**Submission to the Victorian Ombudsman on a pilot investigation of Dame Phyllis Frost Centre to help inform the practical changes needed in Victoria to implement OPCAT**

17 August 2017

## Pilot OPCAT inspection of the Dame Phyllis Frost Centre

I am writing in response to your invitation for submissions regarding the pilot inspection of the Dame Phyllis Frost Centre which is being undertaken by your office to inform Victoria’s implementation of the Optional Protocol to the Convention Against Torture (OPCAT). Victoria Legal Aid (VLA) thanks you for the opportunity to contribute.

VLA strongly supports the Australian Government’s decision to ratify OPCAT and considers it an important measure to protect the rights of a particularly disadvantaged segment of the community. We welcome the decision to undertake a pilot inspection to OPCAT standards of the Dame Phyllis Frost Centre.

VLA has extensive practical experience with the Dame Phyllis Frost Centre, through providing legal assistance to clients via our criminal law program and our recently established Prisoner Legal Help telephone service. From this practical experience we know that women who find themselves detained there often face significant social and economic disadvantage, experience mental ill-health, have experienced considerable trauma and may themselves be the victims of family violence or sexual abuse. Research also confirms that an estimated 87% of all women in custody have been a victim of abuse either as a child or adult[[1]](#footnote-2).

We note that OPCAT inspections differ from previous investigations of places of detention by the Victorian Ombudsman, in that the focus of OPCAT is the prevention of human rights abuses by identifying risk factors and protective safeguards, rather than the investigation of past actions. VLA supports this preventative focus and encourages your office to consider the issue of what constitutes torture or other inhuman or degrading treatment or punishment broadly. Treatment that in insolation may not be considered inhuman or degrading may become so if it continues over an extended period of time.

VLA notes the importance of taking into account the cultural background of prisoners when assessing whether there is a risk of torture or other cruel or inhuman punishment or treatment.

We note with concern that the imprisonment rate of Aboriginal and Torres Strait Islander women is increasing. Data from Corrections Victoria, indicates that as at 30 June 2016, Aboriginal and Torres Strait Islander women comprised 10.3% of all female prisoners. We specifically note the detrimental effect that confinement and separation from family can have on Aboriginal and Torres Strait Islander people and we encourage your office to pay particular attention to their experience of custody at the Dame Phyllis Frost Centre.

Based on our practice experience, we further suggest that your inspection also have particular regard to the following:

* the availability of adequate and timely medical services for prisoners who have complex medical needs, and the arrangements in place for prisoners to access those services with dignity
* the supervision and care of prisoners experiencing significant mental health conditions
* the treatment of other marginalised women, particularly those who have experienced family violence and other abuse. As noted by the Royal Commission into Family Violence, this can be a contributing factor to women committing offences and women in this cohort need particular support to reflect the complexity of their experiences. [[2]](#footnote-3)

Ensuring the human rights of prisoners at facilities like the Dame Phyllis Frost Centre are respected and upheld – and avoiding the infliction of further trauma – benefits both the prisoner and the entire community. Torture or other inhuman or degrading treatment or punishment is likely to damage an individual’s prospects of rehabilitation, and correspondingly increase the risk of recidivism.

Should you desire further input from us to inform or support your inspection of the Dame Phyllis Frost Centre, please contact either Catherine Tobin or Katya Zissermann on 9280 3749.

Yours faithfully

Bevan Warner

Managing Director

1. PricewaterhouseCoopers, *Indigenous incarceration: Unlock the facts* (May 2017) <https://www.pwc.com.au/indigenous-consulting/assets/indigenous-incarceration-may17.pdf> 23. [↑](#footnote-ref-2)
2. Royal Commission into Family Violence, *Volume V Report and Recommendations* (March 2016), page 237 <http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Vol-V.pdf>. [↑](#footnote-ref-3)