

# DRAMATIC RISE IN IMPRISONMENT RATES FOR INDIGENOUS WOMEN

This month's article is the first of what I hope will be a number of articles written independently of the President with a view to representing the broad face of NTWLA.

The article was written and researched by Emma Coupland who has been assisting in research on a part-time basis at Top End Women's Legal Service since early July 2000. Emma has previously had an article published on women and the infringement legislation in the *Alternative Law Journal* in October 2000. She has a masters in History from the University of Western Australia and a Cambridge Certificate in English Language Teaching.

Emma has been supported by Kate Halliday in the writing of this article. Kate Halliday is the Northern Territory Representative for Australian Women Lawyers and is also a committee member of Northern Territory Women Lawyers. Kate is currently the principal solicitor for the Top End Women's Legal service, where she has been employed for approximately 5 years. Kate was previously employed by NAALAS, Domestic Violence Legal Help and the DPP. However, it seems that Kate's departure from the law is imminent as she is presently undertaking studies for Post Graduate Certificate in Teaching English to Speakers of Other Languages.

Kate also has an interest in furthering the causes for the establishment of independent legal systems in East Timor as they strive to introduce their own legislation and the judicial systems and infrastructures.

## Women and imprisonment in the NT

In late 1999, Top End Women's Legal Service (TEWLS) obtained some frightening statistics from the Territory's Department of Correctional Services' 1999 Annual report: in the year 1995/96, 50 women were imprisoned; in the year

1996/97, 71 women were imprisoned; in the year 1998/99, 276 women were imprisoned. The number of Indigenous women, in particular, rose from 59 in 1996/97 to 252 in 1998/99. These figures show a dramatic 485% rise in the number of indigenous women incarcerated in Northern Territory gaols.

Overall, it appears that the number of women sentenced to a term of imprisonment has increased by a factor of five over a period of four years. *Dollars Without Sense* — a 1999 report by North Australian Aboriginal Legal Aid (NAALAS) — found that the number of men incarcerated in Territory prisons has risen by 96%. In contrast it shows that there is an obvious, disproportionate upsurge in the number of women in prison.

Initially, TEWLS believed that the increase in incarceration of women was solely due to mandatory detention. The Attorney General advised TEWLS that 'the majority of sentence females received into custody (61 or 65% in 1996/97 and 210 or 76% in 1998/99) were received due to fine default'. Regarding the number of women in prison he replied, 'most of these (44 in 1996/97 and 171 in 1998/99) resulted from offences against good order (such as offensive/disorderly behaviour and sleeping in public places)'. In defence of mandatory imprisonment legislation, the Attorney General attributed the rise in the rates of female incarceration to the failure to pay minor fines for offences such as sleeping in public and offensive, disorderly behaviour.

Darwin City Council by-law 103 prohibits sleeping in a public place between sunset and sunrise. TEWLS was concerned that a significant proportion of women were being imprisoned in the Territory as a result of the legislation. The Council previously used the Territory Infringement Re-Enforcement Scheme (TINES) to gaoil people for minor offences, such as sleeping in a public place. Litigation in the Northern Territory



Jacqueline Presbury, NTWLA President

saw the Scheme abandoned in early 2000 as the following recently supplied Council information demonstrates. In 1998/99 over 12 months, 39 women were incarcerated for non-payment of fines related to Council enforced legislation, and 1999/00 in a five month period, 14 women were imprisoned. The Northern Territory *Correctional Services Annual Report 1999-2000* reveals a 50% reduction in the number of women imprisoned from the time that TINES was suspended. The statistics support TEWLS's concerns that women were being imprisoned in high numbers as a result of the by-law. Although the Council is not currently enforcing the legislation, the by-law is still very much a part of the Council's agenda.

TEWLS believes that the 'sleeping in public' by-law is pernicious legislation. Sleeping in public is a victimless, trivial offence. It targets the poorest and most vulnerable members of society. It is TEWLS' experience that women are likely to be homeless in Darwin as a result of sexual assault and family violence and are therefore more prone to be fined for sleeping in a public place. In many cases, the women who fall foul of the infringement legislation are not in the position to pay the designated fine. Imprisonment is often very disruptive for communities as a whole, especially in the instance of Indigenous women with children. It is worth noting that, generally speaking, relatively few women commit serious criminal misdemeanours. It is only in the area of trivial transgressions that women appear in the criminal justice system in any significant number.