



homeless persons'  
legal clinic

# Submission into the impact of drug related offending on female prisoner numbers

## June 2010

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## 1. Executive summary

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This submission has been prepared by the PILCH Homeless Persons Legal Clinic (**HPLC**) and the Council to Homeless Persons (**CHP**) (together the **Authors**).<sup>1</sup> The Authors welcome the opportunity to provide input into the inquiry into the impact of drug related offending on female prisoner numbers (**Inquiry**) being conducted by the Drugs and Crime Prevention Committee (**Committee**) of the Parliament of Victoria, and we commend the Committee on recognising and responding to this important issue.

This submission will consider the third and fourth terms of reference for the Inquiry, namely that the Committee is required to:

- examine underlying causal factors which may influence drug related offending and repeat offending that result in women entering custody; and
- recommend strategies to reduce drug related offending and repeat offending by women, including strategies to address underlying causal factors.

It is the Authors' strong view that three key causal factors that influence drug related offending and reoffending are:

- **Lack of safe and appropriate housing:** evidence shows links between homelessness and recidivism that can be addressed through the provision of affordable, appropriate and stable housing;
- **Continuing substance use and abuse:** many drug users are unable to access appropriate supports (including pharmacotherapy programs, detoxification or rehabilitation), forcing affected people to reoffend to maintain dependency.
- **Poverty:** drug-related crime is often linked to offenders' inability to access money (through employment or insufficient social security payments) to secure housing or medical treatment resulting in high levels of debt and a lack of options that lead to offending.

The Committee should recognise that these factors are central to drug related offending and repeat offending that result in women entering custody, and recommend strategies that will address these underlying factors. These recommendations should include:

- **Recommendation: That the Inquiry recognise that the lack of secure and appropriate housing is a causal factor which may influence drug related offending and repeat offending that result in women entering custody**
- **Recommendation: That supported accommodation and community based orders be considered in preference to short custodial sentences**
- **Recommendation: That all prisoners be allocated a post- release case manager**
- **Recommendation: That service providers in both housing and public health sectors better integrate service provision to drug users**
- **Recommendation: That health and community services are better equipped to support heroin users' particular circumstances**

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<sup>1</sup> Further information on the HPLC and CHP are attached at Appendix A.

- ***Recommendation: That the Inquiry recognise that drug users need stable housing in order to combat the strong link between homelessness and drug use***
- ***Recommendation: That the Inquiry recognise that stable and affordable housing is necessary in improving the health of drug users***
- ***Recommendation: That the Inquiry recognise that the lack of financial resources make securing housing unachievable for most ex-prisoners***
- ***Recommendation: That the inquiry recognise that immediate and cost free access to pharmacotherapy is necessary to reduce continued drug use***
- ***Recommendation: That the Inquiry recognise that the lack of financial resources make securing housing unachievable for most ex-prisoners***

In recognising and implementing these recommendations, the Committee will reduce homelessness,<sup>2</sup> recidivism and the over-representation of people experiencing homelessness in prisons. These actions will have significant social and economic implications.

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<sup>2</sup>M Willis and T Makkai, Ex-prisoners and homelessness: Some key issues(2008) *Parity* 21(9): 6-7. Available at [http://www.chp.org.au/parity/articles/results.html?filename\\_num=00346](http://www.chp.org.au/parity/articles/results.html?filename_num=00346).

## 2. Background

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### 2.1 Entering and leaving prison

While beyond the Authors' expertise, statistics regarding the number of offenders in prisons, and rates of recidivism, are central to the Inquiry's terms of reference. Key information about the profile of Victorian prisoners include:

- a dramatic increase in numbers being imprisoned in Victoria from 3,692 prisoners in 2005 to 4,350 prisoners in 2009;<sup>3</sup>
- the number of women prisoners increasing by 57% between 1999 and 2009, compared with a 35% increase in male prisoners;<sup>4</sup>
- suggestions that 43,000 prisoners were released across Australia in 2001, but there is a lack of reliable data on prisoners being released in the community each year;<sup>5</sup>
- over half (56%) of prisoners in custody at 30 June 2009 had served a sentence in an adult prison prior to the current episode;<sup>6</sup> and
- on average, 38% of prisoners across Australia return to prison within two years of being released.<sup>7</sup>

Despite increasing incarceration of offenders, imprisonment is clearly not rehabilitating offenders. While imprisonment is a response to criminal offending, real change to imprisonment rates and offending require addressing the systemic and individual causes of crime.

### 2.2 Re-offending and re-entering prison

A 2003 longitudinal study by Professor Eileen Baldry and others (**2003 Baldry Report**) followed a large sample Victorian and NSW prisoners from pre-release and then at 3 months and 9 months.<sup>8</sup> The 2003 Baldry Report found that at 9 months approximately 36% of the participants had returned to prison, with women going back at a higher rate than men. The study found that moving often (more than twice in a 3 month period) post-release is a significant predictive factor in a person's return to prison.

The 2003 Baldry report postulates that ex-prisoners represent one of the most transient groups in Australia. The causal factors for this transiency included family breakdown, increased drug use, unsuitability of accommodation location, expense of accommodation and not wanting to be a burden by staying too long with friends and relations. As expected the study found that living in stable, supportive accommodation such as with parents or in supported housing is strongly associated with

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<sup>3</sup> Department of Justice Victoria, Corrections Victoria, *Statistical Profile of the Victorian Prison System 2004/05- 2008/09* (2009) (available online at [http://www.justice.vic.gov.au/wps/wcm/connect/0d26b600404a9d609074fbf5f2791d4a/Statistical\\_Profile\\_Victorian\\_Prison\\_System\\_2004-05\\_to\\_2008-09.pdf?MOD=AJPERES](http://www.justice.vic.gov.au/wps/wcm/connect/0d26b600404a9d609074fbf5f2791d4a/Statistical_Profile_Victorian_Prison_System_2004-05_to_2008-09.pdf?MOD=AJPERES)).

<sup>4</sup> Australian Bureau of Statistics, *Prisoners in Australia* (2009) (available online at <http://www.abs.gov.au/Ausstats/abs@.nsf/lookupMF/8D5807D8074A7A5BCA256A6800811054>).

<sup>5</sup> E Baldry, D McDonnell, P Maplestone, & M Peeters, 'Ex-prisoners, accommodation and the state: post-release in Australia' (2006) 39(1) *ANZ Journal of Criminology* 20-33.

<sup>6</sup> Australian Bureau of Statistics, above n 4.

<sup>7</sup> C Hartley, 'Set up to fail: Ex-prisoners, homelessness and human rights' (2008) 21(1) *Parity* 39.

<sup>8</sup> E Baldry, D McDonnell, P Maplestone, M Peeters, *Ex-prisoners and accommodation: what bearing do different forms of housing have on social re-integration: Final Report* (2003) AHURI.

positive progress post-release. However, the majority of the participants did not report to have family and friends who they could depend on.

Employment and stable housing was highly associated with a successful transition (although people are unlikely to secure employment without housing). In addition to being transient and homeless, the study found that worsening problems with heroin use was a predictor of returning to prison.

### 2.3 The links between drugs and crime

Certain crimes have a perceived link with illicit drug use and drug dependency, notably heroin.<sup>9</sup> Women whose main offence was theft, robbery and burglary were more likely to attribute their offending to drug and alcohol use.<sup>10</sup> Women's criminality is believed to be more closely related to their drug use than it is for men: 61% of female prisoners in Victoria were diagnosed with a drug or alcohol dependence at the time of arrest.<sup>11</sup>

In a 2004 study on female offenders, Johnson suggested three explanatory models for the relationship between drugs and crime:<sup>12</sup>

1. drugs lead to crime due to the need to acquire money to pay for drugs;
2. those who engage in crime are exposed to social situations where alcohol and drugs are readily available and use is reinforced; and
3. drug use and crime occur simultaneously . crimes are committed under the influence.

There is a significant association between substance abuse and women's offending. Substance abuse has been listed as a dynamic predictor of reoffending.<sup>13</sup> International and national research has consistently demonstrated a high incidence and prevalence of substance use or abuse by women offenders. In the USA, 51% of sentenced women prisoners who were in federal or state prisons in 1997 reported daily drug use in the month before their incarceration. In Canada two reports in 2002 referred to 69% of female prisoners for whom substance abuse played a role in either their current offending or their history of offending. In Australia, 60% of the women had used illegal drugs in the 12 months prior to their incarceration, and 61% of the women in Victoria's prisons had a drug or alcohol dependence.<sup>14</sup> In a 2006 Queensland study of ex-prisoners, 34 days post-release 37% of females reported using illicit substances.<sup>15</sup>

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<sup>9</sup> A Taylor, 'Substance use and abuse: Women's criminal reoffending in New Zealand' (2008) 23(2) *Journal of Women and Social Work* 167-78.

<sup>10</sup> H Johnson, 'Drugs and crime: A study of incarcerated female offenders' (2004) *Australian Government, Australian Institute of Criminology: Research policy series* 63. See also A Taylor, above n 9.

<sup>11</sup> H Johnson, above n 10.

<sup>12</sup> Ibid.

<sup>13</sup> A Taylor, above n 9.

<sup>14</sup> H Johnson, above n 10.

<sup>15</sup> H Johnson, above n 10.

### 3. Lack of appropriate housing

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#### 3.1 Nature and extent of homelessness in Australia

The cultural definition of homelessness, developed by Chamberlain and MacKenzie,<sup>16</sup> is widely adopted when considering the nature and extent of homelessness in Australia. This definition identifies homelessness by reference to shared community standards about the minimum accommodation that people have the right to expect in order to live according to the conventions of contemporary life.<sup>17</sup> In Australia, the accepted minimum community standard is understood to be a small rented flat, with the minimum required amenities, such as a bedroom, living room, bathroom and kitchen.<sup>18</sup>

In broad terms, the cultural definition of homelessness has led to the identification of three categories within the homeless population:<sup>19</sup>

**primary homelessness** . refers to people without conventional accommodation living on the streets, in deserted buildings, railway carriages, under bridges, in parks etc (*i.e.* rough sleepers);

**secondary homelessness** . refers to people moving between various forms of temporary shelter including friends, emergency accommodation, refuges and hostels; and

**tertiary homelessness** . refers to people living permanently in single rooms in private boarding houses without their own bathroom or kitchen and without security of tenure. They are homeless because their accommodation does not satisfy the requisite conditions of the minimum community standard.<sup>20</sup> Medium to long-term residents of caravan parks would, in most circumstances, be considered to be experiencing tertiary homelessness.

The minimum community standard provides a benchmark for measuring and monitoring homelessness in the Australian context and the cultural definition of homelessness has been adopted by Australian Bureau of Statistics (**ABS**). Using this definition, on census night in 2006, the homeless population in Australia was calculated at 105,000 people: 16% of these people were experiencing primary homelessness, with the remaining percentage experiencing secondary or tertiary homelessness, including 45% staying temporarily with friends or relatives, 21% staying in boarding houses and 19% staying in supported accommodation (such as hostels for the homeless, night shelters and refuges).<sup>21</sup>

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<sup>16</sup> C Chamberlain and D MacKenzie, 'Understanding Contemporary Homelessness: Issues of Definition and Meaning' (1992) 27 *Australian Journal of Social Issues* 274; and C Chamberlain and G Johnson, 'The Debate about Homelessness' (2001) 36(1) *Australian Journal of Social Issues* 35.

<sup>17</sup> C Chamberlain, *Counting the Homeless: Implications for Policy Development*, Australian Bureau of Statistics (1999) 49.

<sup>18</sup> *Ibid.*

<sup>19</sup> Chamberlain and Johnson, above n 16.

<sup>20</sup> C Chamberlain, G Johnson and J Theobald, *Homelessness in Melbourne: Confronting the Challenge* (February 2007) Centre for Applied Social Research, RMIT University, 13. 14.

<sup>21</sup> C Chamberlain and D MacKenzie, *Australian Census Analytic Program: Counting the Homeless*, Australian Bureau of Statistics (2006).

### 3.2 Homelessness and entering prison

Being homeless can result in a person committing more offences and the levels of arrest and incarceration are higher in homeless people than the general population.<sup>22</sup> Research suggests that some offenders commit theft to obtain money for accommodation and some will offend with the intention of being returned to the relative stability and security of prison.<sup>23</sup> A participant in consultations conducted by the HPLC in 2010 discussed his housing situation (experiencing tertiary homelessness):

*It was like an open jail. I had no choice, I had to re-offend to get back into normality ... At least there [prison] you get a bed.*<sup>24</sup>

In particular, people experiencing tertiary homelessness in hostels and rooming houses are exposed to an environment of drug use and crime, which can perpetuate the experience of imprisonment<sup>25</sup> This type of marginal housing can contain high numbers of people with substance dependence, ex-offenders and mental health disorders which in turn creates an environment of violence and temptations.

**CASE STUDY: Women's Integrated Support Program (WISP) VACRO:** B was released from prison after serving a length of 2 years at DPFC. After several previous incarcerations B decided that during this two year sentence she was going to take the opportunity to engage in counselling and therapy with an aim to remain abstinent from drug use. B also took this opportunity to begin stabilising herself on the pharmacotherapy. B was well prepared for release and had remained drug free for the two years of her sentence. This was a notable achievement for someone who heavily relied on using drugs for the previous 18 years. B did not have accommodation to go to on her release and was therefore released homeless. B was able to stay on a friend's couch very short term however this opportunity dissolved after one week, the only option for B was a mixed rooming house with 24 other people who were living in this property under similar circumstances as B. It became too easy for B to engage in drug use as it was common place at this rooming house, easily accessible, on offer, cheap and available at any time. B relapsed and became involved in the regular drug using which took place. B has not engaged in further criminal activity to date.

**Recommendation:** *That the Inquiry recognise that the lack of secure and appropriate housing is a causal factor which may influence drug-related offending and repeat offending that result in women entering custody.*

Offenders who are homeless or do not have stable and secure accommodation may be treated more harshly by the justice system than other offenders.<sup>26</sup> People who are homeless are more likely to be remanded in custody than granted bail, and are sometimes ineligible for court diversion programs due to their housing status.

<sup>22</sup> B McCarther and J Hagan, 1991 Homelessness: A criminogenic situation? (1991) 31 *British Journal of Criminology* 393-410. Available online at <http://www.heinonline.org.ezp.lib.unimelb.edu.au/HOL/Page?page=393&handle=hein.journals%2Fbjcrim31&collection=journals#401>.

<sup>23</sup> M Willis, *Ex-prisoners, SAAP Housing and Homelessness in Australia: Final report*, Australian Institute of Criminology (2004).

<sup>24</sup> PILCH Homeless Persons Legal Clinic, *Victorian Homeless 2020 Strategy: Consumer Consultations Report* (June 2010).

<sup>25</sup> M Willis and T Makkai, above n 2.

<sup>26</sup> M Willis, above n 23.



Furthermore, prisoners serving a relatively short sentence (under 3 months) are often ineligible to access support programs, rehabilitative programs or assistance in prison. There are anecdotal reports of Magistrates imposing lengthier sentences than required for the purpose of ensuring the offender is eligible for post-release support programs. Prisoners with short sentences are required to be inducted, assessed, and classified just as long term prisoners are which carries a high cost to the community. There are significant benefits in exploring non-custodial alternative for less serious crimes.<sup>27</sup>

***Recommendation: That supported accommodation and community based orders be considered in preference to short custodial sentences.***

### **3.3 Homelessness, leaving prison and reoffending**

Ex-prisoners are particularly vulnerable to becoming homeless.<sup>28</sup> Research shows that a large number of prisoners are being released with no suitable accommodation in place.<sup>29</sup> In addition, prisoners face a variety of barriers when trying to access housing. The private rental market is increasingly competitive, unaffordable, requires good credit rating and generally discriminates against welfare recipients.<sup>30</sup> Furthermore, the literature suggests that not all public housing is necessarily an appropriate option for ex-offenders, and particular estates and locations should be avoided.<sup>31</sup> These include geographical areas associated with drug use, locations that are ill-equipped to provide access to services, having to share with others,<sup>32</sup> and institutionalised-like hostels that ensure the ongoing contact with other ex-prisoners.<sup>33</sup> The limited public housing stock, extraordinary long waiting lists and inappropriate locations and environments results in ex-offenders having limited housing options, with many ex-offenders relying on hostel and rooming type accommodation.

Prisoners will not be deemed homeless while incarcerated, even if they have been homeless prior to incarceration, and are therefore ineligible to apply for public housing.<sup>34</sup> Many prisoners are not and cannot be aware of the exact date of their release and are therefore unable to satisfy important requirements for an accommodation agency referral process.<sup>35</sup>

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<sup>27</sup> M Willis, above no 23.

<sup>28</sup> Ibid.

<sup>29</sup> A Meehan, *Report on pre and post release housing services for prisoners in NSW*, Community Housing, Sydney, NSW (2002), available online at [http://www.communityhousing.org.au/training%20and%20resourcing/Publications/Reports\\_Fed/full%20reports/prisoners%20report.pdf](http://www.communityhousing.org.au/training%20and%20resourcing/Publications/Reports_Fed/full%20reports/prisoners%20report.pdf).

<sup>30</sup> M Willis and T Makkai, above no 2.

<sup>31</sup> Willis 2004; E Baldry, above n 8; E Baldry et al, above n 5; M Willis and T Makkai, above n 2.

<sup>32</sup> H Carnaby, *Road to Nowhere: A report on the Housing and Support Needs of Women Leaving Prison in Victoria*, Flat Out Inc (1998).

<sup>33</sup> J Carlisle, *The Housing Needs of Ex-prisoners* (Research report), University of York Centre for Housing Policy (1996).

<sup>34</sup> E Baldry et al, above n 8.

<sup>35</sup> Ibid.

### **CASE STUDY: Melbourne City Mission Women's Integrated Support Program:**

J is a 30 year old woman serving her second custodial sentence. J has been incarcerated for six years and is awaiting parole to be granted. J has remained in custody for an additional five months due to unsuitable housing options post release. J is unable to reside in a rooming house or shared accommodation due to mental health issues. J has limited options for housing due to barriers with front door services and access. J requires stable accommodation on exit to ensure that parole conditions can be met and area mental health support links made to ensure she has the best possible chance of reintegrating into the community.

P is a 32 year old women serving her third custodial sentence. P was twenty weeks pregnant when she first commenced on the program. Due to insecure housing options P had to remain in custody for an additional four months and post the birth of her child to ensure that stable housing could be secured for her release with her child.

Affordable and appropriate housing is fundamental for prisoners to reintegrate into the community.<sup>36</sup> A review of the literature suggests that suitable, post-release housing is crucial to a successful integration for ex-prisoners and is an important factor in limiting recidivism.<sup>37</sup> Imprisonment even for a short period is associated with an increase in homelessness.<sup>38</sup> The *Road to Nowhere* report<sup>39</sup> found having access to appropriate housing is considered by ex-prisoners to be essential to successful reintegration. The link between recidivism and appropriate housing is well established.<sup>40</sup>

There is a lack of variety in housing options available to ex-prisoners, extreme difficulty in accessing public housing, transitional/emergency housing or private rental.<sup>41</sup> Due to the housing crisis in Australia there is an increased demand for hostels, boarding and rooming house accommodation which has resulted in the historically cheap option become increasingly unaffordable. The cost of a single room in a private shared rooming house with a minimum of 4 bed rooms, communal kitchen and bathroom would average between \$150-\$190 per week. Ex-prisoners are reluctant to agree to rooming house accommodation due to concerns they will be in contact with too many other ex-offenders and drug users.

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<sup>36</sup> A Meehan, above n 29; E Baldry et al, above n 5; L Ward, *Transition from custody to community: Transitional support for people leaving prison* (2001) (Report paper for the Office of the Correctional Services Commission, Victoria.)

<sup>37</sup> E Baldry et al, above n 8; E Baldry et al, above n 5.

<sup>38</sup> E Baldry et al above n 8.

<sup>39</sup> H Carnaby, above n 32.

<sup>40</sup> L Ward, above n 36.

<sup>41</sup> A Meehan, above n 29.

**CASE STUDY: Homeless Persons' Legal Clinic:** M, aged 44 was residing in a Hanover rooming house and had been on the waiting list for public housing for 3 years. M was offered a bedsit property in a high rise housing estate. After much thought and discussion with her housing worker at Hanover, M decided to decline the Office of Housing offer. M was extremely concerned that the property was located in one of the well know high rise estates. M was aware of the estate and did not want to live in an environment where drug dealing, violence and D&A use were prevalent within the building. M decided it would be detrimental to her health and well-being to live in such an environment. As a result M remained in the Hanover rooming house.

The first two months are a crucial time period during which ex-prisoners are often rearrested or breached for parole infringements. This occurs more regularly for those ex-prisoners who suffer from mental health disorders, intellectual disabilities and drug problems.<sup>42</sup> The adequacy of post-release housing is a significant determinant of whether or not an individual re-offends.<sup>43</sup>

Having case management support available during the challenging period immediately after release is a very important determinant of post-release success for many offenders.<sup>44</sup> Prisoners released without parole and people released directly from remand reported finding it too difficult to get by on their own<sup>45</sup>. Both ex-prisoners and service providers saw this directly contributing to re-offending. Women who were successful in not re-offending and making positive progress paid tribute to the ongoing and persistent support they received from probation officers and community agencies.<sup>46</sup>

***Recommendation: That all prisoners to be allocated a post- release case manager.***

It has been acknowledged in the Australian literature that Victoria is a leader in increasing post-release support initiatives for prisoners. Pre-release assessment, planning, intensive case management, programmatic outreach support, exit planning and ongoing transitional referral support are elements that a successful program requires to adequately support people leaving prison.<sup>47</sup> The Corrections Victoria initiative *Women's Integrated Support Program* (WISP) successfully delivers post-release case management support which incorporates all of the above elements. The Victorian Government should be commended for implementing such a unique and responsive program. However, the benefits of this program could be significantly improved by increasing the amount of housing attached to the WISP program. In addition, appropriate housing and support in relation to parenting and parental responsibilities, as well as family/domestic violence support and case management where required, separately or in combination will assist women ex-prisoners to access and sustain their housing.

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<sup>42</sup> C Hartley, above n 7.

<sup>43</sup> Ibid.

<sup>44</sup> M Willis and T Makkai, above n 2.

<sup>45</sup> Ibid.

<sup>46</sup> A Taylor, above n 9.

<sup>47</sup> M Willis and T Makkai, above n 2.

#### 4. Homelessness, marginal housing and drug use

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Research has showed there are strong links between the severity of women's drug use and their participation in crime. Studies have paid specific attention to heroin use. There is no axiomatic connection between becoming a heroin user and leaving home or becoming homeless.<sup>48</sup> It cannot be said that heroin use causes homelessness or vice versa. There are a myriad of factors which influence drug use and the housing circumstances heroin users find themselves to be in.

However, research makes it clear that housing, or lack of housing, plays a crucial role in influencing the patterns of drug use. Homelessness exacerbates problematic drug use.<sup>49</sup> Without safe and secure housing, the ex-offender is continually exposed to the dynamics of heroin use on the street. Heroin user and squatter Finn described his housing issue:

*You'd walk out of the bedroom and there'd be five people I didn't know in the lounge whacking up. Walk downstairs, there'd be ten people I didn't know whacking up.*<sup>50</sup>

A 2003 report on heroin users, housing and social participation found that heroin users presented considerable challenges to social housing providers and other service providers through chaotic behaviours, further complicated by:<sup>51</sup>

1. the severe shortage of public housing, evident by excessively long waitlists and lack of availability for 1 and 2 bedroom dwellings;
2. unsuitability of some public housing estates;
3. heroin users placing additional stress on housing providers resulting in the loss of residential amenity because of drug use and drug dealing;
4. the shortage of supply and the location of existing public housing impacting the way housing officers allocate housing; and
5. suitable housing that is dependant on receiving other social and health services, which are difficult to access due to demand.

Ex-offenders are often housed in public housing estates that are rife with other drug users and drug dealers.<sup>52</sup> The proliferation of drug use and the endemic drug trade have diminished the capacity of public housing authorities to offer secure, affordable housing. It is particularly problematic in inner-city areas such as Collingwood, Fitzroy, Richmond and Carlton, where it is reported that public housing in those areas has significantly deteriorated due to drug usage and drug-related crimes. It has been reported that people are rejecting offers of housing in these areas as the prevalence of drug use and crime is so high.<sup>53</sup>

The provision of safe and secure housing will improve the social, physical and mental wellbeing of drug users.<sup>54</sup> Secure housing is needed so that drug users can gain access to maintenance, withdrawal and detoxification treatments as well as family services aimed at assisting the children of

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<sup>48</sup> J Bessant, H Coupland, T Dalton, L Maher, J Rowe, and M Watts, *Heroin users, housing and social participation: attacking social exclusion through better housing: Final Report*, AHURI (2003).

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> L de Kretser, Thanks, but no thanks *Herald Sun*, February 5, 2002.

<sup>54</sup> J Bessant et al, above n 48.

drug users. Users can then begin to deal with issues such as employment, education, health and relationships. A case study revealed that suitable housing made a significant impact on the quality of life for Tiffany, aged 23.<sup>55</sup>

*Stability: You're not worried about where you live, where your clothes gonna be, how you're gonna shower. You can get along with other things in your life like getting a job, get socializing, get a bunch of new friends. How to get money, what would you like to buy next. Work on how you look. Um, go back to school. Work out the future things. Not the things...work on things that normal people work on...the essential things should already be there. If you had a house, so you could worry about the things that you're supposed to worry about.*

A drug user living in stable accommodation can access a range of general health benefits, including better nutrition and basic hygiene. Safe and secure housing minimises drug-related harm.<sup>56</sup> Adequate housing reduces the risk of overdose and also allows users to engage in safer injecting practices. Stable accommodation creates distance between the user and the drug using environment on the street. Research has shown that minimising exposure to drugs significantly increases the user's potential to recover.<sup>57</sup>

It is imperative that ex-offenders are provided with access to support services and adequate housing. The housing options should include appropriate public housing and supported accommodation in order to have the best chance at reintegration and rehabilitation.

***Recommendation: That service providers in both housing and public health sectors better integrate service provision to drug users***

***Recommendation: That health and community services are better equipped to deal with heroin users' particular circumstances***

***Recommendation: That the Inquiry recognise that drug users need stable housing in order to combat the strong link between homelessness and drug use***

***Recommendation: That the Inquiry recognise that stable and affordable housing is necessary in improving the health of drug users***

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<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

## 5. Continuing drug use

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Another key causal factor for women offending/reoffending and entering or reentering prison is their continuing drug use. This is exacerbated by the following:

- Poor discharge planning from within prisons;
- Inappropriate referrals (to GPs who aren't registered prescribing doctors);
- The lack of time to plan for transition services due to unknown release dates;
- The cost of commencing pharmacotherapy.

There are currently 13,048 people on pharmacotherapy in Victoria. Commencing pharmacotherapy in the community can be costly for ex-prisoners, with some GPs charging up to \$80 for an initial appointment. The cost of continuing treatment can be from \$30 up to \$48 per week. Daily dosage costs range from \$5 - \$8.50 per day, with an additional \$1 fee for each take away dose. A take away dose assists people to continue a regular lifestyle such as engaging in employment. Take away doses also allow people to reduce their daily transport costs in order to travel to the pharmacy. Furthermore, there are extensive waiting lists, for example there is currently a three week waiting list for an appointment with a prescribing GP at Turning Point Drug and Alcohol Centre. Rural

### **CASE STUDY: Turning Point Alcohol & Drug Centre Stephanie Cutri Senior Forensic AOD Counsellor**

L was referred to Turning Point for alcohol and drug counselling as part of her parole sentence. The 38 year old woman had a history of heroin dependence and despite a 10 year history on the Methadone program, she continued to use heroin in addition to her pharmacotherapy dose. She reported that her only periods of abstinence from heroin since commencing use at 19 years, were whilst she was incarcerated. L presented with 115 prior convictions, serving a total of 9 terms of imprisonment. She acknowledged that much of her offending history was substance use related and reported a history of relapsing back into heroin use upon release from prison. L disclosed that her most recent offences were committed as she wanted to return to prison to get help.

Whilst serving her most recent prison sentence, L withdrew from Methadone Treatment. This appears to be common practice amongst prisoners on pharmacotherapy. It is unclear why. L reported experiencing cravings for heroin two days prior to her release. Within two days of discharge from prison, L relapsed back into heroin use. Due to the lack of available prescribers and dispensing pharmacies in her local area, it was four weeks before L could commence pharmacotherapy treatment. This time, L was introduced to an alternative pharmacotherapy option; Suboxone; as her attempts with Methadone Treatment had been unsuccessful.

Given L's history of relapsing back into drug use upon prison release, an individual discharge plan might have diminished the likelihood of relapse. Liaison between the prison, L and post-release treatment services, would have helped maximise her chances of success post-release. Through effective collaboration with community treatment services, L could have been informed of post-release treatment options. One recommendation might have been, that considering her history it would be best for her to remain on a low dose of Methadone whilst in prison. In this way she would be more successful in transferring to Suboxone upon discharge. As she had already withdrawn from pharmacotherapy, L needed to wait a month to restart and was vulnerable to return to previous drug using behaviour. L's relapse back into heroin use immediately after her release put her at high risk of breaching her parole order and facing further prison time.

A 2008 study found that the unavailability and the long waiting lists for a methadone program was a key factor in some women reoffending.<sup>58</sup> Increased and immediate access to the methadone program would have assisted this group of women in addressing their offending closer to their release. Furthermore, residential treatment options for female drug users are limited and places that accommodate children are scarce.

***Recommendation: That the inquiry recognise that immediate and cost free access to pharmacotherapy is necessary to reduce continued drug use***

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<sup>58</sup> A Taylor, above n 9.

## 6. Poverty

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In addition to the lack of affordable housing, ex-prisoners lack of financial resources make securing housing unachievable for ex-offenders. Prisoners may also lose their accommodation while in custody due to an inability to maintain rental payments. The majority of ex-prisoners are reliant on social security benefits.<sup>59</sup> Prisoners' financial difficulties are exacerbated by a lack of basic skills in financial budgeting, in addition to having substance abuse issues, debt, medication and treatment cost.

Debt ultimately affects a person's credit rating and the ability to have available funds required to maintain accommodation. Ex-prisoners have been found to have accumulated high levels of debt to individuals, Centrelink and other Government agencies such as the Office of Housing, and banks or financial institutions. These debts must be repaid upon release.<sup>60</sup> Ex-prisoners with debt are significantly more likely to return to prison than those with no debt.<sup>61</sup>

The provision of financial assistance being paid to people leaving prison is grossly inadequate. The current crisis payment that released prisoners receive is only equal to one week's payment of the recipients normal Centrelink pension or benefit.<sup>62</sup> This is approximately \$230 for those on Newstart Allowance.<sup>63</sup> Individuals released from prison are not allowed to claim again for 14 days after receiving the crisis payment. If the ex-prisoner is fortunate enough to find a vacancy, the crisis payment amount is clearly inadequate to pay for public, private or emergency housing. The research suggests that for those receiving a crisis payment are at significant risk of becoming homeless and re-offending.<sup>64</sup>

***Recommendation: That the Inquiry recognise that the lack of financial resources make securing housing unachievable for most ex-prisoners***

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<sup>59</sup> M Willis, above n 23.

<sup>60</sup> M Willis and T Makkai, above n 2; C Hartley, above n 7; M Willis, above n 23.

<sup>61</sup> E Baldry Homelessness and the criminal justice system 14(10) 2001 *Parity* 5-8.

<sup>62</sup> C Hartley, above n 7.

<sup>63</sup> See Centrelink website at [www.centrelink.gov.au](http://www.centrelink.gov.au).

<sup>64</sup> C Hartley, above n 7.



## 7. Appendix A – About the Authors

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### 7.1 About PILCH and The Homeless Persons' Legal Clinic

PILCH is a leading Victorian, not-for-profit organisation. It is committed to furthering the public interest, improving access to justice and protecting human rights by facilitating the provision of pro bono legal services and undertaking law reform, policy work and legal education. In carrying out its mission, PILCH seeks to:

- address disadvantage and marginalisation in the community;
- effect structural change to address injustice;
- foster a strong pro bono culture in Victoria; and
- increase the pro bono capacity of the legal profession.

The HPLC is a project of PILCH and was established in 2001 in response to the unmet need for targeted legal services for people experiencing homelessness.<sup>65</sup> The HPLC is funded on a recurrent basis by the Victorian Department of Justice through the Community Legal Sector Project Fund, administered by Victoria Legal Aid. This funding is supplemented by fundraising and donations. While the HPLC received a one-off funding boost from the Federal Government in 2009, it does not currently receive recurrent funding from the Federal Government.

The HPLC has the following aims and objectives:

- to provide free legal services to people who are homeless or at risk of homelessness, in a professional, timely, respectful and accessible manner, that has regard to their human rights and human dignity;
- to use the law to promote, protect and realise the human rights of people experiencing homelessness;
- to use the law to redress unfair and unjust treatment of people experiencing homelessness;
- to reduce the degree and extent to which people experiencing homelessness are disadvantaged or marginalised by the law; and
- to use the law to construct viable and sustainable pathways out of homelessness.

Free legal services are offered by the HPLC on a weekly basis at 14 outreach locations that are already accessed by people experiencing homelessness for basic needs (such as soup kitchens and crisis accommodation facilities) and social and family services.<sup>66</sup> Since its establishment in 2001, the HPLC has assisted almost 5000 people at risk of, or experiencing, homelessness in Victoria.

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<sup>65</sup> See <http://www.pilch.org.au>.

<sup>66</sup> Host agencies include Melbourne Citymission, Café Credo, The Big Issue, the Salvation Army, St Luke's Anglicare, Ozanam House, Flagstaff Crisis Accommodation, Salvation Army Life Centre, Hanover, Vacro, Koonung Mental Health Centre, Homeground Housing Service, Northside Geelong and St Kilda Crisis Centre. Legal services are provided at our host agencies by volunteer lawyers from law firms: Allens Arthur Robinson, Arnold Dallas McPherson, Baker & McKenzie, Clayton Utz, Corrs Chambers Westgarth, DLA Phillips Fox, Freehills, Mallesons Stephen Jaques, Minter Ellison, Harwood Andrews and Stella Sutcliffe & Associates.

The HPLC also undertakes significant community education, public policy advocacy and law reform work to promote and protect the right to housing and other fundamental human rights. In 2005, the HPLC received the national Human Rights Law Award conferred by the Human Rights and Equal Opportunity Commission in recognition of its contribution to social justice and human rights. In 2009 it received a Melbourne Award for contribution to community in the City of Melbourne.

The HPLC operates and provides its services within a human rights framework. Central to the human rights framework is the right to participate, including individual and community participation and consultation, which creates an empowering environment for individuals to assert their rights and contribute to the democratic process. The HPLC recognises the right to participate by working and consulting directly with a range of key stakeholders, the most important of which is the Consumer Advisory Group (**CAG**). The CAG was established by the HPLC in 2006 and is comprised of people who have experienced homelessness or who are currently homeless. The role of the CAG is to provide guidance and advice, and make recommendations to the HPLC with a view to enhancing and improving the quality of the HPLC's service delivery, policy, advocacy, law reform and community development activities. The CAG not only provides feedback and guidance to the HPLC but also gives people who have experienced homelessness a voice to actively represent their interests and build the participation and engagement of the general community around the issue of homelessness.

## **7.2 About Council to Homeless Persons**

Council to Homeless Persons (CHP) is the peak body representing individuals and organisations with an interest or stake in homelessness in Victoria. Our mission is to work towards ending homelessness through leadership in policy, advocacy and sector development.

CHP also incorporates the Homelessness Advocacy Service (HAS), which provides individual advocacy to homeless people and those at risk of homelessness, secondary consultation, training and consumer participation through the Peer Education Support Program (PESP). PESP is a consumer group, trained and supported to provide input into sector practice, community and government education and policy development relating to homelessness.