

REPORT NO. 2 - August 2020
Priority Themed Grants Funding

Keeping Women Out of the Justice System



Overview

In 2017, in response to the rising rates of women’s incarceration, we identified Keeping Women Out of the Justice System (KWOJS) as a priority-funding theme of the VLSB+C’s Grants program. We have continued to provide additional funding each year to expand this critical work, and have allocated almost \$4 million to five innovative projects with the following aims:

- + Reduce women’s encounters with the justice system
- + Reduce the factors driving growth in the women’s prison population
- + Reduce women’s incarceration and recidivism rates
- + Provide models for reform

This is the second report detailing the activities and impacts of the projects funded. The first report can be found [here](#).

Background

The rising incarceration of women

The number of women in Victorian prisons has more than doubled over the past decade,ⁱ with the number of Aboriginal women in prison more than triplingⁱⁱ. Whilst the number of sentenced prisoners has remained relatively stable, 9 out of 10 women received into prison in 2018-19 entered unsentenced (on remand).ⁱⁱⁱ More than half of the female prison population is on remand.^{iv} 65% of women were remanded for short periods of less than one month.^v

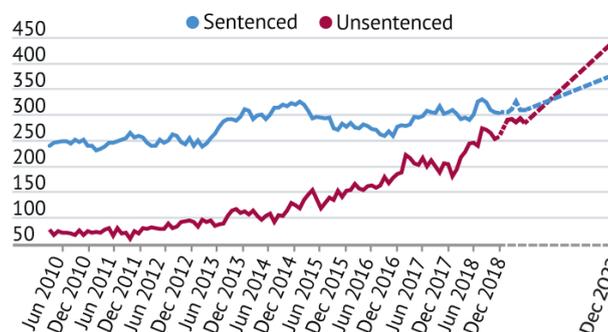


The overwhelming majority of women in Victorian prisons are victims of abuse and violence, particularly family violence and childhood abuse and neglect.^{vi} These

experiences often lead to mental and physical health issues, drug and alcohol misuse and dependence, challenges accessing safe and stable housing and financial insecurity.

Women’s rates of imprisonment, as shown in the diagram, have dramatically increased, particularly following the 2018 bail law reforms.^{vii}

Women in prison in Victoria, sentenced and on remand



Source: Corrections Victoria. *Projection to 2023

Even short periods of incarceration can result in women having their children removed and losing their home, job and connection with their community. This means that women in custody on remand typically present with legal needs beyond their criminal law problem, as well as a range of complex and interrelated non-legal needs.

Corrections Victoria modelling predicts this situation to worsen. They anticipate a 60% increase in women held on remand by 2023^{viii}. Given this, these projects play an important role as they support vulnerable women to navigate the justice system and point to the changes needed to avoid repeat offending.

Participants

The projects have formed a ‘community of practice’, working individually and collectively to address immediate and systemic issues affecting female incarceration. They are:

- + **Women Transforming Justice:** Fitzroy Community Legal Centre (in partnership with Flat Out and Law & Advocacy Centre for Women)
- + **The Women’s Voices** – a collaborative model of specialised help for criminalised women: Women and Mentoring
- + **Living Free:** Fostering multi-sectoral partnerships and system advocacy to enhance young women’s pathways out of justice: Stepping Up Consortium.
- + **Women’s Arts Officer in Prisons & Community:** The Torch
- + **Stories of Strength:** Federation of Community Legal Centres (Victoria)

Project Outcomes

WOMEN TRANSFORMING JUSTICE



A partnership between Fitzroy Legal Service, Flat Out and the Law & Advocacy Centre for Women.

Women Transforming Justice (WTJ) is a multi-component program that aims to support women to be released from, and stay out of, custody. WTJ utilises skilled, integrated and women-specific legal representation and outreach-based case management.

They address the drivers of women’s rising incarceration at both an individual and systemic level through:

- + the development of an integrated Court Support Program for women applying for bail
- + the facilitation of a Women’s Leadership Group (WLG) for women with lived experience of the criminal justice system
- + advocacy for system reform and influencing decision-makers to take into consideration the gendered nature of women’s offending.

Court Support Program

The WTJ Court Support Program delivers expert, integrated and women-specific legal advice and representation, as well as gender-informed, outreach-

based case management to support women on remand. This is to improve their prospects of being granted bail initially and then to support women to remain safe and stable in the community upon release.

The Women’s Leadership Group (WLG)

The women in the WLG have been employed by Fitzroy Legal Service to lend their experiences of criminalisation to influence broader systemic understandings. Over the past 12 months, they have presented at webinars, conferences, forums and training workshops. Members of the WLG’s personal experiences of childhood abuse, homelessness, family violence and drug use, highlight how these experiences shape offending behaviour.

The women are highly sought after for consultation and service design by researchers and service providers. The WLG informs those looking to understand how to better respond to and support women who have been criminalised.

WTJ ensures advocates of lived experience are a valid and critical body of knowledge for workers in multiple and intersecting service systems to draw upon.

Advocacy for system reform

Informed by the voices and experiences of women who have been criminalized, WTJ has supported the WLG to provide submissions to the Spent Convictions Inquiry, the Royal Commission into Mental Health and the Parliamentary Inquiry into Homelessness.

The WLG have provided expertise regarding women’s criminalisation to consultations with government departments and Ministers, with academics and other legal practitioners.

In the face of the current pandemic, this project’s agility and adaptability has ensured that work has continued supporting women to be released on bail. Fitzroy Legal Service are supporting the work of WLG to remote online mediums and continuing, alongside other advocacy groups, the work in fighting for the release of people throughout COVID-19.

2019 Outcomes and Impact

The following data relates to women in custody, on remand or on conditional release supported by WTJ.

- + 79% were released on remand with the first bail application
- + Less than 50% of women could identify social supports in the community
- + 52% of women had children generally not in their care
- + 66% of women identified mental health distress
- + 93% of women released had no stable accommodation
- + Over 50% of women identified current family violence. However, the statistics are much higher if previous family violence is considered.

Evidence collected strongly supports the finding that WTJ clients are particularly vulnerable with multiple complex needs, including experiencing unstable housing, family violence/trauma, alcohol and other drug (AOD) and mental health issues. Aboriginal and Torres Strait Islander women (38%) and culturally and linguistically diverse (CALD) women (24%) are over represented amongst women supported by WTJ.

COVID-19 has brought changes to the awarding of bail that WTJ would like to see sustained into the future. Flat Out reports that 9 out of 10 bail applications have been successful during this time and 22 women are currently working with their case manager. WTJ have been able to provide these women with the support

they need to live safely in our community.

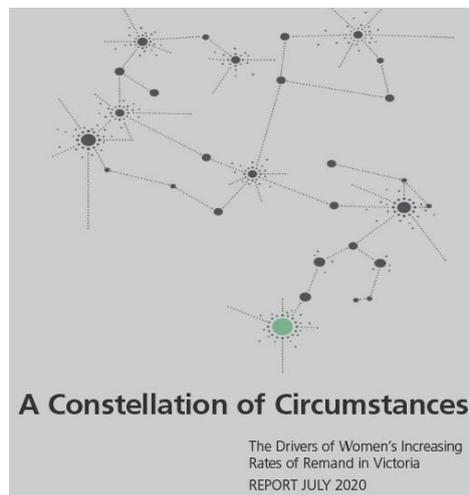
Publications

- + In May 2020, the Women’s Leadership group contributed an article to the June issue of **Parity magazine** drawing upon their lived experience to highlight the links between homelessness and criminalisation.



- + In July 2020, WTJ in partnership with La Trobe Centre for Health, Law and Society, released the **Constellation of Circumstances: The Drivers of Women’s Increasing Rates of Remand in Victoria** report. This report investigates the reasons for the significant growth in Women’s rates of remand in Victoria, and articulates the impact of Victoria’s current bail law regime on vulnerable women.

The report was launched via **webinar** in July 2020.



“I have to have regard to the fact that you’ve got a history of failing to answer bail, and I suspect in terms of some of the things now explained to me, that’s not entirely surprising...but you will now have Flat Out’s support and they’ll make sure that, in relation to the dates you need to be at court, you’ll be at court. In those circumstances, I’ll grant you bail...”

Magistrate, court observation.1

THE WOMEN'S VOICES, WOMEN AND MENTORING



Women referred through the justice system to the WAM program are matched with a volunteer mentor. The mentor provides emotional, social and practical support for the participants as they move through the court process and engage in sentencing outcomes.

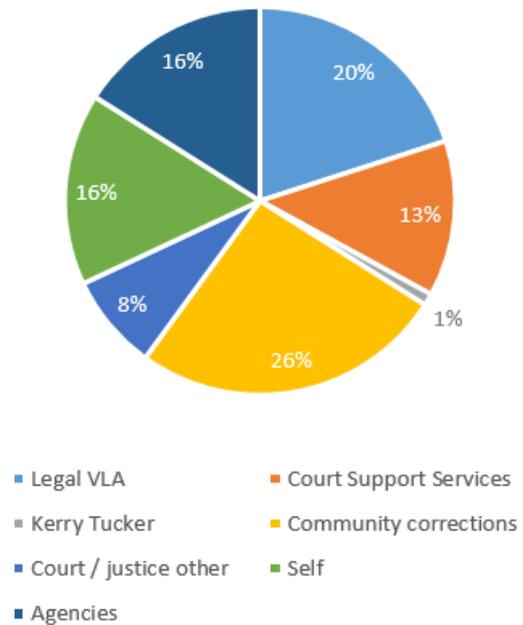
The process of mentoring enables women to address issues in their lives with consistent support. The restorative nature of being listened to and supported by a trusted, reliable person has assisted women to develop positive coping strategies, motivate engagement with community services, and maintain relationships with justice services. This in turn minimises, reduces and ceases their contact with the justice system.

"It has restored my faith in humanity". "I would still be stuck where I was in a dark anxious box, not trusting".
- Participant

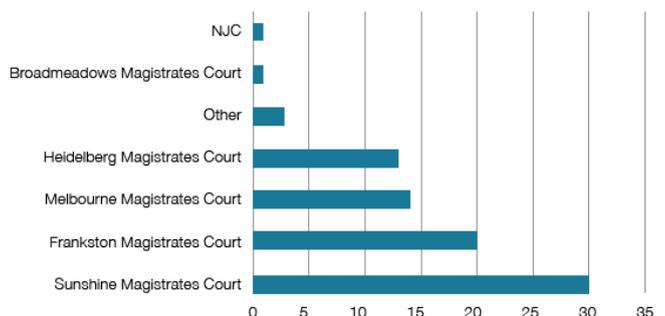
2019 Outcomes and Impact

- + 83% of participants indicate improvement across personalised and prioritised areas of change
- + 86% of program participants are linked in with other agencies, through the WAM Coordinator or with support from the mentor to seek out services. Services include attending a GP to access a mental health plan; maternal child health nurse; drug counselling; community legal service; Launch Housing.
- + 86% of women indicate improvement in legal issues.
- + 85% of women indicate they have no new charges brought against them whilst engaged in the program. Women identify a shift in their attitude to offending behaviours and instead successfully work towards completing their Community Corrections Orders.

Referrals by source



Referrals by court



Second Women's Voices Consultation

Annual consultations with participants ensures the service continues to be responsive to women's needs. Themes arising from the second consultation will guide the project into its third year.

"The stability and guidance provided by a WAM mentor led to the accused making such progress in her rehabilitation that I was ultimately persuaded to impose a sentence different to which I would have otherwise contemplated. I have confidence that the Accused had overcome a significant drug addiction largely as a result of WAM's assistance and is not likely to reoffend. She presented in court as a healthy and employable person with a bright future."

Magistrate Tim Gattuso

Qualities identified as most useful and rehabilitative include:

- + Therapeutic nature of talking / active listening
- + Importance of informed and professional service response
- + Increased motivation
- + Improved power dynamics: feeling they are on an equal footing with their mentor
- + Positive life changes

Women feel better resourced, more confident and have a more positive attitude and approach to their legal matters. Most identify the importance of "having someone next to me" as they go to court.

"I go to court with her and I'm the only person there supporting her. So I think that's my role. Just to let her know that she is not alone in navigating the complex and emotionally draining court process."
– Susan (Mentor)

Future Goals

- + More brokerage funding so participants can pay for coffee. Having the ability to shout their mentor a coffee would support the feeling of equal footing in the relationship.
- + Activities so that mothers can bring their children as well.
- + To be given choice to stay on the program for as long as they need to. Often services are for a short period and there is an expectation that entrenched issues can be resolved in 6 or 12 weeks.
- + Take time to match, as the relationships work much better if the match is the right fit.

"The current COVID crisis should prompt a re-think of our priorities. It has never been clearer that what is needed for community safety is government investment in long-term housing for women experiencing violence and poverty and community-based services for women who are at risk of being criminalised." - WAM Facebook page

"I would have gotten worse. Not many people ask you 'how you are' 'what have you been doing' Nobody asks that. There's rapport, trust" - Participant



Publications and Milestones

- + Newsletters in April and June 2020
- + The *Women's Voices – Consultation Report*
- + A *Women and Mentoring Outcomes Report*
- + Celebrated 10 years of operation in May 2020
- + WAM Patron Carmel Benjamin AM was awarded the *Volunteer of the Year, Dame Elisabeth Murdoch Award*



My mentor "keeps me up to date with other services, doctors for example...and she keeps me motivated." Willow (Participant)

"Susan is like a friend. She makes me feel mentally more equipped to deal with everything. I'm a lot more positive about it." – Julie (Participant)

LIVING FREE, STEPPING UP CONSORTIUM



The Living Free Project (LFP) provides an innovative evidence based response for young girls reported missing aged 10-17yrs and for women aged 18-30yrs in early contact with the justice system. LFP provide these women and girls with flexible, long-term, intensive outreach support. The project provides advocacy for women to improve their justice outcomes whilst simultaneously working to reduce the likelihood of further contact with the justice system.

The project has been embraced by stakeholders across multiple sectors and has had a significant impact on recidivism rates. It has also received unprecedented support across local community sectors and by local Magistrates. All agree that women who are supported by the LFP have more positive Court outcomes. Only 9% of women engaged with the LFP are known to have been charged with further offending whilst involved with the project.



“An important part of the advocacy efforts of the Living Free Project is challenging the ‘system’ to look at how women access and are supported by specialist services. The rigid intake and assessment processes in specialist services need to be re-considered and re-imagined so we are not further marginalising and creating more anxiety for those who need it the most. We hear this often from our women and other professionals... it is time to consider how we can do things differently.”

- Lisa Abbott, Project Co-ordinator, Living Free Project

2019 Outcomes and Impact

Young Girls aged 10-17yrs reported missing

- + 30% increase in engagement with education and specialist services.
- + 93% of girls leaving the program, who had been disengaged from school when initially referred, were actively engaged in education or training upon exit.

Women aged 18-30 in contact with the justice system

- + Of those who were homeless on referral, 56% were in stable housing on exit and the others remain involved with the project.
- + An increase from 30% of women engaged with Alcohol and Other Drug (AOD) services to 70% engaged or receiving AOD intervention during their involvement with LFP.
- + 89% of participants reported an improvement in their support network and having people they can depend on
- + 45% reported improvements in debt or fines
- + 89% noted an increase in feeling positive about their future.
- + For those with children, all reported an increase in feeling like a ‘good mother’.
- + 100% of participants who previously reported not feeling safe in their community reported improvements post project involvement.

“I had tried a couple of services...my outreach worker helped me get to other places for help if that makes sense, because they weren’t easy to find by myself....she helped me find them” - Participant, 16 yrs

“I got a diversion which has now ended...I haven’t been into trouble at all, definitely not even with the police since then. So I have kept myself out of trouble and I’m doing the best ever” - Participant, 16 yrs

- + Capacity to engage in work or study also improved across all participants. 100% of women, who previously felt that they had too many barriers to work or study, reported a decrease in these barriers.
- + Insight into the impact of their offending on other people improved across all participants.
- + 100% reported an improvement in how often they felt sad rather than happy.
- + 100% reported feeling that their problems were less severe post-LFP involvement.

Publications and Activities

- + Conference presentations were made at ACSO Criminal Justice Conference; Sisters Inside Conference and VAADA's Annual Conference
- + The team are taking to the airwaves via the Rewriting the Narrative Podcast series to promote important discussion around the need to do things differently for vulnerable girls and women in the justice system
- + Living Free Project Evaluation report
- + <https://twitter.com/steppingupau>
- + Living Free Round Table with Victorian Government Ministers and Odyssey House.



Living Free Program - Round table (L to R) Lisa Abbott, Minister Sonya Kilkeny, Minister Gabrielle Williams, Odyssey House, Dr Stefan Gruener, Minister Paul Edbrooke & Minister Peta Murphy.

Case study

Not long after 32 year old single mother Katie sought help from LFP she was sentenced to 2 months imprisonment, followed by an 18 month Community Corrections Order upon release for driving offences.

After building a trusting relationship with Katie, LFP learned that Katie had a significant history of family violence (as a victim); many of Katie's historical infringements were accumulated by her ex-partners using her car. She was socially isolated and experienced transportation issues.

The night Katie was charged and remanded was the only time Katie had ever been away overnight from her youngest daughter. Katie had been charged for driving whilst suspended only a few days after giving birth; she was driving back to the hospital to be with her baby who was still hospitalised due to medical reasons. Katie recalls not having access to a breast pump whilst in the cells as she was breast-feeding her baby at the time. Katie still becomes overwhelmed with emotion when recalling this traumatic incident.

Katie's lawyer appealed the sentence and the matter was held over to the following day. Katie was demonstrably distressed as she faced another night away from her children who were at childcare and school that day. Katie's LFP outreach worker ensured that her kids were safely collected and cared for by a friend. Katie was released on Appeal Bail the following morning. Katie and her LFP worker worked with her legal representative to enact solution-focused approaches to improving her health and wellbeing. Due to Katie's positive progress the County Court deferred sentencing for three months. Katie's sentence was then overturned and she received a fine. Promptly linked in with psychosocial and financial support, Katie's health has improved and she has returned to work.

Katie and her children are now together, supported and building their future.

"I was homeless when I was going through Court and I didn't think there was any help. I was just going to try and push through but there wasn't much I could do by myself anymore....when I met them I just cried, I didn't know what to do....I didn't know what to expect but they told me what to expect and they came through, but more than what they said " - Participant, 25 yrs

"She's (LF Outreach Worker) helped me do a lot of things so far. Things have been a lot better. She keeps my head in the right place, helping me remember when my appointments are...otherwise I wouldn't be getting to any of them" - Participant, 26 yrs

THE TORCH



Since June 2011, The Torch has been providing art, cultural and arts industry support to Indigenous offenders and ex-offenders in Victoria through its Indigenous Arts in Prisons and Community (IAPC) program. Through this funding, The Torch have been able to employ their first designated Women's Arts Officer.

The designated Women's Arts Officer works directly with Indigenous female prisoners situated in both the Dame Phyllis Frost Centre and Tarrengower women's prisons in Victoria. Upon release from prison, the women continue to receive art, cultural and industry support through the project.

By embracing people as artists rather than prisoners, The Torch provides an avenue for change. Indigenous women accessing The Torch's program are mentored in art and their culture. Artists participated in exhibitions curated by The Torch with the ability to showcase and sell their artwork online. Importantly, artists are able to retain this money to help them re-establish themselves upon release. A record number of In-Community participants were employed to install the CONFINED exhibition in 2019.

2019 Outcomes and Impact

- + 65 prison visits including the first ever visits to Tarrengower.

- + Engagement with 53 artists including 42 who had in-prison engagement during the year.
- + 25 new female artists signed up to the Torch program in prison across the term
- + Implemented improved data capture mechanisms to track artist engagement and measure the project's impact on recidivism rates.
- + While making money is an important result from exhibiting, other impacts cited by participants included: being recognised as an artist rather than an offender, feeling strong as an Aboriginal person and being able to share their stories with family & community.



Thelma Beeton (Palawa) 'Tucka Time' 2020, Acrylic on canvas.

- + Results from the 2018 Evaluation of The Torch's IAPC program showed that the majority of In-Community participants (92%) confirmed that being part of the program has helped them stay out of the justice system.

Annual Exhibition: Confined 11

The impact of The Torch providing opportunities for women participants to

exhibit, license and sell their artwork has been significant and is a vital way of providing economic independence along with increased social and emotional wellbeing.

As a result of this project there has been a 33% increase in women exhibiting, 75% increase in sales proceeds and a 91% increase in the quantity of artwork sold for women participants during the annual Confined exhibition.

Leaving prison with savings has also allowed some of the regular artists to leave custody without debt and for others to set up new homes.

"When I got out I had nothing. The money I made from The Torch, selling my paintings, helped me set up my house."
- Kim, a post release participant who has been an active participant and out of prison for over 18 months

"We are 21 times more likely to be imprisoned than non-Aboriginal women. The Torch is giving us a way out. Help us paint a brighter future." - from the 2019 Yarra Tram project featuring Torch artists

STORIES OF STRENGTH



FEDERATION
OF COMMUNITY LEGAL CENTRES VIC

Stories of Strength was a storytelling and media project run by the Federation of Community Legal Centres (FCLC) with women with lived experience of imprisonment in 2019.

The project worked to ensure more women with lived experience are able to contribute to community conversations about female incarceration. The program and training sessions were co-created with participants. This led to strong connections with lived experience campaigners and a better understanding of marginalised groups and healing activities.

At the end of the program the participants felt able to participate and lead sessions without support. They became confident in their capacities and the women identified the project management skills needed for the remainder of the project, while being supported to play more of a role within the sessions.

This progress was a good indication of how the women moved beyond early challenges to establish a project that built skills and enabled their voices to be heard in multiple settings.

Activities and Impact

- + A training program for participants focused on building the capacity of women to be advocates and campaigners for themselves and people in their community. Training conducted included several workshops, speaker sessions and forums.

- + In partnership with the Women Transforming Justice Project, the participants provided their advice and experience to government inquiries, including:
 - the Royal Commission into Victoria’s Mental Health System
 - a submission to Parliamentary Inquiry into Homelessness.
- + The participants had the opportunity to meet with key social service organisations to share their experience, advice and to gain information.
- + Participants reported that regular group contact enabled them to develop relationships and highlighted opportunities they had not been aware of previously. The group also supported their skills development and confidence to be advocates.
- + All participants attended, and two participants powerfully presented on a panel at, Progress 2019 – a conference of 2,000 campaigners and activists, non-governmental organisations and grassroots communities.
- + The women from Stories of Strength continue their leadership with the Women Transforming Justice Project, Women’s Leadership Group.

“[A participant] from the Women’s Leadership Group, with her colleagues in attendance, did her first speech at the Change the Record election forum where the candidates were in attendance... [She] had a standing ovation for her incredible speech and inspired the Aboriginal and Torres Strait Islander community to prioritise the voices of people who have been imprisoned.” - Stories of Strength Project Worker

Contributing to the Conversation

Articles

Below is a compiled selection of articles on the issue that also highlight the intersecting causal factors of poverty, family violence, Alcohol and Other Drug dependence, homelessness and changed bail laws attributed to rising female incarceration rates. The KWOJS projects have contributed to many of these.

- + The Age, 10 February 2019, [The government is criminalising the very women it should support](#)
- + Herald Sun, 8 Mar 2019, [From crims' to crutches](#)
- + Parity Magazine, May 2020, [Homelessness and mental health: Learning From Lived Experience](#)
- + The Age, 28 June, [Is there any way back from the war on crime?](#)
- + The Age, 28 June, [In Victoria's prisons, women pay for men's violence](#)
- + The Age, 1 July 2019, [Prisons are booming as Victoria pays for its 'tough on crime' stance](#)
- + Podcast (Radio Public), The Living Free Project, [Rewriting the Narrative - Women in the Justice System](#). (Click all episodes and scroll to individual podcasts).
- + Women Transforming Justice [Constellation of Circumstances Report](#) & [webinar recording](#)

Budget submission to the Victorian Government

The KWOJS projects made a joint budget submission to the Victorian Government and Fiona Patten MP raised it in Parliament on 19 February 2020.

Ms Patten spoke passionately about the “sad numbers” outlined in the submission and encouraged the Minister for Corrections to fund the work of the KWOJS ‘community of practice’. Ms Patten drew particular attention to the need to fund early intervention programs and partnerships like these in order to save on downstream costs.

What Next?

The work being done by these projects and the results achieved so far point to a different and effective way to respond to women who are entangled in the criminal justice system. The unfolding crisis during the COVID-19 pandemic has reinforced the importance of the projects’ aims of exploring alternatives to incarceration.

The funded projects have identified the following shared objectives to reduce women’s incarceration and continue to advocate for these changes:

- + Bail law reform and abolition of short sentences
- + Policy reform to promote enhanced diversionary options
- + Improved education of legal professionals so they better understand gendered pathways to offending
- + Building of jurisprudence through strategic litigation
- + Flexible, long-term service delivery models.

Please note: the views and opinions expressed in this report are those of the funded projects and do not necessarily reflect the official policy or position of the VLSB+C.

About the Victorian Legal Services Board Grants Program

The Grants Program was established in 2007 to distribute funding to projects that aim to improve the administration of laws, increase access to justice, improve legal services and inform and educate the wider community about legal services.

The grants are available from the VLSB+C administered Public Purpose Fund, which includes funds from a number of sources including the interest on solicitors' trust accounts and income from investments.

With the approval of the Attorney General, the grants can be used for:

- + Law reform
- + Legal and judicial education
- + Legal research
- + Innovative improvements to access to justice
- + Any other purpose relating to the legal profession or the law that the Board considers appropriate.

Cover Image

Felicity Chafer-Smith (Ngarrindjeri) 'Black Bodies Behind Bars' 2020, Acrylic on canvas.

This artwork was created through The Torch, a not for profit organisation, that provides art, cultural and arts industry support to Indigenous offenders and ex-offenders in Victoria.



References

- ⁱ Walker, S., Sutherland, P., and Millsteed, M. (2019). Characteristics and offending of women in prison in Victoria, 2012-2018. Melbourne: Crime Statistics Agency. P.4
- ⁱⁱ Walker, S., Sutherland, P., and Millsteed, M, 'Characteristics and offending of women in prison in Victoria' p.15
- ⁱⁱⁱ Corrections Victoria, 'Prisoner Receptions 2019',
- ^{iv} Walker, S., Sutherland, P., and Millsteed, M, 'Characteristics and offending of women in prison in Victoria', P.4
- ^v Walker, S., Sutherland, P., and Millsteed, M, 'Characteristics and offending of women in prison in Victoria', P.5
- ^{vi} Johnson, H, 'Drugs and Crime: A study of incarcerated female offenders', Australian Institute of Criminology (2004) p78; Corrections Victoria, 'Women in the Victorian Prison System', Department of Justice and Community Safety (2019) p.4
- ^{vii} The 2013 amendments introduced two new 'secondary offences' for breaching bail whilst the 2018 amendments expanded the range of offences required to pass the reverse onus 'exceptional circumstances' or 'show compelling reason' test. Previously the test applied only to very serious offences, such as murder and terrorism, but it can now impact lower level crimes like repeat shoplifting. (*Bail Act 1977* sec. 4AA) "Half the women who entered prison on remand during 2018 were charged with one of two new breach of bail offences first introduced during December 2013." Crime Statistics Agency Recent research demonstrates the significant proportion of women being required to demonstrate exceptional circumstances when applying for bail: Emma Russell, Bree Carlton, Danielle Tyson, Hui Zhou, Megan Pearce, Jill Faulkner (2020) A Constellation of Circumstances: The Drivers of Women's Increasing Rates of Remand in Victoria, Fitzroy Legal Service and the La Trobe Centre for Health, Law and Society: Melbourne
- ^{viii} Royce Millar and Chris Vedelgo, 'Women Prisoner Numbers Explode Amid State Crackdown on Male Violence', *The Age*, 30 June 2019