

*Listening to
the Voices of First
Nations Women
in Prison*

MARANA DYARGALI



Thalia Anthony

Interviewed By:

Professor
Robynne Quiggin

Professor Thalia Anthony is based in the Faculty of Law at the University of Technology Sydney (UTS). Thalia's research focuses on colonial manifestations within the legal system, especially in the criminal justice system. Thalia's research asks how we can work with First Peoples' communities and people to counteract oppressive structures and create new spaces for a resurgence for healing and a future where we have a society in which First Nations people live with the expectation of justice.

Thalia discusses a recent research project focused on First Nations women's experiences of incarceration and criminal sentencing. The research has sought to identify problems and alternatives in sentencing by listening to and privileging the voices of the women in prison. The project is a collaboration with New South Wales (NSW) Aboriginal Legal Service (ALS) and Mudgin-gal that also seeks to understand sentencing through conversations with ALS lawyers and judicial officers. It investigates the whole system to identify how sentencing can be changed to ensure more humane outcomes for First Nations women. The project also asks how we can shift away from criminal sentencing and decarcerating First Nations women. Importantly, the First Nations women engaged in this research, also undertook their own research journey and spoken to their own truths.

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Thalia explains how the research design of this project prioritised local community members, long standing relationships with them, valuing people and place. Inherent in this relationship-based work is accountability to people affected by the research and ensuring collective design of methods and outputs. For Thalia, this is a key foundation for engaging in ethical research practices. In addition, a First Nations Women's Advisory committee *Sista2Sista* was a critical enabler of the project's overall governance.

About Thalia

Dr Thalia Anthony's expertise is in the areas of criminal law and procedure and First Nations people and the law, with a particular specialisation in settler colonial criminalising techniques and First Nations community justice mechanisms. Her research is grounded in legal history and understandings of the colonial legacy in legal institutions. She has developed new approaches to researching and understanding the role of the criminal law in colonisation and the governing First Nations communities, including the settler state's regulation of First Nations justice strategies. Her research is informed by fieldwork with First Nations communities and partnerships with Indigenous legal organisations in Australia and overseas. Dr Anthony's research informs her approach to teaching that seeks to challenge racism and white privilege and fostering cultural competencies in the law curricular. This commitment had its genesis in 2008 when she organised an Australian and New Zealand conference on this theme.

I think I was born with a sign in my hand. I grew up a part of the invasion day protests at primary

school in 1988 and have a family that just sees colonisation, including in criminal justice and child protection. This comes from where I'm from, which is Cyprus. My grandparents lived under British colonisation, and my father's side of the family are now dispossessed of their homelands due to Turkish occupation. Colonisation has been a threat to life for us, a struggle for life over death. My parents and myself grew up in Australia. For us, it's always been very clear that colonisation bears responsibility for ongoing oppression. There can only be change by transforming the structures and power imbalances. This requires promoting accountability for the dominant powers in society that operate to maintain white privilege against Indigenous peoples.

The research project was conducted with Professor Larissa Behrendt (Jumbunna) and other distinguished researchers including Wiradjuri woman Gemma Sentance, Dharug woman Michelle Toy, Guringai woman Ellen O'Brien, Gomeroi woman Alison Whittaker.

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RQ Could you talk us through how you went about developing the relationships with the Indigenous participants?

TA The first thing we saw as critical was setting up a First Nations Women Advisory Committee. This became a focus for developing the research and a support group in itself. We call this group *Sista2Sista*. So it's a group only for First Nations women in the local community. Initially, the women we reached out to were the ones who we had pre-existing relationships with, for example, from Mudgin-gal. We were advised, especially by Elders, to reach out to other organisations. We reached out to Wirringa Baiya, Aboriginal Legal Services and Aboriginal workers within Centerlink and Housing, because we knew bringing them on board would in turn help the women inside. We wanted this group to be made up of women committed to longer term change who are working on the ground.

The first meeting was in 2016 at Redfern Community Centre. It was bursting to the seams with these amazing First Nations women committed to helping women inside prison and giving them a voice. Even though they're women inside, they're only inside for a short time and they're still women of the community. We organised the meeting at Redfern Community Centre because we thought it would be a safe and familiar place. We had Aboriginal catering and ran it in a really informal way. We broke into smaller groups, so everyone could have a say. We also had a lot of follow up, a lot of informal phone calls or catch ups over coffee. We provided support for some of the women from the group who needed support with family. Some of the women had kids in child protection and we provided support with that. It was a very deep relationship. It wasn't just a research relationship. I think that goes to the heart of these relationships being built from reciprocity and being sustainable, long term, not just your typical fly in fly out relationship. We didn't want to be extracting information and

not speaking to the needs of those women. We wanted the needs of those women to be at the forefront of what we were doing, even if it took us away from where we originally planned to go.

RQ *Were there protocols or values that led the way you all worked together?*

TA The foregrounding element of the project was self-determination, having the First Nations women determine what they wanted from the research and how the research would be executed. Also, being place based and having it originate in Redfern was important because we wanted to bring the women together somewhere not only familiar, but which also has a history of making change and being a gathering place. As we went to do the work with the women in prison, we also created relationships with places located near the prison. We had a relationship with the ALS next to or near the near where the prisons are located. Reciprocity and longevity were central principles, which involved developing long term relationships and commitments, rather than just being there for the duration of the project. We are researchers, but we do research because we want things to change. We can't expect change with one project. We need to work with the people whose experiences are centered in what we want changed, we need to have those relationships over the long term. Otherwise, any gains from the research will be quickly lost.

RQ *Sometimes there is a sense that researchers must achieve a measure of objectivity, to be at arm's length and this does not sound like the description of the relationships you are developing. Can you talk about how you are situated in these close relationships that you purposefully maintain over a long period of time?*

TA That is a fantastic question, Robynne. I have received criticism from people inside institutions or with racist prejudices that I am subjective and too "sympathetic" to First Nations people. However, I approach research in a manner that challenges the historical and current bias that excludes First Nations people and their narratives.

The purpose of research should be to shed light on knowledge and truths that have not otherwise been disclosed or presented. I feel so many of the truths within the criminal justice system prop up that system and reinforce stereotypes about First Nations deficits, including that First Nations people are lawbreakers. Because I have these long term relationships, I know those truths are not reflective of reality and are extremely harmful. They're truths that are necessary for the colonial project.

I believe it is necessary for my research to be subjective and grounded in rigorous scholarship in order to provide a diverse set of truths. The only way I'm going to be able to ascertain truths that have been concealed by epistemological colonial hierarchies is through relationships, because there's no better way to understand people's diverse experiences. Through relationships, I can appreciate not only the realities of what I'm told, but also see realities firsthand. This may be when I receive a phone call in the middle of the night when a First Nations woman fears for her children being stolen by the state or when a mother fears for her son in police custody. Being close to these experiences, and offering support, places a unique lens on First Nations peoples' lived truths.

I may be accused of being an advocate, rather than an academic, but I would suggest that legal academics are always advocating—either in pursuance or defiance of the status quo through the knowledge we generate. If we only analyse institutional knowledge, it's unlikely we will produce knowledge outside of institutions. The academic project should be to expand knowledge. And I feel that my research is contributing to that work.

RQ *Do you want to just tell us a bit more about the design of the project, the involvement of the women, Elders and senior knowledge holders. And also the corrections people, everybody who contributed to the development and design and how that worked?*

TA We had the Sista2Sista meetings to primarily govern the project's framework. In addition to that, we had meetings with corrections because we needed access to prisons. The ethics

committee of corrections valued the fact that we had set up *Sista2Sista*, because they saw it as bringing more sensitivity to the project. It demonstrated that the researchers had thought-through issues of trauma for First Nations women in prison, either because of pre-existing trauma or the trauma that prison brings.

The ethics committee in corrections and at UTS are aware that researchers can add harm to the women inside through ignorance. Having *Sista2Sista* meant we had thought through a lot of the risks and set up ways to support the women if they had any negative response to the research.

For example, we had a phone number the women could call to have a debriefing about the interviews. In one case, I remember a woman was having a self-harm episode and I was able to engage with her at that moment. And I was able to go back to corrections officers, with the authority of the First Nations woman, and intervene in a really helpful way for her. Having *Sista2Sista* was a really important backbone for this work that corrections did appreciate. We also had the Aboriginal Legal Service guide the project and give us access to their lawyers to discuss what their

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female clients experience in criminal sentencing and prison. The ALS is part of *Sista2Sista* and at the end of the day, our research decisions are made according to the advice of *Sista2Sista*. For example, if *Sista2Sista* and corrections had different priorities, we just would not have proceeded with that element of the project. Even if it sacrificed something from the project, we would not have compromised on the leadership of *Sista2Sista*. This did not occur, but we had a hierarchy that honored the First Nations Women Advisory Committee above all else.

RQ Can you tell us about how you went about creating a project that is Indigenous led and community driven? How did you navigate the ethical requirements, for working with the university and the corrections ethics committees?

TA Even though I find ethics applications extremely tedious, ethics protocols are really important to ground projects. Ethical principles and practices needs to drive all research decisions, especially with First Nations people that have been so harmed by research. Ethics is something to think about at the beginning of a project. Community engagement in setting up the project and having a local First Nations advisory group in the design and execution, including to review what happens when things don't go to plan, means you can go back to the advisory group and make changes in accordance with your ethical principles, especially to ensure First Nations self-determination. It also needs to be followed through after the project to ensure ongoing accountability.

Not that I want to add another layer of bureaucracy, but I think accountability to community, going back to community, not only to show your findings, but seeing how they want to move forward after the project should be built into research projects. Sometimes ethics is something people do at the start and put it behind them but it needs to be something alive. We are still doing this work with *Sista2Sista*, and I've very much thought about how I can keep this group going after the project, because there is an interest by its members for it to be maintained. Obviously, there's always the issue of resources and so forth. But if there's a will there's a way. I think



it would be good for researchers to have more discussions about how research can continue to nourish relationships that are born through research.

RQ Would you like to talk about how Indigenous Cultural and Intellectual Property informed the way you thought about the work?

TA It is actually really hard with this project, because we wanted to give the women a record of what they told us, but we didn't want to edit it into our own words. We selected a series of quotes and put them into themes. We wanted to give them their words unfiltered. We gave it to *Sista2Sista* to check that there wasn't anything too traumatic or inappropriate in there. We bound these quotes in a booklet and took it back to the women in prisons. They really valued having this booklet, seeing their own words on the page.

We were really quick in getting back to them with the feedback because we knew First Nations women in prison cycle in and out so often. We got all of this together within a few months and even then half of the women had already been released or transferred from the prison. I think there are challenges and the only way we can make sure women who contribute to the research get to see what they said and how it was put together, is if we keep connecting with the women, keep having those relationships, as people know each other in community. We have been able to spread the word, but it is a bit tricky when it's such a transient population in prisons and because of the nature of the system. It absolutely highlights how problematic the system is where the women are there a few months, may lose their homes or children, may lose their jobs and then they're out again. Rather than being strengthened, their lives have been completely displaced. I know we've always seen the statistics that women are in and out of prison, but going back after a few months, and seeing so many of them gone, really highlighted the unnecessary nature of imprisonment. Also it demonstrated the difficulty for researchers to give back to the woman who we originally reached out to.

One of the things we did do is prepare a leaflet with all of our members, the services, and our Advisory Group in it. All their contact details were on the leaflet as were ours. So when

the women wanted to join *Sista2Sista*, or if they wanted some help when they left prison they could give us a call. And some of them did give us a call. They knew we had their backs if they needed it.

RQ Would you like to talk about data collection and any issues that were raised in collecting data?

TA Our approach was based on a Yarning model where we would have our prompt questions, but a lot of it would be listening and letting the discussion go where it needed to. We had yarns where women ended up crying; interviews where we had to get nurses involved, because there were health concerns that the women hadn't felt comfortable bringing up before. The women learned about one another. I had friends or family of friends who were there, so I could ask things others wouldn't be able to and in some circumstances the research questions were incidental because we needed to catch up.

When we were listening to stories we found the women didn't necessarily focus on sentencing. The stories, nonetheless, revealed that women felt silenced and dehumanised in sentencing. They felt their sentences were disproportionately harsh. What they also wanted to talk about and were huge worries for them were things like housing or their children. Many of them asked us to try and contact child protection to find out where their kids were, because they didn't know how to contact them. A lot of our findings have been about those challenges and not only about the sentencing process. We have had a really wide net and followed up on all of these themes when presenting the data back to the women. It is an ongoing project, so we are speaking about working with the data moving forward. Larissa Behrendt and I have been discussing how we can make these stories into a valuable community resource. I have already used the data for advocacy, because a lot of the women wanted to change their situation. So, a lot of their voices have been found in submissions to Parliament to have more healing centers and more options, alternative to custody, so they can stay with their kids. We've used the data in ways consistent with the advice of the women in prison and *Sista2Sista*.

RQ Often ethics applications want us to answer questions in a singular way, as you have set out for

example with sentencing, but as in your example, sentencing comes with housing and children.

TA Things are holistic and interconnected when we're talking about the lives of First Nations people. Artificially, research forces us to be monofocal, with the need for a hypothesis and a research question. But people's lives aren't like that. There's this rich tapestry and even though the focus might be on prison, for example, prison is such a small part of their overall life experiences, feelings and thoughts. The women in prison hated sentencing but their main concern is something like how they are going to get a call from their kid while they're in prison. It's not to say it's a different project, or a diversion, quite the contrary, it's speaking to the original problem. Sentencing is undermining Indigenous women's well being, because it fails to see their holistic experience, contribution and strengths. We can't work out why sentencing is problematic unless we see the totality of their lives and impact that imprisonment has on them.

***RQ** How did you then talk to the judicial officers and the custodial officers? Were you having the same kinds of conversations? How did you go managing those two different groups of people?*

TA It was like chalk and cheese. In some cases we spoke to fairly progressive judicial officers who understood the impacts of themselves and their part within the system. In other cases, judicial officers focused on the position of the First Nations women from a negative, deficit perspective. For us and the women in prison, it was this negative, deficit based approach toward the women that needed to change. But for these later mentioned officers, they thought it was the women who needed to change. I haven't yet reconciled that. What I've focused on is producing work that honors the voices of the First Nations women. I am bringing the research together in the next stage and I'm wondering how I'm going to do that. It is interesting, because who you choose as your participants shapes what lens you take to the research. The participants will give you data from their perspective and that will filter into your findings. You need to take a critical lens to all views, especially when they are coming from people aligned to

institutions.

When you have a meeting or an interview with a judicial officer, you also have a relationship. It's difficult to then go and criticise their perspectives without potentially losing the prospect of being able to talk to them again. I think the only way to manage this is to set up expectations from the outset. For example, I always offer the judicial officer the transcript so they can ensure their views are properly represented. I always make it clear that the findings and the analysis will depend on the overall project and that their perspective might not be the dominant one in the research findings. All that expectation setting and good faith needs to be planned at the ethics application process, so no one feels undermined.

***RQ** Could you reflect on maintaining the security of the data, maintaining confidentiality and the technical elements to your data storage?*

TA We keep it on very secure services. Everything is double password protected and can only be accessed by the researchers on the project. Everything is de-identified, including information, such as the place the person is from or what prison they went to.

Seven years seems to be the standard for how long you keep data, so I would like to have discussions with Sista2Sista within that period to see if there is a way the de-identified data could be useful long term, maybe in an archive. It is such rich data and would be valuable to reflect on and use to continue to advocate for change. It would be a pity if it is lost, because this research is fairly unprecedented in terms of its scale in NSW prisons. It took a lot of work to bring these women together, both in prisons and outside of prisons. It would be unfortunate if all that hard work didn't have some ongoing impact. Its longevity is definitely something we will continue to consider.

***RQ** Were there any learnings from the project that you would like to speak about?*

TA One of the important learnings I had was the need to do things in culturally safe spaces. This is crucial, even for the staff you employ on the project. You need to employ First

Nations researchers on projects with First Nations people and they need to be supported. One of the best ways to do that is to employ more than one First Nation researcher. It's traumatic work, can be triggering and if the work is spread it just gives space to share. I am not a First Nations person, but I'm their supervisor. They need the support of First Nations peers as well. We've been so fortunate to have Gemma Sentance, Michelle Toy, Ellen O'Brien and Alison Whittaker work on this project at various times. Larissa is a co-investigator who is a fantastic leader and provides support.

I have really deep relationships with the researchers but it is different when you have someone with you who is truly your peer. This is what we wanted to do with the advisory group, make it peer to peer, so the First Nations women on the advisory group are the peers of the women inside and within the research group. The advisory group becomes a collective and culturally safe space.

In relation to prisons, generally we tried to avoid having one on one conversations, because we couldn't be there to pick up the pieces if something went wrong. We didn't do research in some prisons where there was only one First Nations woman, because there would not be anyone who would have their back when we went away. We tried to break them up into smaller groups of peers, connecting women who would be in their room, because we wanted the research to be supportive. We did not want anyone to be left alone to feel they had nowhere to turn when the research was over or got too hard. Because these are hard issues and people's lives. We wanted this research to be strengthening.

We received feedback that the women in prison loved having us visit, because they got to share their stories that no one had ever asked them about. They also had never had the space to sit together as First Nations women in prison. Creating culturally safe and strengthening spaces does not happen in prison. We created that space and the women got to meet each other and share things. We felt like stepping in and supporting these women had a beneficial effect. And my only concern is not being able to go in there and check in with them. But I do work with Aboriginal community justice organisations like Deadly Connections and we're hoping to do that kind of work on an ongoing basis.

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RQ Can you talk about any engagement you have with the AIATSIS ethical guidelines and other guides that researchers new to this space might benefit from? And are there any reflections you have on the value of ethical guidelines and protocols that are referred to in ethics application processes?

TA I think the AIATSIS ethical guidelines are a really strong and important development in ethical principles for First Nations research. Equally strong are the ethical guidelines of individual, local Aboriginal organisations. For example, we worked with Waminda, which is an Aboriginal women's organisation on the NSW South Coast. We saw how strong their principles are around decolonisation and research as we filled out their ethics form. I think ethics application processes ensure that research is true to its values to serve First Nations communities and organisations.

It keeps you accountable. If you don't do something right, the participating organisation will see it. Checks and balances in community keeps you honest and keeps you focused on the needs of those you're doing research with. I see it as a part of the relationship building. And I would encourage anyone doing research in that space to look at the local organisations to see whether they have their own ethics process to include in your research.