



Jesuit Social Services

Victorian State Election Platform:
Adult Justice

November 2018



The Victorian State Election

Elections are times for asking what kind of a society we want. They invite us to name our own vision. At election times, too, politicians offer us their visions for a good society. We have a responsibility to assess what they offer, and have an opportunity to advocate for change.

Jesuit Social Services accompanies and works with people and communities who are excluded and isolated.

Our work with people on the margins draws our attention to the multiple and interrelated factors that cause disadvantage, push people to the margins, diminish communities' capacity to shape their future, and damage the natural environment we all depend on. This understanding challenges us to take account of these challenges in our accompaniment and our advocacy. We bring together 'doing' and 'influencing' to ensure our programs and advocacy are shaped by our practice wisdom, evidence and rich heritage.

We work with people with significant barriers to participation and social and economic inclusion.

We accompany them, address their needs and partner with community, business and government to support them onto a pathway to education, training and employment.

Our doing and influencing spans:

- Disadvantaged and marginalised communities
- People with complex and multiple needs
- People involved or at-risk of entering the youth and adult justice systems
- Boys and men who are in trouble or causing trouble
- Aboriginal and Torres Strait Islander communities
- People and families seeking asylum
- Education, training and employment

The experiences of vulnerable people are diverse. So are their needs. Effective responses demand programs that can be tailored to individual needs, constant adaptation for successful delivery, and sustained commitment from governments. Above all, they must be founded on the recognition that every human being deserves a second chance.

Adult Justice

Victoria's exploding prison population continues to be of great concern to Jesuit Social Services, as does the bi-partisan approach to building more prisons rather than investing in alternatives that are proven to reduce reoffending. If we build prisons we will fill prisons. This approach is unsustainable and ultimately will create more victims. We know that in Victoria, 43.6 per cent of adults released from prison returned within two years.¹ Now is the time to commit to reducing our ballooning prison population and focus on prevention.

The newly elected Victorian government must provide a vision for the adult justice system that urgently addresses recidivism, increasing remand numbers, and overrepresentation of Aboriginal and Torres Strait Islander people.

Addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the Victorian justice system should include tangible targets, and must be centred on strengthening self-determination.

Individuals involved in the justice system require unique responses and interventions to support them to desist from offending, rehabilitate, and meaningfully contribute to the community. Prison must be used as a last resort, and transition from prison to the community must be accompanied by therapeutic interventions to support reintegration.

Practices of separation and isolation in Victorian prisons are of significant concern. Jesuit Social Services believes there must be strict limits on the use of isolation and restraint, including prohibitions on prolonged confinement. Separation should be for the minimum amount of time necessary, and subject to daily review.

As a matter of urgency, the elected government must work to address the needs of vulnerable cohorts within the justice system, such as people with acquired brain injury, women with disabilities, and young adults. As highly vulnerable individuals exit prison and return to the community, we must provide transitional support and a diversity of housing options to reduce the likelihood of further offending.

Our asks

We call for the next state government to:

- Aim to reduce reoffending by 15 per cent by piloting a sustained community capacity building approach to crime prevention in disadvantaged communities for a minimum of 10 years.
- Commit to reducing the over-representation of Aboriginal and Torres Strait Islander people in the justice system by:
 - sufficiently resourcing Aboriginal Community Controlled Organisations to deliver support to those involved in the justice system,
 - funding a continuum of support for Aboriginal prisoners from pre-release to post-release that is built on trusted relationships with a single Aboriginal Community Controlled Organisation to provide consistent, culturally appropriate support to those exiting prison,
 - expanding the availability of programs targeted specifically towards Aboriginal and Torres Strait Islander women.
- Invest in more intensive transition support services for highly vulnerable people leaving prison by:
 - expanding the Judy Lazarus Transition Centre to enable a greater proportion of the prisoner population to access intensive transitional support,
 - creating an equivalent transitional support facility for women,
 - supporting the extension of initiatives to support women into employment and re-engagement with community.
- Address the housing needs of people leaving prison by:
 - funding housing and support options for vulnerable cohorts,
 - expanding the availability of affordable and appropriate housing options for women,
 - identifying and funding options to address post-release housing support.
- Implement the recommendations developed by the [Enabling Justice project](#), and fund specialist supports for women in prison with intellectual disability or cognitive impairment.
- Invest in restorative justice group conferencing for young adults involved in the justice system.
- Legislate for a presumption against the use of [isolation](#), with isolation only permissible in rare cases where immediate safety to persons is a concern, and then only for the briefest possible period. In no case should isolation exceed 14 consecutive days, and a period of such length could only be justified in the most extreme circumstances.
- Establish an Independent Custodial Inspectorate that is responsible for overseeing prisons in Victoria and reports directly to Parliament.

Aim to reduce reoffending by 15 per cent by piloting a sustained community capacity building approach to crime prevention in disadvantaged communities for a minimum of 10 years.

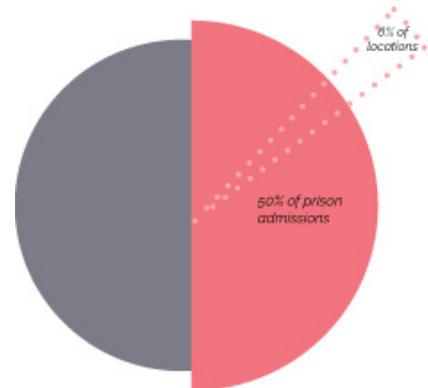
Victoria's recidivism rate continues to grow. In 2012-13, 36.8 per cent of prisoners returned to prison within two years. In 2016-17, 43.6 per cent of prisoners returned to prison within two years.²

Recidivism represents a substantial cost to the Victorian community and presents a significant opportunity for savings. Modelling undertaken for Jesuit Social Services³ shows that a 15 per cent reduction in the rate of male reoffending could save the corrections system between \$15.2 million and \$23.4 million per year over the long term. Achieving this reduction would also result in significant savings beyond prisons, including for mental health units, hospitals, police and other community support services.

Place-based, long-term initiatives must be maximised to reduce crime. In 2015, *Dropping off the Edge*⁴ found that six per cent (42) of postcodes in Victoria accounted for half of all prison admissions. This highlights the often localised nature of crime, as well as the role of disadvantage as an underlying cause of offending.

A community capacity building approach to crime prevention recognises the role that disadvantage plays in the prevalence of crime. These community-driven responses target underlying issues that the community has identified as important to them.

We call on the elected Victorian government to aim to reduce reoffending by 15 per cent through a sustained community capacity building approach to crime prevention in disadvantaged communities over a long term, for a minimum of 10 years.



Commit to reducing the over-representation of Aboriginal and Torres Strait Islander people in the justice system by:

- **sufficiently resourcing Aboriginal Community Controlled Organisations to deliver support to those involved in the justice system,**
- **funding a continuum of support for Aboriginal prisoners from pre-release to post-release that is built on trusted relationships with a single Aboriginal Community Controlled Organisation to provide consistent, culturally appropriate support exiting prison,**
- **expanding the availability of programs targeted specifically towards Aboriginal and Torres Strait Islander women.**

There is significant overrepresentation of Aboriginal prisoners and offenders in the criminal justice system.

In Victoria, Aboriginal people are 9.9 times more likely to be imprisoned than non-Indigenous people.⁵ Victoria's Aboriginal prisoner population has more than doubled over the past ten years, increasing by 126 per cent between 2006-07 and 2015-16.⁶ In that same period of time, the non-Indigenous prison population increased by 53 per cent.⁷

Aboriginal women are 16 times more likely to be in prison than non-Indigenous women,⁸ and are likely to have experienced profound and complex disadvantage in the community. A report by the Victorian Ombudsman found that, overall, women in prison have extensive histories as victims of violence and abuse. Aboriginal and Torres Strait Islander women in Victorian prisons are even more likely than their non-Indigenous counterparts to have experienced family violence and/or sexual violence. This is compounded by the fact that Aboriginal and Torres Strait Islander women in prison are also more likely than other women prisoners to have mental, cognitive or physical disabilities.⁹

With high rates of incarceration of Aboriginal people, including the significant increase of Aboriginal women entering the prison system, there is a need to ensure the issues facing Aboriginal people are given greater weight in the planning and delivery of prison and post-release services and prevention initiatives.

Responding to the over-incarceration of Aboriginal and Torres Strait Islander people in the justice system needs a long-term, whole-of-government approach that is built on trusting, strong relationships with Aboriginal organisations.

A community capacity building approach provides a framework to bring together Aboriginal organisations and Aboriginal communities with government and community organisations. Through this partnership, knowledge and capacity can be built to respond more effectively, by addressing underlying issues and strengthening connection to traditional culture and ways of living.

We call on the elected Victorian government to commit to reducing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system by funding and partnering with Aboriginal Controlled Organisations. This should include the delivery of programs targeted specifically towards Aboriginal and Torres Strait Islander women.

Invest in more intensive transition support services for highly vulnerable people leaving prison by:

- **expanding the Judy Lazarus Transition Centre,**
- **creating an equivalent transitional support facility for women,**
- **supporting the extension of initiatives to support women into employment and re-engagement with community.**

People exiting prison in Victoria include some of the most vulnerable and disadvantaged members of our community. Yet the limited support that is available to them means they often cycle through the justice system.

The Victorian Ombudsman's *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria* (2015) reported that only 700 of the approximately 6,600 people who leave prison each year are provided with transitional support. Most of this group receive between three and 22 contact hours of support.¹⁰ Most people exiting prison are not adequately supported to address the problems they face and this, in turn, exacerbates the likelihood of reoffending.

A small number of male prisoners can access 25 beds at the Judy Lazarus Transitional Centre, which has been found to reduce recidivism and better prepare people for transition back to the community. This model provides a staged release which has been shown to help people develop the skills and confidence to live in the community. In 2015, the Ombudsman found that the recidivism rate for those who exit via the intensive transitional support program at the Judy Lazarus Centre was 10.4 per cent compared to 44.1 per cent for the overall prison population.¹¹

The elected Victorian government must replicate the Judy Lazarus Centre model on a more substantial scale to enable a greater proportion of the prisoner population to access intensive transitional support.

There is currently no comparable service to the Judy Lazarus Centre available to women. The female prison cohort has experienced significant growth over the past 10 years, increasing 131 per cent from August 2008 to August 2018, and from 5.7 per cent to 7.18 per cent of the adult prison population.¹² The Victorian Ombudsman has recommended that the Department of Justice and Regulation investigate options to ensure the specific needs of women prisoners are recognised.

Many women leaving prison do not receive appropriate and effective transitional support that caters to their unique needs. Jesuit Social Services delivers support to women exiting the justice system, including a program of post-prison assistance to women with the support of the Sisters of Charity. Although currently a small initiative, this program is successfully providing individualised support to 15 women a year to assist them to re-engage in community and to support them to explore education, training and employment pathways. This year we have engaged with 12 participants with one quarter gaining employment and five others participating in education and training programs. This initiative provides a successful basis for the development of a dedicated program for women leaving the prison system.

We call on the elected Victorian government to invest in more intensive transition support services for highly vulnerable people leaving prison.

Address the housing needs of people leaving prison by:

- **funding housing and support options for vulnerable cohorts,**
- **expanding the availability of affordable and appropriate housing options for women,**
- **identifying and funding options to address post-release housing support.**

Housing is a critical issue for people leaving prison. Having stable and affordable housing can make a significant difference in the life of a person leaving prison and whether they reoffend, yet almost a third (31 per cent) of prisoners expect to exit custody into homelessness.¹³

Significant limitations on the availability of housing and support mean many highly vulnerable people exiting prison are homeless or accommodated in inappropriate housing. For people seeking bail or parole, lack of suitable housing can prolong the time they spend in custody.¹⁴

Research shows that a high proportion of women who exit prison, including Aboriginal and Torres Strait Islander women, are too often forced to return to unsafe and insecure housing (including situations of family violence) due to a lack of affordable housing options,¹⁵ and unstable housing has been found to be the most significant factor affecting return-to-prison outcomes.¹⁶

People who are exiting prison have a wide variety of needs. A diversity of housing options, including independent living and supported housing arrangements, is crucial to ensure each individual's needs are met. It is also vital that appropriate housing is arranged prior to release from prison.

Existing services target the most serious offenders and those most likely to be a risk to the community. This leaves many people transitioning out of prison with only limited access to post-release support. Post-release services help people find housing and work, and access health and other support services. However, only one in five prisoners receives post-release support from Corrections Victoria, and less than two per cent have access to housing through state government programs specifically for former prisoners.¹⁷

Access to housing support and transition services in the justice system for people exiting prison must be better coordinated.

We call on the elected Victorian government to address the housing needs of people leaving prison, especially those of vulnerable cohorts by funding housing and support options for vulnerable cohorts, expanding the availability of affordable and appropriate housing options for women, and identifying and funding options to address post-release housing support.

Implement the recommendations developed by the Enabling Justice project, and fund specific specialist supports for women in prison with intellectual disability or cognitive impairment.

Far too many Victorians with an acquired brain injury (ABI) are caught up in the criminal justice system. In 2011, Corrections Victoria reported that 42 per cent of men and 33 per cent of women, in a sample of the Victorian prison population, had been diagnosed with ABI; this compares with just two per cent across the general population.¹⁸

Jesuit Social Services works with women incarcerated at Dame Phyllis Frost Centre who have a diagnosed intellectual disability or cognitive impairment. These women are highly vulnerable and require specialist support which is currently very limited. We have found through our experience that prison staff lack the training and skills to work effectively and positively with these women, and current approaches towards providing them with support are inadequate.

The extraordinary overrepresentation of people with ABI in Victorian prisons reflects a broader failure of the criminal justice system to recognise and respond to the needs of people with ABI. In failing to meet the needs of people who have ABI, the criminal justice system is also failing the community.

Jesuit Social Services and RMIT University's Centre for Innovative Justice ran the Enabling Justice project to highlight these challenges, recognising that doing so in a meaningful way would require the involvement of people with ABI and lived experience of the criminal justice system.

The project developed a series of recommendations designed to reduce the involvement of people with ABI in the justice system and to support more positive outcomes. Thirty-five recommendations were developed by the project partners, participants and members of the Justice User Group.

The foci of these recommendations are:

- a system that listens to the voices of people with ABI
- a system that operates more according to a person's support needs, and less on risk, providing holistic support
- the need to provide people with ABI access to stable and affordable housing, with attached support where required
- the need for improved linkages and cooperative approaches between justice and health services
- a justice system that is less adversarial, and more respectful and restorative.

We call on the elected Victorian government to implement these recommendations.

Invest in restorative justice group conferencing for young adults involved in the justice system.

Restorative justice views crime as more than breaking the law – it recognises that when people have committed a crime it also causes harm to people, relationships and community.

Restorative justice focuses on *repairing* this harm. It brings people together – the offender, the victim and others affected – to acknowledge the harm, consider how best to repair the harm, and prevent similar harm in the future. This process is often transformative: creating fundamental changes for individuals, relationships and communities.

Research has shown that compared to non-restorative approaches such as imprisonment, restorative justice is more successful at achieving three main objectives: improving victim satisfaction; getting the offender to comply with restitution; and decreasing offender recidivism.¹⁹ An evaluation of Victoria's Youth Justice Group Conferencing Program, delivered by Jesuit Social Services across metropolitan Melbourne, found that more than 80 per cent of participants had not reoffended two years later – this compared to 57 per cent for the comparison group.²⁰

Despite the success of various restorative justice programs, there are currently no restorative justice programs available for adult offenders.²¹ The use of restorative justice is not only useful because it reduces recidivism, it also helps offenders to avoid becoming entrenched in the prison system. Restorative justice also promotes victim satisfaction.²²

We call on the elected Victorian government to invest in restorative justice group conferencing for young adults involved in the justice system. This could include, for example, piloting group conferencing for young adults in prison at the pre-release stage. This must be accompanied by support for young adults in the community, such as via existing programs like ReConnect. We would welcome the opportunity to work collaboratively with the elected Government in developing and delivering this initiative.

Legislate for a presumption against the use of isolation, with isolation only permissible in rare cases where immediate safety to persons is a concern, and then only for the briefest possible period. In no case should isolation exceed 14 consecutive days, and a period of such length could only be justified in the most extreme circumstances.

Establish an Independent Custodial Inspectorate that is responsible for overseeing prisons in Victoria and reports directly to Parliament.

Jesuit Social Services believes that prison should always be a last resort. We acknowledge that sometimes prison is necessary, particularly in cases of violent crime. But when a State takes the serious step of removing a person's liberty, certain standards must be met to ensure the human rights of those incarcerated, to rehabilitate detainees and to reduce re-offending.

Our report – *All alone: Young adults in the Victorian justice system* – raises a number of concerns regarding the welfare and treatment of young adults in Victorian prisons, and questions whether these standards are being met.²³ The report can be found at jss.org.au, including a full list of our recommendations.

Based on our examination of the international research and literature regarding the impact of isolation and first-hand observations, Jesuit Social Services believes there must be strict limits on the use of isolation and restraint practices in relation to young adults, including prohibitions on prolonged confinement.

Punitive isolation (ie for the sole purpose of punishment) should never be permitted. Jesuit Social Services accepts that there may be limited circumstances where separation is necessary for the protection of the young adult or others. Such separation should only be used in a situation where a person might reasonably be expected to cause serious physical harm to themselves or others, and where other de-escalation interventions have not been effective. In de-escalating situations where physical harm to self or others is not a concern, staff should not rely on separation as a solution and instead employ restorative interventions.

Separation should be for the minimum amount of time necessary, and subject to daily review. The person affected should also be informed of the reasons for the separation and the expected period it will be used for. Justice also demands the implementation of an appropriate accountability framework, including independent inspection and oversight. The use of separation should be recorded by prison operators and the relevant data made public to ensure accountability and adherence to guidelines.

Jesuit Social Services has previously expressed concern about the lack of accountability and transparency within Victoria's prison system.²⁴ Unlike other states in Australia (e.g. New South Wales, Western Australia) and countries such as the United Kingdom, Victoria does not have an Independent Prison Inspectorate that is responsible for overseeing Victorian prisons.²⁵

An Independent Custodial Inspectorate can create mechanisms of accountability that would ensure that the use of isolation in Victorian prisons is kept at a minimum, and only used as a last resort. It would also help to monitor the behaviour of custodial staff, and ensure that they are dealing with escalating situations with appropriate techniques to minimise risk of violence and property damage. The transparency of such a body could also ensure that data and information about adults in management regimes is made available, so that prisons can be held accountable by the public and relevant organisations.

Case studies highlight the traumatic and lasting effects of prolonged isolation in Victorian prisons:

CASE STUDY: Gregor

Gregor* is 25 years of age and was in a long term management placement in an adult prison in Victoria.

Gregor was transferred to an adult prison at the age of 18 from a youth justice centre after his behaviour became too challenging to manage at the facility. He quickly became involved in serious incidents in the adult prison and has now largely been in isolation since the age of 18.

Gregor alleges he has been handcuffed, shackled and tear gassed under these isolation regimes. He says he has also been assaulted numerous times by prison staff and has often been placed in observation cells, where his clothes have been removed by staff and replaced with a canvas gown.

Gregor recently received a lengthy sentence for a serious violent offence following his last release from isolation (long-term management placement), a significant escalation in his level of offending. He remains in isolation, and has been there for the past 18 months.

He has revealed that he finds face-to-face interactions with people difficult to manage, including with his mum, given he is isolated for 22 hours a day.

* name has been changed

CASE STUDY: Jack

Jack* is currently living with his girlfriend, however, he has been experiencing difficulty in adjusting to the community after being held in isolation.

He often spends most of his time cleaning the house, as this is something he would do in his cell during his time in isolation. Jack often walks laps of his backyard and his hallway, as this was something he would do in his cell. He finds these activities comforting.

He also often paces in public places and experiences anxiety around other people. Jack recently celebrated his 25th birthday in the community, but locked himself in his friend's bedroom for the day as he found this experience overwhelming.

* name has been changed

CASE STUDY: James

James* is an Aboriginal man who was transferred to an adult prison in Victoria from a youth justice centre at the age of 16.

James was released from an intermediate regime placement (22 hours in cell, two hours out of cell with a small group of prisoners) at the age of 19.

Following this transfer, he struggled to manage his transition back into the community.

While James secured a transitional property, he found this too challenging to live in, and made his bathroom into a cell. He slept in the bath and prepared his food in the bathroom. James brought a number of items, including a radio, a kettle and a toaster, into his bathroom to replicate the cell he had in prison.

James returned to custody shortly following his release and his struggles in the community were the source of much concern to his family, who were not immediately aware of his transfer to an adult prison at the age of 16.

* name has been changed

Endnotes

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