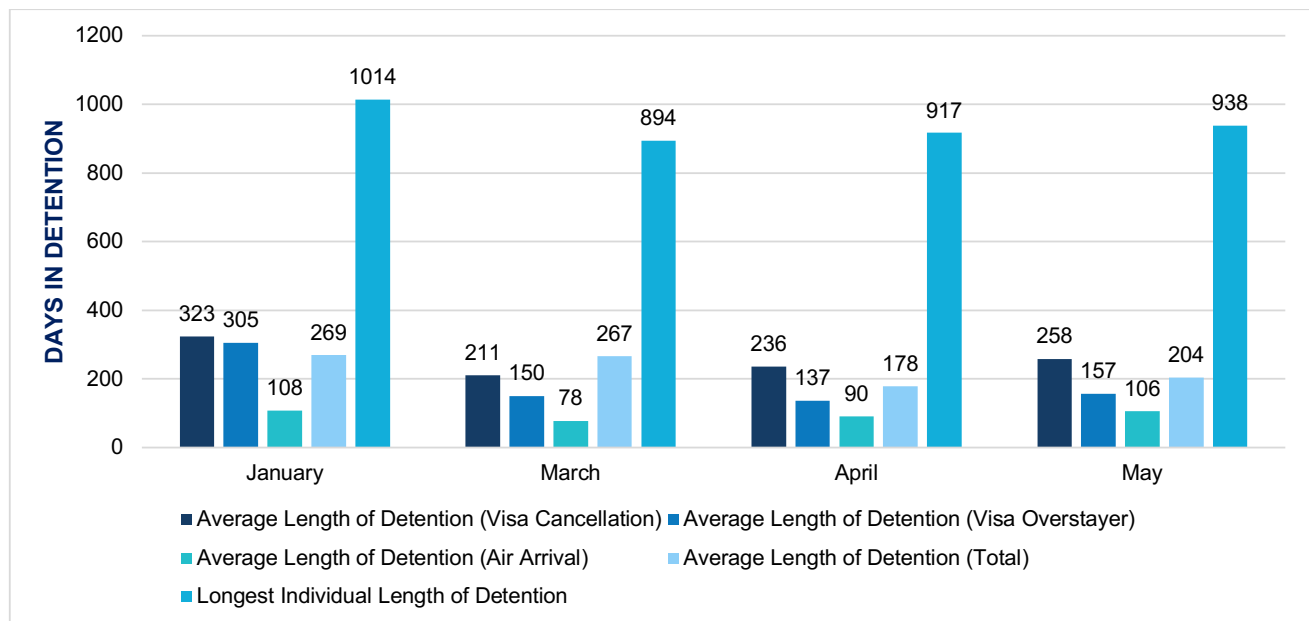
In the United Kingdom, in the year ending March 2024, close to 60% of all people who left immigration detention had been detained for 28 days or fewer.⁴¹

The negative impacts of prolonged detention are substantial, with the following observations previously made by the Commission:

Prolonged closed detention is a risk factor for mental ill-health, as the negative impacts of immigration detention on mental health tend to worsen as the length of detention increases.⁴² This is of particular concern in the current context, given the consistently high average length of detention in recent years, and the large number of people being held in closed detention facilities for prolonged periods.⁴³

While the Department publishes statistics on the average period people are held in immigration detention on a regular basis, these statistics are not broken down by gender. As part of the preparation for this thematic inspection the Commission requested data on the length of detention for women in immigration detention from the Department at intervals and received data covering 24 January 2024, 20 March 2024, 12 April 2024 and 4 May 2024.

Figure 2: Women in detention: Length of detention data by type, total and longest individual stay (Covering 24 January, 20 March, 12 April and 4 May 2024)⁴⁴



As Figure 2 demonstrates, on average, women detained due to a visa cancellation (including a section 501 cancellation) are held in closed immigration detention for longer periods than women detained for any other reason. The longest length of detention for an individual woman was 1,014 days (or 2.8 years) and over the period for which data was requested this remained above 2 years.

The location of women in immigration detention

Women in immigration detention are generally accommodated separately to men, either in separate compounds (PIDC and VIDC) or a separate accommodation precinct (BRP). As noted by the Commonwealth Ombudsman, 'long term detention of women can only be facilitated in VIDC, MITA [renamed to MIDC] and PIDC. Any women who come into detention in the remaining states or territories must either be held in a hotel APOD or be transferred interstate.'⁴⁵

Where a hotel APOD is used, women have generally been accommodated with family members, in shared rooms with another female, or in a single room. As of 31 December 2023, the average time people have been detained in an APOD was 29 days.⁴⁶ For the purposes of this thematic inspection, given the relatively small number of women detained in hotel APODs and the comparatively shorter period of time spent in detention, the Commission did not visit any of the hotel APODs and focused only on closed immigration detention facilities.

Over the 2022 - 2023 period the largest proportion of women were detained at VIDC, followed by (excluding the cumulative use of APODs) BRP and then PIDC (see Figures 3 and 4).

Figure 3: Location of women in immigration detention (January – December 2022)

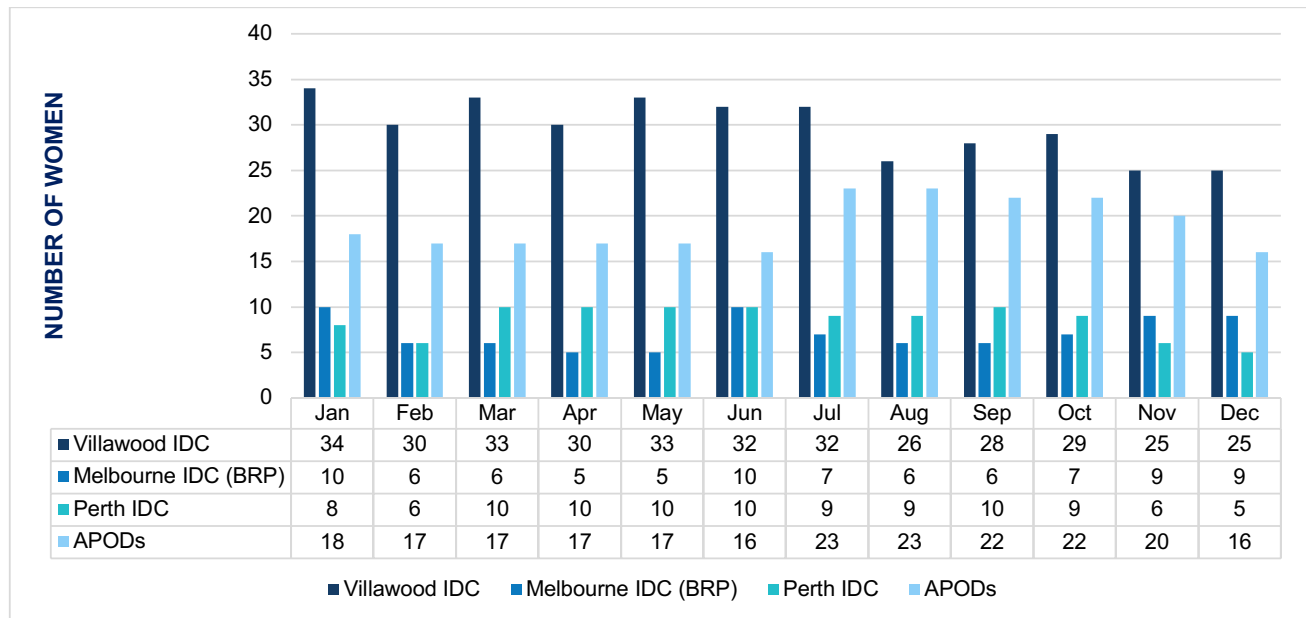
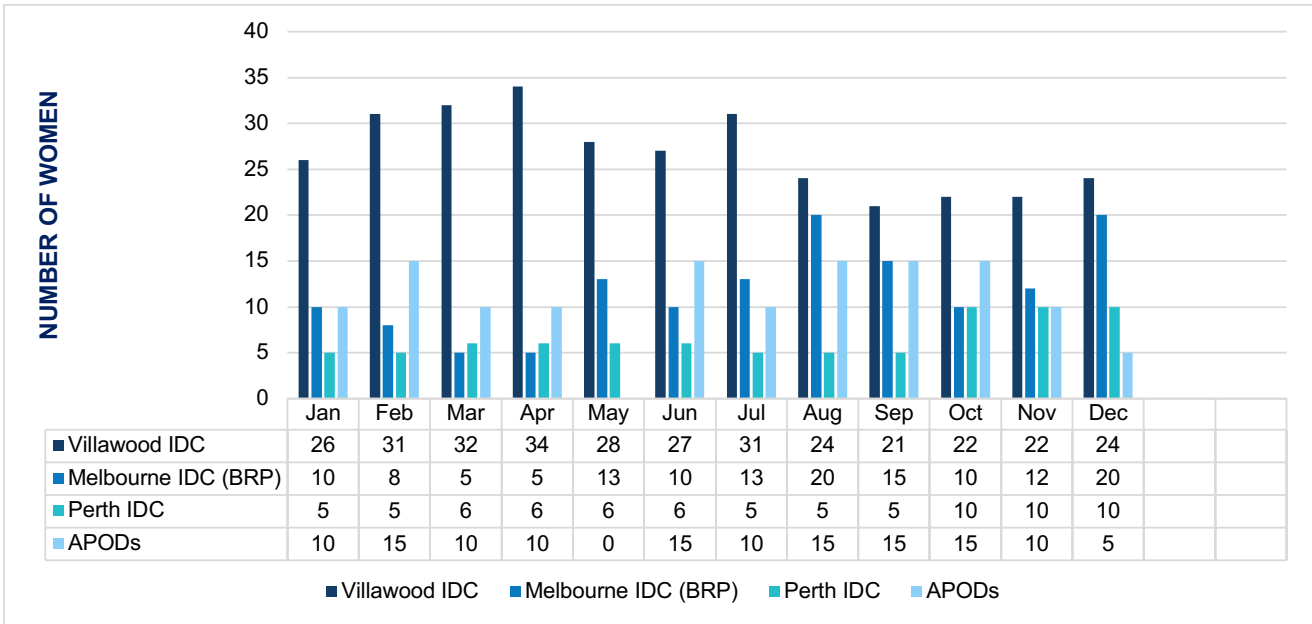


Figure 4: Location of women in immigration detention (January – December 2023)

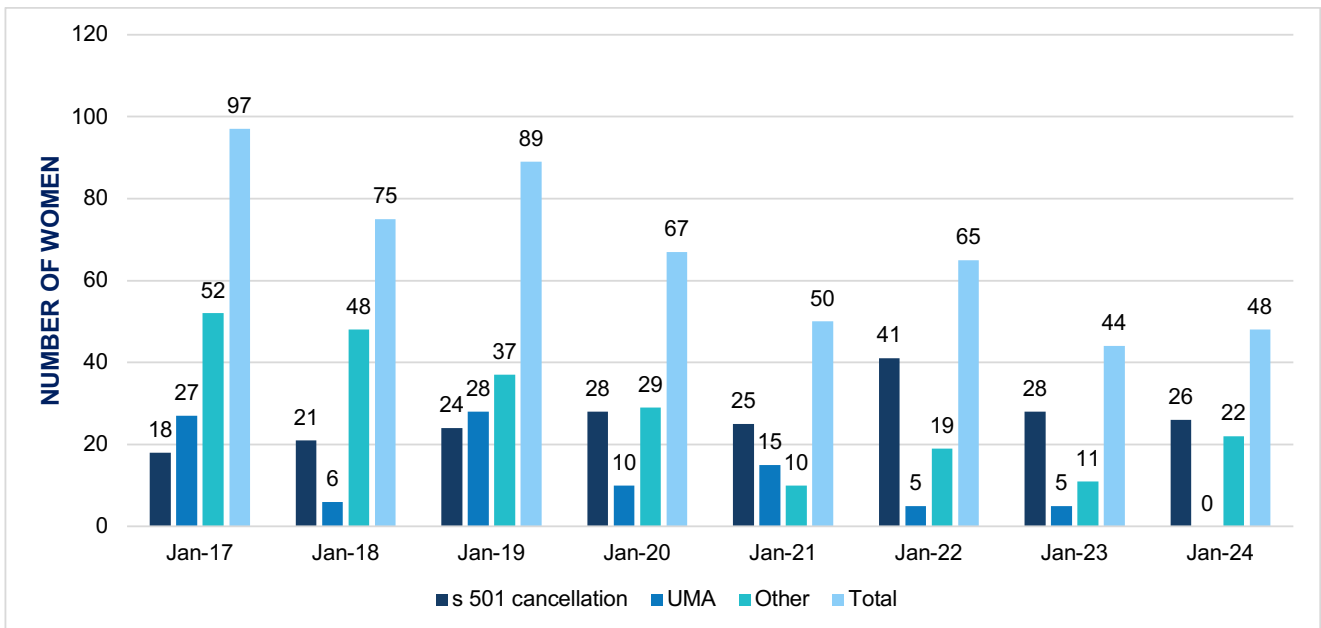


The profile of women in immigration detention

As of 30 June 2024, 84.5% of all people in immigration detention have a criminal history⁴⁷ and 57.6% are detained due to a section 501 visa cancellation, including 50% of women.⁴⁸

The Commission has noted there has been a significant increase in visa refusals and cancellations under section 501 since 2014. This increase has been largely due to changes introduced by the *Migration Amendment (Character and General Visa Cancellation) Act 2014 (Cth)*. This legislation, which came into effect in December 2014, significantly broadened the scope of the character test under section 501 and introduced mandatory visa cancellations under section 501(3A).⁴⁹

Figure 5: Women in immigration detention by detention reason and total (During month of January 2017 – 2024)⁵⁰



As Figure 5 demonstrates, the number of women detained due to a section 501 cancellation, as a proportion of the total number of women, has increased over time. For example, this increased from 18.5% in January 2017 to 54.2% in January 2024. In recent years it has consistently comprised a substantial proportion of women in immigration detention. For example, 50% in January 2021, 63.1% in January 2022, 63.6% in January 2023 and 54.2% in January 2024.

During the same period the proportion of women detained as an Unauthorised Maritime Arrival (UMA) has significantly decreased. For example, this has decreased from 18.5% in January 2017 to 0% in January 2024.

Historically, asylum seekers who arrived by boat have comprised the largest cohort of people in immigration detention in Australia. Since the beginning of 2014, this group has progressively comprised a smaller proportion of the overall detention population.

The category 'other' includes women whose visas were cancelled under other provisions, women who had overstayed their visas, unauthorised air arrivals, seaport arrivals and illegal fishers. As a proportion of the women detained, this category has seen a decrease in recent years. For example, 53.6% in January 2017 to 20% in January 2021, 29.2% in January 2022 and 25% in January 2023. However, this cohort has made up the highest proportion of women in immigration detention in the last few months. For example, 52.9% in February 2024, 69.2% in March 2024 and 60% in April 2024.⁵¹

Noting that a substantial proportion of women (though not all) in immigration detention are detained because of a visa cancellation following criminal incarceration, it is important to reflect on the profile of women in prison as it is likely to share many similarities with the population of women in immigration detention.

The Australian Institute of Health and Welfare (2022) has reported that:

- the majority of women in the criminal justice system are mothers and many also have nonbiological children who depend on them
- women in prison were more likely to be single parents, and to be socioeconomically disadvantaged than those in the community
- women in prison experience more challenges to their health and well-being than men in prison, and than women in the general community
- women in prison were almost twice as likely as men to be dispensed mental-health-related-medication
- two thirds of women reported a history of a chronic condition compared with half of male entrants.⁵²

Studies have also consistently reported that a high proportion (around 70–90%) of women in prison have a history of emotional, sexual and/or physical abuse in the form of domestic and family violence.⁵³ The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) expressly acknowledges women in prison as having a 'disproportionate experience of domestic violence.'⁵⁴

Mehta et al (2023 and 2024) also suggested that incarcerated foreign national women, from linguistically and culturally diverse backgrounds, experience incarceration 'distinctly different from those in the rest of the prison population.'⁵⁵ The distressing and often traumatic experience for these women is compounded by their histories of violence and trauma, and made worse by language barriers impacting women's ability to understand prison systems and processes and to communicate their personal circumstances.⁵⁶

Figure 6: The largest nationality groups and total of women in immigration detention (January 2023 – June 2024)⁵⁷

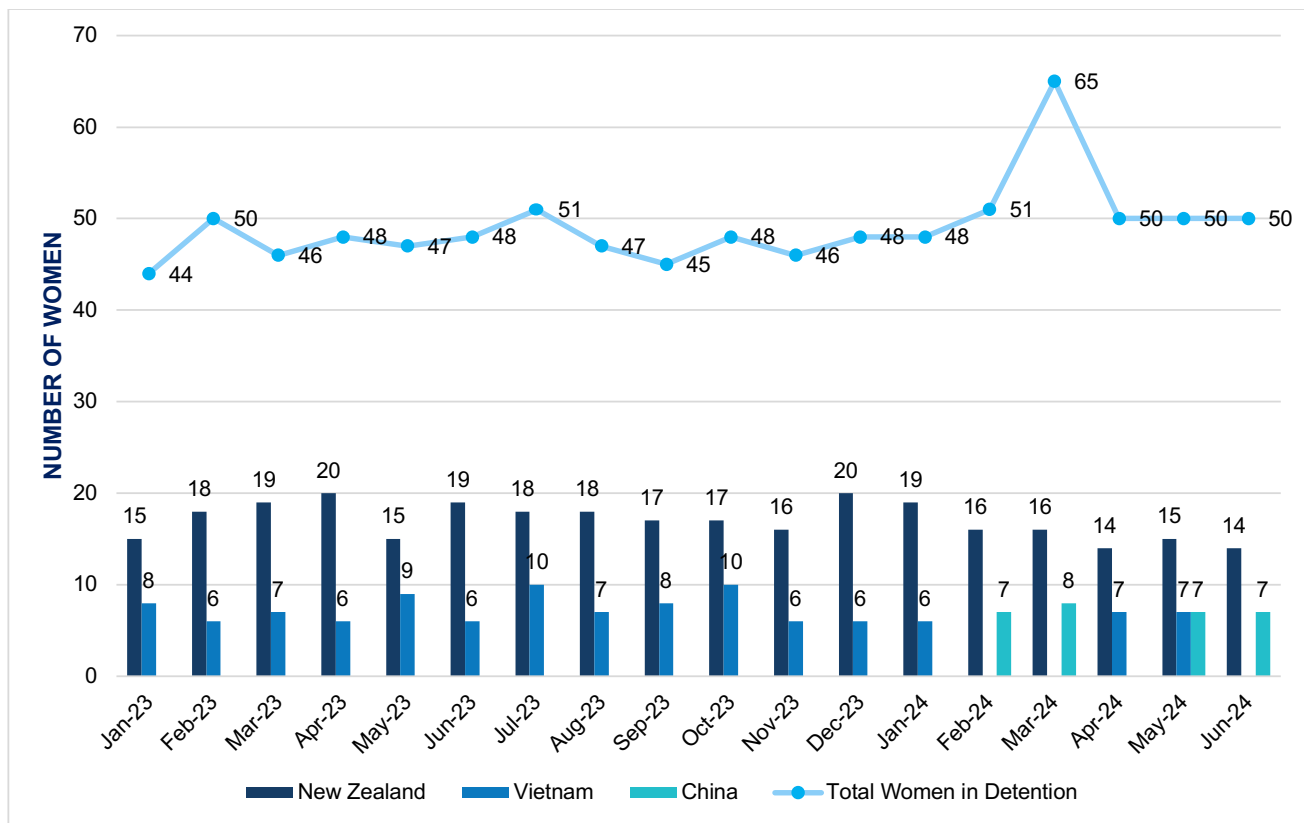
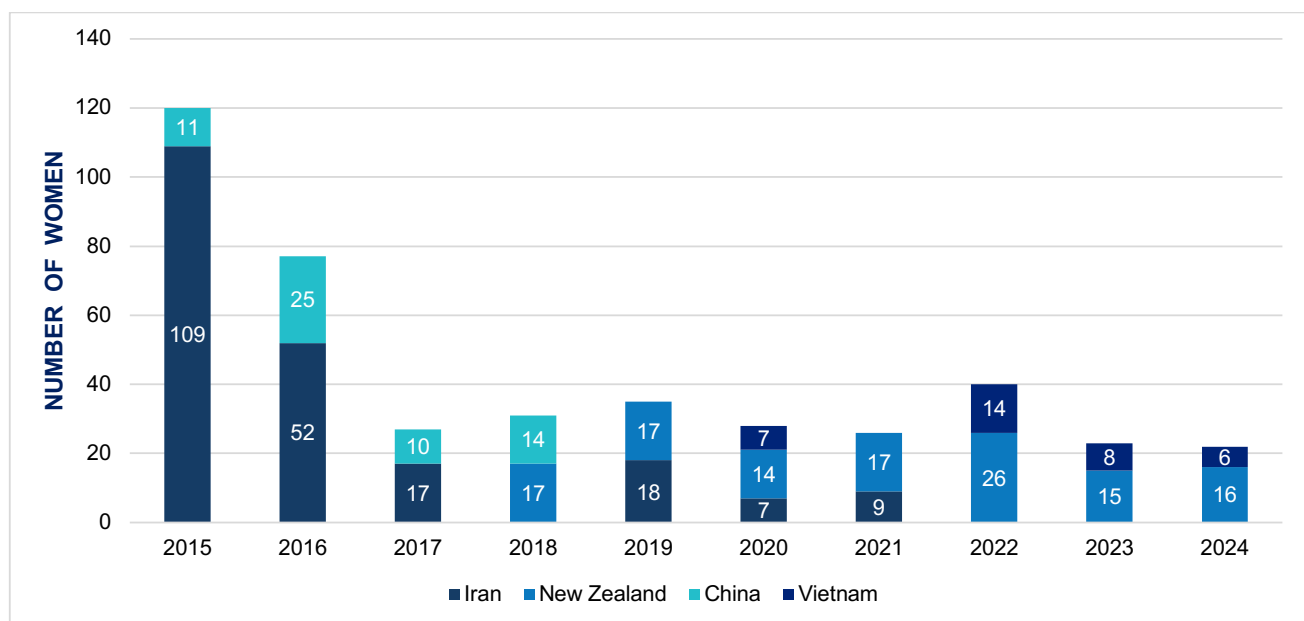


Figure 7: The largest nationality groups of women in immigration detention (During month of January 2015 – 2024)⁵⁸



As demonstrated in Figure 6, from January 2023 to June 2024, women from New Zealand have consistently been the largest nationality group among women in immigration detention (between 24–44% of the total population of women within the period).

While data on the ethnicity of women from New Zealand was not available to the Commission, Artus et al (2023) in their research, found that between January 2015 and May 2022, Māori (43%) and Pacific Peoples (23%) made up the largest cohorts of the 2,684 New Zealand citizens (both men and women) that had been returned from Australia.⁵⁹ These two groups were ‘substantially over-represented compared to their relative distribution within the wider NZ population’.⁶⁰

Women from Vietnam have been the second largest cohort of women (apart from February, March, May and June 2024 when women from China were the second or equal second largest group). These three nationality groups have in large part remained the largest groups of women in immigration detention from 2022 (as seen in Figure 7).

Inspection methodology

The Commission inspected BRP and parts of MIDC on 16 April 2024; VIDC on 31 April – 1 May 2024; and PIDC on 3 May 2024. The inspection was conducted by the Human Rights Commissioner, Lorraine Finlay, and between 2 and 5 Commission staff. The team was also assisted by Ms Kilroy OAM, Dr Galen-Dickie and Professor Abbott on all visits except for PIDC.

The Commission engaged Sisters Inside to provide a gendered, lived experience of incarceration, perspective to the inspection process. Ms Debbie Kilroy OAM, Chief Executive Officer of Sisters Inside, is one of Australia's leading advocates for protecting the human rights of women and children through decarceration – the process of moving away from using prisons and other systems of social control in response to crime and social issues. Debbie's commitment to human rights and prison reform is the result of her personal experience. Debbie was awarded the OAM for services to the community for working with women in prison in 2003 and in 2004 she was awarded the National Human Rights Medal.

Dr Marianne van Galen-Dickie also works for Sisters Inside assisting women in prison with section 501 cancellations. Marianne has worked extensively in the migration field since 1993 as a migration agent, academic and political advisor. Marianne developed the Graduate Certificate in Australian Migration Law and Practice program at the Australian National University College of Law and was its convener and director until 2015. Marianne is the co-editor of *Immigration Review* and holds a Masters in Higher Research and a Doctorate of Professional Studies.

The Commission acknowledges that Sisters Inside holds the view that the Australian Government should immediately end its policy of immigration detention and alternatives to closed immigration detention be adopted. The recommendations made within this Report should not be taken to be endorsed by Sisters Inside, unless they have expressly stated so.

The Commission also engaged Professor Penny Abbott as an independent custodial health consultant to participate in the inspection visits and provide advice on issues relating to the physical and mental health of women being detained. Professor Abbott is an academic, general practitioner and the Chair of General Practice at Western Sydney University. She is in clinical practice within the women's health stream of Justice Health and Forensic Mental Health Network (Justice Health New South Wales) and worked as a doctor in the Aboriginal community-controlled health sector for over 20 years. Her professional activities include membership of the General Practice Advisory Group, Agency for Clinical Innovation New South Wales, the General Practitioners leaders' group and the Clinical Council at the Western Sydney Primary Health Network, and a Board member at Justice Health New South Wales.

Prior to the inspections, the Commission held consultations with a range of civil society organisations who engage directly with people currently and formerly detained in immigration detention, and written information was received from a number of organisations and academics.

During the inspections, the Commission team met with representatives from the Department and ABF, as well as contracted detention services providers, Serco and IHMS; conducted an inspection of the physical conditions of detention; and held interviews with women detained at the facilities.

The Commission considered the evidence gathered during the inspection against human rights standards derived from international law that are relevant to immigration detention, as outlined in the section below.

The Commission's methodology reflects international guidelines for the conduct of detention inspections, including a core focus on prevention of harm.⁶¹ This preventative approach necessitates consideration of root causes and risk factors for possible breaches of international human rights standards.

Relevant human rights standards

The following international human rights treaties, which Australia has ratified, contain obligations that are relevant to the conditions and treatment of people in immigration detention:

- *International Covenant on Civil and Political Rights (ICCPR)*
- *International Covenant on Economic, Social and Cultural Rights (ICESCR)*
- *Convention relating to the Status of Refugees (Refugee Convention)*
- *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*
- *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*
- *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)*
- *Convention on the Rights of the Child (CRC)*
- *Convention on the Rights of Persons with Disabilities (CRPD).*

In addressing the specific characteristics and needs of women and transgender persons deprived of their liberty, the Commission also considered:

- *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules).*
- *The Principles of the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (Yogyakarta Principles +10)*
- *The United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules)*

Further information about the relevant standards can be found in the Commission publication, *Human rights standards for immigration detention*.⁶²

Issues and concerns impacting women across the detention network

Detention as a last resort

The negative impacts of prolonged immigration detention are well known and have been highlighted by the Commission on numerous occasions.⁶³ The Commission has stated that '[p]rolonged closed detention is a risk factor for mental ill-health, as the negative impacts of immigration detention on mental health tend to worsen as the length of detention increases'.⁶⁴

With regard to the particular experience of women, Rivas (2022) found that 'the longer women were detained, the more likely they were to have experienced any health issues and also to have experienced multiple wellbeing issues, including physical injuries and illnesses, acute medical symptoms, social life and relationship issues, as well as abuse and assault'.⁶⁵

The Commission's interviews with women in detention broadly support this finding. Many of the women acknowledged a direct correlation between the length of their detention and negative impacts upon their wellbeing, health, and social relationships. For example, one woman said, '**the longer the time the more anxious I am and the more it's affecting my family**'. Another speaking about the prospect of release after her prolonged detention wondered, '**how different am I going to be in a room with my family again? How much more scared am I going to be of the world?**'. Another speaking about the impacts of not knowing when and if she would be released said, '**[t]here are people who are just stuck here. That is scary. I have family waiting for me, this is really affecting my parents. My mum especially. It is inhumane to do this to somebody, it is emotional torture**'.

The immigration detention population includes women with a range of risk profiles, many of whom would not appear to present any identifiable risk to community safety if they were released. Even among the section 501 cohort, which make up a large proportion of the women, there is a wide variation in the types of offences leading to a visa refusal or cancellation, and consequent detention.

Statistics provided by the Department through Senate Estimates reveal that between 22 May 2022 to 31 October 2023, 46.1% of the 869 cancellations under section 501 (for both men and women) related to non-violent and non-sexual offending.⁶⁶ During the same period, non-violent and non-sexual offending as the reason for cancellation accounted for 61.4% of the total number of revocation decisions.⁶⁷ Where a person has no history of violent offending or sexual offending, it is less likely that a highly restrictive measure such as closed detention would be necessary. These statistics support that proposition.

Women within the section 501 cohort expressed a perceived sense of injustice at being detained following completion of their custodial sentences, and often for much longer periods than their custodial sentence. One woman described her experience, '**like torturous punishment and I don't deserve it. I paid for my crime in jail**'. Another woman speaking of her custodial incarceration and immigration detention said, '**I've been locked up 4 years now and I don't think any judge would say 4 years is reflective of the crime I committed. I don't think even the maximum penalty for my crime is 4 years**'.

The UN SPT, following its visit to Australia in 2022, noted 'those subject to visa cancellation as a result of past criminal convictions find themselves in immigration detention facilities only after having completed their criminal sentences, thus being subjected to secondary and accessory forms of punishment that Australian citizens would not face'.⁶⁸

As set out above, the Commission has consistently advocated for closed immigration detention to be limited to circumstances where it is strictly necessary to manage unacceptable risks to the community.⁶⁹ In relation to women in immigration detention, the UN CEDAW Committee has also recommended that State Parties:

Use administrative detention only exceptionally, as a last resort, for a limited time, when necessary and reasonable in the individual case, proportionate to a legitimate purpose and in accordance with national law and international standards.⁷⁰

RECOMMENDATION ONE

The Government should replace the current system of mandatory immigration detention with a case-by-case assessment process that takes individual circumstances into consideration. Closed detention should only be used as a last resort in circumstances where all of the following elements are present:

- a) detention is necessary and proportionate to an immigration purpose (for example, a brief period of immigration detention may be necessary to conduct health, security and identity checks before a visa is granted)***
- b) the person has been individually assessed as posing a risk of absconding or an unacceptable risk to the Australian community, and that risk cannot be managed in a less restrictive way***
- c) the necessity for continued detention is subject to periodic re-evaluation and judicial review, and***
- d) the duration of detention is subject to a maximum time limit.***

Meaningful activity

The importance of providing structured meaningful activities within a detention context is well known and researched. For example, in the context of prisons in Ireland, a report by the Office of the Inspector of Prisons found that meaningful activity 'is not only beneficial in terms of security of the prison and rehabilitation for prisoners, but it is also very much connected to the overall experience of imprisonment.'⁷¹ Meaningful activity 'detracted from boredom and violence in prison. It helped prisoners cope with their sentences and allowed prisoners to develop new skills.'⁷²

In the United Kingdom, people detained in immigration detention have access to meaningful activity in the form of paid work activities,⁷³ vocational courses and craft skill development available through classroom based and distance education.⁷⁴ Some people detained in United Kingdom prisons for removal purposes have also continued to access vocational training.⁷⁵

The Commission has consistently reported on its concern about a lack of meaningful activities available in immigration detention, which has regularly been identified a source of significant frustration to the detained population.⁷⁶ The Department has expressed the view, however, that its structured activities ensure people in detention are 'provided with learning opportunities to develop their skills and enhance their prospects at successfully gaining certificate qualifications in their future endeavours.'⁷⁷ It has also stated that Programs and Activities (P&A) schedules are 'reviewed on a regular basis to ensure that age and culturally appropriate and meaningful programs and activities are available to all people in detention'.⁷⁸

Across the immigration detention network, people are encouraged to participate in structured activities to receive points that they can then exchange for items through the facilities canteen. The point system allows people to obtain a default minimum allocation of weekly points and receive additional points based on participation in structured P&A. The Commission found women in immigration detention are offered broadly comparable P&A across BRP, VIDC and PIDC.

The activities on offer for women detained at these facilities include for example: 'glamour' (including face masks and beauty), yoga, Zumba, education (including maths, English, geography and life skills [such as opening bank accounts or using Word documents]) and crafts (including diamond dots and knitting/crocheting). Some facilities also offer specialised activities such as music lessons, a barista course, cooking classes, Self-Management and Recovery Training (SMART) and other self-development classes.

Most women engage in some form of P&A while detained and some activities are clearly more popular than others. For example, at PIDC the Commission observed a high level of engagement with P&A staff facilitating bingo and trivia, while at VIDC we observed several women disinterestedly sitting before an unboxed jigsaw puzzle, scrolling on their mobile phones.

The Commission's interviews with women overwhelmingly confirmed that they felt the P&A on offer was neither age-appropriate nor meaningful to them. One woman for example stated, **'they [activities] are somewhat degrading. I don't want to sit there for an hour and make bead bracelets, I am not a child'**. Another said, **'the things you do in here you do in primary school, they're not for adult women. How do they expect us to stay sane in here?'**. And another remarked, **'I have a visual arts degree and I'm colouring in pictures of mermaids'**.

These comments also align with recent reporting by the Commonwealth Ombudsman, who has noted 'a common complaint from the people we speak with in detention is that many of the activities (arts and crafts for example) are not perceived to be age appropriate.'⁷⁹

Women within the section 501 cohort expressed a desire for programs and activities aimed at vocational skill development, employability and self-development to reduce recidivism. One woman stated, **'I need something to get up for, routine. I can't sit around and drink coffee and play games all day'**. Another reflecting on the work opportunities she had in prison said, **'I'd rather be in prison, not working is a big thing for me. There is no structure to your day'**.

The Commission has previously highlighted that the official long-standing position against the delivery of recognised programs of study, vocational training and work goes against well-established research showing that such activities effectively reduce reoffending and support detained people post-release.⁸⁰ In turn, this helps to potentially improve community safety when people are released. For women in particular, the New South Wales Inspector of Custodial Services has highlighted that 'the strongest predictors of treatment success for incarcerated women are programs that target their interpersonal needs, victimisation and self-esteem.'⁸¹

Some women at VIDC also expressed concern about not having equitable access to activities and facilities when compared to the men detained in the other compounds. For example, some suggested that men have access to pool tables and a functioning table tennis table, neither of which were available to the women. Women at VIDC also raised concern about being provided significantly less access to the shared oval. At BRP we were also advised by Serco management that women had requested access to woodwork activities which Serco were supportive of but did not have the infrastructure to provide.

The Bangkok Rules stipulate that women who are detained 'shall have access to a balanced and comprehensive programme of activities, which take account of gender appropriate needs'.⁸² The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) also notes that women are often offered far fewer vocational activities than men and that 'such a discriminatory approach can only serve to reinforce outmoded stereotypes of the social role of women'.⁸³ The UN Special Rapporteur on Torture has likewise emphasised that '[c]ounteracting such stereotypes requires offering women skills-building in more viable professions'.⁸⁴

The Commission considers that women in immigration detention should not be offered activities which are deemed to be suitable for women based on stereotypical perceptions. Instead, they should be offered a broad range of programs tailored to their needs, including physical and mental healthcare programs, substance dependence programs, physical activities, counselling, psychosocial support, education and vocational training courses, creative and cultural activities and work opportunities.

RECOMMENDATION 2

The Government and Department should, in consultation with facility staff and people in detention, review its policy on access to recognised programs of study, work and vocational training in immigration detention to enhance opportunities for rehabilitation and reintegration.

RECOMMENDATION 3

The Department should ensure that women in immigration detention have access to a broad range of meaningful activities on an equal footing with their male counterparts and ensure that programs and activities on offer are responsive to the needs of women in detention, age appropriate and not based on gender stereotypes.

Photo One: Women's artwork in the Community women's activity room (VIDC)



Photo 2: Cowan compound gymnasium and computer room (VIDC)



Photo 3: Women's artwork in the shared kitchen/activity room (PIDC)



Use of operational quarantine

The first days of detention can be a stressful experience, particularly for women. For example, the Office of the Custodial Inspector Tasmania conducted a survey on the experience of 46 women entering the Mary Hutchinson Women's Prison and found that the majority (65%) had feelings of depression, 39% were suffering from mental health issues and 30% were experiencing drug and alcohol issues.⁸⁵ Another study by the Australian Institute of Health and Welfare, surveying 117 women entering prison, found 52% of them reported experiencing high to very high levels of psychological distress on entry.⁸⁶

This distress, also faced by new arrivals to immigration detention, is often compounded by having served a custodial sentence prior to detention. In their interviews with women in prison facing deportation, Metha et al (2023) found that, 'the uncertainty around deportation processes, timelines and the risks associated with going back to the home country, preoccupied them throughout their prison term'.⁸⁷ One of the submissions received by the Commission also observed that, '[f]ear and stress when leaving prison and entering detention remain a factor all women face if their case has not been finally determined by Home Affairs'.

The heightened distress faced by women entering immigration detention is further exacerbated by being subjected to a period of operational quarantine (separation from the main population) when first detained as a measure to contain the spread of COVID-19.

The mental health and wellbeing pressures of the requirement to quarantine are well known. The National Review of Hotel Quarantine for example found that 'the pressures on mental health and wellbeing during hotel quarantine is arguably one of most important considerations in the hotel quarantine system, as even those who have not previously experienced mental ill-health may find the experience taxing'.⁸⁸ The National Review of Quarantine likewise 'heard from several individuals about how their experience of 14 days hotel quarantine had a significant impact on their mental health'.⁸⁹

The Department advised the Commission that operational quarantine was in place for a period of up to 5 days as a matter of course across all immigration detention facilities in Australia and is required even when a detainee 'does not have symptoms that may be associated with COVID-19 but needs to be quarantined from other detainees as they may have been exposed to COVID-19 and require review and testing (with consent) before being accommodated in the general population'.⁹⁰

The Department also advised the Commission that the continuation of operational quarantine was 'based on advice from the Department's Clinical Advisory Team, the Department's Detention Health Services Provider (DHSP), the Department of Health and the Communicable Diseases Network Australia National Guidelines for COVID-19 Outbreaks in Correctional and Detention Facilities'.⁹¹

The Communicable Diseases Network Australia Guidelines recognise that '[d]etainees in isolation and quarantine face risks to their mental health'.⁹² They also state that new intakes or transfers should only be subject to quarantine 'for the period specified by the state or territory authority'.⁹³

The Commission accepts that operational quarantine will be necessary in some circumstances—such as where there is an elevated risk of community transmission and acknowledges that detention environments 'are challenging environments and carry additional risk for COVID-19 seeding and transmission and outbreak management, compared with the wider community'.⁹⁴

However, the Department's continued use of operational quarantine is out of step with the practices currently in place in state and territory correctional facilities across Australia. The New South Wales Inspector of Custodial Services for example reported that '[i]n March 2023, the quarantining of new reception inmates ceased entirely'.⁹⁵ Corrective Services New South Wales now only requires new entrants to undertake an entry Rapid Antigen Screening (RAS) test and isolation only occurs if a person 'develops cold or flu like symptoms'.⁹⁶ Corrections Victoria likewise requires new entrants to undertake a RAS test and they are only subjected to 5 days of isolation if they either return a positive result or refuse to be tested.⁹⁷

The Commonwealth Ombudsman has expressed concern about the continued use of operational quarantine and other COVID-19 measures stating they are 'in stark contrast to community settings, which had moved on from the need to isolate or maintain social distancing'.⁹⁸ The Commission agrees with the Commonwealth Ombudsman and also notes that the Australian Health Protection Principal Committee affirmed in October 2023 that 'Australia has shifted to managing COVID-19 consistent with other common communicable diseases'.⁹⁹

RECOMMENDATION 4

The Department should immediately end its use of operational quarantine and other COVID-19 restrictions across the immigration detention network and return to a 'business-as-usual' approach, with the virus being treated like other transmissible respiratory diseases.

Photo 4: Hotham compound (quarantine) High Care Accommodation (VIDC)



Gender-responsive training and staffing

The Bangkok Rules outline several obligations relating to the training requirements of staff working with women in detention. For example, Rule 31 stipulates that '[c]lear policies and regulations on the conduct of prison staff aimed at providing maximum protection for women prisoners from any gender-based physical or verbal violence, abuse and sexual harassment shall be developed and implemented'.¹⁰⁰ Rule 33(1) notes that staff working with women shall 'receive training relating to the gender-specific needs and human rights of women prisoners'.¹⁰¹ Rule 33(2) also necessitates basic training be provided to all staff on 'the main issues relating to women's health'.¹⁰²

The UN CEDAW Committee, commenting specifically on immigration detention and referencing the Bangkok Rules, also affirm that '[a]ll staff assigned to work with women detainees should receive training relating to the gender-specific needs and human rights of women'.¹⁰³ The UN Special Rapporteur on Torture has also emphasised that staff training 'to identify specific physical and mental-health needs of female detainees, are key to preventing mistreatment'.¹⁰⁴

Across all facilities visited, Serco, ABF and Department staff advised the Commission that gender-specific training had not been incorporated into their training and ongoing development. IHMS was able to evidence specific training for its staff and ongoing refresher training into the specific health needs of women.

The Commission was advised that training provided to Serco, ABF and Departmental staff had an individualised focus and covered topics such as trauma-informed practice, understanding triggers (for example for domestic violence survivors), mental health and situational awareness. Training did not however have a specific gendered dimension to it.

In the Commission's discussions with these staff, it was evident that women were not considered a vulnerable cohort as such; instead, the emphasis was on exercising sensitivity on a case-by-case basis. The UN SPT however have categorised women in detention as suffering 'particular vulnerability'.¹⁰⁵

For the most part, interviews with women in detention demonstrated respectful and positive relations with staff. The Commission also observed positive interactions particularly with ABF leadership at both PIDC and VIDC. There were examples of very positive interactions with specific staffing groups, for example, many women at VIDC commented positively about IHMS staff with one stating they were '**understanding people, they don't rush you**'. At PIDC, women spoke positively about Serco welfare staff with one woman saying, '**welfare are great**'. Some women did, however, raise concern about interactions with certain staffing groups. For example, at BRP some were concerned about ABF staff interactions with one woman stating they were, '**patronising and they make you feel uncomfortable when they are around. I feel they look down at you**'.

The Commission found further evidence which reinforced the importance of staff being provided initial and ongoing gender-responsive training and policy guidance. For example, the Commission reviewed the Detainee Consultative Committee (DCC) Meeting minutes from BRP, VIDC and PIDC over the last 12 months. In the BRP DCC minutes, the following complaints were raised by women, demonstrating the need for such training:

- 'detainees have advised officers knock before entering however do not wait for detainees to respond and come in right away. Detainees are requesting for DSOs to be reminded to wait for their response before entering'.¹⁰⁶
- 'Female detainees would also like to have a female officer processing their undergarments, as they can relate and [provide] accurate assistance with sizes'.¹⁰⁷
- 'BRP detainees advised male officers should be accompanied by females when entering the units. Female detainees also feel uncomfortable when discussing certain topics with the male staff (sanitary products, undergarments etc)'.¹⁰⁸

In the United Kingdom, operational guidance to staff working with women in immigration detention facilities require that 'staff must always knock and wait for an answer before entering detained individual's rooms, unless an exceptional operational need makes this inappropriate. Additionally, prior to opening the door, officers should verbally announce their gender'.¹⁰⁹ The guidance also states, that '[i]ssues of decency, the need for close observation and women's safety and rights should be considered when deciding the gender balance of staff and managers'.¹¹⁰

Further, '[w]omen must have easy access to a range of hygiene products including sanitary provisions, reusable and sustainable products such as menstrual cups, period underwear and re-usable towels. These products should be freely available without the need to ask a member of staff'.¹¹¹ The Commission's own *Human rights standards for immigration detention* also state that '[f]eminine hygiene products are readily available free of charge to female detainees and never require a request to male security staff'.¹¹²

The United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) stipulate that '[n]o male staff member shall enter the part of the prison set aside for women unless accompanied by a woman staff member'.¹¹³ Additionally, they state that '[w]omen prisoners shall be attended and supervised only by women staff members. This does not, however, preclude male staff members, particularly doctors and teachers, from carrying out their professional duties in prisons or parts of prisons set aside for women'.¹¹⁴ The UN Special Rapporteur on Torture has affirmed that the separation of women and men and ensuring women are supervised by female officers and staff only are 'key safeguards against abuse'.¹¹⁵

The UN CEDAW Committee has also stated that '[t]his important safeguard, based on non-discrimination against women in line with article 1 of the Convention, has been reaffirmed by the Committee in its concluding observations on the reports of States parties'.¹¹⁶ With respect to immigration detention specifically, the Committee has likewise emphasised 'the use of female guards and warders should be promoted'.¹¹⁷

The UN SPT has however observed that it is 'common to find male staff carrying out security duties because of a lack of female guards'.¹¹⁸ Following its visit to Australia in 2022, the UN SPT noted, 'the prevalence of male guards in ... women's sections of immigration detention centres ... and also noted information provided by staff indicating that male officers entered female living quarters without the presence of a female officer'.¹¹⁹

While the Commission observed that women were generally supervised by female officers, there were also male officers present at each of the facilities and compounds we visited. It was also apparent that the Emergency Response Team (ERT) presence at both BRP and VIDC were all males. The Commission was advised by ERT staff and Serco management they were having difficulty recruiting and retaining any female ERT officers due to the ongoing requirements of the role.

In a differing approach to the above guidance, the CPT has stated that '[t]he presence of male and female staff can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention'.¹²⁰ The Committee does, however, note that there should be 'a preponderance of female staff supervising such accommodation'.¹²¹

In support of ensuring a larger proportion of women officers in women's accommodation, the Norwegian Parliamentary Ombudsman has stated in one of its reports that:

The changed relationship of power that arises between people when someone is deprived of their liberty can, for various reasons, make women particularly vulnerable. For women who have suffered abuse or been involved in prostitution, the proportion of male staff can be particularly challenging.¹²²

The Commission's own *Human rights standards for immigration detention* do not preclude the presence of male officers in women's compounds, but they denote that some situations and tasks require female-only staffing. They state that 'female detainees should be attended and supervised only by female members of staff when in the bathroom and sleeping areas of the facility or when under observation (for mental health reasons, for example)'.¹²³

One example of where this is particularly relevant is in the conduct of room searches. At VIDC one woman describing a room search in which male officers handled her bras and underwear told the Commission, **'I felt humiliated when the male officers searched through my things'**. The Commission acknowledges that safety and security are always key considerations when undertaking any activity in detention, however, there are ways to achieve these things without sacrificing human rights.

RECOMMENDATION 5

All staff working in immigration detention centres where women are detained should be provided with initial and ongoing training on the supervision of women in immigration detention and gender sensitivity. As a minimum, training should cover:

- a) the gender-specific needs and human rights of women in immigration detention***
- b) the main concerns relating to women's health in detention and,***
- c) guidance on safeguarding women from any gender-based physical or verbal violence, abuse and sexual harassment including intimate partner violence and family violence perpetuated between or against LGBTIQ+ women.***

RECOMMENDATION 6

Women in immigration detention should, as far as possible, be attended to and supervised only by women officers and staff. Where this is not possible, the majority of officers should be women

RECOMMENDATION 7

Gender-sensitive tasks (such as searches, use of force operations which involve physical contact or providing clothing or feminine hygiene products) or tasks undertaken in specific areas of the accommodation (such as bathrooms, sleeping areas and under observation) should only be undertaken or supervised by women officers and staff.

RECOMMENDATION 8

The Department and Serco should, as a matter of priority, develop plans for the recruitment and retention of female Emergency Response Team officers and analyse what structural reasons are stopping women from applying and being retained.

Access to visitors and visiting facility conditions

The UN SPT has reported that, across the globe, 'one of the most pressing concerns for women deprived of their liberty is the situation of their minor children, in particular children of a very young age'.¹²⁴ The Subcommittee has also found that 'because women are a minority within the total population of persons deprived of liberty, they are held in very few establishments, which are often located a long way from their families, who therefore have great difficulty in visiting them regularly'.¹²⁵

The UN Special Rapporteur on Violence Against Women has also reported that many women 'have little meaningful contact with their family members, more especially their children due in large part to women being located a distance from the family and the logistical and financial costs involved in arranging visits'.¹²⁶

Maintaining meaningful relationships, particularly with children, is important for women in immigration detention. In a prison setting, regular visits from family are a contributing factor to reduced recidivism and reintegration. The New Zealand Office of the Inspectorate has reported that a 'large body of evidence suggests that maintaining social connections helps prisoners cope with their experience and successfully transition back into society' and receiving visits from family 'has been linked to reduced long-term offending'.¹²⁷ The New South Wales Inspector of Custodial Services has also noted that '[r]esearch shows that prisoners who receive visits from a family member are 39% less likely to re-offend than those who do not'.¹²⁸ In turn, this again helps to indirectly strengthen community safety by reducing recidivism and improving community reintegration.

As mentioned earlier in this Report, women in immigration detention can only be accommodated at BRP, VIDC and PIDC. Any women who come into detention from the other states or territories must either be held in a hotel APOD or transferred interstate. The Commonwealth Ombudsman has identified the lack of accommodation options for women as a 'worrying prospect' expressing concern that the 'transfer to more appropriate accommodation interstate would see the women moved away from their children and families, friends, and support networks'.¹²⁹ One of the submissions the Commission received also observed that '[f]amilies facing financial and logistical barriers to interstate travel may find that the inability of children to visit their relative impacts on the legal outcome of custody arrangements.'

The Bangkok Rules stipulate at Rule 4 that '[w]omen prisoners shall be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services'.¹³⁰

At the time of the Commission's visit, no women residing at BRP had been usually resident in Victoria immediately prior to being detained in immigration detention.¹³¹ At VIDC 88.9% of the women detained had been usually resident in New South Wales and at PIDC 66.7% of women had usually been resident in Western Australia immediately prior to being detained in immigration detention.¹³²

For the women who were not able to have family visits due to being detained interstate, the impact was particularly difficult. One woman who had not had contact with her children during her time in immigration detention told the Commission, **'it's been two years since the last time I hugged a family member'**. Another woman told the Commission she had initially been placed in a hotel APOD in Brisbane and had scheduled to have her first visit from her children before being transferred interstate prior to the visit occurring. She stated, **'it's gender discrimination, not being able to see my children after being transferred from Brisbane as they can't accommodate women'**.

Women who had received interstate visitors also spoke about the impact of restricted visiting times on their visitors. One woman at BRP told the Commission, **'[m]y parents came at Christmas for a day to visit, but that is it. I've had no other visitors. No one can come. It's a lot of money to travel to Melbourne for a 2-hour visit'**. Another woman at VIDC said, **'family visits are 1 hour, if you request longer, you get 1 hour 15 minutes only and you cannot go outside. It is not enough if people came all the way from Melbourne'**.

A woman who had regular visits noted, **'prison was better for visits, they [children] could come in and spend half the day together'**. Another woman at VIDC also stated, **'[t]he visit times have not reverted back to pre-covid days. This is disappointing especially to mothers who cannot have extended visits with their children'**.

The New South Wales Inspector of Custodial Services has identified some good practice in overcoming some of these barriers. For example, ‘accommodating families who were travelling long distances to visit by arranging all-day visits’ and through ‘organised activity days’ that occurred 2 to 3 times per year or more regularly in some facilities.¹³³

Where women have been detained away from their usual place of residence or where visits with children are particularly difficult to maintain, for the preservation of the family unity, the UN CEDAW Committee has simply stated that ‘[a]lternatives to detention, including release with or without conditions, should be considered in each individual case and especially when separate facilities for women and/or families are not available’.¹³⁴

For women who can receive regular visits, the Commission observed additional barriers including the inappropriateness of the visiting facilities for children and the time restrictions in place on visits. Bangkok Rule 28 stipulates that ‘[v]isits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible’.¹³⁵

The Commission observed that the visiting facilities for BRP (which are undertaken in MIDC South), VIDC and PIDC offered very little entertainment for child visitors. At MIDC South, children had access to a small amount of play equipment but there was no outdoor area in which women and their children could go for recreation and fresh air. At VIDC, the outdoor climbing frame had been removed some months earlier due to safety concerns (although ABF staff advised it was going to be replaced) and children only had access to a small box of colouring and reading books. A large family room was available at VIDC though we were advised it was not used for visits. PIDC had the smallest visit room (given its infrastructure limitations) with no access to outdoor areas and some limited activities and books to entertain children.

By comparison, His Majesty’s Inspectorate of Prisons for England and Wales has generally reported positively on visiting areas for children in immigration facilities in the United Kingdom. Some of the facilities have included, for example:

- attractive murals, soft play areas, an arcade-style games machine, playframe designed for children to use safely without supervision,¹³⁶
- a colourful and welcoming children’s play area that was well stocked with toys and games,¹³⁷
- a small area with facilities for children of all ages, including board games and PlayStations,¹³⁸
- a free bus service available between the train station and the centre.¹³⁹

Some of the women interviewed by the Commission expressed reluctance to ask their children to visit them because of the condition of the visiting facilities and lack of entertainment for children. At PIDC for example, one woman said, **‘the visiting room is gross. My children don’t want to spend 2 hours in there with me’**.

RECOMMENDATION 9

The Government and Department should make every effort to avoid the interstate separation of women in immigration detention from their family and supports by:

- a) ensuring appropriate accommodation for women is made available in all states/territories, and***
- b) ensuring alternatives to closed immigration detention are made available to women where this is not possible.***

RECOMMENDATION 10

The Department should ensure that its existing visiting facilities foster an environment that is conducive to a positive visiting experience, particularly for child. The Department should provide child visitors with access to a wide variety of age-appropriate play activities, facilities and outdoor spaces.

RECOMMENDATION 11

The Department should proactively encourage the extended contact of women in detention with their children as much as possible. This may include offering extending visiting times, facilitating regular activity days for women and their children and offering reasonable transportation assistance where necessary.

Photo 5: Visiting centre (VIDC)



Photo 6: Children's books in visiting centre (VIDC)



Photo 7: Visiting centre outdoor area where the outdoor children's climbing frame had been removed (VIDC)



Photo 8: Visiting room (PIDC)

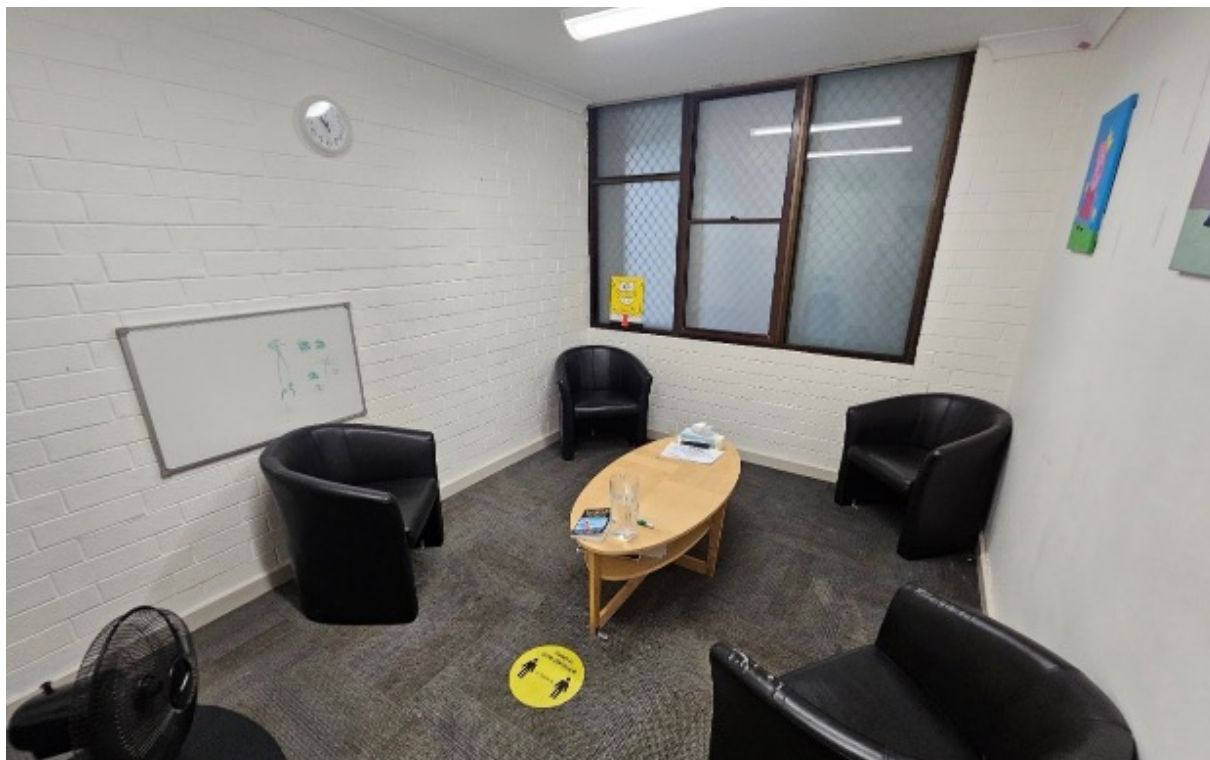


Photo 9: Visiting centre (MIDC South)



Photo 10: Visiting centre children's play area (MIDC South)



The placement and care of transgender women

The Commission recognises that transgender persons, 'are more likely than the general population to experience assault and self-harm, and that these vulnerabilities are magnified when transgender persons are incarcerated'.¹⁴⁰

The UN Special Rapporteur on Violence Against Women has reported that, globally, transgender persons in detention:

[F]ace unique and particularly harsh circumstances in prison systems, including issues of classification for their prison placement, the possibility of administrative segregation, barriers to the accessibility of hormone treatment, and higher instances of abuse and discriminatory treatment.¹⁴¹

The UN SPT has also stated that '[i]n the case of transgender persons, the likelihood of being sexually assaulted by a fellow inmate was 13 times higher than for cisgender persons'.¹⁴²

The CPT notes that decisions about the placement of transgender persons in detention (particularly transgender women) can often be ‘a highly-charged politically and socially sensitive topic’.¹⁴³ The CPT however states that:

there is no valid security reason why, in principle, a balanced individual risk assessment carried out when a transgender person is admitted to prison should differ from that which is carried out on the committal of a cisgender person. In both cases, the dual objective should be the same: to make a placement decision that will most effectively protect the person being committed from others who may wish to cause them harm, and to limit the risk that they may be placed in a location in which they may cause harm to others.¹⁴⁴

The UN Special Rapporteur on Torture has found that ‘[t]ransgender persons tend to be placed automatically in male or female prisons or wards without regard to their gender identity or expression’.¹⁴⁵ This can result in transgender women being placed with men. Alternatively, transgender persons may also be separated from the general population for their safety. While this may provide greater protection for the transgender person, the UN Special Rapporteur on Violence Against Women reports this often ‘results in exclusion from recreation, educational and occupational opportunities and rights of association’.¹⁴⁶ The UN Special Rapporteur on Torture has cautioned against this practice recommending that ‘protective measures do not involve the imposition of more restrictive conditions’.¹⁴⁷

The CPT emphasises that transgender persons ‘should always be held in locations that best afford their safety and that of others’.¹⁴⁸ Where this is not possible, the UN SPT has said ‘[i]f the security of the person cannot be guaranteed in detention, alternatives must be considered’.¹⁴⁹

Australian correctional facilities have specifically-designed policies which aim to guide the placement decisions for transgender persons. In reviewing the existing correctional policies relating to the care and management of the adult trans populations in Australian prisons, Winter (2024) acknowledged that correctional institutions were evolving in their understanding of the needs of transgender persons.¹⁵⁰ Positively, ‘the existence of specific carceral policies devoted to their unique needs while in prison is testament to the disproportionate disadvantages and vulnerabilities they experience’.¹⁵¹ Winter however cautioned that more research was needed to focus on the implementation of these policies, not just their written intent.¹⁵² Walters et al (2024) have also noted that adherence to these policies ‘are often discretionary and are inconsistent between jurisdictions’.¹⁵³

During the inspection, the Commission was advised that the Department ‘does not have current guidelines that specifically outline the management of transgender detainees. The Department takes a person-centric approach to the management of all detainees and incorporates this within all detention operational policies and procedures’.¹⁵⁴

The Commission considers the absence of specific policies and guidance material on the management of transgender persons in immigration detention to be inadequate. The Commission notes that the Commonwealth Ombudsman has also suggested that the Department ‘develop comprehensive procedural guidance relating to the accommodation, welfare, security, and management of transgender people in detention’.¹⁵⁵

The UN SPT has highlighted that ‘the absence of adequate policies and methods of identification, registration and detention has severe consequences: obtaining precise individual information as to gender identity is vital to determining proper treatment’.¹⁵⁶ The CPT has likewise said that ‘[a]ppropriately tailored safeguards against abuse and ill-treatment may be necessary, and careful consideration should be given to the manner in which a broad spectrum of prison policies designed with cisgender prisoners in mind could adversely affect the lives of transgender persons living in prisons’.¹⁵⁷

The Principles of the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (Yogyakarta Principles +10) stipulate at Principle 9 (i) that States shall ‘[a]dopt and implement policies on placement and treatment of persons who are deprived of their liberty that reflect the needs and rights of persons of all sexual orientations, gender identities, gender expressions, and sex characteristics and ensure that persons are able to participate in decisions regarding the facilities in which they are placed’.¹⁵⁸

In support of this principle, the UN SPT has advised ‘decisions on the housing of transgender persons should be done on a case-by-case basis, considering seriously their views as to their safety and, to the extent possible, with their informed consent. The specificity of the needs of transgender persons makes the involvement of transgender activists and experts particularly desirable’.¹⁵⁹ This view was also endorsed by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions.¹⁶⁰

Brömdal et al (2024) analysing the experiences of formerly detained transgender women in Australia and the United States of America found that:

many of the previously incarcerated trans women identified that being given a choice of where to be housed was as, if not more, important than being offered suitably safe options. Having agency regarding housing location is not only about empowering trans women but directly links with physical and emotional survivability based on an individual’s own understanding of what constitutes a safe environment for them.¹⁶¹

Winter’s (2024) review of corrective services policies noted that ‘NSW and Victoria have policy documents which appear to have had input by advisors knowledgeable about trans issues, showing a depth of understanding about issues such as prosthetics, black-market hormone use, and diverse identities which indicate a commitment to improvement’.¹⁶²

RECOMMENDATION 12

The Department and Serco should develop policy and procedural guidance relating to the accommodation, welfare, security, and management of transgender persons in immigration detention. This guidance should:

- a) be informed by human rights principles including but not limited to the Yogyakarta Principles +10***
- b) be co-designed with input from transgender persons and their representative organisations, and***
- c) effectively protect the individual from others who may wish to cause them harm, and to limit the risk that they may be placed in a location in which they may cause harm to others.***

RECOMMENDATION 13

The Department should ensure that the application of protective measures for transgender persons in immigration detention do not involve the imposition of more restrictive conditions or reduced opportunities for those individuals.

RECOMMENDATION 14

The Department should ensure that alternatives to closed immigration detention are considered where the security of a transgender person cannot be guaranteed.

Women's health

The UN Special Rapporteur on Violence Against Women has reported that, globally, many places of detention offer inadequate health care to women or offer services which are not comparable to those offered to men. The Special Rapporteur has warned that:

The consequence of a failure to consider women's specific health needs means ignoring reproductive health needs and medical conditions stemming from a history of poverty, malnutrition, physical or sexual abuse, drug use, or inadequate medical care.¹⁶³

Most women told the Commission that they had experienced positive engagement with IHMS staff and were generally able to access the health services they required while in immigration detention. One woman at BRP said, '**[I] can't complain about health – when you [make a] request you get it straight away. Health [is the] best part about this place**'. Another woman at VIDC said, '**[I] see a doctor and nurse regularly. [The] medical staff are good**'.

Some women told the Commission about positive experiences in relation to addressing specific women's health concerns. One woman for example said, '**[I] was able to have a pap smear and transfer to hospital for treatment after it showed some issues**'. Another woman said, '**last time I got abdominal pain due to irregular period they gave me treatment and medicine, which was good**'.

A few women, however, told the Commission about negative experiences in addressing their women's health concerns. For example, one woman told the Commission she had a pap smear that returned an abnormal result and after a long delay in scheduling a gynaecologist appointment, had to have another pap smear and biopsy, four months later.

Mental health and trauma counselling

IHMS staff told the Commission that mental health and trauma was the most prevalent concern among the women in immigration detention. According to information provided by the Department through Senate Estimates, between 1 February 2023 and 31 January 2024, 2,064 people (both men and women) in immigration detention had engaged a mental health professional and 321 had engaged external torture and trauma services.¹⁶⁴

Many women told the Commission that, while they felt the delivery of and access to mental health and torture and trauma services was adequate, the longer they were detained, the less effective those services were and the more likely they were to disengage with them.

One woman at BRP stated, '**mental health staff do what they can but [there is] not much they can do for you while you're in this situation**'. Another woman at VIDC stated, '**I was seeing a psychologist for a while and he's very good. But it comes to a point where it's like what for? Why am I engaging in these services? Why am I doing all this? I'm still here, it feels pointless sometimes. [There is] still no end date, time frame, clear path or plan other than to just sit and wait**'. A woman at PIDC also stated, '**[there is] good support but nothing will deal with the depression of this place**'.

Access to female medical health professionals

The Bangkok Rules note at Rule 10(2) that '[i]f a woman prisoner requests that she be examined or treated by a woman physician or nurse, a woman physician or nurse shall be made available, to the extent possible, except for situations requiring urgent medical intervention. If a male medical practitioner undertakes the examination contrary to the wishes of the woman prisoner, a woman staff member shall be present during the examination'.¹⁶⁵ The Commission's *Human rights standards for immigration detention* also state that '[d]etainees can request medical consultations with doctors of the same gender as themselves, and this will be provided whenever possible'.¹⁶⁶

The UN SPT have observed that '[w]omen's right to health is a critical issue in places of deprivation of liberty, particularly in mixed facilities, because there are often no female health professionals available to provide adequate care and follow-up'.¹⁶⁷

The availability of female doctors and allied health staff was a concern raised at PIDC (though this appeared to be less of an issue at BRP and VIDC). The matter was raised by women in detention and on review of the DCC Minutes for August 2023.¹⁶⁸ The Commission was informed that a male doctor was available on site at PIDC 4 days a week and any appointments requiring a female doctors needed to be undertaken at an external medical centre. This caused short delays to receiving care and could be problematic for women who refused to attend external appointments due to the need to be restrained. One woman told the Commission, ***'I don't want to go out of the centre because of the restraints'***.

Continuity of care

Another area of concern that arose in our interviews with women and IHMS staff was the continuity of care for women transferring to immigration detention from prisons. IHMS staff at BRP, VIDC and PIDC told us that accessing health records from prisons (particularly if interstate) could be problematic. In some locations, it would take over a week to receive the health records.

One woman at BRP told the Commission how this had impacted her when she first arrived: ***'I take medication daily and that was a pain to get when I first got here – I had left over medication in my suitcase and some trouble getting my medical records from prison. So [they couldn't] give me a prescription until I got it. Got it sorted [out] in the end'***. At VIDC another woman also told us, ***'[a]ll reports from Corrections went missing – I had to get them myself. I was on a drug treatment program – this just stopped. I got Panadol but otherwise had to go cold turkey in quarantine'***.

Continuity of care issues for women transferring between immigration detention centres were also highlighted as a concern. One woman told the Commission that she had been recommended a specific treatment plan by an external specialist and upon transferring to another centre was unable to start the treatment. After accessing another specialist, 11 months later, she was provided with the same treatment plan.

IHMS staff told us that some women are eligible to access the private health system due to long wait times arising from transferring between centres. However, private care can sometimes be challenging when providers are reluctant to provide care due to security concerns. In many circumstances, the entire process is restarted when a transfer occurs. IHMS staff also advised that they could recommend no transfers between centres where women are on waiting list for a treatment regime, however, this advice could be overridden by the Department.

Screening at induction

The Bangkok Rules note at Rule 6(c) that '[t]he health screening of women prisoners shall include comprehensive screening to determine primary health-care needs, and also shall determine: The reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues'.¹⁶⁹

The Commission was advised that induction screening included a female health screen and reproductive health screening, including history of reproductive testing. The screening process also included other factors relevant to Rule 6, including screening for experiences of domestic violence and trauma.¹⁷⁰

One issue the Commission explored with IHMS was the absence of auditory screening during the medical induction (for both men and women). For people with a hearing impairment, the detention environment can present subtle but significant challenges in understanding verbal instructions, hearing loudspeaker announcements or audible alarms, and generally engaging in routine daily activities.

In Australia, around 3.6 million people experience some form of hearing loss.¹⁷¹ The Western Australian Inspector of Custodial Services has reported that '[w]hile there is limited research on hearing impairment in Australian custodial settings, it is estimated that rates of impairment are higher than in the community'.¹⁷²

Good practice has also been highlighted by the Western Australian Inspector of Custodial Services occurring at the Acacia Prison.

In August 2021, Serco – the private operator of Acacia Prison – began offering fully subsidised hearing tests and hearing aids to prisoners with an identified hearing impairment. A private audiologist attends Acacia Prison monthly to undertake hearing tests for prisoners identified by nursing staff as having a suspected hearing impairment. If the screening identifies a clinical need for hearing aids, these are provided at no cost to the prisoner. As of July 2023, 27 prisoners had been fitted with aids under this scheme.¹⁷³

IHMS advised the Commission that auditory testing was not available and required a referral to the public health system.

RECOMMENDATION 15

The Department and IHMS should ensure that women in immigration detention have access to a female doctor at each facility where women are accommodated. Women in immigration detention should also be provided with access to female allied health staff wherever this is possible.

RECOMMENDATION 16

As a priority, the Department and IHMS should liaise with state and territory corrective services and justice health agencies to improve strategies for ensuring the timely transfer of medical information to facilitate continuity of care for people entering immigration detention.

RECOMMENDATION 17

When considering the transfer of an individual from one immigration detention facility to another, the Department should consider, on equal terms to other factors, the advice from IHMS that a transfer would impact on the waiting time for a treatment regime.

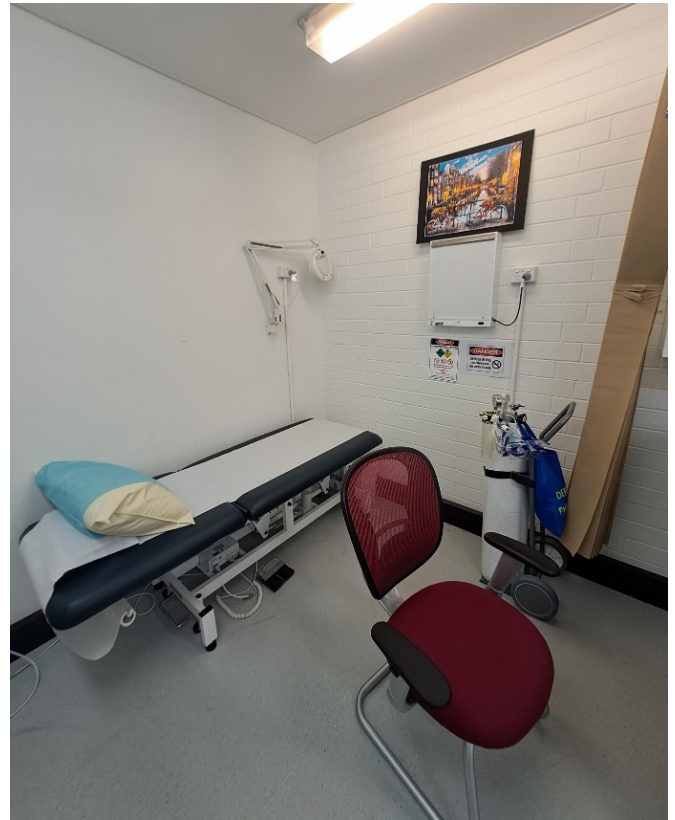
RECOMMENDATION 18

The Department and IHMS should ensure that the process for auditory testing is initiated during the medical screening provided at induction and conducted within the first two weeks of detention.

Photo 11: Dental clinic (VIDC)



Photo 12: Medical consultation room (PIDC)



Access to hair dye

The Commission was consistently advised by women in detention at PIDC, VIDC and BRP and by detention centre staff, that access to hair dye was prohibited due to a directive made by Serco and the ABF, as it would alter someone's appearance and may cause identity issues.

While the provision of hair dye may seem like a relatively trivial issue to some, it is important in terms of human dignity. The Mandela Rule 18(2) stipulates that '[i]n order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be able to shave regularly'.¹⁷⁴

The Commission notes this issue had been raised numerous times during DCC meetings, including at BRP (April 2023 and November 2023), VIDC (March 2024) and PIDC (July 2023 and November 2024).¹⁷⁵ The minutes of these meetings demonstrate women discussing possible alternatives like henna or having only their roots dyed by a professional hairdresser. They also note the perceived arbitrariness of the rule given men can shave and grow their beards and women can wear wigs, both of which also alter appearance.

Detention centre staff also told the Commission they had tried for years to have the prohibition overturned. This included ABF management conducting an extensive risk assessment at VIDC exploring non-alcohol-based products, which was rejected by senior leadership.

The Commission understands the need to ensure appearance is not unduly changed. However, it also notes that in Queensland correctional facilities the Superintendent is able to approve the purchase of non-toxic hair dye to maintain hair colour, cover grey hair or to manage a reversion to the natural hair colour.¹⁷⁶ Under the Queensland Corrective Services policy, where hair dye may lead to a significant change in appearance, the Superintendent must process the purchase and retake the prisoners photograph for identification purposes.¹⁷⁷

RECOMMENDATION 19

The Department and Serco should revise its policy on the prohibition of women obtaining and using hair dye and align it with the Queensland Corrective Services policy.

Melbourne Immigration Detention Centre and Broadmeadows Residential Precinct

Following significant infrastructure works, the site of the original MIDC facility (which was a low-security facility designed for short-term detention) was split into two separate complexes.

MIDC North is a high-security complex with high fences and other extensive security features that has been in operation since 2018 and is used to detain adult men. MIDC North contains the Glenelg compound, Ford compound, Erskine compound, Dargo compound (currently used for quarantine) and Shaw compound (High Care Accommodation).

MIDC South is a medium-security complex that is divided into 3 accommodation compounds which also house men. MIDC South contains Avon compound, Bass 1 compound and Bass 2 compound.

Adjacent to MIDC is the BRP which is designated as an APOD where women and men are housed. The BRP contains 10 self-contained units, 8 of which are 3 bedrooms and 2 are 4 bedrooms – the configuration of which can change but in total could accommodate up to 50 people.

Each unit contains a kitchen for self-catering, a lounge with television, laundry and dryer, an outdoor porch with a clothesline, a landline phone and a computer with internet access. There is no CCTV inside bedrooms, and they are not lockable, but the front door and security door can be locked by Serco, though they usually are kept open.

The BRP also contains outdoor spaces, exercise equipment, a volleyball area, outdoor gardening activities, a communal activities area (Hartland hut) and several murals throughout the entire facility. The BRP has a low restriction regime and security features such as CCTV are more discrete than at other facilities. The BRP is surrounded by a high external perimeter fence.

Health services for women are facilitated at the MIDC. Access to the gymnasium occurs in the Avon compound and the visitors centre and canteen are accessed in MIDC South.

The Commission has previously described the BRP as providing ‘a far less harsh and restrictive detention environment as compared to higher-security immigration detention facilities and hotel APODs’.¹⁷⁸ Detention centre staff described the BRP as the nicest facility within the immigration detention network due to its residential feel and less clinical appearance.

Most women shared positive comments about the BRP. For example, one woman said, **‘[w]e’ve got a lot better than everybody else – we have access to fresh food and ingredients and can cook our own. [We’re] not forced to eat whatever is on the menu. When I came here, I was furious as [I was] separated from family but living conditions are so much better’**. Another woman stated, **‘[w]e are fortunate to be at BRP. But it’s still a cage, just a prettier cage. Still lacking freedom or choices’**.

The Department advised the Commission that over the past 12 months both the MIDC and BRP have received basic infrastructure upgrades including reinforcement of fencing in MIDC North and CCTV camera coverage and increased security fencing at the BRP.

Photo 13: Wheelchair accessible accommodation unit (BRP)



Photo 14: Accommodation unit shared lounge (BRP)



Photo 15: Bench and garden in outdoor area (BRP)



Photo 16: Outdoor exercise equipment (BRP)



Photo 17: Fence mural at the entrance to the BRP (BRP)



Photo 18: Outdoor gardens (BRP)



Centre specific issues and concerns

Mixed gender accommodation

At the time of our visit the Commission was advised that the BRP was being used as a mixed gendered facility but primarily for women. Two men were being detained in the BRP rather than the MIDC due to its better accessibility for persons with disabilities. IHMS staff noted the MIDC was poorly structured for disability and that BRP had the only two units that were disability friendly, though neither had lifting devices.

Both men detained at BRP required onsite carers and had been assessed by Serco as posing no risk to the women’s safety. Both were monitored by an officer and the Commission observed this occurring during the visit.

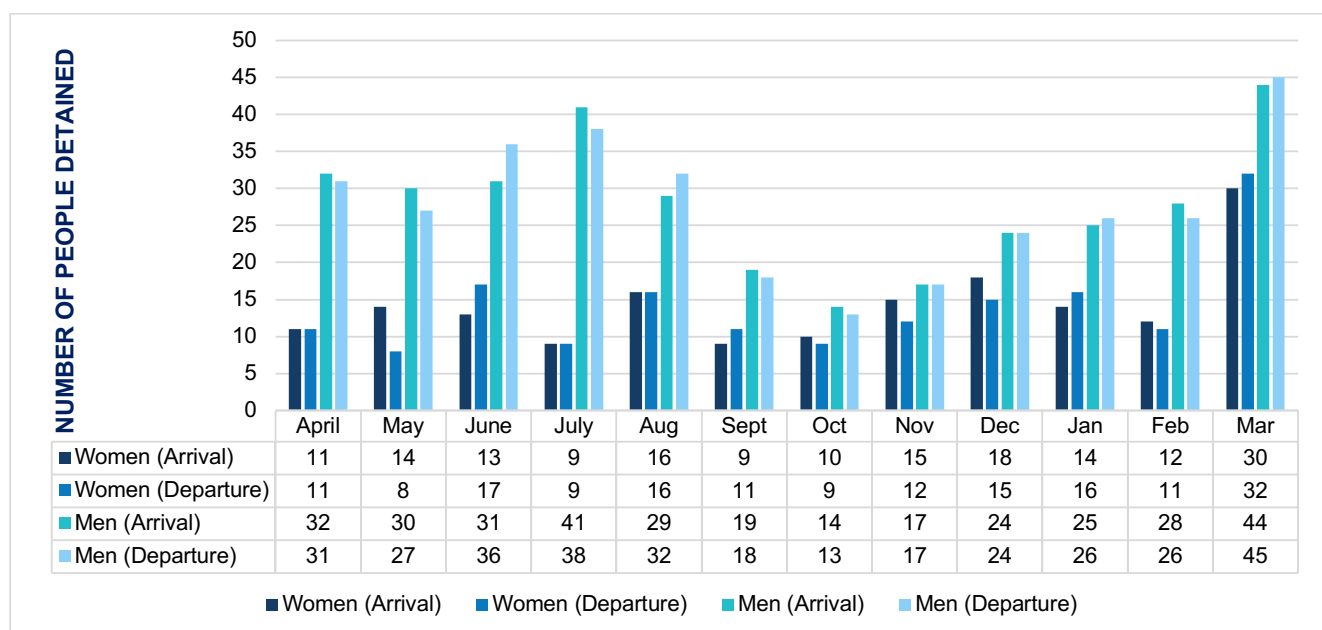
In addition to these two men, the Commission was advised that the BRP could also be used for families if the need arose and was also being used for people who had been refused immigration clearance as a place of short-term detention prior to removal (otherwise called an ‘airport turnaround’, where stay is less than 72 hours¹⁷⁹).

The Commission was advised that when a person was detained at BRP, following refused immigration clearance, they were not allowed to leave the unit they were housed in, and an officer would be assigned to that unit to ensure there was no mixing with the existing women at the BRP.

The women at BRP told the Commission they had no problems with the two men currently detained with them. Some did however raise concerns about the presence of males generally. One woman recalling her experience of arriving from prison to the mixed gendered facility said that, ***‘in the beginning [having] just come from prison [where] doors are locked at night and now [being] here and there are men in there, [it was a] culture shock.’*** Another woman was particularly concerned about the men refused immigration clearance. She stated, ***‘we just don’t know much about them. [I] feel they are a security risk but I’m worried if I complain I’m the one who will be moved, not them. I don’t want to ruffle feathers and be moved to a more jail-like environment. But I’ve been woken up with someone trying to jump a fence. Woken up by guards screaming. What if that person had run into my room? We’re not allowed to lock our homes’.***

The Commission requested data from the Department to obtain a better sense of how many people refused immigration clearance had passed through the BRP and how long they were detained there.

Figure 8: Detained in BRP and refused immigration clearance: Arrivals and departures by gender (April 2023 – March 2024)¹⁸⁰



Across the period covering April 2023 to March 2024, the BRP had housed 334 men (an average of 27.8 per month) and 171 women (an average of 14.3 per month) who had been refused immigration clearance. Across the same period, 333 men departed the BRP (an average of 27.8 per month) as did 167 women (an average of 13.9 per month). The figures indicate that almost all men and women detained at the BRP for reason of refused immigration clearance also departed the BRP within the same month (either removed, transferred or released).

There is clearly a need for facilities to house men that require short term detention pending removal. We were advised by ABF that, prior to COVID-19, they had been housed in the MIDC however BRP was a preferable location for quarantine purposes.

The Mandela Rules state '[m]en and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate'.¹⁸¹ The United Nations Human Rights Council have affirmed this rule¹⁸² and the United Nations Human Rights Committee requires State Parties to report on the separation of men and women in detention in line with Articles 7 and 10 of the ICCPR.¹⁸³

The UN CEDAW Committee has also reiterated the applicability of this rule to the immigration detention context specifically stating '[n]ot least for the purposes of avoiding violence against women, separate facilities for male and female detainees are required, unless in family units, and alternatives to detention are to be made available'.¹⁸⁴

The UN SPT has however cautioned that 'the observance of this rule can give rise to other problems, such as in the case of mixed establishments, where it may lead to situations of de facto isolation if only one or a few women are being held there'.¹⁸⁵ The Commission considers that should this situation arise, individuals should be considered for alternatives to closed immigration detention (see Recommendation 9(b)).

RECOMMENDATION 20

The Department should ensure that the BRP is used only to accommodate women.

RECOMMENDATION 21

The Department and Serco should ensure that separate accommodation for men and women is embedded in all policy and guidance documentation. Observance of this rule should not lead to situations of de facto isolation if only one or a few women are being held in an immigration detention facility.

RECOMMENDATION 22

The Department and Government should ensure that the MIDC and BRP are able to facilitate the accommodation and care needs of people with disabilities. Wherever possible, people who require specialised disability assistance and care should not be detained in immigration detention facilities.

Access to the canteen and gymnasium

As mentioned previously, women at the BRP have access to the gymnasium located in the Avon compound and are able to use the canteen located in MIDC South directly next to the perimeter fence of the Bass 1 compound outdoor area.

Women have access to the Avon compound gymnasium twice a day for one-hour sessions at 10am and 2pm. These sessions are scheduled to ensure they do not clash with the Avon compound schedule. When attending gymnasium sessions women are driven from the BRP to MIDC South and are escorted through a perimeter fence gate passing through the outdoor area of compound, and into the gymnasium.

The Commission observed that the windows of the gymnasium are slightly tinted, but it was still possible to watch a gymnasium session from the outdoor area of the compound. When asked about what safeguards were in place to prevent the women from being harassed or observed during their gymnasium sessions, officers said that they usually stand at the gymnasium door to prevent men from entering. The officers did however acknowledge there was no way of fully ensuring the privacy of women during their gymnasium session without preventing men in the compound from accessing their outdoor area. Likewise, there was no way of preventing unwanted interactions between men in the Bass 1 compound with women while they lined up to access the canteen.

The Commission's own *Human rights standards for immigration detention* state that activities and recreation should 'meet the needs of all detainees, including women...'¹⁸⁶ Those needs include safety and privacy.

While this situation is not ideal, the Commission acknowledges that detention staff at BRP are doing the best they can to provide women with equitable access to facilities and services, within the limitations of the existing infrastructure.

RECOMMENDATION 23

The Department and the Government should ensure women at the BRP have access to their own gymnasium and canteen, separate to that provided at the MIDC. These facilities should be specific to the needs of women.

Photo 19: Avon compound gymnasium (MIDC)



Photo 20: Fenceline separating canteen window from Bass 1 outdoor area (MIDC)



Villawood Immigration Detention Centre

VIDC is a large, high-security detention facility located in the western suburbs of Sydney. It has undergone extensive refurbishment since 2011, with much of the previous infrastructure demolished and replaced with new accommodation and facilities.

VIDC is used to detain adult men and women across several compounds. La Trobe and Lachlan are lower-security compounds that accommodate adult men. Hotham, Mackenzie and Mitchell are self-contained, medium to high security compounds that also accommodate adult men. They each contain an outdoor courtyard, a full-size soccer pitch, a half-size basketball court and other facilities such as a small gymnasium and an educational classroom. The Hotham compound, located closest to the medical facilities, typically accommodates people with significant health conditions and/or other significant needs. The Hotham compound also contains 12 High Care Accommodation rooms used for single separation. Hume A and Hume B are high security compounds that also contain high care accommodation rooms.

Women are currently detained across two compounds, Cowan (former Lima compound) and Bryce (former Lachlan 3 compound), which was established in February 2024. Prior to the introduction of the two women's compounds, women at VIDC were housed in a single compound. Detention centre staff told the Commission that a separate compound was needed to manage women with patterns of disruptive behaviour and to provide stability and safety for the general female population.

The Commonwealth Ombudsman has previously noted concerns that 'drug use has particularly affected the women's compound in terms of conflict, tension, and physical assaults. This was exacerbated by the fact that as there is only one female compound, and no one can be moved out'.¹⁸⁷ More recently the Ombudsman has again noted that due to infrastructure limitations it has been 'challenging to separate women from one another if there are security or interpersonal concerns. This in turn increases the risk of security incidents'.¹⁸⁸

The Department advised the Commission that since the establishment of the two compounds, in February 2024 to 30 April 2024, there had been no critical incidents and 6 major incidents (including use of fire equipment/false alarm, use of force and weapon in possession) among the detained female population at VIDC.¹⁸⁹ While the Commission did not have access to the relevant data before this period we were told by staff that there had been a significant decrease in incidents since the introduction of the two compounds.

Many of the woman who had been at VIDC when there was a single female compound spoke positively about the introduction of a new compound. One woman told the Commission **'the separation of Cowan and Bryce has been good, but it needs to be managed by the officers who have day-to-day experience of the dynamics and relationships'**.

The women in both Cowan and Bryce compounds have scheduled times in Community (an enclosed communal area shared by the compounds) which provides access to a gymnasium, indoor basketball court, shop, barista, classroom, music room, barber, library and green space for walking. Both compounds have 24/7 access to computers. Cowan has a small gymnasium, basketball court, and garden beds for gardening. Bryce has some exercise equipment but is a more contained, low stimulus environment. Both Cowan and Bryce have shared laundries, bathrooms, lounge and kitchenette.

The Department advised the Commission that movement from Bryce and Cowan is contingent on a period of demonstrated prosocial behaviour, engagement with detention centre staff, participation in P&A and several other factors. When someone is placed in Bryce (either due to a triggering incident or based on security intelligence before someone is transferred to VIDC) their placement is reviewed every 28 days. Some of the women we spoke to in Bryce found the restrictive environment difficult. For example, one woman stated, **'Bryce is worse than jail'**.

Despite the introduction of the two compounds many of the women in Cowan told the Commission they still felt unsafe at VIDC. For example, one woman told the Commission that, **‘[i]n Villawood people keep screaming and pounding on doors. In jail it’s better – there’s more cameras and safety buttons, it’s dangerous here’**. Another woman shared similar sentiments saying, **‘I felt safer in prison because bullies were separated’**.

At both BRP and PIDC, women also told the Commission they did not want to be transferred to VIDC. One woman at BRP told the Commission she was reluctant to make complaints for fear of being sent to VIDC. She said, **‘if I ruffle the wrong feathers, I’ll get sent to Villawood. No one wants to go there’**.

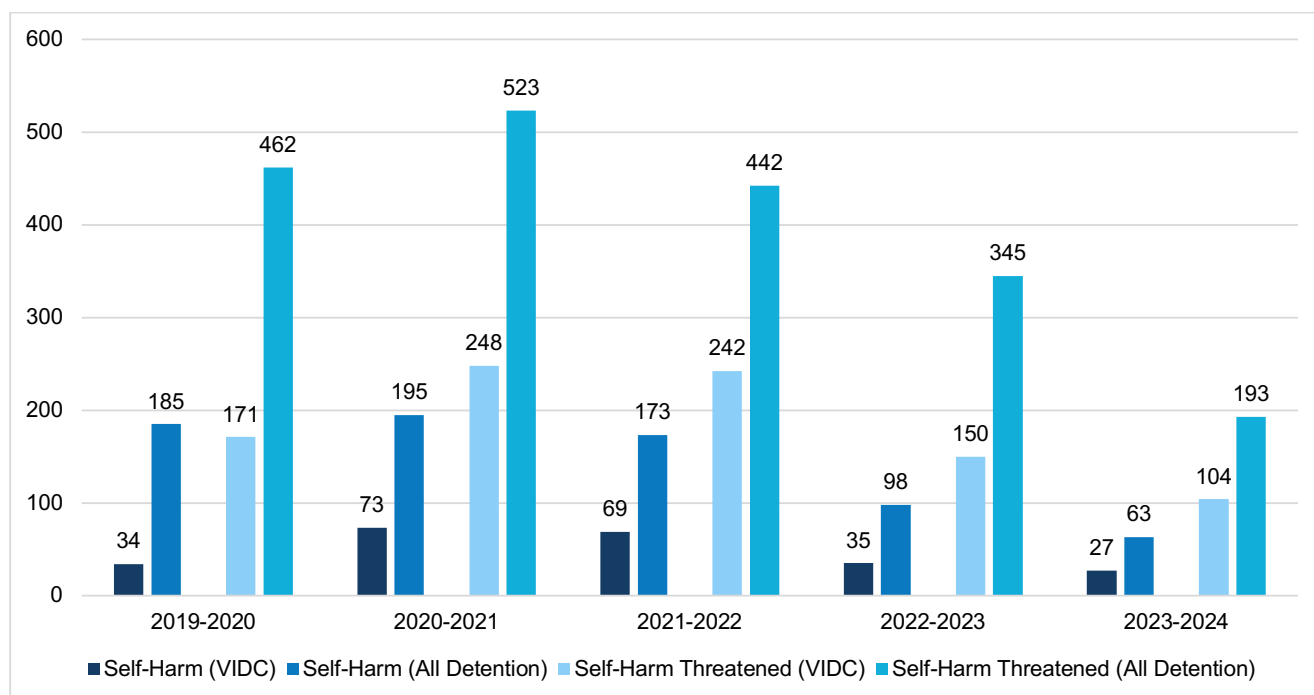
VIDC is a challenging environment in which to be accommodated (for both men and women) and the Commission acknowledges it is equally challenging for staff to manage.

VIDC has experienced the highest proportion of assault complaints of any detention centre between 2019–2023 (except for 2022); these have ranged between 24% and 42% of the total detention population.¹⁹⁰

During the Commission’s 2017 inspection it reported that for ‘many of the people interviewed safety was clearly a significant or even their primary concern. Many reported that they did not feel safe and believed that they were at risk of physical violence from other people in detention. They reported having been assaulted or threatened with violence, or witnessing violence among others’.¹⁹¹

During the Commission’s 2019 inspection it also noted that for many people ‘the prevalence of self-harm and suicide [was] a factor that made them feel unsafe’.¹⁹²

Figure 9: Self-harm actual and self-harm threatened incidents at VIDC and total of all detention centres (Financial year 2019–2020 – 2022–2023 and 2023–2024 [to 31 March])¹⁹³



As Figure 9 and Table 2 demonstrate, VIDC has consistently experienced high numbers of self-harm actual and self-harm threatened incidents as a proportion of the total detention population’s self-harm actual and self-harm threatened incidents.

Table 2: Self harm and self-harm threatened incidents at VIDC as a percentage of the total detention population self-harm and self-harm threatened incidents (2019–2020 – 2022–2023 and 2023–2024 [to 31 March])¹⁹⁴

Year	Self-harm incidents	Self-harm threatened incidents
2019–2020	22.7%	37%
2020–2021	37.4%	47.4%
2021–2022	39.9%	54.8%
2022–2023	35.7%	43.5%
2023–2024	42.9%	53.9%

Despite these significant challenges the Commission acknowledges the many positive interactions we observed between staff and women in detention during our visit.

Photo 21: Cowan outdoor area with view of Byrce compound (VIDC)



Photo 22: Upstairs kitchenette in Cowan compound (VIDC)



Photo 23: Bedroom in Bryce compound (VIDC)



Photo 24: Shared laundry in Cowan compound (VIDC)



Centre specific issues and concerns

Proximity to the Lachlan compound and women's safety

The Bryce and Cowan compounds both share a fenceline with the Lachlan compound and Cowan also shares a fenceline with the Community green space. The Lachlan compound is a lower security compound for men requiring separation from the main accommodation due to their vulnerability and the nature of their offending (including sexual offences).

The Commission observed that there was no privacy screening across the fenceline, and it was possible to look into the Lachlan compound accommodation from the common outdoor areas and top floor accommodation of both Bryce and Cowan. It would be equally possible for those within Lachlan to observe women in their outdoor areas and some of the shared accommodation areas.

The Commission is very concerned that (due to infrastructure limitations at VIDC) the largest group of women in the immigration detention network, many of whom are survivors of male sexual and physical domestic and family violence, are located next to a compound that houses sex offenders.

The Commission acknowledges the efforts of detention centre staff who do their best to provide a safe environment in these circumstances. However, the co-location of these compounds is entirely inappropriate and poses a significant risk to the safety and wellbeing of women detained at VIDC.

During the Entry Meeting with ABF, Department, Serco and IHMS management, the Commission was told there had been no official reports about harassment of women from the men across the fenceline. However, in subsequent meetings with staff from these agencies, the Commission was told women do experience abuse through the fenceline and that installing privacy screening had been explored. The Commission was told that screening may jeopardise the integrity of the fence and that changes were subject to budgetary limitations. There was however an acknowledgement from several staff that women should be separated from the men in their own accommodation precinct.

Several women told the Commission they were very concerned about being located next to the Lachlan compound. When asked about her concerns, one woman stated, **'[o]ne of the most confronting and worrying aspects is the fence that separates the compound. On the other side are sex offenders and paedophiles. They give drugs through the fence and taunt people'**. Another woman speaking of the Lachlan compound asked **'[w]hy are all the registered sex offenders next to the females compound?'**. Another, discussing her discomfort about the lack of privacy said, **'they are always looking'**. Another woman also alleged that, **'[s]ometimes men pay women to beat each other up'**.

Commission staff also experienced being called out to by men in the Lachlan compound, while engaging in discussions with women in Cowan.

The Department has recorded a steadily growing trend in incidents of sexual assault (including allegations of physical assaults, harassment, unwanted sexual advances, obscene remarks, indecent exposure, and/or sexual gestures) across the entire immigration detention network. For example, 34 in 2020—2021, 35 in 2021—2022 and 40 in 2022—2023.¹⁹⁵ Statistics provided by the Department through Senate Estimates reveal that between 1 April 2023 and 31 March 2024, VIDC had the highest rate of sexual assault incidents (17 incidents) of any facility.¹⁹⁶ While these statistics are not specific to women, they are none the less concerning.

The Commission acknowledges that it is unlikely that all instances of harassment and unwanted attention may be the subject of a complaint. However, the Commission attempted to obtain further information on the prevalence of abuse women at VIDC were experiencing, by requesting data on complaints trends raised over the last 12 months. The Department advised the Commission that the gender of a complainant is not recorded, and manual cross-referencing with secondary systems would be required for a trends analysis to begin.¹⁹⁷

Concerns about harassment and safety due to the co-location of women and men in mixed facilities are not only isolated to immigration detention. For example, the Western Australian Inspector of Custodial Services has raised similar issues about the women's precinct within the Greenough Regional Prison¹⁹⁸ and the fenceline between the Melaleuca Women's Prison and the Hakea Prison.¹⁹⁹

In 2014, the women's precinct at Greenough Regional Prison had been called 'a female island in a male prison' by the Western Australian Inspector of Custodial Services.²⁰⁰ In some ways the precinct operates like the situation at VIDC with the Bryce, Cowan and Lachlan compounds. The women's precinct runs alongside a male unit, which is separated from the women's recreation area by a fenceline (though with privacy screening). The Western Australian Inspector of Custodial Services observed that '[i]nteraction is occurring [between men and women], and it would be naïve to pretend otherwise. And it is not interaction that promotes positive, respectful behaviour. The safety and security of women prisoners must be paramount'.²⁰¹

In 2018, a large riot occurred at the Greenough Regional Prison. The independent review established after the riot, found that male prisoners were readily able to breach the separation fence and enter the women's precinct within 27 minutes of the eruption of events. The Special Operations Group (SOG) (like the ERT though with enhanced weapons and tactics) were only able to enter the women's precinct, 6 hours and 46 minutes after the male prisoners had gained access to the women's unit.²⁰²

The review recommended that a separate, purpose built 'prison within a prison' was required, that was completely secure from the men's section and self-contained with adequate services'.²⁰³

With respect to the VIDC, the Department could likewise repurpose the existing Miowera Village into a separate women's compound. The Miowera Village is completely detached from the main centre and provides self-contained 3-bedroom units with built in air conditioning like those at the BRP, outdoor recreation areas, children's outdoor play equipment and its own visits and activities centre. At the time of the Commissions visit, the Miowera Village was being used to accommodate one person who was immunocompromised.

Following its visit to Australia in 2022, the UN SPT recommended that 'men's and women's sections are adequately separated'²⁰⁴ in mixed gender facilities. The Commission strongly believes that the placement of women in the Miowera Village would represent the only 'adequate' separation from the male compounds. The move would significantly ease mental health impacts, remove women from the harassment and psychological stress caused by their proximity to the men, provide access for children and families (see Recommendations 10 and 11) and ameliorate other accommodation concerns (see Recommendations 27 and 28).

While the Department could make changes to better secure the Cowan and Bryce compounds and enhance visual and auditory privacy, the Commission believes these changes would be insufficient to address its concerns for women's safety and wellbeing, particularly in the event of a major incident in which control of VIDC was lost.

RECOMMENDATION 24

The Department and Government should, as a matter of priority, and for the safety and wellbeing of women detained at VIDC:

- a) repurpose the Miowera Village as the women's compound and discontinue the use of Bryce and Cowan for women's accommodation, and***
- b) ensure the necessary infrastructure changes are made to allow the Miowera Village to operate completely secure from the VIDC and self-contained with adequate services.***

Photo 25: Fencelines separating Cowan compound from Lachlan compound (right) and Community green (ahead) (VIDC)



Photo 26: Miowera Village accommodation units from outdoor area (VIDC)



Photo 27: Miowera Village accommodation dining room and kitchen (VIDC)



Photo 28: Miowera Village outdoor children's climbing frame and half basketball court



Photo 29: Miowera Village visiting and activity centre (VIDC)



High care accommodation in men's compounds

Where single separation and close monitoring is required (such as where a person poses a serious risk of harm to others or themselves), people in immigration detention are typically transferred to High Care Accommodation (HCA) in either Hume A, Hume B or the Hotham compound.

HCA units contain single-occupancy bedrooms that are sparsely furnished with hard, fixed furniture. Bathrooms containing stainless steel fittings are located within the room, separated by walls or partitions. The rooms have solid metal doors and are constantly monitored via CCTV. HCA units contain small common areas that variously contain seating, televisions and basic kitchen and laundry facilities. HCA units also contain a small enclosed outdoor area for access to fresh air.

In Hume A and Hume B the outdoor areas are not visible to the main compound population as a large wall encloses the HCA in both compounds. However, in Hotham these outdoor areas are within the general Hotham outdoor area. At the time of the Commission's visit, the outdoor area of the Hotham quarantine unit was not being used though people in quarantine were still provided fresh air in a small, caged smoking area located behind the unit. The Commission observed that this area was visible to some of the accommodation in the Mitchell compound. In the non-quarantine HCA in Hotham, the outdoor area was also covered by privacy screening. However, the Commission observed that the screening was ineffective and provided only limited privacy.

The Commonwealth Ombudsman has previously stated that '[p]lacement in HCA should only be used as a last resort, when other strategies to manage a person's vulnerabilities, behaviour, or the risk they pose have not succeeded'.²⁰⁵ The Commission has also stated in the past that 'conditions in 'high-care accommodation' units are typically harsh and highly restrictive'.²⁰⁶

The Special Rapporteur on Torture has highlighted that women 'subjected to solitary confinement suffer particularly grave consequences as it tends to retraumatize victims of abuse and women suffering from mental health problems'.²⁰⁷

The Commonwealth Ombudsman reported that in 2022–2023, HCA was used at VIDC for periods of greater than 24 hours on 33 occasions for both men and women.²⁰⁸ Information subsequently provided by the Department to the Commission indicated that within the 12 months until 14 June 2024, women had been placed in HCA at VIDC on 10 separate occasions for periods ranging between 24 hours to 4 days.²⁰⁹ While the Commission did not have information on how many men were placed in HCA over the same period, there is cause for concern about the high use of HCA on women at VIDC, given women are a significantly smaller population group to the men (for example, women made up 7.5% of people detained at VIDC as of June 30, 2024²¹⁰).

The introduction of the two women's compounds may have resulted in a decrease in the use of HCA, however, the Commission did not review any data to confirm this.

Nonetheless, the Commission is particularly concerned that women are being placed into HCA within men's compounds, whatever the reason. While the Hume A and Hume B compound provide greater levels of privacy, the Hotham compound provides very little privacy in the outdoor areas which creates the risk that women may be subjected to unwanted interactions with detained males.

While recognising that single separation can sometimes be required²¹¹, the Commission believes this should not involve women being placed in accommodation located within any of the men's compound, but rather, in a separate area of the Miowera Village (in conjunction with Recommendation 24).

RECOMMENDATION 25

The Department and Serco should continue to explore other least restrictive measures for women who require separation where they pose a risk of harm to themselves or others. Placement in HCA should always be as a last resort and for the least amount of time necessary.

RECOMMENDATION 26

Where placement in HCA is necessary, women should not be placed in HCA within any of the men's compounds. The Department and Government should ensure the necessary infrastructure changes are made to allow for a space for single separation within the Miowera Village.

Photo 30: Hotham High Care Accommodation (non-quarantine) outdoor area with partially attached privacy screening



Photo 31: Hume A High Care Accommodation room (VIDC)



Photo 32: Hume A High Care Accommodation bathroom (VIDC)



Photo 33: Hotham compound (quarantine) outdoor smoking area



Other accommodation concerns

The Mandela Rules stipulate at Rule 13 that '[a]ll accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation'.²¹²

The Commission's own *Human rights standards for immigration detention* also state that '[a]ccommodation facilities meet the requirements of health and human dignity. This includes ... hygiene, heating and ventilation suitable for the climate'.²¹³

Women within the Cowan and Bryce compounds consistently told the Commission that their accommodation did not have appropriate heating and cooling. One woman told the Commission, '**[t]he heat in [the] room gets very hot, there's air con in hallways only but it doesn't reach the rooms, and we can't leave the doors open due to things being stolen**'. Another woman said, '**[w]e are supplied a fan however they are not great and during the warmer weather they do little to assist with 30+ degree temperatures in the room**'. Another told the Commission that, '**[t]here is no heater or aircon and it is freezing in the rooms**'. The Commission also observed that this issue had been raised at the DCC.²¹⁴

ABF management at VIDC acknowledged the inequality of air conditioning being available throughout all the men's compounds and informed the Commission that it was also going to be installed in the bedrooms in Cowan and Bryce. Serco management also noted that they also had previously raised the issue with the Department.

Women also told the Commission, that there were issues with cockroaches and mosquitos in their accommodation, due to the windows needing to be open for cooling and ventilation. To alleviate these concerns, the ABF had approved the purchase of removable fly screens for the windows. However, as one woman informed the Commission, '**[we] have to pay for [them] with [our] own money**'. The DCC minutes for March 2024 also confirmed this was the case.²¹⁵

The Commission does not believe that the women in detention should be responsible for rectifying legitimate accommodation concerns at their own expense. The duty to provide suitable accommodation is solely the responsibility of the Department.

RECOMMENDATION 27

Whilst women are still accommodated in the Bryce and Cowan compounds, the Department should, as a matter of priority, install appropriate heating and air conditioning in all bedrooms.

RECOMMENDATION 28

Whilst women are still accommodated in the Bryce and Cowan compounds, the Department should, as a matter of priority, install fly screens to all bedroom windows.

Inequitable access to facilities and services

Women within the Cowan and Bryce compounds told the Commission that they were able to complete purchase order forms for items from the shop in Community, however, they were unable to physically attend the shop during their recreation time.

When the matter was raised with Serco, the Commission was advised that the only compound that was able to purchase items directly from the shop was Latrobe. In providing a justification for this decision, Serco advised it was a resource management issue for them and it was difficult to organise visits for the smaller capacity compounds. Serco reiterated that women were only a small percentage of the total population, and as some men were also denied the opportunity to go to the canteen, it was not discriminatory action on the basis of gender.

When the issue was raised with ABF management, they stated that had been unaware that women were not provided the opportunity to visit to shop and would seek to immediately rectify the situation.

The Commission was also told that women do not have access to a female hairdresser. The barber currently attends VIDC 3 times a week and is qualified to cut women's hair, however, women do not have an alternative choice if they are uncomfortable with a male barber.

ABF and Serco also acknowledged that the infrastructure in barbershop is not appropriate for women's hair. The Commission was pleased to hear that ABF were proactively exploring the idea of a mobile hairdresser for the women.

These and other issues already mentioned, reinforce the observation made by the Commonwealth Ombudsman, that at a number of facilities, including VIDC, women often had 'poorer access to the facilities and services available'.²¹⁶

RECCOMENDATION 29

Whilst women are still accommodated in the Bryce and Cowan compounds, the Department should, as a matter of priority, ensure they are able to physically access the shop to make personal purchases.

RECCOMENDATION 30

The Department should ensure that women at VIDC are offered regular access to a qualified female hairdresser and hairdressing facilities, specific to the needs of women.

Photo 34: External view of the shop in Community (VIDC)



Photo 35: External view of the barbershop in Community (VIDC)



Perth Immigration Detention Centre

PIDC is a small single level facility situated near the domestic terminal at Perth Airport. PIDC has two compounds (Area 1 and Area 2), one High Care Accommodation room and one single bed dormitory (Dorm 10) which has its own bathroom. Area 1 is used for men and Area 2 is used for women.

Area 2 contains 4 dormitories, shared bathroom, a multi-purpose room with a kitchenette and computer area, shared laundry, an outdoor area and an undercover gymnasium area. The outdoor area contains garden beds, potted plants, tables and chairs. The area is protected by shade cloth.

The dining room is shared with the men detained in Area 1 with mealtimes staggered to maintain separation. Health service delivery and program and activities are conducted in the multi-purpose room, the dining room or outdoor area, depending on the type of activity and weather conditions.

Photo 36: Area 2 outdoor recreation area (PIDC)



Photo 37: Area 2 undercover gymnasium area (PIDC)



Photo 38: Area 2 indoor multipurpose room (PIDC)



Photo 39: Area 2 shared laundry (PIDC)



Centre specific issues and concerns

Not suitable for long-term accommodation

During the Commission's 2018 inspection it reported that:

The Commission considers that accommodation, living areas and exercise facilities at the PIDC are generally small and cramped, with limited outdoor space. This is particularly true of the women's compound: the bedrooms retain some of the restrictive character of the former cells; the shared living areas are small, especially the indoor multipurpose room which has no natural light; and there is insufficient space to run around in the 'passive courtyard'.²¹⁷

The concerns expressed in 2018 remain the same in 2024. The Commission found the living spaces for women to be cramped and the outdoor area not conducive for sporting activities involving running. By contrast the Area 1 outdoor space was larger and contained a small field which could be used for football and a larger undercover gymnasium.

The most concerning aspect about Area 2 is its lack of natural lighting. As set out above, the PIDC is situated in a public space, near the domestic terminal of Perth airport. It is therefore understandable that, in the interest of preserving the privacy of people in detention, bedroom windows are completely blocked out, as are most windows facing the outside of the centre.

Nonetheless, the Commission is concerned about the long-term impacts arising from inadequate access to natural lighting within the bedrooms of the women's (and men's) accommodation and most other parts of Area 2 (including the multipurpose room and shared corridors). Natural lighting is only available in the undercover gymnasium and outdoor recreation area.

In their research on prison design features linked to wellbeing, Engstrom and Ginneken (2022) found that 'levels of natural and artificial lighting, especially one's exposure to daylight, are important environmental features that impact psychological wellbeing'.²¹⁸ They also noted that '[m]any scholars have identified the importance of natural light and sunlight in living quarters on wellbeing'.²¹⁹

The Mandela Rules stipulate at Rule 14(a) that '[i]n all places where prisoners are required to live or work: (a) The windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation'.²²⁰ A similar provision is also found in Rule 18.2(a) of the European Prison Rules.²²¹ The CPT has also affirmed that living accommodation 'should have access to natural light as well as to artificial lighting which is sufficient for reading purposes'.²²²

While there are concerns about the limited infrastructure at PIDC, the Commission also recognises that there are many benefits to housing women at the PIDC. As noted by the Commonwealth Ombudsman, 'it offers many positives that WA's other facility (YHIDC, 100 km out of Perth) cannot, including accommodation for women, metro-location with proximity to health services and ease of access for visitors'.²²³

The Commission observed that due to its smaller size and smaller population, staff were able to build better rapport than was possible at other centres. The Department advised the Commission that over the 12-month period between 1 May 2023 and 30 April 2024, no critical incidents had occurred in Area 2, and although 19 major incidents had occurred, most related to accidents, illness and security or water system failures.²²⁴ While 6 incidents related to use of force, the Commission was advised that HCA had not been used at all for women in the 12 month period.²²⁵

Most women told the Commission that their experience at PIDC has been positive. One woman for example said, '**[c]ompared to Bandyup [women's prison], it is much better here**'. Another stated '**[s]upport is very good [here]; [staff have] been very supportive**'. The Commission acknowledges the effort of staff at PIDC to foster a positive environment for the women detained at the centre, despite the significant infrastructure limitations.

Nonetheless, it was clear that the women who had been detained the longest found the limited space challenging. One woman told the Commission, '**[we're] always in each other's faces. It's meant to be for short term, not long term**'.

While in 2018 the Commission recommended that PIDC only be used for detention for a maximum of one month, the Commission is mindful that in the absence of other appropriate accommodation for women in Western Australia, and the average length of detention for women currently exceeding one year, setting an arbitrary period would likely result in further interstate transfers of women which is itself undesirable.

RECOMMENDATION 31

The Department should ensure that PIDC is only used for the shortest periods of detention possible. Where this is not possible, every effort should be made to provide women with alternatives to closed immigration detention rather than transfer to an interstate facility.

Photo 40: Area 2 bedroom (PIDC)



Photo 41: Area 2 shared bathroom (PIDC)



Photo 42: Area 2 accommodation corridor (PIDC)



Recommendations

Issues and concerns impacting women across the detention network

RECOMMENDATION ONE

The Government should replace the current system of mandatory immigration detention with a case-by-case assessment process that takes individual circumstances into consideration. Closed detention should only be used as a last resort in circumstances where all of the following elements are present:

- a) detention is necessary and proportionate to an immigration purpose (for example, a brief period of immigration detention may be necessary to conduct health, security and identity checks before a visa is granted)*
- b) the person has been individually assessed as posing a risk of absconding or an unacceptable risk to the Australian community, and that risk cannot be managed in a less restrictive way*
- c) the necessity for continued detention is subject to periodic re-evaluation and judicial review, and*
- d) the duration of detention is subject to a maximum time limit.*

RECOMMENDATION 2

The Government and Department should, in consultation with facility staff and people in detention, review its policy on access to recognised programs of study, work and vocational training in immigration detention to enhance opportunities for rehabilitation and reintegration.

RECOMMENDATION 3

The Department should ensure that women in immigration detention have access to a broad range of meaningful activities on an equal footing with their male counterparts and ensure that programs and activities on offer are responsive to the needs of women in detention, age appropriate and not based on gender stereotypes.

RECOMMENDATION 4

The Department should immediately end its use of operational quarantine and other COVID-19 restrictions across the immigration detention network and return to a 'business-as-usual' approach, with the virus being treated like other transmissible respiratory diseases.

RECOMMENDATION 5

All staff working in immigration detention centres where women are detained should be provided with initial and ongoing training on the supervision of women in immigration detention and gender sensitivity. As a minimum, training should cover:

- a) the gender-specific needs and human rights of women in immigration detention*
- b) the main concerns relating to women's health in detention, and*
- c) guidance on safeguarding women from any gender-based physical or verbal violence, abuse and sexual harassment including intimate partner violence and family violence perpetuated between or against LGBTIQ+ women.*

RECOMMENDATION 6

Women in immigration detention should, as far as possible, be attended to and supervised only by women officers and staff. Where this is not possible, the majority of officers should be women.

RECOMMENDATION 7

Gender-sensitive tasks (such as searches, use of force operations which involve physical contact or providing clothing or feminine hygiene products) or tasks undertaken in specific areas of the accommodation (such as bathrooms, sleeping areas and under observation) should only be undertaken or supervised by women officers and staff.

RECOMMENDATION 8

The Department and Serco should, as a matter of priority, develop plans for the recruitment and retention of female Emergency Response Team officers and analyse what structural reasons are stopping women from applying and being retained.

RECOMMENDATION 9

The Government and Department should make every effort to avoid the interstate separation of women in immigration detention from their family and supports by:

- a) ensuring appropriate accommodation for women is made available in all states/territories, and*
- b) ensuring alternatives to closed immigration detention are made available to women where this is not possible.*

RECOMMENDATION 10

The Department should ensure that its existing visiting facilities foster an environment that is conducive to a positive visiting experience, particularly for child. The Department should provide child visitors with access to a wide variety of age-appropriate play activities, facilities and outdoor spaces.

RECOMMENDATION 11

The Department should proactively encourage the extended contact of women in detention with their children as much as possible. This may include offering extending visiting times, facilitating regular activity days for women and their children and offering reasonable transportation assistance where necessary.

RECOMMENDATION 12

The Department and Serco should develop policy and procedural guidance relating to the accommodation, welfare, security, and management of transgender persons in immigration detention. This guidance should:

- a) be informed by human rights principles including but not limited to the Yogyakarta Principles +10*
- b) be co-designed with input from transgender persons and their representative organisations, and*
- c) effectively protect the individual from others who may wish to cause them harm, and to limit the risk that they may be placed in a location in which they may cause harm to others.*

RECOMMENDATION 13

The Department should ensure that the application of protective measures for transgender persons in immigration detention do not involve the imposition of more restrictive conditions or reduced opportunities for those individuals.

RECOMMENDATION 14

The Department should ensure that alternatives to closed immigration detention are considered where the security of a transgender person cannot be guaranteed.

RECOMMENDATION 15

The Department and IHMS should ensure that women in immigration detention have access to a female doctor at each facility where women are accommodated. Women in immigration detention should also be provided with access to female allied health staff wherever this is possible.

RECOMMENDATION 16

As a priority, the Department and IHMS should liaise with state and territory corrective services and justice health agencies to improve strategies for ensuring the timely transfer of medical information to facilitate continuity of care for people entering immigration detention.

RECOMMENDATION 17

When considering the transfer of an individual from one immigration detention facility to another, the Department should consider, on equal terms to other factors, the advice from IHMS that a transfer would impact on the waiting time for a treatment regime.

RECOMMENDATION 18

The Department and IHMS should ensure that the process for auditory testing is initiated during the medical screening provided at induction and conducted within the first two weeks of detention.

RECOMMENDATION 19

The Department and Serco should revise its policy on the prohibition of women obtaining and using hair dye and align it with the Queensland Corrective Services policy.

Melbourne Immigration Detention Centre and Broadmeadows Residential Precinct:
Centre specific issues and concerns

RECOMMENDATION 20

The Department should ensure that the BRP is used only to accommodate women.

RECOMMENDATION 21

The Department and Serco should ensure that separate accommodation for men and women is embedded in all policy and guidance documentation. Observance of this rule should not lead to situations of de facto isolation if only one or a few women are being held in an immigration detention facility.

RECOMMENDATION 22

The Department and Government should ensure that the MIDC and BRP are able to facilitate the accommodation and care needs of people with disabilities. Wherever possible, people who require specialised disability assistance and care should not be detained in immigration detention facilities.

RECOMMENDATION 23

The Department and the Government should ensure women at the BRP have access to their own gymnasium and canteen, separate to that provided at the MIDC. These facilities should be specific to the needs of women.

RECOMMENDATION 24

The Department and Government should, as a matter of extreme priority, and for the safety and wellbeing of women detained at VIDC:

- a) repurpose the Miowera Village as the women's compound and discontinue the use of Bryce and Cowan for women's accommodation, and*
- b) ensure the necessary infrastructure changes are made to allow the Miowera Village to operate completely secure from the VIDC and self-contained with adequate services.*

RECOMMENDATION 25

The Department and Serco should continue to explore other least restrictive measures for women who require separation where they pose a risk of harm to themselves or others. Placement in HCA should always be as a last resort and for the least amount of time necessary.

RECOMMENDATION 26

Where placement in HCA is necessary, women should not be placed in HCA within any of the men's compounds. The Department and Government should ensure the necessary infrastructure changes are made to allow for a space for single separation within the Miowera Village.

RECOMMENDATION 27

Whilst women are still accommodated in the Bryce and Cowan compounds, the Department should, as a matter of priority, install appropriate heating and air conditioning in all bedrooms.

RECOMMENDATION 28

Whilst women are still accommodated in the Bryce and Cowan compounds, the Department should, as a matter of priority, install fly screens to all bedroom windows.

RECCOMENDATION 29

Whilst women are still accommodated in the Bryce and Cowan compounds, the Department should, as a matter of priority, ensure they are able to physically access the shop to make personal purchases.

RECCOMENDATION 30

The Department should ensure that women at VIDC are offered regular access to a qualified female hairdresser and hairdressing facilities, specific to the needs of women.

Perth Immigration Detention Centre: Centre specific issues and concerns

RECOMMENDATION 31

The Department should ensure that PIDC is only used for the shortest periods of detention possible. Where this is not possible, every effort should be made to provide women with alternatives to closed immigration detention rather than transfer to an interstate facility.

Glossary of immigration detention related terms

Alternative Place of Detention (APOD) — An APOD is a place of immigration detention approved in writing by the Department of Home Affairs Minister (the Minister) or the Minister's delegate. An APOD can be a facility-based detention setting such as the BRP or non-facility locations in the community such as schools, hospitals, hotels etc.

BRP — Broadmeadows Residential Precinct

Community detention — When the Minister makes a residence determination under section 197AB of the Migration Act 1958 (Cth) that a person can reside at a specified place in the community instead of closed detention. Persons subject to a residence determination are free to move about the community but are legally detained.

Critical incident — A critical incident in an immigration detention facility is an incident which involves:

- Death, serious injury of a person, or a dangerous situation
- Major damage to property resulting in a significant impact on the community, the Department and/or the Australian Government; and/or
- An event that causes an officer, contractor or detained person to experience strong physical or psychological/emotional reactions which have the potential to interfere with their ability to function either at the scene or later.

Critical incidents have a recorded incident level as 'Category 3 – Critical Incident'.

Detainee Consultative Committee (DCC) — A monthly meeting designed to facilitate frank and open discussions between the ABF, service providers, and people in detention about improving conditions at the facility. The DCC includes voluntary representatives from within a compound or multiple compounds. The minutes and action items arising from these meetings are made available to people within the facility.

High Care Accommodation (HCA) — HCA is the name used to describe the accommodation where people in detention may be held for brief periods when close monitoring and intensive management is deemed necessary. HCA typically contains single-occupancy bedrooms that are sparsely furnished with hard, fixed furniture. Bathrooms containing stainless steel fittings are located within the room, separated by walls or partitions. The rooms have solid metal doors and are constantly monitored via CCTV.

Placement in HCA should only be used as a last resort, when other strategies to manage a person's vulnerabilities, behaviour, or the risk they pose have not succeeded.

Major incident — A major incident in an immigration detention facility is an incident which can involve:

- The threat or self-harm or actual self-harm
- Serious assault, including assault on a minor
- Food and fluid refusal
- A major disturbance at the facility; and/or
- other incidents of a severe nature.

Major incidents have a recorded incident level as 'Category 2 – Major Incident'.

MIDC — Melbourne Immigration Detention Centre

PIDC — Perth Immigration Detention Centre.

Refused immigration clearance — Under section 172(3) of the Migration Act 1958 (Cth), a person is refused immigration clearance if they are in immigration clearance (usually at the airport or a seaport) with a clearance officer, and they refuse to, or are unable to, present evidence of their identity and a visa; or had their visa cancelled in immigration clearance (and have not been granted another visa).

Section 501 visa cancellation — Under section 501 of the Migration Act 1958 (Cth) a non-citizen's visa may be cancelled if they do not pass the character test. The character test is defined in the section 501(6) of the Migration Act 1958 (Cth).

The most common cause of failure of the character test is having a substantial criminal record. Most non-citizens who fail the character test will do so as a result of having been sentenced to a term of imprisonment for 12 months or more. There can be multiple terms of imprisonment which together add up to 12 months or more.

Self-Management and Recovery Training (SMART) — SMART Recovery is an evidence-based recovery method grounded in Cognitive Behavioural Therapy (CBT), that supports people with substance dependencies or problem behaviours to build and maintain motivation, cope with urges and cravings, manage thoughts, feelings and behaviours, and lead a balanced life.

Status resolution — Status resolution officers manage people in detention or the community, including unlawful non-citizens and Bridging Visa E holders, to resolve their immigration status through grant of a substantive visa or departure from Australia. Status resolution officers can explain a person's visa options and how decisions they make now can affect their options later on. They can also help plan their departure from Australia and refer people to other services where necessary.

Unauthorised Maritime Arrival (UMA) — An UMA is a person who entered Australia by sea without authority and became an unlawful non-citizen upon entry. All babies born to UMA parents are also UMAs.

Unlawful non-citizen — A non-citizen who is in Australia without a valid visa. An unlawful non-citizen must be detained under the Migration Act 1958 (Cth).

VIDC — Villawood Immigration Detention Centre.

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