



**FLAT OUT INC.
& CENTRE FOR THE HUMAN RIGHTS OF IMPRISONED PEOPLE**

**SUBMISSION TO THE VICTORIAN OMBUDSMAN INVESTIGATION INTO THE
REHABILITATION AND REINTEGRATION OF PRISONERS IN VICTORIA**

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ACCREDITED



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I. Introduction

The following submission was prepared by Flat Out and the Centre for the Human Rights of Imprisoned People (CHRIP), a project Of Flat Out, in conjunction with women with the lived experience of imprisonment. In order to protect women’s privacy, these women will not be named in the submission. This submission draws from the unique experiences and insights of women who have been imprisoned in Victoria in order to illustrate crucial issues and highlight gaps in the existing system.

Flat Out is uniquely placed to comment on the issues raised in the Victorian Ombudsman’s discussion paper (October 2013), particularly in relation to the provision of post-release services. Flat Out has provided advocacy and support for women in contact with the criminal justice system for more than 25 years. Flat Out’s expertise therefore lies in community-based support for criminalised and formerly imprisoned women and this forms a focus of the submission.

This submission has two interlinked aims. The first is to interrogate the broader context and terms of discussion and the second is to respond to a number of the questions posed by the Ombudsman. To begin, the submission outlines Flat Out’s perspective on the systemic issues referenced in the discussion paper including rapid prison expansion in Victoria. It highlights the unique and integral role of the Ombudsman in exposing injustice and malpractice in the prison system (a highly secretive and non-transparent institution) and attempting to hold Corrections Victoria to account. Building on these frameworks, the submission then discusses more specific issues arising in relation to access and administration of programs, transition and the organisation of post-release services. Suggestions are made for crucial improvements in all of these areas, reflecting on the questions listed in the discussion paper.

Flat Out would like to thank the Victorian Ombudsman for the opportunity to make a submission in response to the important issues raised in the discussion paper.

II. Flat Out and Centre for the Human Rights of Imprisoned People (CHRIP)

Flat Out is a state-wide advocacy and support service for women who have had contact with the criminal justice and/or prison system in Victoria. It is an independent, not for profit, community based organisation that is managed by and for women. Flat Out leads and participates in research and community education, seeking to inform the wider community about the harms that occur for women in the criminal justice system.

The Centre for the Human Rights of Imprisoned People (CHRIP) is a project of Flat Out focusing on community awareness and capacity building, and systemic advocacy. The work of Flat Out and CHRIP builds on the intrinsic connections between service delivery and social change work that has been present since Flat Out's inception in 1988.

Flat Out works directly with women who have experienced criminalisation and/or incarceration and to improve the rights and conditions of women in prison. Flat Out works to prevent women from going to prison, and keeping women out of prison once they are released. Flat Out works toward having a strong voice in the prison abolition movement in Australia and internationally. Flat Out's vision is that eventually prisons will be viewed as antiquated, cruel and ineffective institutions. Flat Out seeks to work alongside diverse communities to end all forms of inequality and injustice.

Flat Out receives government funding through the Department of Human Services (Victoria), the Department of Health (formerly Department of Health and Ageing)(Federal), for the purpose of providing individualised support and advocacy for women (with or without children) to address homelessness, drug and alcohol treatment and a range of other support and advocacy to address underlying causes of criminalisation. CHRIP receives project funding from grants and donations.

III. Notes on this submission

This submission provides discussion and notes on systemic issues arising in the Ombudsman's discussion paper. It responds to a number of specific questions raised by the Ombudsman, but not all 36. Flat Out's perspective is that many of the questions are too narrow in scope to explore a broader range of contributing factors and possible solutions to the issues highlighted in the discussion paper. For example, several questions are structured to encourage a simple yes or no answer within narrow parameters. For these reasons Flat Out has structured this submission loosely based on the sections outlined in the Ombudsman's discussion paper, but input is not limited to the questions posed. Rather, key systemic issues raised in and beyond the discussion paper are commented and expanded upon, and changes and improvements are suggested to existing practices and systems.

IV. Independent Oversight and Accountability

Foreword

The role of the Ombudsman as an independent oversight body of the Victorian prison system is immensely important. The following passage from the foreword of the Discussion Paper presents a number of problems in relation to this task:

It is not surprising, when a prison system is required to expand to the degree we are seeing in Victoria today, that the aspirations of the system as reflected in guidelines and procedures are not always met. This is no way a reflection on the leadership of Corrections Victoria or the many dedicated people who work within the system. (Victorian Ombudsman, p.2)

In light of this passage, Flat Out has concerns for the Ombudsman's integrity in relation to its independence. The effect of the above statement abdicates Corrections Victoria's responsibility for any shortcomings or failings in advance of an independent investigation. To suggest that the significant issues outlined by the Ombudsman 'in no way' reflect on the leadership of Corrections and its employees may enable Corrections to sidestep or evade accountability for failure to make available required and/or appropriate programs, provide cultural safety, or to prevent negligent, dangerous, or harmful practices and conditions in the prison system. The Secretary to the Department of Justice is responsible for monitoring performance in the provision of all correctional services to achieve the safe custody and welfare of imprisoned people – this means that the State owes a duty of care to every person detained in custody to ensure their safety and wellbeing.¹

The gaps between policy and practice within the prison system are far from new concerns for anybody involved in this area, and they cannot be attributed solely to prison expansion. Whilst problems in the prison system may have intensified as a result of over-crowding, the issue of over-crowding cannot be taken up as an excuse for Corrections Victoria's failure to abide by policy and guidelines. There are numerous examples of Corrections Victoria failing to implement the recommendations of prior Ombudsman investigations and this reflects strongly the priorities of Corrections leadership and the multiple barriers to implementing changes on the ground and translating policy into practice.²

V. Prison Expansion and Community Costs

Background & Scope

The prison system is not broken . . . it is operating how it always and continuously intended to operate. It breaks people. It amplifies the impact of harm on people's lives. It fails to make anyone accountable . . . [It is] a system not capable of fundamental reform.

- Charandev Singh³

¹ *Corrections Act 1986* (Vic) s7.

² See for example, Victorian Ombudsman, *Investigation into prisoner access to health care*, (August 2011) p. 4.

³ Paper presented at *Justice Bites* forum, 'The History of Prison Reform in Victoria and Challenges for Human Rights Advocates', Bendigo 6 November 2014.

Given the myriad problems associated with prison expansion already identified by the Victorian Ombudsman and many others in the community, the possibilities for continued and intensified prison expansion into the future highlighted in the discussion paper are deeply troubling. Flat Out is concerned that the terms of discussion in this investigation enables Corrections Victoria to seek further opportunities for expanding the prison system, whether through new prisons or additional prison beds, or through further extending Corrections-controlled services into the community through the provision of post-release services.

On a broader level, there are specific policies and practices in place that are driving prison expansion. The prison population in Victoria has grown at an alarming rate over the past decade, from 3,624 people imprisoned in 2004 to 6,113 in 2014, representing an increase of 69%, with almost half of this growth occurring in the last two years.⁴ This is despite recent reports that crime rates overall in Victoria remain lower than 10 years ago (Victoria Police 2014).⁵ Corrections Victoria identifies the key drivers for the hike in prison numbers as: more frequent use of remand; more parole orders being cancelled and fewer granted; and increased prison sentences.⁶

These punitive policies and practices are not simply abstracted; they play out in the lives of individuals. The factors contributing to criminalisation and imprisonment in people's lives are complex and cannot be addressed solely through behavioural change programs but through holistic case management, support and greater access to basic systems. Investments in prison administration and expansion leave the myriad issues driving expansion and rates of return to prison ultimately unaddressed.

The current strains on the prison system are a matter for the whole of government and community. Flat Out acknowledges the limited scope of the investigation and that Corrections Victoria has unique responsibilities in ensuring safe conditions for those imprisoned. However, this submission emphasises that preventing imprisonment and re-imprisonment requires broader responses across multiple sectors and departments, including housing, drug and alcohol treatments programs, health, education, welfare and employment. Most importantly, approaches to 'reintegration' need to be developed in consultation with those most impacted by criminal justice policies because they possess unique knowledge and insight in regards to their needs and barriers to support.

The literature on 'recidivism' and statistics on rates of prior imprisonment reflect how the existing approach of criminalisation and punishment does not support people to escape the criminal justice net.⁷ Lack of education and employment, poor housing and health, are often presumed to be individual factors contributing to the likelihood of re-incarceration. However, these issues extend far beyond the capacity and responsibility of individuals to change. When rates of prior imprisonment nationally are as high as 58%,⁸ combined with education, employment, housing and health outcomes for people in prison that are significantly lower than those in the broader community, this suggests that there are significant *systemic* barriers for criminalised people in accessing these systems and

⁴ Corrections Victoria, *Corrections Victoria Stakeholder Forum*, 18 September 2014, Melbourne.

⁵ Victoria Police, *Crime Statistics 2013/2014*, Victoria Police, Melbourne.

⁶ Corrections Victoria as above note 4.

⁷ In Victoria, the rate of return to prison within 2 years is around 37% (2012-13). Source: Department of Justice, *Annual Report 2012-13*, p. 17.

⁸ Australian Bureau of Statistics, *Prisoners in Australia, 2013*, cat. No 4517.0

services. Reframing the issues away from individual failings and towards the need for systemic changes will have more widespread impacts on the numbers of people cycling through the ‘revolving door’ of the prison. This submission will expand on the systemic barriers impacting post-release experiences in section VIII.

VI. In Prison: Case Management, Program Access and Assessment

In reference to questions 3.2.3

How could the Victorian case management model be improved?

There is an inherent conflict and incoherence in attempting to administer both punishment and support that is, in Flat Out’s view, impossible to rectify in the prison environment. Therefore, any rehabilitation or reintegration services targeting imprisoned people must be provided independently of Corrections Victoria.

Flat Out’s concerns regarding case management inside the prison rest primarily with the poor quality of case management delivered by Corrections employees, rather than the lack of case information available (as the Ombudsman suggests).

Prison officers should not be case managers. Prison officers are not qualified or trained as case managers and these roles are inherently conflicting.

Qualified and experienced community-based case managers who are not Corrections employees, and who have a good understanding of services and supports that exist outside the prison would be far better placed to facilitate the creation of real and legitimate pathways for people exiting prison. It is in the best interest of the broader community that imprisoned people have equitable access to case-management expertise to facilitate their access to essential services and supports.

Each person’s existing housing and support networks must be maintained during imprisonment and this should form a key focus of case management. The ‘temporary absence’ policy associated with Office of Housing properties and available to people in prison should be extended to all forms of housing. Financial relief should also be provided to maintain housing whilst someone is in prison – as currently no other housing providers are mandated to do that outside of the Officer of Housing through its temporary absence policy. Given the escalation of ‘law and order’ policies and longer sentences contributing to prison population growth, the six months available for temporary absence from a property needs to be reviewed with the intention of extending it.

In regards to maintenance of community support networks during a person’s imprisonment, a shift is required within the organisational policy and culture of community-based services to ensure that linkages with people in prison are maintained and that those services will be available upon release. An outcome of this in practice would be greater efficiency in the provision of services and a higher level of attention paid to ensuring that people in prison are not isolated and marginalised in their contact with the community.

In reference to questions 3.3.3

Upon Reception

Assessment of an imprisoned person's language, literacy and numeracy skills upon reception should be routine regardless of the type and length of sentence; however these assessments must be conducted by independent service providers with expertise in this area. Such assessments should not be conducted by Corrections employees.

Another issue in regards to assessments that Flat Out notes in its work is that full psychological and/or psychiatric assessments to assess mental health and cognitive ability often are not done for women or men who have been through the prison system. Flat Out is sometimes in a position where the organisation has to fund these assessments post-release. In light of the evidence showing high rates of mental health issues amongst people in the prison system, it is unacceptable that many people are processed through the courts and prison system, sometimes multiple times, without a full psychological and/or psychiatric assessment. It appears to Flat Out that there is a 'passing of the buck,' whereby Corrections Victoria does not take responsibility for sourcing full psychological and/or psychiatric assessments, and often the courts do not either. This leaves other organisations to source them retrospectively when they should have been done prior to imprisonment. This raises the question: where does the duty of care lie? In Flat Out's view Corrections Victoria's duty of care is frequently not being honoured, that is, an awareness of a risk to health or wellbeing prompts an obligation to act and to ensure that it is properly interrogated. Again, full psychological and/or psychiatric assessments to assess mental health and cognitive ability must not be done internally by Corrections Victoria but by independent organisations with expertise in this area.

More broadly, many of these issues resonate with the need for equitable access to health care and Medicare for imprisoned people. The loss of access to Medicare imposed on imprisoned people exacerbates physical and mental health issues and creates more danger and insecurity.⁹ Considering how much state funding is invested in prisons, it is in the public's best interest that funding is directed towards health care and other supports. Inequitable access to health care for imprisoned people is a public health issue, with social and economic costs that burden the community post-release.

What work needs to be done to ensure that programs offered are effective in improving reintegration and reducing recidivism? What is the practical experience of prisoners in accessing offending behaviour and educational programs?

Women with the lived experience of imprisonment have expressed that the required completion of 'cognitive skills' based programs inside prison often feels like a 'box-checking' exercise rather than a genuine investment in developing skills or rehabilitation. It was reported to Flat Out that such programs are often privileged and prioritised over other education or training programs. This creates a situation whereby inappropriate programs are forced onto people in order to meet the expectations of Corrections and the Parole Board, without sufficient consultation with the imprisoned person. There should be no impediment to people's access to the programs and education that they identify themselves as needing.

⁹ Australian Institute of Health and Welfare (AIHW), *The health of Australia's prisoners 2010*, (2011) Canberra: AIHW.

In order to improve the effectiveness of programs in prison, there needs to be a stronger focus on programs directed and evaluated by imprisoned or formerly imprisoned people. We do not believe that prisoners have been adequately consulted about programs that would make a difference to whether they return to prison or not. Programs should be evaluated qualitatively by the people participating in them, independently reviewed, and monitored through external oversight. Programs in prison should also be provided by external organisations, determined through a rigorous tender process.

There should not be conditions attached to imprisoned people's access to programs. There should be no difference between remanded and sentenced prisoners in terms of voluntary access to programs. Access to programs should not be determined by an individual's reasons for criminalisation and imprisonment ('offence-type'), but rather by careful planning of a program with input from an individual prisoner.

The improvement of programs inside prison ultimately requires a significant shift in prison staff culture and how the system operates overall. The overarching focus on criminogenic needs that drives the administration of programs should be redirected towards the underlying factors contributing to criminalisation, including barriers to education, employment, health, etc.

The onus for timely delivery of programs inside the prison must be placed on Corrections. A person's release date should not be delayed as a result of the system's failure to deliver required programs and line up transition or post-release services. This amounts to extra punishment as a result of system shortcomings.

VII. Prison to Community: Transition and Timely Release

In reference to questions 3.4.3

There are a number of crucial issues impeding timely and appropriate transition processes and areas for improvement. Firstly, and as mentioned above, lack of access to programs and support services should not delay a person's release date. Second, there are reports of Corrections Victoria releasing people from prison at inappropriate times, such as late in the afternoon, or on a Saturday. This prevents people from accessing immediate crisis payments from Centrelink (because the office is closed) and other support systems and services that are often urgently needed.

From Flat Out's perspective, Corrections is not the appropriate provider of transition services and post-release services in the community. Flat Out is wary of the possibilities for extending peoples' experiences of criminal justice entanglement through Corrections control and funding of post-release services. This allows Corrections more scope to manage people beyond the prison system, when women and men exiting the prison system need to be the core drivers of their support needs, with the support of independent community organisations. For example, Flat Out works with formerly imprisoned women long-term and maintains a focus on separating women from the criminal justice system, in order to sever that relationship, rather than extend and reinforce it. Operating as an independent organisation in the community is a key part of us being able to fulfil this role.

The engagement of currently and formerly imprisoned people with external organisations and systems needs to be properly supported and enabled by Corrections Victoria and the Parole Board.

This includes formerly imprisoned people's access to education, work, support services, psychologists and other health providers, etc. Engagement in these areas with external providers needs to be prioritised and regarded as at least as important, if not more, than compliance with parole conditions because it is access and engagement in those areas that will make the difference for someone living in the community long-term (rather than returning to prison). There is a strong emphasis on parole breaches, without any regard as to whether the Parole Board is meeting the needs of formerly imprisoned people. Greater scrutiny needs to be placed on system efficiency.

This highlights the need for more flexibility from the Parole Board, for example, meeting outside of work hours so that people's employment opportunities are not compromised by being on parole. The women that Flat Out work with often report that they cannot get a job because they will not be able to make parole appointments and compulsory drug screenings. The parole system in its current form is failing to enable people to engage in positive change in their lives.

The lack of transparency in Parole Board decisions is a source of significant frustration for criminalised and imprisoned people. Imprisoned people should be able to participate fully in such important decision-making that affects their lives, and should be afforded fair and open procedures.¹⁰ People seeking parole in Australia have no formal right to access to information before the Board.¹¹ Yet access to information is central to the ability of imprisoned people to make effective contributions to decision-making that affects them. If the decision is to refuse parole, no reasons are provided to the imprisoned person. There is no opportunity to challenge or elaborate on the material before the Board, either relating to the decision whether to release on parole, or to the imposition of any conditions upon release, and no guidance on how to improve any future applications.¹² This non-transparent approach can be contrasted with practices in NZ, the UK and Canada, where imprisoned people are provided with copies of all information to be used by the Board, subject to security and safety considerations.¹³

VIII. Post Release: Systemic Barriers to Surviving Outside

In reference to questions 3.5.3

It is Flat Out's perspective that provision of post-release services is going to have the biggest impact on rates of return to prison. Regardless of internal programs, if post-release services are inadequate or absent, people will be more likely to return to prison.

Although they are mentioned, post-release services that exist outside of Corrections-funded models are largely absent from the Ombudsman's discussion paper. The lack of acknowledgement of innovative and effective approaches to post-release services that keep people out of prison falls short in comparison to the extensive consideration of Corrections case-managers, in-prison programs and prison architecture in the discussion paper. An overview of the achievements and

¹⁰ Bronwyn Naylor and Johannes Schmidt, 'Do Prisoners Have a Right to Fairness Before the Parole Board?', *Sydney Law Review* (2010) Vol 32 437, p. 439.

¹¹ As above.

¹² As above.

¹³ As above; *Parole Act 2002* (NZ) s13; *Parole Board Rules 2004* (UK) r6; *Corrections and Conditional Release Act*, SC 1992, s141.

limitations of existing and possible post-release services would enrich understandings of 'reintegration'.

Post-release services should be funded independently of Corrections Victoria. If post-release services are funded (and thereby controlled) by Corrections it simply builds out the system, creating a net-widening effect. Through services being funded independently of Corrections Victoria there is a stronger likelihood that people will be successfully integrated into the community rather than an attachment maintained to Corrections – the aim is to disentangle people from the criminal justice system.

From Flat Out's extensive experience in independent post-release service provision, the organisation knows that funding from Corrections compromises advocacy, posing a conflict in advocating against Corrections on behalf of a client. This is precisely why Flat Out has not tendered for Corrections Victoria post-release funding. As a result, Flat Out often cannot meet the demands for its services. Flat Out currently relies on other sources of state and federal government funding for the provision of post-release services.

Beyond Corrections, a broader range of systems and institutions that contribute to the post-release landscape need to be considered. Formerly imprisoned people's interactions with the whole of the community and services sector impact the likelihood of post-release 'success' or rates of return to prison.

Although the Ombudsman's discussion paper highlights the 'individual' factors that determine post-release experiences and whether someone will return to prison or not, the systemic barriers that impact people exiting prison are in need of closer examination and amelioration. For example, access to housing services, Centrelink, appropriate health care, drug and alcohol services, and more, greatly affect post-release experiences and chances of survival. An Australian research study found that formerly imprisoned people were twice as likely to return to prison within nine months if they were homeless.¹⁴ High rates of death post-release are well documented in the Victorian context and access to timely services is crucial to curbing this phenomenon. The Coroners Court of Victoria has indicated that between 2000 and 2010, 120 individuals died due to a drug overdose within either two months of exiting prison or whilst still in the care of Corrections Victoria – this is a conservative estimation with the methodology noting the potential inclusion of over 50 additional deaths.¹⁵

The current systems for managing the health and wellbeing of people in prison and/or on parole are out of step with evidence-based health research on models of harm reduction. Harm reduction is a primary pillar of the National Drug Strategy 2010-2015.¹⁶ Harm reduction principles and practices are yet to filter through to Corrections Victoria and the Parole Board. Instead, abstinence-based models are used with ultimately punitive effects, such as accounts of 'dirty urine' screens resulting in people being sent to prison. The Ombudsman called for a comprehensive communicable disease policy within Corrections in August 2011, including increasing treatment for hepatitis C and better

¹⁴ Baldry et al., 'Ex-Prisoners, Homelessness and the State in Australia', *The Australian and New Zealand Journal of Criminology* (2006), Vol 39, No 1.

¹⁵ Coroners Court of Victoria, *Overdose deaths of people recently released from prison and/or in the care of Corrections Victoria, 2000 – 2010*, (2013) Coroners Prevention Unit.

¹⁶ Ministerial Council on Drug Strategy, *National Drug Strategy 2010-2015: A framework for action on alcohol, tobacco and other drugs*, (March 2011), Commonwealth of Australia.

resourcing of Opioid Substitution Therapy programs.¹⁷ In light of consistent reports of low health outcomes and high rates of blood-borne viruses amongst imprisoned populations,¹⁸ these recommendations should continue to be pursued by the Ombudsman in considerations of rehabilitation and reintegration.

As the Ombudsman notes in the discussion paper, post-release services often appear to have a 'patchwork nature' in that they are very complex for people exiting prison to navigate. It would be strongly advantageous if services connected up more closely, based on an acknowledgement of the importance of coordinated case management. However, Corrections Victoria should not be controlling the administration of community-based support. Access to services certainly needs to be better enabled and from Flat Out's experience, this is often a matter of removing system barriers.

If there is a system barrier to accessing basic services, it does not matter how good the post-release program is, there will be limits to what it can achieve. For Flat Out as a support service, the organisation does all it can through advocacy to link clients to specific services they have identified they need. Through consultations with support services and systems across the community and government sector, there are many system blocks that could be easily rectified, for example, people in prison are considered 'securely housed' and therefore frequently cannot be added to housing waiting lists.

Key Challenges and What Can Be Improved

- There is a dire need for more and better affordable housing. Long housing waiting lists are causing gridlocks in housing and support service systems.
- Women who have criminal records are discriminated against throughout the community and also through many publicly and privately funded service systems. We need policies and procedures to end criminal records discrimination. In particular, we need a spent convictions scheme.
- There is a dire need for more community based alcohol and drug treatment services across all regional areas. A lack of suitable treatment services increases the risk of women being re-criminalised and returning to prison.
- The current child protection system leans to removal of children in circumstances where appropriate and adequate support would enable families to stabilise and stay together. There needs to be a full review of this system to ensure that there is a genuine focus on best interests of the child.
- Centrelink changes, in particular moving women off Parenting Payments' and onto Newstart, are poor public policy that forces families into deeper poverty.

¹⁷ Victorian Ombudsman above note 1.

¹⁸ The Victorian Ombudsman cited that approximately 41% of Victorian prisoners are infected by Hepatitis C Virus (HCV), a preventable and treatable disease (compared with 1% of the general population). Corrections Victoria allows for 30 prisoners per annum to engage in HCV treatment. Only 3 of the 14 prisons operating in Victoria provide access to HCV treatment. Unless on ORT at the time of being incarcerated, access to ORT by imprisoned people is either unavailable or attended by significant delay, and often requires as a precondition, evidence of unauthorised use of drugs within the prison context. See Victorian Ombudsman above note 1 at p.8; ANEX bulletin, August 2014.

IX. Aboriginal and Torres Strait Islander Prisoners

Are there sufficient Indigenous Wellbeing/Liaison Officers?

It is culturally unsafe to have non-Aboriginal people in the role of Aboriginal Liaison Officer (ALO). Furthermore CV needs to eliminate systemic bias against people with criminal records, and any other barriers to Aboriginal people being able to undertake roles within the justice system. It is not simply about Aboriginal people being in the ALO role but also people with the lived experience of imprisonment being in this role. The knowledge, expertise and insight that formerly imprisoned people hold, can help with understanding the challenges facing Aboriginal imprisoned people. Importantly, ALOs should be independent in order to avoid pressure from Corrections which may compromise the effectiveness of their role.

X. Women Prisoners

Do the Standards for the Management of Women Prisoners in Victoria appropriately reflect the particular experience and needs of women offenders?

The *Standards for the Management of Women Prisoners in Victoria* for women are not appropriate. In particular, the current guidelines for strip-searches (on p.25 of the *Standards*) can replicate previous experiences of abuse and consequent trauma for women.¹⁹ Strip-searching is reported by many women and advocates as constituting sexual assault.²⁰ Moreover, women in prison may forgo visits from family or external medical treatment in order to reduce the number of strip-searches they are subject to.²¹ This compounds women's experiences of isolation and poor health. Considering that the effectiveness of strip-searching in seizing contraband is highly questionable,²² this practice should be abandoned and reflected in the *Standards* for women prisoners.

The management of mental health and self-harm risks (p.31 of the *Standards*) is grossly inadequate. As the Ombudsman outlined, traditionally an imprisoned person who is identified as being at immediate risk of suicide or self-harm is stripped of their clothing, placed in a canvas gown and isolated in an 'observation cell' under constant observation.²³ In the vast majority of cases this approach is likely to exacerbate poor mental health and propensity for self-harm. There was a suicide attempt in October 2012 at Dame Phyllis Frost Centre whereby a woman used the canvas gown, tearing it into strips, to make a noose.²⁴ Despite the number of recorded incidents involving the use of canvas gowns to attempt suicide, there has been no prison-wide review of this issue.²⁵

¹⁹ Federation of Community Legal Centres and Victorian Council of Social Services, *Request for a Systemic Review of Discrimination against Women in Victorian Prisons* (Melbourne, 2005); Anti-Discrimination Commission Queensland (ADCQ), *Women in Prison: a report by the Anti-Discrimination Commission Queensland* (Brisbane, March 2006).

²⁰ McCulloch, Jude and George, Amanda, 'Naked Power: Strip Searching in Women's Prisons', in J. McCulloch and P. Scraton (eds), *Violence of Incarceration*, Routledge (2008).

²¹ ADCQ (2006) as above note 7.

²² McCulloch. and George above note 16.

²³ Victorian Ombudsman, *Investigation into Deaths and Harm in Custody* (2014), pp.59-60.

²⁴ As above at p.65.

²⁵ As above.

What changes need to be made to better support women after they are released from prison – particularly around the risk of homelessness?

The best and most logical solution to the issue of post-release homelessness is to maintain existing housing when a person is imprisoned, as discussed above in relation to the extension of a 'temporary absence' policy. This approach would be much easier and less resource-intensive than finding new appropriate housing upon release. In cases whereby a person does not have suitable housing upon entry into custody, a housing plan should be put in place as a priority upon reception. Corrections Victoria employees do not have the capacity to carry out this kind of case management that is urgently needed to address the issue of post-release homelessness. This is precisely why there is a need for independent case managers working with imprisoned people.

Historically the connections between people in prison and the community were guided through the Corrections Victoria pathways protocol. This protocol seems to have been misapplied in practice or rewritten because it does not appear to exist anymore. Under the new state government, it should be a priority that the Corrections Victoria pathways protocol be reviewed and revitalised to ensure that all services have a clear understanding of their roles and responsibilities in relation to people in the criminal justice system.

It is crucial that people's release date not be delayed by the failure to secure housing; this amounts to extending punishment of the individual for what is actually a system failure. Housing needs must be maintained or planned and met at the earliest possible stage to ensure that people's release date is not determined by the availability of suitable accommodation. This problem could be ameliorated through either the maintenance of properties as discussed above or a proper housing plan as soon as someone is imprisoned.

See further discussion above of post-release needs in Section VII.

Are there gaps in the range of offending behaviour or education/vocational programs available to women prisoners?

There are significant gaps in the range of programs and education available to women in prison. Women have identified the need for programs delivered in languages other than English and in particular Vietnamese. The barriers experienced by Vietnamese women in accessing programs presents significant issues of discrimination, which are well documented by a prior report published by CHRIP.²⁶

Significant gaps in programming and education opportunities for women in prison prompted Flat Out to develop a program to be run at Dame Phyllis Frost Centre (DPFC). In 2010 Flat Out developed the 'Women's Information, Leadership and Self-Advocacy Program', in part as a response to the immense and unrelenting pressure to be able to meet the needs of all women seeking our support. The purpose of the program has been to maximise women's opportunities to exercise choice in finding and selecting services and support beyond the prison. Now in its fourth year the program continues to be guided by imprisoned women for its content and there is strong and positive

²⁶ Centre for the Human Rights of Imprisoned People, *Culturally and Linguistically Diverse Women in Victorian Prisons: Update on Developments since the 2005 Request for Systemic Review of Discrimination against Women in Victorian Prisons* (October 2010).

feedback. However, Flat Out is continually frustrated by the challenges of doing this work in a largely punitive and restrictive environment.

Flat Out uses an extraordinary amount of time and resources in running this program with no financial assistance from the prison. Yet Flat Out is constantly frustrated with lack of access, restrictions on content, and barriers to disseminating information about the program to women in prison (such as the interception of mail or failure to put up the program poster in a visible place in the prison for an adequate amount of time) for what are often petty and misguided reasons. There have been issues with agreements not being honoured by Corrections and difficulties in delivering the full range of programs to women on the basis that another provider was fulfilling this role. However, when Flat Out has investigated this issue further, there was no overlap in the provision of programs because our focus is on sharing information about community-based support options, not support within the prison.

Information and educational opportunities are crucial to women's capacity to grow, lead and self-advocate. We also see this model as an opportunity to get input from imprisoned women about the types of services and support they are seeking; it is an innovative model for seeking feedback and direction from women about what needs to be available to them post-release. The program runs bi-monthly with community 'specialist' guest speakers on a wide range of women's identified areas of concern (for example, homelessness and housing sector, women's health in the community, criminal records discrimination).

As the Ombudsman noted in the discussion paper and as discussed in sections VI and VII above, the waiting lists for programs and education are extensive. Women in prison report waiting for months and months to access a program. This can result in the delay of a woman's release date. There are not enough program places for women and this issue needs to be urgently addressed in order for women to be released from prison as early as possible, with post-release support being made available.

Is there a need for a medium security women's correctional facility in Victoria?

This question is not relevant to the discussion of rehabilitation and reintegration. A new prison for women will only exacerbate the existing issues, further shifting resources away from community based support systems into more prison expansion. In light of the myriad issues raised regarding the lack of access to programs, health care, external systems and services, and post-release support in the existing system, the consideration of further expansion of this system is irresponsible, if not dangerous.

The same point can be made about the consideration of a transition centre for women. There is nothing to be gained by expanding the prison system. There is, however, ample evidence of the benefits of improving and expanding community-based support systems for criminalised women and women post-release, in order to prevent women from going to prison in the first place, or from returning to prison.²⁷

²⁷ Kilroy, Debbie et al. 'Decentering the Prison: Abolitionist Approaches to Working with Criminalised Women' in B. Carlton and M. Segrave (eds.) *Women Exiting Prison Critical Essays on Gender, Post-Release Support and Survival*. Routledge (2013)

XI. Conclusion

Flat Out and CHRIP do not see any role for the prison system as it currently stands. Flat Out welcomes the opportunity to meet with the Ombudsman directly to further discuss the concerns outlined herein. Flat Out also encourages the Ombudsman to offer the opportunity of confidential interviews with formerly imprisoned women who can provide particular information about their experiences in relation to the key questions and scope of the discussion paper. Flat Out would be happy to facilitate this opportunity.

Flat Out agrees for any part of this submission to be made public.

Furthermore, we thank you for the opportunity to participate in this critical discussion.