



DRUGS AND CRIME PREVENTION COMMITTEE

INQUIRY INTO THE IMPACT OF DRUG-RELATED OFFENDING ON FEMALE PRISONER NUMBERS

OCTOBER 2010

PARLIAMENT



OF VICTORIA



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DRUGS AND CRIME PREVENTION COMMITTEE

**INQUIRY INTO THE IMPACT OF DRUG-RELATED
OFFENDING ON FEMALE PRISONER NUMBERS**

Interim Report

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Drugs and Crime Prevention Committee

Inquiry into the Impact of Drug-Related Offending On Female Prisoner Numbers –
Interim Report

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Functions of the Drugs and Crime Prevention Committee

The Victorian Drugs and Crime Prevention Committee is constituted under the *Parliamentary Committees Act 2003* (Vic) as amended.

Section 7

The functions of the Drugs and Crime Prevention Committee are, if so required or permitted under this Act, to inquire into, consider and report to the Parliament on any proposal, matter or thing concerned with:

- (a) the use of drugs including the manufacture, supply or distribution of drugs;
- (b) the level or causes of crime or violent behaviour.

Terms of Reference

To the Drugs and Crime Prevention Committee – for inquiry, consideration and report no later than 31 August 2010¹ into the impact of drug-related offending on female prisoner numbers, and the committee should:

- (a) examine the impact of drug-related crime on the female prisoner population;
- (b) review the demographic profiles of women in custody for drug offences and the types of drug offences;
- (c) examine underlying causal factors which may influence drug-related offending and repeat offending that result in women entering custody; and
- (d) recommend strategies to reduce drug-related offending and repeat offending by women, including strategies to address underlying causal factors.

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The Committee also records its appreciation to Somebody's Daughter Theatre Company who provided the artwork for the cover. Cover artwork by 'Jacqui', *Art works by women in prison & post release 2000-2005*. Edited by Joseph De Lutiis, Kate Osborne and Jan Osmotherly.

¹ The reporting date was extended to 7 October 2010 by resolution of the Legislative Assembly

Foreword

The situation of women in prison is often very different to that of male prisoners, and the treatment they receive whilst in prison and post release needs to be responsive to their needs *as women*.

Whilst the Committee was unable to complete the reference, particularly as further investigation into the recent increase in prison numbers is required, we were concerned about some of the information provided to us both in submissions and during public hearings.

This evidence particularly related to the problems women face when in prison, when released from prison and their high rates of recidivism.

The information provided to us was almost unanimous – the housing problem in particular being identified as a significant issue for many post-release women.

Accordingly, we have made some recommendations for the post November 2010 government to consider and we hope the 57th Parliament of Victoria will make further recommendations on the other issues we have raised.

Whilst prison is the punishment for crime, prisoners need to maintain their self-respect for them to be successfully rehabilitated and reintegrated into the broader community.

The Committee would like to take this opportunity to thank the consultants to the Inquiry; Dr Bree Carlton of the Criminology Department, Monash University and Dr Stuart Ross, Director and Senior Researcher, of the Melbourne Centre for Criminological Research and Evaluation, University of Melbourne for their invaluable contribution to the work of this Inquiry.

Judy Maddigan, M.L.A. - Chair

Liz Beattie, M.L.A.

Andrea Coote, M.L.C.

Jenny Mikakos, M.L.C.

Recommendations

Introduction

The Committee is strongly of the view that prison is the punishment for committing an offence. The treatment of women whilst they are in prison should not act as a second punishment.

Moreover, the Committee believes that traditionally the corrections system has been based on a model that is more responsive to *men's* needs. This 'male model' of corrections has too often been inappropriately adapted for female prisoners. A model that takes into account the specific needs of women is important not only in reducing the numbers of women entering prison but also in addressing the rate of female recidivism. The Committee is encouraged that the *Better Pathways* program has recognised that corrections programs and services need to be designed specifically to meet the needs of women rather than simply adapting from those provided to men. Nonetheless additional work needs to be done to make the system more gender responsive.

Gender also needs to be taken into account in addressing the patterns and causes of women's offending. Whilst both male and female offenders may share some similarities with regard to their offending profiles, for example socio-economic disadvantage, it is recognised that women prisoners because of their personal backgrounds have a much more complex range of problems and needs that contribute to their offending, imprisonment and in many cases re-offending.² In particular, compared to men, women are more likely to have been unemployed prior to entering prison, and have had greater housing difficulties and debt issues. Significantly more women than men are also likely to have experienced a history of physical or sexual abuse, physical and mental ill health and a higher level of substance abuse. All of these factors influence women's patterns of offending. In short, gender is extremely important in considering offending behaviour and the interventions needed to address it.

The Committee acknowledges that significant progress has been made to meet the needs of women offenders both on the part of government and community agencies. Despite some positive developments in service delivery for female prisoners, the increasing number of women being admitted into Victorian prisons indicates that much more work needs to be done. The Committee believes that there is a need for the Inquiry to continue into the next Parliament. The aim of the Inquiry would be to address the issues that have been raised in this Interim Report and reduce the escalation of the number of women entering Victorian prisons. Whilst the continuation of the Inquiry is an important long term objective, the Committee acknowledges that there are some areas that require urgent attention. The Committee therefore makes the following recommendations.

Housing

The most overwhelming problem identified by the Committee during the course of this Inquiry has been the lack of sufficient housing and accommodation options for women associated with the criminal justice system. Considerable evidence has been brought before the Committee which highlights the relationship between lack of housing, women's

² See for example, Byrne and Howells 2002; Baldry 2003; Mounsey 2003; Willis and Rushforth 2003.

offending and re-offending. Of particular concern are the number of women being placed on remand due to lack of stable housing;³ the forestalling of parole and release due to lack of housing;⁴ and links between lack of housing and breaches of parole and re-offending.⁵ The Committee therefore makes the following recommendations:

1. There should be a range of housing options available to women if they require it whilst on bail and post release. This would include transitional and long term accommodation. Long term accommodation for women is particularly important.
2. The provision of dedicated housing for women offenders should be the responsibility of the Department of Justice.
3. Any post release housing or accommodation options should include a women's transitional housing and support centre. Such a model should take into consideration the needs of the women and their children. The Judy Lazarus Transition Centre is an excellent example of such an initiative for men and with appropriate adaptations could serve as a suitable model for women. In particular the Judy Lazarus Centre has contributed to a reduction in the rates of re-offending of men released from Victorian prisons.

The Committee appreciates that such an accommodation initiative is expensive but it is more cost effective than housing women in prison.

Better Pathways evaluation

4. The Committee recommends that the Better Pathways evaluation report be made publicly available so that future programs to address women's offending can be developed based on its findings.

Prisoner rights and amenities

The Committee makes the following recommendations:

5. That the Victoria Government recommend to COAG that women's medical services whilst in prison should be provided and funded by Medicare to ensure that medical services are comparable to those available to the general public.
6. Women should be provided with adequate free toiletries including soap, shampoo and deodorant. Currently women need to purchase such items with funds received as a result of working in the prison.
7. Women should be allowed a free phone call once a week to enable them to maintain contact with their children. This is particularly important for women residing in Tarrengower Prison in central Victoria. In many cases women will need to make STD calls to contact their children who will often be based in Melbourne.

³ See submissions from Flat Out/CHRIP; PILCH/Homeless Persons Legal Clinic; Melbourne Citymission; and Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁴ See submissions from Flat Out/CHRIP and from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁵ Submission from Flat Out/CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

Employment

A lack of employment opportunities is a key indicator of recidivism. The Committee believes that women should be provided with meaningful employment and/or training in prison that will lead to work in the community. The Committee therefore recommends:

8. That a comprehensive employment assistance program be established that expands on the employment programs that are currently available.

Program provision for short term prisoners

The Committee is aware that there is a gap in service provision for short term prisoners in certain areas such as counselling. It therefore recommends that:

9. All women on short term sentences or on remand should be eligible for relevant programs and services in prison where appropriate. As part of the transitional planning process Corrections Victoria should ensure that arrangements are made for these women to continue these or similar programs and services on release from prison.

Community reintegration

The Committee understands that women are often extremely isolated when they leave prison, and hence it is important for these women to have opportunities for social integration so that they can reconnect with the community in a positive way and establish social networks. Until recently, Melbourne Citymission managed a social and recreational program which facilitates group and individual activities for women who have been released from prison. This program has now ceased due to lack of resources. The Committee therefore recommends:

10. That the Victorian government provide funding so social network and recreational programs can continue to be provided to women.

An ongoing Inquiry

The recommendations of this Interim Report outlined above will go some way to addressing the problems of female offenders, particularly those with extensive histories of substance abuse. Nonetheless this Report has shown that there are many other issues that require investigation. A comprehensive response to these issues requires further work and the provision of better information. The Committee therefore makes the following recommendation:

11. That the Drugs and Crime Prevention Committee or its equivalent continue the Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers during the course of the 57th Parliament of Victoria.

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List of Abbreviations

ADCQ	Anti-Discrimination Commission in Queensland
AIC	Australian Institute of Criminology
AIHW	Australian Institute of Health and Welfare
ATSI	Aboriginal and Torres Strait Islander
CALD	culturally and linguistically diverse
CHRIP	Centre for the Human Rights of Imprisoned People
CSAC	Corrective Services Administrators Council
DHS	Department of Human Services
DOJ Vic	Department of Justice Victoria
DPFC	Dame Phyllis Frost Centre
DUMA	Drug Use Monitoring in Australia
EOCV	Equal Opportunity Commission Victoria
FACSIA	Department of Housing, Families, Community Services and Indigenous Affairs
FCLC	Federation of Community Legal Centres
HRV	Harm Reduction Victoria
MHLC	Mental Health Legal Centre
MSO	most serious offence
MWCC	Metropolitan Women's Correctional Centre
OCSR	Office of Correctional Services Review
OSTP	Opioid Substitution Therapy Program
OV	Ombudsman Victoria
PILCH	Public Interest Law Clearing House (Vic) Inc
VALS	Victorian Aboriginal Legal Service
VCOSS	Victorian Council of Social Services
VLO	Vietnamese Liaison Officer
WCSF	Women's Correctional Services Framework

1. Introduction

In 2009 the Victorian women's prison population reached its highest level since 1892. Between 2008 and 2009 the number of incarcerated women rose by 25 percent (Fyfe 2009). This dramatic increase has prompted a range of concerns shared by government, community legal centres, social welfare groups, prisoner advocates and women with the lived experience of imprisonment. One of the reasons thought to contribute to the increase is a correlative rise in drug and drug-related offending among women.⁶

Terms of Reference

The Parliament of Victoria has therefore requested that the Drugs and Crime Prevention Committee inquire into and consider the impact of drug-related offending on female prisoner numbers and that the Committee should:

- Examine the impact of drug-related crime on the female prisoner population;
- Review the demographic profiles of women in custody for drug offences and the types of drug offences;
- Examine underlying causal factors which may influence drug-related offending and repeat offending that result in women entering custody; and
- Recommend strategies to reduce drug-related offending and repeat offending by women, including strategies to address underlying causal factors.

Thus the central purpose of this Interim Report is to consider the impacts of drug and drug-related offending on the growing women's prison population. It will also canvass key issues arising from the impacts of drug and drug-related offending and related harms on the women's prison population.

As many of the submissions to the Committee have acknowledged, the issues investigated and canvassed by this Inquiry are highly significant given the paucity of research and availability of official data pertaining to women and imprisonment in Victoria and in Australia. Research on women and imprisonment represents just 3 percent of publications on prisoners in Australia (Goulding 2004).

While there is a dearth of research exploring the relationship between gender, substance abuse and drug-related offending in Australia, there is an emerging body of work that indicates substance-related health problems and drug/drug-related offending are disproportionately associated with women prisoner populations and particularly young women (Loxley & Adams 2009; AIHW 2009; Johnson 2004; Coffey et al 2003). This relationship is empirically documented primarily through statistical evaluation and analysis. However, what is missing from the literature is comprehensive consideration of the social, lifestyle and causal factors that lead women to offend and what these can tell us about the increasing growth in women's prison populations in Victoria and other Australian states. What is also absent from the literature, and is a focus of this Interim Report, are the ways that systemic factors contribute to the increased numbers of women incarcerated. Examples of this include possible changes in policing practices and

⁶ B Cameron, Minister for Corrections 2010, Transcript Public Accounts and Estimates Committee Corrections Portfolio, 14 May, p. L8.

strategies; sentencing options available to magistrates; and the availability and quality of rehabilitative care and treatment for women with mental health and substance addiction issues both in prison and post-release given the cyclical nature of women's drug use and drug-related offending.

In light of these concerns, this Inquiry extends beyond solely examining statistical data and the offending profiles of women to recognise the causal factors underpinning women's offending and repeat offending. Imprisoned women represent one of the most disadvantaged groups in the Victorian community (Community West/Brimbank Community Legal Centre 2008). It is also widely recognised that the majority of incarcerated women experience multiple hardships and vulnerabilities and have lives characterised by poverty and social exclusion (Douglas & Plugge 2008).

Importantly, Indigenous women and those from culturally and linguistically diverse (CALD) backgrounds, particularly women of Indo-Chinese descent, are disproportionately represented and comprise the fastest growing population in Victorian prisons.⁷ More generally the majority of women are survivors of intergenerational cycles of family violence, trauma, substance abuse and offending; are often wards of the state; are frequently primary and sole carers of children; have difficulty accessing affordable and stable housing; are socially isolated and unemployed due to social stigma and exclusion; and experience an increased risk of harm and premature unnatural death in the days and weeks following their release from prison (Graham 2003; Davies & Cook 2000). While causal factors are discussed in more depth in Chapter 2 of this Report, it is critical to identify them from the outset because they highlight the *complex* of issues experienced by women on their pathways to offending and in and out of prison.

Scope of Inquiry: The Interim Report

An issue faced by the Committee in conducting this Inquiry is that the terms of reference raise a host of social and criminal justice issues directly related to women's offending and re-offending. The broadness of these issues requires a focus that encompasses a range of social conditions underpinning women's pathways in and out of the system. Also critically relevant are the many agencies that come into contact with women along their individual pathways and the various policies, programs, initiatives and services that cater to women's special needs prior to imprisonment, in prison and post-release.

Therefore the purpose of the Interim Report is to provide an overview of trends in incarceration rates for women in prison for drug and drug-related offences, identify the pathways of drug-related offending and repeat offending for these women and provide an overview of some of the services and programs that have been developed to address the problem in Victoria.

In conducting this Inquiry the Committee has examined data including research and policy literature, statistical reports on offending and demographic data pertaining to the women's prison population in Victoria. The Committee has employed a variety of processes in order to canvass the issues and receive input and information from as many individuals, agencies and organisations as possible that have an interest in the issues the Terms of Reference raised. These processes are detailed below.

⁷ See submissions from the Aboriginal Family Violence Prevention and Legal Service Victoria and the Australian Vietnamese Women's Association to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

The Inquiry process

Literature review

A review of the literature on drugs and women's imprisonment in Australia, including academic articles, policy documents and available statistical information has been undertaken.

Written submissions

Calls for written submissions were published on 15 May 2010 in the *Herald Sun* and *The Age*. Letters inviting submissions to the Inquiry were also sent to all key government and non-government agencies in Victoria with an interest in the area. The Committee received 26 written submissions,⁸ which came from a range of individuals, government and non-government organisations.

Public hearings

Public hearings were conducted in Melbourne on 16 June 2010, and 2 August 2010. In total, the Committee received oral evidence from 30 witnesses.⁹ Seventeen of these witnesses gave evidence *in camera*.

Visits

The Committee visited the Dame Phyllis Frost Centre, Tarrengower prison, Thomas Embling hospital, Judy Lazarus Transition Centre and a supported community housing program.¹⁰ These visits enabled the Committee to gain insights into the work of these organisations, the programs conducted and the views of senior staff on issues relating to the Inquiry.

The Committee is most appreciative of the time, effort and valuable contribution that all the individuals and organisations have made during the progress of this Inquiry to date.

⁸ For a list of the submissions received by the Committee see Appendix 1.

⁹ For a list of witnesses appearing at Public Hearings and in teleconference see Appendices 2 and 3 respectively.

¹⁰ For a list of site visits see Appendix 4.

Key definitions relevant to this Inquiry

Women prisoners and offenders

The Terms of Reference focus broadly on the Victorian ‘women prisoner population’. According to the National Standard Guidelines ‘women prisoners’ refers to adult women (aged 18 and above) serving or having been ordered to serve a sentence of imprisonment by a court.¹¹ The Committee recognises that un-sentenced or remand prisoners are encompassed within this definition, as are women released on parole given that they are still considered to be within the custody of correctional authorities. The inclusion of remand prisoners and women on parole potentially broadens the focus of this Inquiry insofar as it raises a multitude of distinct issues and experiences.

The Terms of Reference could also be interpreted more broadly to encompass ‘women offenders’. Corrections Victoria defines women offenders as those who have been found guilty of offences and are currently subject to Corrections processes, but who are not in prison. This definition potentially includes women serving a sentence of imprisonment in the community (eg. intensive correctional order, home detention order or suspended sentence) as well as women serving a community-based order (Johnson 2004).

While acknowledging the broad impacts and related issues experienced by these groups, which were raised during the course of this Inquiry, for the purposes of this Interim Report the Committee focuses its attention primarily on sentenced women prisoners in Victoria.

Drug offences and drug-related offences

This inquiry recognises that there is a distinction between drug and drug-related offences. Such a distinction is significant given views by Corrections Victoria that the increase in women’s imprisonment rates relates to an increase in ‘drug offences’, specifically trafficking, among women in the Victorian system.¹²

A drug offence is any criminal offence specifically relating to the use, possession, manufacturing, trafficking, or importation of illicit drugs. The research recognises that the available statistical data on drug offending is limited and is under-reported because the offences for which women are imprisoned tend to state the most serious offence (rather than any related offences for which they have been convicted or charged). Moreover, as the research acknowledges, women are more likely than men to have committed their offences while intoxicated or under the influence of drugs and this has led to a substantial under-reporting of offences linked to drug use (Department of Justice Victoria 2009).

Drug-related offences are distinct and are defined as any criminal offence that has the goal of allowing or facilitating access to illicit drugs or the commission of a drug offence as its purpose or motivation. Drug-related offences can include acquisitive crimes (such as thefts or acts of prostitution, if the objective is to obtain funds for purchasing illicit drugs), ‘payment’ offences (if a person commits a crime in exchange for drugs), facilitative offences (such as stealing precursor chemicals to manufacture drugs) or ‘contest’ offences (such as assaulting a competitor in a local drug market). In the case of women offenders in

¹¹ National Standard Guidelines for Corrections in Australia (2004), p.4.

¹² Cameron, B. Minister for Corrections, Transcript Public Accounts and Estimates Committee Corrections Portfolio, 14 May 2010, p. L8.

Victoria, however, it is far more likely to encompass the first and second examples (Roberts 2007).

Johnson reported that 42 percent of incarcerated female offenders committed the crime for which they were imprisoned while they were under the influence of alcohol or other drugs (Johnson 2004). Offences committed while the offender is under the influence of drugs can be classified as a drug-related offence. It has been recognised that the inclusion of these offences within the scope of 'drug-related offences' would render the definition too broad given that women's offending in Victoria is much more likely to have occurred while the offender was under the influence of drugs or alcohol (Equal Opportunity Commission Victoria 2006; Department of Justice Victoria 2003). The Committee recognises the empirically documented link between women's offending and substance use and the prevalence of offences committed while 'under the influence'. However, for the purposes of this Interim Report it will adopt the former limited definition of drug-related offence due to the fact that it is in line with definitions applied in the collection of demographic and statistical data on women's drug and drug-related offending.

Repeat offending

Repeat offending or recidivism comprises a complex and evolving area of criminological theory and research that holds much significance for government and policy makers focused on crime prevention. In light of this, an Australian Institute of Criminology (AIC) study by Payne (2007) has argued there is a considerable gulf between research and policy in this area. Payne noted that research on recidivism presents considerable methodological limitations and constraints given that repeat offending is difficult to measure reliably and limitations related to the accessibility of data on re-offending among various groups can have an impact on research outcomes. This is certainly the case for women's repeat drug and drug-related offending, which is under-researched and under-reported and therefore very difficult to measure.

For the purposes of this Interim Report, 'repeat offending' refers to the act of committing the same or materially similar offences multiple times over an extended period of time (as opposed to multiple offences within a short space of time); and a pattern of conduct involving similar offences in episodes (whether interrupted by imprisonment or other punishments, or punctuated by periods of non-offending). There is much evidence to suggest that repeat offending among women is cyclical and driven by the same causal factors identified as drivers underpinning women's offending such as mental health, substance abuse, histories of victimisation, lack of housing etc (Department of Justice Victoria 2007).

2. Changing Patterns of Female Imprisonment in Victoria: 2000 to 2010

Any discussion on the impact of drugs and drug-related offending on women's imprisonment should be based on an understanding of the changing patterns of female imprisonment in Victoria. Firstly, it is important to review the number of female prisoners in Victoria, including the number of persons received into prison under sentence and on remand. The changing patterns of length of stay and the relationship between these patterns and sentencing trends in the Victorian courts also need to be examined. Secondly, to gain an understanding of the trends that have been identified it is necessary to analyse changes in the offences and offending history of women who are imprisoned, and changes in the age and ethnicity of the female prisoner population.

Trends in the number of female prisoners

In considering trends in imprisonment rates it is useful to distinguish between three forms of trend variation: long-term, short-term and cyclical. Prisoner numbers typically show a degree of annual variation (for example, numbers typically decline in late December and early January as a result of lower levels of court activity) but this cyclical variation is small and of marginal policy relevance. Long-term variation (that is, variation over a time scale of at least five years and often decades) is mainly the result of demographic or social and economic changes, or the policy correlates of these changes, while short-term variation (from one to five years) is typically the result of changes in policy or operational practice.

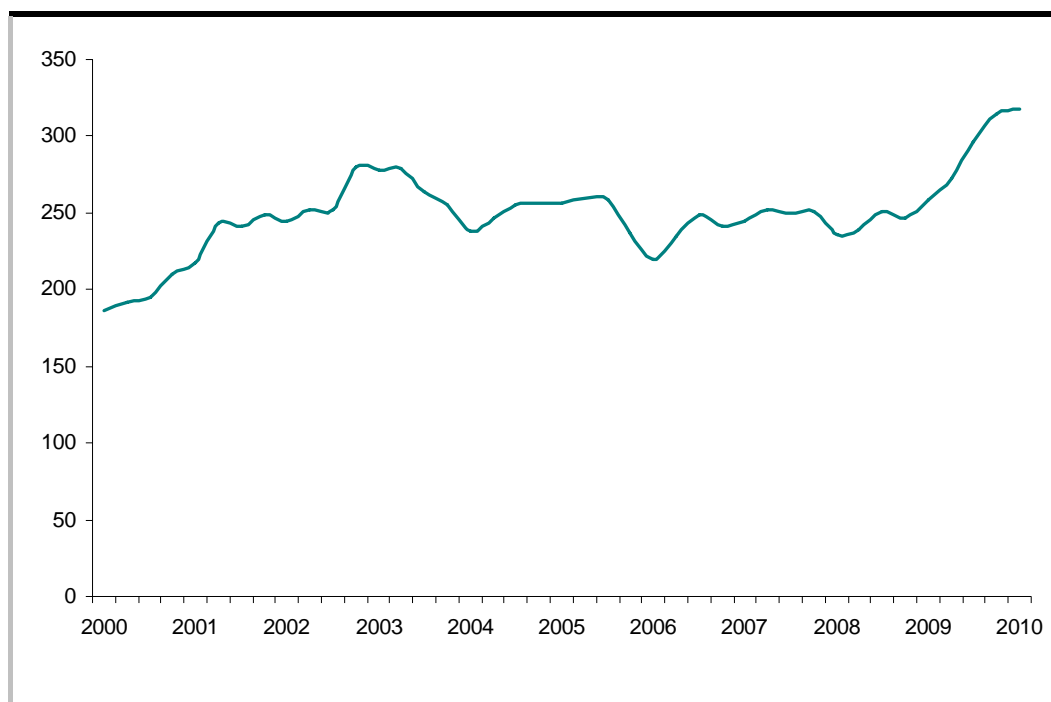
Long-term trends

The number of female prisoners¹³ has been increasing steadily since the 1960s, from around 30 women in 1960 to 50 in 1980, 120 in 1990, 200 in 2000 and currently in excess of 300 (see Figure 2.1). The rate of increase in female prisoners has exceeded the rate of increase in the male prison population, resulting in the proportion of women in the Victorian prison population rising from around 2 percent in 1960 to 7 percent of all persons in full-time custody in 2010. This pattern has been repeated in all Australian States and Territories, and in the United Kingdom, United States, Japan and most European countries, and appears to be the product of fundamental social, political and economic factors associated with late modernity.

A variety of explanations have been proposed to account for the high rate of increase in female prisoners. These include explanations concerned with the increase in prisoner populations generally (population demography, changing patterns of drug use, more punitive criminal justice policy) and explanations concerned with the differential rate of increase of women versus men (changing economic roles, differential sentencing patterns, paternalism within the justice system).

¹³ Trend analysis of prisoner populations often uses the rate of imprisonment per 100,000 persons in the general population as the preferred measure in order to take out the component of increase attributable to population growth. In the analysis that follows increases associated with population growth are negligible, and some of the issues addressed involve the examination of changes in population demography that are not appropriate to examine using non-age standardised rates.

Figure 2.1: Victorian female prisoner population 2000–2010



Source: ABS Corrective Services Australia 4512.0 (quarterly).

Short-term trends

Within this general pattern of increase there are periods when the number of women in prison increases more rapidly than usual, or stabilises or even declines slightly. The number of women in Victorian prisons reached 140 in late 1988 but then remained at or below this level until 1997. From 1997 to 2002 there was another period of rapid increase to reach a total of 250 in 2002, but numbers again stabilised at around 250 for the next seven years. From late 2008 numbers again began to increase rapidly, reaching 320 in early 2010.

This long period of stability in Victorian female prisoner numbers does not appear to have been the product of a general change in female imprisonment patterns in Australia, and only partly mirrors changes in male imprisonment rates in Victoria. Figure 2.2 shows the relative changes in male and female prisoner numbers in Victoria and female prisoner numbers in Australia. As the actual numbers of persons in each group vary greatly across these three series (in March 2002 there were 3,200 male Victorian prisoners, 1,300 Australian female prisoners and 245 Victorian female prisoners), the three series have been normalised to show change on the same scale. Each series commences at a value of 100 in March 2002, and shows percentage changes from the starting value thereafter.

The number of female prisoners in Australia increased steadily throughout the period, reaching a level 60 percent above its 2002 starting point by March 2010. The annual rate of increase for female prisoners in Australia over the period 2002 to 2010 was around 7 percent per year, which is essentially the same as the rate of increase for female prisoners in the preceding decade. In contrast, the Victorian female prisoner population remained close to its 2002 level until late 2008, and then increased rapidly to its current level around 30 percent above the 2002 starting point. The number of male prisoners in Victoria also remained close to its 2002 starting point for several years, but then

increased between 2006 and 2010, reaching a level 30 percent above its starting point. Note that while the Victorian male population was in an uptrend for around three times as long as the uptrend in the Victorian female population, both show the same total percentage increase over the period.

Figure 2.2: Changes in prisoner numbers 2002-2010 (March 2002 = 100)



Source: ABS Corrective Services Australia 4512.0 (quarterly)

This analysis shows two important features of Victorian female imprisonment in the last decade that are central to any attempt to understand the nature and causes of female imprisonment in the state.

- The first is the long period of stability between 2002 and 2009. Stability in custodial populations is exceptional. From the early 1980s onwards prisoner populations in all Australian jurisdictions as well as all US states, the UK and virtually all European nations have shown an upward trend that is greater than can be accounted for by population growth, and female prisoners have typically shown a higher rate of increase than male prisoners. Thus, the absence of change is an unexpected feature that needs to be explained.
- The second feature is the very rapid increase in the number of female prisoners after the end of 2008. The daily average number of women increased from 247 in the December quarter 2008 to 314 in the December quarter 2009, an increase of 27 percent in just 12 months. In contrast, the Victorian male population increased by only 3 percent over the same period.

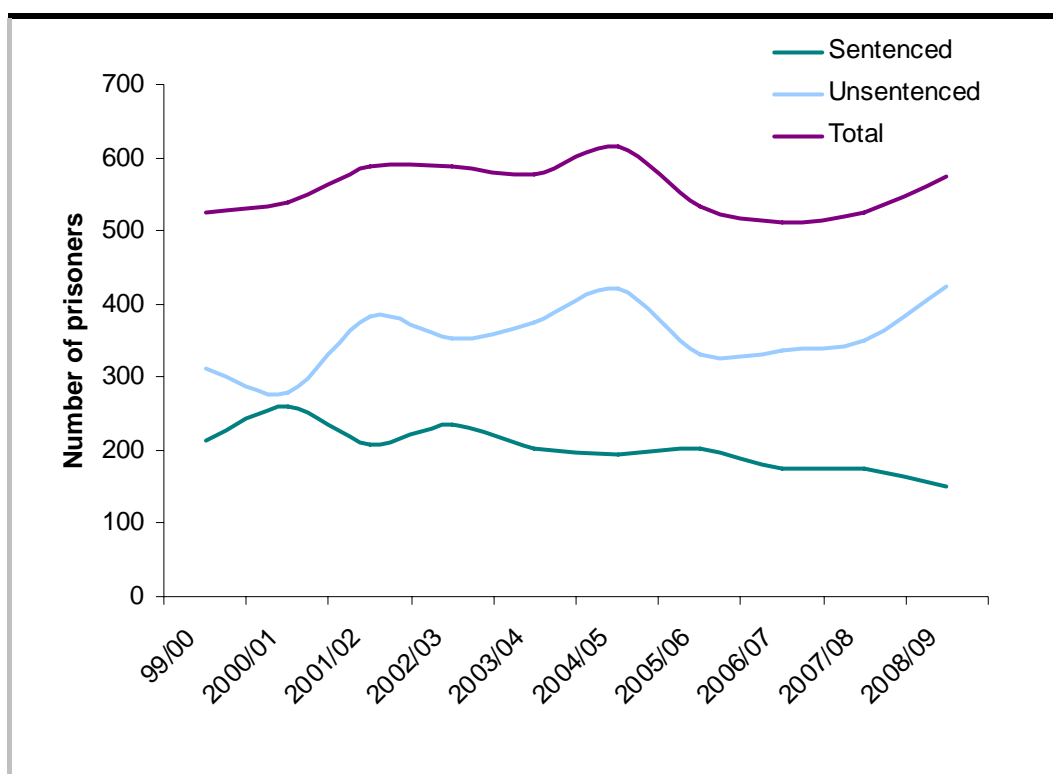
Reception and time served drivers of changes in prisoner numbers

The number of prisoners can increase in two ways: either the number of persons entering prison in a given period can increase (increased 'flow') or those entering prison can spend more time there before they are discharged (increased length of stay). The rate of prisoner flow is in turn comprised of two components (remand and sentence receptions) and there are also two different measures of length of stay: the length of the sentences imposed by the courts, and the time actually served in custody by prison entrants.

Remand and sentenced flow

The total number of female prisoners received into Victorian prisons was relatively stable over the 10 years to June 2009, averaging 560 persons received each year with no more than 10 percent variation from this in any year. However, this total was made up of two components that show opposing trends: an increase in the number of unsentenced persons received (remandees), and a decrease in the number of sentenced prisoners¹⁴ received (see Figure 2.3). Note that the final period covered in these counts represents only the first six months of the period of rapid increase in female numbers referred to above.

Figure 2.3: Female prisoner receptions, Victoria: 1999/00 to 2008/09



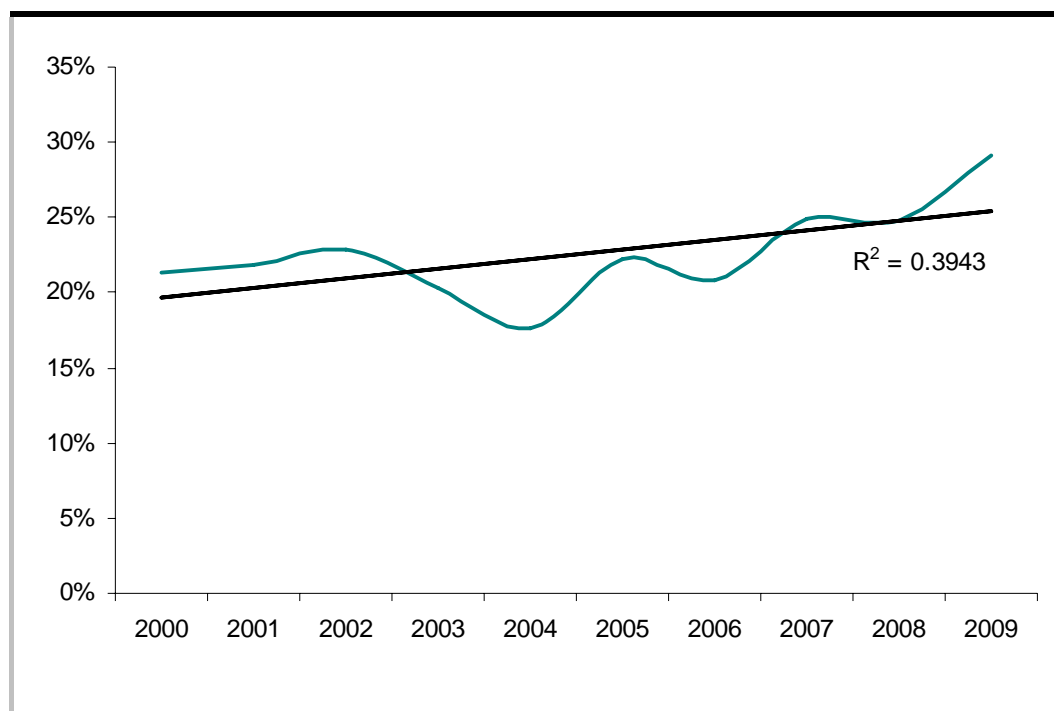
Source: *Statistical Profile of the Victorian Prison System: 1999/2000 to 2003/04 and 2004/05 to 2008/09.*

The increase in the number of remand receptions is directly reflected in the change in the proportion of women prisoners in Victoria who were unsentenced. This proportion rose

¹⁴ The count of sentenced receptions includes a small number of fine default receptions. They represent less than 1 percent of the total.

from around 20 percent at the start of the decade (2000) to nearly 30 percent in 2009. Figure 2.4 below shows the proportion of Victorian females on remand on the 30th of June each year, together with a linear trend line. The rising proportion of remandees is a continuation of a trend that has been evident since the 1980s, but note that the rise in the proportion of remandees in June 2009 is well above the trend line.

Figure 2.4: Proportion of Victorian female prisoners on remand



Source: *Statistical Profile of the Victorian Prison System: 1999/2000 to 2003/04 and 2004/05 to 2008/09.*

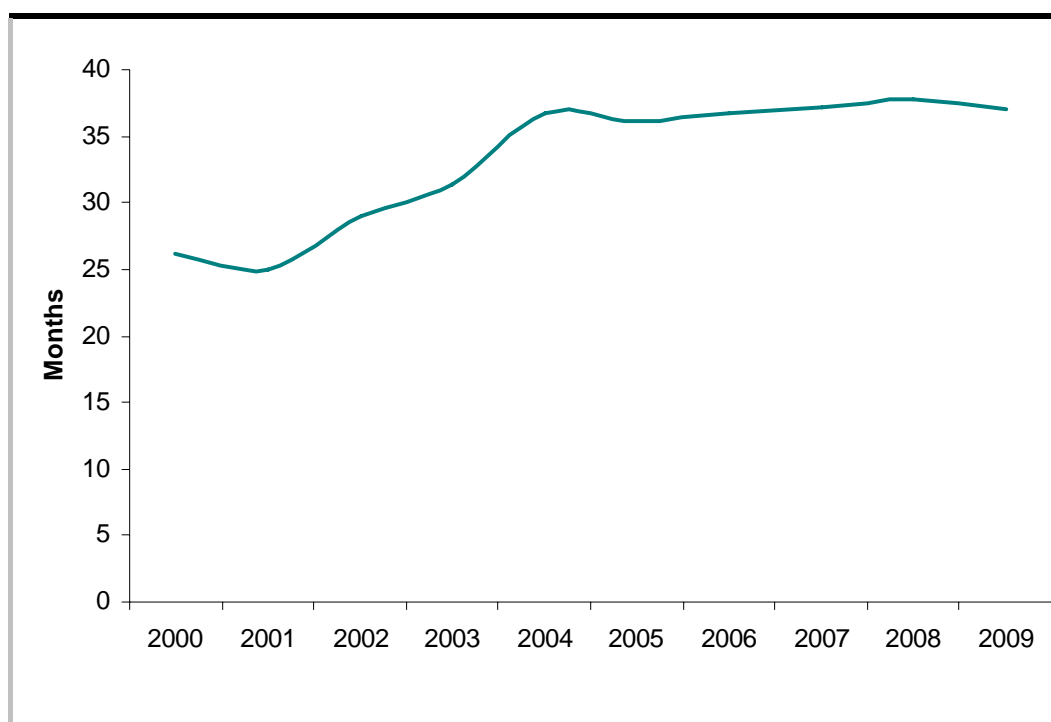
No data is available on the time that female remandees spend on remand, however the mean period on remand for all (male and female) Victorian remandees has remained relatively steady at between 5.2 and 5.9 months since 1999/2000, so it seems likely that the increase in the number of women on remand is mainly the result of a rise in the rate at which women are remanded in custody.

The impact of the rising number of remandees on the total female population is difficult to estimate precisely. Many (perhaps most) women who are remanded in custody either receive a term of imprisonment from which the period spent on remand is deducted, or are discharged at court or receive a non-custodial penalty on the basis that the time already spent on remand is equivalent to the custodial penalty that would have been appropriate. In either case, the period on remand has no direct impact on total numbers. Thus, rising remand rates do not necessarily contribute a great deal to rising prisoner numbers – in effect, if these persons were not counted as remandees, most would have been counted as sentenced prisoners. Corrections Victoria also provided statistical data on the sentence lengths for prisoners received (that is, including sentences for persons originally received on remand) and these show a stable or slightly declining trend in the number of sentences. This lends further weight to the proposition that net intake rates of female prisoners have been stable.

Expected time to serve

Expected time to serve provides a measure of the effective length of sentences of imprisonment, taking into account any sentence variations resulting from remissions (usually negligible), sentence cumulacy and concurrency,¹⁵ and parole. The mean expected time to serve for Victorian female prisoners increased sharply in the period from 2001 to 2004 (from 25 months to 37 months, a rise of 48%) then stabilised at that level until 2009. Note that these data are census data and do not reflect any changes in sentencing after June 2009.

Figure 2.5: Victorian female prisoners: Mean expected time to serve



Source: *Statistical Profile of the Victorian Prison System: 1999/2000 to 2003/04 and 2004/05 to 2008/09.*

Prison trends versus sentencing trends

The stability in expected time to serve shown by the census data is not consistent with the sentencing patterns evident in court data. The Sentencing Advisory Council report *Gender Differences in Sentencing Outcomes* showed the following trends were evident in lower and higher court sentencing between 2000/01 and 2008/09:

- A decline in the proportion of women sentenced to imprisonment in the Magistrates' Court, from 2.73% in 2004/05 to 2.23% in 2008/09;
- A decline in the proportion of women sentenced in the County and Supreme Courts from 33.1% in 2001/02 to 23.3% in 2007/08, followed by a sharp rise to 34.6% in 2008/09;

¹⁵ Where a person is sentenced to custody for more than one offence the terms of imprisonment may be made cumulative (added together) or concurrent (serve at the same time), or partly concurrent.

- An increase in the average length of terms of imprisonment for women sentenced in the County and Supreme Courts from 36.9 months in 2003/04 to 50.4 months in 2008/09 (Sentencing Advisory Council 2010).

There are a number of reasons why imprisonment sentencing patterns in the courts are not directly reflected in prisoner numbers. These include:

- Court sentencing data does not take into account processes that modify the effective length of sentences, like cumulacy, concurrency and parole;
- Court data reflects current sentencing practices (that is, they are flow measures), while prisoner census data includes persons sentenced in previous years but still in custody. In general, census-based measures will always change more slowly than flow measures;
- Prisoner numbers are influenced by processes that do not derive directly from court processes, like the revocation of parole.

Summary of trends in the size of the Victorian female prisoner population

This analysis shows that the period of stability in the number of female prisoners in Victoria was characterised by stable rates of prison entry and relatively stable lengths of stay. While there was a general shift to higher rates of remand reception and declining rates of sentenced reception, in practice these appear to have cancelled one another out. However, as noted earlier, stability in custodial populations is exceptional rather than the norm. While there have been a range of explanations proposed as to why imprisonment rates (both generally and specifically female rates) have increased over the past several decades, there are no accounts available that explain why the expected increases did not take place in Victoria. Some likely explanatory approaches are reviewed at the end of this chapter, but it must be stressed that in the absence of detailed, systematic analysis these remain only untested hypotheses.

The second important observation from this analysis is that any benefits gained from this long period of stability were quickly and entirely eroded in a very short period from the end of 2008 to the present. While the increase in female numbers is striking, the available data allows no detailed analysis of its causes. Reception, time served and sentencing data is available only up to the very beginning of this period of rapid increase, and at present it is unclear whether the increase has been driven by greater rates of inflow, longer sentences or some combination of the two.

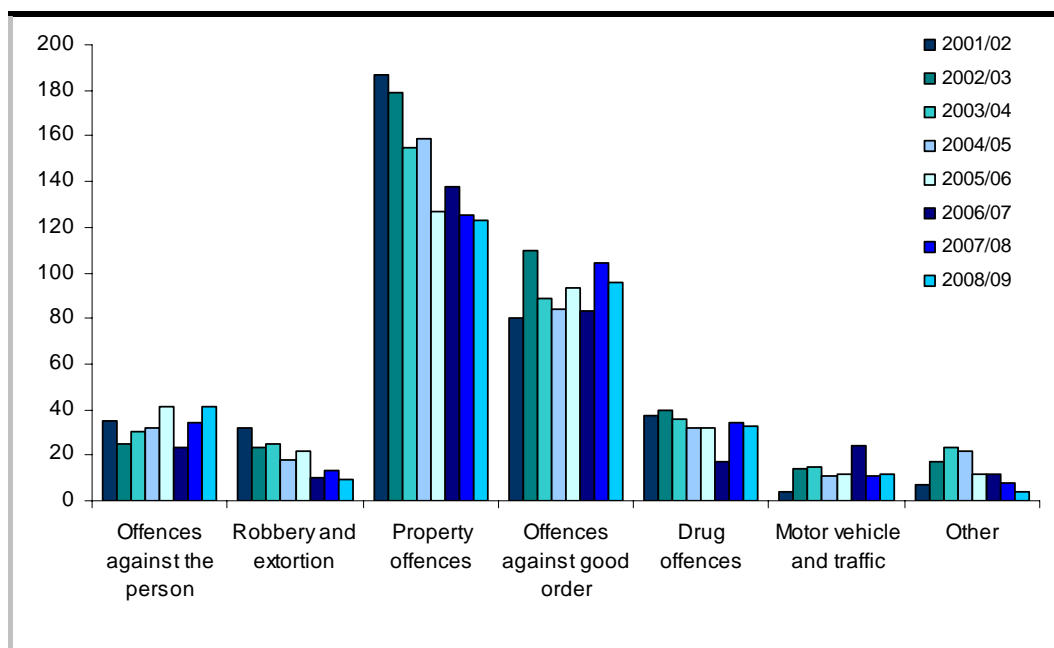
Changes in female prisoner characteristics

Offences for which imprisoned

In order to understand the impact of changing offence profiles¹⁶ it is necessary to examine both the distribution of offences that lead to sentences of imprisonment being imposed, and the impact of those offences on the periods of imprisonment being served. Some common offences, like theft, typically receive short sentences and a large numerical increase in the number of persons sentenced to prison may have only a small impact on the number of persons in custody. In contrast, infrequent offences like murder result in very long terms of imprisonment and a small rise in the intake of prisoners with such sentences can result in a relatively large impact on numbers. In the following analysis, the distribution of offences at reception is used to examine changes in the offences leading to imprisonment, and the distribution of offences in the census population (taken on 30 June each year) is used to examine changes in sentence length patterns for different offences.

There were substantial declines in the number of women received into prison each year for property offences and robbery over the period, but most of the other offence categories showed no up or down trend (albeit with some large year-to-year variations). Property offences fell by a third from 187 entrants in 2001/02 to 123 entrants in 2008/09, and the reception rate for robbery offenders declined by two-thirds, from 32 entrants in 2001/02 to nine in 2008/09. These falls reflect the declining rates of reported crimes of these types. While the category of offences against the person showed no overall trend up or down, the number of prison entrants with a most serious offence (MSO) of assault was higher in 2008/09 than in any preceding year. There were 30 such receptions in 2008/09, with 2005/06 being the next highest with a total of 22 receptions for assault. Similarly, drug offences overall showed no trend but the number of entrants in 2008/09 with an MSO of manufacturing or cultivation of illicit drugs was higher than in any preceding year, as shown in Figure 2.6. There were nine such entrants in 2008/09 compared with the next highest total of six in 2004/05.

¹⁶ The following analysis considers only the most serious offence for which a person is imprisoned. Unless otherwise stated, only offences for sentenced prisoners are considered.

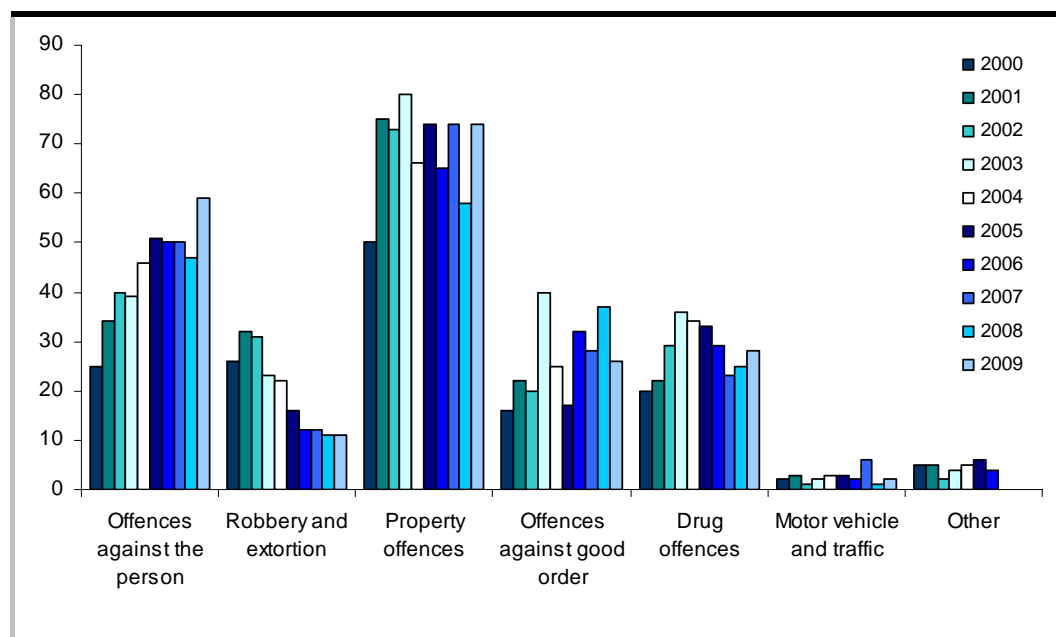
Figure 2.6: Most serious offence at reception: Female prisoners, Victoria

Source: *Statistical Profile of the Victorian Prison System: 1999/2000 to 2003/04 and 2004/05 to 2008/09.*

The distribution of offences in the census population yields a quite different picture of the relative contribution of different offence types to the female prisoner population (see Figure 2.7). While the number of persons with a robbery offence has declined, the number with an MSO of property has remained stable (despite a declining rate of entrants) and the number with an MSO of an offence against the person or against good order has increased despite stable reception rates for these offence types. The number of prisoners with a drug offence MSO also rose between 2000 and 2003, but has declined again since then.

Comparison of these two offence distributions suggests that any downward pressure on numbers resulting from the large numerical falls in the reception rate of robbery and property offenders is being offset by a rise in the severity of the terms of imprisonment for these and other offences. This seems at odds with the previous observation that average time to be served has remained relatively constant over the period, but consistent with the Sentencing Advisory Council findings that the length of prison terms have increased over recent years. Again, it is important to stress that these data contribute very little understanding of the rise in numbers after the end of 2008.

Figure 2.7: Most serious offence at census: Sentenced female prisoners, Victoria



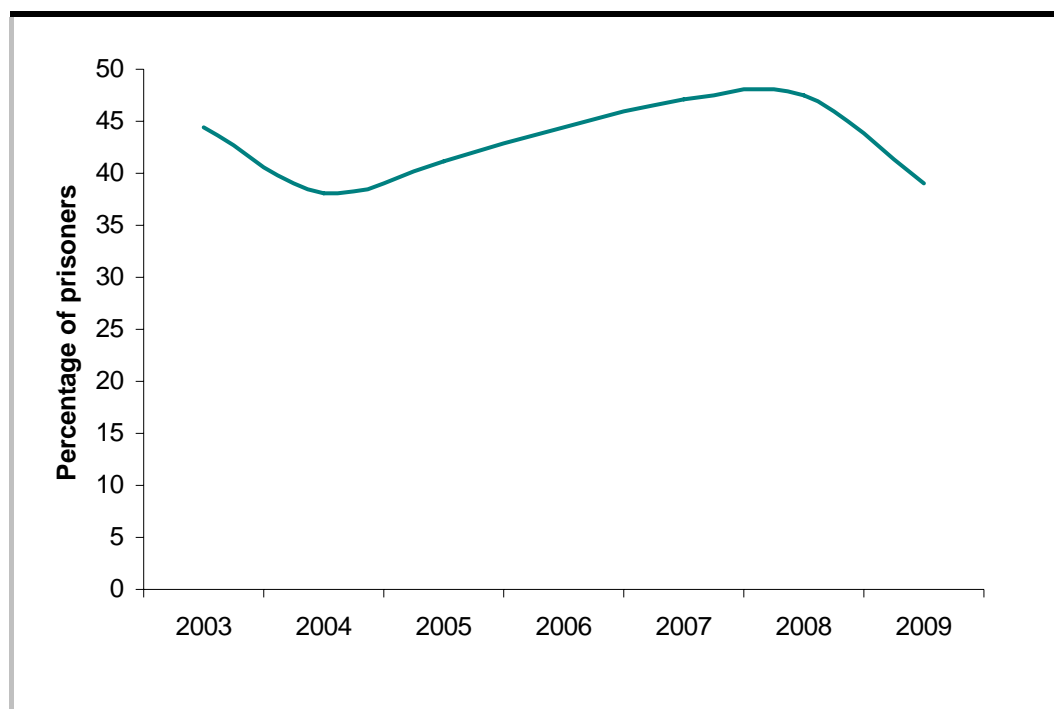
Source: *Statistical Profile of the Victorian Prison System: 1999/2000 to 2003/04 and 2004/05 to 2008/09.*

Prevalence of repeat offending

The prisoner census provides a measure of the extent of repeat offending in the form of whether prisoners in custody on the census date have any known prior imprisonment. This is a relatively crude measure as it is unable to distinguish between degrees of prior imprisonment (one, two or many prior terms are all scored the same way), and can only identify prior offending that results in a prison term. In addition, the basis on which this measure was calculated changed after 2002 from all prisoners in custody to only those under sentence, so trend data is only available from 2003 onwards.

These data, illustrated in Figure 2.8, show a fall in the prevalence of women's prior imprisonment from 2003 to 2004, followed by a four-year period during which prevalence steadily increased, followed again by a sharp fall. It is difficult to know what to make of these data. The fall in the prevalence of prior imprisonment at each end of the series is relatively large (from 45 percent to 38 percent in 2003/04 and from 47 percent to 39 percent in 2008/09). In each case, a fall of this nature suggests an influx of new (that is, without any previous prison history) entrants arising from some change in sentencing practices. However there is no confirmation of this happening in 2003/04 from any of the reception data examined previously. This rise in remand receptions in 2008/09 may support this argument but again the evidence is relatively weak.

Figure 2.8: Sentenced female prisoners with known prior adult imprisonment



Source: *Statistical Profile of the Victorian Prison System: 1999/2000 to 2003/04 and 2004/05 to 2008/09.*

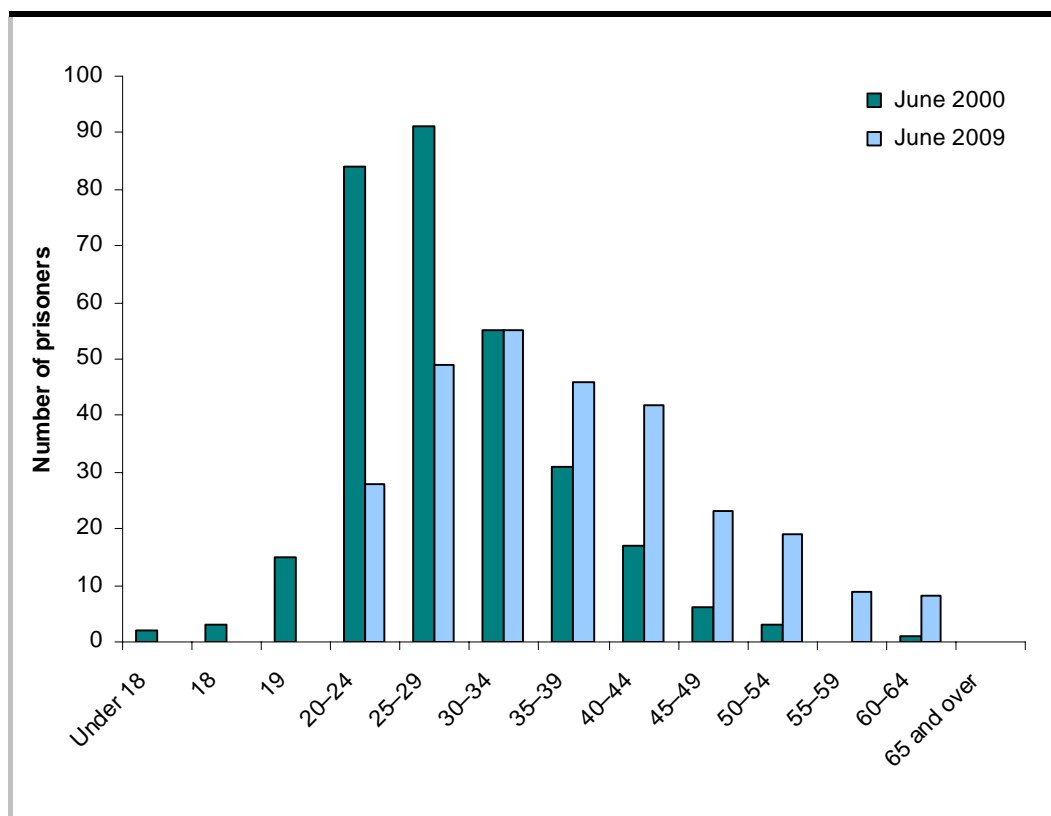
Demographic changes in the female prisoner population

Age

One of the most striking changes to take place in the Victorian prisoner population has been the change in age distribution. It used to be thought that the age distribution of prisoners was closely correlated to the age-prevalence of offending, with the result that prison populations would always be primarily comprised of young adults. In the mid-1980s two-thirds of the Victorian prison population was aged less than 30 years, with a mean age of around 26. However, in the last two decades the average age of prisoners received has increased steadily, with the mean age of females entering prison rising from 29 years in 2000 to 32 years in 2003/04 and to 34 years in 2007/08 (see Figure 2.9). The mean age of female prisoners at the census is even older¹⁷ at 37 years for the 2009 census.

¹⁷ In part because prisoners who commit more serious offences tend to be older, and in part because prisoners at the census have spent time in custody.

Figure 2.9: All female prisoners by age category

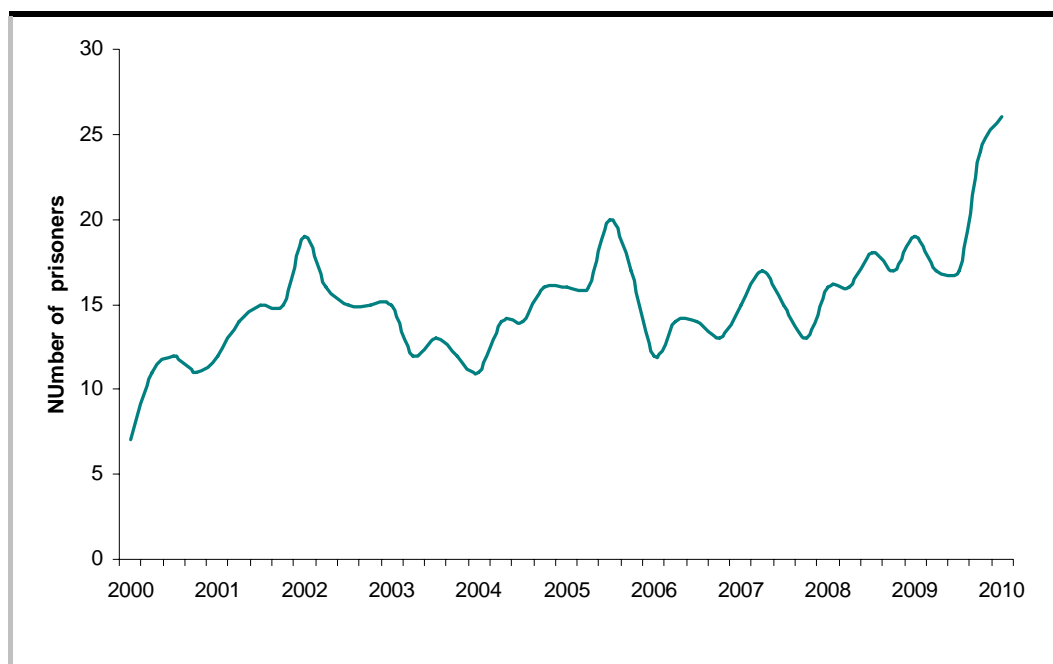


Source: *Statistical Profile of the Victorian Prison System: 1999/2000 to 2003/04 and 2004/05 to 2008/09.*

This change is even more striking if the age distribution of prisoners at the 2000 and 2009 censuses are compared. At the 2000 census there were significant numbers of female prisoners aged less than 20 years and hardly any aged more than 44 years. By 2009 all the very young prisoners had gone but there were large numbers in the age cohorts over 40 years.

Aboriginal female prisoners

Aboriginal prisoners comprise around 5 to 8 percent of Victorian female prisoners, and their numbers have increased more or less in line with the general rate of change in the female population. As Figure 2.10 shows, the number of Aboriginal females rose during the late 1990s until 2002, remained stable until 2008, then rose sharply again to early 2010. While Aboriginal women (like Aboriginal men) are strongly over-represented in the prison population in comparison to non-Aboriginal women, there is no indication that their degree of over-representation has increased in the last decade.

Figure 2.10: Indigenous women prisoners in Victoria 2000–2009

Source: ABS Corrective Services Australia 4512.0 (quarterly)

Ethnicity

The ethnic makeup of the Victorian female prisoner population is diverse, with at least 20 different national or ethnic groups represented in any year. However, the extent of ethnic representation in the population has remained relatively stable, with Australian-born prisoners making up 80–84 percent of females received each year. There is a great deal of year-to-year variation in the representation of all of the other ethnic groups but no evidence of any consistent trend. After Australian-born entrants, the next largest group is Vietnamese females who make up between 5 and 7 percent of entrants in any year. The only significant variation in ethnic makeup of the prisoner population occurred in 2008/09 when the proportion of non-Australian born entrants rose to its highest level in the previous 10 years. This increase included a peak in the number of female Vietnamese entrants but was also evident across other national or ethnic groups.

Summary of findings

This analysis provides two distinct perspectives on the Victorian female prisoner population. The first, applicable to the period from 2002 through to the end of 2008, is that of a numerically stable but ageing population. While some indicators are contradictory (in particular, measures of effective sentence lengths) in general there is a reasonably consistent picture of a population of offenders committing increasingly serious offences and receiving generally longer prison terms. Other indicators such as the apparent rise in the prevalence of prior imprisonment (older offenders are more likely to have prior imprisonment) and the increasing use of remand (offenders with a longer criminal history and more serious current offences are more likely to be remanded) are also consistent with this view.

The second perspective applies only to the very end of the period under consideration, from the end of 2008 through to early 2010. This shows a rapid rise in the size of the population but the available data is insufficient to allow any more detailed explanation as to the drivers of this change. There are some intriguing suggestions from the census data that this change is associated with an influx of 'new' (that is, without previous prison experience), non-Australian-born entrants. However, since the coverage of most of the available data is only up to the middle of 2009 (that is, six months after the change in trend) these suggestions must remain essentially speculative.

The extent and quality of statistical data on prisoners have greatly improved over the last decade, and the problems in understanding these short-term changes are inherent in any system where data is collected and disseminated on annual cycles. However, in developing a better understanding of the nature of female imprisonment it is also important to consider issues that are not covered by the existing data, or where data is inadequate to support appropriate analyses. Some of these issues include:

- *Illicit drug use:* Women offenders show much higher rates of drug dependency than non-offenders, and the extent of dependency is directly correlated with the frequency of their offending and the length of their criminal careers. However, the strong relationship between drug dependency and imprisonment is not useful in explaining either the long-term or short-term variations in female imprisonment. This is partly because the available measures of the relationship between drug use and offending are of limited value. Rates of drug offences (possession, trafficking, importation, cultivation etc) represent only a fraction of offences where use of or access to drugs is an important component. The data that we do have shows little or no direct correlation between changes in imprisonment rates and changes in patterns of illicit drug use in either the general or offender population.
- *Mental disorder:* It is also known that mental disorder is over-represented in offender populations and in particular female prisoner populations. High quality data on prevalence is available only from occasional health survey data and it is impossible to link this with changes in offending or imprisonment rates. One possible consequence of the ageing of the prisoner population described above is that mental health problems may become more prevalent or their impacts more serious.
- *Gambling:* There has been an increasing recognition of the role that problem gambling plays in offending, both as a primary cause of offences (theft or deception to raise funds for gambling) and as a factor in maintaining the social and economic disadvantage experienced by offenders. Data on the prevalence of gambling is available only from occasional survey data.
- *Diversion from custody:* Much of the effort associated with limiting the undesirable impacts of imprisonment has focused on the diversion of less serious offenders. However, the effectiveness of these diversionary alternatives remains unknown. The impending abolition of one of the primary forms of diversionary sentencing – suspended sentences of imprisonment – has the potential to have a significant impact on the number of female prisoners. In addition, the diversionary role of community based orders, home detention and other forms of intermediate sentences need to be better understood.
- *Recidivism and post-release integration:* Given that around half of prison entrants have been to prison before, access to effective release preparation and post-release support are key issues in understanding recidivism. It is notable that the period of stability in female numbers coincided with the introduction of substantial post-

release support programs from 2001 onwards. However, again there has been little examination of the diversionary impact of these programs.

3. Explanations for the recent increasing numbers of women in prison

Introduction

It is of great concern to the Committee that the numbers of women entering prison has escalated quite notably in the past few years after having stabilised in the period from 2002 to 2008.¹⁸ This is particularly the case for those women incarcerated for drug offending. Women's offending data provided by Corrections Victoria show that the daily average number of women in custody for drug offences has increased markedly since 2008-2009 'and has been a major contributor to the growth in both sentenced and unsentenced female prisoner numbers'.¹⁹ For instance in 2009-2010, 89 women or 28.6 percent of the daily average female prisoner population had a current drug charge or conviction.²⁰ Moreover, the Department of Justice Victoria estimated that for women prisoners with a second or subsequent sentence, approximately 90 percent were related to substance abuse.²¹ These findings suggest that the correlation between women's offending, women's imprisonment and women's substance abuse is, if not conclusive, at least persuasive.²²

The rising numbers of women in prison: A global issue

Victoria is not alone in experiencing disproportionate increases in female prison populations. Such increases are also occurring in other Australian states and international jurisdictions including New Zealand, the United Kingdom and the United States.²³

Much of the contemporary literature in this field highlights the relationship between sentencing practices and the increasing imprisonment of vulnerable people in Victoria and other Australian states.²⁴ With specific reference to the United States experience, scholars such as Sudbury (2005) and Davis (2003) identify poverty, gender and race discrimination as key factors for high imprisonment rates. They also draw connections between policing practices, sentencing laws and the disproportionate representation of women and particularly women of colour in United States prison systems. Pat Carlen's (1998) study of women's imprisonment in the United Kingdom has also drawn attention to the relationship between structural disadvantage and women's increasing representation in prison. Specifically, Carlen's study revealed that an increasing number of women with children, substance addictions and histories of abuse were being imprisoned in the United Kingdom

¹⁸ See discussion in Chapter 2.

¹⁹ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

²⁰ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

²¹ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

²² Although it should be noted that a drug charge or conviction does not always necessarily indicate that the woman in question has a problem associated with substance abuse. Whilst one could speculate that in many if not most examples this will be the case, anecdotal evidence received by the Committee suggests that a significant cohort of older female Vietnamese prisoners, although convicted of drug trafficking or importation crimes, do not themselves suffer from drug abuse or drug dependence problems. Some possible reasons as to why this may be the case are discussed in Chapter 4.

²³ Sheehan et al 2007; Sudbury 2005, 2001; Easta 2001, 1992; Christie 2000.

²⁴ See for example Baldry 2009; Sheehan et al 2007; Tye & Mullen 2006; Easta 2001.

for crimes such as shoplifting, prostitution, fine default and offences of a low level order (Carlen 1998).

The association between women's offending and drug use

There is a strong nexus between women's offending and drug use (Forsyth & Adams 2009). A study by the Australian Institute of Criminology Drug Use Monitoring Program conducted in multiple Australian jurisdictions including NSW, Queensland, South Australia and Western Australia revealed that 71 percent of imprisoned women had used drugs in the month prior to their imprisonment and that the majority of this group were identified as 'drug dependent' (Forsyth & Adams 2009). Whilst there is a need for further research in this area and acknowledging that drug-related offending is extremely difficult to monitor due to its broadness, the available evidence suggests that the majority of women in prison have drug histories and addictions (AIHW 2009).

A submission to this Inquiry from Corrections Victoria based on self-reported data of imprisoned women shows that the proportion of sentenced women reporting committing their offence under the influence of drugs has declined overall (from 69 percent in 2000-2001 to 57 percent in 2009-2010). However, 'the 2009-2010 figure represents a notable increase from the figure of 48 percent in 2007-2008'.²⁵ This self-reporting data is supported by data from the Australian Institute of Criminology's Drug Use Monitoring in Australia (DUMA) Project. Recent analysis of survey data by DUMA collected from detainee sites across Australia found that 71 percent of female detainees had used drugs in the past month and that approximately 72 percent of this group could be classified as drug dependent (Forsyth & Adams 2009).

A history of substance abuse is integrally related to high levels of complex needs in other areas of women's lives.²⁶ Moreover, women face many difficult and often intertwined issues that underpin their pathways in and out of prison.

Perhaps most significantly, research demonstrates that the multiple disadvantages which women experience serve as a precursor for repeat offending, as does time spent in prison.²⁷ Most of the submissions to this Inquiry have recognised that exploration of these issues must extend beyond women's offending behaviour to examine systemic contributors, with particular reference to policing, sentencing and corrections.

Systemic contributors and the increase of women in prison

In 1992 the Australian Institute of Criminology published a research paper by Patricia Easteal exploring the national and international trend of increasing women's imprisonment rates. At this time Easteal provided a number of reasons for the growth, including lengthier sentences allocated to women offenders, 'truth in sentencing' legislation, a higher proportion of women on remand, and increased frequency of drug offences (1992). Ten years on, Easteal reported that women were being incarcerated at increasing rates and that the issues remained the same. According to Easteal, whilst progressive steps by

²⁵ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

²⁶ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁷ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

government and community agencies had been taken and gender responsive policies and programs had been implemented, the causative underpinnings of women's offending would remain unaddressed largely because of the multiple failures of the prison as an institution to address women's needs. As a result she argued the tragic generational cycle of violence-crime-prison-violence-crime-prison would undoubtedly persist (Easteal 2001).

Many of the issues and conditions raised in Easteal's research reflect present concerns about the increasing women's prison population in Victoria. Since the 1990s there has been a suite of policy and program initiatives implemented to prevent women's re-offending and address women's specific needs in prison and post-release. However, as Gill McIvor notes, it is paradoxical that there was a 76 percent increase in the average number of women prisoners between 1995 and 2001, despite it being acknowledged that Victoria is the most liberal Australian state with regard to the sentencing of offenders (McIvor 2007).

Indeed as Professor Eileen Baldry stated when giving evidence to the Inquiry, the question to which we have no satisfactory answer is: Why have the number of women prisoners grown in this state when Victoria leads the way in terms of programs for women prisoners particularly with regard to diversion and post-release programs?²⁸ In spite of policy initiatives by the Department of Justice, such as Better Pathways, women's imprisonment rates have continued to grow and reach unprecedented levels, increasing by almost one-third in 2008-2009. Research in this area suggests that observed increases in women's imprisonment cannot be attributed to increasing rates or severity of offending but appear instead to reflect more punitive responses by the courts to offending women (McIvor 2007; see also Gelsthorpe 2007). An additional theory from Carlen is that the promulgation of policies, programs and prison reforms may lead to increased numbers of women being sentenced to prison because prison is viewed as beneficial – an avenue for rehabilitation and treatment (Carlen 2003 cited in McIvor 2007).²⁹

Specific drivers for the growth in female prisoner numbers

Whilst there is much speculation as to what has led to the increase in the growth of the Victorian female prison population and little hard data to substantiate one reason over another, the Victorian Department of Justice attributes increases in women's imprisonment rates to the following factors:

- the success of various police operations in targeting specific offences;
- an increase in women entering prison for serious violent offences and particularly drug offences, which has led to longer sentences for women;³⁰
- an increase in women placed on remand;
- a move away from the use of imprisonment as a last resort, i.e. an increase in the number of women sentenced to prison who had not previously been sentenced to a community based order;

²⁸ Associate Professor, Eileen Baldry, University of New South Wales, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing (teleconference), Melbourne, 2 August 2010.

²⁹ See also the discussion later in this chapter in the context of therapeutic remand.

³⁰ The Department of Justice has attributed the 30 percent increase in imprisoned women between 2008 and 2009 to a correlative increase in drug offences (primarily trafficking). See P Armytage, Secretary, Department of Justice, Transcript Public Accounts and Estimates Committee Corrections Portfolio, 14 May 2010, p.L8.

- conversely changing sentencing practices that reflect community attitudes to ‘get tougher on crime’; and
- an increase in the number of women sentenced for short periods of time, i.e. less than one month. (Sentencing Advisory Committee 2010).³¹

Policing operations and practices

The flow of offenders being processed by the courts, held on remand or sentenced to imprisonment will always be, to some degree, dependent on how and to what extent certain crimes are investigated and policed. For example, a ‘tough on crime’ blitz of drug dealing may result in a spike in drug offending convictions at a particular time. The Department of Justice believes there are a number of recent and current policing operations that have affected and will continue to affect female prison numbers. These include:

- High-level drug related operations focused on the dismantling of organised crime syndicates involved in the manufacture, importation and/or trafficking of illegal drugs. It is recognised that organised crime groups often exploit vulnerable people to be the front end of their operations. Current trends suggest women with gambling debt, especially older Vietnamese women with no prior history of offences, are being exploited by these groups and used as ‘drug mules’, or their properties are used to grow marijuana crops.³²
- Safe-street operations within the city centre are focused on reducing crime, specifically violent offences and assaults. As a consequence, more people are being arrested for street level crimes. Changes to the female prisoner profile reflect increases in female arrests due to increasingly aggressive behaviour related to drug and alcohol consumption.
- Operation ROPE (Repeat Offender Parole Enforcement) focuses on the apprehension of individuals who breach parole. This operation has been very successful since its inception in late 2008, with a number of women being returned to custody after being arrested for breach of parole.³³

Sentencing: A move away from prison as a ‘last resort’

The criminological literature has repeatedly shown that there are distinct differences in sentencing practices between men and women. Professor Arie Freiberg remarked on these differences and the ‘drivers’ behind them when he gave evidence to the Committee:

If you look at those differences, *prima facie* on the surface they are showing that those differences are usually in favour of less severe sentences for women...

Overall women are less likely to be sentenced to imprisonment, and when they do receive a sentence of imprisonment it is more likely to be suspended or a community-based order... When women are sentenced to imprisonment the terms are likely to be shorter. The reason for that is that there is a constellation of factors which are deemed to be relevant by the courts in assessing the gravity of any offence. Because there is such a huge number of

³¹ See also, Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

³² Supported by anecdotal evidence. See for example, Ian Munro 2010, ‘The women inside’, *The Age*, 22 June.

³³ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

factors, the trick is to identify those which are showing up more commonly for women...What we found was that there was more psychological and psychiatric disorder, more previous victimisation in terms of their own life history, drug abuse, dependent children...we found that women's biographies are different. There is more mental illness, more physical or sexual victimisation and more drug abuse and this blurred status between being both a victim and an offender. They are, importantly, more likely to be primary caregivers of dependent children, and although that is not meant to be directly a factor, it is clearly one that the courts take into account and, I think, quite properly.³⁴

However, in recent years there has been a noticeable increase in the severity of sentences being handed out to female offenders, as has been acknowledged by a recent report into gender differences in sentencing outcomes in Victoria by the Sentencing Advisory Council of Victoria (Sentencing Advisory Council of Victoria 2010).

As stated, an issue of concern is that more women may be imprisoned for justice offences; that is, breaching their parole or probation orders.³⁵

Short sentences

A submission to this Inquiry from Corrections Victoria highlights the increasing number of women who are receiving short sentences from the courts when once they may have been given suspended sentences or community based orders:

Between June 2008 and June 2010, the number of women serving terms of six months or less increased by 42.4%, with much of the growth a result of women in custody for less serious property offences (such as shoplifting) and breach offences.³⁶

Notwithstanding this trend, research suggests strongly that the increasing use of prison as a response to women's offending does not address the issues underpinning offending (see Sheehan et al 2007; Frost et al 2006). Moreover, there is evidence to suggest that prison is particularly counterproductive for the high proportion of women who serve short sentences (Tye & Mullen 2006).

The Sentencing Advisory Council's (2010) report on the gender differences in sentencing in Victoria found that women are increasingly likely to receive shorter sentences primarily due to the low level nature of women's offending. Many of the submissions and evidence provided to the Committee conveyed concerns about the negative impacts of short sentences, particularly for relatively minor crimes such as shoplifting. Ms Amanda George, Chairperson of Flat Out and Community Lawyer in the Western Suburbs Legal Service, told the Committee that 25 percent of women serve sentences less than three months and 50 percent serve sentences less than 12. She argues that such sentences contribute to the

³⁴ Professor Arie Freiberg, Chairperson, Sentencing Advisory Council, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

³⁵ According to some submissions and evidence given to this Inquiry the reasons some women breach their parole are less to do with the woman than the inflexibility of the criminal justice system and the inadequacy of post-release transitional services. For example, some women may find it difficult to keep appointments with officialdom when they have never been taught skills of time management etc. See for example, submissions of Sisters Inside; Ms Denise McGrath; Melbourne Citymission; and Flat Out and the Centre for the Human Rights of Imprisoned People (CHRIP) to the Drugs and Crime Prevention Committee.

³⁶ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

cycle of re-offending and place women in highly precarious and vulnerable situations.³⁷ Ms George expanded on these concerns when she gave evidence to the Inquiry:

Twenty-five percent of women are in for under three months, and for about 50 percent of women it is under 12 months. When you think about the enormous disruption to people's lives caused by going to prison for a month – who is going to look after your kids? You do not want your kids to go into human services, because goodness knows it is going to be really hard to get them out. With the best intentions you are going to lose your accommodation, you are going to lose your job. Those really short sentences are just so punitive. I really think the committee should be looking at what happened in WA when they abandoned sentences under six months. If we just got rid of sentences under six months you would not need 140 new cells; you would empty out that prison.³⁸

A submission from Sisters Inside similarly recommends that short sentences of less than 12 months should be abolished:

Women, particularly mothers, should not be imprisoned for minor offences such as unpaid fines and possession of drugs for personal use. Untried women should not be imprisoned [on remand] at all.

The single most effective strategy to address drug-related offending would be a moratorium on imprisoning women for sentences of less than 12 months, and reinvestment of 80% of current expenditure on imprisonment to *wrap around* support services, including drug and alcohol services, for women.³⁹

In Western Australia terms of imprisonment of three months or less were abolished in 1996. In 2004 this was extended to sentences of six months or less. Section 86 of the *Sentencing Act 1995* (WA) provides that a term of six months or less can only be imposed if the aggregate of sentences exceeds six months, if the offender is already serving another term or if the term is imposed for a prison disciplinary offence. It has been argued that the context of the 1996 change was the very high imprisonment rate in Western Australia, an outdated sentencing regime with few meaningful alternatives to imprisonment and insufficient use of the options that did exist.⁴⁰

Arguments for the abolition of short terms of imprisonment

A number of arguments have been put forward as to why short sentences of up to 3 or 6 months should not be imposed. These arguments were reviewed by the Law Reform Institute of Tasmania when the Tasmanian government were considering the possibility of introducing similar legislation to that in Western Australia:

It is argued that short periods of imprisonment should be avoided because they have all the deleterious effect of imprisonment (loss of the deterrent effect of imprisonment on a first offender, exposing minor offenders to more serious offenders, and negative effects on

³⁷ Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

³⁸ Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

³⁹ Evidence of Ms Jelena Popovic, Deputy Chief Magistrate, Magistrates' Court of Victoria, given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

⁴⁰ See Neil Morgan, 'Business as Usual or a New Utopia? Non Custodial Sentences under Western Australia's New Sentencing Laws' 26 *University of Western Australia Law Review* 364.

family, housing and employment) without any benefits (too short to deploy therapeutic programs) and minimum incapacitative effects (Tasmania Law Reform Institute 2008, p.94).

The impacts of short sentences for women are arguably disproportionate to the crimes committed; for example, they can lead to women's children entering state care, the loss of housing, income and all personal possessions, and the woman may leave prison with new debts.⁴¹ Women who lose their accommodation as a result of having to serve a short prison sentence have an increased risk of re-offending post-release. As research by Baldry et al (2003) has demonstrated, lack of long-term stable accommodation comprises the biggest predictor for offending and re-offending. Another issue is that short sentences increase women's vulnerability insofar as they are unable to access appropriate drug rehabilitation programs whilst inside and are released to the community with limited access to support.⁴² As Professor Baldry remarked when she gave evidence to the Committee, women get caught up in the revolving door of remand or short sentences without access to the services that may assist in breaking the cycle of offending and recidivism:

The work that I have been doing over maybe 15 years or more is certainly indicating that particularly women are experiencing either more short sentences or remand – that is a series of incarcerations, which might in and of themselves be reasonably short – some months long or a short remand – but they actually add up to a form of serial institutionalisation. It is a different form from a long-term institutionalisation for someone who is serving five years or even three years, where there is just a solid time in prison.

This kind of experience is in many ways more disturbing and more chaos creating than a longer term in prison. I am not arguing that they should be in prison longer. Of course my argument would be they should not be there in the first place. However, it is quite clear that that group of women is not well served by any programs that are provided, because on the whole there are not programs provided for short-term and for remand women.⁴³

Arguments against the abolition of short terms of imprisonment

In New South and Wales and Tasmania reviews of the Western Australian system have ultimately concluded that on balance the abolition of short sentences is not justified, at least not until comprehensive evaluations are undertaken in those jurisdictions where they have been abolished. The Tasmanian Law Reform Institute for example found that the arguments against abolition are 'persuasive' for the following reasons:

- The cost impact of abolishing short prison terms is questionable. 'Even assuming that short sentences will be replaced with alternative sentences, there will be cost implications associated with those alternatives' (Tasmania Law Reform Institute 2008, p.95);
- Although a possible decrease in remand in custody has been put forward as a reason for abolition, there is an equally strong argument that if judges and magistrates no longer have the option of a short sentences, custodial remands may be used as an alternative;

⁴¹ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁴² Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁴³ Associate Professor, Eileen Baldry, University of New South Wales, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing (teleconference), Melbourne, 2 August 2010.

- Removing the option to impose a short prison sentence may act as an unnecessary fetter on judicial discretion;
- In some circumstances a short prison sentence may be appropriate. Breach of a non-custodial sentence may be one such circumstance;
- Most importantly:

Sentencers might simply increase the length of shorter sentences in order to ensure that certain offenders serve a period of imprisonment. This has been termed 'sentence creep' and would have the opposite effect to that intended: increasing the use of custody rather than reducing it. It has been suggested that in Western Australia, following the abolition of sentences of three months or less, the number of four month sentences increased. There is also a perception that courts have adopted more punitive remand practices, achieving a 'short, sharp shock' by remanding in custody before ultimately giving a non-custodial penalty (Tasmania Law Reform Institute 2008, p.95);

- Finally, a further objection to abolishing short terms of imprisonment is that it is likely to require an increase in the maximum penalties for some offences.

On balance the Tasmanian Law Reform Institute found 'the range of possible situations identified when a short sentence would be appropriate suggests that short prison sentences should be retained rather than abolished' (Tasmania Law Reform Institute 2008, p.96).

The Western Australian system was also examined by the New South Wales Sentencing Council. In a Discussion Paper released in 2004 the Council concluded that the impact of abolishing terms of less than six months was unknown and caution should be exercised before adopting a similar model. Specifically the Paper found that:

- The intention to abolish prison sentences of 6 months or less presupposes that they will be replaced by alternatives to full-time custody but those are not uniformly available throughout NSW. 'Priority should be given to making presently existing sentencing options available throughout NSW. If such options were made available, it could be expected that there would be a further reduction in the number of short sentences imposed, thereby removing the need to abolish short prison sentences';⁴⁴
- Sentencing legislation could be amended to tighten up the circumstances under which a short sentence could be imposed (eg. to restrict them to those offenders who cannot be trusted to comply with non-custodial orders);
- In WA, most of the offences which no longer attract imprisonment were the minor ones that were unenforced, irrelevant and in practice didn't attract prison sentences, while the enhanced maximum penalties now apply to all the offences that in practice used to attract short sentences. 'This will not result in lower numbers of prisoners and the expected resultant cost saving the abolition of short sentences might otherwise have been expected to be achieved'.⁴⁵

The Law Society of New South Wales found that whilst the concept of abolishing short sentences is attractive the findings of the Sentencing Council also have merit. They argue that in New South Wales there are also some safeguards against arbitrary short sentences

⁴⁴ Summary of Issues Identified by the May 2004 New South Wales Sentencing Council Discussion Paper: *Abolishing Prison Sentences of Six Months or Less* reproduced in Law Society of New South Wales at <http://nswcccl.org.au/docs/pdf/>

⁴⁵ Summary of Issues Identified by the May 2004 New South Wales Sentencing Council Discussion Paper: *Abolishing Prison Sentences of Six Months or Less* reproduced in Law Society of New South Wales at <http://nswcccl.org.au/docs/pdf/>

being imposed in that New South Wales sentencing philosophy is that short sentences of imprisonment should not normally be given.

Section 5(1) *Crimes (Sentencing Procedure) Act 1999* (NSW) provides that a court must not sentence an offender to imprisonment unless it is satisfied, having considered all possible alternatives, that no penalty other than imprisonment is appropriate. Where an offender is sentenced to imprisonment for six months or less, section 5(2) requires the court to give and record reasons for deciding that imprisonment is the only appropriate penalty. The court is also required to give reasons for not allowing the offender to participate in an intervention or other program for treatment or rehabilitation (Wright 2004, p.2).

In Victoria, Deputy Chief Magistrate Jelena Popovic told the Committee that she was concerned that any proposal to abolish short sentences could have the consequence of in fact increasing the amount of time women spend in prison.⁴⁶

Remand

The high number of women placed on remand also contributes to the overall increase in the prison population.

Between 2008 and 2009 there was a significant increase in the number of unsentenced women prisoners in custody. Corrections Victoria reports data from the Magistrates' Court showing that in 2009 both the number of women receiving bail and the number remanded in custody increased. 'However, while the overall number of cases increased by 23.2%, the number of remand decisions increased by a greater amount (32.9%), resulting in an additional 168 women remanded in 2009 compared with the previous year'.⁴⁷ One explanation, suggested in the Federation of Community Legal Centres' submission, was that the presumption against bail for drug offences such as trafficking has resulted in an increasing number of women being placed on remand.

Being on remand has the same negative impact on accommodation, employment and custody of children as short sentences.⁴⁸ The long-term impacts can be significant, particularly where women are not in the long run convicted of any crime and therefore have limited access to transitional support services. Ms Amanda George argued that there is an urgent need to address bail options, particularly for Indigenous women due to their disproportionate placement on remand. She told the Committee that in 2009, 34 Indigenous women were placed on remand while only three served a sentence.⁴⁹ Moreover, remand has similar implications as short sentences in the sense that few women on remand will be able to benefit from programs that other women in prison may be able to take advantage of.

⁴⁶ Evidence of Ms Jelena Popovic, Deputy Chief Magistrate, Magistrates' Court of Victoria, given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

⁴⁷ Unpublished data provided by Magistrates Courts Statistical Services Unit cited in the Submission of Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

⁴⁸ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁴⁹ Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

Therapeutic remand

Conversely, other witnesses to this Inquiry have spoken of the possibility that the courts may be placing suspected offenders awaiting trial in custody as a form of ‘therapeutic remand’. In other words there may be women who, because of mental illness, drug abuse, domestic violence, a lack of employment or housing, lead lives that are so chaotic that sentencers may believe they are providing them with some stability, routine or access to badly needed services – a chance to break the cycle of offending and self-destructive behaviours. This concept of therapeutic remand has been recognised by the Department of Justice. In a submission to this Inquiry, Corrections Victoria stated:

In addition to an increase in serious offending by women, the notion of ‘therapeutic remand’ is often cited as a factor in the remanding of women who present at court in a drug affected and/or mentally distressed state, giving an opportunity to ‘dry out’ in custody and be better able to meet the conditions of bail or a non-custodial order. Further, homelessness is increasingly being cited as a factor in the decision to remand defendants.⁵⁰

However well intentioned therapeutic remand supporters may be, many advocates of criminalised women believe women should never be placed on remand in this manner, particularly as many therapeutic programs may not in fact be available to women during the remand period. Several submissions noted that there is a lack of detoxification treatment services for those on remand and that this can place women at considerable risk.⁵¹ Jesuit Social Services point out that physical and mental impacts from withdrawal can be intense, and a reliance on illicit drugs such as heroin can have serious repercussions for people who are forced to instantly stop using drugs.⁵² Rather, a raft of services and programs to meet the various needs of women with complex needs should be available to them in the community to obviate the need to offend in the first place.⁵³

Increased penalties

There is a definite trend showing an increase in the proportion of women prisoners serving longer sentences – the proportion of the daily average sentenced female prisoner population serving a sentence of one year or more has increased from 57.9 percent to 63.4 percent between June 2008 and June 2010.⁵⁴

A recent report by the Sentencing Advisory Council of Victoria notes that whilst data from the Magistrates’ Court shows a generally stable pattern in the number of women sentenced to a term of imprisonment,⁵⁵ data from the higher courts (County and Supreme) ‘show both an increase in the proportion of women being sentenced to imprisonment and an increase in the average length of imprisonment terms’ (Sentencing Advisory Council 2010, p.13). This increase in women sentenced to imprisonment from the higher courts is in relative

⁵⁰ Submission of Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

⁵¹ See for example, joint submission from Flat Out and CHRIP, and submission from Jesuit Social Services to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁵² Submission from Jesuit Social Services to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁵³ See for example, submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁵⁴ Submission of Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

⁵⁵ A decrease from 2.73% in 2004-2005 to 2.23% in 2008-2009 (Sentencing Advisory Council 2010, p.13).

terms far steeper than the comparable increase in imprisonment terms for men over the same period (2000–2009):

The strongest evidence of an increase in the severity of sentencing practices for women is found in the average length of imprisonment terms, which have increased substantially in the last year and even more substantially in the previous three years.

While the average length of imprisonment terms for men has increased by just over 10 percent from 55.9 months to 62.2 months, the average for women has increased by almost 25 percent from 41.1 months to 50.4 months (Sentencing Advisory Council 2010, p.13).

Corrections Victoria stated in its submission that this increase is partly attributable to a change in the profile of the female prisoner population; that is, a greater proportion of women are in custody for violent offences and drug offences:

Between June 2008 and June 2010, the daily average proportion of women in custody for an offence or charge against the person (including homicide, assault, stalking/abduction and sex offences) increased from 26.2% to 29.0%, while the proportion in custody for drug offences increased from 14.3% to 19.7%.⁵⁶

However, national and indeed international research maintains the view that the nature of women's offending is often low level and rarely results in significant harm, yet women are increasingly subject to harsh penalties (see Sheehan et al 2007; Carlen 1998). Sisters Inside argue in its submission that there is no evidence to support the assertion that crime rates among women over the past 10–15 years have increased, yet the national rates of imprisoned women have increased by 72 percent while the rate for men has increased by 37 percent. Sisters Inside takes the view that the increasing women's prison population is a product of systemic and discriminatory practices applied in Victorian and other Australian jurisdictions.⁵⁷ Further, it also believes that unconvicted women are increasingly and disproportionately being imprisoned on remand, are typically charged with less violent offences than men, and that fewer women are actually convicted of violent offences.⁵⁸

In 2005 it was reported that women were disproportionately represented in the Victorian prison system with over 80 percent serving sentences of less than 12 months compared with a mean aggregate sentence of three years for all Australian prisoners (Victorian Council of Social Services (VCOSS) and Federation of Community Legal Centres (FCLC) 2005). It was due to these factors that the Equal Opportunity Commission Victoria (2006) found evidence of systemic gender and racial discrimination in the women's prison system (see also VCOSS & FCLC 2005).⁵⁹

Fewer sentencing options

An additional factor seen to impact on imprisonment rates is the narrowness of sentencing options and a lack of diversionary strategies for vulnerable offender groups. Deputy Chief Magistrate Jelena Popovic argued that in many cases women fall into the category of low-level offenders whose offences do not warrant a term of imprisonment. Women are often

⁵⁶ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

⁵⁷ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁵⁸ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁵⁹ See also discussion in Chapter 6.

homeless, experience poverty, mental illness and impairment. They comprise a group of offenders who often ‘provide sentencing dilemmas for magistrates’ because they cannot afford to pay fines and have lives that are too chaotic to enable them to comply with community corrections orders and suspended sentences or to undertake to be of good behaviour (Popovic 2006, p.190). Indeed when the Deputy Chief Magistrate gave evidence to the Inquiry she stated that unfortunately ‘We are not very creative in terms of our sentencing dispositions’ and one of the reasons for this is that creative sentencing options are invariably expensive.⁶⁰

Ms Popovic asserts that over the past 10–15 years the role of the sentencer has undergone a metamorphosis and has become more demanding, with increasingly complex matters and persons with more difficult personal circumstances coming before the courts. She notes that ‘imprisonment or detention for the sake of imposing a form of punishment on persons whose crimes are generated by need and for whom no other penalty is available due to their impecuniosity is not appropriate’ (Popovic 2006, p.192). Of particular concern are the proposals made in 2009 by the State Government to abolish suspended sentences. The announcement prompted community concern that the removal of suspended sentences signals a further move away from the prison as a last resort option in sentencing and that this will contribute to increasing numbers of women in the Victorian prison system. Ms Popovic has expressed concern about the abolition of suspended sentences. She believes that any proposals to remove the option of suspended sentences ‘*must* have the effect of increasing the number of female prisoners in Victoria’ (Author’s emphasis).⁶¹

The Court Integrated Services Program

The previous discussion suggests there are too few strategies in the criminal justice system that provide targeted support for certain groups who may be overrepresented in the justice system. However in submissions to this Inquiry Jelena Popovic and Victoria Legal Aid acknowledge there are some positive initiatives that have the potential to divert women away from the prison system at the pre-trial stage.⁶² An example of such a strategy is the Court Integrated Services Program (CISP) which operates in the Court Support and Diversion Services branch of the Magistrates Court. CISP offers a coordinated team-based approach to the assessment and treatment of defendants at the pre-trial or bail stage (Department of Justice Victoria 2010). While this program is not exclusively developed for women it caters to vulnerable high needs offenders who suffer from mental illness, drug issues, disability and homelessness. CISP provides case management support and links to defendants to support services such as drugs and alcohol treatment, crisis support, accommodation, disability and mental health services (Department of Justice Victoria 2010). The benefit of programs such as CISP is that it addresses the causal factors and reasons underpinning drug and drug-related offending as well as the offending itself.⁶³ The recently published evaluation reports positive outcomes of the program in practice in terms

⁶⁰ Ms Jelena Popovic, Deputy Chief Magistrate, Magistrates’ Court of Victoria, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

⁶¹ Submission from Ms Jelena Popovic, Deputy Chief Magistrate, Magistrates’ Court of Victoria, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

⁶² Submissions from Jelena Popovic, Deputy Chief Magistrate, Magistrates’ Court of Victoria and Victoria Legal Aid to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁶³ Submission from Victoria Legal Aid to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

of lower instances of re-offending and re-incarceration among CISP clients (Ross 2009; Department of Justice Victoria 2010).

While programs like CISP have great potential and are likely to achieve positive outcomes, some limitations and problems associated with the under-resourcing of programs and services (with specific reference to CISP) were reported to the Committee. For example Flat Out report cases where women with drug issues have been referred to services through CISP but were turned away due to lack of resourcing.⁶⁴ Such experience is reflected in Loxley and Adams' (2009) research who found that men are more likely than women to enter treatment following a court requirement because women were more likely to be turned away due to a lack of available places. Such a dilemma raises a critical issue reported within submissions – a lack of gender responsive and culturally appropriate therapeutic and drug treatment programs and services available for women in Victoria.⁶⁵

A move away from prison as a last resort?

The joint submission from Flat Out and the Centre for the Human Rights of Imprisoned People (CHRIP) reiterated the view that the increasing number of women in prison reflects a decline in the use of prison as a 'last resort' sentencing option.⁶⁶ Research confirms that the experience of imprisonment impedes future prospects for rehabilitation, especially among young women, and that barriers to post-release integration have become increasingly complex and entrenched (see Goulding 2007; Petersillia 1999). A central theme underpinning many of the submissions is the contention that the institutional culture and disciplinary structures of prison serve to compound women's situations and contribute to cycles of poverty and re-offending.⁶⁷ The primary reason for this is that prison and its institutional structures seek to target or correct individual offending behaviour rather than address the distinct structural disadvantages and hardships in women's lives which underpin pathways to offending.

It is important to emphasise that concerns about women's offending and re-offending are much the same as they were 20 years ago (see Easteal 1992, 2001), the main issue being how the complex needs of vulnerable women, particularly those with histories of mental health issues and drug abuse, can be adequately addressed within prison. A former prisoner cited in the joint submission from Flat Out and CHRIP highlighted this point, stating:

The issues being talked about today, we were talking about in 1985 when women were locked up at Pentridge. Muster has now grown from 20 to 350 women but nothing has changed except now there are more issues. Everyone writes recommendations, but nothing has changed.⁶⁸

⁶⁴ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁶⁵ See for example, submissions from Mental Health Legal Centre; Harm Reduction Victoria; Aboriginal Family Violence Prevention and Legal Service and joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁶⁶ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁶⁷ See submissions from Flat Out and CHRIP; Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; Aboriginal Family Violence Prevention and Legal Service Victoria; Melbourne Citymission; Jesuit Social Services; and Sisters Inside; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁶⁸ Quoted in the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

Conclusion

The majority of women in prison either have drug histories or their offending or re-offending relates to substance abuse. In this respect, drug-related offending must be seen to have an impact on increasing women's prison numbers in Victoria. In addition to the extent of women's drug-related offending, the Committee has also considered systemic contributors that can explain the increasing number of women entering the criminal justice system. Many of the issues canvassed are the same as those presented to explain growing prison rates in the 1980s and 1990s: namely, disproportionate use of sentencing options, an increasing lack of gender-specific diversionary strategies and programs, and social disadvantage and marginalisation.⁶⁹

Questions for consideration

1. What are the factors that explain the increase in both the overall numbers of women being sentenced to imprisonment and the increasing severity of these sentences?
2. What are the gender implications of these developments? Why is the increase relatively disproportionate to that of men's offending?
3. What is the impact of policing operations and practices surrounding drug trafficking on women's imprisonment rates?
4. What are the factors leading to a disproportionate representation of women on remand?
5. Does the accommodation/housing situation of a woman influence bail and sentencing decisions made by the magistracy/judiciary?
6. How useful is the concept of therapeutic remand? Are there ever any circumstances in which it could be justified?
7. What accounts for the increase in the number of women imprisoned for short gaol terms?
8. For what crimes are these short sentences being handed down? Is shoplifting one of the offences attracting a custodial sentence?
9. Should imprisonment be abolished as a sentencing option for offences that are relatively minor in nature? For example for offences that would attract a sentence of six months imprisonment or less? What could be the implications of such a policy?
10. What other sentencing/diversion options could be used as an alternative to imprisonment, particularly for relatively minor offences?
11. What has arguably led to a move away from a policy of prison as a 'last resort'? Does this reflect national or international trends?

⁶⁹ These issues are discussed further in the next chapter.

12. Why do the numbers of women being sentenced or re-sentenced to prison continue to grow despite Victoria having a reputation for some of the most enlightened and progressive programs for women prisoners in Australia?

4. Drug-related Offending: Women's Pathways to Prison and Beyond

Introduction

The Committee has found that it is impossible to consider substance abuse and related offending in isolation from the broad social factors and structural disadvantages generally associated with women's offending. This broad understanding has been reflected within the majority of submissions provided to the Committee. Given this, it is necessary to provide a general overview of the circumstances and contexts underpinning women's pathways to offending, such as poverty, insufficient housing options, a lack of education and/or employment options, a history of violence and sexual abuse, and poor mental and physical health. These factors that contribute to women's offending and re-offending generally are particularly applicable to women who have convictions associated with drug abuse or whose history of drug use has in some way contributed to their offending. Also relevant are the factors that underpin the disproportionate and increasing representation of Aboriginal and Torres Strait Islander (ATSI) women and culturally and linguistically diverse (CALD) women, particularly those of Vietnamese and Indo-Chinese descent in the prison population.

Causal and social factors that both underpin and are associated with women's pathways to offending are well reported within the research literature and in the submissions and public hearing evidence provided to the Committee. According to Sisters Inside the key predictors for women's offending include:

- experiencing substance abuse issues;
- being victims of crime, particularly sexual abuse or family violence;
- having a disability, particularly mental health or intellectual disability; and
- being culturally, socially or economically disadvantaged.⁷⁰

Substance abuse and women's offending

The research suggests there is a correlative relationship between substance addiction and women's offending and re-offending.⁷¹ Research by Johnson (2004) examined links between drugs and offending by women and found that drug use was a significant factor shaping women's pathways to offending. The study found that among participants 62 percent were regular drug buyers/sellers and two-thirds reported regularly using drugs in the six months prior to arrest leading to imprisonment, and 39 percent were regular users of one or more drugs (Johnson 2004). Community groups working with women prisoners and ex-prisoners also highlighted the strong nexus between drug use, drug related offending and imprisonment. For example, a submission from Flat Out to this Inquiry stated:

⁷⁰ See submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁷¹ AIHW 2009; Loxley & Adams 2009; Johnson 2006, 2004.

It is well established that the overwhelming majority of women are incarcerated in relation to *drug-related* crime. Virtually the same percentage of women has been incarcerated for *drug specific* offences over the last 20 years. This figure has fluctuated at 5%. Sixty-four percent of women are in on property and poverty offences, which are invariably drug related...

What has changed is the relatively recent nexus between gambling and drug related crimes. The other drivers of drug related crime – histories of personal abuse, consequent substance abuse, poverty, racism, marginalisation and homelessness – have always been present, What is getting worse, however, is the division between the haves and have nots and their access to services.⁷²

It is often assumed that substance addiction issues that lead to offending relate to the use of illicit substances such as amphetamines and methamphetamines. However, the use of prescription medications is also reported as being related in the same way to women's offending and imprisonment.⁷³ The submission from Flat Out and CHRIP reported that women who had been in 'the system' felt that 'pills' presented a greater risk for offending than heroin.⁷⁴ The Committee was told that the legal and illegal use of Xanax and benzodiazepines was an issue. Moreover, anecdotal reports alleged there are certain health professionals allegedly well known to prescribe high doses of these and other highly addictive prescription drugs to dependent women on request.⁷⁵ It was further reported that specific areas of Melbourne are well known for the sale and distribution of illegal benzodiazepines, including Richmond and Footscray where it is allegedly possible to purchase three Xanax off the street for \$10.⁷⁶ The Committee was also told that many of Flat Out's clients who had been in prison or police custody in the past six months reported that their offences had not been pre-planned and that they could not recollect their actions as a result of 'Xanax misuse blackouts'.⁷⁷

Melbourne Citymission and Jesuit Social Services comprise key service providers within the Women's Integrated Support Program (WISP). Their caseworkers report that substance abuse issues experienced among women must be understood, responded to and treated as a direct manifestation of histories of abuse and victimisation. The Committee was told, however, that currently there are limited gender specific and culturally appropriate drug treatment and support services available in prison and within the community in Victoria.⁷⁸

⁷² Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁷³ See joint submission from Flat Out and CHRIP and submission from the Australian Community Support Organisation (ACSO) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁷⁴ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁷⁵ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

For an account of the problems associated with the abuse of prescription drugs such as Xanax and benzodiazepines, including a discussion of 'doctor shopping', see Drugs and Crime Prevention Committee 2007, *Inquiry into the misuse/abuse of benzodiazepines and other pharmaceutical drugs in Victoria – Final Report*.

⁷⁶ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁷⁷ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁷⁸ See joint submission from Flat Out and CHRIP; submissions from Harm Reduction Victoria; Aboriginal Family Violence Prevention and Legal Service Victoria; Mental Health Legal Centre; Melbourne Citymission; Jesuit Social Services; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010. For further discussion of these issues see Chapter 5.

Factors underpinning women's substance abuse and drug-related offending

Violence, victimisation and trauma

Women's drug-related offending must be understood with direct reference to prior histories of violence and victimisation. Numerous submissions note that past traumas arising from victimisation can lead to women's involvement in the criminal justice system through drug-related offending.⁷⁹ There is a perception that addressing these issues through criminal justice responses contributes to a continuing failure to address the complex inter-relationship between substance abuse, criminalisation and recidivism.⁸⁰ It is also consistently recognised in the literature that the majority of women in prison are survivors of family violence and sexual and emotional abuse including abuse and neglect as children.⁸¹ It has been estimated that at least 80 percent of women in prison are survivors of physical and sexual violence (Community West/Brimbank Community Legal Centre 2008). Ms Debbie Kilroy from Sisters Inside told the Committee that a history of sexual abuse in the lives of women prisoners was the one constant that came up time and again in the histories of women they met:

When we started Sisters Inside we did a needs analysis for women, and the first thing they identified as the major priority was sexual assault counselling, because so many had been sexually abused. We know now that 90 percent of women who go into prison have been sexually abused, and it is not just a one-off; it is usually horrendous sexual abuse from a very young age and that has continued on.⁸²

Violence in childhood can lead to patterns of victimisation experienced in adulthood, (VCOSS 2005).⁸³ The 2003 Prisoner Health Survey reported in 2003 that 12 months prior to imprisonment 30 percent of young women and 17 percent of older women had been physically hurt by their partner; around 10 percent had been raped by their partner (11% of young non-Indigenous Australian women, 8% of young Indigenous women and 8% of older non-Indigenous Australian women); and 42 percent of non-Indigenous Australian women had been verbally abused by a partner, while 17 percent of young Indigenous Australian women had been verbally abused (cited in VCOSS 2005).

Research suggests there is a direct relationship between histories of violence and a higher prevalence of mental health and substance abuse issues among women (Johnson 2004; see also Tye & Mullen 2008). This relationship was recognised in most of the submissions to this Inquiry.⁸⁴ Whilst the relationship between violence and substance abuse is clear,

⁷⁹ See, for example: Submissions from Sisters Inside; Aboriginal Family Violence Prevention and Legal Service Victoria; Melbourne Citymission; and Victoria Legal Aid; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁸⁰ Submissions from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁸¹ Douglas & Plugge 2008; McDaniels, Wilson & Belknap 2008; Victorian Council of Social Services (VCOSS) 2005; Department of Justice 2003; Davies & Cook 2000; Carlen 1998.

⁸² Ms Debbie Kilroy, Director, Sisters Inside. Evidence to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers. 2 August 2010.

⁸³ See also the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁸⁴ See, for example: Submissions from Sisters Inside; Aboriginal Family Violence Prevention and Legal Service Victoria; Mental Health Legal Centre; Melbourne Citymission; Jesuit Social Services; Victoria Legal Aid; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

whether there is a *causal link* between histories of violence, trauma and offending is less clear and comprises an area that requires further research (Douglas & Plugge 2008; see also Halsey 2008).

Health

Health issues, particularly mental health issues, also contribute to women's offending. The mental and physical health among imprisoned and formerly imprisoned women has been characterised as a community and medical emergency by Community West/Brimbank Community Legal Centre (2008). Women experience high rates of mental illness, specifically drug-related disorders and disabilities.

The Mental Health Legal Centre stated that an increasing number of women entering custody have both health and drug dependence issues as a result of a lack of adequate medical and social support networks and services.⁸⁵ Drug abuse is often experienced in conjunction with mental illness and both conditions comprise a key causal factor behind women's drug-related offending. A recent study found that 84 percent of women in Victorian prisons suffer from mental health conditions and the rate of mental illness in the prisoner population exceeds rates experienced in the community (Tye & Mullen 2006). The study found the most prevalent disorders among women included drug use disorder (57%), major depression (44%) and post-traumatic stress disorder (36%) (Tye & Mullen 2006). Most significantly, this study demonstrates the interconnectedness of drug use and mental health issues. Professor Eileen Baldry told the Committee that based on her national research it is apparent that a significant number of women in Australian prisons have complex and interconnected health and mental health histories, which may include intellectual disability, psychiatric disability and/or substance abuse issues. These complex histories may have a bearing on the woman's convictions and subsequent imprisonment:

The number of convictions for those with complex needs is significantly higher than for those who have only a single diagnosis, and the complex needs group amongst the whole group is 66 percent of my whole cohort, but in the women it is actually higher; over 70 percent of the women have complex needs.

...They might have mental health [problems] and intellectual disability or mental health and alcohol and other drug problems or borderline intellectual disability, so the level of conviction rate is significantly higher than for those who have only a single diagnosis – just intellectual disability or just mental health – or no diagnosis.⁸⁶

The Mental Health Legal Centre pointed out that experiences of abuse are often directly associated with the development of anxiety disorders and psychological distress, which can lead to abuse victims self-medicating with illicit drugs and other substances.⁸⁷ Research by Johnson (2004) also confirms that mental health issues can shape women's pathways to

⁸⁵ Submission from the Mental Health Legal Centre to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁸⁶ Professor Eileen Baldry, University of New South Wales, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne (teleconference), 2 August 2010.

⁸⁷ Submission from the Mental Health Legal Centre to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

offending. In Johnson's study 60 percent of participants reported experiencing mental health problems while growing up.⁸⁸

Other health issues among women prisoners include hepatitis C infection, which is prevalent and reported to be as high as 93 percent. Women also suffer from high rates of chronic physical illness, recent hospitalisation, co-morbidity and significant dental needs (Community West/Brimbank Community Legal Centre 2008). For example, Dr Stuart Kinner of the Burnet Institute spoke of the high levels of physical ill health experience by women prisoners both before and during their incarceration:

Around three-quarters of women being received into prisons around the country have a history of injecting drug use. That is much higher than for males. Over a third of receptions in prison are hepatitis C-positive. Victoria is one of the two highest ranked states in the country, with 41 percent of prison receptions estimated to be hepatitis C antibody-positive. Again we see a much higher prevalence of hepatitis C among women, particularly among women who have a history of injecting drug use. Among an already very unwell and marginalised group, women [in prison] are particularly unwell and marginalised in a number of respects.⁸⁹

Women with children

Eighty percent of women in prison have children and the vast majority are primary and sole carers of children (Community West/Brimbank Community Legal Centre 2008). The fact that such a high number of women who come into contact with the justice system are mothers, and are primary and sole carers for their children, brings into focus other causal factors such as a lack of housing and financial hardship. These factors can result in higher levels of intervention in women's lives, placing them at risk of substance abuse and related mental health issues that can lead to offending.⁹⁰

There are also connections between family violence, trauma, state interventions, the removal of children and women's offending and re-offending.⁹¹ Often women's offending and related drug abuse is inter-generational. For example, Deputy Chief Magistrate Jelena Popovic told the Committee that many offenders who come before her court are people whose parents and even grandparents have had a history of drug abuse and offending and who have not been offered the opportunities to break that cycle.⁹²

⁸⁸ Cited in the submission from the Mental Health Legal Centre to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁸⁹ Dr Kinner added that there is a real risk of women dying from drug-related causes, most notably drug overdose once released from prison, particularly during the first transitional week after release. In his evidence Dr Kinner referred to research evidence that showed 85 percent of deaths observed amongst women prisoners released from Victorian prisons in a 10-year period between 1990 and 1999 were attributable to drug overdoses. It is for this reason that Dr Kinner would support, at least as a trial, needle exchanges in Australian prisons. Dr Stuart Kinner, Senior Research Fellow, Centre for Population Health, Burnet Institute, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

⁹⁰ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁹¹ See submission from Aboriginal Family Violence Prevention and Legal Service Victoria and the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁹² Evidence of Ms Jelena Popovic, Deputy Chief Magistrate, Magistrates' Court of Victoria, given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne 16 June 2010.

The fact that such a high number of women who come into contact with the justice system are mothers, and are primary and sole carers for their children, brings into focus other correlative causal factors such as a lack of housing and financial hardship. These factors can result in higher levels of intervention in women's lives, placing them at risk of substance abuse and related mental health issues that can lead to offending.⁹³

Housing

There is no doubt that the current housing shortage has a significant impact on women's rates of offending and re-offending in Victoria. The joint submission from the Council to Homeless Persons and Public Interest Law Clearing House (PILCH) Homeless Persons Legal Clinic states that the limited public housing stock, long waiting lists and inappropriate locations and environments in transitional and emergency housing mean that ex-offenders have very limited options when it comes to housing. The relationship between housing and women's offending has been raised in most of the submissions received by the Committee. Housing and homelessness have been recognised by state and federal government as central to recidivism (Department of Housing, Families, Community Services and Indigenous Affairs (FACSIA) 2008; Department of Human Services (DHS) 2002). Critical research by Baldry et al (2003) found that lack of housing increases the prospect of re-offending.

Professor Eileen Baldry expanded upon her research findings when she gave evidence to the Inquiry:

Virtually everybody who is in prison, apart from 10 percent who are sometimes longer term prisoners but usually white collar, have serious problem with housing both before and after prison and that public housing is a major source of support for this group. If public housing or social housing were not available, then a significant number of the people in prison would be consistently homeless.

What my research also showed was that in and of itself...just being homeless propels people back into prison. It is in itself a recidivism factor, and that is particularly the case for Aboriginal women. In all the studies I have done virtually none of the Aboriginal women had good, stable and safe housing when they got out of prison... But safe, stable and accommodation which is for Aboriginal women culturally acceptable as well and with their children with them or with the potential for their children to be with them, is a really important factor.

It was quite clear that the majority of women – virtually all of them – who went back very quickly to prison had moved very often. They had moved four times or more in the matter of a month or two – in other words, they were homeless. They were couch surfing or they were just rattling around between relatives and the streets and refuges. Housing is an absolutely crucial and fundamental aspect, and I think that we have not in Australia got it right yet in terms of the range of housing that we need to ensure is available, particularly for women with children or women who have the potential to get their children back, because that is a highly motivating factor for women.⁹⁴

Homelessness and lack of access to affordable and secure accommodation is a lived reality for women and impacts significantly on pre and post-prison survival, and their ability to

⁹³ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁹⁴ Professor Eileen Baldry, University of New South Wales, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne (by teleconference), 2 August 2010.

desist from offending and re-offending (Carnaby 1998). For women, homelessness and lack of housing can exacerbate poor physical and mental health, magnify substance abuse issues, prevent reunification with children, and reinforce social isolation and financial hardship.⁹⁵ The joint submission from the Council to Homeless Persons and PILCH Homeless Persons Legal Clinic explained how prisoners and ex-prisoners are particularly vulnerable to becoming homeless:

Research shows that a large number of prisoners are being released with no suitable accommodation in place. In addition, prisoners face a variety of barriers when trying to access housing. The private rental market is increasingly competitive, unaffordable, requires good credit rating and generally discriminates against welfare recipients. Furthermore, the literature suggests that not all public housing is necessarily an appropriate option for ex-offenders, and particular estates and locations should be avoided. These include geographical areas associated with drug use, locations that are ill-equipped to provide access to services, having to share with others, and institutionalised-like hostels that ensure the ongoing contact with other ex-prisoners. The limited public housing stock, extraordinary long waiting lists and inappropriate locations and environments result in ex-offenders having limited housing options, with many ex-offenders relying on hostel and rooming type accommodation.

Prisoners will not be deemed homeless while incarcerated, even if they have been homeless prior to incarceration, and are therefore ineligible to apply for public housing. Many prisoners are not and cannot be aware of the exact date of their release and are therefore unable to satisfy important requirements for an accommodation agency referral process.⁹⁶

The Committee was informed that women who have short sentences or a period on remand may lose their housing.⁹⁷ It was also stated that offenders who are homeless are also more likely to be remanded in custody than granted bail and are sometimes ineligible for court diversion programs due to their housing status.⁹⁸ Moreover, a lack of stable and safe accommodation may jeopardise a woman's chance of reuniting with her children when they have been subject to a child protection order.⁹⁹ The lack of housing also has a negative impact on women's ability to comply with conditions associated with parole and Community Based Orders.

The joint submission from Flat Out and CHRIP made the point that a woman's inability to secure housing can result in her being kept in prison for longer periods:

Safe accommodation is the foundation for a successful transition back into the community post-release. Some 67% of men expect to live with their partners or their parents on release from prison whereas only 30% of women do. If people move once in the first 12 months

⁹⁵ Submission from Melbourne Citymission, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁹⁶ Joint submission from the Council to Homeless Persons and PILCH Homeless Persons' Legal Clinic, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁹⁷ For example, in the submission from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service, and the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁹⁸ Joint submission from the Council to Homeless Persons and PILCH Homeless Persons' Legal Clinic, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

⁹⁹ The joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

post-release they have a 22% chance of re-offending, however if they move more than twice this increases to 60% (Australian Housing and Urban Research Institute 2003).¹⁰⁰

It should also be recognised that post-release crisis and transitional housing options such as boarding houses and hostels can place women at risk of victimisation and contribute to the cycle of drug use and offending.¹⁰¹ The joint submission from PILCH/Council of Homeless Persons to the Inquiry reiterated these concerns, suggesting that such environments can serve to ‘perpetuate the experience of imprisonment’.¹⁰² Marginal housing can contain high numbers of people with substance dependence, ex-offenders and people with mental health issues, which in turn can create an environment of violence and temptations.¹⁰³ Lack of housing has also been associated with continuing patterns of domestic violence among women who are forced to return to violent partners through lack of access to accommodation.¹⁰⁴

Education, employment and cycles of poverty

Socio-economic status and poverty form a motivating force behind women’s drug-related offending.¹⁰⁵ Poverty that women offenders experience is compounded through being primary and/or sole carers of children, lack of access to affordable and secure housing and substance addiction. In addition, women in Victorian prisons possess low levels of completed secondary and tertiary education and high levels of unemployment prior to their imprisonment.¹⁰⁶ According to Professor Eileen Baldry, many women in prison have had histories of being wards of the state or otherwise in state based care with an erratic history of school attendance:

All the evidence from this very large group of [female prisoners] that I have been looking at is that they do not finish school – and that not only do they not finish school but that on the whole they do not leave school with anything – and that they have very early contact with police and then it is ongoing, with an average of 50 or 60 contacts with police by the time they are 30 and numerous arrests and a reasonable number of convictions. This starts quite early, because the world these women live in as girls is often not a mainstream community world. They have often been removed, there is a reasonably high rate of people in prison and women who have not only been abused but have been in out-of-home care. It is a world in which they are often surrounded by child protection services, police contact and truanting from school – in other words, all the sorts of contacts that members of this group end up

¹⁰⁰ Cited in the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁰¹ See the joint submission from Flat Out and CHRIP and the submission from Mental Health Legal Centre to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁰² Joint submission from the Council to Homeless Persons and PILCH Homeless Person’s Legal Clinic to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁰³ Joint submission from the Council to Homeless Persons and PILCH Homeless Person’s Legal Clinic to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁰⁴ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁰⁵ See submissions from Australian Community Support Organisation; Flat Out and CHRIP; Sisters Inside; and Melbourne Citymission; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁰⁶ Submission from Mental Health Legal Centre to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

The issue of the unemployment and underemployment of women prisoners is discussed in more detail in Chapter 6.

having tend to be of a controlling and often a law-enforcement nature. This is the group that moves on through and that we then see not really benefiting from the kinds of interventions and programs that we have been trying to implement.¹⁰⁷

Such issues are deeply enmeshed, creating a long-term cycle of poverty, leading to offending and re-offending. This is one reason why support and advocacy groups such as Sisters Inside place such a high premium on education as a strategy to help remove women from the revolving door of offending and imprisonment. As Sisters Inside Director Ms Debbie Kilroy told the Committee:

One thing I found was that people ask what it was that stopped me and broke my cycle. Do you know what it was? It was just that I stopped breaking the law because I got access to education. Access to education gave me so many more choices in my life. If you do not have education, your choices are so limited, and that is what I see day in and day out.¹⁰⁸

Social exclusion and the cycle of re-offending

The enmeshed nature of the social and causal factors underpinning offending provides a vital context for women's re-offending. When women are released from prison the issues they faced prior to imprisonment – housing, mental health, trauma, drug and alcohol addiction, financial hardship, social stigma and gaining custody of children – remain central in their daily lives, making it difficult for them to lead functional lives. In this respect to talk about post-release 'reintegration' is paradoxical, as it assumes to begin with that women are integrated in their communities prior to entering the criminal justice system when, due to the range of disadvantages they experience, it is clear they may not be (Baldry & Borzycki 2003). Social stigma and isolation is a constant reality for women and a key factor leading to offending and re-offending. Melbourne Citymission argues that feeling part of a community and having access to supportive family, friends and networks play an important role in breaking the cycle of offending.¹⁰⁹ However for some women it is essential that they do not return to their previous environment because of their previous association with the 'drug culture'. Women can therefore be totally isolated when they leave prison. For women with children this may especially be the case. Central here is the importance of women regaining access to their children and achieving family reunification.

Vulnerable women with complex needs

Culturally and linguistically diverse (CALD) women: Vietnamese and Indo-Chinese background

An area of interest to this Inquiry is why there has been a disproportionate increase in women of Vietnamese and more broadly Indo-Chinese descent. While no doubt there are other groups of CALD women within the Victorian women's prison system with distinct cultural contexts underpinning offending, the increasing number of women of Indo-

¹⁰⁷ Professor Eileen Baldry, University of New South Wales, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne (by teleconference), 2 August 2010.

¹⁰⁸ Ms Debbie Kilroy, Director, Sisters Inside, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

¹⁰⁹ Submission from Melbourne Citymission, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

Chinese women is of particular concern.¹¹⁰ Corrections Victoria has provided data that shows that with regard to women being charged with drug offences:

Women born in Vietnam comprised over half (50.8%) of this cohort in 2009/10, compared with 12.5% of the female prison population overall. The daily average number of women prisoners born in Vietnam increased from 12 to 30 between 2000/01 and 2009/10, and from 32.4% to 50.8% of the total number of women with a most serious offence or charge of a drug offence...a key element of the growth in women in prison for drug related offences or charges has been an increase in the number of Vietnamese born women in custody.

Within the daily average cohort of 30 Vietnamese women in custody with a most serious offence or charge of a drug offence in 2009/10:

- 64.4% were sentenced, and 36.6% unsentenced
- 86.6% were aged over 30 years of age, and 63.3% over 40 years of age
- 66.7% had no prior terms of imprisonment
- 40.0% were unemployed, 23.3% were employed and 23.3% were undertaking home duties prior to their imprisonment.

The above data demonstrate that Vietnamese women prisoners with drug offences are more likely to be unsentenced, older, have no prior history of imprisonment and be more likely to be employed or undertaking home duties than the general female prisoner population.¹¹¹

The media has made much of this issue in recent times with reports that such increases result from problem gambling (Munro 2010; Reynolds 2010). A submission from Corrections Victoria stated:

It is understood that a strong culture of gambling and related debts is a common feature among this cohort [of Vietnamese women], who are a target for 'loan sharks' offering loans with excessive and escalating interest payments. These women are seen by organised crime syndicates as vulnerable to exploitation and low risk targets due to their financial situation and lack of offence history... Current trends suggest women with gambling debt, especially older Vietnamese women with no prior history of offences, are being exploited by these groups and used as 'drug mules' or utilising their property to grow marijuana crops.¹¹²

Evidence presented to the Committee suggests the conditions that lead to drug-related offending among Vietnamese and Indo-Chinese women are related to cultural and economic conditions. The Australian Vietnamese Women's Association expressed the view that drug offences are in essence a product of poverty.¹¹³ The Association stated that women in this group have recently settled in Australia from countries with corrupt government officials, much poverty, and where people are often driven to undertake illegal activities in order to feed their families. It stated further that once newly settled in Australia these women and their families often face similar conditions of poverty, and that

¹¹⁰ Numerous submissions to the Committee raised this concern. See, for example: Submissions from the Australian Vietnamese Women's Association; Ms Amanda George; Jesuit Social Services; and Flat Out; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹¹¹ Submission from Corrections Victoria, Department of Justice to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹¹² Submission from Corrections Victoria, Department of Justice to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹¹³ Submission from the Australian Vietnamese Women's Association, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

experiences of poverty in Australia and their homeland increase the risk of women or family members turning to the illicit drug market in order to make money.¹¹⁴

The Australian Vietnamese Women's Association highlighted that women in this group possess a low level of English proficiency and work in low paid jobs with long hours to support their families here and extended family members in their homelands. In addition, women in this group are liable to sacrifice themselves and plead guilty if members of their family are caught undertaking illegal activities, due to their 'submissive role' in the family.¹¹⁵ The Association reports anecdotal evidence that men acting as the head of the family can request female family members to carry out illegal activities for the family's financial gain. In this context, pregnant women and those with children are at increased risk because they are told that their condition or their children will mask their criminal activities and/or lead to leniency in sentencing.¹¹⁶

Women in this group therefore experience a cycle of poverty and related problems including gambling, debt and unemployment, which makes it hard for them to desist from offending. The Australian Vietnamese Women's Association notes that Vietnamese women who have been in prison experience social isolation and marginalisation within both Australian and Vietnamese communities. Moreover, many women from Vietnamese backgrounds, and more generally those of Indo-Chinese descent, are excluded from or have difficulty accessing rehabilitative and support services.¹¹⁷ This is particularly crucial with regard to accessing English language proficiency, education and employment training skills both whilst in prison and after release.¹¹⁸

Despite some, often speculative, theorising as to why the numbers of Indo-Chinese women being imprisoned are rising, there is limited understanding in existing research and government policy about the specific causal factors and experiences leading to offending among CALD women. Further research into this issue is crucial if effective interventions are to be developed to assist in reducing this phenomenon.

Aboriginal and Torres Strait Islander (ATSI) women

The Victorian Aboriginal Legal Service (VALS) emphasised the *significant differences* between ATSI and non-ATSI women, particularly with reference to the impacts and causes of drug-related crime, and pointed out that these distinctions should be recognised within

¹¹⁴ Submission from the Australian Vietnamese Women's Association, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹¹⁵ Submission from the Australian Vietnamese Women's Association, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹¹⁶ Submission from the Australian Vietnamese Women's Association, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹¹⁷ Submission from the Australian Vietnamese Women's Association, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

Victorian Association for the Care and Resettlement of Offenders (VACRO) has initiated a project to recruit Vietnamese and other CALD group mentors to assist women from CALD backgrounds to resettle in the community once they have been released. VACRO is negotiating with Vietnamese community organisations to pool resources and engage in joint training for more Vietnamese mentors to assist the growing Vietnamese women prison population.

The lack of culturally appropriate and gender specific diversionary schemes, support programs and services to cater for these women's unique needs is discussed in Chapters 6 and 7.

¹¹⁸ These issues are discussed at length in Chapters 6 and 7.

this Inquiry.¹¹⁹ While ATSI women may share aspects of gender disadvantage with non-Indigenous women, ultimately their experiences are also defined by legacies of economic disadvantage and systemic racism (Baldry & McCausland 2009).

An important starting point for understanding the disproportionate representation of ATSI women in the justice system is to recognise the impacts of historical legacies. These legacies include Indigenous dispossession and multiple sites of intervention such as the removal of children, institutionalisation, discrimination and racism.¹²⁰ Intergenerational social disadvantage and a history of upheaval resulting in trauma and grief contribute to disproportionate rates of imprisonment among Indigenous people.¹²¹ Diminishing ties to traditional cultures, particularly for Indigenous people living in urban areas, may exacerbate their sense of marginalisation. The loss of family and friends, often as the result of premature death, is also an important factor.¹²²

VALS believes that ATSI women are demonised to a greater extent than non-ATSI women because of their perceived transgression of gender specific norms in the wider community. ATSI women experience high levels of disadvantage that lead to higher rates of return to prison, higher rates of social and physical disadvantage, and higher numbers of dependent children than their non-Indigenous counterparts.¹²³

The Aboriginal Family Violence Prevention and Legal Service argue that it is important to fully understand the connections between family violence, sexual assault, child protection intervention and youth detention/imprisonment, as there are significant implications for crime prevention policy and provision in this area. It is estimated that in 2007-2008 more than 90 percent of Indigenous victims of family violence in Victoria were women.¹²⁴ Such high rates of victimisation has led to a greater involvement of ATSI women in the criminal justice system as an offender and/or a victim than ATSI men.¹²⁵

Of particular concern is the high number of Indigenous women remanded in custody in Victoria who later do not receive a custodial sentence.¹²⁶ A submission from Flat Out to the Inquiry stated in this respect:

¹¹⁹ Submission from the Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²⁰ Submission from the Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²¹ Submission from the Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²² Submission from the Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²³ Submission from the Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²⁴ Submission from Aboriginal Family Violence Prevention and Legal Service Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²⁵ Loxley and Adams (2009), cited in the submission from the Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²⁶ With regard to serious drug offences and other forms of drug offending, however, Indigenous women are underrepresented in this offence category. According to Corrections Victoria data, the daily average number of women charged with such offences has ranged between zero and two offenders over the last 10 years 'representing less than 2 percent of all women in this cohort' (Submission from Corrections Victoria, Department of Justice to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010).

Last year 34 Koori women were remanded in custody and only three of these women were given a custodial sentence. This speaks to a number of things including the fact that culturally appropriate safe housing is vital for Indigenous women at risk of prison. A Koori-specific bail option would likely deal with the situation. Of particular concern is the number of Koori women in prison who are very young: 30 percent of Koori prisoners are under 25, compared to 10 percent of non-Indigenous prisoners. This means there is a very grave risk of these young women leading lives in and out of prison for the next 20 years. The risk is heightened for these women given that age is one of the greatest determinants of re-offending, as well as the commission of property offences, for which Indigenous women are mostly incarcerated.¹²⁷

There is a need for more research and data collection focused on justice outcomes for ATSI communities, particularly ATSI women, and how such outcomes lead to increased contact with the criminal justice system.¹²⁸ In this respect there is a need to monitor areas such as child protection intervention and out-of-home care; progression from youth detention to adult imprisonment; experiences of sexual assault and family violence both in childhood and adulthood; mental health issues; and age and circumstances of commencement of drug use. This is because state interventions and lack of interventions in all these areas inevitably impact on the increasing representation of young ATSI men and women in the criminal justice system.¹²⁹

Conclusion

Because the majority of women in prison have histories of substance abuse or offending that relates to drugs, the Committee provides a broader examination of contextual factors and circumstances associated with women's pathways to offending, imprisonment and post-release. Women in prison with substance abuse issues often suffer from poor mental health while also experiencing a range of hardships and multiple disadvantages that impact significantly on their lives. Many of these are consistent with national and international research on women's offending and imprisonment. One key difference in Victoria has been the growing disproportionate representation of Vietnamese women in the justice system. While some suggestions are made in this Report as to causal factors, it is clear that further research and inquiry is required to shed light on why these women present a growing sector of the prison population.

¹²⁷ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²⁸ Submission from Aboriginal Family Violence Prevention and Legal Service Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹²⁹ Submission from Aboriginal Family Violence Prevention and Legal Service Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

Questions for further consideration

1. To what extent can the factors associated with women's offending and imprisonment be seen as gendered? What are the factors that are specifically a product of women's experience as offenders that may not be applicable to men's experience as offenders?
2. What is the relationship between substance abuse, offending, re-offending and imprisonment? Is it a causal nexus? Are there specific drugs that are connected with particular forms of offending?
3. What is the relationship between child protection interventions, state care and women's offending and re-offending?
4. How does a history of violence against women lead to increased chances of women's offending and imprisonment?
5. What is the impact of housing on sentencing outcomes for women?
6. What, if any, is the relationship between women's imprisonment and homelessness?
7. What are the culturally specific factors contributing to the disproportionate increase of women of Vietnamese and Indo-Chinese background being imprisoned?
8. What is the impact of law and justice outcomes on ATSI women's offending and re-offending?
9. How does a history of mental ill health or intellectual disability contribute to women's offending? How does a history of mental ill health interrelate with other forms of social problems such as substance abuse, gambling or homelessness?
10. What effect does the experience of imprisonment have on the children and families of women in prison? What are the effect on the mothers who have been imprisoned and the repercussions for the parenting role?

5. Gender-Responsive Policy Initiatives in Victoria: The Better Pathways Strategy

Introduction

Over the last decade a series of gender-focused policy responses in corrections have contributed to the perception that Victoria provides a ‘best practice’ model (McIvor 2007). In the early 1990s, critical attention was paid to the lack of systemic recognition of the diverse circumstances leading to women’s imprisonment. The absence of gender specific initiatives and programs that deal with women’s special needs, particularly with respect to substance disorders and mental health, in prison and post-release were also highlighted (Davies & Cook 2000). It was contended that the failure to address these needs resulted in re-offending, re-incarceration, significant harm and post-release death (Davies & Cook 2000).

Subsequent to the 1990s, a range of programs has been implemented in Victoria. However, community lawyers, support workers, advocates and community organisations who work with women on the ground have continued to highlight the practical difficulties associated with policies and initiatives in this area.¹³⁰ Given this, the Committee considers it important to outline key gender-responsive policies by Corrections Victoria and how these cater specifically to women’s complex needs in the areas of substance addiction and mental health. The Better Pathways Strategy is the most comprehensive response with regard to women’s offending in Victoria in recent years and therefore comprises a focus for this discussion. It is also important to consider these developments in light of the body of research literature on women and imprisonment that has established the importance of a coordinated gender-responsive approach in prison policy.

Women and imprisonment: Why a gender-responsive approach is important

There is a substantial body of international theoretical and primary research on women, punishment and imprisonment.¹³¹ In particular, scholars in this area have argued that women’s pathways to offending, experiences and needs in prison and post-release are different to men’s and therefore require a gender-responsive approach. Due to these differences feminist scholars have argued that penal responses should be in part gender-specific rather than merely crime and sentence specific (see Carlen 1998; Heidensohn 2002).

The other point that is vital to the concept of a gender-focused approach is the differential way in which women experience imprisonment, particularly in light of their complex needs. The idea that men and women are different and have different needs in prison extends beyond physical and biological differences to encompass the specific structural

¹³⁰ See submissions from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; the Mental Health Legal Centre (MHLIC); Ms Denise McGrath; and the joint submission from Flat Out and the Centre for the Human Rights of Imprisoned People (CHRIP), to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010. These concerns will be addressed in Chapter 6.

¹³¹ See Hudson 2002; See also Carlen 1998, 1983; Carlen & Worrall; Scraton & Moore 2004; Heidensohn 2002; Davis 2003; Kilroy & Worrall 2002; Eastaugh 2001; Hampton 1993.

disadvantages and circumstances that underpin women's lives. In this context factors such as women's histories of sexual abuse and victimisation; histories of substance addiction; poor physical and mental health; social, cultural and economic disadvantage; and the fact that over 80 percent of women are mothers and primary carers of children all impact significantly on the way that women experience imprisonment. These factors also impact on how they are ultimately disciplined and managed in prison.

Gender-responsive policy frameworks in Victoria

Corrections Victoria explained to the Committee that its current approach to managing the needs of women prisoners reflects the recognition that men and women are different and that they respond differently to correctional interventions.¹³² It argued that the broader approach to offender management practice therefore takes into account the distinct needs, characteristics, life experiences and family circumstances of women offenders.¹³³

Corrections Victoria outlined its gender-responsive policy frameworks as follows:

- The delivery of strategies under Better Pathways: An Integrated Response to Women's Offending and Re-offending;
- The Women's Correctional Services Framework, which relates to the delivery of correctional services to women;
- The Women's Correctional Services Advisory Committee, a non-government stakeholder body providing advice and input into correctional policies and programs concerning women offenders;
- The long-term operations of women's prisons;
- Standards for the management of women prisoners in Victoria, guiding operational practice in the women's prison region.¹³⁴

The Better Pathways Strategy

Better Pathways was implemented in 2005 as a key response to the 85 percent increase in women's imprisonment rates between 1998 and 2003.¹³⁵ In its present form Better Pathways consists of a suite of initiatives to 'enhance the gender responsivity of a targeted range of prevention, early intervention, diversion, rehabilitation and transitional support interventions, with the aim of reducing women's offending, imprisonment, re-offending and victimisation'.¹³⁶ In its submission Corrections Victoria outlined key initiatives and activities that are central to Better Pathways:

- Transitional housing for women on bail, including indigenous women;

¹³² Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹³³ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹³⁴ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹³⁵ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹³⁶ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010. See also *Better Pathways Report Card*, Corrections Victoria, April 2008.

- Support for women offenders undertaking supervised community-based orders including assistance with childcare responsibilities and accessing transport;
- Sexual assault counselling, advocacy and support services for women prisoners;
- A multicultural liaison officer to assist large numbers of women from diverse cultural groups in prison (particularly Vietnamese and African women);
- An intensive support accommodation unit (20 bed) for women with mental health issues (Marrmak Unit) located inside Dame Phyllis Frost Centre;
- Upgrades to women prison facilities including renovations to the medical centre, visits centre and education and prison industries facilities at the Dame Phyllis Frost Centre;
- Improved training and employment opportunities for women offenders and prisoners (Women 4 Work program);
- Financial assistance to manage and minimise debt;
- Extension of the post-release support period for women exiting prison in the Women's Integrated Support Program, which provides assistance with housing and family reunification.¹³⁷

Better Pathways has not been without its critics.¹³⁸ However, it is certainly true that this has been one of the first and most comprehensive policies that, at least in theory, seeks to address the gendered aspects of women's offending and recognises that the needs of women prisoners are qualitatively different from men's.

Standards for the Management of Women Prisoners in Victoria

Historically, the small population of women prisoners (in absolute terms and as a percentage of the entire prisoner population) has meant that most approaches to management and services have simply transplanted services provided to male prisoners, amending and implementing them in the women's system.

As part of the Better Pathways gender-responsive strategy, Corrections Victoria released new standards for the management of women prisoners in May 2009 (Corrections Victoria 2009). Among other things, the 2009 standards were intended to bring prisons and correctional services into compliance with the *Charter of Human Rights & Responsibilities Act* 2006. Rehabilitation was explicitly stated to be the principal focus for women's corrections in Victoria under the new standards. Corrections Victoria established a Women's Prisons Region to improve gender responsiveness in service provision and to de-emphasise the importance of punishment for the management of women offenders and prisoners.

The Women's Correctional Services Framework

Another aspect of Better Pathways is the Women's Correctional Services Framework (WCSF), which serves as a framework for the delivery of correctional services to women in Victoria.¹³⁹ The Better Pathways Framework states that the WCSF sets out:

a model for the delivery of correctional services that takes into account the distinct needs, characteristics, life experiences and family circumstances of women offenders within

¹³⁷ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹³⁸ See discussion below with regard to the evaluation of Better Pathways.

¹³⁹ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

broader offender management practice. It incorporates a mission statement, a set of guiding principles and operational objectives to address service delivery, program design, offender management, workforce development and correctional policy and planning (Corrections Victoria 2007).

According to Corrections Victoria (2007) the WCSF is grounded in a range of policy and legislative frameworks relevant to the development of a correctional system that responds effectively to women's needs, that is: the International Covenant on Civil and Political Rights 1966; Standard Minimum Rules on the Treatment of Prisoners 1977; the UN Convention on the Rights of the Child 1989; the *Sex Discrimination Act* 1984; the *Corrections Act* 1986; the *Equal Opportunity Act* 1995; *The Charter of Human Rights and Responsibilities Act* 2006. Also critical to the WCSF is a process of consultation with community organisations, service providers, corrections staff and women offenders in order to determine frameworks for the delivery of services, programs, offender management, workforce recruitment training and development and correctional policy and planning (Department of Justice Victoria (DOJ Vic) 2007).

The Better Pathways Strategy: Impacts and evaluation

Corrections Victoria published an initial 'report card' on Better Pathways in April 2008. The report card catalogued the infrastructure improvements at the main women's prison (Dame Phyllis Frost Centre (DPFC)) and the additional services that could be provided as a result. The report card also commented on several partnership projects with community organisations that deliver services to women post-release. A further 'report card' was published in August 2009.

In 2009, an external evaluation was conducted to examine the success of Better Pathways in meeting its objectives.¹⁴⁰ The evaluation concluded that Better Pathways had led to greater reductions in the rate of women's imprisonment than would have been achieved otherwise.¹⁴¹ Furthermore, it was argued that Better Pathways enhanced the services being provided to women offenders and prisoners, improved access to these services, and assisted in keeping women offenders out of prison.¹⁴² However, the evaluation was unable to establish any correlation between Better Pathways and recidivism outcomes. The Price Waterhouse Coopers' evaluation praised in the Executive Summary the improved gender-responsiveness of programs and services provided by the Victorian correctional system. It also highlighted the new infrastructure and purpose-built facilities at the DPFC and stated that these improved both the responsiveness of correctional services and their accessibility.¹⁴³

However, despite the above achievements, the extent to which the goals and objectives of Better Pathways have been met and how the strategy has been managed and coordinated in practice remains unclear because the full evaluation has not been made public. A central tenet of the Better Pathways Strategy has been to reduce women's imprisonment rates. Corrections Victoria has maintained that the strategy has been successful in addressing this

¹⁴⁰ Refer to *Better Pathways Report Cards* 1 and 2, which summarise the main findings of the Price Waterhouse Coopers' evaluation of Better Pathways. The report cards were produced by Corrections Victoria, Department of Justice Victoria in 2008 and 2009.

¹⁴¹ Price Waterhouse Coopers for Department of Justice – Corrections Victoria 2009, *Evaluation of the Better Pathways Strategy – Executive Summary*.

¹⁴² *Better Pathways Report Card 2*, Corrections Victoria, August 2009.

¹⁴³ Price Waterhouse Coopers for Department of Justice – Corrections Victoria 2009, *Evaluation of the Better Pathways Strategy: Executive Summary*.

issue and refers to the 15.7 percent decrease in women's imprisonment numbers between 2003 and 2008. However, the broader 10-year trend reflects a 67.9 percent increase in women's imprisonment rates. Moreover, the 30 percent increase between 2008 and 2009 is unprecedented. However, it is by no means clear that such increases are in any way connected to the implementation of Better Pathways or that the program has failed to meet its objectives.

It does, however, give credence to the criticisms of some community agencies that there is a lack of clear information about Better Pathways. Some of these criticisms were raised through submissions and evidence presented to this inquiry. For example, Ms Amanda George, Flat Out Chairperson and community lawyer, raised her concerns to the Committee that Community Legal Centres had sought the evaluation through Freedom of Information but were unsuccessful. In her view it is essential that community agencies engaged in policy and reform work addressing women in prison have access to this information.¹⁴⁴

Future expansion of Better Pathways

Based on the successes documented by Corrections Victoria above, Better Pathways will be expanded and \$26 million will be invested over the next four years. Some further initiatives to be implemented under the strategy include:

- A pilot of women's case managers in 6 community correctional service locations;
- A pilot domestic violence program that addresses the relationship between histories of family violence, abuse and offending in adulthood;
- The making choices for women program which takes a holistic and gender specific response to addressing women's violent offending.¹⁴⁵

While the Better Pathways Strategy policies have acknowledged the complex and high needs of women in prison on paper, there remains a considerable gap in understanding about how such policies and programs have impacted on the ground.

Conclusion

Because of the range of issues faced by women and their complex needs when in prison, a gender-responsive approach in the areas of policy, programs, services, practices and infrastructure is vital to assist rehabilitation and recovery. Much headway both nationally and internationally has been made in beginning to work towards gender driven prison reform. In Victoria the Better Pathways Strategy presents a keystone development in this respect. However, the Committee has a limited understanding about the practical outcomes of the strategy, specifically whether Better Pathways has been successful in addressing its fundamental objectives. Importantly, further information about Better Pathways would no doubt address a critical gap that exists between policy and critiques of the strategy in practice.

¹⁴⁴ Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

¹⁴⁵ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

Questions for consideration

1. Has the Better Pathways Strategy achieved its key objectives?
2. What are the key programs and services that are delivered through Better Pathways?
3. How are the programs coordinated through the Better Pathways Strategy? Are they managed by Corrections Victoria or community based agencies?
4. How in practical terms have Better Pathways initiatives and programs addressed women's needs (especially those who experience substance dependency and mental health issues)?
5. How has Better Pathways impacted in practice in terms of addressing the special needs of ATSI and CALD women in prison?

6. Women in Prison: Community Concerns

Introduction

Corrections Victoria has made some headway in developing policies to address the needs of women with substance abuse problems in Victoria's correctional facilities. Nonetheless, many community groups, advocates of women prisoners and women who have experienced imprisonment have in submissions and meetings informed the Committee that the system still does not adequately address the complex needs of incarcerated women. In particular, they have raised concerns about the adequacy, quality and accessibility of health care, the quality and accessibility of drug treatment and related programs and women's safety and wellbeing in prison. These concerns are discussed below.

Historical background

Community concerns presented in submissions and evidence provided to the Committee must be considered in the context of a history of advocacy and campaign work focused on the conditions and differential punitive treatment experienced by women in Victorian prisons. Much of this work dates back to the 1980s and 1990s. There was, for example, much advocacy and campaign work in the 1980s focused on conditions in the main Fairlea Women's Prison, and on issues such as access to children and classification, and the implications of housing women within male prisons, including B Annex and K Division at the main maximum-security Pentridge Prison (see Cotter 2008; Hampton 1993; Russell 1998).

Community concerns escalated in the 1990s in response to privatisation and the opening of the first private women's prison, the Metropolitan Women's Correctional Centre (MWCC) (now Dame Phyllis Frost Centre (DPFC)). Issues of concern with regard to the MWCC included mismanagement by senior level staff; under-resourcing of prison health services; unprecedented levels of self-harm among women; violence between women prisoners; over-crowding; the over-use of in-prison medications; frequent lockdowns; disproportionate use of disciplinary measures and force; and high rates of post-prison death among women with drug histories (see George 2002; see also Davies & Cook 2000). In 1999 the State Government used emergency powers to take over management of the prison. Whilst this action addressed the immediate crisis associated with privatised management during this time, community representatives and advocates have continued to raise issues about the differential treatment of women in Victorian prisons.

The 2006 Equal Opportunity Commission Victoria Report

In 2006 the Equal Opportunity Commission Victoria (EOCV) reported on women prisoners in Victoria. It presented a significant milestone insofar as it addressed issues pertaining to gender discrimination in the women's prison system. The report also coincided with the launch and implementation of the Department of Justice Better Pathways Strategy.

The EOCV report comprised a response to a complaint lodged with the EOCV by the Federation of Community Legal Centres (FCLC) and the Victorian Council of Social Services (VCOSS), which requested a systematic review of discrimination against women

in Victorian prisons (EOCV 2006). The substance of the complaint was that women in Victorian prisons were discriminated against in the following areas:

- access to health services;
- the classification systems for prisoners, which were modelled on male prisoner behaviours and automatically classified remand prisoners as ‘high risk’;
- confinement at a higher security level than justified by rating, especially at DPFC where non-maximum security prisoners were detained in a maximum security setting;
- excessive management and discipline, particularly for women with mental health problems, from culturally and linguistically diverse (CALD) backgrounds, and in relation to use of force;
- the excessive use and effects of strip searches;
- restrictions on release from prison programs, based on male prisoner behaviours;
- access to educational and employment services;
- family visits and closure of the Family Reunification program at DPFC (not men’s prisons);
- treatment of Indigenous women prisoners;
- treatment of women prisoners from CALD backgrounds;
- treatment of women prisoners with mental illnesses; and
- treatment of women prisoners with intellectual disabilities (FCLC & VCOSS 2005).

The outcome of the EOCV report was that while it found prima facie evidence of discrimination based on the FCLC and VCOSS (2005) submission, it decided not to seek the Attorney-General’s permission to conduct an investigation. This decision was based on the belief that the Justice Department had established a range of initiatives to improve the delivery of correctional services to women, particularly through Better Pathways. The EOCV also held the view that a ‘collaborative approach between Corrections Victoria and [EOCV] toward the development and implementation of an audit tool would be potentially more effective in tackling any policies, practices or facilities that may systematically discriminate against women prisoners’ (EOCV 2006, p.40).

The EOCV indicated that it did not to seek consent to conduct an investigation at this time as it understood that an audit of women’s prisons would be undertaken (EOCV 2006). This audit would be independent, transparent and publicly available, led by expert advice in relation to applying anti-discrimination and human rights principles, and which would ‘identify the measures necessary to eliminate and avoid discrimination in the infrastructure, policies and procedures applying to women in prison’ (EOCV 2006, p.41). It is not clear from the evidence presented to the Committee whether such an audit has taken place.

Since the EOCV report, the Department of Justice has focused on the provision of services and addressing women’s needs through the Better Pathways Strategy. However, many

community groups believe that a number of the issues raised by the EOCV report mirror ongoing inadequacies and issues in the treatment of women in prison.¹⁴⁶

The Charter of Human Rights and Responsibilities Act 2006

The Better Pathways Women's Correctional Services Framework is informed by key policies and legislative instruments relevant to women-specific correctional service delivery.¹⁴⁷ The *Charter of Human Rights and Responsibilities Act 2006* contains reference to protections that are relevant to women in prison including:

1. recognition of equality before the law, which is critical given the historical orientation of the criminal justice system and corrections towards male offenders/prisoners (s8);
2. protection from torture and cruel, inhuman or degrading treatment (s10);
3. protection of families and children (s17); and
4. humane treatment while deprived of liberty (s22, includes unsentenced prisoners and offenders on remand).

While the Better Pathways policies are structured with reference to these mechanisms, community organisations continue to be concerned that the current system does not always address women's human rights.¹⁴⁸ For example, Sisters Inside contend that there has been no substantial improvement in meeting the human rights of women in Victorian prisons since the EOCV report and the implementation of the Better Pathways Strategy. Sisters Inside stated that breaches of human rights fall into three categories and include:

1. treatment that fails to meet agreed human rights standards;
2. mandatory strip-searching, which falls within the United Nations Committee Against Torture definition of torture; and
3. failure to provide services required to address recidivism.¹⁴⁹

Women's health in prison

The 2003 *Victorian Prisoner Health Survey* revealed that women in prison are more likely to report weight loss, bruising, neurological symptoms such as headaches, dizziness and tremors. It was further reported that over 60 percent of women attempted suicide and 25

¹⁴⁶ See, for example: Submissions from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; Inside Access/Mental Health Legal Centre; Darebin Community Legal Centre; Federation of Community Legal Centres (FCLC); and joint submission from Flat Out and Centre for the Human Rights of Imprisoned People (CHRIP); to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁴⁷ Including international, national and state human rights and anti-discrimination legislation. See *Better pathways in practice: The Women's Correctional Services Framework*, Accessed at <http://www.justice.vic.gov.au/> 20 August 2010.

¹⁴⁸ See the joint submission from Flat Out and CHRIP and the submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁴⁹ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

percent indicated that their thoughts of suicide increased post-release.¹⁵⁰ Women also experience reproductive and gynaecological health issues associated with pregnancy, past experiences of sexual abuse and assault that require specialised care in prison.

A direct impact of drug-related offending and substance use on women prisoner populations is the transmission of blood borne viruses such as Hepatitis C virus (HCV).¹⁵¹ Injecting illicit drugs and sharing syringes and other injecting equipment is the most common source of infection for people with HCV. National statistics confirm that women experience higher rates of HCV than other prisoners (AIHW 2009). A submission from the Mental Health Legal Centre reported that 83 percent of women in Australian prisons with a history of injecting drug use have tested positive for the virus.¹⁵² In Victoria the rates of HCV among women have been reported as high as 93 percent.¹⁵³

Aboriginal and Torres Strait Islander (ATSI) women are more chronically unwell than non-Indigenous women and experience higher rates of mental illness, drug-related disorders and chronic conditions such as hepatitis and asthma. The AIHW (2009) reported that the ATSI prison population experience mental health issues disproportionately. The link between the prevalence of mental health issues and suicide risk/deaths in custody among ATSI prisoners was also highlighted.¹⁵⁴

Women and health services in prison

Recognising that women (and men) have high and complex health needs in prison, in 2007 the Victorian Department of Justice established the specialised Justice Health Unit. Justice Health took over responsibility for health services previously discharged by Corrections Victoria and the Department of Human Services.

Despite this welcome approach to specialise justice health services, there are still a number of problems associated with delivering optimal health services to women in prison. Some of these are to a certain extent out of the control of the State Government.¹⁵⁵ For example, women in prison are not able to access Medicare. When Dr Stuart Kinner from the Burnet Institute gave evidence to the Committee he criticised this situation:

All prisoners in Australia, including in Victoria, are excluded from Medicare and the pharmaceutical benefits scheme, which is very problematic.

The Public Health Association of Australia has written to the federal health minister on this issue, and she has clarified that the reason behind this, because of the Health Insurance Act

¹⁵⁰ Department of Justice Victoria 2003, *Victorian Prisoner Health Survey*, cited in the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁵¹ See submissions of Mental Health Legal Centre; Harm Reduction Victoria; and Jesuit Social Services to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁵² Submission from the Mental Health Legal Centre to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁵³ Submission from Jesuit Social Services to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010. See also the comments of Dr Stuart Kinner of the Burnet Institute reproduced in Chapter 4 of this Report.

¹⁵⁴ Submission from the Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁵⁵ Correspondence from Mr Robert Hastings, Commissioner, Corrections Victoria, to the Drugs and Crime Prevention Committee, 16 August 2010.

1973, is there is effectively a provision to prevent double-dipping; in other words, if the states are providing a service, then the person is not eligible for that service under Medicare.

An assumption is therefore that the states are providing a service that is comparable to what would be available if the person was able to access Medicare and the PBS, and that is clearly not the case... For example, Indigenous health screens are absent, so there are a number of very significant areas where prisoners are not able to access what would be available to them if they did have access to the same health services as the rest of the community.¹⁵⁶

The AIHW (2009) national survey on prisoner health reports that in spite of women's needs, trend data indicates that women are less likely to access services and that women's health issues in prison are more often likely to be treated by nursing staff than doctors. This has been the case in Victoria where women have been guided through a triage system in which they are reviewed by a nurse who then makes a decision about whether the issue is serious enough for referral to a doctor or specialised services (VCOSS & FCLC 2005). Justice Health has argued that this system is perfectly suited to meet the medical needs of women in prison, informing the Committee that:

- Systems are in place to prioritise/triage prisoners seeking/requiring health care according to clinical need.
- This triage process is similar to that which occurs in an Accident and Emergency Department.
- No prisoner is denied access to a doctor.
- Explanations are provided to prisoners about any delays in accessing health services, including any waiting times which may apply.¹⁵⁷

Some community activists have submitted that women in Victorian prisons do not receive a level of care that is commensurate with their needs and that often prisoners' mental health and wellbeing are largely monitored by general prison staff (VCOSS & FCLC 2005).¹⁵⁸ In the past, referrals and placements for special treatment in for example the pharmacotherapy program have been arbitrary and discretionary, often resulting in the denial of treatments necessary to women's health and wellbeing in prison (VCOSS & FCLC 2005). Due to the breadth of the issues canvassed in this Inquiry, the Committee has limited detailed information to shed light on how these issues have been reconciled in the system post-Better Pathways. Clearly there is need for further examination of these issues.

Health services for women of CALD backgrounds

Anecdotal information suggests that in prison there is a lack of women's health information in languages other than English, a lack of interpreters for medical appointments, discomfort with male doctors and difficulty in accessing female doctors, and racial discrimination (VCOSS & FCLC 2005). A recent report on CALD women in prison (Centre for the Human Rights of Imprisoned People (CHRIP)/Monash Springvale Legal Centre 2009) has found that in spite of the increasing CALD women's prison population,

¹⁵⁶ Dr Stuart Kinner, Senior Research Fellow, Centre for Population Health, Burnet Institute, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

¹⁵⁷ Correspondence from Mr Robert Hastings, Commissioner, Corrections Victoria to the Drugs and Crime Prevention Committee, 16 August 2010.

¹⁵⁸ See also the joint submission from Flat Out and CHRIP and submission from Victorian Legal Aid to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

very little has changed. Whilst the Department of Justice Victoria has increasingly adopted a language of cultural inclusiveness and respect for diversity, this has not been translated into practical provision of culturally appropriate services and programs (CHRIP/Monash Springvale Legal Centre 2009).

The appointment of Vietnamese support workers for DPFC and Tarrengower prisons and the use of programs such as the Indochinese Entering Community Corrections (INDECOS) program are positive steps towards accessing appropriate services for women in prison and post-release. However according to some observers many problems still remain, not the least of which is sufficient culturally appropriate services available to cater for the mental health needs of increasing numbers of CALD and Indigenous women.¹⁵⁹

Substance addiction: In-prison drug treatment & rehabilitation programs

Current program responses to substance abuse issues in Victorian women's prisons include the Opioid Substitution Therapy Program and a range of other drug and alcohol programs. These complement programs delivered through Better Pathways, some of which result from the Victoria Prison Drug Strategy.¹⁶⁰

Opioid substitution therapy program (OSTP)

Corrections Victoria stated that the OSTP program is available for 'eligible drug dependent prisoners' but it has been criticised for a lack of clarity about exactly how eligibility is determined. While it is mentioned that remand prisoners can qualify for treatment, this is only if they have been receiving treatment in the community. Moreover, stating that women can be eligible if they are assessed as being vulnerable to drug-related harm while in prison suggests there is a level of discretion involved in determining eligibility.

Corrections Victoria rejects the criticism made of having only limited services available for women who are on remand or in prison for short sentences. It informed the Committee that a number of factors needed to be taken into account, including the following:

- All women in prison and on remand have access to general drug and alcohol services, including health care and individual counselling.
- The methadone program is available to all eligible women. There are no exclusions based on length of sentence.
- Women who were on opioid substitution therapy prior to being remanded or entering prison can also continue that treatment.
- Therapeutic programs usually require disclosure of drug taking behaviour and an acknowledgement of the role of drugs in offending. In general, programs cannot be provided to women who have not been sentenced (i.e. are on remand), because there is a significant risk of self-incrimination.
- Programs are available to all women in prison, but participation is determined by program availability and an assessment of individual suitability.
- Some programs require a minimum timeframe to be delivered, so cannot be offered to women (with) sentences that are too short to enable completion.

¹⁵⁹ See Ms Sam Sowerwine, Co-ordinator, Inside Access program, Mental Health Legal Centre, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

¹⁶⁰ Submission from Corrections Victoria, Department of Justice Victoria, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, August 2010.

- Participation in drug and alcohol programs requires that the participants are in a state of readiness and are able to engage with the program. This means that in some cases it may not be appropriate for a person to be immediately enrolled in a program, even where they have a sentence nominally long enough to complete it.¹⁶¹

Drug and alcohol programs

In addition to the OSTP, the Department of Justice Victoria details a series of drug and alcohol programs managed by specialist community-based drug and alcohol service providers. The Committee understands that Caraniche serves as the major provider of these programs. The programs include:

- individual counselling;
- a 24-hour program which aims to introduce women to issues around drug use such as understanding feelings, relationships, coping strategies, emotional regulation and relapse prevention skills;
- a 40-hour intensive program to assist women to address underlying issues underpinning substance abuse, examining life patterns, self-awareness and responsibility;
- drug treatment unit (6–8 month intensive program) – a 10-bed residential unit within the prison, which involves structured activities and regular drug screening.¹⁶²

Concerns relating to drug and alcohol programs

General concerns have been raised in submissions about the accessibility of drug programs in prison and the risk associated with the lack of a coordinated approach for dealing with women who come into prison with serious drug addictions. In their submissions, Sisters Inside, Anex and Jesuit Social Services highlighted that women entering prison under these circumstances often have to go through withdrawal with little or no medical assistance.¹⁶³ Sisters Inside contends that this places women at risk as it can result in women accessing and using illicit drugs in prison.¹⁶⁴

Much criticism has been levelled at the inaccessibility of pharmacotherapy or OSTP. Harm Reduction Victoria (HRV) argued that pharmacotherapy is the preferred treatment and its availability in prison is in no way commensurate with treatment options available in the community.¹⁶⁵ HRV stated that while important developments have been made in terms of the expansion of OSTP at DPFC and Tarrengower, demand continues to outstrip supply

¹⁶¹ Correspondence from Mr Robert Hastings, Commissioner, Corrections Victoria to the Drugs and Crime Prevention Committee, 16 August 2010.

¹⁶² Submission from Corrections Victoria, Department of Justice Victoria, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, August 2010.

¹⁶³ Submissions from Anex; Sisters Inside; and Jesuit Social Services; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

¹⁶⁴ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

¹⁶⁵ Submission from Harm Reduction Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

and there are lengthy waiting periods to commence programs.¹⁶⁶ Anex raised the concern in its submission that women on remand and those serving short sentences are insufficiently catered for. Moreover, it is the understanding of Anex that unless women have been on opioid replacement therapies in the community they find it difficult to get on to OSTP once in prison.¹⁶⁷ Corrections Victoria acknowledged that the recent increase in women prisoner numbers is placing pressure on existing treatment and support services, with limited resources resulting in waiting lists for some services.¹⁶⁸

The Committee also received evidence from Corrections Victoria that since the 2006 EOCV report the Better Pathways program has overseen the implementation of additional therapeutic programs to address women's needs. These include the Marmak mental health unit at DPFC; the extension of drug treatments and pharmacotherapy; drug and alcohol education and counselling programs. The Committee welcomes more information about how specific programs and services work in practice from the perspective of Corrections and also support providers, imprisoned women and their advocates. The prevailing general view among community organisations presented in submissions is that in spite of recent initiatives through the Department of Justice, there *are* problems in terms of accessibility and appropriateness of existing services and programs.¹⁶⁹ Two areas where women's needs are acute are in prison treatment responses to women's substance-related disorders and mental health issues.¹⁷⁰

In response to these claims of inadequate services, Corrections Victoria told the Committee that for women, treatment for drug and alcohol issues is exceptionally complex and the take-up rate for intensive treatment in Victorian prisons has historically been relatively low. It stated that consequently there are a number of challenges impacting on successful treatment, including:

- Women must be sentenced, and this sentence must be three months or more, which restricts the ability of women who serve short episodes on remand or under sentence to access these programs.
- As programs target women with high risks and needs, many are not eligible and research suggests that putting lower risk women in intensive programs may actually increase their risk of re-offending.
- Eligible women often have a lack of motivation or are not treatment ready due to a range of external factors such as relationship and financial stressors, the impacts of past trauma or an ongoing enjoyment of substance abuse.¹⁷¹

¹⁶⁶ Submission from Harm Reduction Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, July 2010.

¹⁶⁷ Submission from Anex to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁶⁸ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹⁶⁹ See for example: Joint submission from Flat Out and CHRIP and submissions from Federation of Community Legal Centres; Victorian Legal Aid; Mental Health Legal Centre; Australian Community Support Organisation Inc; Harm reduction Victoria; RV; and Victorian Aboriginal Legal Service; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁷⁰ See, for example, submissions from: Sisters Inside; Melbourne Citymission; Jesuit Social Services; Mental Health Legal Centre; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁷¹ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

Poly-drug use

Another important issue raised is that the existing in-prison drug treatment programs do not address the issue of poly-drug use; that is, the use of multiple licit and illicit substances.¹⁷² Research suggests that women with substance abuse problems will take a cocktail of substances, which increases the risk of harm and overdose whether in prison or after release (Davies & Cook 2000; Graham 2003). As Dr Stuart Kinner from the Burnet Institute told the Committee, poly-drug use amongst women prisoners is absolutely normative ‘so to talk for example about a heroin user or an amphetamine user is increasingly a bit of a limited concept’.¹⁷³ The issue of poly-drug use is also linked to the issue of prescription drug abuse.

Prescription medications

Anecdotal evidence suggests there is a relationship between the use of prescription treatments in prison and high-risk abuse of these substances in prison and after release.¹⁷⁴ A significant issue raised by Australian Community Support Organisation (ACSO) is that often the response to women identified with mental health issues is to treat them with excessive prescription of medications such as benzodiazepines. ACSO reported anecdotal evidence suggesting that women are heavily medicated throughout their sentence and there is a belief that this is to maximise women’s behavioural compliance. Further, there is concern that in many cases the dosage of medications is not gradually reduced in the lead up to release and as these medications are highly addictive women are released into the community with withdrawal symptoms. Research demonstrates that this places them in a position where they will ‘doctor shop’ to obtain prescription medications or return to illicit drug use. Such activities place women at considerable risk of poly-drug use and potentially lethal overdose (Davies & Cook 2000; see also Graham 2003). Whilst such claims are clearly of concern, further research is needed to examine the extent to which this is still the case.

Mental health care in prison

Corrections Victoria stated in its submission that while high co-morbidity of drug issues and mental illness among women is recognised, ‘Due to the high co-morbidity of drug issues and mental illness, some women spend their entire sentence receiving treatment and treatment compliance for mental illnesses, which is the treatment priority’.¹⁷⁵ Mental Health Legal Centre is critical of this approach and argues that existing treatment programs cannot be effective if they are unable to address the inter-related nature of the issues and health conditions faced by women. Dr Stuart Kinner also expressed concerns when he gave evidence to the Committee in June 2010. He quoted the *United Nations Basic Principles for the Treatment of Prisoners* in which it is stated that ‘the prisoner shall have access to

¹⁷² See submissions from Australian Community Support Organisation, Harm Reduction Victoria and the joint submission from Flat Out and CHRIP, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, June 2010.

¹⁷³ Dr Stuart Kinner, Senior Research Fellow, Centre for Population Health, Burnet Institute, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, 16 June 2010.

¹⁷⁴ See submission from Australian Community Support Organisation and the joint submission from Flat Out and CHRIP, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, June 2010.

¹⁷⁵ Submission from Corrections Victoria, Department of Justice to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

health services available in the country without discrimination on the grounds of their legal situation'.¹⁷⁶ In his view prisoners in Victoria are not necessarily always accessing optimal health care whilst incarcerated and this is particularly true of mental health services. As most prisoners return eventually to their community it is in the best interest of society that their health needs are met. In this sense, 'prison health is public health'.¹⁷⁷

Dame Phyllis Frost Centre Marmmak Mental Health Unit

The Marmmak Unit has been established under Better Pathways to provide specialist coordinated in-prison care to women experiencing mental health issues. Marmmak provides an integrated mental health service with a 20-bed inpatient unit (that will be extended to 40 beds); outpatient service; outreach service; and day program. The principles governing service at the Unit are:

- health service delivery is informed by evidence-based best practice;
- services are responsive to age, cultural and linguistic diversity, Koori and prisoners with a disability;
- confidentiality and privacy of prisoners is maintained;
- women are encouraged to make informed decisions about their health care;
- qualified health professionals make decisions based on clinical assessment; and
- professional independence of health professionals is not compromised by virtue of their employment within a correctional setting (Mistry & Bonnet 2007).

The Committee has not been given detailed information about how Marmmak operates in practice, however general concerns have been raised about the quality of mental health care provided to women at the DPFC. The Mental Health Legal Centre, for example, detailed a range of shortcomings in its submission:

- breakdowns in communication between service providers which hinder coordinated treatment and support;
- cultural gaps in the provision of services for ATSI and CALD women;
- stigma about mental health treatment leading to reluctance for women to engage with service providers;
- lack of beds at Thomas Embling;
- lack of access to long-term intensive treatment in prison; and
- concerns about the diversion of medication limits access to certain kinds of medication, in particular pain killers.¹⁷⁸

¹⁷⁶ United Nations 1990 *Basic Principles for the Treatment of Prisoners*, quoted by Dr Stuart Kinner, Senior Research Fellow, Centre for Population Health, Burnet Institute, in evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

¹⁷⁷ Dr Stuart Kinner, Senior Research Fellow, Centre for Population Health, Burnet Institute, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

¹⁷⁸ Submission from Mental Health Legal Centre to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

Despite these concerns the Committee appreciates that efforts have been made since the Equal Opportunity Commission Report into women prisoners in Victoria¹⁷⁹ to improve mental health services for women in prison. The Committee for example visited the Thomas Embling Hospital and was impressed by the therapeutic and non punitive approach taken by staff in addressing women's mental health needs. The Committee believes that this is an appropriate model on which to base the delivery of mental health services.

Other treatment and support interventions

The Department of Justice outlined other programs available in prison to meet underlying needs associated with women's mental health and substance addiction, including:

- individual counselling and 'distress' sessions dealing with issues related to drug use;
- the Making Choices for Women Program, which takes a holistic and gender focused approach to addressing women's violent offending;
- Cognitive Skills Program, which aims to improve problem solving skills in order to address offending behaviour;
- a Pilot Domestic Violence Program for women to address experiences of abuse both in childhood and adulthood and its impacts on subsequent offending behaviour;
- support services for sexual assault victims (provided by the Centre Against Sexual Assault);
- quit smoking program; and
- financial counselling.¹⁸⁰

In response to the general criticisms made of the delivery of health and mental health services in the prison environment, Corrections Victoria stated that the standard of medical and health care delivered to women in prison is at the very least equal to that found in the general community:

Justice Health's health care standards were revised in 2009, and are based on the standards of care expected in the community. Although there are inherent constraints and operational requirements in correctional settings, health care delivery in correctional health settings should reflected commonly accepted practice in the community.

Similarly, our standards for mental health and AOD [alcohol and other drugs] treatment services are based on the principle of community equivalence.¹⁸¹

Responses to drugs in prison

Another area pertinent to the Terms of Reference of this Inquiry is the issue of prison contraband, specifically the supply and abuse of drugs in the women's prison environment.

¹⁷⁹ See discussion earlier in this chapter.

¹⁸⁰ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹⁸¹ Correspondence from Mr Robert Hastings, Commissioner, Corrections Victoria, to the Drugs and Crime Prevention Committee, 16 August 2010.

Anecdotal information provided to the Committee confirms that illicit drugs are continuing to get into the women's prisons in spite of stringent security and control measures.

The 2002 Victorian Prison Drug Strategy

The Victorian Prison Drug Strategy presents the approach subscribed to by Corrections Victoria to address drug issues in prisons.¹⁸² The Strategy necessitates four goals, including:

- supply control – preventing drugs from entering prison;
- detection and deterrence – detecting and deterring drug use and drug trafficking within Victorian prisons;
- treatment – the provision of effective treatment and harm reduction initiatives; and
- health and safety – reducing health and safety risks to prison staff, prisoners and society associated with prison drug activity.

Central to the supply of control is the use of barrier control activities, random and targeted urinalysis and strip-searching.¹⁸³ The Committee understands that new body scanning technology is currently being trialled. However, it is unclear whether this technology will replace strip-searching or serve as an additional method of detection.

Mandatory strip-searching

Submissions and verbal evidence to this Inquiry suggested that strip-searching and urine testing continue to be carried out in a manner that is invasive and distressing to women. Mandatory strip-searching is a key method of detection used in women's prisons and has been subject to significant criticism (McCulloch & George 2008).¹⁸⁴ In 2006 the Anti-Discrimination Commission in Queensland (ADCQ) found that the practice of strip-searching was discriminatory toward women and should be abolished (ADCQ 2006). However, it has been stated that strip-searching is carried out as standard practice in most prisons and in the absence of reasonable suspicion that a prisoner is concealing contraband.¹⁸⁵

In response, the Department of Justice Victoria maintain that strip-searching comprises a necessary practice to detect contraband and that since the implementation of Better Pathways, strip-searching is now carried out in a 'gender sensitive' manner.¹⁸⁶ This has been achieved by reducing the number of strip searches made, carrying out searches by

¹⁸² Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹⁸³ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹⁸⁴ See also the submission from Sisters Inside and the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁸⁵ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁸⁶ Submission from Corrections Victoria, Department of Justice to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

same sex staff and the use of ‘top-bottom’ searches (removal of clothing on top and bottom separately).¹⁸⁷

Nevertheless, Sisters Inside claimed that mandatory strip-searching generates fear and functions as a form of punishment of women prisoners. They believe that strip-searching is a deliberate and degrading policy that reflects a lack of respect for women’s dignity and constitutes a serious breach of human rights.¹⁸⁸

In response, Corrections Victoria stated that it is continually looking at ways to reduce the intrusiveness and indignity of its strip-searching procedures. For example, the DPFC will be trialling the use of body scanning security technology that detects both metallic and non-metallic items concealed on and within the body.¹⁸⁹

Ombudsman report – contraband entering a prison and related issues

The Ombudsman Victoria (OV) launched an investigation into contraband entering the DPFC after receiving several complaints from DPFC employees in the first half of 2007. The OV investigation examined contraband control procedures, including the use of searches, urine testing, and the handling of contraband items seized. The OV also examined the recording and use of prison intelligence, responses to allegations of misconduct or corruption by prison officers, and the conduct and history of prison officers and correctional services staff at DPFC (Ombudsman Victoria 2008).

The OV found substantial deficiencies in the processes intended to detect and intercept contraband entering the prison (including falsified search documentation). There were failures in the management and handling of contraband items, beginning with deficiencies in the Seizure Register and the evidence bags used by prison staff and escalating to problems of accountability for items and storage arrangements for seized items (Ombudsman Victoria 2008). The OV’s report indicated that the Department of Justice’s own statistics supported the view that the low figures for positive drug tests and contraband seizures would ‘seriously underestimate or distort’ the true nature and extent of the problem (Ombudsman Victoria 2008, p.39).

Responses to the Ombudsman report and subsequent drug-related incidents at DPFC

In a follow-up report in 2010 the Ombudsman noted that Corrections Victoria had accepted and implemented all recommendations by December 2009 (Ombudsman Victoria 2010). In spite of such efforts it was publicly reported in September and October 2009 that the trafficking of pure heroin into DPFC resulted in several overdoses. The Ombudsman referred to these developments and stated that the Office of Correctional Services Review (OCSR) would investigate these incidents and complete its report in 2010.

¹⁸⁷ However, the effectiveness of strip-searching as a measure for contraband detection has been frequently called into question (see for example, submissions from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; Sisters Inside; and the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.) Data from Victoria from 2001-2002 found that within DPFC each woman was on average strip-searched 93 times with only one item of contraband found. (Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.)

¹⁸⁸ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁸⁹ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

In its submission to this Inquiry, Corrections Victoria attributed the 2009 heroin-related incidents at DPFC to a ‘single incident of prisoner contact with an international drug courier at the Melbourne Custody Centre’, resulting in heroin being trafficked into the prison.¹⁹⁰

While Corrections Victoria attributes this particular incident to prisoners, recent events reported in the media with regard to the former DPFC prison officer who is currently facing trafficking charges suggest the problem is more widespread. However, whilst acknowledging this particular incident, Corrections Victoria in correspondence to the Committee, maintained that this was a single and isolated case:

In the last two years, there has been one instance where a staff member was charged with trafficking drugs into a prison – this is the case reported recently in the media, involving a staff member from the Dame Phyllis Frost Centre. The officer was immediately suspended and his services have since been terminated.¹⁹¹

Corrections Victoria explained that there is a range of ‘barrier control and detection measures in place to minimise the introduction of contraband, including drugs, into prisons.’¹⁹² However they have not implemented a program of random urine drug testing of staff because it is:

...not believed to be consistent with current industrial arrangements. Corrections Victoria is careful not to make assumptions about a nexus between drug use by staff and the propensity for staff to traffick drugs into prisons.¹⁹³

[Un]employment and cycles of poverty

A lack of meaningful employment is one of the main factors contributing to why women may re-offend. In 2009 Corrections Victoria reported that 67 percent of women were unemployed prior to entering prison.¹⁹⁴ Other research studies have typically found female unemployment rates of between 50 percent and 75 percent prior to imprisonment.¹⁹⁵ A lack of employment also reduces the options of independent and affordable housing on release from prison. A submission from ACSO (Australian Community Support Organisation) outlined how the employment histories of ACSO’s female offender client group tend to be concentrated in unskilled areas with low wages, including ‘cash in hand’ work, which is valued in order to avoid a decline in income support entitlements:

Employers can exploit these workers as they know that they are unlikely to lodge complaints with authorities about sub-standard or unsafe work conditions, due to the fear of

¹⁹⁰ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

¹⁹¹ Correspondence from Ms Jan Shuard, Acting Commissioner, Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, 31 August 2010.

¹⁹² Correspondence from Ms Jan Shuard, Acting Commissioner, Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, 31 August 2010.

¹⁹³ Correspondence from Ms Jan Shuard, Acting Commissioner, Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, 31 August 2010.

¹⁹⁴ Cited in submission of Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁹⁵ See studies cited in submission of Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

being 'dobbed in' for non-disclosure of income to Centrelink or the Australian Taxation Office.¹⁹⁶

Other women may have to rely on illegal employment both before entering and after leaving prison such as sex work in unlicensed brothels or on the streets with the concomitant risk of sexual and physical violence and exploitation that may entail. This may be particularly the case if the woman needs to support both her own and her partner's drug habit.¹⁹⁷

Sisters Inside state in their submission that the provision of education and productive employment for women prisoners plays a key role in improving the post-release prognosis for both women and their children:

Recidivism rates amongst participants in prison education, vocation and work programs have been found to be significantly lower than non-participants. The evidence suggests that outcomes are even more pronounced for women prisoners than men. At least 80% of Victorian women prisoners are the primary carers of dependent children, and the family breadwinner. An investment in women's education, and consequent job opportunities, can have a significant impact on both women and their children.

Employment skills development and other educational opportunities for women in Australian prisons fail to meet international human rights standards. Women repeatedly report that limited opportunities are available, and that most employment is in low-skilled, gender stereotyped areas. These programs are even more inaccessible to the majority of prisoners who are further disadvantaged by their race, disability or age. The quality of so-called educational programs directly provided by corrections authorities has been widely found to be particularly unacceptable. In particular, these programs, which were designed for non-Indigenous male prisoners, almost completely fail to address the criminogenic profile of women prisoners.¹⁹⁸

As such, Sisters Inside advocate that women should be provided with access to programs and services, including education, vocational training (and employment), that enable them to develop appropriate skills and abilities to lead law abiding lives when they return to the community. According to Sisters Inside the provision of such assistance is a fundamental feature of the *Revised Standard Guidelines for Corrections in Australia* (the Guidelines):

Availability of educational opportunities, including full time study and numeracy/literacy programs are encouraged by the Guidelines. Employment should enable women to acquire skills that are in demand in the employment market so they have real employment opportunities upon release including opportunities to achieve national competency accreditation. The Guidelines state that work should be free of gender stereotyping. Further, they advocate quality programs and services to address criminogenic needs.¹⁹⁹

Similarly Melbourne Citymission believes that periods spent in custody should be utilised effectively by providing women with the opportunity of continuing or finishing their education:

¹⁹⁶ Submission from the Australian Community Support Organisation (ACSO) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁹⁷ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁹⁸ Submission of Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

¹⁹⁹ Submission of Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

There should also be an opportunity to engage in employment training so that when people exit custody they have an opportunity to gain employment which will not only have positive outcomes not only to the individual but to the community. When someone is employed more often than not have some purpose. Self esteem and self worth is enhanced. Employment enables independence and less reliance on a system. Employment is also a vital and integral component of integration. It is well documented that people in prison have low levels of education and employment and in acknowledging that it is imperative in achieving optimal outcomes...Once again this is not only a benefit to the individuals but also a social and economic benefit to the community.²⁰⁰

The employment program delivered by Melbourne Citymission 'Women 4 Work'²⁰¹ identified that women engaged in employment for 16 weeks or more do not reoffend:

They become independent, are able to secure affordable accommodation and more importantly they develop a sense of self worth and value in the community. Feeling valued and part of the community is an enormous factor in reducing reoffending.²⁰²

At the same time if women are performing work whilst in prison according to many prisoner advocates they should be better recompensed. For example the submission from Flat Out states:

Women are paid inadequate wages in prison that do not cover basic necessities such as hygiene products, as well as costs associated with maintaining family connections including phone calls to children, stamps, envelopes, etc.

Women have recommended that rates of pay be increased, with some pay allocated for post release so that they do not exit the prison system into extreme poverty. Women also recommend opportunities within the prison system to learn how to budget.²⁰³

Overall, many submissions to this Inquiry stress the benefit of providing *practical* vocational and educational support and employment assistance whilst in prison. Flat Out for example lauds the New Zealand approach that includes a greater focus on:

[t]he social and practical circumstance of women in prison, for example increasing employability by providing appropriate education in prison, rather than concentrating on individual psychological issues. Research shows that school-type education and prison-based employment programs both have a significant impact on reducing re-offending.²⁰⁴

Submissions were equally at pains to stress that an issue such as employment or unemployment could not be addressed in isolation from a range of other interconnected issues that impact upon women's successful reintegration post release from prison. For example meaningful employment is unlikely without at least rudimentary educational qualifications. Similarly women are unlikely to secure employment without stable

²⁰⁰ Submission of Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁰¹ See discussion in Chapter 7.

²⁰² Submission of Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁰³ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁰⁴ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

accommodation or housing. Continuing substance abuse may also jeopardise the prospects of securing housing, gaining a job and/or being reunited with any children in state care.²⁰⁵

Conditions in the women's prisons: General concerns

During the course of this Inquiry a number of specific concerns have been brought to the attention of the Committee with regard to women on remand or otherwise incarcerated in Victorian prisons. These include:

- the appropriateness of incarceration as an option for offending women;
- classification issues;
- women and their relationship with children;
- overcrowding;
- the structured day regime;
- a prioritisation of security over other needs and concerns;
- the needs of CALD prisoners not being sufficiently met; and
- public availability of corrections data and information.

Whilst the Victorian prison system, penal policy generally and programs to address women's offending and re-offending are recognised as among the more progressive in the country, it is nonetheless important that the Committee canvass community concerns about how women's needs and health issues are responded to, managed and treated, particularly with regards to substance addiction and mental health within the Victorian women's correctional system.

Classification of prisoners

Classification is a significant issue. Most women prisoners have no history of security breaches, management issues and compared to men are less likely to re-offend. Despite this, it has been argued that women are disproportionately classified as high-security prisoners.²⁰⁶ The classification system is a system used to categorise prisoners into groups, essentially to determine accommodation placement. Theoretically, a prisoner's security classification determines the type of prison in which they are imprisoned (VCOSS & FCLC 2005). However, the vast majority of women prisoners in Victoria are sent to the maximum-security prison DPFC irrespective of their classification status due to the fact that DPFC is the main women's prison (VCOSS & FCLC 2005). Tarrengower, the minimum-security prison, can only hold up to 54 women at present.

In 2003 it was reported that of all women classified at DPFC only 14.3 percent are classified as maximum-security, yet all women at DPFC are incarcerated under a maximum-security regime (VCOSS & FCLC 2005). A key concern was the disproportionate use of high-security classification and its impacts on the increasing

²⁰⁵ Joint submission of The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁰⁶ Submission from Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

proportion of women in Victorian prisons on remand and serving short sentences, particularly those women serving sentences with no history of prior imprisonment.²⁰⁷ In 2005 VCOSS and FCLC reported that 17 percent of women on remand were automatically given a maximum-security rating until they were sentenced. This meant that approximately 70 percent of women prisoners were at this time held in conditions of confinement at a level much higher than justified by the classification system.

Maximum-security carries with it a series of security constraints that impact on women's access to programs, phone calls and visits. VCOSS and FCLC (2005) made the point that in determining a woman's classification there is a lack of consideration for a woman's role as mother and how classification will affect access to her children. Maximum-security conditions impact significantly on the way women are able to make contact and the frequency and conditions of visits with children.

Imprisonment and Children

Research highlights the detrimental impacts of legal and sentencing processes and women's imprisonment on children (Hannon 2007; Sheehan 2007; Graffam & Shinkfield 2006; Goulding 2004). A submission to this Inquiry from Flat Out stated that:

Given that approximately 575 women go in and out of prison each year is likely that some 400–600 children a year are affected by their mother's incarceration. Research in Victoria a number of years ago revealed that 32% of women prisoners are acutely traumatised by separation from their own children and concerns about where the children are being looked after and by whom whilst they are inside, apart from worries about how their children are being treated. Research has shown that women's children are women prisoners greatest source of stress and anxiety whilst in prison.²⁰⁸

In these contexts children experience emotional upheaval resulting from the changes and insecurity of their situation. As VCOSS reported, they have 'invariably had to move house, separate from siblings, have multiple and frequently changing carers (familial and state), while experiencing the grief of separation from their only parent, who they are rarely if ever able to visit and from whom they may lose permanent contact' (2005, p.12). Imprisoned women feel the separation from their children acutely, particularly when they have experienced past removal as children themselves. The Committee was told that trauma associated with removal of children by the Department of Human Services plays a pivotal role in drug use and abuse and women's drug-related offending.²⁰⁹

Such experiences place women at considerable risk both when they are in prison and post-release when they attempt to reunite (VCOSS 2005). In this regard Ms Samantha Sowerwine of the Mental Health Legal Centre told the Committee:

A lot of the clients we see have dependent children. That is the other issue with women going inside: they so often have dependent children. They go inside, the children are looked after by either a partner or a family member, but often DHS is involved, and so on release they are trying to get the children back, they are trying to get housing. Often they cannot get

²⁰⁷ See joint submission from Flat Out and CHRIP and the submission from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁰⁸ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁰⁹ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

their children back without the housing, but they also need to deal with their mental health and drug dependency so that DHS will let them have the children back.²¹⁰

Ms Laurel Gore, a senior women's prison support worker, explained to the Committee the physical separation of mother from child can lead to repercussions for parenting once the woman returns home:

They get out of prison and pick up the parenting role, but in that time the children have developed over those couple of years. They may have behaviour problems. The mother may be dealing with guilt issues herself, so she parents inappropriately because of her own guilt and her own issues. There are all sorts of things around that that add pressure that leads to women relapsing.²¹¹

The 'Structured Day' regime

The Committee has been informed that the 'structured day' was introduced in 2009. Corrections Victoria considers the 'structured day' to be an important initiative that encourages discipline and a positive work ethic in women. However, the new regime has engendered community criticism because it is a regime administered in the men's prison system and is inflexible to women's complex needs. The Committee received anecdotal information that because the structured day requires women to book appointments in advance, this can impact on support workers and advocates being able to access and make appointments with women. It can also create difficulties for women trying to make critical post-release arrangements, such as housing arrangements.

Impacts of overcrowding: Women's safety and wellbeing

The Mental Health Legal Centre expressed a belief that increased prison numbers in the system presents a key concern for the mental health, safety and wellbeing of women prisoners.²¹² Clients of the Centre claim that overcrowding results in reduced access to services including medical and psychiatric care. Moreover, the overcrowding of cells that were designed for one woman impacts significantly on safety, mental health and privacy of all women.²¹³

On the issue of overcrowding, the Department of Justice has outlined plans to extend prison infrastructure and programs.²¹⁴ While this may address immediate concerns about lack of prison cells and access to programs, many witnesses before the Committee believed the expansion of prison infrastructure and the spending of money this entails will not

²¹⁰ See Evidence from Ms Sam Sowerwine, Co-ordinator, Inside Access program, Mental Health Legal Centre, given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

²¹¹ In addition many women have not had the opportunity to learn parenting skills either before or during their detention nor have they been able to access forms of parenting support and training that other women may take for granted. Ms Laurel Gore, Senior Support Worker, Prison Network Ministries, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

²¹² Submission from Mental Health Legal Centre Service to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²¹³ Submission from Mental Health Legal Centre Service to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²¹⁴ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, August 2010.

increase or improve services needed to address the issues underpinning women's substance abuse and pathways to offending and re-offending.

The needs of CALD women

An increasing number of women from Indochinese and other CALD backgrounds are being incarcerated in Victorian prisons.²¹⁵ Clearly therefore a certain level of culturally appropriate service provision needs to be provided to these women, particularly to equip them for life after their prison sentences have been completed. Community agencies that work with Vietnamese women, for example, believe the key to successful integration for Vietnamese prisoners is their ability to gain productive, meaningful and relatively well paid employment. This can only happen, however, when the prisoner has reached a reasonable level of proficiency in the English language.

Ms Layla Vu, a training and outreach worker from the Australian Vietnamese Women's Association, believes it is essential that the training supplied to Vietnamese women in prison is practical and meets their needs for gaining meaningful employment once released from prison. She told the Committee:

I work on the INDECOS [Indochinese Entering Community Corrections] program for women and men on court orders, especially on parole. Women are very reluctant to take up social skills or interpersonal development programs and youth programs for enhancing self-esteem or even personal development. There is a very big reluctance, but when there is training that encompasses accredited modules that will lead them straight to full-time, stable employment, they will take it up on the spot, without hesitation. But a lot of those courses are not on offer; we do not have the resources to cover them. A lot of the courses that are covered are child care – a lot of the places they cannot access – so again they cannot break into mainstream employment.²¹⁶

Clearly English language training is an essential part of any support program for Vietnamese or indeed any other CALD women.²¹⁷ Poor proficiency in English also means that few Vietnamese offenders have a full or even partial understanding of the Australian legal system, including the significance of parole or probation. For example, Ms Layla Vu told the Committee that when the INDECOS program:

[f]irst started about 10 years ago there was a 67 percent breach rate in community correction orders; that is a very high percentage. When we invented the program what we found was that the majority of our clients that come in with a community-based order, intensive court order or even a parole order do not understand the conditions of the parole or the court order. So a lot of the time they would breach it or they would not turn up to appointments. They would not go to community work.

²¹⁵ See discussion in Chapter 4.

²¹⁶ Ms Layla Vu, Australian Vietnamese Women's Association, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

²¹⁷ Interestingly, Ms Cam Nguyen, Chief Executive Officer of the Australian Vietnamese Women's Association, told the Committee that she welcomes the introduction of compulsory English language courses for Vietnamese prisoners because without a good grasp of English it is almost impossible for Vietnamese women to gain the skills that may lead to reasonably well paid employment: 'When I heard that they had made it compulsory I said, "Great!" because the less educated a person is, the less willing that person is to learn, so you have to make it compulsory' (Ms Cam Nguyen, Chief Executive Officer, Australian Vietnamese Women's Association, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010).

There is a very limited understanding of the law, the conditions and the requirements. There are certain suburbs that they cannot enter, and they do not realise that. There are certain community hours that they must do, and they do not realise how important it is. There are some appointments in intensive court orders that are two times per week, and they do not see the importance because they have to work, they have family engagements and they have got other commitments in their lives, and they do not realise how important it is to follow. So a lot of these issues interlink, and it leads them to breach. Then they go back to court and they go into the system. Once they go into the prisons it is a very hard cycle to break, because mentally they have been ingrained in the justice system, where it is very hard to intervene.²¹⁸

However, since the advent of INDECOS and the provision of English language, correctional counselling and education and training services, particularly thorough the Australian Vietnamese Women's Association, the breach rate for parole and probation orders has decreased dramatically.²¹⁹

The appointment of the Vietnamese Liaison Officer (VLO), now at DPFC, has been the subject of concern among community groups (CHRIP/Monash Springvale Legal Centre 2009). A draft report by the Centre of Human Rights for Imprisoned People and Monash Springvale Community Legal Centre raised concern that the effectiveness of the role of the VLO could be compromised by the fact that it is a Corrections funded program and the VLO works as a Corrections staff member. They argue that the role of the VLO could have been more effectively carried out by a community organisation rather than through official program staff. While prison program staff are probably careful to maintain the confidentiality of the women, they are not perceived by the prisoner population as doing so (CHRIP/Monash Springvale Legal Centre 2009). The implications of such a concern can be illustrated through the example of the VLO being called upon to interpret matters for women of a personal nature (such as legal advice or medical issues) or where women may express concern or complaints regarding prison authority and management (CHRIP/Springvale Monash Legal Centre 2009). That is, the ability of the VLO to effectively advocate on behalf of women may be compromised, or thought to be compromised, by the Officer being a prison programs staff member, working for Corrections, which could be the subject of women's complaints.

Another issue raised by CHRIP/Monash Springvale Legal Centre (2009) is that there are no women currently employed as VLOs. While it is not suggested that the role of the VLO is carried out with anything less than professionalism, CHRIP/Monash Springvale Legal Centre point out that cultural barriers and gender roles may impact on the willingness of Vietnamese women to seek support regarding mental health, domestic violence and sexual violence issues. These have been reported as underlying factors leading to offending and imprisonment among CALD women, and given the importance of such issues CHRIP/Monash Springvale Legal Centre raised concerns about how effectively the VLO may be able to provide support to Vietnamese women in these circumstances (CHRIP/Monash Springvale Legal Centre).

²¹⁸ Ms Layla Vu, Australian Vietnamese Women's Association, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

²¹⁹ According to Ms Cam Nguyen, the breach rate has decreased from 67 percent to 7 or 8 percent in the last few years as a result of community outreach work by the Australian Vietnamese Women's Association in conjunction with other community agencies. Ms Cam Nguyen, Chief Executive Officer, Australian Vietnamese Women's Association, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

The appointment of Vietnamese support workers for DPFC and Tarrengower prisons and implementing programs such as INDECOS are positive steps in accessing appropriate services for women in prison and when returned to the community. However, according to community agencies many problems still remain in providing suitably culturally appropriate services available for CALD women in Victorian prisons and post-release.²²⁰

Public availability of corrections data and information

Concerns have been expressed in submissions and evidence provided to the Committee about the availability of corrections data and information in Victoria.²²¹ The Aboriginal Family Violence Prevention and Legal Service (AFVPS) stressed the importance of information, particularly demographic data, being available to inform and effect policy responses and strategies to address imprisonment rates.²²² AFVPS and Sisters Inside emphasised the need for Victorian and other national jurisdictions research and data that provides broader insights into the full range of issues contributing to women's imprisonment.²²³ A central concern raised was the unwillingness of Corrections Victoria to make publicly available the full Better Pathways evaluation undertaken by Price Waterhouse Coopers. It has been argued that Better Pathways is a significant policy designed to address shortcomings and problems in the women's prison system and so it is important that the public be able to assess its practical implications and outcomes.²²⁴ Concern about accessing the Better Pathways evaluation information is part of a broader concern related to the need for more publicly available information and data to shed light on issues associated with women's offending and imprisonment in Victoria.

Additional concerns

The Committee also received evidence of community concern with regard to a variety of issues pertaining to the imprisonment of women. These are:

- Women denied access to children as a result of disciplinary action;
- Women are not provided the same access to educational opportunities as men;
- Access to services and programs is limited;
- Women have to purchase their own toiletries;

²²⁰ See Ms Sam Sowerwine, Co-ordinator, Inside Access program, Mental Health Legal Centre, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

²²¹ See submissions from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; Aboriginal Family Violence Prevention and Legal Service; Sisters Inside; Victorian Aboriginal Legal Service; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²²² Submission from Aboriginal Family Violence Prevention and Legal Service to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²²³ See submissions from Aboriginal Family Violence Prevention and Legal Service and Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²²⁴ Submission from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

- Women are not able to call mobile phones and this impacts on their ability to connect with family, and children while also impeding their ability to establish contact with case workers and services to make housing arrangements for their release;
- Parole has shifted from a support focused model to a compliance focused model; and
- There is a lack of continuity with parole officers and there was one report where women have had 35 parole officers.

Clearly these issues require further investigation.

Conclusion

A concern central to the terms of reference of this Inquiry is the accessibility of health care and therapeutic programs for women prisoners, particularly those associated with substance addiction and mental health. The 2005–2009 Better Pathways Strategy resulted in the implementation of initiatives to address the specific needs of women prisoners, and recognising that the majority of women in prison have drug histories or substance addictions, the strategy included plans to extend in-prison drug treatment and pharmacotherapy programs. However, whilst the Committee commends the general direction of Better Pathways, it has also received considerable anecdotal information raising issues about the system's capacity to meet the demand for drug treatment, pharmacotherapy and mental health services. Moreover, there have been other related concerns expressed about the increasing number of women in the prison system; classification and its impacts on women's access to their children; the accessibility of health care; in-prison drug treatments; the circulation of drugs in DPFC and the prioritisation of security over other concerns (particularly in the area of drug detection); and women's general safety and wellbeing. The Committee believes it is important to obtain further material that may address these concerns.

Questions for further consideration

1. How in practical terms has the Better Pathways Strategy addressed the prevalence of substance abuse in the women's prison population and how effective have related initiatives been?
2. What health services are provided to women in prison and how do they access them?
3. What is the procedure for accessing health services in prison?
4. Are interpreters provided to CALD women when they are in need of medical assessment/treatment?
5. What types of prescription treatments are administered to women in prison and in what circumstances?
6. What are the specific drug treatment programs in prison and who can access them?
7. What treatments and programs are available to women on remand and those serving short sentences?

8. Do drug programs in prison address causal factors behind women's drug use, specifically mental health and underlying trauma that arise from histories of victimisation?
9. How are drug programs tailored to meet the needs of CALD women?
10. How are drug programs tailored to address the needs of Aboriginal and Torres Strait Islander women?
11. How do existing treatment programs in prison address the issue of poly-drug use (specifically prescription drugs) among women?
12. What support and care is provided to incoming remand and sentenced women who are experiencing withdrawal symptoms?
13. How is continuity of care ensured for women engaged in treatment for drug-related addictions and mental health prior to their release from prison?
14. How do existing programs address the risks associated with post-release overdose and death?
15. How does Marmak operate in practice? How effective has the unit been in providing a therapeutic approach to addressing women's mental health issues in prison?
16. What are the current rates of self-harm and what measures are in place to respond to women who self-harm?
17. Aside from initiatives associated with control of supply, what has been done to address the issue of contraband (drugs) and drug use in prison?
18. What alternative steps have been taken to minimise potential harm associated with drug use in prison?
19. What has been the outcome of the recently completed Office of Correctional Services Review investigation into the 2009 drug overdoses in Dame Phyllis Frost Centre?
20. To what extent are prison staff subject to security screening protocols for contraband?
21. How does the 'structured day' work in practice and how does it impact on women accessing support services and managing their release?

7. Women Post-Release

Women's views: Pathways to prison, release and re-incarceration

The views of women with personal experience of imprisonment are important to this Inquiry because they provide first-hand accounts of the experiences and impacts associated with women's offending and time spent in prison. Women's stories of their lives after they have left the 'cocoon' of imprisonment are particularly illuminating. The following accounts, for example, highlight the shortcomings in the current system and the impacts associated with social isolation and exclusion that is so often part of the transitional or post-release experience:

Community perception of women when they are released from prison is a big issue. If someone knows you have been in prison they won't put their handbag down next to you. The public image of a prisoner is a big burly man, and the language used like 'ex-prisoner' continues to criminalise and dehumanise people. Women who have been released from prison need to learn that they are worthy, learn that they are capable, be empowered to know that they can achieve their goals. There needs to be emotional and psychological healing as well as skill development. Not just tell you how to go to a job network, to not use drugs, and give you a Met ticket.

After you're released from prisons there's a timeframe that you're meant to be cured and healed. But women need support that is relevant to them, you can't put one program together and make it fit for everyone. Years out of prison women are still homeless, not working, left to fend for themselves. Programs need to go the distance with women. Create spaces where women can feel productive and safe, learn new sets of skills. Prison makes women detached, and lose trust, so when they get out they have no social skills, don't know how to communicate, can't get a job, are living in inappropriate places...the prison system takes away people's value in themselves.

Prison becomes an easier alternative than struggling outside. There's a loss of freedom inside, but at least it's a community you know. The abuse in prison is easier than the abuse outside, because it's structured and stable; you know what it is, and have learnt how to detach. Outside prison is scarier, you feel hopeless.²²⁵

Post-release programs for women

In Victoria a range of post-release support services, programs and initiatives are available to women in prison. Some of these are independently funded and provided by community organisations. However, the mainstream suite of programs and initiatives are funded and operated by Corrections Victoria through the Better Pathways Strategy.

²²⁵ Women speaking of their prison and post-release experiences cited in the joint submission from Flat Out and the Centre for the Human Rights of Imprisoned People (CHRIP) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

Better Pathways: Associated post-release assistance and support programs

Prior to the introduction of Better Pathways, community organisations were the main services that provided post-release advocacy and support to women in areas such as housing and reunification with children.

Flat Out, for example, has a history of providing grassroots advocacy and housing support for women prisoners (Cotter 2008). In spite of these community initiatives there was a lack of cohesive post-release state funded initiatives in Victoria. The Bridging the Gap support program run by the Department of Justice in conjunction with community agencies, which was introduced in 2001, was a keystone development in Victoria because it was the first comprehensive post-release program that provided support to vulnerable men and women released from the system with high and complex needs, specifically those with substance abuse problems (Drugs and Crime Prevention Committee, 2009; Melbourne Criminology Research and Evaluation Unit (MCREU) 2003).

Bridging the Gap was significant because while it was developed to address re-offending and re-imprisonment it also served the critical task of reducing harms associated with alcohol and other drugs and the risk of post-release overdose and death. While Bridging the Gap presented an important milestone and contributed to filling a considerable gap in post-release support services (MCREU 2003), it was not gender-focused in its response. Better Pathways came into effect in 2005 with the key aims of reducing offending, imprisonment, re-offending and victimisation for women offenders. The Strategy resulted in the provision of women-specific transitional and post-release support programs and services for women in the system.

There are post-release and transitional programs established and/or run by the community and private sectors. For the most part these programs are provided to women towards the end of their sentence in preparation for release. Some of the main transitional programs are discussed briefly below.

Women's Integrated Support Program (WISP)

WISP represents the key support program for women prisoners in Victoria. This program is based on a partnership between Corrections Victoria, Melbourne Citymission, Victorian Association for the Care and Resettlement of Offenders (VACRO) and the Brosnan Centre. WISP provides transitional and post-release support for up to 12 months. Up to 90 women go through this program per year.²²⁶

WISP services cover a range of offender needs including skills and practical support such as financial management and independent living skills; physical and mental health assistance; support with alcohol and drug abuse; education and employment, aid with securing housing, management of court and legal issues, family reunification and post-release integration into communities. WISP also provides referrals to specialist services.

²²⁶ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

Women4Work

This is a project managed by Melbourne Citymission that assists women exiting from prison in finding employment. The program is open to women serving the last six months of a sentence and up to 12 months after their release; women serving Intensive Correction Orders (ICOs), Community Based Orders (CBOs) and Combined Custody and Treatment Orders (CCTOs) for the duration of the order and up to 12 months after the order has been fulfilled; and women parolees during period of parole and 12 months following completion of parole.

Transitional Bail Support Program

The Transitional Bail Support Program funds transitional accommodation for women who are unable to secure stable housing arrangements while on bail and is the product of partnerships between Corrections Victoria, the Magistrates' Court, the Office of Housing, Women's Housing Limited and Homeground. The program largely caters to women at the pre-imprisonment stage. However, two of the properties in regional areas – Shepparton and Mildura – have been designated for Indigenous women who are on bail or subject to supervision by Corrections and are considered at risk of re-offending due to their lack of housing.

Childcare and Transport Subsidy Program (CCATS)

CCATS is a project managed by Corrections Victoria and VACRO. This program was designed to assist women offenders avoid breaching supervision orders by failing to comply with conditions. This was developed because the costs associated with transport and child-care were found to have a significant impact on women's ability to comply with orders. CCATS is accessible to women exiting prison on parole and those fulfilling CBOs, ICOs and CCTOs.

Other support programs, services and initiatives in Victoria

There seems to be some confusion about exactly what and how many programs are available for women in prison and post-release.²²⁷ It is understood that the above programs are by no means exhaustive with regards to what is available in the community sector for women on release. While the above programs are listed as the key suite linked to Better Pathways, the Committee is aware of other programs such as the VACRO Women's Mentoring Scheme and its housing support program for example. The Committee is also aware that while Flat Out contributes support that is funded through WISP they also provide other support programs and community development initiatives that are not directly funded through Corrections Victoria. Another example is the community group Prison Ministries Network and its provision of a voluntary intensive support program with women in prison and post-release. Further information is required about the availability of existing post-release support programs, services and initiatives and the government and non-government agencies to which they are linked. Moreover, the Committee is interested to hear if women on release, particularly those women not eligible for mainstream programs, seek out and use generalised social services and support from agencies such as the Salvation Army and the Brotherhood of St Laurence.

²²⁷ Submission from the Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

Leaving prison: Issues in service provision

A silo mentality?

There is a view among community support service providers that each of the issues faced by women are inter-related and are not able to be effectively addressed in isolation.²²⁸ Melbourne Citymission believes that women who have been in prison require a holistic approach that addresses complex and inter-related, multiple needs. Furthermore they argue that in the existing support system, there is a problem with a ‘silo mentality’ in dealing with issues ‘whereby agencies and professionals are trapped within discrete frames of reference’,²²⁹ whether it be housing, drug treatment, or dealing with issues associated with reunification of children for example, which can place women at risk and result in their needs not being met. To exemplify this further, Melbourne Citymission pointed out that despite overlapping needs, few programs or services for survivors of domestic abuse address substance abuse in any systematic way, just as there is a scarcity of drug and alcohol programs that also deal with domestic abuse or mental health.²³⁰

Housing

The Committee found that one of the most fundamental areas where women are at a great disadvantage is access to stable and affordable housing on release.²³¹ According to many submissions received by the Committee, there are too few affordable and secure housing and accommodation options available for women and their families on release from prison.²³² The joint submission from Flat Out and Centre for the Human Rights of Imprisoned People (CHRIP) states that housing is the ‘foundation of life’ for women.²³³ Melbourne Citymission notes that housing is consistently recognised as the critical factor that determines women’s independence:

Housing is predominant within the national and international literature as the central catalyst for survival and success post release – where survival and success can be understood to involve women remaining out of prison and maintaining their obligations and lives with or without the assistance of support agencies (Goswami & Schervish 2002). Housing is a consistent factor that directly influences the post release experience financially, in terms of health and well being, in relation to employment and in terms of ability for women to access and maintain informal and formal support networks. Housing is consistently recognized as the critical factor towards gaining independence post release (Baldry et al 2008). Safe and secure accommodation for many women is the primary and most essential need. It creates a sense of security, a sense of connection, a sense of self-

²²⁸ Submission from Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²²⁹ Submission from Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²³⁰ Submission from Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²³¹ For a discussion of the links between lack of access to affordable housing and accommodation, offending and re-offending see Chapter 6 of this Report.

²³² See, for example, the joint submission from Flat Out and CHRIP; submissions from Legal Aid; Melbourne Citymission; Mental Health Legal Centre; Victorian Aboriginal Legal Service; Sisters Inside and Jesuit Social Services; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²³³ Joint Submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

esteem, self worth. It enables family reunification and potential to seek employment and education.²³⁴

However, it is the experience of community agencies that such safe and secure accommodation is the ideal rather than the actual experience of women released from prison into the community in Victoria.

Too few or inappropriate options

Whilst support workers in programs such as WISP do work directly with women prior to release to secure temporary and long-term more secure housing, it is the experience of Flat Out support workers that women are sometimes released from prison with nothing but a garbage bag and nowhere to stay.²³⁵ Public housing has lengthy waiting lists for properties, and private rental is almost a non-existent option with the current market being completely unaffordable.²³⁶ Therefore, despite the efforts of community agencies, Melbourne Citymission reports that in many situations support workers are forced to place women in inappropriate crisis accommodation such as hotels, rooming houses and caravan parks until long-term options are obtained.²³⁷ A submission from Jesuit Social Services highlights how risky such placements can be for vulnerable women newly released from prison:

Some rooming houses are known as sites for serious drug use, especially the privately run hostels. There are reports of young women being forced to share rooms with multiple people, and being exposed to illicit drug use without any interventions by staff. Secure housing, free from the pressures of drug dealers and users is known to have a significant effect on reducing repeat offending by young women.²³⁸

Housing therefore presents a key challenge in the post-release period due to a scarcity of viable housing options for women.

Housing and the cycle of offending

Evidence has been presented to this Inquiry that the availability of housing can act as a key contributor to women's increasing representation in prison and subsequent re-offending post-release.²³⁹ Indeed, a lack of housing can have a formative effect at each stage of a woman's 'journey' through the criminal justice system for the following reasons:

²³⁴ Submission from Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²³⁵ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²³⁶ Submission from Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²³⁷ Submission from Melbourne Citymission to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²³⁸ Submission from Jesuit Social Services to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²³⁹ See, for example, the joint submission from Flat Out and CHRIP; submissions from Legal Aid; Melbourne Citymission; Mental Health Legal Centre; Victorian Aboriginal Legal Service; The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic; Jesuit Social Services; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010. See also, evidence of Ms Amanda George, Flat Out, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

Firstly, a lack of secure accommodation may result in a magistrate remanding a woman charged with an offence rather than releasing her on bail. Yet remand prisoners are not eligible for housing support programs and this means that when they are released they often have limited if any assistance in locating housing.²⁴⁰

Secondly, no suitable housing may also mean that the parole board may not take the risk of releasing a prisoner back into the community earlier than may have been the case.

Thirdly, the lack of a secure home of her own may also result in a woman associating or living with former acquaintances that may not be in her best interest or more seriously may even be in breach of the terms of her parole.

Fourthly, the flow-on effects of having no housing may also mean that a woman is at risk of not having her children returned to her if they had previously been taken into care.

Finally, a lack of stable or appropriate housing in combination with other factors such as unemployment, insufficient income or little material or emotional support may act as a contributory factor to re-offending. At each of these stages, a lack of housing options can act as a major obstacle in breaking the cycle of offending and re-offending.

Despite this uniformly grim account of the lack of suitable accommodation options there are some positive initiatives that have been established in recent years.

A community housing and support program

The Melbourne Citymission in conjunction with Women's Housing Limited and The Office of Housing runs a secure and affordable long-term housing program with access to support for women who have exited prison. The program caters for women who have been out of prison for 6–12 months and who have demonstrated the ability to maintain tenancy post-release (Segrave & Carlton 2010). At present the program comprises six high-quality houses in a new housing estate. The houses are situated in a block. The women who live in them have been out of prison for long periods and are not classed as having high needs but they are provided with long-term support tailored to their individual requirements by Melbourne Citymission support workers who are located off-site.²⁴¹

A recent evaluation by Segrave and Carlton (2010) found that while there were some inconsistencies and issues in the development and administration of this program, the positive impacts of the model in practice in providing long-term, safe and affordable housing for women exiting prison were considerable. Moreover, families being able to reside in the houses and tenants being in close proximity to other women with similar experiences provided a sense of belonging, community and safety. The program has its limitations in that it only caters to women who have emerged through the first critical year following their exit from prison. Nonetheless, it provides a model that has potential for future development. It does not, however, solve the issues associated with the lack of housing options for women in the immediate post-release period. Indeed, women with the most complex multiple needs may never qualify for such a program. This highlights the

²⁴⁰ See joint submission from Flat Out and CHRIP, and the submission from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁴¹ The Committee took the opportunity to visit the housing estate on 16 August 2010 and met with some of its residents.

importance of further initiatives and strategies that address the need for suitable emergency and transitional accommodation on release.

Substance abuse issues on release

The transition back into the community from the structured, secure prison environment presents women with many problems to solve and frightening situations to confront. A major issue for post-release women with substance abuse issues is to receive positive support so they can reconnect with their children, resist resuming drug use and/or offending, and receive treatment for their health needs.

Reunification with children

Reunification with children post-release presents a critical issue. Securing tenancy and overcoming drug issues can complicate women's attempts to achieve reunification. Flat Out and CHRIP suggested that state agencies such as the Department of Human Services lack understanding about the complexity of issues women face and this breakdown in communication makes the challenge of securing reunification more difficult.²⁴²

Ms Amanda George expressed concern that women who are unable to get access to their children and achieve reunification post-release are placed at risk of falling into patterns of further drug use and re-offending.²⁴³

When women do have their children living with them they may be reluctant to seek treatment for drug use for fear of their children being taken away. Harm Reduction Victoria informed the Committee that:

One of the major factors, which distinguish the respective experiences of men and women drug users, is the concern and fear expressed by many women that presenting to drug treatment or other welfare services and disclosing their drug use will result in their children being removed and put into care by Child Protection authorities. Although women may want help for themselves and for their children, ironically, the fear of state interference often discourages them from asking for help.²⁴⁴

In Victoria, there are only two prisons for female prisoners and as a result many women are incarcerated far from home: 'This sort of geographical distance and separation inevitably complicates continued connectedness between female prisoners and their children and frequently contributes to the severing or lessening of family ties (Goulding 2004), which is particularly pertinent for indigenous women who highly value their connection to family and community'.²⁴⁵

A related issue is that women with children seeking treatment post-release are often limited by the fact that there is a lack of gender-specific rehabilitation services in Victoria that provide a safe space for women to access treatment and where their children can be

²⁴² Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁴³ Evidence of Ms Amanda George, Flat Out, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

²⁴⁴ Submission from Harm Reduction Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

²⁴⁵ Submission from Harm Reduction Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

accommodated. For example, there is still only one inpatient drug withdrawal program in Victoria that accommodates women and children.²⁴⁶

Risk of harm and death post-release

While there is an important body of research examining post-release support, survival and issues related to recidivism and desistance (see Baldry 2005) there is a dearth of research focused on the issue of post-release death.²⁴⁷ The issue of harm associated with post-release substance abuse and overdose is a concern that has been raised during this Inquiry.²⁴⁸

There is a small but growing body of Australian research in this area that does engage with these issues (see for example, Kariminia et al 2007a).²⁴⁹ This research has sought to measure risk in terms of the potential for harm and death associated with post-release among men and women. It is a common theme in both international and national research focused on post-release morbidity that women are at increased risk of death following their release from prison (Graham 2003; Farrell & Marsden 2007). Specifically, a Victorian study by the Coroner's Research Unit (Graham 2003) found that between 1990 and 1999, 820 men and women died unnatural deaths post-release. In this study Graham (2003) reported that post-release women were 27 times more likely to die than women in the community, whilst post-release men were approximately seven times more likely to die than men in the general community. Post-release deaths were approximately double the 1996 and 1997 rates of deaths in custody for Victoria (Graham 2003). At the time, Graham (2003) emphasised the need for research to ascertain what it is about Victorian ex-prisoner lifestyles or the situation in which they are placed that increases the risk of death. Graham also argued that research was needed to determine the effectiveness of existing strategies and prevention programs. Subsequent research by Coffey et al (2003) has found that young women in the juvenile justice system, including community corrections, have a heightened risk of drug-related death and are 41 times more likely to die than young women in the community.

Davies and Cook's (2000) first study of women's post-release deaths in Victoria examined 93 deaths, many of which could be attributed to drug-related causes. In these cases women were found to have taken a cocktail of substances including heroin, benzodiazepines, amphetamines, methadone and other prescription drugs. In this respect while in many cases heroin was found as probably a key trigger for overdose causing death, prescription drugs such as benzodiazepines and other prescription drugs were also prevalent (Davies & Cook 2000). Davies and Cook's study remains important because it highlights the issue of poly-drug use, a concern documented in submissions to this Inquiry.²⁵⁰

²⁴⁶ Submission from Harm Reduction Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

²⁴⁷ See also: Baldry et al 2006; Borzycki & Baldry 2003; Goulding 2007; Kinner 2006; Melbourne Criminology Research and Evaluation Unit 2003; and Sheehan et al 2007.

²⁴⁸ See for example, the joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010; Submission from the Coroners Prevention Unit, Coroners Court of Victoria, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, August 2010.

²⁴⁹ See also Karaminia et al 2007b; Hobbs et al 2006; and Graham 2003.

²⁵⁰ See, for example, the joint submission from Flat Out and CHRIP; submissions from Harm Reduction Victoria; Coroners Court of Victoria, and the Australian Community Support Organisation to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Melbourne, June and July 2010. See also, discussion in Chapter 4 of this Report.

Due to issues of poverty and homelessness, 17 of the women's deaths examined by Davies and Cook (2000) died in temporary accommodation and another 12 died in public spaces including car parks, railway stations and on the streets. Of the 45 women who died of drug-related causes, six died within two days of release, 11 died within their first 14 days, 13 died within the first month and 22 died less than three months after release. Within 18 months of release all but eight of the women had died. As acknowledged, since Davies and Cook's study many women-centred post-release support initiatives have been implemented in Victoria. While there has yet to be subsequent quantitative analysis of women's deaths in this State, anecdotal information suggests that there remains a significant risk of death that is particular to formerly imprisoned Victorian women (Carlton & Segrave 2009). In documenting the harms associated with post-release drug use, Carlton and Segrave (2009) argued that there is a relationship between multiple overdoses occurring throughout women's lives and the onset of disabilities such as acquired brain injury and deterioration of women's physical and mental health more generally.

Flat Out and CHRIP state in their submission, 'we are aware of a number of women who have died from overdoses very soon on release from prison in the last 12 months. From our knowledge and speaking with post-release services in other states, Victoria has much higher levels of post release deaths than other jurisdictions'.²⁵¹ Dr Stuart Kinner of the Burnet Institute made similar observations when he gave evidence to the Committee, commenting on the extremely high percentage of women's deaths being attributable to drug overdose in the immediate period following release from prison:

A very large proportion of it is to do with drug overdoses. Suicide is definitely the second most-common cause.

So clearly the first week [post release] is an extremely high-risk time. The problem is people have suggested that we devote our resources exclusively to that first week, [but]... the first *month* is the high-risk period. If you compare the first year to the subsequent seven years, that is [also] the high-risk period, so there is exponentially decreasing risk, but it remains elevated for people released from prison for a very long time.²⁵²

The factors that increase women's risk of death are substance addiction, low tolerance levels after not using drugs while in prison, continuity of drug treatments post-release, social isolation and loneliness and the hardships associated with post-release survival, particularly with reference to securing housing and reunification with children.

Victorian deaths in a corrections context

The State Coroner's Officer Coroner's Prevention Unit (CPU) submitted to the Inquiry that 21 deaths among women occurred in a corrections context within a 10-year timeframe, between 1 January 2000 and 31 March 2010. Deaths in a corrections context refer to deaths occurring in prison, on parole or while women are on community based orders. The CPU determined that 85 percent of these deaths could be attributed to drug-related causes and the cause of death in individual cases can be largely attributed to poly-drug abuse

²⁵¹ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Melbourne, June 2010.

²⁵² Dr Stuart Kinner, Senior Research Fellow, Centre for Population Health, Burnet Institute, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

including amphetamines, methamphetamines, prescription medications and other illicit substances such as marijuana.²⁵³

There is a lack of data provided about women who have died while on straight release. The CPU raise issues about inconsistencies in how deaths have been recorded within existing databases and the impacts this ultimately has on the process of identifying relevant deaths and the accuracy of searches and data. Given this, the CPU states it cannot be confident that it has identified all corrections-context deaths in Victoria.²⁵⁴

Availability and continuity of drug treatment post-release

Anex, the public health network addressing substance abuse and harm reduction issues, raised concern about a paucity of needle exchange services and syringe programs targeted to women's needs. It also pointed out that existing services are unable to provide support and advocacy on reproductive health matters (pregnancy) or issues related to domestic violence and victimisation. Because of the stigma associated with drug use, the complexity of women's support needs and the absence of gender-specific drug treatment and support services, there is an increased risk of women going 'underground' with their drug use.²⁵⁵

The submission from Anex highlights other situations where lack of continuity of drug treatment, specifically opioid replacement therapies (ORT), presents considerable risks for women post-release.²⁵⁶ Corrections Victoria maintained that women participating in the OSTP in prison are assisted with referrals to treatment programs in the community to ensure continuity of post-release treatment.²⁵⁷ However, anecdotal information suggests that this does not always work seamlessly and there are situations when women face delays immediately after their release or are unable to cover the expenses of treatment.²⁵⁸ Lack of continuity in treatment can place women at risk of recommencing drug use and in situations where their tolerance is low, placing them at risk of overdose (Davies & Cook 2000).

The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic point out in their joint submission that continuing drug use and re-offending can be exacerbated by:

- Poor discharge planning from within prisons;

²⁵³ Submission from the Coroner's Prevention Unit to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, August 2010.

²⁵⁴ Submission from the Coroner's Prevention Unit to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, August 2010. The Committee understands that procedural measures and arrangements exist between the Coroner's Office and Corrections Victoria to monitor deaths that have occurred in a corrections context, and that these were put in place as a key response to recommendations put forward by the 2004 Victorian Parliamentary Law Reform Committee review of the Victorian *Coroner's Act* 1985. The Committee is not aware of the nature of such measures and welcomes further information about these and more broadly about the issues associated with monitoring women's post-release deaths in Victoria.

²⁵⁵ Joint submission from The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic; See also Anex; and Harm Reduction Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁵⁶ Submission from Anex to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁵⁷ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

²⁵⁸ Joint submission from The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

- Inappropriate referrals (for example, to GPs who aren't registered prescribing doctors);
- The lack of time to plan for transition services due to unknown release dates;
- The high cost of commencing pharmacotherapy.²⁵⁹

A key issue for women in maintaining ORT treatments is cost. The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic pointed out that commencing treatment in the community can be costly with some GPs charging up to \$80 for an initial consultation and the cost of continuing treatment ranging from \$30–\$48 per week. Daily dosage costs range from \$5–\$8.50 a day and an extra \$1 fee for each takeaway dose. Takeaway doses are important because they allow people to engage in a regular lifestyle such as maintaining employment.²⁶⁰ Takeaway doses also assist people to lower the costs associated with having to travel to the pharmacy. Anex emphasises research showing that:

- The need to provide dispensing fees is a major obstacle, especially among those on government income support.
- A significant minority of clients who are actually on ORT also engage in illicit sex work and acquisitive crime to meet financial obligations of their treatment;
- The accumulation of debt through the inability to pay dispensing fees is a primary reason for the involuntary discontinuance of treatment;
- Involuntary discontinuance of treatment is invariably followed by a return to problematic heroin use; and
- Problematic heroin use is linked to criminality, which of course means that those women who either do not commence ORT or drop out are at a high risk of re-incarceration.²⁶¹

Significantly PILCH/Homeless Persons Legal Clinic note there are extensive waiting lists to access ORT, for example there is a three-week wait to get an appointment with a prescribing GP at Turning Point Drug and Alcohol Centre. They believe that the unavailability and long waiting lists for treatments such as methadone can constitute a key contributor to re-offending.²⁶²

Parole: Support or compliance?

Legal Aid argues that given the relationship between substance abuse and women's drug-related offending there is a need for tailored support programs to be integrated into parole to prevent re-offending.²⁶³ Such a concern is couched in the broader belief that parole has changed from a focus on support to a compliance-centred model. In its submission to this Inquiry, Corrections Victoria made reference to Repeat Offender Parole Enforcement or 'Operation Rope',²⁶⁴ which is an initiative to focus on the apprehension of individuals who

²⁵⁹ Joint submission from The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁶⁰ Joint submission from The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁶¹ Submission from Anex to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁶² Joint submission from The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁶³ Submission from Legal Aid Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁶⁴ For a discussion of Operation Rope, see Chapter 3.

breach parole. Corrections Victoria cited the success of the program, highlighting that since its inception a number of women have been returned to custody for parole breaches.²⁶⁵ Further information from Corrections Victoria is required about this initiative, its operational nature and the kinds of offences women are breached for. Moreover, it would be beneficial to ascertain how such a program is coordinated and its relationship to the parole office and staff.

Victoria Legal Aid stated in its submission that women who are released from prison perceive parole as a continuation of punishment rather than a system driven towards rehabilitative goals. Legal Aid also believes there are problems with the way parole works in practice and points out that women have numerous different parole officers allocated to them in a period of months.²⁶⁶ Moreover, it would seem from anecdotal evidence, including that of ex-prisoners, that breaches are often the result of the women's inability to organise their commitments or manage time properly. What may be relatively easy for some people to comply with may be exceedingly difficult for a woman trying to transition herself back into the community. As one woman told the Committee:

You cannot expect women to turn up to timed appointments when they have got a history of pretty chaotic living. They do not trust. You have got to earn your trust with these women. You cannot just expect, 'Be here at 10. If you do not turn up, forget it, you are closed, or banned'.²⁶⁷

Victoria Legal Aid expressed the view that a lack of support in the immediate post-release period provided as part of parole, places women in a vulnerable position where they can easily fall into patterns of drug use and offending.²⁶⁸

The need for crisis support

There are clearly multiple pressures on women leaving prison that may result in an inability to cope with life on the outside. This may ultimately lead to them resuming drug use and/or re-offending and returning to prison. Often women may simply feel they are floundering in an environment that does not have the relative structure or stability of the prison. For example, Ms Debbie Kilroy from Sisters Inside told the Committee that women become institutionalised in prison in a very short time: 'Women support other women on the inside and because of the routine you get into that institutionalisation very quickly'.²⁶⁹ As Ms Laurel Gore told the Committee:

I think a lot of people are under the impression that getting out of prison is an exciting thing, but for many of the women it is absolutely not. For a number of women, they do not want to get released, and those who are excited about getting released are also anxious – I would say always anxious. And when we are talking about those with drug and alcohol problems particularly, they do not trust themselves and they know that if there's too much

²⁶⁵ Submission from Corrections Victoria, Department of Justice, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

²⁶⁶ Submission from Legal Aid Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁶⁷ Anonymous

²⁶⁸ Submission from Legal Aid Victoria to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁶⁹ Ms Debbie Kilroy, Director, Sisters Inside, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

pressure, then they are very vulnerable, and they are concerned about that. They are concerned about repeating past behaviours...

A lot of women just have no idea about how to live a straight life. I recall having a woman phone me one day who I had known had been in and out of prison quite a number of times. She phoned me, out of the blue – I really had not had anything to do with her post release before – saying, ‘Can you help me?’ She began to cry. She said, ‘I’m actually doing really well, but I don’t know how to live this sort of life. I don’t know how to live a 9-to-5 life like other people live’. When they are drug addicted a lot of women live a life where they are up all night and sleep all day, and they are just not used to doing the normal things. She asked me, ‘Have you got somewhere I could live where I could learn how to live this sort of lifestyle?’ It is just so foreign to them.²⁷⁰

According to some observers, parole can sometimes be less about giving these women support than ensuring they observe to the letter the terms of their parole. One suggestion to address this problem was put forward by Deputy Chief Magistrate Jelena Popovic. She told the Committee that ideally there should be a place of temporary respite or refuge made available for women who have been released from prison, including those on parole, who are struggling with life on the outside:

One of the things I think that we could really seriously consider is a halfway establishment – I do not like the term ‘halfway house’ – a facility where women who have been released from prison and are struggling can go into for some respite before they go completely off the rails again. My experience on the parole board is that a lot of women do reasonably well in jail but do not transition well into the outside world again as they go back to all that chaos that they have left behind. But to have somewhere where, if people are starting to go off the rails, you could say, ‘Look, you need some time out in a safe environment until you get yourself back on the road again’, is really something we ought to be considering. But it is an expensive option.²⁷¹

Whilst there is the Judy Lazarus Post Release Centre for men, no appropriate or equivalent centre is currently available for women.

The need for coordination and continuity of service provision

One of the issues raised by several witnesses who gave evidence to this Inquiry is the need for better coordination and continuity of service provision for women who are released from prison back into the community. This is important not only for women released from serving their sentences and/or on parole but also for women who may be released into the community after having been on remand. This was certainly the view of Deputy Chief Magistrate, Jelena Popovic when she gave evidence to the Committee:

The issue about the non-continuity of staff is a significant one. The WISP program is making excellent inroads, but it is not enough. One of the previous programs piloted by Corrections, which I thought was a very effective program but it has not continued, is that when prisoners were receptioned, when they are taken in for assessment, all their needs are assessed and then there is a case planning process that is to go on until the end of their sentence and then the same officer continues – I think they were called throughput officers – with those people into their parole or into their early release period. But for some reason

²⁷⁰ Ms Laurel Gore, Senior Support Worker, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

²⁷¹ Ms Jelena Popovic, Deputy Chief Magistrate, Magistrates’ Court of Victoria, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

that died away. One of the things that does happen now with prisoners is that they are assessed and all their needs are established in the early part but there is no planning done for their exit plan.²⁷²

Some witnesses gave evidence that a type of clearing house or central brokerage facility to coordinate across a wide range of services for women was required. For example, Dr Stuart Kinner observed that:

I would argue that some sort of coherence and coordination of service delivery is very important – a one-stop shop. With a large amount of funding that may be one way to go – to fund an organisation to be a clearing house or a brokerage and to work one-on-one with clients pre-and post-release to facilitate connections with appropriate services. So there is only one number to call, not 50 different numbers.

... So I think tailoring, continuity and facilitation of access to services are three crucial things for [women who have been in prison].²⁷³

Ms Sam Sowerwine of the Mental Health Legal Centre also remarked that there was a need for some type of central case manager or broker system. In particular, a need for greater continuity of planning whilst women are in prison to prepare them for life on the outside:

[s]omeone who is facilitating and having an overview of what is happening and also providing continuity. When people come into the prison it is such a great opportunity to analyse not only their mental health needs but also all sorts of other needs and follow that through, but for a whole range of reasons that does not always happen. There are all of these opportunities that can be built upon to improve services within the prison, but ultimately the pre-prison and post-release times are really vital times in terms of looking at how people can be better supported so they do not end up either re-offending or going back inside. In regard to post release we would say there is really more that could be done as part of that continuity whilst people are inside. This is particularly so in terms of housing; ...if we do not want to see our clients reoffend, housing is so important, and at the moment it is a constant struggle.²⁷⁴

Ms Amanda George of Flat Out argues that it is not only extremely important to have central coordination of post-release service provision but also such provision should be brokered and/or delivered by workers who are separate from those working in the corrections system. In other words, Ms George is critical of arrangements whereby a parole, probation or reporting officer is responsible for decisions affecting prisoner welfare:

You have got corrections people and they have got reporting obligations of you. You cannot expect people who have got reporting obligations around you around breaches and urine tests to be social workers.we need to have a massive increase in funding to community corrections, that is community corrections where community officers have got money to

²⁷² Ms Jelena Popovic, Deputy Chief Magistrate, Magistrates' Court of Victoria, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

²⁷³ Dr Stuart Kinner, Senior Research Fellow, Centre for Population Health, Burnet Institute, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

²⁷⁴ Ms Sam Sowerwine, Co-ordinator/Lawyer, Inside Access, Mental Health Legal Centre, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

actually give women support and services and for there to be a split between support and the custodial role.²⁷⁵

Deputy Magistrate Popovic also believes using Corrections officers to case manage released prisoners can be problematic:

Case managing is such an important and integral part... I know that corrections officers have a quick turnover. We have a lot of young people involved. They move through quickly. They do not stick to it. Their caseload I understand is about 35 people. We are talking serious offenders. They are not actually able to case manage very effectively. They do not see their role as a case manager. They are administering a punitive order – and there is a place for that; I am not suggesting there is not a place for that. But if you are actually looking to problem solve to reduce the chaos in people's lives and reduce why they are offending, then that is not a very effective use of the resource.²⁷⁶

One way Ms George envisages services could be delivered more effectively is through establishing a central community agency funded by but not connected to Corrections Victoria, which can act as an agent to broker and coordinate services with other community agencies in the areas of mental health, drug and alcohol rehabilitation services, health, housing, material support etc.

The artificiality of time limits

Another issue raised that impedes effective delivery of post-release services to women is the imposition of time constraints on service delivery. The joint submission from Flat Out and CHRIP argues that the timeframe for providing support to women through mainstream programs is limited.²⁷⁷ For example, WISP is only funded for 3–12 months of service provision. Another problem with access to the WISP program, raised by several witnesses, is that it does not extend to women who are in prison for short sentences of less than three months.

Whilst witnesses to the Inquiry commended the work done through the WISP program, they pointed out that a shortcoming is that it starts far too late to be as effective as it could be. For example, Ms Sam Sowerwine of the Mental Health Legal Centre argued that engaging people through WISP two months prior to leaving prison 'really highlights for me the importance of actually having engagement earlier than that, because it is very difficult to secure housing and it is very difficult to secure a whole range of things in a very short amount of time such as two months'.²⁷⁸ Flat Out and CHRIP also believe this is inadequate given the entrenched and complex issues women face.²⁷⁹ Ms Amanda George explained that Flat Out is one of the few services that works with women from 'beginning

²⁷⁵ Ms Amanda George, Flat Out, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

²⁷⁶ Ms Jelena Popovic, Deputy Chief Magistrate, Magistrates' Court of Victoria, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

²⁷⁷ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, June 2010.

²⁷⁸ Ms Sam Sowerwine, Co-ordinator/Lawyer, Inside Access, Mental Health Legal Centre, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

²⁷⁹ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

to end' without time constraints or limits.²⁸⁰ Their staff commence working with women three months prior to their release and stick by them 'no matter how long it takes'. A worker from Flat Out stated in this regard:

Our role is not limited to anything. It is limited to what the woman wants to do. It is more of a case coordination role acknowledging that women, in most cases, will not need one service – they will need 5 to 20 services in place to meet all their needs.²⁸¹

Ms Debbie Kilroy agrees that an approach without artificial time limits is essential in reintegrating women successfully back into the community. Sisters Inside is unusual in the intensity of its service provision to women released from prison:

Some funded organisations here doing post-release work will see the woman maybe a week or two beforehand. They do not build the relationship with them, so when they are released, the woman does not have a relationship, so it gets missed. If they are not picked up from prison and they do not have a relationship, we will transport women. We will pick them up and take them to Centrelink. If they have not got somewhere to go, we have brokerage money. We will put them in a hotel, and the worker will organise that they have got food, toiletries and cigarettes if they need them. They go back the next morning and bring them into the office and do all that work to find short-term accommodation and to move.

Our processes are quite intense. From the time the woman is released we will see that woman every day for two to three months. It could be 1 hour or it could be 6 hours a day, and then we go to a medium sort of support, if we can assess that that is the way the women want. Then we distance ourselves a bit further, but the women then always know. The relationship is very strong and it is very intense. I do not know any other service like it anywhere in the country or anywhere in the world, for that matter. We operate very differently to other NGOs. We will argue with our funding bodies that we are not going to agree to six sessions or we are not going to agree to this bit; we actually want a holistic approach. Sometimes I think NGOs get a bit scared to negotiate with funding bodies, because then they think, 'If we don't take the money, we won't get any'.²⁸²

It is suggested that a case management broker service such as that outlined previously by Ms Amanda George and using the case intensive approach of Sisters Inside could assist in providing these services whilst at the same time recognising that it is not always appropriate to expect women newly released from the relative 'stability' and 'security' of the prison environment to live 'within our world and our understanding'.²⁸³

The needs of Indigenous and CALD women on release

According to community groups such as the Victorian Aboriginal Legal Service (VALS), the Mental Health Legal Centre, and Flat Out and CHRIP, there remains a lack of culturally appropriate post-release support programs provided for Aboriginal and Torres Strait Islander (ATSI) women in Victoria. VALS believes this is not only due to the lack of services available to assist people reintegrating back into the community but is also a result

²⁸⁰ Submission from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁸¹ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁸² Ms Debbie Kilroy, Director, Sisters Inside, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 2 August 2010.

²⁸³ Joint submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

of the attitude that once people are released they are no longer the responsibility of the correctional system.²⁸⁴

There are similar problems affecting the provision of post-release services for culturally and linguistically diverse (CALD) women. An issue raised by CHRIP/MSLC (2009) is that in spite of the growing CALD women's prison population there is a lack of culturally appropriate services that cater to women's specific needs. In particular, it is their experience that CALD women have difficulty in engaging with mainstream services (CHRIP/MSLC 2009). This arises partly from the sometimes erroneous belief held by mainstream services that CALD women, specifically Vietnamese women, have existing housing and family support outside prison. However, research in this area suggests CALD women's needs are especially complex because of the high degree of cultural shame associated with imprisonment (CHRIP/MSLC 2009). Such women may not always be welcome back in the family home. Alternatively, if they do return home they may not necessarily be offered appropriate material or emotional support. There is research that suggests a high proportion of CALD women have been assaulted by family members and have experienced domestic violence, and a key problem is that many of these women will return to violent homes (CHRIP/MSLC 2009).

In spite of their complex needs, research by CHRIP/MSLC (2009) suggests that only a limited number of CALD women access support programs. This is despite initiatives by Corrections Victoria that have made significant efforts to engage Vietnamese women in particular to services and programs.²⁸⁵

Conclusion

The hardships and circumstances that underpin women's pathways to offending and imprisonment are magnified upon release. For women experiencing substance addiction there is a range of risks and harms faced upon release that are associated with the recommencement of drug use and the potential for re-offending. Better Pathways encompasses a series of initiatives that provide targeted support in areas such as housing, drug and alcohol treatment and reunification with treatment. These programs address the risk of re-offending and assist women to make the transition from prison into the community. There is also a number of community based initiatives and support programs available to women. However, the information presented to this Inquiry is patchy, and the Committee welcomes additional information about available Victorian programs and initiatives.

While it is acknowledged that considerable headway has been made in the provision of gender-focused post-release support for women in this State, there are questions raised in submissions to this Inquiry about the capacity for the existing system to meet women's needs. Areas where these shortcomings are perhaps most acute is with reference to housing and the availability of gender-appropriate drug treatment and rehabilitation programs and services. Moreover, the increasing number of women who are on remand are not eligible for Better Pathways key support programs such as WISP, which presents significant issues about the capacity to secure housing and meet other support needs upon their release from prison. Another critical issue is that of the absence of culturally appropriate post-release

²⁸⁴ Submission of Victorian Aboriginal Legal Service (VALS) to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁸⁵ For example through the employment of Vietnamese support and liaison workers at each of the women's prisons to assist inter alia with post release support. See discussion in chapter 6.

programs, particularly for Indigenous women and those from CALD backgrounds who are increasingly represented in the Victorian corrections system.

Without doubt, from evidence given by women themselves, as well as care providers, the first step to rehabilitation on the release from prison is secure housing. This is a base for further services and programs for re-integration into the broader community.

Questions for further consideration

1. How are women prepared for release?
2. How are women on remand prepared for release and what access do they have to programs and services?
3. How much notice is a woman given to prepare for her release?
4. How does WISP function both in prison and post-release?
5. How are the priorities for individual women's support needs assessed and responded to prior to her release?
6. What role does housing play in a decision to release women on parole?
7. What are the duties and powers of parole officers?
8. What government and community support services, programs and initiatives are available to women in Victoria?
9. What is the relationship of these initiatives to Corrections Victoria and Better Pathways?
10. What general social welfare and charity services do women access on release? Do they access these as an alternative to the existing suite of prisoner post-release support services and programs or in addition to them?
11. What specific programs are available in prison to address the risks associated with post-release drug-use?
12. What procedures are put in place by prison staff and Corrections to ensure women receiving drug treatments continue to receive those treatments?
13. What is the numerical extent of women's post-release deaths over the previous decade? Has this increased or decreased?
14. How is data on post-release deaths managed?
15. What procedures are in place by the Coroner's Court and the Department of Justice to monitor and report on post-release deaths of women who die on straight release or in a corrections context, that is, parole, community based order, intensive correction order?

8. Focusing on the Future

The key impetus for this Inquiry is the impact of women's drug-related offending on the Victorian women's prisoner population. As frequently stated, the increase in women's prisoner numbers in recent years is unprecedented and can be attributed to a broad range of social and systemic contributors, the most central being a dramatic shift away from prison as a last resort option for women. Such a shift is not particular to Victoria and has been experienced in other Australian and international jurisdictions (see Sudbury 2005; Sheehan et al 2007). Also critical is the extent to which women's pathways to offending, imprisonment and re-offending are underpinned by vulnerabilities associated with histories of victimisation, substance misuse, mental health and socio-economic and structural factors such as access to housing, unemployment, social isolation and poverty.

This Inquiry has raised a number of questions and areas that require further inquiry and consideration. As acknowledged, one of the difficulties faced by the Committee in conducting this Inquiry is that the issues raised by the Terms of Reference have been extremely broad. This stems from the majority of women in prison having either histories of substance misuse or offending related to drugs or substance misuse. For this reason the Committee has considered the broader impacts associated with women's drug-related offending on the prisoner community. This has involved the examination of existing gender-responsive policy frameworks, particularly the Better Pathways Strategy and its impacts on the provision of gender-specific health services, drug treatment programs, and pharmacotherapy. Community concerns raised with respect to women's treatment and conditions in Victorian prisons also have been discussed. Finally, there has been considerable discussion and questions raised with regards to the appropriateness and accessibility of the Better Pathways related initiatives and the extent to which post-release support infrastructure can assist women on their pathways to recovery and integration.

Key findings and recommendations

One of the most profound challenges and questions raised during this Inquiry relates to the need for truly women-centred crime prevention and diversionary strategies to keep women out of prison. That is, strategies that best address the complex and multiple needs of women in the community and prior to their entry into the criminal justice system. Equally important is the need to develop interventions that will reduce recidivism of those women who have already served a sentence of imprisonment.

Imprisonment is far more expensive than community based interventions. The Committee for example notes the costings published by the Steering Committee for the Review of Government Service Provision in the annual Report on Government Services. Whilst the 2010 Report unfortunately does not distinguish its data according to gender, it states that real net operating expenditure per prisoner per day in 2008-2009 in Victoria was \$242.65.²⁸⁶ Whilst there are many reasons why it may be appropriate *as a last resort* to imprison women, on the issue of cost alone it cannot be justified.

If a woman *must* serve her sentence in prison, she should have access to a variety of health, welfare and therapeutic services that are targeted to meet her individual needs. After

²⁸⁶ Information provided in correspondence from Ms Jan Shuard, Acting Commissioner, Corrections Victoria to the Drugs and Crime Prevention Committee, 31 August 2010.

leaving prison, the provision of comprehensive, holistic coordinated care is also vital for an extended post-release period (beyond 12 months for many women) and or during the parole period to maximise safety and wellbeing and prevent re-offending. In making these observations the Committee acknowledges that significant progress in the present Victorian system has been made to meet women's needs both on the part of government and community agencies. However, more work needs to be done, as illustrated by the increasing number of women entering the criminal justice system.

During the course of this Inquiry the Committee was greatly concerned to confirm that the numbers of Vietnamese born women being imprisoned are at disproportionately high rates compared to the number of Vietnamese women living in the Victorian community. A submission from Corrections Victoria notes that the daily average number of women prisoners born in Vietnam increased from 12 to 30 between 2000/01 and 2009/10, and from 32.4% to 50.8% of the total number of women with a most serious offence or charge of a drug offence.²⁸⁷ This increase is disturbing and the reasons for it are unclear, although there is some anecdotal evidence that suggests the rise could be associated with gambling debts and/or acting as couriers or drug 'mules' for men. The Committee believes that there is insufficient information available as to why Vietnamese women are committing these offences and being subsequently imprisoned. Without such information it is difficult to know how to address the needs of Vietnamese prisoners. The Committee understands that Corrections Victoria is currently conducting a research project funded through the Victorian Law Enforcement Drug Fund to increase understanding of the relationship between gambling and drug trafficking in relation to offending by Vietnamese women. The aim of such research is to better target programs and services to this cohort.²⁸⁸ The Committee believes this project is timely and welcomes its findings with interest.

The Committee welcomes further information and discussion from the community regarding all of these issues. Clearly there is a need for a further inquiry that provides substantial examination of the questions raised. Having said that, the Committee has nominated some areas that require urgent attention. These include:

Housing

Research is unequivocal in highlighting the relationship between lack of housing, women's offending and re-offending. Indeed much evidence provided from submissions and during the hearings comes back to the issue of housing, specifically the relationship between lack of housing and women being placed on remand due to lack of stable housing,²⁸⁹ the forestalling of parole and release due to lack of housing,²⁹⁰ and links between lack of housing and breaches of parole and re-offending.²⁹¹ Moreover, as community groups have argued, the process of securing appropriate transitional and emergency housing post-

²⁸⁷ Submission from Corrections Victoria to the Drugs and Crime Prevention Committee, *Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers*, August 2010.

²⁸⁸ Information provided in submission from Corrections Victoria to the Drugs and Crime Prevention Committee, *Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers*, August 2010.

²⁸⁹ See submissions from Flat Out and CHRIP; The Council to Homeless Persons and the PILCH Homeless Persons Legal Clinic; Melbourne Citymission; and Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; to the Drugs and Crime Prevention Committee, *Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers*, June 2010.

²⁹⁰ See submissions from Flat Out and CHRIP and from Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; to the Drugs and Crime Prevention Committee, *Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers*, June 2010.

²⁹¹ Submission from Flat Out and CHRIP to the Drugs and Crime Prevention Committee, *Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers*, June 2010.

release is becoming increasingly impossible, placing already vulnerable women at risk and thwarting the process of reunification with their children. The Committee is of the view that more needs to be done in this area to facilitate the provision of safe and appropriate, transitional and emergency accommodation to women upon release; and safe and affordable housing in the long term.

Better Pathways

The Committee notes that Better Pathways and its associated programs have recently been evaluated. The Committee recommends that the evaluation report be made publicly available so that future programs to address women's offending can be developed based on its findings.

The provision of a coordinated and holistic post-release support response

While there are existing support programs and services that target women's needs there appears to be a need for more to be done in this area. As has been recognised, there is a need for a coordinated multifaceted support model that simultaneously addresses women's multiple and complex needs.

Social reintegration

Reintegrating women successfully back into the community after a term in prison is not simply about providing a roof over their heads or meaningful employment; women also have social and emotional needs that should be taken into account.

As discussed in Chapter 4, women are often extremely isolated when they leave prison, and hence it is important for these women to have opportunities for social integration so that they can reconnect with the community in a positive way and establish social networks.

Until recently, Melbourne Citymission managed a social and recreational program which facilitates group and individual activities for women who have been released from prison. This program has now ceased due to lack of resources. The Committee recommends that the Victorian government provide funding so such programs can continue to be provided to women.

Free phone calls once a week to enable women to maintain contact with their children

The impact of imprisonment on women prisoners who are mothers has been frequently acknowledged and documented. This is particularly the case where the geographical distance created by the prison location, for example in Tarrengower, makes it difficult to maintain regular contact. Maintaining familial relationships, particularly with children, is vital for women and their sense of wellbeing while in prison and thus it is critical that provision is made for women to make contact via phone on a regular basis.

The provision of free toiletries to women in prison

All women should be provided with adequate free toiletries whilst in prison, including soap, shampoo and deodorant. The Committee feels it is dehumanising that women are in some cases required to purchase and obtain their own toiletries from prison staff.

The need for an alternative approach

In 2007 Baroness Jean Corston carried out a review of women with acute vulnerabilities in the British prison system. Known as *The Corston Report* (2007) the review advocated the ‘need for a distinct, radically different, visibly-led, strategic, proportionate, holistic, woman-centred, integrated response’ to women in the criminal justice system (Corston 2007). Corston advocated for fundamental rethinking about the way in which services for vulnerable women in the community are provided and accessed, particularly services pertaining to mental health and substance misuse. She also referred to the necessary extension of women’s community based support networks to circumvent offending and re-offending. Perhaps most importantly she recommended that there be a radical rethinking and re-design of women’s custody introduced in parallel with other gender-specific workable disposals and sanctions. (Corston 2007).

Whilst the observations and recommendations of the *Corston Report* relate to the British experience and a system that is considerably bigger than that in Victoria, the profiles of the women and concerns raised are nonetheless comparable. Corston’s observations of the conditions and treatment in British women’s prisons provide a sobering lesson about the consequences of a system that expands beyond its capacity. It is notable that Corston’s sentiments and optimism about the possibilities of future reform are captured within many of the strategies and suggestions provided to the Committee in the form of submissions and verbal evidence. Some of these included:

- provision of safe, secure and affordable accommodation;²⁹²
- a move away from prison as a response to low-level offending;²⁹³
- the need for further diversionary initiatives and creative problem solving approaches when dealing with vulnerable women with complex needs at the level of sentencing;²⁹⁴
- extension of holistic response to women’s support;²⁹⁵
- an abandonment of the ‘silo mentality’. Support initiatives must be based on evidence of best practice and initiatives should operate in a ‘joined-up’ or ‘wraparound’ system that encompasses early intervention, imprisonment (where an expanded range of alternatives such as diversion are deemed not appropriate), and post-release;²⁹⁶

²⁹² See, for example, submissions from: Flat Out and CHRIP; Harm Reduction Victoria; Ms Denise McGrath; Jesuit Social Services; and Mental Health Legal Centre; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁹³ See submissions from Flat Out and CHRIP, and Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁹⁴ Submission from Ms Jelena Popovic, Deputy Chief Magistrate, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁹⁵ See, for example, submissions from: Melbourne Citymission; Sisters Inside; Victorian Aboriginal Legal Service; Australian Community Support Organisation Inc; and Aboriginal Family Violence Prevention and Legal Service to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁹⁶ See for example, submissions from: Federation of Community Legal Centres; Flat Out and CHRIP; Mental Health Legal Centre; and Jesuit Social Services; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

- embracing support models which facilitate women's direct input, empowerment, choice and management of affairs towards self-determination and recovery;²⁹⁷
- addressing inter-related social factors before women enter and re-enter the system, ie. housing/homelessness; mental health; drug histories; histories of victimisation; family issues and reunification with children;²⁹⁸
- the need for gender-specific drug and alcohol treatment programs and services that are therapeutic in focus rather than just medical;²⁹⁹
- the need for genuine woman-centred programs, services and management in prison;³⁰⁰
- the need for culturally appropriate and women-centred therapeutic programs and services in the areas of early intervention, in prison and post-release;³⁰¹
- monitoring and prevention of post-release deaths;³⁰² and
- re-direction of correctional funds into violence and crime prevention schemes; housing; education; comprehensive health services and support.³⁰³

When Dr Stuart Kinner from the Burnet Institute gave evidence to the Committee he made the point that prisons house society's most disadvantaged:

That is particularly true among women, who are a small but very at-risk subset of prisoners. Women are a growing minority of prisoners with unique needs, but also unique strengths in terms of relationships, in terms of a greater capacity, it appears, to engage in services post-release. They are strengths that I believe we can capitalise on.

Health and psychosocial outcomes for ex-prisoners are very poor, although data collection to demonstrate this in Australia is also very poor. There is a lot of room for improvement for services in prison, and I particularly pointed to the need for a needle exchange and the need to remove the exclusion of Medicare and the PBS from prisoners... Partnerships between government, community and research are critical. If one of those three is missing, the quality of that research and the quality of the translation will fail. Research should be rigorous and health-focused rather than exclusively oriented around 'Do they reoffend or

²⁹⁷ See submissions from Flat Out and CHRIP; Sisters Inside; and Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

²⁹⁸ See submissions from Legal Aid; Melbourne Citymission; Australian Community Support Organisation Inc; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010; and Submission from Violence Free Families to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, July 2010.

²⁹⁹ See, for example, submission from: Flat Out and CHRIP; Sisters Inside; Melbourne Citymission; Legal Aid; Anex; Federation of Community Legal Centres; and Harm Reduction Victoria; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

³⁰⁰ See submissions from Flat Out and CHRIP, and Sisters Inside to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

³⁰¹ See submissions from Victorian Aboriginal Legal Service, Australian Vietnamese Women's Association, and Aboriginal Family Violence Prevention to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

³⁰² Submission from the Coroner's Prevention Unit, Coroners Court of Victoria, to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, August 2010.

³⁰³ See submissions from Flat Out and CHRIP, and Ms Amanda George, Chairperson of Flat Out and Community Lawyer, Western Suburbs Legal Service; to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, June 2010.

not?’ It is crucial that it should be independent and publicly available. There should be a focus on evaluating interventions.³⁰⁴

Dr Kinner made the further observation that almost all prisoners return to the community, and the majority go back to prison again in Australia. This is a revolving door phenomenon that policymakers seem well aware of but no one seems able to stop. ‘We have enough research describing the poor health of people in prison; we now need to try to do something about it’.³⁰⁵ Hopefully the recommendations of this Interim Report will go some way to addressing the problems of female offenders, particularly those with extensive histories of substance abuse. A comprehensive response to these issues requires further work and investigation. This should ideally be done through a more in-depth parliamentary inquiry, namely by the Drugs and Crime Prevention Committee or its equivalent during the course of the 57th Parliament of Victoria.

**Adopted by the Drugs and Crime Prevention Committee
55 St Andrews Place
East Melbourne
16 September 2010**

³⁰⁴ Dr Stuart Kinner, Senior Research Fellow, Burnet Institute, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

³⁰⁵ Dr Stuart Kinner, Senior Research Fellow, Burnet Institute, Evidence given to the Drugs and Crime Prevention Committee, Inquiry into the Impact of Drug-related Offending on Female Prisoner Numbers, Public Hearing, Melbourne, 16 June 2010.

Appendices

Appendix 1: List of submissions received

Submission number	Name of individual/organisation	Date received
1	Ms Sonia Chudiak Manager, Justice Programs Melbourne Citymission	10 June 2010
2	Ms Julie Edwards, Chief Executive Officer Jesuit Social Services	11 June 2010
3	Ms Denise McGrath	11 June 2010
4	Mr Huy Luu Prison Support Worker Australian Vietnamese Women's Association	11 June 2010
5	Ms Melanie Walker Acting Chief Executive Officer Public Health Association of Australia	15 June 2010
6	Ms Sarah Spencer Senior Researcher/Coordinator Research and Evaluation Unit Australian Community Support Organisation Inc.	15 June 2010
7	Ms Antoinette Braybrook Chief Executive Officer Aboriginal Family Violence Prevention and Legal Service Victoria	15 June 2010
8	Confidential submission	
9	Ms Samantha Sowerwine Coordinator/Lawyer Mental Health Legal Centre	17 June 2010
10	Ms Debbie Kilroy Director Sisters Inside	17 June 2010
11	Mr John Ryan Chief Executive Officer Anex	17 June 2010

12	Ms Jenny Kelsall Team Leader, BBV Education & Support Harm Reduction Victoria	18 June 2010
13	Mr Sam Biondo Executive Officer Victorian Alcohol & Drug Association	18 June 2010
14	Mr Saul Holt Director, Criminal Law Services Victoria Legal Aid	18 June 2010
15	Ms Greta Clarke Executive Officer – Research, Planning and Development Unit Victorian Aboriginal Legal Service	22 June 2010
16	Ms Jelena Popovic Deputy Chief Magistrate	22 June 2010
17	Dr Chris Atmore Policy Officer Federation of Community Legal Centres	25 June 2010
18	Ms Phoebe Barton Project Worker Flat Out, and Centre for the Human Rights of Imprisoned People (Joint submission)	28 June 2010
19	Ms Amanda George Flat Out Chairperson, and Community Lawyer, Western Suburbs Legal Service	28 June 2010
20	Mr Grant Webster Principal Solicitor Darebin Community Legal Centre Ms Donna Williamson Advocate Darebin Community Legal Centre	28 June 2010
21	Ms Michelle Burnell Chief Executive Officer Council to Homeless Persons, and Mr James Farrell Manager/Principal Lawyer PILCH Homeless Persons' Legal Clinic (Joint submission)	29 June 2010

22	Ms Karen Gurney Community Lawyer Collingwood Neighbourhood Justice Centre Fitzroy Legal Service	2 July 2010
23	Mr David Smyth Chairman Violence Free Families	5 July 2010
24	Ms Emma Asscher Community Lawyer St Kilda Legal Service	5 July 2010
25	Mr Robert Hastings Commissioner Corrections Victoria Department of Justice	2 August 2010
26	Ms Samantha Hauge Manager, Coroners Prevention Unit Coroners Court of Victoria	5 August 2010

Appendix 2: Witnesses appearing in public hearings

Hearings in Melbourne – 16 June 2010

Name	Role	Organisation
<i>In camera hearing</i>		
Ms Amanda George	Founder	Flat Out
<i>In camera hearing</i>		
<i>In camera hearing</i>		
Ms Samantha Sowerwine	Coordinator, Inside Access	Mental Health Legal Service
Dr Stuart Kinner	Senior Research Fellow	The Burnet Institute
<i>In camera hearing</i>		
Ms Jelena Popovic	Magistrates Court of Victoria	Deputy Chief Magistrate
<i>In camera hearing</i>		

Hearings in Melbourne – 2 August 2010

Name	Role	Organisation
<i>In camera hearing</i>		
Ms Sonia Chudiak	Manager, Justice Programs	Citymission
Ms Jessica Wotherspoon	WISP intake worker Dame Phyllis Frost Centre	Citymission
Ms Debbie Kilroy	Director	Sisters Inside
Ms Cam Nguyen	Chief Executive Officer	Australian Vietnamese Women's Association
My Huy Luu	Prison Support Worker	Australian Vietnamese Women's Association
Ms Layla Vu	Drug and Alcohol Counsellor INDECOS	Australian Vietnamese Women's Association
Ms Laurel Gore	Senior Support Worker	Prison Network Ministries
Professor Arie Freiberg	Chairperson	Sentencing Advisory Council, Victoria

Appendix 3: Teleconferences

Teleconference – 2 August 2010

Name	Role	Organisation
Associate Professor Eileen Baldry	Associate Professor, School of Social Sciences and International Studies	University of New South Wales

Appendix 4: Site visits

4 June 2010

Dame Phyllis Frost Centre, Deer Park

15 June 2010

Tarrengower Prison, Maldon

Thomas Embling Hospital, Fairfield

16 August 2010

Judy Lazarus Transition Centre, West Melbourne

A supported community housing program, Melbourne

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