

# Justice



A fair and socially sustainable community has justice at its core. Particular groups of Victorians – including people with a mental illness, Indigenous people, people from culturally and linguistically diverse backgrounds and young people – disproportionately come into contact with the justice system.

Rather than focusing on tackling the complex causes of offending such as substance abuse, mental illness and homelessness, the 2008-09 Budget provided \$600 million towards new prison beds and a record police budget despite a continuing decrease in crime and the failure of the prison system to prevent re-offending.

Providing low income and disadvantaged Victorians with access to justice and diversionary programs should be a priority for new spending in the Department of Justice.

VCOSS recommends a strong focus on the development of early intervention services across a range of areas including family support and young people.

Supporting disadvantaged Victorians who are at risk of entering the justice system through programs that help them engage positively with the community contributes strongly to the liveability of all Victorians and is socially sustainable.

A strong commitment from the Government to investing in such services can also be seen as an early investment in reducing the resources required for tertiary level justice services. Funding urgently needs to be re-prioritised to reverse the recent trend of over-spending on prisons and to direct that funding to preventative programs.

## Access to justice

### **Community Legal Services**

Demand for community legal advice and casework services continues to severely outstrip supply. Despite evidence that civil and family law services provided by Community Legal Centres have almost doubled over a ten year period, together with significant increases in

credit and debt issues,<sup>158</sup> there was no new funding for community legal services in the 2008-09 Budget.

Large gaps remain particularly in the provision of legal representation for civil law cases. Victoria Legal Aid has very restrictive guidelines on grants for civil law work, and consequently Community Legal Centres estimate that approximately 64 per cent of advice and 52 per cent of casework provided is for civil law disputes.

Significant legislative reforms in recent years may impact on the demand for services, and corresponding increases in funding to compensate would help ameliorate the extra demand likely to be placed on already stretched services.

Under the Victorian *Charter of Human Rights and Responsibilities* the right to a fair hearing is likely to include the right to legal advice as well as to legal representation.<sup>159</sup> Adequately funding community legal services would be consistent with the human rights obligations the Government has voluntarily assumed, and may well help to reduce unmeritorious claims brought before the courts.

### **Indigenous Victorians**

The overrepresentation of Indigenous people in Victorian prisons is symptomatic of the disengagement of Indigenous people with the justice system.

Programs, laws and processes must engage the Aboriginal community at the beginning of the development stage to ensure that they are culturally inclusive. In particular, consideration of culturally appropriate frameworks must be considered in the current review of Alternative Dispute Resolution procedures, in expanding the Aboriginal Family Decision Making model and in developing general justice policy.

The establishment of a Commissioner for Aboriginal Social Justice as recommended in the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) Implementation Review Report (2005) would greatly assist in this. It would also assist in monitoring the status of the original RCIADIC recommendations, which if implemented could significantly improve justice outcomes for Indigenous Victorians.

Recurrent funding for the Indigenous Women's Justice Forum, which only received two-years' non-renewed funding despite a favourable evaluation, would also improve service delivery outcomes for Indigenous women.

<sup>158</sup> Federation *Justice Initiatives Strategy*, Jan 2007 – June 2008, Federation of Community Legal Centres (Vic) Inc

<sup>159</sup> B Schokman & P Lynch, *The Right to a Fair Hearing: The Relevance of the Charter of Human Rights and Responsibilities Act 2006 (Vic) to Civil Justice*, Submission to the Victorian Law Reform Commission Civil Justice Review, Human Rights Law Resource Centre Ltd, December 2006. p 9-10

## Crime and Imprisonment

### Prisons

Prison numbers have increased in both numeric and percentage terms: from 93 per 100,000 of the adult population in 2005, to around 102 per 100,000 in 2008<sup>160</sup>. This is despite a drop of 23.5% in the recorded crime rate since 1999.



### Women

The condition of women in prison remains a concern, particularly with the substantial increase in the number of women being incarcerated. With the four year 'Better Pathways' Strategy ending in 2009, there is still little information available regarding the success of the program in reducing recidivism. A transparent and accountable review process for this and other Corrections strategies needs to be available so that such initiatives can be analysed and assessed.

### Drug and Alcohol

There is a high causal correlation between drug and alcohol misuse and crime. Within prison, high levels of addiction and drug use continue to be reported and rates of Hepatitis C has been estimated to be up to 17 times higher than the general population<sup>161</sup>. It is common for people in custody with a substance use disorder to also have a psychiatric disorder.

Drug and alcohol misuse is more appropriately dealt with through preventative and therapeutic measures rather than by increased spending on prison beds, particularly when research suggests that spending on reducing drug misuse and drug-related harm in prison populations is between four and 12 times less costly than the resulting cost in healthcare and crime<sup>162</sup>.

### Indigenous Victorians

Indigenous Victorians continue to be over represented in the criminal justice system, and in 2007 were 13 times more likely to be imprisoned than non-Indigenous Victorians.<sup>163</sup>

160 ABS Corrective Services 4512.0 Mar 2008, p11

161 ANCD, National Corrections Drugs Strategy 2006-2009, Australian National Council on Drugs, 2008

162 California Department of Alcohol and Drug Programs, *California Drug and Alcohol Treatment Assessment (CALDATA), 1991-1993*.1992 cited in ANCD 2008, p2.

163 ABS, Prisoners in Australia • 4517.0, 2007, p18.

VCOSS has welcomed the Government's commitment to tackle these issues, particularly the expansion of the successful Koorie Court program announced in the last Budget. Access to Koorie courts, however, is still limited to those who fall within the catchment areas and such a successful program should be expanded so as to be available to all Aboriginal people who wish to use it.

VCOSS recommends that the Government continue working towards reducing Indigenous overrepresentation in the prison system, particularly through providing resources for initiatives that have demonstrated success, including:

- employing an Indigenous Community Engagement Officer in all Courts (currently only available at Dandenong Magistrates' Court);
- employing Aboriginal Liaison Officers in all courts, including Family Courts and providing more than one Aboriginal Liaison Officer at the Melbourne Magistrates' Court;
- improving Indigenous engagement with diversion programs and ensuring that they are accessible to all eligible Indigenous people in all courts; and
- providing ongoing funding for an Articled Clerkship specifically for Indigenous lawyers at the Victorian Aboriginal Legal Service.

## Family violence

Family violence is the most common cause of death, disability and illness in Victorian women under the age of 45<sup>164</sup>, and Access Economics estimated in 2004 that the cost of family violence to the community was approximately \$2 billion over a 12 month period.

VCOSS has welcomed the introduction of the *Family Violence Bill* in 2008 and the ongoing commitment of the Government to legislative and non-legislative reform through an allocation of nearly \$60 million over the last two budgets.

VCOSS recommends that the Government continue demonstrating leadership in this area by ensuring adequate funding for the implementation of the new Act, particularly ongoing training for police and judiciary, and for family violence support services.



164 Victorian Health Report (2004)

## Recommendations

1. VCOSS recommends that the Government increase investment in Legal Aid and Community Legal Services in 2009-10 to ensure that all Victorians have equal access to justice, particularly in relation to civil law cases.
2. VCOSS recommends that the Government continue working with Indigenous communities to seek, and adequately fund, solutions to the overrepresentation of Indigenous people in the criminal justice system, with priority given to:
  - establishing and appropriately funding a Commissioner for Aboriginal Social Justice;
  - providing recurrent funding for the Indigenous Women's Justice Forum after the successful evaluation of the two-year trial;
  - expanding the Koorie Court Program;
  - employing Indigenous Court workers, including Indigenous Community Engagement or Aboriginal Liaison Officers in all Courts;
  - expanding the successful youth mentoring programs funded through Frontline Youth Initiatives within the DOJ;
  - improving access to diversion programs; and
  - providing ongoing funding for an Articled Clerkship specifically for Indigenous lawyers at the Victorian Aboriginal Legal Service.
3. VCOSS recommends that the Government fund an independent human rights audit of women's prisons in Victoria, including conditions and reporting mechanisms.
4. VCOSS recommends funding be directed to improved access to drug and alcohol treatment for prisoners including harm-reduction strategies, programs addressing alcohol and other drug misuse to reduce recidivism, and post-release support.
5. VCOSS recommends that the Government build on the commitment in the 2007-08 and 2008-09 Budgets to sexual assault and family violence services, and provide adequate funding for the implementation of the proposed Family Violence Bill and associated non-legislative reforms.