

Submission to the Parliamentary Inquiry into Homelessness in Victoria

Joint submission from the Centre for Innovative Justice and the Law and Advocacy Centre for Women

March 2020

Introduction

The Centre for Innovative Justice (CIJ) and the Law and Advocacy Centre for Women (LACW) welcome the opportunity to contribute to the Victorian Parliament Legal and Social Issues Committee's Inquiry into Homelessness in Victoria. We support the initiative of the Victorian Government in recognising that homelessness is an ongoing and complex issue.

As the rate of incarceration for women is rising exponentially in Victoria, the CIJ and the LACW want to stress the importance of a gendered response to homelessness experienced by criminalised women. Equally, we wish to stress the need for a significant increase in appropriate, holistic, integrated services that truly meet the complex support needs of women in the criminal justice system.

The prevalence of family violence, victimisation, complex trauma and substance addiction, combined with a shortage of social housing stock and lack of appropriate accommodation options for vulnerable criminalised women, mean that it is extraordinarily difficult for women to break out of a cycle of incarceration and homelessness.

The submission draws on our research to outline some of the nuanced difficulties faced by criminalised women who are homeless. It proposes small, practical changes as well as larger, systemic changes that can be made to provide earlier and more appropriate responses to the challenges of criminalised women experiencing homelessness. Doing so will not only help to limit ongoing traumatisation of this vulnerable cohort but, by addressing factors associated with offending, represents smarter use of public funding.

Who we are

The Centre for Innovative Justice (CIJ) at RMIT University was established in 2012 to explore innovative ways to improve the justice system, with a focus on people's lived experiences. Through research and advocacy, the CIJ seeks to ensure that the justice system acts as a positive intervention in the lives of those who come into contact with it. Soon after its establishment, the CIJ sought to partner with community legal centres to build further avenues for advocacy. These legal centres provide opportunities for students to undertake clinical placements, as well as delivering a quality service for disadvantaged members of the community. One of these partnerships is with the Law and Advocacy Centre for Women (LACW), which is co-located with the CIJ on campus at RMIT University.

The Law and Advocacy Centre for Women (LACW) is a community legal centre and member of the Federation of Community Legal Centres. It is the only legal service in Victoria that provides a gender-specific approach to assisting women who are in, or at risk of entering, the criminal justice system. LACW was established in 2016, specifically in response to the rising rates of imprisonment and offending for women. Its mandate is to combat these trends by providing a holistic approach to women in the justice system, providing a wraparound service that combines legal advice and representation alongside case management to address the underlying causes of women's offending. The majority of LACW's legal work is in the provision of criminal defence advocacy. Other areas of practice include infringements and fines; victims of crime assistance; and family violence intervention orders.

Criminalised women

Around the world, women's imprisonment and offending rates are growing. Australia and Victoria are no exceptions. In the past decade, the number of women in Australian prisons rose by 85% while, in Victoria, there was a 137% increase.¹ The number of women imprisoned in Victoria has grown from 248 in 2008 to 581 in 2018.²

Aboriginal and Torres Strait Islander women in Victoria are vastly over represented in the prison population. In 2018, one in seven women (a total of 79 women) in Victorian prisons identified as Aboriginal or Torres Strait Islander.³ This is contrasted with one in 125 women identifying as Aboriginal or Torres Strait Islander in the wider Victorian community.⁴

The support needs of criminalised women are interrelated and complex. Criminalised women commonly need support in relation to homelessness, mental health, family violence, child protection involvement and substance abuse, all of which are often interrelated. For the vast majority of criminalised women, these needs are ultimately the end result of experiences of multiple forms of trauma.

¹ Australian Bureau of Statistics, Prisoners in Australia, 2018, 'Prisoner characteristics, States and Territories (Tables 1 to 13)'

² Corrections Victoria (2019). Annual Prisoner Statistical Profile 2006-2007 to 2017-2018. Melbourne: Corrections Victoria

³ Australian Bureau of Statistics, Prisoners in Australia, 2018, 'Prisoner characteristics, States and Territories (Tables 14 to 35)'

⁴ https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/IQS2 and https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/2?opendocument

Many of the support needs with which criminalised women present are gender specific. There is often a direct relationship between women’s trauma and personal relationships and their offending; between complex health needs - including mental health and chronic illness – and offending; and between substance abuse, past trauma and victimisation.⁵

There are multiple reasons why the number of women in prison are increasing, some of which include recent legislative changes which have had disproportionate impacts on women. In 2018, significant changes to the *Bail Act 1977* extended the application of a presumption against bail to a wide range of offences and circumstances, placing the onus on applicants to demonstrate that they meet certain thresholds or exceptional circumstances which would allow bail to be granted.⁶ Other changes include proactive family violence responses in Victoria, which have meant that more women have become embroiled in the criminal justice system as the result of being misidentified as a perpetrator of family violence.⁷

There are also high numbers of women on remand in Victoria’s maximum security prison, the Dame Phyllis Frost Centre, who are detained alongside women who have been sentenced. In mid-2017, 39% of women in prison were on remand.⁸ More recently, over 50% of women in Victorian prisons are on remand awaiting trial or sentencing with limited access to essential services within the prison. Many women on remand are held in custody for short periods of time before being released on bail, are released with ‘time served’, receive a non-custodial sentence, or for a small proportion, are acquitted of all charges.⁹

Women are on average serving shorter prison sentences than men.¹⁰ Women are most likely to be charged with drug-related offences, assault and property offences (other than burglary),¹¹ which typically result in shorter sentences. Researchers have found that even brief periods of time in custody are detrimental, particularly to women.¹²

⁵https://www.corrections.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2019/03/71/021fe80ab/women_in_prison2019.pdf

⁶https://www.crimestatistics.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2019/11/bc/a6e7a8e9f/Crime%20Statistics%20Agency%20-%20Characteristics%20and%20offending%20of%20women%20in%20prison%20in%20Victoria%2C%202012-2018.pdf p3

⁷ Ibid.

⁸https://www.corrections.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2019/03/71/021fe80ab/women_in_prison2019.pdf

⁹https://www.crimestatistics.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2019/11/bc/a6e7a8e9f/Crime%20Statistics%20Agency%20-%20Characteristics%20and%20offending%20of%20women%20in%20prison%20in%20Victoria%2C%202012-2018.pdf p4

¹⁰ <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/1-PDF-Report-Files/Investigation-into-the-rehabilitation-and-reintegration-of-prisoners-in-Victoria.pdf?mtime=20191217123824>

¹¹https://www.corrections.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2019/03/71/021fe80ab/women_in_prison2019.pdf

¹² Prison Reform Trust (2017) ‘There’s a reason we’re in trouble: Domestic abuse as a driver to women’s offending,’ Retrieved from http://www.prisonreformtrust.org.uk/Portals/0/Documents/Domestic_abuse_report_final_lo.pdf; Centre for the Human Rights of Imprisoned People (CHRIP) (2010). *Culturally and Linguistically Diverse Women in Victorian Prisons*. Retrieved from Melbourne, Victoria: <http://apo.org.au/node/22959>

Short sentences do not allow time to address the underlying causes of any offending behaviour through participation in rehabilitation programs, yet they disrupt crucial systems women have in place, such as employment, caring for children or family, and most importantly, housing.

The link between criminalisation and homelessness or housing insecurity is undeniable. A recent report by the Australian Institute of Health and Welfare outlined that one in three people entering prison reported being homeless in the four weeks before prison;¹³ while over half of the people being discharged from prison expect to be homeless upon release.¹⁴ Housing continues to be the missing piece of the puzzle for so many women in the criminal justice system – for women with long histories of victimisation, safe and stable housing is the crucial launch pad needed to be able to address complex and ongoing support needs.

Recently, the Centre for Innovative Justice consulted with 19 stakeholders and service providers who work directly with criminalised women, to identify systemic and practical issues confronting their services and the women they support. These organisations and individuals were from the legal, court support, housing, alcohol and other drugs, family violence, mental health and counselling sectors. A forthcoming discussion paper, to be released in 2020, from these consultations will step out the many issues impacting on criminalised women.¹⁵ Of the services consulted, 100% cited housing as pivotal to breaking the cycle of incarceration and criminalisation for women. It was the one issue that was mentioned by *every* stakeholder during these consultations.

The impact of housing instability or homelessness on criminalised women is complex and multifaceted. Outlined below are some of the issues that CIJ and LACW would like to highlight regarding criminalised women and homelessness.

Availability, affordability and suitability of housing

Article 11 of the *International Covenant on Economic, Social and Cultural Rights* (to which Australia is a signatory) recognises the right to a decent standard of living – including the right to adequate housing and not just the provision of shelter. This is relevant for criminalised women in Victoria, as there are very few available or suitable housing or accommodation options for women in contact with the criminal justice system.

Women exiting prison often have no choice other than to reside in the few boarding houses which remain in Victoria. These boarding houses are predominantly occupied by men and are inherently unsafe for vulnerable women coming out of prison, especially for victim-survivors of family violence. LACW clients have reported locks missing from doors, as well as boarding houses that are unclean to the point where occupants are contracting illnesses from the premises. One LACW client spent a large portion of her meagre income on treatment for scabies after staying for three nights in a putrid boarding house (which was organised for her by a homelessness Access Point).

¹³ Australian Institute of Health and Welfare 2019. *The health of Australia's prisoners 2018*. Canberra: AIHW. 22.

¹⁴ *Ibid*, 24.

¹⁵ Centre for Innovative Justice (forthcoming) *Beyond Imprisonment: Designing Justice Responses for Criminalised Women*, RMIT University, Melbourne

Boarding house conditions can be particularly triggering for women who are victim-survivors of family violence and sexual violence, given that safety of residents is not a top priority. In these environments, women may end up using illicit substances to self-medicate their trauma response, or they may choose to leave the premises, forfeiting any belongings and rendering them homeless once again, potentially in breach of court-imposed conditions.

The affordability of housing options in the community remains an ongoing issue for criminalised women, many of whom receive Newstart Allowance. There is a limited supply of rental properties that are available or accessible to people on a low income, an issue which is further exacerbated by competition for the lower rent stock by households with a higher income.¹⁶ The cost of a private rental, coupled with the required photo identification, income guarantee and reference checks, means that criminalised women are effectively locked out of the private housing market. The affordability of a room in a rooming house or boarding house can be an issue for people on Newstart Allowance, as is the prohibitive Centrepay direct debit payments required by many boarding house managers. The required Centrepay payments are well above the 'housing stress' figure of anything above 30% of a household's gross income on housing.¹⁷

CIJ's stakeholders spoke of the need for a gendered response to homelessness for criminalised women, due to experiences largely unique to women, such as surviving family violence and being the primary carer of dependent children or other family members. Stakeholders reported that it is more common for men exiting prison to have a (frequently female) family member or partner to live with upon release. However, women often do not have that same support when they are released from custody. There is an urgent need for a tailored response that acknowledges the complex effects of family breakdown and women's caring responsibilities, especially for housing provision.

The provision of social housing is the strongest protection factor against homelessness,¹⁸ yet there is currently not enough social housing in Victoria to meet the needs of the most vulnerable people in our community. While the numbers on the social housing waitlist are difficult to ascertain due to the current transfer of community housing applications over to the centralised Victorian Housing Register, we know that LACW clients are waiting years for a 'Homeless with Support' highest priority housing application. Women are also waiting years for a priority transfer within social housing, more on this below.

As at December 2019, the Victorian Housing Register listed 51,646 applications (many applications will have multiple people listed on the application) for social housing.¹⁹ This figure is not an accurate representation of the current waitlist due to the ongoing transfer of community housing applications. However, based on exorbitant wait times for social housing offers and transfer, it is abundantly clear that Victoria urgently needs more social housing property stock and, in particular, stock targeted at women who have come into contact with the criminal justice system and risk further criminalisation due to ongoing homelessness.

¹⁶ Yates, J and Wulff, M (2000). W(h)ither Low Cost Private Rental Housing? *Urban Policy and Research*, 45 - 64.

¹⁷ <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4130.0~2017-18~Main%20Features~Key%20Findings~1>

¹⁸ Johnson, G., Scutella, R., Tseng, Y. & Wood, G. (2018). How do housing and labour markets affect individual homelessness? *Housing Studies*, 34, 1089 - 1116.

¹⁹ <https://www.housing.vic.gov.au/victorian-housing-register>

CASE STUDY

Lily is a culturally and linguistically diverse woman who has been diagnosed with an acquired brain injury, has mental ill health and whose partner cares for her when she is in the community. Lily has criminal charges of shop steal and other thefts, as a result of being homeless for some time. Lily struggles to find accommodation, due to a lack of affordable and available options for her and her partner. Lily and her partner have been sleeping rough and couch surfing around inner Melbourne for some time. Lily will sometimes use substances to keep herself awake and safe.

Lily receives the Newstart Allowance and her partner is currently not receiving payments. Because there are limited to no options for couples that are homeless and particularly for a couple living off one Newstart income, they are thoroughly priced out of the private rental market.

Lily speaks often about wanting her own place and to have a home with a spare bedroom so that her son can come and stay with her one day. Lily's 7 year old son is currently in DHHS foster care. Lily has limited contact with him while she is homeless, as she wants to see her son when she has her own place and her health has stabilised. However, Lily frequently writes letters to give to her son one day.

Lily has multiple and complex support needs including housing, legal, substance use support, acquired brain injury and mental health support, and re-connection to her family. Because of her acquired brain injury and mental health issues, Lily states that she gets overwhelmed by the number of services that she has been referred to and easily forgets when appointments have been made. She can easily disengage from all services because of the confusion.

Lily has been referred to homelessness services, however, these services have requested that she attend as early as possible as they often exhaust their emergency funding allocations in the first half of the day. Yet because she and her partner are often up all night to keep safe, they struggle to attend a service early in the morning.

Lily requires a flexible service that can work with her to connect with a number of supports over time. After initially attending court on her own to answer her criminal charges, Lily was referred to LACW where she was able to access integrated legal and social work support. Working closely with LACW's social worker, Lily has started engaging positively with the services she needs to get back on track. Identifying housing as the foundation on which to build Lily's ability to access other supports, LACW's social worker assisted Lily to complete a priority Office of Housing application and she is now on the Priority Victorian Housing Register waitlist. Lily and her partner are building trust with homelessness services in the community and are starting to speak about their crisis housing options.

The social worker has also assisted Lily to complete the forms to apply for the Disability Support Pension from Centrelink. Lily has completed the initial stages of a NDIS application, however is worried about where the NDIS will send the follow up paperwork given her lack of stable accommodation. LACW was able to provide a central point of access for other services to continue to link in and communicate with Lily.

With these supports in place, when Lily's criminal charges return to court, Lily's LACW lawyer is able to negotiate a deferred sentence so Lily has a chance to engage with services and, most importantly, address her housing support needs which were identified as a major underlying cause of her offending.

For women with significant and complex support needs, the current siloed support sector is confusing and can exclude those that need support the most. The complex and interrelated support needs of criminalised women require an integrated, flexible, multidisciplinary, wraparound approach. A significant increase in the provision of social housing is urgently needed – estimated by the Council to Homeless Persons to be in the order of 6,000 properties per year for minimum 10 years.²⁰ Many of these properties should be targeted at vulnerable, criminalised women and especially for those that may have caring duties.

The properties should also come with access to comprehensive and integrated legal, social work and health support that addresses the underlying reasons that led to women's homelessness and involvement in the justice system, particularly for women who may otherwise fall through the gaps of a siloed service sector. This model of case management or support should be for a flexible duration and have the capacity to respond to multiple support periods if needed.

Without addressing the housing needs of this vulnerable group with integrated and flexible services, prison numbers will continue to rise and women will continue to be excluded from essential services, or to experience a referral roundabout. The siloed and rigid nature of the support sector contributes to ongoing criminalisation and homelessness.

Recommendations

- 1. The Victorian Government should invest in substantially more social housing properties to decrease wait times for social housing properties and transfers, limiting further harm for women. An investment of 6,000 social housing properties a year for 10 years is recommended.**
- 2. The Victorian Government should ensure that social housing and affordable housing stock be allocated to criminalised women and especially those with caring responsibilities for children and other family members. Housing stock to be stable, suitable and safe and include comprehensive wraparound supports.**
- 3. The Victorian Government should ensure that multidisciplinary, integrated, flexible, trauma-informed, wraparound support (from social workers, lawyers and health professionals) is provided alongside social housing - recognising the support needs of women with multiple and complex support needs. This should entail holistic support for the whole person, with flexible service models that are person-centred and can respond to multiple support periods if needed.**

²⁰ <https://chp.org.au/homelessness-and-housing-victoria-needs-more-social-housing/>

Family violence and children

Submissions to this Inquiry from specialist family violence services will cover this important topic broadly, however we wish to highlight some specific barriers that criminalised women who are victim-survivors of family violence face. It is well known that family violence is sadly a common experience for women who are homeless. Many women need to leave their homes with little notice or time to plan, to prioritise the safety of themselves and their children.

It is not uncommon for women to be released from police cells or from prison to homelessness and this can have dangerous consequences. This can include being forced to return to unsafe housing with a violent ex-partner, or to unsupportive (and potentially criminogenic) social groups. This further entrenches women in cycles of abuse and places them at extremely high risk of future incarceration.

For the women who LACW support, criminalisation and homelessness intersect with, and are compounded by, experiences of family and sexual violence, substance addiction, complex trauma, poverty, and interactions with Department of Health and Human Services Child Protection (both as a child and an adult with their own children). The challenge of finding safe and appropriate housing is further compounded by caring duties – if a woman has children or older relatives to care for, it can make finding appropriate housing near impossible.

The need for other supports in addition to urgent housing can limit crisis housing options for criminalised women, as many crisis refuges have strict rules around substance use, or even around leaving crisis accommodation to access daily pharmacological treatment such as methadone. Some family violence crisis housing providers will explicitly exclude women who use alcohol or other drugs, but it is well known that family violence survivors can turn to illicit substances to self-medicate and also to stay awake to keep themselves safe. Frighteningly, LACW knows anecdotally that women who have a car may be deemed not at “immediate risk” of homelessness and therefore may not be eligible for crisis accommodation.

Another key factor that can exclude women from essential crisis or family violence support services is being a respondent to a Family Violence Intervention Order (FVIO). This is relevant for women who are misidentified by police as a predominant aggressor or perpetrator of family violence, or who may have willingly consented to an order made as a cross-application by their (former) partner despite being a protected person on another FVIO. Rules like these can push women with the most complex support needs into further social exclusion and homelessness, barring them from accessing much needed services.

A woman’s housing status has a significant impact on her ability to reunite with her children, particularly when the children have been removed by DHHS Child Protection due to family violence in the home (more on this in the DHHS Office of Housing section below). If a woman is living temporarily in a boarding house due to homelessness from family violence (and/or potentially as the result of bail conditions), it will increase the chances of Child Protection’s ongoing involvement with the family.

This complex intersection of housing and family violence and child protection is one with which many women contend. It is an ongoing struggle for vulnerable women in the current support structure to gain appropriate housing after leaving a violent partner, and then to respond to DHHS Child Protection's requirements to regain custody of their children. This may also be while women are trying to gain or keep employment, or abide by community-based justice requirements for bail, parole or under a Community Corrections Order.

Recommendations

- 4. The Victorian Government should significantly increase family violence crisis housing and flexible family violence service provision for women who are both protected by, and respondents to, family violence intervention orders – prioritising women with complex support needs.**
- 5. The Victorian Government should ensure that a gender lens be applied when (co-) designing homelessness supports, programs and systems to recognise the unique and complex experiences of women who are homeless.**
- 6. The Victorian Government should increase the provision of multidisciplinary, integrated, flexible, trauma-informed, wraparound support from social workers, lawyers, financial counsellors, primary health and other supports to assist women who have experienced family violence and who need urgent, appropriate housing especially when there are children involved.**

Housing supports for women leaving custody

As the Victorian Ombudsman stated in the 2015 report *Investigation into the rehabilitation and reintegration of prisoners in Victoria*, over 99% of people in prison will be released into the community.²¹ The Victorian Ombudsmen goes on to say that programs and services that improve post-release outcomes make sense both "in terms of public safety and the public purse."²²

Women on remand and women who have been sentenced - regardless of the length of time spent in custody – urgently need increased access to housing support while in custody. For the many women on remand or serving short sentences, there is little or no time to find housing, which may affect their ability to get bail or result in a situation where they are released to homelessness.

A further restriction on seeking support in prison is that women are not able to call the state-wide DHHS 1800 homelessness number to discuss their housing support options from the prison. This is a barrier to accessing essential services and ensures their reliance on over-stretched prison services.

Due to limited planning time and inadequate community-based options, housing providers in prison are often limited to organising three nights in a motel (LACW are aware of instances where it was three different motels over three consecutive nights).

²¹ <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/1-PDF-Report-Files/Investigation-into-the-rehabilitation-and-reintegration-of-prisoners-in-Victoria.pdf?mtime=20191217123824>

²² Ibid. p8.

Providers will then recommend that women present to their nearest homelessness service 'Access Point'. The homelessness Access Points are often not able to provide accommodation on the day due to high service demands, or where women have presented at the service later in the day. Some women have reported being offered a swag to sleep rough and are asked to return the next day or the following week.

Incarcerated women are at grave risk of not being granted bail or considered for parole due to a lack of suitable housing options. During CIJ's consultations, many services indicated that some Magistrates may not be confident that women with complex support needs will be able to find safe and suitable housing, resulting in women being remanded 'for their safety.' Some bail-specific housing services for women do currently exist, however they are limited and also linked to programs such as the Court Integrated Services Program (CISP), Corrections Victoria or the Magistrates' Court. If a woman is not (or cannot be) linked in with those services, then she will not be eligible for this housing support.

There are also very limited options for women that allow for flexible transition support out of the custodial environment, whether for bail, parole or straight release, particularly for women with complex support needs. There is no service available to women that is equivalent to the staged support program for men leaving custody provided at the Judy Lazarus Transition Centre. LACW is aware of women being released to insecure housing in the community directly from the isolation unit at DPFC, without any step down, staged process. This kind of release planning is setting vulnerable women up to fail and will likely see women come in contact with the justice system soon after release.

A whole of government approach is needed to ensure the post-release support of women after being on remand or serving their sentence. This requires a set of shared objectives across housing, justice, health, education and community service organisations.²³

Recommendations

- 7. The Victorian Government should ensure much earlier and increased access to integrated housing supports (including legal, social work and financial counselling) for women in prison (sentenced and on remand) and to ensure that no person is ever released from custody to homelessness.**
- 8. The Victorian Government should ensure that women in custody to have access to telephone calls to housing assistance agencies from inside prison.**
- 9. The Victorian Government should invest in much-needed sustainable and appropriate accommodation options for women leaving prison. This could include re-investing the current funding provided for motel-based post-release emergency accommodation into the provision of transitional housing and a step down model (such as Judy Lazarus Transition Centre) from custody to the community for the most vulnerable women.**

²³ <https://assets.ombudsman.vic.gov.au/assets/Reports/Parliamentary-Reports/1-PDF-Report-Files/Investigation-into-the-rehabilitation-and-reintegration-of-prisoners-in-Victoria.pdf?mtime=20191217123824>

10. The Victorian Government should coordinate a whole of government approach to supporting people during and after incarceration, with a focus on providing social housing and affordable housing options with integrated supports for criminalised women, including but not limited to properties specifically designated for the purposes of release on bail or parole (not tied to programs such as CISP).

11. The Victorian Government should fund an expansion of LACW's integrated, holistic legal and social work support model for women with criminal matters – providing flexible, wraparound and holistic support for women in custody and in the community for the duration of their legal matters.

Department of Health and Human Services - Office of Housing

The Victorian Housing Register (VHR) waiting list times are prohibitively long, current wait times (of years) are compounding complex situations. Services consulted by CIJ spoke of criminalised women not being seen as lucrative tenants in a competitive tenancy market, and expressed concern about the perception that some community housing providers were “cherry picking” tenants with less complex support needs. This means that the *most* vulnerable people needing housing support could be the ones to wait the longest.

Over half of the people on the VHR waitlist are considered to be ‘Priority Access’. This means that over half of Victorians on the social housing waitlist urgently need housing or a transfer, for reasons such as primary homelessness, family violence safety or critical health issues. One LACW client has been on the highest priority transfer list for two years and nine months and is still waiting.

Many women have social housing debt to their name, often because of damage to properties caused by a partner’s violence, or because other people took over the house and the woman left in fear. It is common for women to receive a Notice to Vacate their social housing property while in custody, or shortly after being released. Services such as Justice Connect provide support to women in custody to challenge a Notice to Vacate at VCAT, but many clients assume that they have no recourse to contest and are forced out into homelessness.

Access to social housing can be affected by the woman being in custody or residential rehabilitation on bail. LACW knows of examples where offers of social housing are made to women while they are in custody, however the letter of offer did not get sent to her in prison and so the date for her to respond by had long passed by the time she learned of the offer.

If a woman in prison had social housing before she was incarcerated, the security of her tenancy can be jeopardised by any period in custody. A short stint on remand, or a short sentence, puts the woman at risk of rental arrears and almost certain damage to the property by people staying in her empty house. For women in custody longer than six months, they are almost certain to be issued a Notice to Vacate due to DHHS Office of Housing policy.

Women with social housing properties report consistently that it is unsafe to return to the property due to issues such as fear of further family violence, or dynamics between neighbours. These factors can propel women back into the criminal justice system, particularly where they opt to sleep rough rather than return to an unsafe location.

However many women will not relinquish their property for fear of never getting another offer of housing. LACW knows of women that will continue to pay the rent, despite being too scared to stay at the house, as they feel it is some assurance in their negotiations with the Office of Housing.

Significantly, 69% of women entering prison on remand in Victoria in 2017 had children – with 21% of these women being primary carers before entering prison.²⁴ Women who are wanting to reunite with their children (often with a Reunification Order in place) are required to demonstrate housing that incorporates adequate space for the children to stay. Yet where women do have social housing, they cannot get transfers to bigger properties unless they have documentation stating the number of hours that the children will be in her care. DHHS Child Protection are customarily not willing to provide this guarantee.

Those women who are trying to secure any housing, meanwhile, will often only be offered a one-bedroom property, and not in a timely way. This means that, because of the DHHS Child Protection property size requirements, women are stuck between DHHS Office of Housing policies and DHHS Child Protection policies, both of which prevent them from reuniting with their children.

CASE STUDY

LACW client, Thea, has lived in social housing in a large block of flats close to Melbourne CBD for almost three years. Thea identifies as Aboriginal and has limited family living in the city; her family members mostly live in regional Victoria and interstate. Thea has been charged with a number of drug-related offences over recent years, stemming from substance addiction after traumatic childhood and subsequent traumatic adulthood events. Recently Thea was granted bail, after spending two months on remand.

When Thea was at DPFC on remand, her public housing property (managed by DHHS Office of Housing) incurred extensive damage by squatters who had broken into her property. This is not the first time people have broken into Thea's home when she has been in custody.

When Thea returned home on bail, her front door had been broken from a forceful entry and her windows were smashed. Thea also had personal belongings stolen, such as jewellery and clothing. As a result, Thea did not feel safe to reside in her property. She did not trust her neighbours and feared that people would come back to break into her apartment again, as had happened multiple times before.

Thea believes that because of the close proximity of her neighbours and the large number of apartments in the complex, that it is obvious when she is not at the apartment for periods of time. Due to the ongoing anxiety about safety in her apartment, Thea applied for an urgent transfer to another Office of Housing property.

²⁴https://www.corrections.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2019/03/71/021fe80ab/women_in_prison2019.pdf

When the LACW social worker met Thea and learned of Thea's fear of staying in her own home, LACW contacted Office of Housing, who confirmed that Thea is on the 'highest priority' transfer list and that there was nothing else that Thea or anyone can do to expedite the transfer process. Thea was advised to wait for a suitable property to become available for transfer.

Through advocacy from the integrated legal and social work support at LACW, Thea's door and windows were addressed as an urgent repair. At the referral of LACW's social worker, Thea got a Mental Health Care Plan from her GP and started trauma counselling at a service not far from her apartment. Thea was also linked into a drug counselling service, where she completed a comprehensive AOD assessment and was put on a waitlist for a residential rehabilitation facility. Thea received drug counselling in the community while she was waiting for space at a rehabilitation facility.

LACW continued to stress the urgency of the transfer to the relevant Office of Housing staff. Thea feels that she cannot progress other support areas in her life - such as ongoing AOD support, further counselling, training and employment, and family reconnection - while her focus is on her safety night to night and complying with her bail conditions.

Despite receiving services from community-based supports in the community while on bail, Thea continues to wait for a transfer to a safer Office of Housing property, so she can progress her long-term goals of studying hairdressing and reconnecting with her family.

Recommendations

- 12. The Victorian Government's Department of Health and Human Services Office of Housing to demonstrate flexibility to allow incarcerated women to retain their social housing for up to 12 months (or longer if deemed appropriate by services involved in supporting the women), thereby stopping a cycle of inevitable homelessness and recidivism.**
- 13. The Department of Health and Human Services Office of Housing to respond appropriately and swiftly to urgent transfer requests from women who fear family violence from partners or ex-partners, or neighbours that have used violence against them, at their Office of Housing property.**
- 14. Within DHHS, the Office of Housing and Child Protection to work collaboratively to support women to reunify with their children and to provide women with housing that allows their children to stay with them.**

Broader impact of gentrification

Over recent years, large numbers of private boarding houses have closed down across Victoria and developers have capitalised on these spaces which used to house the most vulnerable people in the community. The sale of The Gatwick boarding house in St Kilda was an example of this - not only was there a loss of rooms, but also of community and support for the people that had made The Gatwick their home over the years.

One stakeholder that CIJ consulted said that 574 beds were lost in metropolitan Melbourne due to sale of properties for development. The stakeholder believed that these bed losses had gone largely unnoticed (and therefore no measures to mitigate the effects of loss of rooms) because they were private properties.

Another stakeholder outlined their concerns about the closure of boarding houses such as The Gatwick in St Kilda, where “32...clients who were living... at The Gatwick have since been incarcerated at the Dame Phyllis Frost Centre.”²⁵ Closure of affordable accommodation clearly leads to increased numbers in prisons and starting the cycle of homelessness and incarceration once again.

Recommendations

15. The Victorian Government to ensure that residents of boarding houses, particularly victimised women, are re-housed in safe and appropriate accommodation well before closure to avoid incarceration as a result of being made homeless.

16. The Victorian Government to factor the ongoing closure of boarding houses into planning for increased social housing stock.

Novel Coronavirus (COVID-19)

As the Victorian Government imposes stringent restrictions including a ‘stay at home’ directive in response to the novel coronavirus (COVID-19),²⁶ it is women in the justice system with insecure housing that are disproportionately affected by this measures.

While we understand that services need to prioritise the health and safety of their workers, the impacts of reduced service delivery at this time are pervasive, severely compounding existing disadvantage. Some services in the support sector, both government and community, have stopped taking referrals at all. Most other services are operating at a reduced capacity and providing support over the phone only. Outreach services have ceased to operate, as have services that provide transport support and mobile material aid.

²⁵ <https://www.abc.net.au/news/2018-11-21/gatwick-st-kilda-alarming-number-women-in-prison/10513530>

²⁶ <https://www.dhhs.vic.gov.au/coronavirus>

For many criminalised women, gaining access to a phone can be challenging at the best of times. LACW clients often report their phones being stolen, or their phones being smashed by their violent partner. Now that the limited services that are still operating are doing so by phone only, it creates another barrier for criminalised women in accessing crucial services and in keeping themselves as safe as possible.

The legal matters for women who are in custody on remand will be delayed for an unknown period of time, meaning that people will be involved in the justice system for longer. For women on remand with bail hearings during this time, reduced services in the community mean that bail supports are much harder to secure, in turn impacting on women's chances of getting bail at all.

Meanwhile, with services unable to visit the prison and conduct face to face planning or take instructions, the interests of criminalised women who are currently in custody are not being adequately represented or considered. Further, most women are appearing at court by video link, decreasing their chances of understanding what is occurring in court or of being able to represent their own interests in any meaningful way.

A homelessness service that LACW contacted during coronavirus measures reported that they did not have capacity to provide a housing assessment and support to a woman who had a bail application in 5 days. This service requested LACW staff to re-contact closer to the hearing date to request housing support. The reason the housing service provided was that the woman was not technically homeless at this time because she was staying at the prison.

Criminalised women who are homeless do not have the luxury of self-isolating. They cannot afford hand sanitiser. They do not always have access to running water and soap. They are spending time in public spaces, or in crowded houses, or hidden in violent households. Without support agencies operating as they were, these women are at further risk of re-offending just in order to survive; or of being further victimised because of a lack of access to services, safe space and material aid.

We therefore encourage the Victorian Government to increase supports in the form of integrated, wraparound legal, social work and health services to respond to this vulnerable group during pandemic measures and well beyond, as vulnerable women try to rebuild after this time.

Conclusion

As more women are imprisoned than ever before, with high numbers experiencing homelessness – alongside family violence, alcohol and other drug issues, child protection involvement and mental health issues – CIJ and LACW would urge strong recommendations from the Parliamentary Committee that are responsive to the complex issues that women in the justice system face.

A gender responsive approach to addressing these needs is one that recognises and addresses the multiplicity of women's needs; and one that also addresses the underlying trauma experienced by so many women who end up in custody. The harmful and flow-on impacts of homelessness will only further entrench and funnel people into the justice system.

Funding models for flexible and integrated legal, social work and health services need to reflect that long-term, sustained change is hardest for the most complex clients with a multiplicity of needs. It is the people with the most complex lives and support needs for whom we need to design the system.

Targeted reforms and responsive services in this context will have the capacity to change not only the lives of criminalised women, but also those in their broader communities – stopping the cycle of incarceration and intergenerational trauma and poverty in which so many are trapped.

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