



FEMALE EX-OFFENDERS, DISCRIMINATION AND WORK

The Role of the Success Works Initiative

A RESEARCH REPORT FOR SUCCESS WORKS **SYDNEY 2020**
DR DIANE VAN DEN BROEK, DR PRUDENCE BLACK AND ELENI PSILLAKIS



CONTENTS

INTRODUCTION: Why this Issue is Important – Female Ex-Offenders, Discrimination and Work	3
Context and Literature	3
WHAT IS SUCCESS WORKS ABOUT: Clients, Employers and the State	4
Success Works: Staff and Volunteer Feedback	6
Success Works: Client Feedback	8
DISCUSSION AND CONCLUSIONS	10
REFERENCES	11

ACKNOWLEDGEMENTS

Authors: Dr Diane van den Broek, Dr Prudence Black and Eleni Psillakis (Success Works Program Manager – Dress for Success Sydney).

If you are interested in becoming involved in the *Success Works* initiative please go to <https://sydney.dressforsuccess.org>.

The research team for this project (Diane van den Broek, Associate Professor, Business School, University of Sydney and Prudence Black, Research Fellow, Gender and Cultural Studies, University of Sydney) can be contacted on diane.vandenbroek@sydney.edu.au and prudence.black@sydney.edu.au.

Finally, we would like to acknowledge the immense support and time provided by *Dress for Success* and *Success Works* and the extraordinary generosity provided by clients of the service.

INTRODUCTION

THIS REPORT PROVIDES A BRIEF COMMENTARY ON FEMALE EX-OFFENDERS AND THE ISSUES THEY FACE REGARDING EMPLOYABILITY AND DISCRIMINATION IN AUSTRALIA AND OVERSEAS.

It presents research on the unique initiative *Success Works*, a program aimed at securing labour market opportunities for women affected by the criminal justice system, either who are currently in prison or already in the community. The *Success Works* program (SWP) is an innovative pilot initiative of *Dress for Success Sydney* (DfSS).

The SWP, funded by the Ian Potter and Vincent Fairfax Foundations for a duration of three years (2019–2021), has provided essential support services that are tailored to the unique needs of female offenders. Research has indicated that having a criminal conviction negatively influences employment opportunities (NSW Government 2020). This is particularly the case for women who are doubly disadvantaged by their experiences of the criminal justice system and who have limited access to the labour market.

Employment opportunities are important for all offenders, not only for the obvious economic benefits, but because research shows that employment protects against recidivism and encourages reintegration into society (Baldry & Maplestone, 2003; Giles, 2016). Within New South Wales, recidivism rates remain high with just over 40 percent of sentenced prisoners released from custody reoffending within 12 months of release (Bureau of Crime Statistics and Research NSW, 2018).

In recognition of how dire this situation is, the NSW Premier Gladys Berejiklian has made it a state priority that adult reoffending rates be reduced by 5 percent by 2023 (NSW Government, 2019). While recidivism rates are no worse for women than men, women's minority status within the offending population (approx 8%) has meant that they have not always been the focus of studies by correctional authorities, policy makers and researchers.

To reduce recidivism, we need to know more about factors that promote desistance, including the key factor of employment and more about the effect of criminal record on labour market opportunities (Butcher et al, 2017) and reintegration (Sampson & Laub, 2003; Cobbina, 2010).

The SWP initiative was specifically designed to support women affected by the criminal justice system in their journey to employment by offering career support workshops, including life coaching and shaping resumes.

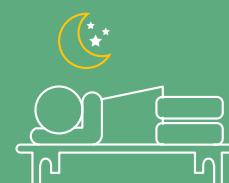
This report captures the experiences of clients, staff and volunteers who are engaged in the SWP initiative.

SINCE 2011 THERE HAS BEEN A **50% INCREASE** IN THE NUMBER OF WOMEN IN PRISON IN NSW



58% OF WOMEN ARE IN PRISON FOR UNDER SIX MONTHS

20% OF WOMEN WHO HAVE BEEN INCARCERATED WERE IN JUVENILE DETENTION AS CHILDREN



32% OF WOMEN WERE HOMELESS IN THE SIX MONTHS PRIOR TO ENTERING PRISON AND OVER ONE THIRD ARE RELEASED TO HOMELESSNESS

SINCE 2011 THE NUMBER OF ABORIGINAL AND TORRES STRAIT ISLANDER WOMEN IN PRISON INCREASED BY **74%**

WE HAVE TO CHANGE THE WAY WE DO THINGS IN ORDER TO CHANGE THESE STATISTICS

SUCCESS WORKS: CLIENTS, EMPLOYERS AND THE STATE

THE STIGMA OF HAVING A CRIMINAL CONVICTION CAN EASILY DOMINATE A PERSON'S IDENTITY AND LEAD TO LOW SELF-ESTEEM, DEPRESSION AND ISOLATION (BRAITHWAITE, 1996, 21).

While many women state that they feel shame and stigma when applying for employment after release they also say that they want to re-establish a new life free of crime, and this includes disclosing their past criminal record (LeBel & Maruna, 2012; Liem & Richardson, 2014).

Having a criminal record is usually the result of a complicated series of unfortunate events which may have occurred recently, or many years in the past. These stories are rarely told, because most women feel that articulating these narratives may further disadvantage them during the recruitment process. The paradox here is that while many women fear the reality of rejection during recruitment, they also believe that it is important to be honest about their past with potential employers (Herrschaft et al 2009; Cherney & Fitzgerald, 2016). Women often feel that disclosing their past is part of an identity affirming or transformational process.

While female ex-offenders would typically like to disclose their criminal history as a therapeutic story-sharing process which might help them move on, it is unclear how employers and recruiters may interpret and manage that information. In some cases, criminal records may be directly relevant to the job, or undermine the capacity to carry out the job. In these cases, rejection may be valid.

But there are many occasions where this is not the case. The SWP helps address the complex area about what employers do with criminal record information and if discrimination takes place as a result of that information (Heydon & Naylor, 2018; Heydon et al, 2011). There is evidence in Australia, as in other countries, that the number of criminal history checks undertaken has grown exponentially from 320,000 in 2001 to 2.6 million in 2007–08 and more than 5.6 million in 2018–19 (CrimTrac, 2016, 32, ACIC, 2019, 50; Pijoan, 2014). Preemptively screening out ex-offenders potentially denies them employment and the employer's ability to understand the effect of a criminal record. It also undermines employer's potential role in supporting the reintegration of former offenders into work and society (Naylor, 2012; Giguere & Dundes, 2002, 397).

Employers have a legitimate interest in ensuring they choose the best person for a job and someone who does not pose a threat to others or their organisation, while efficiently making use of what information is legally available to them. Laws such as Working with Children Checks, are primarily designed to protect, particularly vulnerable groups like children, from ex-offenders by mandating their exclusion from a range of occupations.

However, laws that impose civil and criminal obligations on employers to protect their workers and customers from harm, without giving sufficient attention to balancing human rights, encourage employers to treat ex-offenders as risks or threats rather than as the holders of human rights. Ex-offenders are often denied equal opportunity in employment even though anti-discrimination laws require that job applicants be treated rationally and fairly. Prohibiting discrimination in recruitment on the ground of 'irrelevant criminal record' has been relatively ineffective.

For this reason, countries such as the US and UK have introduced 'Ban the Box' initiatives. In some US states applicants are not required to identify criminal history until a preliminary offer of employment is made to candidates (Flake, 2019). This allows applicants to be assessed on their qualifications first, without employer prejudice about their criminal record, and ensures that employers have access to all relevant information to make their assessment. These Fair Chance hiring laws (Local Law No.63 (2015) NYC) highlight the importance of offender narratives in desistance and in managing ex-offender employment discrimination.

The SWP tackles these issues as they seek to equalise the playing field for female ex-offenders seeking employment. Like the Fair Chance hiring laws, the SWP promotes educational and therapeutic conversations between ex-offender applicants and employers to ensure a better outcome for women as they seek the opportunity to make a new life and reintegrate into society.



Employers have a legitimate interest in ensuring they choose the best person for a job and someone who does not pose a threat to others or their organisation, while efficiently making use of what information is legally available to them.

SUCCESS WORKS: STAFF AND VOLUNTEERS

THE SUCCESS WORKS PROGRAM IS AN INNOVATIVE PROGRAM AIMED AT SECURING LABOUR MARKET OPPORTUNITIES FOR WOMEN, EITHER CURRENTLY IN PRISON OR ALREADY IN THE COMMUNITY, AFFECTED BY THE CRIMINAL JUSTICE SYSTEM.

The program is a three-year pilot project funded by the Vincent Fairfax and Ian Potter Foundations December 2019–December 2021.

The founder of *Dress for Success*, Sydney Megan Etheridge initially led the program establishing the parameters of the program and developing key stakeholder relationships. The program was staffed by a part-time Program Manager, Michelle Bonner and a part-time Peer Support Coordinator with lived experience, Eleni Psillakis. In 2020, Eleni became the full-time Program Manager. This role provides support and encouragement, partnering with clients to help achieve positive employment outcomes through referrals for counselling, housing, assistance with resumes and building confidence and skills.

The manager also undertakes the strategic planning and reporting for the program as well as establishing partnerships with potential employers and undertaking some case management.

The program also relies on a number of *Dress for Success* volunteers to assist with facilitating the career support workshops in the women's correctional centres or in the community. The volunteers can also be selected as a career coach for the women guiding them on their pathway to employment.

PARTNERING WITH CLIENTS TO HELP ACHIEVE POSITIVE EMPLOYMENT OUTCOMES THROUGH:



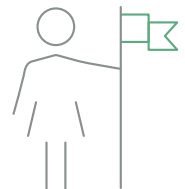
REFERRALS FOR
COUNSELLING



REFERRALS FOR
HOUSING ASSISTANCE



ASSISTANCE WITH
RESUMES



CAREER COACHING



Most of the clients require high levels of support and encouragement to reach the required levels of presentation and confidence to succeed at interview.

THE CLIENTS

WE HAVE INTERVIEWED MANY CLIENTS WHO CONSISTENTLY IDENTIFY THE UNIQUENESS OF THE SUCCESS WORKS INITIATIVE. THEIR FEELINGS OF ISOLATION AND HELPLESSNESS IS OFTEN PALPABLE AND THEY HOLD DEEP APPRECIATION THAT THERE IS AT LEAST ONE LIFELINE AVAILABLE TO THEM THROUGH THIS PROGRAM.

– Dr Prudence Black and Assoc Prof Diane Van den Broek

Below are some excerpts from interviews with women in the program that highlight the need for initiatives such as the SWP:

The lack of support for the women comes up continually in the interviews:

I mean, I was coming out of Dillwynia with nowhere to go, no money, no ideas of what really I was expected to do. My employability was pretty low and the help from the parole system was absolutely zero. (Interview Client 2019)

The discrimination many women face is also clear:

Well I had networks but I was still starting to get really, really downhearted and depressed because everywhere I looked it was a criminal record thing and even the fact of volunteer work... you know it was like...there was no way I was going to get back into retail. I can't even get car insurance because of my criminal record. (Interview Client 2019)

I did have a job interview for a company that I really liked, I got all the way through all of the interviews and then when they brought up the criminal record, they said it is best if we pull your application out now. (Interview Client 2019)

For women using the program who are over the age of 40, finding a job has the added challenge of age discrimination.

And that's the other sort of thing when you get to my age, even though it sounds like a big dream, you don't actually just want a fill in job, like normally you've done those before...

And that's what people don't understand, like you paid for your crime, you've normally lost everything else at the same time. So, you don't just want to be given a pittance. It's as though you deserve the same as everybody else, but you're expected to take a pittance and that's always been the way. (Interview Client 2019)

Allowing and supporting women's attempts to move on is essential to their well-being.

I think ... if employers were a little bit kind of open to understanding who a person was [as] opposed to what they've done. Like obviously a lot of the things I've done I've done out of rebelliousness of you know my upbringing and stuff and you know it doesn't define who I am as a person and the things that I've done. (Interview Client 2019)

I am doing everything I can to move on. These barriers keep popping up and won't allow me to move on. (Interview Client 2019)

What support is available for the women? The reality is that there are very few places women can go to get support. This is the vital gap that the SWP fills.

For me, the Success Works program was the first glimmer of hope where I felt I could talk to someone who understood how I was feeling and where I was at in my head. Because I didn't know how to ask people, what are the barriers? You get a cold sentence and some guidelines from your probation officer, but that's the justice system, they want to punish you as much as they can. (Interview Client 2020)

“ For me, the Success Works program was the first glimmer of hope where I felt I could talk to someone who understood how I was feeling. ”



SUMMARY

THE SUCCESS WORKS INITIATIVE PROVIDES VITAL SERVICES FOR WOMEN WHO ARE OFTEN LEFT TO FEND FOR THEMSELVES.

The Success Works initiative is an innovative program that is unique in its desire to secure better labour market opportunities for extremely vulnerable women in our community. It also aspires to reduce recidivism rates and deter offending and improve community safety.

Without this service, many women would go without the necessary support that is required to help them secure employment.

This support provides an important foundation to restoring levels of self-esteem that all individuals in our community deserve.

As the client quotes on page 8 suggest, the Success Works program has offered a necessary lifeline to many women who would otherwise be left alone to battle labour market discrimination and the internal barriers and self-doubt that stop them from moving on, and starting a new life free of disadvantage and stigma.



Without this service, many women would go without the necessary support that is required to help them secure employment.

REFERENCES

- Australian Criminal Intelligence Commission. (ACIC) (2019). Annual Report, 2018–19.
- Baldry, E & Maplestone, P. (2003). Barriers to social and economic inclusion for those leaving prison, *Human Rights Defender*, 12(1) (electronic).
- Braithwaite, J. (1996). Shame and modernity. In Parker, D, Dalziell, R and Wright, I (Eds.) *Shame and the Modern Self* (21–41). Melbourne: Australian Scholarly Publishing.
- Bureau of Crime Statistics and Research NSW (BOCSAR). (2018). Reoffending Statistics for NSW.
- Butcher, K, Park, K & Piehl, A. (2017). Comparing apples to oranges: Differences in women's and men's incarceration and sentencing outcomes. *Journal of Labour Economics*, 35 S1, S201–S234.
- Cherney, A, & Fitzgerald, R. (2016). Efforts by offenders to manage and overcome stigma: The case of employment. *Current Issues in Criminal Justice*, 28(1), 17–31.
- Cobbina, J. E. (2010). Reintegration success and failure: Factors impacting reintegration among incarcerated and formerly incarcerated women. *Journal of Offender Rehabilitation*, 49(3), 210–232.
- CrimTrac (2016). Annual Report, 2015–16.
- Flake, D. (2019). Do Ban-the-Box laws really work? *Iowa Law Review*, 104, 1079–1127.
- Giguere, R., & Dundes, L. (2002). Help wanted: A survey of employer concerns about hiring ex-convicts. *Criminal Justice Policy Review*, 13(4), 396–408.
- Giles, M. (2016). Study in prison reduces recidivism and welfare dependence: A case study from Western Australia 2005-2010. *Trends and Issues in Crime and Criminal Justice*, (514), 1.
- Herrschaft, B. A., Veysey, B. M., Tubman-Carbone, H. R., & Christian, J. (2009). Gender differences in the transformation narrative: Implications for revised reentry strategies for female offenders. *Journal of Offender Rehabilitation*, 48(6), 463–482.
- Heydon, G, & Naylor, B. (2018). Criminal record checking and employment: The importance of policy and proximity. *Australian & New Zealand Journal of Criminology*. 51(3) 372–39.
- Heydon, G, Naylor, B, Paterson, M & Pittard, M. (2011). Lawyers on the record: Criminal records, employment decisions and lawyers' counsel. *Adelaide Law Review*, 32, 205.
- LeBel, T. P & Maruna, S. (2012). Life on the outside: Transitioning from prison to the community. *The Oxford Handbook of Sentencing and Correction*.
- Liem, M & Richardson, N. (2014). The role of transformation narratives in desistance among released lifers. *Criminal Justice & Behavior*, 41(6), 692–712.
- Naylor, B. (2012). Living down the past: Why a criminal record should not be a barrier to successful employment. *Employment Law Bulletin*, November/December.
- New South Wales Government (2019). 'Ambitious targets at the heart of new premier's priorities', Media Release, June. Part 6, 'Break the cycle' Retrieved from: <https://www.nsw.gov.au/media-releases/ambitious-targets-at-heart-of-new-premiers-priorities>
- New South Wales Government (2020). Inspector of Custodial Services Report, Women on remand, New South Wales Government.
- NYC Human Rights. (nd) Fair Chance Act: Legal enforcement guidance. Available at: <https://www1.nyc.gov/site/cchr/law/fair-chance-act.page>
- Ooi, E.J. (2018). Recent trends in the NSW female prison population, *Crime and Justice Statistics* BOCSAR.
- Pij Joan, E. L. (2014). Legal protections against criminal background checks in Europe. *Punishment & Society*, 16(1), 50–73.
- Sampson, R & Laub, J. (2003). Life-course desisters? Trajectories of crime among delinquent boys followed to age 70. *Criminology*, 41(3), 555–592.



THE UNIVERSITY OF
SYDNEY
—
Business School