

**Gender Impact Assessment
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(Gender Impact Assessment No. 3)

Compiled by: Karolyne Quinn

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Level 1, 123 Lonsdale Street
Melbourne Victoria 3001, Australia
(GPO Box 1160 Melbourne, 3001)
Telephone: 03 9662 3755
Facsimile 03 9663 7955
Email whv@whv.org.au
URL: <http://www.whv.org.au>

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1. Introduction

Women account for a small percentage of the fulltime prisoner population in Australia, but numbers continue to rise. While Victoria has one of the lowest female imprisonment rates, it too has seen an increase in women imprisoned fulltime. This rise in women prisoners and the identification of differences between women's and men's corrections experiences has highlighted the need for gender specific management and rehabilitation approaches. Policies, programs and interventions that consider differences between women and men help to produce equitable services and effective outcomes, and work towards improving women's overall health and wellbeing.

2. The issue

In 2007, Australia recorded an average daily number of 26,305 fulltime prisoners of which 1,890 were women and 24,415 were men¹. In the March quarter of 2008, men were almost fourteen times more likely to be in prison in Australia than women, with women constituting just 7% of the Australian prisoner population². In the same quarter, Australia recorded 6,507 fulltime Aboriginal and Torres Strait Islander prisoners. Again, the majority were male (5,938 or 91%), but Aboriginal women constituted 9% (569) of this population². While the imprisonment rate in Australia is far greater for men, it has increased for women from 15 to 24 prisoners per 100,000 adult women over the past 10 years to June 2007³.

Victoria recorded 257 female prisoners and 3,926 male prisoners in 2007, the second lowest percentage of female offenders (6.1%) next to the Northern Territory (4.0%)⁴, and the second lowest rate of female imprisonment next to the Australian Capital Territory⁵. However, the number of women imprisoned in Victoria has more than doubled in the last decade⁶.

The Department of Justice in Victoria has identified several trends driving the increase in female prisoner rates:

- An increase in the number of women entering prison custody for serious violent offences (ie. robbery offences and offences against the person) and drug-related offending, leading to more women prisoners serving longer sentences;
- An increase in the use of remand, particularly for women with inadequate accommodation and complex treatment and support needs;
- A decline in the use of prison as a 'last resort' sentencing option (ie. an increase in the number of women sentenced to their first term of imprisonment who have not previously been sentenced to a community-based order);
- An increase in the number of women sentenced to a short term of imprisonment (ie. less than one month);
- The proportion of women who are imprisoned for breaching non-custodial orders, particularly suspended sentences (breaches of non-custodial orders account for approximately one tenth of all women received into prison custody annually); and,
- The rate of women's re-offending (approximately one-third of all women released from prison upon completion of their sentence return to prison custody within two years)⁷.

The increase in women being imprisoned has highlighted a need to identify and address differences between women and men who come into contact with the justice and corrections systems.

2.1 Gender differences

The offences women and men are sentenced for in Australia differ along gender lines, as do a variety of associated behaviours and influencing factors. The main offences committed by sentenced women in Australia in 2007 related to illicit drugs (212), acts intended to cause injury (190) and deception (172), equal with offences against the justice system (172). The largest proportion of sentenced male prisoners committed the more violent acts of intending to cause injury (2103), sexual assault (2631) and unlawful entry with intent (2403)⁸.

On a state level, these differences are mirrored in Victoria. The Victorian Department of Justice acknowledges that women and men who come into contact with the criminal justice system do so under differing circumstances and with different experiences. Some of these include:

- The frequency and seriousness of offending: women commit fewer and less serious crimes than men and are more likely to be convicted of crimes involving property or drugs that are motivated by poverty, gambling and/or substance abuse;
- Drug influence: the severity of women's drug use is more closely related to their offending than it is for men – ie. women are more likely to have committed their offence(s) while under the influence of drugs or to support their drug use;
- Relationships through which offending behaviour develops: women's offending often develops through relationships with family members, friends and significant others (eg. partners, support networks and colleagues) rather than the concept of 'peer associates' that is commonly cited as a risk factor for men;
- Prevalence of victimization: more women than men experience sexual, physical and psychological abuse and these experiences appear to contribute to women's criminality and shape their patterns of offending; and,
- Mental illness, substance abuse and trauma: the complex impact of mental illness, substance abuse and trauma is integral to women's offending, and there are higher rates of all three factors for women than men⁷.

Women offenders are also more likely than men to be primary carers and are greatly influenced by their responsibilities and concerns for their dependent children⁷. Unlike men, women respond best to prison conditions through relationship-focused and holistic programs and approaches that address a number of their needs simultaneously⁷.

Gender differences extend to women's and men's experiences after prison also. Research shows that women released from prison fair worse than men released from prison; one early report found that non-Aboriginal women aged 20 to 40 years released from prison in Western Australia, were almost three times more likely to die than their male counterparts⁹. This alarming post-prison outcome highlights the adversity experienced by women after prison release; difficulties that include social and economic disadvantage, which compound the impact of imprisonment on women's health and wellbeing¹⁰.

2.2 Health and wellbeing

Women in prison are a chronically ill population with a greater burden of disease and ill health than their male counterparts¹¹. The average cost of providing primary health services for women prisoners, including psychiatric services, is approximately four times greater per person for women than men¹². The 2003 *Victorian Prisoner Health Survey*¹³ reveals that women in prison are more likely to have a mental illness than men in prison. While the prevalence of Hepatitis C is high among prisoners compared to the general population, women record higher rates than men¹³. Women prisoners are also more likely to report poor appetite, weight loss, bruising, neurological symptoms such as headaches, dizziness and tremors, and are more likely than male prisoners to have attempted suicide¹³.

2.2.1 Mental health

Many women prisoners have experienced life difficulties that impact on their health and wellbeing prior to entering prison, including episodes of sexual, physical and/or psychological abuse⁷. This is said to contribute to women prisoners having higher rates of mental health issues compared with women in the community. Women prisoners have been found to be 1.7 times more likely to have a mental illness than men prisoners, and non-Aboriginal women are significantly more likely than non-Aboriginal men to have attempted suicide¹³. One Victorian study found that 84% of women prisoners interviewed met the criteria for having a mental health problem¹⁴. Forty-four percent (44%) of these had major depression and 36% had posttraumatic stress disorder¹⁴. Higher than both these was the number of women who had a drug related mental health disorder based on psychiatric measures (57%)¹⁴. The researchers in this study state that this range of mental health problems is similar to those found in the literature on the impact of childhood abuse and subsequent development of mental health issues in adulthood¹⁴.

2.2.2 Sexual abuse

Women prisoners are over represented in the general population of women who have been subjected to sexual abuse and sexual assault. Such experiences impact in a number of ways on their lives within prison, upon release, and with regard to prison systems.

Women prisoners report a higher percentage of forced sex, with the *Victorian Prisoner Health Survey* reporting that one in ten women in prison reported a recent experience¹³. Prison environments are known to foster practices of sexual coercion and use sexual currency, whereby sex acts are traded for protection or favour¹⁵. Advocacy groups have also raised concern about the practice of strip searching women prisoners, which is generally conducted before and after visits^{11,16,17}. As women are found to have stronger family ties than men, they receive more visits and therefore undergo more strip searches than men, despite the lower risk attached to female prisoners¹². Given the high percentage of women in prison who have experienced sexual abuse or sexual assault, strip searching has the potential to be retraumatising^{11,16,17}. This is especially so for Aboriginal and Torres Strait Islander women who report higher rates of sexual assault and who have a collective memory of rape as a tool of cultural dispossession¹².

Recommendations of the *Victorian Prisoner Health Survey* included several relating to the urgency of addressing the impact of sexual abuse and sexual assault on women prisoners. One recommendation suggested greater awareness of and research into the 'relationship between early life [and particularly familial] sexual and emotional abuse of women who are imprisoned, and the incidence of depression and a range of illness indicators'¹³.

2.2.3 Sexual and reproductive health

Women prisoners are at increased risk for unplanned pregnancies when they leave jail, given the high rates of poverty, substance abuse and sexually transmitted infections (STIs) in this population, all of which are associated with unplanned pregnancies¹⁸. One study reported the average number of abortions per woman in their prison sample was one, with the highest number being four¹³.

Research indicates that women in prison have higher rates of STIs than other women. Women in prison have a higher percentage of Bacterial Vaginosis (BV) than the average population. While it is unclear how BV is transmitted, it is found to be more common in women who are sexually active and can sometimes develop soon after intercourse with a new partner¹⁹. One 2003 study of 110 women from a Victorian prison who volunteered to attend services at the Melbourne Sexual Health Centre (MSHC), found that 43 women (39%) tested positive for BV²⁰. Ninety-two percent (101) of the 110 women were injecting drug users (IDUs). A number of the women were asymptomatic and required no treatment unless pregnant. However, the researchers highlighted the increased risk of HIV infection for women with BV, stating that the risk of HIV infection has a 2-4 fold increase in women who are BV positive²⁰. IDUs who are also BV positive have greater potential risk of HIV infection²⁰. BV in pregnancy is associated with an increased risk of premature rupture of membranes (bag of waters around the unborn baby), preterm delivery and post-partum endometritis²¹.

Despite sexual activity known to take place in prisons, some research has found that few prisoners, women or men, report using dental dams and condoms even when they are readily available¹⁵.

2.2.4 Illicit drug use

Illicit drug use plays a major role in women's first contact with corrections²². While the percentage of women imprisoned for illicit drug use in Australia has risen by just 1% since 1997²³, women are more likely than men to be affected by illicit drugs at the time of an offence²⁴. Up to 90% of women report problems with drug use in their second or subsequent prison sentences²².

The *Victorian Prisoner Health Survey* found that the highest percentage of prisoners who had ever injected illegal drugs at some stage in their life were non-Aboriginal women (66%)¹³. Another later Australian study, conducted by the Australian Institute of Criminology in 2004, found that almost two-thirds of women prisoners interviewed (470) were regular illegal drug users in the six months prior to arrest and 39% were using more than one type of drug²⁴. Forty percent (40%) were using cannabis, thirty-seven percent (37%) were illegally using amphetamines and 27% were using heroin²⁴.

The use of illegal drugs by women has been associated with experiences of a combination of traumas, including physical, sexual and psychological traumas²⁵.

2.3 Aboriginal and Torres Strait Islander women

Aboriginal women and women from culturally and linguistically diverse (CALD) backgrounds have differences of experiences again from non-Aboriginal and non-CALD women and men in general. Those differences impact on their in-prison health and well-being and their post-prison or after release lives.

While women have higher rates of Hepatitis C than men, young Aboriginal women record significantly higher rates than men and non-Aboriginal women¹³. Aboriginal women prisoners are also more likely to deliberately self-harm than non-Aboriginal female and male prisoners¹³. Young Aboriginal women in prison are recorded as more likely than their non-Aboriginal counterparts to have had one or more abortions. Four out of 12 young Aboriginal women (33%) in one study reported having had 2 abortions. The corresponding figure for young non-Aboriginal women having had two abortions was 9%¹³.

2.4 Women from culturally and linguistically diverse (CALD) backgrounds

Aboriginal women and women from linguistically diverse (CALD) backgrounds are also more likely to experience discrimination within the prison system than other women. Across Australian women's prisons, job training programs and educational opportunities are less often targeted to the specific needs of Aboriginal women or CALD women. Women who do not speak English as their first language often find it difficult to access information in their own language, to understand prison processes and procedures or to know what their legislative rights are²⁶. CALD women report little access to interpreters, and that they are often dependant on receiving information from other prisoners. There is also reduced or no access to religious practices or practitioners such as nuns, monks or priests of particular faiths.

2.5 Women with disabilities

In the 2003 *Victorian Prisoner Health Survey*, 57% of non-Aboriginal women prisoners surveyed, over the age of 41 years, reported having a disability that had troubled them for more than six months. Forty percent (40%) of Aboriginal women aged less than 41 years stated that they had a disability for this length of time, and 36% of non-Aboriginal women in this age bracket reported the same¹³.

In 2007, the Justice Department released a report stating that the small number of women in Victorian prisons with intellectual disabilities did not warrant a specific unit to manage them. Instead women prisoners with intellectual disabilities were located in units according to such classifications as their offence type and 'functioning level'²⁷. However, soon after the Department launched its 2007-2009 *Addressing the Barriers* disability framework, which relates to cognitive impairment, including intellectual disability and acquired brain injury, mental illness, sensory disability and physical disability²⁸. This framework included a new intensive support unit at the Dame Phyllis Frost Centre, which will provide acute psychiatric

care for women prisoners²⁸. Among other things, the framework aims to review policies and procedures to improve the safety of people in prison with disabilities, to enhance the skills of Corrections workforce to work with people in prison with disabilities, to address issues for Aboriginal and CALD prisoners with disabilities, to increase access to Department of Justice facilities for those with physical disabilities, and to ensure greater access to buildings, information and equipment for all people in prison with disabilities²⁸. A number of these initiatives have been implemented.

3. Policy context and challenges

In Victoria in 2003 the Women's Correctional Services Advisory Committee was established by the Minister for Corrections. The committee, made up of government and non-government members, is an external source of advice on the delivery of correctional services to women. The Committee reports to the Minister for Corrections²⁹.

In 2005 the Victorian Council of Social Service (VCOSS) submitted a document to the Equal Opportunity Commission of Victoria (EOCV) requesting an investigation into discrimination faced by women throughout the Victorian prison system, based on gender/sex, race, ethnicity and religion, and cognitive impairment¹¹. The document was titled 'Request for a systemic review of discrimination against women in Victorian Prisons' and outlined various areas of discrimination deemed to be in contravention of the Equal Opportunity Act (Vic) 1995¹¹.

3.1 Better Pathways

At the time of the VCOSS submission, the Department of Justice was in the process of developing its *Better Pathways* framework, which was initiated in 2004. The Victorian Justice Department developed the *Better Pathways: an integrated response to women's offending and re-offending*; a four-year strategy in Corrections for 2005-09 aimed at addressing the increase in women's imprisonment in Victoria⁷.

Better Pathways became a major step toward acknowledging the differences experienced by women and men who come into contact with the criminal justice system. Through *Better Pathways*, the Victorian Justice Department acknowledged that policies, programs, services and interventions designed to address the particular corrections related issues must reflect the unique needs, characteristics and life experiences of women. In particular, 'critical consideration' must be given to the role that the majority of women offenders have as primary caregivers, and to the fact that many women have also experienced intimate partner violence and sexual assault⁷.

The then Equal Opportunity Commission of Victoria (EOCV) stated that it welcomed the *Better Pathways* strategy, but that its focus on the imprisonment of women did not address principles of equitable treatment contained within applicable anti-discrimination legislation¹². However, in 2006, the Commission decided not to recommend a formal investigation into systemic discrimination against women in Victorian prisons, but to call upon Corrections Victoria to perform an audit of the infrastructure, policies and procedures to ensure

compliance with the *Equal Opportunity Act (Vic)* and to consult with the Commission in this process¹².

In the subsequent years, many of the Commission's concerns and identified gaps have been addressed by *Better Pathways*. The two major elements of the *Better Pathways* strategy are the \$7.2 million Building Program and the \$18.2 million investment in programs and services to support women prisoners and offenders³⁰. In 2007 and 2008, the following improvements have been made to building programs in Victoria corrections services through the *Better Pathways* strategy:

- A refurbished medical centre in the design of a community health centre, with increased consultation rooms and a health promotion and education room;
- Marmak Mental Health Unit, which has 20 beds and caters to female prisoners who experience issues related to mental health;
- A multi-faith chapel with a circular building structure denoting 'wholeness';
- Refurbishment of the Visits Centre created more space for women and their families and included a room for children's programs and visiting teenagers;
- The Education Centre gained three rooms, a computer room, a language and learning centre, a training kitchen and a quiet study and resource area; and,
- An expansion of the Industries Building³⁰.

The strategy has also enhanced programs and services with the following initiatives and additions:

- In August 2007, the Department of Justice completed its *Women's Correctional Services Framework*, which the Women's Correctional Services Advisory Committee had input into. The framework is a policy statement that guides the development and delivery of correctional services to women prisoners and offenders. It takes into account 'the distinct needs, characteristics, life experiences and family circumstances of women offenders'³⁰;
- Women's Integrated Support Program (WISP): providing pre and post-support management for up to 90 women prisoners per year;
- Women4Work Program: provides job search training, individualised job search planning and other related support to women pre and post-release from prison;
- Transitional Bail Support Program: provided 10 additional properties for women to stay while released on bail;
- Childcare and Transport Subsidy (CCATS) Program: practical support is given to women on supervised community-based orders;
- Multicultural Liaison Officer (MLO): provision of a fulltime MLO to work with women prisoners; and,
- Sexual Assault Counselling, Advocacy and Support Services: delivery of sexual assault counselling, advocacy and support services to women prisoners³⁰.

4. Conclusion

The rise in women being sentenced to prison in Australia, and in Victoria, requires that Justice and Corrections services continue to address differences between the experiences of women and men. Prevention, early intervention and diversion initiatives must be gender responsive. This is particularly so in light of the connection between women's offending behaviour and illicit drug use and of the disproportionate rates of abuse experienced by women sentenced to prison. The *Better Pathways* strategy has brought about major changes in an effort to ensure equity and appropriate provision of programs and services to women in prisons, but ongoing systemic monitoring and review is necessary to ensure that the social, cultural, economic, health and other conditions specific to women are incorporated into planning, policy, programs and services for, about and to women prisoners and offenders.

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