INVESTIGATION INTO THE REHABILITATION AND REINTEGRATION OF PRISONERS IN VICTORIA

VCOSS Submission to the Victorian Ombudsman

December 2014
About VCOSS

The Victorian Council of Social Service (VCOSS) is the peak body of the social and community sector in Victoria. VCOSS works to ensure that all Victorians have access to and a fair share of the community’s resources and services, through advocating for the development of a sustainable, fair and equitable society. VCOSS members reflect a wide diversity, with members ranging from large charities, sector peak organisations, small community services, advocacy groups and individuals involved in social policy debates.
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Introduction

The Victorian’s Ombudsman’s investigation into the rehabilitation and reintegration of prisoners is a timely examination of how Victoria meets the needs of people who are in the criminal justice system and transitioning back into the community. VCOSS welcomes the thoughtful and comprehensive nature of the Ombudsman’s October 2014 discussion paper Investigation into the rehabilitation and reintegration of prisoners in Victoria Discussion Paper (the discussion paper); regarding the investigation. Some of the comments made in this submission reflect what has been found so far in the investigation, and is described in the Ombudsman’s discussion paper.

This submission focuses primarily on the needs of particular groups of prisoners, which are those with disabilities, Aboriginal people and women in prison. This is because these groups face unique and complex disadvantages that are not being addressed in the prison system.

In recent years the ‘tough on crime’ approach in Victoria has led to rising imprisonment rates, longer sentences, overcrowded prisons and growing prison expenditure. But the community is not becoming any safer. Punitive justice policies contribute to poor rehabilitation and reintegration outcomes for prisoners with the reforms to bail, sentencing and parole tried as part of Victoria’s ‘tough on crime’ approach resulting in increased number of people in prison, additional pressure on the prison system and the creation of barriers to accessing programs and supports. Recidivism rates are high, as people continue to cycle in and out of the system.

After release from prison, people are at high risk of unemployment, poverty and ill-health. Incarceration has multigenerational impacts, with children of offenders at heightened risk of abuse, family violence, mental illness, poverty, housing instability and social isolation.

Victoria’s prisoners are in the main, people who have faced great disadvantage. They have low rates of educational attainment, literacy and employment before entering prison. Many have histories of abuse, mental illness and substance use. Aboriginal prisoners, prisoners with disabilities and women prisoners in particular have multiple and complex layers of disadvantage. If these disadvantages are not addressed through individual targeted responses, it is more likely that these people will reoffend and return to prison, sometimes again and again.

Victoria needs a comprehensive strategy to address the needs of prisoners and help prevent further offending.

Effective health and rehabilitation programs in prison, transition planning and post-release support are all essential for preventing recidivism and supporting people to live safely in the community after they leave prison. They should not be delivered in isolation from each other. Government must strengthen our existing transition and rehabilitation programs, further investing in holistic, long-term programs that begin when people enter prison and continue through their incarceration and back out into the community.

It is time for a community-wide conversation about our criminal justice system; about how we prevent people from committing crimes and how prison can be an opportunity to rehabilitate offenders so they can go on to become contributing members of society. VCOSS values this opportunity to provide feedback on the operation of the criminal justice system, and looks forward to working with the Victorian Ombudsman to reshape the system to better meet the needs of prisoners, government and the community.
Government leadership

The Victorian prison population has grown more than 40 per cent over the last 10 years. But despite delivering harsher sentences and locking more people up, we are not deterring people from further crime. More than a third (37%) of people in prison now will end up returning and more than half (51%) of current prisoners have already served a prison sentence as an adult.¹ The Victorian crime rate has also increased for the third year in a row, despite the growing numbers of people being locked up.²

Prison spending diverts money away from community-based services that help to reduce crime and prevent reoffending. In the last decade prison expenditure has grown rapidly; in the last three years alone it increased by $200 million. At the same time, investment in community-based services such as TAFE and public housing was cut.

As noted in the discussion paper, it is unsurprising that when prisoner numbers grow at the high rates we are seeing, rehabilitation and reintegration priorities can be overwhelmed by other pressures.

Victoria needs a whole-of-government approach to reforming the justice system and improving rehabilitation and reintegration. Victoria’s 2001 Corrections Long Term Management Strategy is an example of government leadership and commitment to reducing prisoner numbers and improving recidivism rates. The strategy included significant investment over a five-year period across the criminal justice system, including $17 million to reduce reoffending. A similar whole-of-government commitment to reducing reoffending, including setting clear targets, is necessary if we are to improve rehabilitation and reintegration and make the community safer.

Vulnerable prisoner groups

This submission focuses primarily on the needs of people with disabilities, Aboriginal people and women in prison. This is not to indicate that the needs of other male prisoners are not important, but is because these groups face unique and complex disadvantages that are not being addressed in the prison system.

Women

Women constitute a small but growing proportion of the prison population. They are on average serving shorter sentences than men. Nearly 80 per cent of women sentenced in 2010-11 received sentences of less than 12 months.³

Women in prison require specialised responses that recognise and are informed by an understanding of their experiences and trauma. They are disproportionately affected by homelessness, poverty, mental illness and violence. The vast majority (87%) of women in prison have previously been sexually, physically and/or emotionally abused.⁴ Offences committed by women are commonly, although not always, those associated with poverty, such as non-payment of fines, shoplifting, and welfare fraud as well as driving and alcohol related offences.

⁴ Smart Justice, More prisons are not the answer to reducing crime, November 2011.
The maintenance of family relationships tends to be particularly important to women. It is estimated that about 85 per cent of incarcerated women are mothers or primary carers. Geographic location, poverty and lack of access to transport can make family visits and communication difficult.

**Aboriginal people**

Aboriginal Victorians are imprisoned at more than 10 times the rate of non-Aboriginal Victorians. And this disparity is growing at an alarming rate, with the Aboriginal imprisonment rate increasing by 20 per cent in just the last year. This is especially so for Aboriginal women, who are the fastest growing cohort of prisoners in Victoria.

The reasons for high rates of Aboriginal incarceration are complex and linked to many decades of discrimination, disengagement and disadvantage. Changes in the system itself, including mandatory baseline sentencing, are contributing to longer sentences, and an increased police focus on some crimes such as family violence leads to more people being charged. There is also a direct link between disadvantage and crime. So the ongoing gap in health, educational, employment and social outcomes between Aboriginal and non-Aboriginal Victorians is also a direct contributor to the high crime and imprisonment rates among the Aboriginal population.

There are a range of opportunities for improving the reintegration outcomes for Aboriginal people, including incorporating an understanding of Aboriginal society and world views into all program development, involving Aboriginal elders and community leaders in programs that work with offenders and addressing the grief, loss and dispossession experienced by Aboriginal people and communities.

**People with a disability**

VCOSS has been calling for a Disability Justice Plan to address the overrepresentation of people with a disability in the criminal justice system. While the data is incomplete, experts estimate that each year about 60 per cent of people who enter prison have a mental and/or cognitive disability. They tend to cycle in and out of prison more rapidly than people without a disability. They also tend to come into contact with the system earlier, and have had little support from the disability system but significant involvement from other services, such as police, child protection and youth justice.

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5 Department of Family and Community Services, Families of prisoners; Literature review on issues and difficulties, Occasional Paper No. 10, September 2003.
7 Eileen Baldry, ‘Enabling or disabling; imprisoning people with mental and cognitive disability’ Human Rights in Australia, February 2012.
8 Ibid.
People in prison have often already experienced multiple and complex disadvantages and are often the survivors of severe trauma. VCOSS advocates for prison programs that are trauma-informed and therapeutic, which recognise and address the experiences of prisoners that contributed to their criminal behaviour, and minimise the risk of further re-traumatising people.

VCOSS acknowledges successive Victorian governments’ commitments to providing a range of offender rehabilitation programs, with Victoria recognised in 2003 as having the most extensive range of programs in the country. As highlighted in the Ombudsman’s discussion paper, however, the inconsistent availability, and barriers to accessing these programs, is of concern. Barriers include:

- high demand and waiting lists
- lack of culturally specific services for CALD and Aboriginal prisoners
- delays in assessment of program eligibility
- people on remand or short sentences being ineligible for some programs
- inequitable access across different facilities and for male and female prisoners.

A more strategic and comprehensive approach to prison program planning and delivery is needed to ensure all prisoners have equal access and programs are evidence-based and high-quality.

**People on remand**

Victoria-wide, the number of unsentenced people on remand grew 23 per cent in the last 12 months, making up about one fifth of the prison population. While on remand, prisoners have limited access to rehabilitation and treatment programs to address mental health, alcohol and drug, and other issues.

On average, people on remand spend less than three months in prison, then return to the community, often taking unresolved behaviours and problems with them. Without appropriate rehabilitation and transitional support, they will often cycle through prison multiple times, for short periods before being released back into the community, to ongoing disadvantage and likely reoffending.

VCOSS recommends that a range of core programs be made available to prisoners on remand and people serving short sentences of three months or less.

**Women**

The needs of women in prison differ from those of men. Their programs must be specifically tailored to women, recognising histories of trauma, abuse and victimisation and that the majority of women are incarcerated for non-violent crimes. Women are also disproportionately affected by the limited access to programs for people on remand, as the rate of women on remand is substantially higher than men, rising to as high as one third for Aboriginal women.

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There is evidence that rates of mental illness are higher among women prisoners than men. The recent Victorian Auditor-General’s Office report found that the number of secure mental health beds has not kept pace with growing demand and wait times have increased significantly, indicating the need for further growth in mental health support in the justice system.\(^\text{13}\)

Maintaining connection to family and building family support enables effective reintegration. But with only two female prisons in Victoria, many women are incarcerated in locations far away from their families and communities. This distance can make it difficult to maintain strong family relationships, because many of the affected families face poverty and transport disadvantage, which prevent them making regular visits and having ongoing contact.

With the majority (about 85%) of women in prison being parents or primary carers of children, maintaining the parent-child relationship is crucial. A 2011 study of Victorian women who have been imprisoned and their children, found that few children had frequent and predictable visiting arrangements and visits generally took place under poor conditions that did not meet the children’s needs.\(^\text{14}\) As well as causing distress to children, poor quality and irregular visits can make eventual reunification less likely.

Recent prison upgrades, especially at the Dame Phyllis Frost Centre, have improved the conditions for children visiting their mothers. However, additional upgrades, programs and support are needed to build and maintain the relationships between mothers and their children.

**Aboriginal people**

Aboriginal people, including former prisoners, have confirmed the essential role of Aboriginal wellbeing officers in the prison system. Community sector organisations report that there are not enough wellbeing officers to meet the needs of all Aboriginal prisoners.

While we recognise the recruitment challenges faced by Corrective Services, we recommend caution in employing non-Aboriginal people in these positions. A crucial element of the role is the development of trust between prisoners and wellbeing officers. Aboriginal workers that understand, respect and share the cultural background of Aboriginal prisoners will in many cases build trust more easily. Aboriginal offenders with long histories of discrimination and marginalisation may be unlikely to speak freely with non-Aboriginal people. Consultation with the Koori Caucus of the Aboriginal Justice Forum is needed.

There are also not enough culturally appropriate prison programs for Aboriginal people. Aboriginal people report feeling distrust and shame that prevents them from effectively engaging with mainstream programs and services in prison.\(^\text{15}\) Access to culturally specific programs is a particular problem for Aboriginal women, where small numbers can mean programs are cancelled or not scheduled, especially in Tarrengower in Maldon, which we understand often has low numbers of Aboriginal prisoners.

The Canadian healing lodge model should be investigated further for its applicability to the Australian context. Healing lodges offer Aboriginal women in Canadian prison environments and programs that reflect their cultures, traditions and beliefs. Their needs are addressed through

\(^{13}\) Victorian Auditor-General’s Office, *Mental Health Strategies for the Justice system*, October 2014.

\(^{14}\) C Flynn, ‘Responding to the children of women in prison; Making the invisible visible,’ *Family Relationships Quarterly: AFRC Newsletter* No 19, August 2011.

Aboriginal teachings, participation in ceremony, contact with Elders, family and children and through interaction with nature.

**People with disabilities**

The needs of people with disabilities are not specifically addressed in the Ombudsman’s discussion paper. This is a highly vulnerable cohort at high risk of reoffending and returning to prison. As well as the disadvantages also experienced by many other prisoners, including homelessness, poverty and substance use, Corrections Victoria has found that many people with disabilities in prison have poor communication skills and an absence of everyday living skills.  

The 2013 Corrections Victoria *Disability Framework* and the creation of the Acquired Brain Injury Program are recent initiatives that recognise the specific needs of people with disability in the justice system. But despite the new framework, many people are still not receiving the specific disability support they require while in prison. Up-to-date data is also required about engagement with existing programs and rehabilitation outcomes for people with disabilities.

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Preparing prisoners for release

As noted in the Ombudsman’s discussion paper, the period immediately post-release is a significant risk time for prisoners. Exiting prisoners are more likely to reintegrate effectively and less likely to reoffend if they have good health and wellbeing, and information and planning around the supports available to them after leaving prison. Transition planning needs to begin early in people’s prison sentences, identifying the range of needs that will impact on their reintegration.

Programs that operate on a ‘throughcare’ model; where the same organisations and individuals work with people in prison and then in the community after release, often have better outcomes than programs that operate only in prison or only meet the person after release. The organisations have the opportunity to build trust and relationships with the clients before they are released into the community, where they are likely to be faced with additional stresses, risks and temptations.

Consideration should be given to the approach recently adopted in the United Kingdom, where 70 new resettlement prisons are planned. Male prisoners with short sentences will spend their entire prison stay in these facilities, located as close as possible to their own community, receiving a tailored package of supervision and support that means they are working towards rehabilitation from the beginning of their sentence. Prisoners with longer sentences will be moved to them, closer to their release. By building in transition planning and recognising that rehabilitation begins in prison and continues outside, the UK is adopting an approach that is likely to result in better longer term outcomes for prisoners.

For a more detailed examination of the challenges in transitioning prisoners we draw the Ombudsman’s attention to the Jesuit Social Services report Strengthening prisoner transition to create a safer Victoria.17

People on remand and parole

A large group of prisoners are not receiving any of the existing transitional supports available. People on remand are ineligible for most of the transitional programs that are available to sentenced prisoners. People released on ‘straight release’ do not have the additional supervision and assistance to reintegrate that usually accompanies parole. While the serious failures of the old parole system meant reform was necessary, the new limitations on parole mean more people are now being released at the end of their sentence without the supervision, conditions and requirement to access programs and supports that would give them the best chance of successful reintegration.

Women

Staged release gives people the opportunity to develop skills and confidence to live in the community after release. The lack of a transitional support facility for women prisoners is a clear barrier to a staged release program for women.

A small number of male prisoners can access the 25 beds available in the Judy Lazarus Transitional Centre. An evaluation of this facility showed its effectiveness in reducing recidivism and better preparing people for re-entering the general community. Women are unable to access this facility, and there is no comparable service available to them.

17 Jesuit Social Services, Strengthening prisoner transition to create a safer Victoria, June 2014.
People with disabilities

The full roll-out of the National Disability Insurance Scheme (NDIS) is still some years away. But planning for how it will support the needs of people with disabilities in prison must happen now. VCOSS understands that the NDIS will not fund people with disabilities’ support needs while they are in prison. However it will fund services for eligible people once they are released from prison.

People with disabilities are significantly over-represented in the prison population. It is likely that many people with cognitive disabilities in particular will enter prison unknown to the system, without having engaged with the NDIS assessment process and not receiving the support they are eligible for. They are unlikely to know when and how to get this support when they leave prison. The administrative requirements to access the scheme may also make it inaccessible for some people.

To reduce the risk of people reoffending, or of experiencing harm post-release, support staff inside the prison need to be equipped to assist people with disabilities to apply for NDIS funding and support.
Post-release support

Existing post-release support services are under-resourced and struggle to meet demand. In addition to funding more places, services need to be able to provide longer term support to help people deal with issues that extend beyond immediate post-release needs. It is important that the new reintegration program beginning January 2015 is monitored for its capacity to address these gaps and achieve positive outcomes for service users.

Stable and supported accommodation is essential for prisoners to effectively reintegrate in the community. With nearly 35,000 people on the public housing waiting list\(^\text{18}\) and more than 22,000 Victorians experiencing homelessness every night,\(^\text{19}\) the mainstream housing system is unable to cope with the needs of people post-release. As a result, 43 per cent of prisoners leave prison into homelessness. This makes it extremely difficult to reintegrate effectively, and puts them at higher risk of reoffending and reverting to old habits, including drug use. Additional housing support is required for people leaving prison.

Post-release mortality is staggeringly high, with one Queensland study finding people under the age of 25 were six times more likely to die in the year after release than the general population. This rose to 20 times more likely for young women. Drugs were a significant contributor in just under half of these instances.\(^\text{20}\) Many prisoners have difficulty moving from prison drug treatment and pharmacotherapy programs to community-based programs. Significant attention needs to be paid to increasing prisoner engagement with pharmacotherapy post-release.

Paid employment is a pathway for many people out of poverty and disadvantage. Unemployment in Victoria is rising, and it is disadvantaged people, including people who have a history of imprisonment, who are most likely to be affected. Transition and reintegration programs must include targeted support for people leaving prison, to build their skills and capabilities, map out pathways for them to access jobs and maximise their chances of employment.

Women

Victoria’s new prison reintegration program is a general service, with no specialised service for women. Given their smaller numbers in prison and the often non-violent nature of the crimes committed, women may find it more difficult to access an appropriate level of support through this program. The new reintegration program must be monitored to ensure it is accessible to women and meeting their specific needs.

Women are more likely to leave prison into homelessness than men. The Victorian Parliamentary Inquiry into the impact of drug-related offending on female prisoner numbers identified the lack of appropriate housing and accommodation options for women in the criminal justice system as “the most overwhelming problem”.\(^\text{21}\) Homelessness or inappropriate housing also leads to more women being placed on remand or missing out on parole.

The Parliamentary Inquiry made a number of recommendations related to the housing needs of women post-release that are yet to be fully implemented. These include making a range of housing

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\(^{18}\) Department of Human Services, Public Housing Waiting and Transfer List, September 2014.
options available to women on bail and post-release, including long-term accommodation, and a
dedicated transitional housing and support centre modelled on the Judy Lazarus Centre for male
prisoners. These recommendations should be implemented as a priority.

**Aboriginal people**

The Department of Justice reintegration program beginning in 2015 includes new funding for an
Aboriginal post-release support program for men and women on parole and straight release, to be
delivered by the Victorian Aboriginal Legal Service. With the capacity to assist about 40 people
each year, for a maximum six-month period each, this program has greater flexibility to shape
support to the needs of individual prisoners, their families and circumstances. Ongoing monitoring
and evaluation is required of the program’s capacity to meet demand as Aboriginal imprisonment
rates rise.

The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) report on Koori women
and the justice system highlighted the significant lack of culturally and gender appropriate
supported accommodation options for Aboriginal women post-release.\(^{22}\) Aboriginal women are
not accessing mainstream supported programs at the same rate as non-Aboriginal women. An
Aboriginal specific residential program is required for women on bail and post-release that is
culturally appropriate and places importance on reconnection to culture and community.

Fractured relationships with children can be a risk factor for reoffending. Some Aboriginal women
report using drugs and alcohol as a coping mechanism when they have not been successfully
reunited with their children, putting them at higher risk of reoffending.\(^{23}\) To be most effective, post-
release programs for women must work holistically with the person’s family and community to give
them the best chance at reintegration.

\(^{22}\) Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business; Koori women and the justice system*, 2013,
p. 77.

\(^{23}\) Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business; Koori women and the justice system*, 2013,
p. 76.
Data and evaluation

Gathering statistics about the operation of the criminal justice system and the outcomes for prisoners is crucial to understanding what works and what doesn’t. The Ombudsman’s discussion paper rightly identifies a number of issues around data collection, performance management and evaluation.

Designing programs that effectively meet the needs of prisoners requires detailed data and information. However, the community sector has expressed concern about the difficulties in obtaining up-to-date, accurate data about the prison population and outcomes for people who are in or who have recently left prison.

In 2013 the Department of Justice announced it would no longer publish the Statistical Profile of the Victorian Prison System. This document brought together a range of useful information in one place, including:

- imprisonment and population rates
- prior imprisonment rates of prisoners
- gender, cultural background, education and employment status of prisoners
- security classifications
- prison utilisation rates.

Only some of this data is available elsewhere. While the Australian Bureau of Statistics and the Productivity Commission regularly publish information about imprisonment rates and the gender/age of the prison population, it is much more difficult to find information about education and employment rates, prison utilisation rates and prisoner profiles.

The Department of Justice should resume publishing the Statistical Profile as soon as possible, to assist organisations to develop and deliver programs targeted at the specific needs of Victoria’s prison population.

The Office of Corrective Services Review, a unit within the Department of Justice, is responsible for reviewing the performance of prisons and correctional services in Victoria and making recommendations for improvement. But it is not required to publish the outcomes of its findings or table reports in Parliament. This lack of transparency should be addressed through the introduction of a requirement that Office of Corrective Services Review findings are published and made available to the community.

From 1 January 2015 the independent Victorian Crime Statistics Agency will be responsible for the collation and dissemination of crime statistics. Although this date is imminent there is little available information about the scope or work of the new agency. VCOSS looks forward to working with the new agency to improve the quality of data and the analysis undertaken.