

PRISONERS AND VOTING

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Purpose of this report

The vision of the Victorian Electoral Commission (VEC) is “All Victorians actively participating in our democracy”. To achieve this vision, the VEC follows a long-term policy of encouraging and facilitating participation by groups that face obstacles to full participation – including homeless people, people with disabilities, young people, Aboriginal Victorians and CALD (Culturally and Linguistically Diverse) communities.

Prisoners, more than any other group, are marginalised from mainstream society. Both in prison and on release they are preoccupied with many problems. Voting is unlikely to be a high priority for many of them. Nevertheless, prisoners who are serving terms of less than five years are entitled to enrol and vote, and all prisoners who have completed their sentences are obliged to enrol and vote.

Parliament’s Electoral Matters Committee has recommended that the Government fund the VEC to provide information to persons experiencing incarceration, corrections service providers, and the Department of Justice to enhance the prisoner franchise in Victoria.¹

The VEC has talked to prisoners, Corrections staff and support organisations, with the aim of discovering the most effective way of achieving participation by prisoners.

Legislation

The franchise for prisoners has varied considerably over the past 30 years. Under the Hamer Liberal Government in the late 1970s and early 1980s, all prisoners had the right to vote in Victorian State elections. In 1985 the State legislation was changed to come into line with the Commonwealth, disenfranchising prisoners under sentence for an offence punishable by a term of five years or more. In 2002 there was another amendment, with the five year threshold remaining but applying to the sentences actually being served rather than to the punishment in law for the offence. This amendment brought the State legislation again into line with the Commonwealth, and was more practical to administer, since prison authorities knew the sentence that prisoners were serving but did not necessarily know the legal penalty for the prisoners’ offences.

Commonwealth legislation has also changed several times. In 1995 the *Commonwealth Electoral Act 1918* was amended to change the five-year threshold from the potential sentence to the actual sentence being served. (This was the legislation that Victoria followed in 2002.) In 2004, the threshold was reduced to three years, and in 2006 legislation provided that no prisoners could vote, no matter how short their

¹ Electoral Matters Committee: *Inquiry into voter participation and informal voting in Victoria: Report to Parliament*, July 2009, Recommendation 7.13, p. 164.

sentences (though all prisoners could enrol). However, in 2007, in the Roach case, the High Court decided that a blanket ban on prisoners voting was unconstitutional, and reinstated the three-year threshold.

Currently, under Victorian State law, prisoners serving a sentence of less than five years are entitled to enrol and vote. Under Commonwealth law, the cut-off point is three years. This creates a category of prisoners – those serving between three and five years - who can vote in State but not in Federal elections. This discrepancy has the potential to create confusion. Further complicating the picture is the fact that the Commonwealth Act provides that a person is considered to be serving a sentence of imprisonment only if the person is in detention on a full-time basis, while under State law (section 76 of the *Corrections Act*) a prisoner on parole is deemed still to be under sentence. This means that offenders on parole serving sentences of five years or more are entitled to enrol and vote for Commonwealth purposes but not for State.

Notwithstanding minor differences in wording between the State and Commonwealth Acts, the address that eligible prisoners are enrolled for is their address before they entered prison, not their prison address. This prevents the potential for a “prison vote” in any electorate.

The current situation

The table below shows enrolment statistics for prisoners in Victoria as at 3 June 2010.

Prisoner Term	Enrolled	Total	Percentage Enrolled
Less than 3 years	396	1,521	26.0%
3-5 years	186	683	27.2%
Total less than 5 years	582	2,204	26.4%
More than 5 years	99	1,488	
Total	681	3,692	

Note: The 99 enrolled prisoners serving terms of more than five years are those whose details have been supplied by Corrections but who have not yet been removed from the roll.

Several conclusions can be drawn from these figures. Firstly, the numbers involved are not great: the pool of prisoners currently not enrolled and serving less than five years is only some 1,600. Secondly, the proportion of eligible prisoners who are enrolled is small but not insignificant at a little over a quarter of the total. Not all prisoners reject involvement in the electoral system. Thirdly, the difference between the State and Commonwealth franchise has had no apparent effect, with the proportion of prisoners enrolled for State purposes only being practically identical to the proportion enrolled for both State and

Federal elections. These figures suggest that prisoners who are enrolled on conviction retain their enrolment, probably without being aware of the difference between State and Federal law.

There are two ways in which enrolled prisoners can vote: by post, and when mobile teams of election officials visit a prison. Prisoners are entitled to become general postal voters, which means that they are automatically sent postal voting material at State and Federal elections without having to apply for a postal vote. However, in practice very few prisoners (ten as at June 2010) are general postal voters. Prisoners can apply for a postal vote at election times, and both the VEC and the Australian Electoral Commission (AEC) supply application forms to prisons. The take-up of these forms is unknown, as the VEC and AEC do not distinguish between prisoners and other electors voting by post.

The VEC and AEC can provide mobile polling facilities at prisons in the weeks before election day, subject to security requirements and arrangements with prison administrations. At the 2007 Federal election, the AEC had one mobile team in Victoria, and took a total of 38 votes. The numbers of votes at prisons varied greatly from State to State, from nil in New South Wales and Queensland to 444 in Western Australia. At the 2006 State election, VEC teams visited the Metropolitan Remand Centre and the Melbourne Assessment Prison after the administrations of these prisons requested this service.

Research visits to prisons

Between November 2009 and March 2010, the VEC visited four prisons, covering a wide range of prisoners. Corrections Victoria arranged access, and prison staff were informative and positive. The VEC spoke to groups of prisoner representatives at each prison. See the Attachment for more details about the individual visits.

The following themes were evident in the discussions at the prisons:

Attitudes

At the men's prisons, the prevalent initial attitude was that voting was a waste of time. Many prisoners believed that they did not have a right to vote. A common view was: "Why should I vote for politicians who don't care about me?" When the VEC suggested that by voting, prisoners would have the same power as any other people, the prisoners became more positive about voting.

At the women's prison, the prisoners seemed keenly aware of their rights, and supported encouraging prisoners to enrol and vote. Some thought that an electoral education session for prisoners would be valuable.

Identification

Some prisoners do not have proofs of ID, which can take some time to arrange. A few are apparently serving their terms under aliases.

Literacy

Many prisoners have low levels of literacy, and need information in Easy English and through personal contact. Some 15-25% of prisoners are of CALD background, and some of these are illiterate in their own language.

Election services

Partly because of literacy problems, there was strong support for face-to-face delivery of services. Prisoners and staff thought that the best way to encourage enrolment would be for VEC teams to help prisoners complete enrolment forms in the lead-up to an election. Similarly, for voting, mobile teams visiting prisons were preferred to postal voting.

Communications and information

Timeliness of communications is important. The VEC should alert prisons well in advance of team visits by using internal communications, such as the internal Barwon Prison TV channel.

Prisoners often asked how they could learn about the political parties and candidates. Prisoners do not have access to the internet. Parties and candidates are entitled to send campaign materials to prisons, but in practice few if any do.

Prison service organisations

A range of organisations assist with the rehabilitation of prisoners and ex-prisoners, from before release to some time afterwards. In July 2008, one of these organisations, VACRO (Victorian Association for the Care and Resettlement of Offenders), lodged a joint submission to the Electoral Matters Committee's inquiry into voter participation and informal voting. VACRO contended that recognition of a prisoner's right to vote promotes social inclusion, and proposed that the VEC should undertake a series of activities to inform prisoners and facilitate voting by prisoners.

The VEC and VACRO established contact in December 2009, and on 18 March 2010, the VEC spoke to a VACRO staff meeting. Issues raised by staff members included:

- Where are prisoners enrolled for?
- How do prisoners find out about parties, and about candidates for their own electorates?
- What about homeless prisoners?
- What is the position of prisoners in home detention? What about those on parole?

The VEC requested that VACRO case managers inform their clients about electoral matters at appropriate times. The VEC has maintained links with VACRO, and has contacted other service organisations.

Issues

Any VEC program to encourage participation by prisoners in Victoria's electoral system needs to focus on three areas:

- Motivation, so that prisoners will want to enrol and vote;
- Information, so that prisoners know what to do at the appropriate time; and
- Election services, provided in the most effective way.

Prisoners are by definition isolated from mainstream society. Many face enormous personal problems, and are unable and/or unwilling to participate in conventional social activities. Many have low levels of literacy, either in English or (if they are from a CALD background) in their own language.

While prisoners may see voting as unimportant and irrelevant to their own lives, the VEC considers that participation offers two benefits to prisoners and ex-prisoners: firstly, it is a small way of normalising their lives and thus contributes to rehabilitation, and secondly, it is a way of empowering prisoners again after a period of complete disempowerment. It is noteworthy that, during prison visits, as soon as the VEC portrayed voting as giving prisoners the same power to influence politicians as anyone else, the prisoners became much more positive.

The VEC runs a program to encourage participation by homeless people, whose circumstances have much in common with those of prisoners. One of the VEC's main approaches is to work with homelessness organisations, briefing case workers and other staff, so that they include information about voting as part of their services to their clients. The VEC also attends homelessness centres for enrolment and voting sessions. The VEC has found that this approach is productive because clients are more likely to trust their case workers than outsiders. The VEC would try to work in much the same way with prisoner service organisations, with the aims of both improving prisoners' and ex-prisoners' attitudes to voting and of providing them with information at the time that they need it.

Eligible prisoners, like all other Australians, are obliged to enrol, and once enrolled they are obliged to vote in State and Federal elections. However, given their circumstances, it would make little sense to fine them for not voting. Many prisoners have limited access to money to pay fines. Moreover, fining prisoners would be counterproductive, as it would be perceived as an additional punishment and would confirm their alienation from society. It would make more sense to encourage prisoners to enrol and vote, and regard incarceration as a valid excuse for not voting.

There are four points at which the VEC could provide information or election services to a prisoner:

- at the beginning of a prisoner's term;
- shortly before an election, taking enrolments;
- during an election, taking votes; and
- in the lead-up to release and afterwards.

Beginning of term

It would be possible to include information about enrolment and voting in the induction kit that prison administrations provide to new inmates. The Metropolitan Remand Centre's Prisoner and Visitor Information Booklet encourages prisoners to vote. However, feedback from prison visits suggests that new prisoners are so overwhelmed by their experience that they would be unlikely to notice information about voting. The VEC could contact prison administrations and provide text to be included with information material, but the most that this would probably achieve is a general awareness on the part of some prisoners.

Enrolment

The logical time to encourage enrolment would be shortly before an election. In view of the literacy problems of many prisoners, the most effective approach would be for a VEC team to visit prisons and assist prisoners to complete enrolment forms, as the VEC currently does at homelessness centres. A program of prisoner enrolment sessions would be subject to the VEC's resources and to the consent and co-operation of prison administrations. The VEC would need to contact prisons well in advance and encourage the prisons to use their internal communications (such as the internal TV channel at Barwon Prison) to alert inmates to the forthcoming session and obtain proofs of identity. On the day of the VEC visit, the prison administration would need to schedule prisoners' attendance with the VEC team.

Voting

Postal vote application forms are available at prisons at election time. However, as with enrolment, prisoners' literacy issues militate against use of this method of voting. The VEC's research visits to prisons indicate that sending mobile voting teams to the prisons offers the best prospect of getting enrolled prisoners to vote. Of course, security considerations would be paramount. The VEC would depend on the prisons to publicise mobile voting and organise the prisoners at the time of the visit.

There are fourteen prisons in Victoria. The following table shows their size and where they are located:

Prison	Capacity	Location	District
Ararat Prison	382	Ararat	Ripon
Barwon Prison	367	Lara	Lara
Beechworth Correctional Centre	120	Beechworth	Benambra
Dame Phyllis Frost Centre	260	Ravenhall	Kororoit
Dhurringile Prison	160	Murchison	Shepparton
Fulham Correctional Centre	845	Fulham	Gippsland South
Judy Lazarus Transition Centre	25	West Melbourne	Melbourne
Langi Kal Kal Prison	122	Beaufort	Ripon
Loddon Prison	390	Castlemaine	Bendigo West
Marngoneet Correctional Centre	306	Lara	Lara
Melbourne Assessment Prison	286	Melbourne	Melbourne
Metropolitan Remand Centre	663	Ravenhall	Kororoit
Port Phillip Prison	745	Laverton	Altona
Tarrengower Prison	54	Maldon	Bendigo West
Total	4,725		

During the VEC's prison visits, several prisoners asked how they could learn who to vote for. Political parties and candidates are free to send material to prisons, but few if any do so. Prisoners do not have access to the internet. The VEC cannot offer any comments on parties. In these circumstances, all that prisoners can do is follow the media. The ballot papers show candidates' parties (if applicable), and mobile teams can show how-to-vote cards to voters if parties and candidates have supplied them to the VEC.

Release

A critical time to provide information to prisoners is in the lead-up to their release. Several people during the VEC's research visits suggested that information about enrolling and voting should be included in the exit package that prisoners receive. Prisoners would be more likely to respond to such information at this time than at incarceration. The VEC could easily provide such information, in a plain English style.

The period before release and for about twelve months afterwards is when prison service organisations become involved with prisoners, acting to promote their rehabilitation. The VEC could hold information sessions for organisation staff and provide materials, so that case workers could inform their clients and encourage them to participate. The organisations could also inform the families of offenders, who would then be able to pass on that information.

Recommendations

That the VEC:

- maintain contact with Corrections Victoria to enable the delivery of information and election services to prisoners;
- establish links with prison service organisations and work through them to provide information to prisoners and ex-prisoners, in much the same way as the VEC works through homelessness agencies for homeless Victorians;
- provide information in Easy English to be included in induction kits for new prisoners and exit kits for prisoners about to be released;
- subject to resources, send enrolment teams to prisons in advance of major elections;
- subject to resources and security requirements, send mobile voting teams to prisons during State elections;
- arrange a pilot education session at the Dame Phyllis Frost Centre; and
- encourage political parties to provide material to prisons during election campaigns.

June 2010

ATTACHMENT: DETAILS OF PRISON VISITS

Barwon Prison, Lara, 9 November 2009

The prison

Barwon has a range of inmates, from very serious offenders (in an ultra high security unit within the walls) to some short-term prisoners. Three quarters of the prisoners are serving 12-18 months.

Attitude

Voting is not a high priority for prisoners. Most believe that they don't have the right to vote.

Identification

Many prisoners want to stay under the radar – some don't have ID (it can take up to three months to organise proof of ID), and a few are serving under aliases.

Literacy

Most prisoners need material in easy English. Some 15-25% are of CALD background – some are illiterate in their own language.

Election services

Postal votes are a possibility, though low literacy levels are a problem. Face-to-face communications are best – a VEC team could help prisoners to complete enrolment forms, and also ballot papers. The VEC would have to deal with prisoners in separated groups.

Dhurringile Prison, Murchison, 19 November 2009

The prison

Dhurringile is a low-security prison farm, for prisoners being prepared for release. Their average stay is five months, and they are a mixture of minor offenders and long-term prisoners approaching the end of their term.

Attitude

The VEC talked with about 20 longer term prisoners. Most drifted away fairly soon, but six stayed on.

Prisoners' understanding about voting varied. Most were unsure if they could vote. A common opinion was that voting is a waste of time, and that they had never enrolled or voted.

A more articulate prisoner stated: "Why should I vote for the system that incarcerated me?"

Another prisoner argued: "If I was automatically taken off the roll when I was convicted, I should be automatically put back on the roll when I'm released".

Identification

According to the staff, proof of ID is a big problem. Some prisoners use aliases, while many have lost proofs of ID.

Literacy

There are huge literacy problems in prisons (except for white collar prisoners, who are more likely to be enrolled and vote). All prisoners have a case manager, who might be able to help. Vietnamese, Turkish and Sudanese prisoners need colleagues for translation.

Election services

The staff stated that all prisoners pass through reception prisons – the Metropolitan Remand Centre, the Melbourne Assessment Prison (Spencer St), and the Dame Phyllis Frost Centre (Women's). All prisoners receive an information pack (which could include electoral information), but are shocked and do not absorb much.

It would be useful to get information at discharge, included in an information pack.

Prisoners more likely to engage with electoral process at low-security prisons as they are more settled, and are transitioning back into society.

There was discussion on whether General Postal Voter status would be useful for prisoners. Prisoners often move around the system. The ballot pack would still reach them, in about a week, but this might be too late.

If an enrolment team visited Dhurringile, it should be as close to the election as possible. The staff were uncertain about mobile voting. They thought it was critical to focus on good communication strategy.

The prisoners thought that a brochure would be useful for those who want to vote.

The prisoners supported increasing prisoner awareness through:

- information at the Melbourne Assessment Prison;
- mobile teams to help with completion of enrolment forms;
- mobile team to help with voting; and
- information on release.

Metropolitan Remand Centre, Ravenhall, 26 November 2009

The prison

The Metropolitan Remand Centre is a large, high-security facility. Inmates have not been convicted, so all retain their voting rights.

Attitude

At first most prisoners felt that voting was a waste of time. A common view was: “Why should I vote for politicians who don’t care about me?”

The VEC’s reply was along the following lines: “Politicians care about votes. If you don’t vote, they might not care about you. If you do vote, you have the same power as any other voter.” Prisoners then became more receptive to the possibility of voting.

Election services

A prisoner information booklet encourages prisoners to vote. Mobile voting teams have operated at previous State and Federal elections.

Information needs to be in easy English. It would be desirable to have a team to help with enrolments. Inmates’ average length of stay is about six months, so it would be desirable to have an enrolment session not long before the election.

On voting, a staff member suggested voting by post, but the prisoners supported mobile team to take votes. One problem is that on every working day, about 50 prisoners leave for court. Some don’t come back – either they are found not guilty, or they have already served their sentence in the Remand Centre. A mobile team visit would need to be timed to allow for this.

Dame Phyllis Frost Centre, Ravenhall, 26 March 2010

The prison

The Dame Phyllis Frost Centre is the larger women’s prison, with some 300 inmates.

Attitude

Vickie Roach, who challenged the Commonwealth legislation disenfranchising all prisoners in the High Court, was a prisoner in the Dame Phyllis Frost Centre. Possibly as a result of her example, prisoners at the Centre seemed to be keenly aware of their rights. They were positive about encouraging prisoners to enrol and vote.

Election services

The prisoners had had no problems with postal voting, but preferred mobile teams to visit, both for enrolment and for voting. The prisoners favoured including information in an orientation book for new inmates, and suggested electoral education sessions.