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By email: [correctionsreview@justice.vic.gov.au](mailto:correctionsreview@justice.vic.gov.au)

## **Cultural Review of the Adult Custodial Corrections System**

Financial Counselling Victoria (FCVic) welcomes the opportunity to make a submission to the Cultural Review of the Adult Custodial Corrections System.

Financial counsellors in Victoria work with and represent a significant number of clients who interact with Victoria's adult custodial corrections system, and therefore have considerable insight into the experiences of people in custody. This submission will focus primarily on safety in custody for vulnerable cohorts.

### **About Financial Counselling Victoria**

Financial Counselling Victoria (FCVic) is the peak body and professional association for financial counsellors in Victoria. Financial counselling is a regulated profession providing free, confidential and independent advice and advocacy for people experiencing, or at risk of, financial hardship. FCVic advocates on behalf of financial counsellors and their clients on systemic issues that cause and exacerbate poverty and hardship.

In preparing this submission, FCVic has consulted extensively with our Prisons Network, a community of practice for financial counsellors servicing correctional facilities across Victoria, drawing on their casework experience.

### **Executive Summary**

Financial hardship and debt are key concerns for people in custody. Financially vulnerable people are significantly more likely to be incarcerated than wealthy people, and incarceration itself makes it extremely difficult for a person to manage debt and financial issues. According to Financial Counselling Australia's report 'Double Punishment', "even a person with no debt when sent to prison can end their sentence with significant debts—credit card debts build quickly due to compounding interest and fees."<sup>1</sup>

This submission focuses on the following specific areas of concern in relation to safety in custody for vulnerable cohorts:

1. Vulnerability resulting from financial impacts of being in custody

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<sup>1</sup> Financial Counselling Australia, Double Punishment: How People in Prison Pay Twice (Report, May 2018), 13 <https://www.financialcounsellingaustralia.org.au/fca-content/uploads/2019/10/Double-Punishment-Final.pdf>

2. Inaccessibility of programs and supports for people in custody, particularly people with poor literacy skills and people from Culturally and Linguistically Diverse (CALD) backgrounds
3. Safety of trans and gender diverse people in custody
4. Potential for exploitation or financial abuse of people in custody
5. Risks to people on remand
6. Safety and wellbeing after release from custody

We also make the following recommendations:

- A. All Victorian correctional facilities, including remand centres, provide all prisoners with access to financial counselling as an integral service from the commencement of their incarceration.
- B. That financial literacy and life skills programs run by financial counsellors are implemented at all Victorian prisons with options for remote delivery to accommodate public health directions.

## 1. Vulnerability resulting from financial impacts of being in custody

The financial impacts of being in prison create or exacerbate vulnerability, as well as causing substantial stress and anxiety which become additional potential risks to an individual's physical and psychological safety. This compounds the vulnerability already experienced by the particular cohorts this Review is focusing on, namely: women, Aboriginal people, LGBTI people, people with disability, elderly people and people from Culturally and Linguistically Diverse backgrounds.

Justice Connect's 'Closing the Revolving Door Prison Project' supports people in prison to maintain housing and resolve debts. In their latest report, they refer to the 2008 NSW Law and Justice Foundation study which concluded that "virtually all" of the people in prison interviewed indicated they were in debt, with some of those debts pre-dating incarceration and some accruing as a result of being in prison.<sup>2</sup>

Financial counsellors can attest to the fact that the prison system leaves people worse off financially. This is partly due to a lack of income or access to Centrelink while in prison, as well as the difficulties communicating and self-advocating with creditors while in custody. The most common debts financial counsellors see are utility debts, bank and credit card debts, phone debts, home and car loan debts and, increasingly, Buy Now Pay Later debts such as Afterpay, Zip Pay and others.

Worsening debt as a result of incarceration increases the risk of recidivism. In Victoria, 44.2% of prisoners released during 2017–18 returned to prison within two years (to 2019–20).<sup>3</sup> According to statistics quoted in *Double Punishment*, 49 per cent of prisoners said they had committed a crime to repay a debt<sup>4</sup>; 51 per cent of ex-prisoners had debts and those with debts were more likely to re-enter prison than those without debt.<sup>5</sup>

There needs to be adequate systems and supports in place to protect people from accruing insurmountable levels of debt and to assist them to stabilise and manage their debts and financial position while in prison. Without addressing these needs, the safety of people in custody and their capacity to remain safe once released is compromised.

Financial counselling can support people in custody to manage their debts and assess their options for the future. As people in prison are often constrained from dealing with creditors, the capacity of

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<sup>2</sup> Anne Grunseit, Suzie Forell and Emily McCarron, 'Taking Justice into Custody: The Legal Needs of Prisoners' (Research Paper, Law and Justice Foundation of NSW, 2008), 76.

<sup>3</sup> "Released Prisoners Returning to Prison." Sentencing Advisory Council, State of Victoria, Sentencing Advisory Council, 2021, <https://www.sentencingcouncil.vic.gov.au/sentencing-statistics/released-prisoners-returning-to-prison>.

<sup>4</sup> Sentencing Advisory Council (SAC), *The Imposition and Enforcement of Court Fines and Infringement Penalties in Victoria* — Report (30 May 2014) 449, citing Anne Stringer, *Prison and Debt: The Findings of the Prison and Debt Project* (Prisoners' Legal Service, 1999) 32, 40–41.

<sup>5</sup> Justice Action, Submission to the NSW Law Reform Commission, Project on People with Cognitive and Mental Health Impairment in the NSW Criminal Justice System, 3 February 2011, 2.

financial counsellors to advocate on their behalf with creditors to pause recovery action, access documents that may be required, and cancel utilities and other accounts in the prisoner's name is a crucial service. Being engaged with a financial counsellor can prevent debts from accumulating while a person is in custody and help to alleviate financial stress which could put the individual at risk of reoffending once released.

**Recommendation A:**

**All Victorian correctional facilities, including remand centres, provide all prisoners with access to financial counselling as an integral service from the commencement of their incarceration.**

## **2. Inaccessibility of programs and supports for people in custody, particularly people with poor literacy skills and people from Culturally and Linguistically Diverse (CALD) backgrounds**

Financial counsellors often observe people with poor literacy skills missing out on services and support, particularly in the COVID-19 environment where there is limited or no face-to-face interaction. Missing out on programs may leave prisoners unsupported or unprepared for their release, thus posing potential safety risks to them and to the community.

For the same reason, the lack of access to qualified interpreters for people with English as an additional language is also a safety concern. A financial counsellor we spoke to said that the prison they attend had sent one of the prisoner's friends along to a financial counselling appointment to interpret, rather than engaging a qualified professional. This demonstrates a failure in the systems and processes that are supposed to support the safety and needs of people in custody from CALD backgrounds.

The inaccessibility of programs and supports in custody for people with poor literacy skills and people from CALD backgrounds is a form of discrimination, and undermines the safety, rights and outcomes for these people within the custodial environment. Access to these services must be improved for all people in custody.

## **3. Safety of trans and gender diverse people in custody**

People in custody are segregated into gendered facilities, which can result in risks to the physical, psychological, and cultural safety of trans and gender diverse people in prisons. Financial counsellors are also concerned about how the misuse or misunderstanding of gender pronouns by custodial staff and other people in custody can undermine the safety of trans and gender diverse people in custody.

This points to a need for improved training and education of custodial staff around inclusion and processes to support the safety and rights of LGBTIQ+ people in custody.

#### 4. Potential for exploitation or financial abuse of people in custody

Relationships may break down while a person is in custody, resulting in a situation where a person who is no longer trusted by the person in custody nonetheless has access to all of their bank cards and identification documents.

Financial abuse is a form of family violence, and a victim/survivor being incarcerated can be more at risk of this type of violence. For example, a judge may order that all belongings are given to a family member, enabling that family member to commit financial abuse through disposal of assets or misuse of funds.

Financial counsellors have also observed instances of people in custody granting powers of attorney to people who may have groomed them prior to their incarceration and who financially abuse them while they are in custody.

Additionally, financial counsellors report that there is often a culture of people in custody claiming to be 'legal experts' without any actual qualifications. The nature of the prison context means that there is no way to verify or disprove their claims. This creates vulnerability and risks to safety when combined with the fact many prisoners, including those from other countries and refugee backgrounds, lack an understanding of the Australian legal system. Financial counsellors have observed many people in prison who are desperate for information and advice leaving them vulnerable to being groomed or otherwise manipulated by others in order to gain access to their finances.

Financial counsellors servicing correctional facilities are aware of these risks to prisoners' safety, and their presence in prisons may help to mitigate these risks by recognising grooming or other predatory behaviour in its early stages, and by providing professional guidance and support to individuals based on their specific financial circumstances.

#### 5. Risks to people on remand

According to Corrections Victoria's most recent monthly prisoner and offender statistics, 39.8% of Victorian prisoners are on remand.<sup>6</sup>

Financial counsellors observe that being on remand increases the risk of financial vulnerability because there is no certainty about length of sentence, and therefore no possibility of preparing mentally or making plans and arrangements for future living costs. Not having timeframes also increases the risk that financial issues will "get out of hand" while the person is on remand. People who don't have someone on the outside who can advocate for them or inform them about things that have gone wrong

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<sup>6</sup> Monthly prisoner and offender statistics 2021-22, Department of Justice and Community Safety - Corrections Victoria, State Government of Victoria: October 2021. <https://www.corrections.vic.gov.au/monthly-prisoner-and-offender-statistics>

are even more at risk. In the words of a financial counsellor who primarily works with people on remand, “They never know what they’re stepping out into.”

There is clearly a need for more programs and support for people on remand given the shortage of services currently available to them, the specific circumstances they face, and the fact that they make up such a significant proportion of the prison population in Victoria.

## 6. Safety and wellbeing after release from custody

The point of release from prison is a time of heightened risk for many, especially where the person being released is not adequately supported to re-enter the community. In the experience of financial counsellors, there is no screening or referral to identifiable supports for ‘vulnerable cohorts’ post-release.

Financial counsellors report many instances of women not wanting to go into transitional housing after leaving custody because it is so unsafe. There is an urgent need for another option for accommodation to keep people safe, especially those from vulnerable cohorts, and give them a better chance of staying out of custody long term.

Technology and associated social and economic processes develop and change so quickly that often people, even short-term prisoners, exit prison into a world that looks very different from when they were incarcerated.

At some facilities, such as Langi Kal Kal Prison, financial counsellors run programs for long term prisoners in the last 6 months of their sentence that focus on financial literacy and practical life skills such as using Myki, accessing MyGov, setting up bank accounts and utilities, and generally minimising risk. Participants in these programs generally have a lower rate of recidivism than the general prison population and improved outcomes in relation to safety. These programs are delivered in person so have not been able to go ahead since COVID-19 restrictions commenced in early 2020.

### **Recommendation B:**

**That financial literacy and life skills programs run by financial counsellors are implemented at all Victorian prisons with options for remote delivery to accommodate public health directions.**



Thank you for the opportunity to make a submission to the Cultural Review of the Adult Custodial Corrections System. Please contact Georgia Robenstone on 0482 688 793 or at [grobenstone@fcvic.org.au](mailto:grobenstone@fcvic.org.au) if you have any questions about this submission.

Yours Sincerely,

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