



Cultural Review of the Adult Custodial Corrections System

December 2021

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Jesuit Social Services: Who we are and what we do

Jesuit Social Services is a social change organisation that delivers practical support and advocates for policies to achieve strong, cohesive and vibrant communities where every individual can play their role and flourish. For more than 40 years, we have accompanied people involved in, or at risk of becoming involved in, the criminal justice system. In Victoria, we work with people to prevent and divert involvement in the justice system and support people exiting prison and youth justice facilities.

We work to build a just society by advocating for social change and promoting the health and wellbeing of disadvantaged people, families, and communities. We value all persons and seek to engage with them in a respectful way that acknowledges their experiences and skills and gives them the opportunity to harness their full potential. As a social change organisation, we seek to *do* and to *influence* by working alongside people experiencing disadvantage and advocating for systemic change. Our service delivery and advocacy focuses on the following areas:

Justice and crime prevention – people involved with the justice system

Mental health and wellbeing – people with multiple and complex needs including mental illness, trauma, homelessness and bereavement

Settlement and community building – recently arrived immigrants and refugees, and disadvantaged communities

Education, training and employment – people with barriers to education and sustainable employment

Gender Justice – providing leadership on the reduction of violence and other harmful behaviours prevalent among boys and men, and building new approaches to improve their wellbeing and keep families and communities safe.

Ecological justice – advocating and conducting research around the systemic change needed to achieve a ‘just transition’ towards a sustainable future, and supporting community members to lead more sustainable lives.

Research, advocacy and policy are coordinated across all program and major interest areas of Jesuit Social Services. Our advocacy is grounded in the knowledge, expertise and experiences of program staff and participants, as well as academic research and evidence. We seek to influence policies, practices, legislation and budget investment to positively influence people’s lives and improve approaches to address long-term social challenges. We do this by working collaboratively with governments, businesses, the community sector, and communities themselves to build coalitions and alliances around key issues, and building strong relationships with key decision-makers and the community.

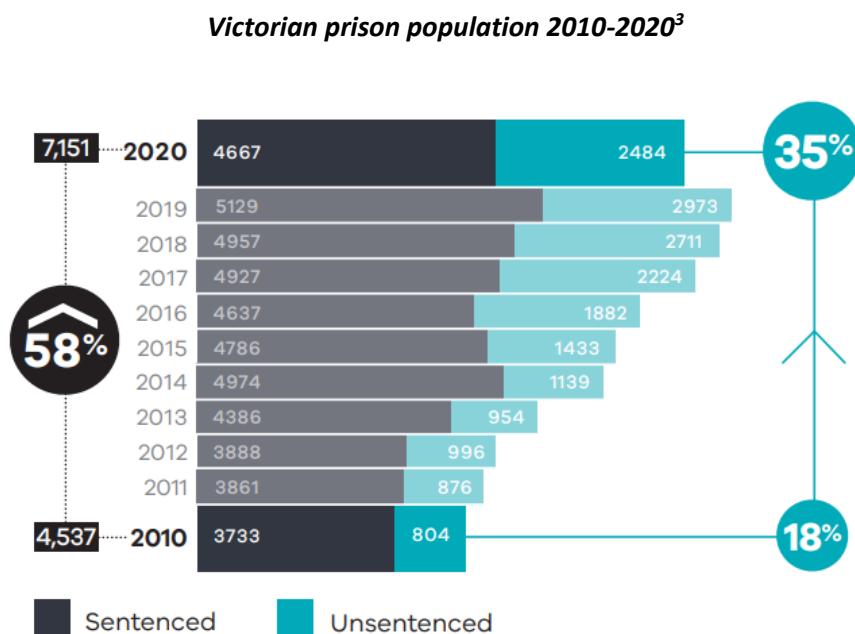
Our Learning and Practice Development Unit builds the capacity of our services through staff development, training and evaluation, as well as articulating and disseminating information on best practice approaches to working with participants and communities across our programs.

We acknowledge the Traditional Custodians of all the lands on which Jesuit Social Services operates and pay respect to their Elders past and present. We express our gratitude for First Nations people’s love and care of people, community, land and all life.

Introduction

Jesuit Social Services welcomes the opportunity to contribute to the Cultural Review of Victoria's Adult Custodial Corrections System. The primary goal of any effective and humane criminal justice system is to use prison as a last resort by ensuring policy, legislative and budgetary levers are all set to prevention and diversion. However, increasing prison populations and high recidivism rates point to a systemic failing of Victoria's criminal justice system and a significant disconnect between what works to support rehabilitation and what the government is implementing. The recent Independent Broad-based Anti-corruption Commission (IBAC) report further exposed serious systemic cultural issues within the Victorian prison system, including allegations of prison staff covering the lens of their body worn cameras while treating people in prison with force and issues relating to strip searches.¹

Victoria's prison population has risen dramatically over the past ten years with a key driving factor being the implementation of regressive bail, parole and sentencing legislation, often as a response to public and media pressure in heightened moments, such as the Bourke Street tragedy in 2017.²



Source: Corrections Victoria (2020). Annual Offender Statistical Profile

This is placing significant pressure on prison infrastructure, people in prison and staff. Victoria has made a significant shift towards the use of privately run prisons. Currently, 40 per cent of Victoria's prison population are held in private facilities – this is significantly higher than other states and territories in Australia and almost anywhere in the world.⁴ Jesuit Social Services is concerned that in introducing a profit motive to the operation of prisons there may be tension, or even conflict, with the principles of imprisonment: rehabilitation and reducing recidivism, while respecting human rights.

¹ Independent Broad-based Anti-corruption Commission (2021). Special Report on corrections. ([Weblink](#))

² Corrections Victoria (2020). Annual Offender Statistical Profile 2010 to 2020. ([Weblink](#))

³ With COVID-19 posing a considerable risk to people in detention, 2020 saw a decline in the rate and number of people imprisoned in Victoria for the first time in a decade.

⁴ Monash University 2019, Victoria's prison system: rising costs and population, little accountability ([Weblink](#)); Jesuit Social Services (2017). Outsourcing Community Safety: Can private prisons work for public good? ([Weblink](#))

This submission draws on over four decades of Jesuit Social Services' experience engaging with people throughout Victoria who have contact with the criminal justice system. We acknowledge the Terms of Reference for the review and note that our submission will address both the workplace culture of custodial settings (Stream 1) and the safety and wellbeing of people in custody (Stream 2).

In essence, Jesuit Social Services advocates that prison should only ever be used as a last resort. We call for a renewed focus on prevention, diversion, and rehabilitation. In situations where imprisonment is necessary, we believe a restorative way of working supported by qualified staff, well-designed facilities, high quality pre and post-release programs and strong oversight mechanisms can help people turn their lives around when they return to the community. We also highlight our concerns that young adults have not been included as a 'vulnerable cohort' in the Review Consultation Paper and emphasise the importance of understanding their unique needs and experiences.

In our submission, we address key questions raised in the Consultation Paper and make recommendations in relation to the following areas.

1. Addressing the underlying drivers of culture and integrity issues;
2. A culture premised on restorative justice;
3. Meeting the needs of people in custody;
4. Recruitment and employment processes;
5. Enabling better transitions from custody to the community; and
6. Integrity and oversight arrangements.

1. Addressing the underlying drivers of culture and integrity issues

What are the drivers of integrity issues and inappropriate workplace behaviour in the adult custodial environment?

Imprisonment should only ever be used as a last resort.⁵ However, in Victoria, rates of incarceration have risen dramatically. In just over ten years, fuelled by changes to bail and parole laws, the rate of imprisonment increased by almost 50 per cent and overall prison numbers doubled.⁶ This growth has put pressure on prison infrastructure, facilities, a prison workforce often ill-equipped to deal with individuals with complex life circumstances, and people in prison themselves.

One of the major contributors to this constant rise is the growing number of adults on remand. In 2011-12, just over 20 per cent of people in prison were unsentenced compared with almost 60 per cent in 2019-20.⁷ Changes to bail laws have expanded the list of offences for which presumption in favour of bail is reversed⁸ and new bail-related offences (offences committed on bail, and breaching conditions of bail) have been introduced.⁹ There has also been a substantial decrease in the use of police discretion to grant bail, putting people on remand as they wait for bail applications to be heard by the courts.¹⁰ These changes have significantly boosted the remand population.

Overcrowding combined with rising rates of imprisonment can have significant impacts on both the treatment and rehabilitation of people in prison, and staff safety. Reviews of the European Committee for the Prevention of Torture noted that low staff-to-prisoner numbers presented ‘a potentially dangerous situation for vulnerable prisoners’ as well as, ‘dangers for staff, whose position can be compromised by their inability to develop a constructive dialogue with prisoners’.¹¹ This was evident in the 2015 Metropolitan Remand Centre disturbance where the impact of overcrowding on recreation spaces and access to programs, and the resulting increased anxiety and frustration felt by the prison population was found to be a contributing factor.¹²

In recent years, we have seen the Victorian Government respond to overcrowding by commissioning the construction of more prisons. This does little to address offending or rehabilitate people in prison. The most decisive action we can take is to stop building new prisons, reduce the number of people who are incarcerated and invest in keeping people out of custody in the first place. These measures would yield substantial savings.¹³

1.1 Strengthen prevention and diversion

As a starting point, we need to invest in local communities, harness their strengths, and work with them to prevent crime. A significant factor that influences whether a person will come into contact with the justice system is where they live. Entrenched geographical disadvantage has been explored in our series of research reports conducted over the past 20 years titled *Dropping off the Edge* (DOTE). Our [DOTE](#)

⁵ Sentencing Act 1991 (Vic)

⁶ Australian Bureau of Statistics (2019). Prisoners in Australia, 2019 ([Weblink](#))

⁷ Corrections Victoria (2021). Annual prisoner statistical profile 2009-10 to 2019-20 ([Weblink](#))

⁸ Sentencing Advisory Council. (2016). Victoria’s Prison Population 2005 to 2016. Retrieved from ([Weblink](#))

⁹ Ibid.

¹⁰ Ibid.

¹¹ Council of Europe (2016). Yearbook of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

¹² Walshe, K., (2015). Independent Investigation into the Metropolitan Remand Centre Riot Final Report. December 2015. ([Weblink](#))

¹³ Productivity Commission 2021, Australia’s prison dilemma, Research paper, Canberra ([Weblink](#))

[2021 research](#) revealed that those living in the three per cent most disadvantaged communities in Victoria were nearly three times more likely to have high levels of prison admissions than people living in the remaining 97 per cent of communities, highlighting the localised nature of crime and entrenched disadvantage as an underlying cause of offending.¹⁴

Jesuit Social Services strongly believes that place-based approaches can address the complex and interconnected social determinants of crime, thereby, preventing contact with the justice system. To this end, we have recently established the [Centre for Just Places](#), with seed funding from the Victorian Government and Gandel Philanthropy. A key focus of the Centre is to build research and advocacy around the need to address the root causes of social, economic and environmental inequality and injustice. We recommend that the Victorian Government continue to support and develop long-term, place-based approaches in areas of disadvantage that centre community decision-making and address the range of factors that can lead to involvement with the justice system.

Further, Jesuit Social Services would like to see greater use of pre-court and court-ordered diversion to allow people who cause harm to address the drivers behind their offending while still holding them accountable for their actions. A recent study conducted in Texas found that diversion cut rates of reoffending in half and grew quarterly employment rates by nearly 50 per cent over ten years.¹⁵ This demonstrates that not only does diversion have substantial benefits for those who cause harm by providing critical supports and reducing stigma, but also for the broader community.

1.2 Reinstate alternatives to custody

In order to significantly reduce the number of people in prison and promote rehabilitation, we need to review alternative sentencing options and consider the re-introduction of measures such as suspended sentences and home detention, especially for those on short sentences or convicted of non-violent crimes. Orders such as these create a graduated sentencing hierarchy, reserving prison for the most serious, violent offences, and ensuring that legislation matches evidence on what works to prevent reoffending.

Certain conditions around these orders provide safeguards to ensure their effectiveness. For instance, certain individuals would be better candidates for non-custodial sentences, such as those with non-violent offending histories who are at low-risk of reoffending. Research into monitoring of individuals in the community has consistently shown that non-custodial orders, such as electronic monitoring, are successful only when well-resourced, intensive and appropriate support is provided. Without this support, breaches of order conditions are more common.¹⁶

¹⁴ Tanton, R., Dare, L., Miranti, R., Vidyattama, Y., Yule, A. and McCabe, M. (2021), *Dropping Off the Edge 2021: Persistent and multilayered disadvantage in Australia*, Jesuit Social Services: Melbourne.

¹⁵ Mueller-Smith, M., & T. Schnepel, K. (2021). Diversion in the criminal justice system. *The Review of Economic Studies*, 88(2), 883-936.

¹⁶ Graham, H., & McGivern, G, (2017). Electronic monitoring in the criminal justice system. Available at: <https://www.iriss.org.uk/resources/insights/electronic-monitoring-criminal-justice-system>; and Black, M., & Smith, R. G. (2003). Electronic monitoring in the criminal justice system. ([Weblink](#))

Suspended sentences

From 2011 to 2014, suspended sentences were phased out as an option for future offending in Victoria, putting added pressure on prison capacity.¹⁷ Without wholly suspended sentences, there are fewer sentencing options available, with only very low-end orders such as fines or adjourned undertakings, then Community Correction Orders (CCOs), and then imprisonment. Given that each sentence serves its own particular purpose, the removal of one of those sentences equates to the rescinding of the particular purpose for which it was imposed. In the case of the wholly suspended sentence, it is no longer available for the purpose of deterrence and denunciation in situations of serious offending with low-risk of reoffending. When an individual on a CCO either breaches the order or commits a new offence, there are limited options available to judges and magistrates. If the offending continues then the next step in the sentencing hierarchy is imprisonment, as no other alternatives are available in between. We therefore recommend that the Victorian Government reintroduce suspended sentences into the *Sentencing Act 1991* to empower Victorian courts to fully or partially suspend a state sentence of imprisonment, for a specified period.

Home detention

Home detention was abolished on 16 January 2012 when the *Sentencing Legislation Amendment (Abolition of Home Detention) Act 2011 (Vic)* came into effect. From that date, it was no longer available as a sentence or as a post-sentence order. To reduce the strain on the system, staff and infrastructure, alternatives like home detention limit the number of people in prison when it is safe and viable for them to be elsewhere. A home detention order requires an individual who is sentenced to imprisonment to instead remain at home or another approved residence throughout the period of that order and not to leave at any time except for specific reasons that are agreed to or directed by the home detention officer.

Conditions may be attached to any home detention order, in conjunction with targeted and intensive support mechanisms that assist in rehabilitation. Home detention requires careful assessment and screening for appropriate candidates but is a strong option for some cohorts, such as people with drug-related charges and non-violent offending histories. Home detention must be met with increased funding for Community Corrections to support working with people in the community. Further, it must be implemented in a way that does not net-widen, drawing more people into the justice system.

1.3 Repeal regressive legislation

Jesuit Social Services calls on the Government to repeal regressive legislation to ensure a reversal of the trend in increasing prison numbers.

Remand

Jesuit Social Services is deeply concerned about the unprecedented growth in the use of remand and the extent to which it falls disproportionately on people experiencing vulnerability. Changes to bail legislation introduced in recent years have led to a growing number of people in our prisons who are unsentenced and yet to be convicted of a crime. Following the Bourke Street tragedy in 2017, Justice Paul Coghlan's report on Victoria's bail laws made recommendations for legislative changes to Victoria's

¹⁷ They were abolished: in 2011 in the higher courts for serious and significant offences committed on or after 1 May 2011 (*Sentencing Amendment Act 2010 (Vic)*); in 2013 in the higher courts for all offences committed on or after 1 September 2013 (*Sentencing Amendment (Abolition of Suspended Sentences & Other Matters) Act 2013 (Vic)*); and in 2014 in the Magistrates' Court for all offences committed on or after 1 September 2014 (*Sentencing Amendment (Abolition of Suspended Sentences & Other Matters) Act 2013 (Vic)*).

complex bail system.¹⁸ In response, the Andrews Government enacted the *Bail Amendment (Stage One) Act 2017* and the *Bail Amendment (Stage Two) Act 2018*. However, our prisons now have an alarming number of people on remand.

In 2011-12, 23 per cent of adults in prison were unsentenced (876 of 3,861 people) compared with 58 per cent (2,973 of 5,129 people) in 2019-20. Since 2010, the number of women on remand has increased by a staggering 152 per cent.¹⁹ In July this year, there were more women in prison who were unsentenced (54 per cent) compared with women who had received sentences in Victorian prisons.²⁰

In addition to reducing legislative shortcomings, to reduce the number of people on remand, while keeping Victorians safe from people at high-risk of reoffending, we must seriously invest in supported bail options. Addressing dynamic risk factors for individuals who can be appropriately bailed into the community by, for example, investing in diverse housing options, reserves remand for cases where no other option is viable. Otherwise, some vulnerable people may be scooped up further into the justice system - either because they are remanded due to factors beyond their control or because they are at higher risk of committing bail-related offences, thus exposing them to the possibility of custody due to punitive and narrow sentencing options. This set of circumstances all too frequently and disproportionately affects people experiencing vulnerability in our community.²¹

Mandatory sentencing for offences relating to emergency workers

It is critical to protect the safety and security of emergency workers. However, amendments to the *Sentencing Act 1991*, which have created increasingly harsh penalties, are not a panacea for violence or harm. Limiting access to CCOs and the introduction of mandatory prison sentences means that more people will be drawn into the justice system, even when more suitable, community-based sentences may have sufficed to prevent reoffending. We know that community based sentences are more effective at preventing offending when considering the rate of recidivism – of people who were discharged from CCOs in 2017–18, just under 14 per cent had returned with a new CCO within two years.²²

Moreover, the restriction of ‘special reasons’, designed to ensure that individual circumstances are considered, exposes people to sentencing inequity. Instead, mandatory sentencing offers a blunt instrument to deal with potentially complex situations. Where mental ill-health, immaturity, or other vulnerability is evident, courts and judges should have the discretion to adequately address the causes of offending. Prison sentences, in most circumstances, cannot do this.

Intimidation offences

Under the *Justice Legislation Amendment (Police and Other Matters) Act 2019* (Part 2 Clause 3), a new Section 31D of the *Crimes Act (1958)* introduced an offence of intimidation of a police officer, public safety officer (PSO), police custody officer, custodial officer, youth justice custodial officer or a family member, carrying a maximum of 10 years imprisonment. These amendments are unnecessary. Pre-existing laws already covered serious conduct, including reckless conduct endangering life, reckless conduct endangering serious injury, and assault of an emergency worker on duty (which includes police officers and PSOs and assault generally). The assault or threats to assault of an emergency worker, a

¹⁸ Coghlan, P. (2017) The Bail Review. ([Weblink](#))

¹⁹ Corrections Victoria (2021). Profile of women in prison. ([Weblink](#))

²⁰ Corrections Victoria (2021). Monthly time series prisoner and offender data. ([Weblink](#))

²¹ Human Rights Law Centre. (2021). Explainer: Victoria’s broken bail laws. ([Weblink](#))

²² Productivity Commission (2021). Report on Government Services 2021 - Council of Australian Governments (COAG).

youth justice custodial officer, a custodial officer or a protective services officer were already listed under section 31 of *the Crimes Act (1958)*. This legislation is resulting in people being further entrenched in the criminal justice system. Such legislation does not address the root causes of crime, nor does it address the current factors that are leading to incidents in prisons.

We recommend that the Victorian Government:

- Continue to develop long-term, place-based approaches in areas of disadvantage that centre community decision-making, and ensure greater use of pre-court and court-ordered diversion to address the range of factors that can lead people to justice system involvement.
- Reinstate alternatives to custody, including by reintroducing suspended sentences, home detention and electronic monitoring.
- Repeal regressive legislation in relation to bail, intimidation offences and mandatory sentencing for offences relating to emergency workers, and invest in supported bail options.

1.4 Strengthen the transparency of private prisons

As previously mentioned, almost 40 per cent of Victoria’s adult prison population is held in privately owned and operated facilities – the highest by far across Australia and more than almost anywhere else in the world. Our report, [Outsourcing Community Safety: Can private prisons work for public good?](#), raises the question as to whether for-profit prison providers are well placed to rehabilitate people in prison while protecting their human rights. As highlighted in our report, the *United Nations International Covenant on Civil and Political Rights* (the Covenant) states that when a person is deprived of their liberty, the State is responsible for ensuring they are treated with humanity and respect, and that their human rights are protected. In 2010, the United Nations Human Rights Council raised concerns as to whether a country can meet the obligations of the Covenant when they privatise prisons. The June 2021 IBAC report added to these concerns by emphasising the heightened risk of corruption in Victorian prisons due to a growing reliance on private contracting.²³

The need to drive down costs is a legitimate concern of any business, but in the case of prisons, cost-saving measures – such as fewer, poorly paid or less qualified staff – can undermine the wellbeing of a person in prison and their prospects of rehabilitation. Further, when privatisation is introduced there is a serious risk of creating perverse incentives for prison operators to keep prison beds full. For example, a study in Mississippi showed that inmates in private prisons serve up to 90 days more than their sentences, as a result of a much higher incidence of ‘conduct violations’ than occurs in public prisons.²⁴ The additional days served were found to erode the cost savings of private contracting by half and did not lead to any reductions in reoffending, indicating a deep flaw in the privatisation model.

For these reasons, we are very concerned about Victoria’s move to more private prisons, particularly when a number of jurisdictions are moving in the opposite direction (see for example, Queensland).²⁵ There is a serious lack of transparency when it comes to prison performance in this country, both public

²³ Independent Broad-based Anti-corruption Commission (2021). Special Report on corrections. ([Weblink](#))

²⁴ Mukherjee, A. (2021). Impacts of private prison contracting on inmate time served and recidivism. American Economic Journal: Economic Policy, 13(2), 408-38.

²⁵ See for example: ([Weblink](#))

and private. Greater transparency around prison contracts and performance outcomes in private prisons is required.

We recommend that the Victorian Government:

- Reduce reliance on fully privatised prisons.
- Regularly provide data on private prison contracts and performance outcomes for greater transparency of private prisons.
- Commission research to examine the impact of emerging and expanding prison size and operation on safety and rehabilitation outcomes.

2. A culture premised on restorative justice

Is there a role for restorative justice and alternative dispute resolution to improve culture, safety and integrity within the adult custodial corrections system?

Jesuit Social Services has previously expressed concerns surrounding staff culture and practices that may threaten the safety and welfare of staff and vulnerable people in prison, and also undermine the ability of people in prison to successfully turn their lives around when they return to the community.²⁶ Australian prison environments are very different to some of the successful models we have observed internationally, where a greater focus is placed on building productive relationships with people in prison and preparing them for successful transition back into the community.²⁷ Senior leaders from the organisation went on a Justice Solutions tour in 2017 to Norway, Germany and Spain as well as parts of the US and the UK.²⁸ A standout on our 2017 Justice Solutions tour was a visit to Halden adult prison in Norway, a facility that has been labelled ‘the world’s most humane prison’:

CASE STUDY – Halden Prison (Norway)

On entering Halden Prison, around 120km south of Oslo, we were struck immediately by the ‘feeling’ of the facility. Its distinctive atmosphere was no doubt influenced by numerous factors, including an attractive physical environment, a mix of both prison staff and staff from the local community, people in prison dressed in casual clothes, and relaxed interactions between people (e.g. prison officers engaging in a range of recreational pursuits with people in prison). People in Halden Prison are not forced to participate in programs or activities – the Prison Governor said to us on a number of occasions that it is counterproductive to force people to do things and much better to motivate them. A key to this motivation is the quality of relationships; each person has a contact officer who builds a strong relationship with him. The contact officer will have a focus on three people, each of whom reside in the small unit he works in. One young person in prison told us how important this relationship was to him – someone who looked out for him, whom he trusted and whom he could approach any time.

²⁶ Jesuit Social Services. (2018). All alone: Young adults in the Victorian justice system. ([Weblink](#)); Jesuit Social Services and RMIT University Centre for Innovative Justice (2017). Recognition, Respect and Support: Enabling Justice for People with an Acquired Brain Injury. ([Weblink](#))

²⁷ The Norwegian model was examined in Jesuit Social Services “Justice Solutions” study trip in 2017. See Jesuit Social Services. (2017). Justice Solutions: Expanding the Conversation.

²⁸ Jesuit Social Services (2017). #Justice Solutions Tour Expanding the Conversation. ([Weblink](#))

Additionally, the facility itself and the surrounding environment are important enablers of restorative justice. Victoria's ratification of the *Optional Protocol to the Convention Against Torture* (OPCAT) is an opportunity for proactive prevention of harm by ensuring prisons comply in their design and structure (please see below for further details regarding implementation of OPCAT in Victoria). Facilities should be designed according to the principles of OPCAT and relevant guidelines such as the *United Nations Standard Minimum Rules for the Treatment of Prisoners*, also known as the Nelson Mandela Rules, which cover a range of matters pertinent to ensuring safe and healthy living conditions for people in prison, including in regard to temperature, lighting and ventilation. Importantly, the rules make clear that incarceration alone is the person's punishment, and not the circumstances of their confinement.²⁹

This aligns with the 'principle of normalcy' underpinning the Norwegian system: that life inside prison should resemble life outside as much as possible, ensuring that the rights of people in prison are met.



Image: Halden Prison. Credit: ([Weblink](#))

Group conferencing

In Victoria, Jesuit Social Services has delivered the [Youth Justice Group Conferencing program](#) since 2003, enabling dialogue between children who have offended, their victims and others impacted by harm caused to the wider community. The program is grounded in the principles of restorative justice.³⁰ The most recent evaluation of Youth Justice Group Conferencing program was undertaken by KPMG in 2010. More funding is needed in order to evaluate the recent outcomes of the program using life-course methodologies. However, the 2010 evaluation found that more than 80 per cent of participants had not reoffended two years later compared to 57 per cent in the comparison group.³¹ A two-year [pilot program](#) to support young people to manage conflict and interpersonal relationships in custody is currently underway at both the Malmsbury and Parkville youth justice centres. We are looking forward to seeing the outcomes of this pilot.

Working restoratively offers an alternative pathway for promoting healthy environments by proactively supporting relationships before conflict arises, and facilitating healing and wellbeing. Supported by Jesuit Social Services' *Our Way of Working* practice framework, our program delivery is based on a restorative approach. We believe that all people are inherently relational, formed in family and part of a wider community. In the interventions we offer, we accompany people and communities to foster and regenerate the web of relationships that sustain us all – across people, place and planet. Ultimately, what we are trying to do is restore a person who has engaged in harmful behaviours back to their family,

²⁹ United Nations Office for Project Services (UNOPS) (2016). Technical Guidance for Prison Planning ([Weblink](#))

³⁰ Jesuit Social Services (2019). #JusticeSolutions New Zealand Tour. Available from: ([Weblink](#)); and Larsen, J. (2014). Restorative justice in the Australian criminal justice system. AIC Reports: Research and Public Policy Series 127, Australian Institute of Criminology, Australian Government. ([Weblink](#))

³¹ KPMG (2010). Review of the youth justice group conferencing program: Final report. Melbourne: State Government of Victoria. ([Weblink](#))

to their community and to themselves, and to prevent them from further contact with the justice system wherever possible.

In the context of the adult custodial corrections, there are a number of ways in which restorative justice could be built into the system. Firstly, corrections staff could be trained in restorative practice with ongoing opportunities to further develop their capacity to work in ways that promote wellbeing and pro-social behaviour. Secondly, the external facilitation of structured group conversations amongst both staff and people in prison could serve as a critical preventative measure against conflict as well as an important means of building positive relationships. Thirdly, there is strong potential for restorative justice to be implemented in the resolution of internal disputes. Current approaches to resolving conflict often focus on a disciplinary process and involve lengthy investigations.³² Structured group meetings provide a meaningful alternative to address unresolved issues by allowing space for all parties to share their experiences of a situation, providing support for those involved and offering opportunities to develop a plan of action to improve the situation.

We recommend that the Victorian Government embed restorative justice practices in Victorian adult custodial facilities as a means of improving culture, safety and integrity.

3. Meeting the needs of people in custody

What are the particular needs, experiences and safety concerns people within the custodial environment? What essential skills and training should be required for staff working within the adult custodial corrections system?

Many people in prison have multiple and complex needs, including cognitive disability, mental illness, socioeconomic disadvantage and histories of trauma.³³ It is essential, therefore, that staff have commensurate training and are appropriately remunerated. Currently in Victoria, custodial officers are required to complete approximately eight weeks of training.³⁴ It is worth comparing this to other jurisdictions with successful rehabilitation outcomes. In Norway, for example, all prison staff complete a two-year qualification on full pay at a dedicated Staff Academy, and are taught various subjects including psychology, criminology, law, human rights and ethics. Similarly, prison officers in Finland complete a 16-month course with units on basic officer duties (security; counselling; care and support), psychology and ethics, minority cultures, law and human rights, among others. The Finnish corrections service is also considering introducing a joint tertiary qualification for prison and probation staff.³⁵

Elsewhere, Ireland replaced its nine-week induction training in 2007 with an accredited two-year Higher Certificate in Custodial Care. The course includes modules on communication and interpersonal skills, human rights, pro-social modelling, health and safety, prison-craft, the sociology of Irish society, equality and diversity, healthcare, prison law, education, mentoring, and ethics.³⁶

³² Victorian Ombudsman. (2021) Investigation into good practice when conducting prison disciplinary hearings. ([Weblink](#))

³³ Australian Institute of Health and Welfare (2019). The health of Australia's prisoners 2018. Cat. no. PHE 246. Canberra: AIHW. ([Weblink](#))

³⁴ See: ([Weblink](#))

³⁵ Kiehelä, H., Oresmaa, M., & Vesterbacka, E. (2010). Challenging of change: Prison Officers' training in the Finland and how to create safe, decent and rehabilitative prison environment with the staff. The Training Institute of Prison and Probation Services (Finland). ([Weblink](#))

³⁶ Irish Prison Service. (n.d.). Irish Prison Service College. ([Weblink](#)) [Accessed 8 December 2021]

It appears that training of Victorian officers is at the lower end of arrangements when compared with other jurisdictions. England and Wales increased basic training from six weeks to 12 weeks in 2016, with ten weeks at a learning centre and two weeks in a prison.³⁷ Canada's initial course comprises three stages, including eight weeks online learning followed by 10-11 weeks classroom training.³⁸ In Hong Kong, recruits attend a 26-week residential training course.³⁹

We call on the Victorian Government to introduce a minimum workforce qualification for all custodial prison staff that reflects the challenges of the role and the impact appropriate staffing can have on rehabilitation and community safety. This training must be delivered by experienced and qualified instructors through an accredited provider; be part of a program of ongoing professional development; be complemented by senior practitioners; and supported by regular reflective practice. This must encompass training to meet the specific needs of people in prison as outlined in further detail below.

We recommend that the Victorian Government introduce a minimum workforce qualification for all custodial prison staff that reflects the challenges of the role and the impact appropriate staffing can have on rehabilitation and community safety.

3.1 Aboriginal and Torres Strait Islander peoples

Jesuit Social Services is deeply concerned about the significantly higher rates at which Aboriginal and Torres Strait Islander people⁴⁰ are caught up in Victoria's criminal justice system. The impacts of colonisation, racism and dispossession continue to be felt by Aboriginal people and communities in Victoria today, and over-representation in the justice system must be understood as a result of this. As at March 2021, Aboriginal adults were 13.8 times (per 100,000) more likely to be imprisoned than adults in the general population.⁴¹ Jesuit Social Services is particularly concerned that Aboriginal women are the fastest growing prison population in Victoria. The number of Aboriginal women entering prison in Victoria more than tripled between 2012 and 2019.⁴²

Aboriginal people experience a number of difficulties within prison. Elevated levels of mental illness and psychological distress have been found amongst Aboriginal populations across Australian correctional facilities.⁴³ Research has also shown that Aboriginal people in prison commonly have histories of facing multiple disadvantages, including childhood abuse and neglect, separation from parents, inadequate healthcare, lack of housing, mental health problems, substance abuse and a history of sexual assault victimisation.⁴⁴ This is coupled with less quantifiable challenges that may amplify disadvantages, such as colonisation, dispossession, loss of culture and grief and anger associated with these experiences.⁴⁵

³⁷ House of Lords Written Answer by Lord Faulks 22 June 2015, cited in Allen, R. (2016). Global Prison Trends, Penal Reform International. ([Weblink](#))

³⁸ Correctional Service Canada. (n.d.). Training and Appointment. ([Weblink](#)) [Accessed 8 December 2021]

³⁹ Hong Kong Correctional Services Department. (2015). Correctional Services Department launches Officer recruitment exercise, cited in Allen R. (2016). Global Prison Trends, Penal Reform International. ([Weblink](#))

⁴⁰ The term "Aboriginal" is used through this submission to refer to Aboriginal and/or Torres Strait Islander peoples.

⁴¹ Australian Bureau of Statistics (Australian Government) (2021). Corrective Services March 2021. ([Weblink](#))

⁴² Australian Bureau of Statistics (Australian Government) (2021). Corrective Services March 2021. ([Weblink](#))

⁴³ Shepherd, S.M., Ogloff, J., & Thomas, S. (2016). Are Australian Prisons Meeting the Needs of Indigenous Offenders? *Health & Justice*. 4:13. <https://doi.org/10.1186/s40352-016-0045-7>. Retrieved from ([Weblink](#)). p. 5.

⁴⁴ Gilbert, R. & Wilson, A. (2009). Staying Strong on the Outside: Improving the Post-release experience of Indigenous Young Adults. Indigenous Justice Clearinghouse. Retrieved ([Weblink](#)). p.3.

⁴⁵ Ibid. p.4.

A lack of culturally responsive services can hinder the prospects of rehabilitation for Aboriginal people, and, when combined with periods of isolation, is likely to amplify and worsen the multiple disadvantages and vulnerabilities that Aboriginal people already face, both within prison and upon their release.⁴⁶

Services designed, controlled, and delivered by the Aboriginal community result in the best outcomes for Aboriginal people involved with the justice system, with positive flow on effects for the wider Aboriginal community. A positive example of a program delivered by an Aboriginal Community Controlled Organisation (ACCO) in Victorian adult prisons is the Victorian Aboriginal Child Care Agency's (VACCA) **Beyond Survival Program**. The Program offers:

- Yarning circles in prison to support healing and connection with community and culture;
- Regular visits to prisons from Elders and Aboriginal men and women from the community; and
- Support to re-connect with family and the Aboriginal community on release from prison.

Over 2017-18 the program worked with 173 participants. Of these participants, 90 per cent wanted to continue the program. Expectations of the program have been exceeded, with many prison staff reporting changes in the attitudes of participants.⁴⁷ We call for more funding for ACCOs to deliver services that ensure Aboriginal people in prison remain connected to community and culture, and have risk factors such as homelessness, mental health issues, substance misuse and unemployment addressed.

We recommend that the Victorian Government further resource and support Aboriginal Community Controlled Organisations to provide culturally appropriate services to Aboriginal people in prison.

3.2 People with cognitive impairments

It is critical that the Victorian Government implement strategies to divert people with an ABI and/or intellectual disability from the prison system at every opportunity and respond with more appropriate community based services and programs

Far too many Victorians with acquired brain injuries (ABI) are caught up in the criminal justice system. It is estimated that nearly half of all adult men in prison and more than one third of adult women in prison in Victoria have an ABI, compared with about two per cent of the general population.⁴⁸ The extraordinary overrepresentation of people with ABI in prisons reflects a broader failure of the criminal justice system to recognise and respond to these unique experiences. In fact, ABI is not well recognised within the justice system, and the basic supports accepted as essential for people with other kinds of disability are lacking – leaving people with ABI to fend for themselves in a system that most people find overwhelming.

In 2017, Jesuit Social Services, together with RMIT University's Centre for Innovative Justice, published a report entitled *Recognition, Respect and Support: Enabling Justice for People with an Acquired Brain*

⁴⁶ Shepherd, S.M., Ogloff, J., & Thomas, S. (2016). Are Australian Prisons Meeting the Needs of Indigenous Offenders?, *Health & Justice*. 4:13. ([Weblink](#))

⁴⁷ VACCA (2018). Annual Report 2017-18. ([Weblink](#))

⁴⁸ Jesuit Social Services and RMIT University Centre for Innovative Justice (2017). Recognition, Respect and Support: Enabling Justice for People with an Acquired Brain Injury. ([Weblink](#))

Injury (Enabling Justice).⁴⁹ As the Enabling Justice report highlights, misunderstandings that occur while people with an ABI are in prison can result in serious consequences, such as ending up in isolation, as well as impacting upon their capacity to access programs needed to become eligible for parole. Without an understanding of the nature of cognitive impairment, correctional staff can misinterpret people's behaviour (like missing the correct time for medication dispensation being seen as laziness rather than affected memory capacity). The reaction from corrections staff can, therefore, exacerbate the vulnerability of the individual, and see people receive punitive responses as a result of their cognitive impairment.

People with intellectual disability are also significantly overrepresented in the prison system and face a number of additional challenges compared with the general population. People with intellectual disability are more likely to be incarcerated for the first time at a younger age, to experience poorer health outcomes including mental health and substance misuse issues, and social disadvantage.⁵⁰ According to a study that explored the characteristics of men in Victorian prisons with an intellectual disability, 81 per cent were at risk of reoffending upon being released into the community compare with 36 per cent of people without an intellectual disability exiting prison.⁵¹

People with a disability in prison are at significant risk of receiving fragmented and inequitable access to support compared to people with disability who are not in the prison system. This is in part due to the Council of Australian Governments having agreed that the National Disability Insurance Scheme (NDIS) will not fund individuals during their time in prison, but will fund disability-specific needs only once they return to the community. This disjointed program response represents a significant barrier that prevents people with disability from being able to have continuity of support.

People with cognitive disability in prison must have access to the NDIS to supplement the range of services available and enable continuity of care. Further, custodial officers must be trained as if they are working in a disability setting. This means being skilled to identify people with ABI and intellectual disability and respond to their needs appropriately.

We recommend that the Victorian Government:

- Implement strategies to divert people with an ABI and/or intellectual disability from the prison system at every opportunity and respond with more appropriate community based services and programs.
- Train the corrections workforce to assess and recognise people with ABI and/or intellectual disability and respond appropriately.
- Ensure people in prison are able to apply for, access and continue to receive their NDIS support package while in prison. NDIS applications and package planning should be fully integrated into post release planning and support.

⁴⁹ Jesuit Social Services and RMIT University Centre for Innovative Justice (2017). Recognition, Respect and Support: Enabling Justice for People with an Acquired Brain Injury. ([Weblink](#))

⁵⁰ Trofimovs, J., Dowse, L., Srasuebkul, P., & Trollor, J. N. (2021). Using linked administrative data to determine the prevalence of intellectual disability in adult prison in New South Wales, Australia. *Journal of Intellectual Disability Research*, 65(6), 589-600. ([Weblink](#))

⁵¹ Department of Justice – Corrections Victoria. (2007). Intellectual Disability in the Victorian Prison System. ([Weblink](#))

3.3 Young adults

The increasing number of young adults in Victoria's adult prisons is of great concern. The mental and physical health of these young people when they emerge from incarceration has often deteriorated significantly, while the barriers to reintegrating with the community are high. Too many young people are reoffending and returning to prison. More than half [53 per cent] of young adults under 25 return to prison within two years, which is more than eight per cent higher than the general population.⁵²

There is significant research into brain development that indicates brain function and cognitive development continues to mature well past the age of 20, depending on the individual's gender, genes and environment.⁵³ The parts of the brain that are still developing include the prefrontal cortex that helps to control impulsivity, judgement, planning for the future, foresight of consequences, and other characteristics that form moral culpability. Research indicates that the development and maturation of the prefrontal cortex occurs primarily during adolescence and is roughly accomplished at the age of 25 years.⁵⁴ Young adults therefore need to be treated differently to older groups at all points of their contact with the criminal justice system, including in diversion options which support young adults to take responsibility and make amends for their actions in the community, through to the way we sentence young adults and the custodial environments we incarcerate them in.

In recognition of the brain development and maturation processes of young adults, Victoria's 'dual track' system allows young people aged 18 up to 21 to be sentenced to a youth detention facility if a court believes they are vulnerable or have reasonable prospects for rehabilitation. This approach has the potential to prevent the most vulnerable young people from entering the adult system at an early age.⁵⁵ However, while the dual track system continues, the passing of the Victorian Government's *Children and Justice Legislation (Youth Justice Reform) Act 2017* contains functions that significantly erode it. The legislation provides for the presumption that young people aged 18 up to 21 convicted of particular offences will be sentenced to adult prison unless exceptional circumstances apply. It is also concerning to see the dual track system potentially further eroded in the proposed *Youth Justice Act*. This is despite evidence that young people who spend time in adult prison are more likely to re-offend on their return to the community than young people exiting youth detention are.⁵⁶

Additionally, all statutory minimum prison sentences have been substantially tightened, so that impairment due to alcohol or drugs can no longer be used as an excuse, psychosocial immaturity can no longer be used as a special reason, and the court must give significantly less weight to the life circumstances of the person who has offended.⁵⁷ Jesuit Social Services believes that these erosions are counter-productive and will have negative long-term effects on community safety.

⁵² Victorian Ombudsman. (2015). Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria. ([Weblink](#))

⁵³ Johnson, S., Blum, R., & Giedd, J. (2009). Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health policy. *Journal of Adolescent Health*, 45(3): 216-221. ([Weblink](#)); Lebel, C. & Beaulieu, C. (2011). Longitudinal Development of Human Brain Wiring Continues from Childhood into Adulthood. *Journal of Neuroscience*, 31(30): 10937-10947. ([Weblink](#))

⁵⁴ Arain, M., Hague, M., Johal, L., Mathur, P., Nel, W., Rais, A., Sandhu, R., & Sharma, S. (2013). Maturation of the adolescent brain. *Neuropsychiatric Disease and Treatment*, 9: 449-461 ([Weblink](#))

⁵⁵ Victorian Ombudsman (2015). Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria. ([Weblink](#))

⁵⁶ Schiraldi, V., & Zeidenberg, J. (1997). The Risks Juveniles Face When They Are Incarcerated With Adults, Youth Justice Policy Institute ([Weblink](#)); and Sullivan, J. M. (2014). From Monkey Bars to Behind Bars: Problems Associated with Placing Youth's in Adult Prisons. ([Weblink](#))

⁵⁷ Premier of Victoria (2018). New Laws To Crack Down On Emergency Worker Attacks ([Weblink](#)); BryanHancock, C. & Casey, S. (2011). Young People and the Justice System: Consideration of Maturity in Criminal Responsibility. *Psychiatry, Psychology and Law* 18:1 ([Weblink](#))

Jesuit Social Services believes the Victorian Government should reverse recent legislative erosions to the dual track system. Dual track should be extended to the age of 25, based on the research highlighted above regarding brain development and the specific needs of young people.

We also call more broadly for a different approach to those aged 18-25 years that recognises this cohort's unique needs. Young adults have distinct needs that can make them more likely to reoffend than children and older adults.⁵⁸ At the same time, few research-based interventions are targeted specifically for young adults at moderate and high risk of reoffending, or have been tested for this population. The high rates of reoffending on release from prison indicate that the current justice system is failing too many young adults. The current situation represents both a problem and an opportunity and we urge the Victorian Government to reassess current approaches to young adults in prison in the light of this.

We recommend that the Victorian Government:

- Extend the age of dual track to 25 years.
- Use the new Cherry Creek Youth Justice Centre to provide specialised support to young adults aged 18-25 and reserve the Parkville Youth Justice Centre for a younger cohort.
- Train the corrections workforce to identify and support the specific interests, developmental needs and rehabilitation of young people in prison.

3.4 Older adults

In Victoria, the number of people in prison aged 50 years and over has almost doubled over the past ten years.⁵⁹ It is important to note that a person in prison is commonly considered 'older' around the age of 45, compared with the age of 55 for people in the community due to accelerated ageing. Accelerated ageing occurs amongst older people in prison due to an increased likelihood of living in poverty, having lower levels of education, experiencing housing instability and being unemployed.⁶⁰ This growing cohort has additional health and welfare needs and considerations. For example, older people in prison are almost two times more likely than younger people in prison to report being diagnosed with a chronic condition.⁶¹

Jesuit Social Services notes that too often there is a lack of age appropriate programs and services to meet the particular needs of older people in prison, both while in custody and on release. Observations from Jesuit Social Services' staff working with people exiting the prison system include that many programs, services and facilities in the prison system were not designed with the physical, health and social needs of older adults in mind. Any prison system must have rehabilitation and resocialisation as its goals, but this is particularly challenging when facilities and programs cannot be accessed by older adults due to poor health or having a disability.

⁵⁸ Council of State Governments Justice Centre. (2015). Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems. Retrieved from [\(Weblink\)](#)

⁵⁹ Corrections Victoria (2021). Profile of people in prison 2020. [\(Weblink\)](#)

⁶⁰ Ibid.

⁶¹ AIHW (2020). Health and ageing of Australia's prisoners 2019. [\(Weblink\)](#)

In June 2021, a report released by Western Australia's Inspector of Custodial Services in relation to older adults in prison recommended the development of a strategic framework or specific policy for the age-related needs and support for older people in prison.⁶² Further, it recommended that all staff who interact with older people in prison should be trained in age-related physical and mental health decline. Jesuit Social Services supports these recommendations as critical to ensuring that older people in prison are not isolated from programs and services in prison and on return to the community.

We recommend that the Victorian Government:

- Develop age-appropriate programs, services and facilities to meet the particular needs of older people in prison, both while in custody and on release.
- Ensure all staff who interact with older people in prison are trained in age-related physical and mental health decline.

3.5 Women⁶³

We are deeply concerned about the soaring rate of women in Victorian prisons. From 2010 to 2019, the number of women in Victorian prisons increased by a staggering 44 per cent.⁶⁴ The unique profile and vulnerability of women in prisons is internationally recognised: women in prison have disproportionately experienced physical or sexual abuse and family violence prior to imprisonment, inordinately experience mental health problems and disability, alcohol and other drug misuse problems, and often have caring responsibilities for children and families.⁶⁵ This is reflected in the Victorian context. The Ombudsman's report in 2017 on *Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre* (DPFC) identified these same characteristics among women in the facility on the day of inspection. It also indicated that women at DPFC were more likely to come from backgrounds of disadvantage, less likely to have completed secondary school, and more likely to have been unemployed before imprisonment.⁶⁶

Women have unique pathways into offending and tailored responses are required at each point of the justice system, 'from admission, to release and beyond'.⁶⁷ Consideration must be given to the following vulnerable cohorts:

- Women who have been victims of family violence or sexual or physical violence that can play a part in the onset of offending behaviour (noting also that offending may occur in the context of coercive relationships).
- Aboriginal women who are less likely to access mainstream rehabilitation and post-release programs, and are more likely to breach community-based orders and return to prison more frequently.

⁶² Inspector of Custodial Services. (2021). Inspector of Custodial Services. ([Weblink](#))

⁶³ When referring to the terms 'women', Jesuit Social Services utilises an inclusive approach that recognises the experience of gender diverse people within the criminal justice system who are affected by custodial culture. This includes people who identify as women, trans or non-binary.

⁶⁴ Corrections Victoria. (2021). Monthly prisoner and Offender Statistics. ([Weblink](#))

⁶⁵ United Nations Office on Drugs And Crime. (2008). Handbook for Prison Managers and Policymakers on Women and Imprisonment. Criminal Justice Handbook Series. New York: United Nations. Retrieved from ([Weblink](#))

⁶⁶ Victorian Ombudsman. (2017). Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre. ([Weblink](#))

⁶⁷ Dr Lorana Bartels and Antonette Gaffney. Australian Institute of Criminology. (2011). Good Practice in Women's Prisons: A literature review. ([Weblink](#))

- Women who have children and young dependants account for 70 per cent of sentenced women in prison in Victoria.⁶⁸ The impact this has on these mothers, their children and families can be devastating, with children of incarcerated parents at a higher risk of entering out-of-home care.⁶⁹
- People with disability are overrepresented at all stages of the criminal justice system,⁷⁰ and women with a disability in particular do not receive adequate specialised care while incarcerated.⁷¹

The male-centric model that many prisons operate under, coupled with a disproportionate gender ratio of male staff in female prisons, greatly hinders the capacity of incarcerated women to rehabilitate and reintegrate (please see below for further details regarding the negative impacts of rigid ideas of masculinity in correctional settings). The Nelson Mandela Rules outline that women's prisons should only employ women. However, this is impractical in many countries given the challenges with recruiting female staff to male-dominated environments such as prisons, which have higher instances of sexual harassment, bullying and discrimination.⁷² Instead, some countries have suggested an ideal gender ratio. For example, the New Zealand Ombudsman has suggested a ratio of 70:30 female to male staff.⁷³ This is particularly important in the context of emergency response teams, as the possible use of physical force or restraint from male staff of women in prison may compound trauma for those who have experienced violence before.⁷⁴ The establishment of a gender balance of corrections staff across all levels, seniority and roles is critical to ensuring that women feel safe, supported and secure while incarcerated.

We recommend that the Victorian Government:

- Develop a gender ratio for the workforce in women's correctional facilities to ensure women receive gender-informed support.
- Ensure that the gender-specific needs of women in prison in Victoria's custodial system are met, particularly in the context of reception; transportation; physical and mental wellbeing; education, employment and program treatment; security; pregnancy and parenting.
- Facilitate effective programs and supportive pathways that foster and strengthen the crucial relationship between incarcerated mothers and their children and/or dependants.

⁶⁸ Walker, S., Sutherland, P. & Millsteed, M. (2019). Characteristics and offending of women in prison in Victoria 2012-2018. Crime Statistics Agency, Melbourne.

⁶⁹ Sentencing Advisory Council. (2020). Crossover Kids: Vulnerable Children in the Youth Justice System, Report 2: Children at the Intersection of Child Protection and Youth Justice across Victoria.

⁷⁰ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2020). Overview of responses to the Criminal Justice System Issues paper. ([Weblink](#))

⁷¹ Victorian Ombudsman. (October 2018). Investigation into the imprisonment of a woman found unfit to stand trial. ([Weblink](#))

⁷² Hemmens, C., Stohr, M. K., Schoeler, M., & Miller, B. (2002). One step up, two steps back: The progression of perceptions of women's work in prisons and jails. Journal of Criminal Justice, 30(6), 473-489; See for example ([Weblink](#))

⁷³ Victorian Ombudsman. (2017). Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre. ([Weblink](#))

⁷⁴ Ibid.

3.6 Transgender and gender diverse people

Transgender and gender diverse people in prison face increased risk of discrimination, mental distress, and physical and sexual violence.⁷⁵ Research into corrective services policies in Australia has illuminated problematic practices around housing transgender people in prison, hormone provision, and name and pronoun use.⁷⁶ In 2017, the Victorian Ombudsman also highlighted transgender and gender diverse people as a particularly vulnerable group in the prison system. The Ombudsman highlighted that ‘transgender, intersex and gender diverse people are often more at risk within custodial environments’ and maintained that, ‘prisons need to take account of these vulnerabilities when planning action to prevent cruel, inhuman and degrading treatment.’⁷⁷ For instance, the report found that while ‘overall, the prison appeared to be attempting to meet the needs of transgender, gender diverse and intersex prisoners’ there was a lack of training in the needs of LGTBQIA+ people amongst staff.⁷⁸ Awareness of the unique needs of transgender and gender diverse people is paramount in ensuring that mistreatment and abuse of human rights is prevented.

We recommend that the Victorian Government ensure corrections staff have a strong awareness of the unique needs of transgender and gender diverse people in prison through ongoing training.

3.7 Attitudes and beliefs underlying violence and harm perpetrated by men

At present, 94 per cent of people in prison in Victoria are male. However, prisons are largely ineffective at addressing the attitudes and beliefs that often underlie the harmful and violent behaviours perpetrated by men.⁷⁹ Our '[Man Box' research](#)' found that men who endorsed rigid and narrow ideas of masculinity (such as acting tough, always sorting out problems on their own and supporting the use of violence to get respect) were 14 times more likely to have used physical violence in the past month.⁸⁰ These men were also more likely to have had thoughts of suicide in the last two weeks (twice as likely as those outside the 'Man Box') and reported feeling down, depressed and hopeless. Based on this research we recommend a gender-responsive approach to men in prison, especially in relation to addressing underlying attitudes and behaviours, mental health problems and suicide ideation among men who have perpetrated violence, including violent crimes against women.

Our [Modelling Respect and Equality](#) (MoRE) program supports people who work with men and boys everyday – for example social workers, psychologists and teachers – to be agents of change in their communities. MoRE promotes social change across the community by fostering peer leadership and addressing the culture that underpins gender inequities and the associated harms experienced by both women and men. Through training workshops and ongoing engagement over a period of three to six months, participants in MoRE are supported to build deeper understanding of key issues, develop greater self-awareness, learn how to model and promote positive change, recognise and challenge problematic attitudes and behaviours, and actively influence and make an impact in their community.

⁷⁵ United Nations Office on Drugs And Crime. (2009). Handbook on Prisoners with special needs. Criminal Justice Handbook Series. New York: United Nations. ([Weblink](#))

⁷⁶ Rodgers, J., Asquith, N. L., Dwyer, A. (2017). Cisnormativity, criminalisation, vulnerability: Transgender people in prisons. Tasmanian Institute of Law Enforcement Studies Briefing Paper, vol. 12. Retrieved from: ([Weblink](#))

⁷⁷ Victorian Ombudsman. (2017). Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre. ([Weblink](#))

⁷⁸ Victorian Ombudsman. (2017). Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre. ([Weblink](#))

⁷⁹ Corrections Victoria. (2021). Monthly prisoner and Offender Statistics. ([Weblink](#))

⁸⁰ The Men's Project & Flood, M, (2018) The Man Box: A Study on Being a Young Man in Australia. Jesuit Social Services: Melbourne. ([Weblink](#))

With commitment from the Victorian government, this program has the potential to support people working in prisons to raise awareness and challenge ‘Man Box’ norms as part of a broader workforce capacity building and cultural change program. Jesuit Social Services has previously developed a detailed proposal to work with Corrections Victoria clinicians and would welcome the opportunity to provide the Expert Panel with further details upon request.

We recommend that the Victorian Government:

- Invest in research to understand the impacts of rigid and narrow ideas of masculinity in prison environments.
- Establish the Modelling Respect and Equality (MoRE) program in correctional settings as part of a broader workforce capacity building and cultural change program.

4. Recruitment and employment processes

Are there opportunities to improve recruitment and employment processes to support positive culture, safety, diversity and integrity in the custodial environment?

Corrections Victoria should promote a strong commitment to rehabilitation within its workforce by recruiting and retaining staff who have appropriate personal attributes, qualifications and experience. At Jesuit Social Services, we do this by ensuring our values are integral to our recruitment process every step of the way. We communicate our vision, mission and values in every advertisement and position description. This way, candidates get a very clear picture and understanding of the type of organisation we are and the position they are applying for. Every position’s key selection criteria includes candidates having understanding and sympathy with the mission and ethos of Jesuit Social Services. Corrections Victoria should build the principles of restorative justice into advertisements and position descriptions and ensure staff are committed to the rehabilitation of people in prison at every step of the recruitment process.

In light of the overrepresentation of Aboriginal people and people from CALD backgrounds in the justice system, it is critical to ensure that the corrections workforce is culturally safe and reflects the diversity of the Victorian community. Jesuit Social Services has partnered with Victoria Police to deliver the **Victoria Police Diversity Recruitment Program**, which seeks to increase the representation of African-Australians from refugee and other backgrounds in Victoria Police. As at December 2020, 51 participants were progressing through the recruitment process or alternative employment pathways, 28 participants had passed the Victoria Police Entrance Exam and five participants have received an offer to join the Victoria Police Academy.⁸¹ This program has potential in the context of the custodial corrections system to strengthen cultural safety within prisons. Additionally, ongoing training and support must be provided more broadly regarding diversity and inclusion in the area of recruitment and selection.

We welcome the review’s focus on cultural safety for Aboriginal staff noting that Aboriginal Liaison Officer and Aboriginal Wellbeing Officer positions often remain vacant due to the particular challenges faced by Aboriginal people when working within the custodial environment. The Aboriginal workforce is a key factor in enhancing the health and wellbeing of Aboriginal people in contact with the justice system. In addition to ensuring prisons are culturally safe places of work, a suitable target must be set

⁸¹ Victoria University. (2020). Community Update – December 2020. ([Weblink](#))

to ensure an appropriate proportion of the corrections staff are Aboriginal. Victoria Police appear to be making positive progress in this space with their Aboriginal Community Liaison Officer Program. A key objective of the program is to provide a strategic link between Victoria Police and key Aboriginal community stakeholders. We would like to see Corrections Victoria implement a similar program.

Diversity recruitment programs and targets must be complemented with mandatory cultural safety training to provide staff with knowledge of respectful ways of working with, and walking alongside, Aboriginal and CALD people, families and communities.

At Jesuit Social Services, we are deeply committed to ensuring that all of our staff are well equipped with evidence-based approaches to meet the needs of our program participants. This extends far beyond the recruitment process. We do this through our Learning and Practice Development Unit, which provides staff with regular access to ongoing development and training based on up-to-date best practice approaches. We acknowledge the costs associated with this and recommended that this should be built into prison budgets.

We recommend that the Victorian Government:

- Promote a strong commitment to rehabilitation amongst the corrections workforce by embedding essential values in the recruitment process.
- Recruit corrections staff from CALD and Aboriginal communities to strengthen cultural safety within prisons, including by setting a target to ensure an appropriate number of corrections staff are Aboriginal.
- Provide staff with ongoing training and development based on best practice approaches to working with people in prison. This should be built into prison budgets.

5. Enabling better transitions from custody to the community

What changes are required to improve access to programs and support to assist people in custody work towards rehabilitation and better transition to the community?

People exiting prison are some of the most vulnerable and disadvantaged members of the Victorian community, yet the limited support available to them means they often cycle through the justice system again and again. Jesuit Social Services sees the very real difficulties people experience as they transition from prison back to the community and struggle to navigate health, housing and welfare services that often lack the resources and expertise to meet their needs.

This gap is most acute for people exiting prison who are leaving into homelessness or returning to living environments in which they are at risk of violence, because there are no appropriate and affordable housing options. When combined with social isolation and stigma this creates a recipe for reoffending. We highlight the need to strengthen the following key areas to enable people to successfully reintegrate into the community after they have served their custodial sentence.

5.1 Assessment and reintegration planning upon entry

As previously highlighted, many people who enter prison have complex needs, including mental health conditions, substance misuse issues, experiences of trauma and cognitive disabilities. From the moment an individual enters custody, the process of assessment and reintegration planning must start. This should include intensive multidisciplinary assessment by doctors, dentists, psychiatrists, and alcohol and

drug specialists, as well as individualised plans tailored to each person's unique circumstances, that ensure they can reintegrate with the community at the end of their sentence. However, a 2020 audit of Ravenhall Prison by the Victorian Auditor-General's Office found that assessment tools were being used inconsistently and assessments were not being conducted in a timely manner.⁸² Jesuit Social Services urges the Victorian Government to provide additional resourcing to enable careful assessment and integrated planning of each person's unique needs to ensure they receive the support they need while in prison and upon their release. This should include enabling people in prison to identify their own family and community needs.

We recommend that the Victorian Government review and strengthen admission processes to better enable the needs of individuals to be thoroughly assessed upon entry to prison, with reintegration planning occurring from admission.

5.2 Pre and post-release programs

In Victoria, growing waitlists for programs in the face of rising rates of imprisonment mean that people in prison are missing out on critical pre-release support.⁸³ Further, the Victorian Ombudsman's *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria* completed in 2015 reported that only 700 of the approximately 6,600 people who leave prison each year (i.e. less than 11 per cent) receive between 3 and 22 contact hours of support.⁸⁴ The limited nature of support means people in prison do not have the opportunity to adequately address the problems they face, including their offending behaviour, and this, in turn, exacerbates their likelihood of reoffending.

We urgently need further investment in more therapeutic, culturally safe interventions focused on personal development through personal and vocational skill building, housing support, counselling and reintegration support for adults pre and post-release, and particularly for those who have experienced periods of isolation during their time in custody, thereby reducing recidivism and its costs.⁸⁵

At Jesuit Social Services, we run a number of different programs to support people in or exiting prison to get their lives back on track. For over ten years, we have delivered the **African Visitation and Mentoring Program (AVAMP)** to adults from an African background who have been imprisoned in Victoria. The program provides voluntary mentoring and visitation support either during their time in custody, after their release from prison or while completing parole or other community based orders. AVAMP strives to create circles of support and increase social connection by encouraging participants to re-engage positively with community and family, with the aim of reducing recidivism. We call for the expansion of culturally specific programs, such as AVAMP, for CALD people in prison.

We also deliver our **ReConnect** program across Melbourne's north and western regions, as part of the Corrections Victoria Reintegration Pathway. ReConnect supports high risk and high profile adult men and women, including Aboriginal men and women, to transition from prison to the community by providing tailored, flexible support across critical domains. The program provides better outcomes for

⁸² Victorian Auditor-General's Office. (2020). Ravenhall Prison: Rehabilitating and Reintegrating Prisoners. ([Weblink](#))

⁸³ Ibid.

⁸⁴ Victorian Ombudsman (2015). *Investigation into the rehabilitation and reintegration of prisoners in Victoria, September 2015*. Melbourne: Victorian Ombudsman. ([Weblink](#))

⁸⁵ Office of the Inspector of Custodial Services (2014). Recidivism rates and the impact of treatment programs. ([Weblink](#))

the families of people exiting prison, as well as the communities that people who have been in prison are returning to.

Feedback from ReConnect Participants

“They helped me with the practical things that I needed in order to live my life and move forward.”

“Self-esteem. Just leading me the way – I’ve never had a social worker or anything like that and so the encouragement and support was really important.”

“My personal wellbeing – basically a secure place over my head and helping me getting back in touch with friends, and better mental health.”

People exiting prison commonly experience complex health issues, including blood-borne viruses such as hepatitis C, chronic mental illness, substance dependence, acquired brain injury, cardiovascular disease, asthma and diabetes.⁸⁶ A **Community Health Nurse** (CHN) was embedded in Jesuit Social Services' ReConnect program to support participants in the program to access better health outcomes and link them with community health services on their release. This pilot was a partnership between Jesuit Social Services, St Vincent's Hospital Melbourne, Bolton Clarke, and the Justice Health Unit at the University of Melbourne. The pilot program finished in June 2020, but the CHN is now working as part of the Maribyrnong Community Residential Facility team (outlined in further detail below). With ReConnect, the CHN provided direct clinical nursing assessment and care, increased clients' health literacy and patient activation and built capacity within the ReConnect team to better equip staff to meet the health needs of participants.

Preliminary findings of an evaluation of the pilot program found that close to one quarter of participants boosted their participation with healthcare after engaging with the CHN. ReConnect staff and stakeholders also reported that the CHN supported the health and wellbeing of participants across five key domains: help in navigating the health system, health and medical knowledge transfer, empowerment, more timely healthcare and flow-on effects from better health. A final evaluation of the ReConnect CHN pilot is being undertaken by the University of Melbourne and will soon be complete.⁸⁷

It is critical to ensure that people have access to the support they need both while in prison and upon their release. In addition to helping people to address and manage their needs, this ultimately makes our communities safer by preventing further offending.

We recommend that the Victorian Government:

- Expand pre and post-prison transitional support services, including culturally specific programs, so that more people have access and recidivism rates reduce.
- Provide funding to embed community health nurses in transitional support programs such as ReConnect permanently.

⁸⁶ Australian Institute of Health and Welfare (2019). The health of Australia's prisoners 2018. Cat. no. PHE 246. Canberra: AIHW. ([Weblink](#))

⁸⁷ See here for details: ([Weblink](#))

5.3 Supported transitional housing

Having stable and affordable housing can make a significant difference in the life of a person leaving prison and whether they reoffend, yet almost one-third of people exit the justice system into homelessness.⁸⁸ Post-release support, including transitional facilities, are critical to ensuring that individuals do not exit prison into homelessness or unsuitable housing.⁸⁹

For many years, Jesuit Social Services has provided supported housing for justice system-involved young people through our Perry House, Next Steps, and Link Youth Justice Housing programs.⁹⁰ More recently, we have partnered with the Victorian Government to launch the **Maribyrnong Community Residential Facility** for men exiting prison. Several residents at Maribyrnong have already demonstrated that with the right supports in place they are able to settle into community life, look for work and plan a better future. Feedback from participants during the first 12 months of the program's operation has been extremely positive. One participant has provided feedback that the support of staff at the facility has been crucial in helping him to turn his life around:

"They have not only provided me the environment to recover, but also enabled me to accelerate my ability and hope to return to a normal life and a career."

We commend the Victorian Government on its commitment to ensuring this innovative program can continue until June 2022. Many people, however, continue to exit prison into homelessness. We therefore call for investment to implement a dedicated transitional, supported housing model. This would involve agencies working in partnership to provide intensive 'wrap around' responses, drawing on strong working relationships with Corrections Victoria, prison staff, Community Corrections, specialist government and community sector providers, and Aboriginal and culture specific services across housing, education and employment, alcohol and other drugs, health and mental health services.

In particular, we propose a dedicated response for the following cohorts –

- **Young men, aged 18-24** – Post-release and transitional support can help young men transition more effectively into the community. There is a need for greater resourcing of a through-care model that offers housing along with ongoing, coordinated and age-appropriate responses. A number of health needs should be addressed, including physical health, mental health, substance misuse and social disadvantage (for example, programs that assist young men to access employment and vocational opportunities).
- **Adult men, aged 25+** – We call for ongoing funding for the Maribyrnong Community Residential Facility and propose to expand/adapt the Facility's model into other areas such as Melbourne's Southern Metropolitan Region, and rural and regional Victoria. Ongoing funding and expansion of this housing and support model will enable a greater number of adult men who are leaving prison to access intensive transitional support, with a focus on connection to family and community.
- **Women, aged 18-30** – Jesuit Social Services works with women incarcerated at Dame Phyllis Frost Centre. These women are highly vulnerable and require specialist housing along with gender

⁸⁸ AIHW (2019). The Health of Prisoners 2018. ([Weblink](#))

⁸⁹ AIHW (2019). Specialist Homelessness Services annual report 2018-19. ([Weblink](#))

⁹⁰ See here for further details: ([Weblink](#))

specific, therapeutic and independent living support. Currently, there is very limited tailored flexible transition support available to women. We call for an equivalent transitional support facility to the Maribyrnong Community Residential Facility to be established for women exiting prison.

With the provision of safe and stable housing as a foundation, we can tackle the issues contributing to a person's offending behaviour, developing solid skills that put people on a more positive pathway, and monitoring their progress – daily where necessary – to deliver sustainable and lasting change. Jesuit Social Services has developed a detailed proposal for this model and would welcome the opportunity to provide the Expert Panel with further details upon request.

We recommend that the Victorian Government provide funding to deliver cohort specific models of supported, transitional housing.

5.4 Parole and straight release

In recent years, the Victorian parole system has come under intense public and political scrutiny, due to a number of serious violent offences being committed by people on parole.⁹¹ In response, there have been two reviews of the parole system since 2011⁹², with the 2013 review prompting substantial change in the practices of the Parole Board and shifting the likelihood towards parole being denied. As at 30 June 2019, there were 838 parolees presenting an overall reduction of 49 per cent since 2012-13.⁹³ A drop in parole numbers means an increased number of people in prison face straight release without conditions/supervision or post-release support) when their full sentence is served. This has major implications for people in prison, particularly those who have experienced extensive management and isolation regimes.

Jesuit Social Services is concerned about people being released back into the community after long periods of incarceration without any supervision or support. Supervision and monitoring along with individually tailored support (e.g. through education or employment pathways) and appropriate transitional supports around health, housing and day-to-day living as highlighted above can have a powerful impact on a person's successful reintegration into society upon release and ensure safer communities.⁹⁴

We recommend that the Victorian Government expand access to parole by winding back regressive legislative amendments to reduce the number of people who are straight released without conditions/supervision or post-release support.

6. Integrity and oversight arrangements

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. We emphasise the importance of safeguards including external reporting requirements for the use of

⁹¹ Sentencing Advisory Council. (2017). Parole and Sentencing Research Report. ([Weblink](#))

⁹² Ibid.

⁹³ Department of Justice and Community Safety. (2021) Annual Offender Statistical Profile 2020. ([Weblink](#))

⁹⁴ Borzycki ,M., & Baldry, E. (2003). Promoting integration: the provision of prisoner post-release services. Trends & issues in crime and criminal justice no.262. Canberra: Australian Institute of Criminology. ([Weblink](#))

isolation and restraint as well as the urgent need to designate and establish National Preventative Mechanisms (NPM) to undertake monitoring and allowing for inspections by a UN committee.

6.1 Isolation and restraint

Should there be any additional external reporting requirements for certain conduct or incidents within custodial environments, such as the use of force or certain restraints?

Isolation happens in prisons often enough to cause concern and underlying factors leading to its use must be addressed. Isolation involves more than 22 hours a day spent alone in a cell, without access to meaningful human contact and often with limited ventilation or light. This has significant impacts on physical and mental health, and future outcomes for people in prison and the community. The *Royal Commission into Aboriginal Deaths in Custody* found the use of isolation has a particularly devastating impact on Aboriginal people, stating that ‘it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention.’⁹⁵

Our report – [All alone: Young adults in the Victorian justice system](#) – raised a number of concerns regarding the welfare and treatment of young adults in Victorian prisons, including the use of isolation and restraint.⁹⁶ Young adults, who we know to be a vulnerable cohort, appear to be disproportionately subject to these practices in Victoria.⁹⁷ Further, these practices can have detrimental impacts on those who are required to carry them out, with high levels of associated stress and distress.

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 people) 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 to protect privacy

Currently, there is very little transparency in relation to data about how frequently isolation and restraint is imposed in our prisons. In July 2017, the Ombudsman conducted a pilot OPCAT-style inspection at Dame Phyllis Frost Centre. The inspection team identified poor record-keeping relating to the treatment of women in isolation. Corrections Victoria advised that it does not collect data on the prevalence of long-term isolation or the average length of time women spend in isolation. When asked about the number of women held in prolonged solitary confinement as defined by the Nelson Mandela Rules (over 15 days), Corrections Victoria advised that its Sentence Management Unit retains a record of all people in prison separated under a management regime, but does not collate data on how long the person is

⁹⁵ Royal Commission into Aboriginal Deaths in Custody (1991) ([Weblink](#))

⁹⁶ Jesuit Social Services. (2018). All alone: Young adults in the Victorian justice system. ([Weblink](#))

⁹⁷ Ibid.

in isolation for. A lack of transparency also means there is no publicly available data around the types of people in prison who are subjected to isolation regimes.

In 2019, the Victorian Ombudsman conducted an extensive thematic investigation of practices related to solitary confinement of children and young people using an OPCAT style inspection.⁹⁸ Jesuit Social Services participated in an Advisory Group to support the Ombudsman's investigation. The Ombudsman made a number of specific recommendations calling for reform, particularly in relation to implementation of OPCAT and staff training.⁹⁹ Jesuit Social Services supports the full implementation of these recommendations.

Our *All Alone* report developed a series of recommendations designed to minimise the need to use punitive practices such as isolation and restraint and to enhance the wellbeing and rehabilitative prospects of all people in prison. As a starting point, Jesuit Social Services believes there must be strict limits on the use of isolation and restraint practices, including prohibitions on prolonged confinement. Punitive isolation (i.e. for the sole purpose of punishment) should never be permitted.

We accept that there may be limited circumstances where separation is necessary. 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. 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 length of time it will be used. Prison operators should record the use of separation and the relevant data must be made public to ensure accountability and adherence to guidelines.

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 be adequately trained in and employ restorative interventions.

We recommend that the Victorian Government:

- 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.
- Legislate to ensure any isolation is subject to daily review by an independent mental health professional. In line with existing guidelines, any person placed in isolation must be told the reason for this, and should also be told the expected duration.
- Require all prison operators to record data on the use of isolation and restraints in Victorian prisons (including reason for use, length of use and non-identifying personal characteristics), and ensure this data is made publicly available.

⁹⁸ Victorian Ombudsman, (2019). OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people. Victorian Ombudsman.

⁹⁹ Ibid.

6.2 Implementation of OPCAT

Can the integrity and oversight arrangements be enhanced to support improvements to culture, safety and integrity in the custodial environment?

A fair, effective and humane justice system demands the implementation of an appropriate accountability framework, including financially independent inspection and oversight.¹⁰⁰ However, Jesuit Social Services has long held concerns about the lack of accountability and transparency within Victoria's justice system.¹⁰¹ We therefore strongly support the Australian Government's decision to ratify OPCAT, noting the widespread recognition that effective implementation of OPCAT can help prevent mistreatment in detention, improve oversight and accountability, and enable better detention practices.

Ratified by the Australian Government in December 2017, implementation of OPCAT requires the Commonwealth and each state and territory government to designate and establish NPMs to undertake monitoring and allowing for inspections by a UN committee. As outlined in Jesuit Social Services' [submission to the Australian Human Rights Commission's OPCAT in Australia consultation](#), the NPMs must protect the rights of, and ensure supports are in place for, vulnerable cohorts in places of detention, including Aboriginal people, individuals with ABI and cognitive impairment, young adults, transgender and gender diverse people, and children. NPMs must also prioritise the prevention of the use of isolation and other methods of physical and chemical restraints in prisons.

To date, Australia's progress on implementing OPCAT has been slow, with Western Australia (WA) the only state or territory to formally nominate its inspection body.¹⁰² Other states have taken steps towards establishing NPMs, however, Victoria is yet to take action.¹⁰³ This is concerning given that if the Commonwealth and state and territory governments do not meet their obligations to establish NPMs by January 2022, there is a risk that Australia will be listed as a state whose compliance with OPCAT is significantly overdue.¹⁰⁴ Australia would be the only developed nation on this list.

We recommend that the Victorian Government urgently designate and/or establish National Preventive Mechanisms to oversee conditions of custody and treatment of people in custody.

Conclusion

We appreciate the Expert Panel receiving our views as a part of the Cultural Review of Victoria's Custodial Corrections System. We believe the above recommendations can help create a more effective and humane criminal justice system that ensures imprisonment is used as a last resort, rehabilitates people in prison and respects human rights. We would welcome the opportunity to discuss these ideas with you further.

¹⁰⁰ Aizpurua, E., & Rogan, M. (2021). Correctional oversight bodies' resources and protections across the European Union: Are their hands tied?. *Criminology & Criminal Justice* ([Weblink](#))

¹⁰¹ Jesuit Social Services. (2017). Outsourcing Community Safety: Can private prisons work for public good? ([Weblink](#))

¹⁰² See ([Weblink](#))

¹⁰³ The Northern Territory has an interim NPM and legislation has been drafted in both South Australia and Tasmania to establish NPMs.

¹⁰⁴ Caruana, S. & Weller, P. (2021). OPCAT: Australia is falling short of its international obligations. *RMIT Acumen Blog* ([Weblink](#)).