

Courting Justice

Four years of breaking
the links between
homelessness and the
criminal justice system



fairer and better lives



January 2020

About the project

What is the Courting Justice Project?

Justice Connect's Courting Justice Project (Courting Justice) is part of the holistic, integrated model of legal services provided by our Homeless Law program. Courting Justice seeks to improve the ability of complex clients to access the criminal justice system and to deal with the range of legal issues that accompany the experience of homelessness.

Since 2015, Courting Justice has helped 312 Victorians who have complex, intersecting and multiple legal and non-legal needs. Of these clients, 75% have also received our tailored civil legal help, removing barriers to exiting homelessness. We have observed that their experiences of homelessness make it more likely they will come into contact with the justice system, while simultaneously making it more difficult for them to navigate it. As a result, our model is designed and implemented with the needs of this priority cohort at the centre to ensure that clients receive intensive legal and non-legal supports.

Reaching more rough sleepers

In the last year, over half of Courting Justice clients were sleeping rough at the time they were charged with offences. This is an increase of 31% from the preceding year. Of the clients assisted with ongoing criminal legal casework, 91% had a mental health issues and 71% had substance dependence issues, reflecting the increasing complexity of Courting Justice's clients.

For clients with a high level of vulnerability, particularly rough sleepers, there are multiple barriers to engaging and accessing the criminal justice system. That's why integrated support services are vital. Justice Connect's multi-disciplinary practice includes our specialised Homeless Persons' Liaison Officer (HPLO), a social worker role that aims to improve access to the courts and achieve better outcomes for people experiencing homelessness. The HPLO plays a vital role in preparing clients for court by addressing non-legal issues early, facilitating clients attending court, and assisting clients to comply with court orders to prevent them returning to the justice system.

In the last year, all of the Courting Justice clients who were engaged with the HPLO successfully attended court and did not have warrants issued as a result of our assistance.

For rough sleepers who were not already receiving social work support, more than three quarters were able to be successfully linked with our HPLO for ongoing help. Access to this integrated support was crucial to ensuring clients were able to navigate and successfully exit the justice system as early as possible.



COURTING JUSTICE

12 months of increased impact through
integrated criminal legal help`

September 2018 - August 2019

We helped **75**
people who are
homeless or at risk
of homelessness
with criminal
legal casework or
representation

53%
sleeping rough

91%
mental health
issues

71%
substance
dependence issues


94%
not eligible
for Legal Aid
funding


100%
of combined-legal
and social work
clients attended
their hearings


50%
received Justice
Connect social
work help

DIVERTING VICTORIANS OUT OF THE CRIMINAL JUSTICE SYSTEM

Given the growing number of Victorians entering the criminal justice system, diversion out the system as early as possible is critical. One of the key diversionary options available for people facing criminal offences is the Criminal Justice Diversion (Diversion) program.

This program empowers a court to deal with a criminal charge by 'diverting' the matter from the criminal justice system, and crucially, avoiding a finding of guilt. However, as it currently stands, police have complete discretion to consent to Diversion and there is no opportunity for the court or defence to intervene.

Although 19 of Courting Justice's clients in the first four years accessed Diversion, only six of these applications were prompted by police. Without the representation provided through the project, it is likely the other 13 clients would have ended up with criminal records and the long-term impacts for their futures, particularly employment, that these records carry with them.

Mary's story

Single-mother who has experienced family violence helped to stay safely housed and access diversion

Mary* is a single-mother of three young children, and a family violence victim-survivor. She and her children were living in a two bedroom private rental. Having not received child support payments, she began struggling financially and fell into rental arrears. After accessing help from Justice Connect's tenancy lawyers, Mary was able to avoid eviction.

While under financial pressure, Mary was charged with the theft of some children's clothing items. Mary originally attended court unrepresented and was able to secure a diversion based on a police recommendation. Unfortunately, Mary was unable to comply with the diversion plan, because she could not afford the donation that the plan required.

Mary's theft charge returned to court, where she received help from Justice Connect's criminal lawyer. Mary had assumed she wouldn't be able to have another chance at her diversion. Using materials provided by Mary's support workers, including details of Mary's personal and financial circumstances, our criminal lawyer was able to advocate for Mary to get another diversion. She felt empowered by this outcome and complied with her diversion plan, which has given Mary and her young kids a chance to focus on the future.

**All client names have been changed in this report*



Lilly's story

Homeless family violence victim-survivor helped to resolve criminal charges, secure safe housing & reconnect with her kids

Lilly* experienced extensive family violence committed by multiple perpetrators, which resulted in serious health concerns, pushed her into homelessness and caused her to lose care of her two young children. When she first met with Justice Connect, Lilly was facing charges at the Magistrates' Court related to her drug dependency, which she had developed when seeking to feel safe and to reduce the pain of her isolation and trauma. Lilly also faced a charge for possessing a weapon that she carried due to fear of her violent ex-partner.

Lilly's anxiety about going to court unsupported meant that she had failed to attend Court and a Magistrate had issued warrants on four separate occasions. Often in circumstances like these, the system's response is to remand people in custody until their matter can be heard.

Thankfully, Lilly received specialised advice and ongoing representation through Justice Connect's criminal lawyer and targeted non-legal supportS from our Homeless Persons' Liaison Officer (HPLO). This included the HPLO helping Lilly to access court, facilitating transport and short-term housing, and offering direct assistance to feel more comfortable at her hearings, along with a supporting letter to the Magistrate. Due to intensive legal & social work advocacy, Lilly secured a 12 month undertaking without conviction, which was an immense relief to her.

Although Lilly had previously struggled to engage with community workers, the HPLO built genuine trust with her over six months, providing vital brokerage for essential needs, securing her a new driver's licence and recommending her Centrelink payments, actively referring her to alcohol and drug counselling and family violence case management, and helping her to make a priority public housing application. These holistic outcomes have given Lilly crucial safety and stability, empowering her to reconnect with her children and to prioritise her continued health recovery.





"Having court matters was very scary. I might not have even turned up but knowing the lawyer would be there to talk to court staff and the prosecutors for me meant that it was less stressful. They also helped get letters from doctors which I didn't even know I should do. It meant that I was able to get a good final outcome."

Former client Jennifer*

"One of my pro bono clients has a long history of homelessness and challenging circumstances. When her legal issues crossed into the criminal sphere, it was incredibly valuable to be able to refer her to the Courting Justice criminal lawyer.

The continuity of legal support for the client across her legal issues has greatly enhanced the trust the client has in her lawyers and her preparedness to engage in the legal process. It has also allowed me to more effectively represent her through a deeper understanding of her complex needs and access to the extensive experience of the criminal lawyer."

Pro bono lawyer with Justice Connect

"Many of the clients we work with have a long history of incarceration and negative experiences with court which has fostered considerable mistrust of the criminal justice system. The Courting Justice program is understanding of the complexities of clients' lived experiences of homelessness, which has substantially improved trust amongst our client group and generally resulted in more positive outcomes."

Journey to Social Inclusion (Sacred Heart Mission) caseworker



ASKING FOR CHANGE: TIME TO DECRIMINALISE BEGGING

We know that when certain outdated poverty offences such as begging are still on the books, there will always be pressure to use them on vulnerable people. The Victorian Government's commitment to decriminalise public drunkenness and replace it with a public health response presents an important opportunity to decriminalise other poverty offences, such as begging.

This would pave the way for a service-based response and ensure people are not needlessly entrenched in the justice system, and we will continue to prioritise this reform over the coming year through our leadership of the collective *Asking for Change* campaign:

<https://justiceconnect.org.au/campaigns/asking-for-change/>

Chris' story

Woman experiencing homelessness charged with begging after fleeing violent relationship

Chris* was in a violent relationship. After suffering an assault, she fled her home with only the clothes on her back and some essentials. Chris made her way into the Melbourne CBD, believing that was the safest place to be and the most likely place she would be able to secure a night's accommodation at short notice.

Chris made a sign that read "Homeless due to domestic abuse. I'm Chris. I'm 40 & am asking for your help to get a safe warm bed. Any donations of food, coffee or spare change are much appreciated. Thank you." Police approached Chris who was sitting on the footpath with the sign beside her, and asked what she was doing. The police statement confirmed that Chris said that she was "trying to get enough money so that I can get a room, go to somewhere safe, instead of going into a laneway getting raped and bashed".

Chris was then charged with begging. Unfortunately, Chris was unable to get any accommodation and was forced to return to her former home with her partner. After suffering further violence a couple of months later, a full intervention order was made to protect Chris. With appropriate supports, Chris was then able to enter transitional housing.

Justice Connect's criminal lawyer provided specialised legal advice about Chris' rights, including the option of representation to contest the charge. At court, police prosecutors chose not to exercise prosecutorial discretion and withdraw the charge on the basis that Chris did not call police on the night she fled and did not report the incident. Chris ended up pleading guilty because she just wanted the matter dealt with, so she could safely move on with her life.



IMPACT OF BAIL REFORMS ON VULNERABLE VICTORIANS

Victoria's current bail laws are having unintended and disproportionate impacts on people at risk or experiencing homelessness, and our remand population continues to grow.

In our experience, we see that police are more likely to place a person experiencing homelessness on bail, even for minor offences. Being on bail automatically escalates the likelihood that someone will be remanded, even for very minor offences such as drug possession or shop-theft.

With legal representation through Courting Justice, we advocate strongly to ensure that our clients are not remanded or remanded for short periods. But many isolated and transient Victorians, especially women, are being caught up in these laws and are ending up on remand when they should be in the community.

Hope's story

Former rough sleeping woman with complex mental health issues remanded for minor criminal charges

Hope* is a 34 year old mother of two primary school aged children. After the onset of schizophrenia in 2014, Hope lost custody of her children.

Hope then spent the next four years sleeping rough and ended up with a criminal record, primarily related to shop-theft charges and public space offences. Shortly before obtaining her transitional housing, Hope was placed on bail for a charge of stealing a CD from a music store. Given her diagnosis, she was able to access the Assessment and Referral Court (ARC), which provides specialised supports and therapeutic outcomes for people with acute mental health issues or cognitive deficits.

Shortly after being referred to the ARC program, Hope was charged with further shop-thefts of items of low financial value and was put in a position where she had to 'show compelling reasons' why her continued detention in custody was not justified. Hope spent over three weeks in custody before Justice Connect's criminal lawyer was able to secure her bail.

Six months later, shortly after being allocated a support worker in the ARC program, Hope was charged with more shop-thefts of clothing items and possession of a small amount of marijuana. Having been charged with committing an offence against the *Bail Act 1977 (Vic)*, while being on bail for an offence against this law, Hope was in a position where she had to show 'exceptional circumstances' to get bail. This is the same threshold as someone who is charged with offences such as murder, commercial drug trafficking or certain terrorism offences.

Through our legal advocacy, the Magistrate recognised that there was no chance that Hope would or should receive a jail sentence and granted her bail. Hope was on bail for over 18 months, most of which was spent in the ARC program.

Due to the recent bail reforms, Hope and others in similar circumstances who are on bail face a significant risk of being remanded. The new bail laws need to be reformed as a priority, so that the most marginal Victorians are not incarcerated for minor offences when they should be out in the community.



FUTURE DIRECTIONS

As Courting Justice develops, the complexity of the clients we assist continues to increase, with more identifying as rough sleepers and experiencing mental health issues. A significant majority of Courting Justice clients are also linked with non-legal supports through either our HPLO social worker or our partnerships with intensive outreach housing support programs. For these highly transient clients, the availability of a specialised and integrated model is vital to ensure they can access court and divert out of the justice system as early as possible.

Building on the impact of this model, Courting Justice seeks to extend the reach and impact of our work with the hardest-to-engage clients, particularly rough sleepers, by scoping a best-practice outreach lawyer model. Through our partnerships with key agencies, including Launch Housing, cohealth and Sacred Heart Mission, and working closely with rough sleeper outreach teams, this proposed model would enable us to divert more people experiencing homelessness out of the justice system at the earliest point and address the underlying causes of their offending.

Using our casework and client insights, we will also continue to inform systemic changes to the criminal justice system, including further advocating with government, courts and police to ensure that people experiencing homelessness are not unnecessarily and unfairly burdened by the law.



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