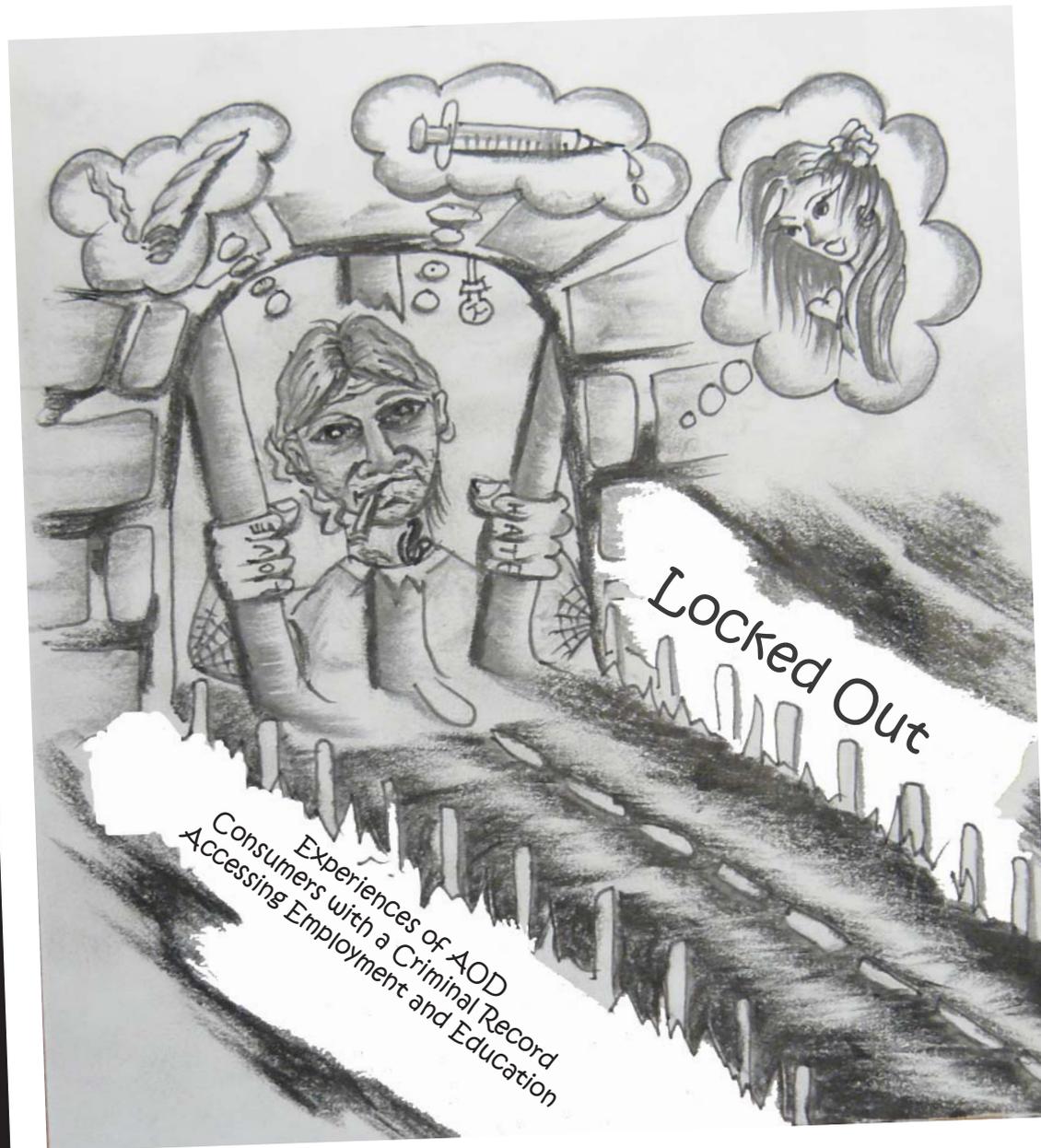


# Locked out



# Acknowledgements

APSU wishes to thank all the participants who shared their stories and perspectives on the impact of criminal records on their lives. Without their time, honesty and contributions this project would not have been able to go ahead. APSU would also like to thank all the organisations who have provided advice and assistance on this project.

Locked Out: Experiences of AOD Consumers with a Criminal Record Accessing Employment and Education

is a publication of

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Published in November 2011

Disclaimer: The views expressed by the interviewed participants and reported in this publication do not necessarily represent the views and opinions of APSU.

# Association of Participating Service Users (APSU)

**A**PSU is a Victorian consumer representative body of the Self Help Addiction Resource Centre (SHARC) and has been set-up to ensure that consumers (someone who uses, has used or is eligible to use alcohol and other drug services) and their family member's opinions and ideas contribute to service provision, policy, research and professional development. APSU believes that people who use alcohol and other drugs services have a wealth of experience and knowledge to contribute, and have a right to say how these services are run and contribute to policies that affect them. APSU is guided by a Steering Committee, made up of consumers and service providers, and is staffed by consumers and carers. APSU's membership is free and both consumers and service providers are encouraged to join via [www.apsuonline.org.au](http://www.apsuonline.org.au)

# Self Help Addiction Resource Centre (SHARC)

**S**HARC's mission is to provide opportunities for individuals, families and communities affected by addiction and related problems to recover and achieve meaningful, satisfying and contributing lives.

SHARC is a Victorian, community based, not-for-profit, incorporated organisation. SHARC is a peer based service that is made up of a combination of people with lived experience and professional expertise. SHARC provides housing, education, advocacy and family support to members of the community who have been affected by alcohol and other drug use with or without mental health issues.

# Foreword

The indiscriminate use of criminal records in employment and educational settings has great ramifications on individual's financial, social and emotional wellbeing. Without proper and effective systems in place to ensure that people with criminal records have fair access to employment and education, the use of criminal records by employers will continue to reinforce injustices and exacerbate the social exclusion and stigma that past and present alcohol and other drug users and co-occurring mental health issues already experience. The Victorian Charter of Human Rights and Responsibilities states that all Victorians have a right to take part in public life and not to be tried or punished more than once. Yet individuals are requested to provide criminal history checks that detail past criminal activity that is not related to the job positions applied for and which often includes non-convictions and current investigations that leads to negativity and exclusion. Without effective safeguards we will continue to exclude people from our society and discriminate against individuals who have often taken great steps to change their lives and move forward. Gaining employment and seeking financial stability are important foundations for life and are key steps in an individual's recovery. The community and alcohol and other drugs sectors have an obligation to society and its consumers to reduce and eliminate unnecessary obstacles to fair access to these opportunities. This needs to begin within the sectors own employment policies and educational systems. While criminal records in employment and education settings are used to minimize risks and protect the vulnerable, their unregulated and indiscriminate use will continue to lock out the very people that these organizations seek to represent.

*Locked Out* is a timely reminder of the need for greater human rights protections for all people and for organizations, educational facilities and employers to reassess the way that they use criminal records to vet potential volunteers, employees and student placements.

*Regina Brindle*

*Manager of Association of Participating Service Users*

# Introduction

In Australia, over the past decade, the number of criminal records requested by employers, and the types of jobs for which this material is required, has increased dramatically. 2.5 million National Police Certificates were processed by a leading provider of police checks, CrimTrac, in 2008-2009 alone (Fitzroy Legal Service, 2009). Currently, the level of protection for individuals who provide criminal record checks for employer scrutiny is limited (Naylor, Paterson & Prittard, 2008). Existing anti-discrimination laws either do not specifically address criminal record discrimination (Victorian Equal Opportunity Act 1995, Charter of Human Rights and Responsibilities Act 2006) or are limited in their ability to prosecute (Australian Human Rights Commission Act, 1986). Indeed, the existing policies that govern the administration of criminal records in Victoria ("Information Release Policy- National Police Certificate" Victoria Police, 2009) allow for large amounts of information (including guilt without conviction, good behavior bonds and pending investigations) to be included in the national criminal record certificates obtained for employment purposes, for a minimum of ten years (for adults) after the offence was committed. This potentially affects 100,000's Victorian's.

Research into the impact of criminal records on employment opportunities is limited. Current research has highlighted the social stigma attached to these records and the constraints these place on individuals' employment opportunities in relation to employers' attitudes to hiring them (Graffam, Shinkfield, Lavelle & McPherson, 2004; Gigere & Dundes, 2002; Pager, Susie & Western, 2002). In addition, research has also shown how exclusion from employment on the

basis of having a criminal record can affect the well-being and rehabilitation of individuals (Graffam, Shinkfield, Lavelle & McPherson, 2004; FLS, JobWatch, 2005; Kenemore & Rolden, 2006).

As it is currently limited, the existing Australian research falls short of acknowledging and addressing the complexity of this issue. Gaps in this research include: the impact of discrimination on employment choices and personal and financial well-being, the dual impact of race and criminal record on employment, further exploration of employer practices, the personal perspectives of individuals who have criminal records and the impact this has had on their lives, and the perspectives of service consumers in particular. In light of the exponential growth in employer requests for criminal history checks in their employment screenings, it appears that more information is needed to properly inform policy in this area.

In response to the issues our membership have reported around the barriers presented when having a criminal record, the Association of Participating Service Users (APSU), consumer representative body for service for drug and alcohol (AOD) service users, consulted with consumers regarding their perspectives and life experiences with the hope of informing further research into this pertinent issue. This project tapped into the experience of a group of people attempting to find their way into the community but who are faced with this impregnable barrier. It was found that nearly half of the respondents were not only managing alcohol and other drug issues and the associated stigma that this presents,

but also have experienced a mental health issue. All respondents found their criminal record a significant barrier to employment opportunities, with nearly all providing case-studies of job rejection and dismissal on the basis of their criminal record. Respondents also noted the time that had elapsed since the offence and their attempts to make positive changes in their lives. These stories have highlighted how criminal records in employment and educational institutions present real barriers to individual's access to jobs, financial security, education, and wider participation in society. While only a small sample, the stories within provide us a glimpse of the significant impact that criminal records present to individuals everyday lives, an issue that potentially affects high numbers of individuals in Victoria and Australia wide.

# Methodology

The project aimed to explore: 'The impact of criminal records on the employment and educational opportunities of people who have/have had alcohol and other drug issues', by recruiting participants under two main criteria; past or present substance issues and recorded offences on their criminal record as issued within checks provided as part of the employment and education course application process.

Nine qualitative phone interviews were conducted with respondents. The interviews were structured as one closed-ended and eight open-ended questions. These questions were devised upon reflection of existing data and the experience gained through client advocacy conducted by APSU (see Appendix 1).

The main strategy utilised to access and recruit participants for the study was an email requesting participants to either write a response to two open-ended questions, or/and participate in a phone interview early the next year. The email (see Appendix 2) was distributed through the VAADA (Victorian Alcohol and Drug Association) network, the NSP (Needle Syringe Program) network and the APSU consumer membership base and was sent at the end of November 2010, with interviews to begin late January. Due to the small number of responses another email was sent in February 2011, modified to only include phone interviews, due to the interest expressed in participating in interviews over written testimonials from the previous recruits. These interviews were then organised to commence in March 2011. One participant requested a face-to-face interview, which was conducted using the same procedures as the phone interviews, and was held at the SHARC office in the privacy of

an interview room.

An interview consent form was provided to ensure appropriate information about the project was provided and verbal consent was recorded separately via a tape recorder (see Appendix 3). All participants were also given a 'Statement of Intention' (see Appendix 4) and were encouraged to ask further questions about the nature, scope and purpose of the project and their rights to confidentiality.

Participant confidentiality was protected via allocating codenames to each participant, storing all information provided under the codename, the removal of personal information at the transcription stage; the secure storage of all information, which was only accessible to individuals working on the report within APSU, and the erasure of all recordings and contact information at the conclusion of the project. All participants were offered debriefing opportunities if they became distressed during or after the interview.

# Findings

All respondents requested a phone interview and were subsequently interviewed using the 9 questions via the phone (with one respondent participating in a face-to-face interview). The respondents shared some similarities in their predicaments: all were seeking employment in the Community Services, Alcohol and Other Drug or Health sectors; all felt that they had been refused employment due to their criminal record; the majority highlighted the time that had elapsed since their last offence and their applications for employment; and four of the nine disclosed that they had experienced a mental health issue in the past. Key themes to emerge from the interviews were: self-exclusion from job opportunities; experiences of discrimination and rejection of job applications; the positive effect of being able to discuss and contextualize their criminal records to potential employers; the barriers to educational opportunities; experiences of personal and financial stress; and the use of external and internal authorities to redress cases of discrimination.

## 3.1 Self-exclusion:

Over two thirds (7/9) of participants had self-excluded themselves from particular job positions in the past. The self-exclusion from particular job positions was primarily used as a self-protective mechanism, aimed at avoiding discrimination, unpleasant situations, rejection, and for some confidentiality: *"I'm lucky because a lot of people I know are reluctant to go for positions that they are qualified for because of their criminal record, because they fear that they won't get the position and it will come out. It's a small sector we work in; it's the fear of your confidentiality being breached as*

*well as not getting the position."* - Participant 009  
*"...since then I have been quite wary of applying for positions in government, given my later experience of a criminal record check and what that meant to me."* - Participant 009  
*"I wouldn't apply for a job with Department of Human Services knowing that they don't employ people with criminal records, and I wouldn't go for a job with the police for the same reasons."* - Participant 012  
*"I wouldn't apply to somewhere that was a big organisation because I would assume that they would well have the money to be doing criminal records checks, I'd be more likely to go for something smaller."* - Participant 005  
When applying for job positions, participants disclosed their awareness of the barriers they may face due to their criminal record, with one participant noting: *"Every job advertisement I look for, I am looking for the sentence that says subject to checks. So it's actually the number one thing I think about when I think about other employment."* - Participant 004  
Ways to avoid the issues with having a criminal record included: only seeking jobs through 'word of mouth' and 'personal contacts'; avoiding large organisations, government organisations and law enforcement agencies; and not applying for positions which state the need for criminal records. Overall, participants noted how having a criminal record *"narrowed the choices [they] could make."* - Participant 005, with only one participant stating that they will continue to apply for all job positions regardless; *"I'm testing the waters now."*

## 3.2 Experiences of discrimination and rejection:

All the participants had experienced rejection from potential and existing employers due to their criminal records. These experiences varied for each individual, yet two-thirds (6/9) of participants noted that they were told this was the sole reason for their termination or rejection of employment:

*"I got a job working as a drug and alcohol worker. And then they said, it's time to for the criminal record check...And then they said, come back next year and we'll reconsider."* - Participant 007

*"I went to management and told them the client had confronted me [about having a criminal record] and that I'd admitted it. They advised me to step down for a couple of days, which I did, and then it was decided by Head Office that it would be best if I 'voluntarily resigned.'" - Participant 011*

After being given a job and working for three weeks one participant was required to do a criminal record check: *"all it was was this piece of paper that said this person has been charged with theft. I had no chance to present myself in any other way or means...and that was it I was gone, instantly."* - Participant 005

*"I got the job and was very excited to start. But when Human Resources got a look at my criminal record they decided that, they basically said that I wasn't suitable for the position. I was deemed to be unsuitable and of unsound character"* - Participant 012

*"I applied for two positions...was the preferred applicant on both of them, and I know because they told [my referees] that...I put in my criminal record...I kept on them about what was happening and they wouldn't do anything and they wouldn't give me an answer...this went on for months and months and months, and eventually I found out this was because of my criminal re-*

*cord."* - Participant 009

*"I was actually employed somewhere, I began and I worked for four days then they told me I had to leave because of my police check."* - Participant 002

Once successfully employed, individuals faced further barriers within the workplace. Two participants disclosed how promotional opportunities within their existing workplace were often closed to them.

*"Discussions will come up with regards to maybe a project that's happening that might require a sort of criminal record check, like whether it be training in prisons or correctional settings or applying for a project in a juvenile justice setting... One project was denied and one wasn't applied for because of this."* - Participant 004

## 3.3 Positive impact of being able to contextualise content of criminal record

While all participants had experienced negative reactions to their criminal records in employment, two thirds (6/9) highlighted how the opportunity to contextualise the circumstances surrounding their record increased the positive reaction of employers. The opportunity to explain why and how an offence occurred was considered important by some participants in overcoming the issues in the ways that criminal records are presented on the checks: *"Things always look bad on paper... if people knew the notes around the incident, in some instances a lot of these charges are amped up."* - Participant 007

While the opportunity to explain how they had changed personally was also considered essential:

*"I'm a person who's made a mistake. It doesn't mean I'm a bad person and for the rest of my life is going to be bad."* - Participant 005

*"I've done a lot of work over the past 6 years to change my life."* - Participant 012

For participants who had been successful in gaining employment where criminal records were required, the opportunity to talk through their past and the charges on their record was essential to their success.

*"Well I guess I've been really lucky in that there have been particular opportunities where, certain people have been in management who are open-minded and willing to talk things through."*  
- Participant 004

*"My boss was aware of my police record, but after doing work there and a volunteer placement there for 6 months she saw different..."* - Participant 003

### 3.4 Impact on educational opportunities

All of the nine participants interviewed were seeking employment or working within the Community Services, AOD or Health sectors. For many, this required the completion of a post-secondary qualification in the related fields. While all these participants were able to gain a qualification, four participants were required to disclose their criminal record to the educational facility, and one third (3/9) highlighted how their criminal record created obstacles when applying for student placements or experiencing a full range of opportunities as a student:

*"Whilst training for my qualification in Drug and Alcohol...I was very fortunate in that [personal contacts] helped me enormously... [Though] there were certain areas because of my criminal record I couldn't go into..."* - Participant 011

*"I've actually gone to school, it was actually in the drug and alcohol sector and they were telling me that if you have a police record you won't get a job. So my thing is, if you have a record they*

*shouldn't be accepting you into school... You do six months of school, then you look for a placement and it's hard and they're lucky I got one, but it's very hard."* - Participant 003

### 3.5 Personal and Financial Stress

A moderate number of participants (5/9) disclosed that they felt significant stress and hardship as a result of the negativity and discrimination they experienced in seeking employment due to their criminal record. In particular, participants noted how they felt like they could never move past their record, that they feel unmotivated and disheartened, and that having a criminal record added extra stress when looking for employment or attempting education:

*"I feel like I have no rights...I wasted my time...I constantly have to explain my past, the past is the past, it's hard to keep on explaining...I feel like they have me up against the wall"* - Participant 003

*"It causes a lot of stress, you know... you're putting a lot of effort into applying for jobs, and a lot of self-doubt comes into it when it comes to the criminal records check... It's a bit depressing; I do feel a bit depressed and a bit lost..."* - Participant 007

*"I've been really unmotivated by it...I'm feeling that there is not much point [in school]."* - Participant 012

*"I feel like a second class citizen... All I wanted to do was run away, lock the doors and go into isolation."* - Participant 011

*"It's really disheartening"* - Participant 009

Two participants also disclosed that they had considered returning to drugs and illegal activity as a way to cope and to gain financial security:  
*"what's the point...it makes you feel like going back to*

drugs.” - Participant 007

One participant disclosed how losing a job due to their record had a significant financial and emotional impact on them:

*“I was employed by an organisation and at my initial interview I was honest about my criminal record...then [Human Resources] said no they can't access the prisons therefore they can't do this job...I'd actually moved... given up a well respected job position and it took me another three months to get another job.I dropped twenty thousand a year plus lucrative benefits.”* Participant 002

For the participants in the project, the impact on their ability to gain employment in the long-term varied. For some participants, the criminal record presented an extra hurdle they needed to overcome, but were ultimately able to find employment. However one participant, who had worked within the Community services field for three years, found that after they left their job they were unable to find new employment. After years of searching, they have now chosen to study and work in an unrelated field:

*“I've had to move away from the Community services industry, because it's been two years now, two and a half years, and I can't fight it any more I've had enough, I'm tired from it, emotionally, mentally...”* Participant 003

### **3.6 The use of conciliation processes to dispute the discrimination experienced**

Few of the participants (3/9) took the issue of being refused employment on the basis of their criminal record further or explored different avenues for having their claims heard. One participant explored their legal options after being explicitly rejected from a role on the basis of their criminal record, and was told that no legal recourse was open to them, but that they *“could put in a stress*

*claimant”*, which they chose not to do. One participant took the employer to the Human Rights Commission, who deemed their rejection of employment to be ‘discriminatory’ and facilitated a conciliatory process to address the issue. Unfortunately this process didn’t resolve the issue:

*“I feel really disheartened about it. Basically I was discriminated against and they sat there and stood their ground and said yes you are of unsound character and you're not a good person.”*

- Participant 012

Another participant took an alternative course of action and was successful. Utilising contacts they had in the sector, they were able to challenge the employers on the basis of their own policies and employment procedures and force the employers to recognise their rights to employment.

*“If I hadn't hammered them it would have been swept under the carpet, they would've re-advertised and not employed me...most people wouldn't do that or realise those avenues are there.”* - Participant 009

### **3.7 Further Issues**

Participants highlighted a range of other barriers they faced due to their criminal records. One third (3/9) of participants noted that they had been provided a clearance for a Working with Children's Checks (WWC) yet they still faced barriers to employment due to requests for both a WWC and a National Police check. Other issues disclosed included: the recording of a ‘non-conviction’; issues with gaining fair access to insurance; barriers when applying for visas for overseas travel. Overwhelmingly it was felt by all that criminal record checks presented barriers to their access to areas of life that many people took for granted.

## Discussion

Of the individuals surveyed, all reported having experienced discrimination in employment on the basis of their criminal records. In accordance with the Australian Human Rights Commissions' Act (1986), discrimination relates to an irrelevant criminal record forming the basis of unfair treatment in employment, this can include: refusal of employment, dismissal from employment, denial of training opportunities and promotions. Throughout the interviews, a large number of participants reported that they were told specifically that their criminal records were the reason they were not employed, or had their employment terminated. This finding is important and highlights the need for further research into the impact of criminal records on individuals when they are seeking work, and a review of employment procedures within organizations and businesses.

Of similar significance was the high rate of self-exclusion reported by participants. Nearly all participants noted that in past they had self-excluded themselves from job positions that required criminal record checks, in the assumption that they would not be successful. This highlights the number of potential individuals that may be overlooked in studies that focus on employer employment practises and their attitudes to potential employees with criminal records.

Where individuals had applied for job positions that required criminal record checks and had faced discrimination, only a small proportion reported exploring different avenues to have their claims heard and seek legal recourse. One participant noted their disappointment with the current system under the Human Rights Com-

mission Act (1986), where even though their situation was acknowledged as warranting further investigation, the Commission's inability to enforce their findings led to the claim being unsuccessful in the conciliation process. While no other participants sought the Human Rights Commissions services, this story underlines the need for governments to strengthen the Commission's powers to enforce their findings, and the need for stronger laws across the state to protect individual's employment rights.

One participant had sought legal advice, and was advised that they could take out a 'stress claimant', but that no other legal recourse was open to them. Another participant, instead, chose to utilise their own social resources to have their claim heard at the organisational level. What is apparent from these stories is that for an individual to have their claim of discrimination heard effectively and fairly they require either a level of social capital and community connections or protective laws that are enforceable and effective. Currently, there is a lack of appropriate and effective legal channels open to individuals with criminal records, thus disempowering individuals in the workplace and in the employment marketplace.

The level of emotional and financial stress experienced by participants due to the barriers imposed by criminal records was significant. In consideration of the importance of employment to provide financial and life stability, and to provide access to society in general, these findings emphasize the

impact that criminal record checks in employment have on individuals in Australia. This impact may have ripple effects onto the family and loved ones of such individuals, and has the potential to impact a growing number of people both emotionally and financially. The findings that two of the participants had reconsidered returning to the use of drugs or illegal activities was particularly alarming, and should serve as an important reminder of the need to ensure all individuals full access to society and employment, and its importance for recovery and rehabilitation.

The evidence to support the positive impact of being able to discuss the circumstances surrounding an individual's criminal record underlines the positive affect of social contact on breaking down stigmas. It was considered important that employers take into consideration the time, length and context of the criminal record when considering a person's employment. For participants who had been successful in employment, the opportunity to show that they had changed and weren't reflective of their criminal record status was deemed highly important.

While barriers to education were not widely experienced, with all participants who attempted successfully accessing education, the issues surrounding educational placements were noted by number of participants. Educational placements often form the basis for much of the practical learning that is required for certificates and degrees, and barriers to fair access to these highlight the need for educational services to advocate on behalf and promote the interests of their students.

As mentioned previously, the Australian Human Rights Commission's legislation does cover discrimination in employment; however the current system lacks effective implementation due to

the Commission being unable to legally enforce their findings. Currently in Victoria there is no Human Rights legislation to protect individuals from discrimination on the basis of an irrelevant criminal record. While a 2008 review of the Victorian Equal Opportunity Act recommended the inclusion of irrelevant criminal records into the Act, this recommendation was not implemented. The Victorian Charter of Human Rights, whilst not specific to criminal record discrimination does require the Victorian Government, local councils and public authorities (including most community service providers) to uphold certain principles and ethics in their work. Of relevance to criminal records in employment and the stories of our participants is:

- Section 18- Taking part in public life: "Every person has the right to take part in public life."
- Section 26- Right not to be tried and punished more than once

What the above stories highlight is the persistent barrier that criminal records create to individual's fair access to employment and community life that many Australians take for granted. The right to not be punished multiple times for an offence, and the right to 'start again' and change lifestyles is being hampered by the indiscriminate use of criminal record checks in employment without appropriate protections for individuals.

As noted above, all of the participants were seeking work in the Health and Community Sectors. While the Community Sector is well known for utilising criminal records checks for employment purposes as part of their risk management policies, as one of

the participants noted, this highlights a level of hypocrisy from the very services that are committed to human rights and assisting people to reach their full potential.

*“People need to be given a go...a lot of these companies, especially in welfare, all their stuff they strive for and their principles and values are all about equity and giving people a go and yet I’m refused a job. It doesn’t add up, it’s a whole contradiction.” - Participant 007)*

As part of the interview process, participants were invited to make recommendations for change. As consumer representative body, APSU supports these recommendations and feels that a Human Rights approach enshrined in effective legislation will be a positive step toward ensuring that the rights of all people are being upheld in our society.

# Consumer Suggestions

While most participants recognised the need for criminal record checks in employment, all believed that the current system lacked effective mechanisms to protect individuals and that changes were required. It was felt that once a sentence was administered and served, it was unjust to continue to punish the individual due to their criminal record:

*"I think that the correctional services have to realise that people coming out of correctional services they've paid for what they've done, they need a hand"* (Participant 011)

*"What I don't agree with is that it was 6 years ago, there's a lot of water under the bridge since then"* (Participant 012)

Overwhelmingly, the recommendations made by participants were embedded in the human rights principles of equal access and fair treatment. They included:

## 1. Make the offence relevant to the job position

This is in line with the current State Human Rights Charters in the Northern Territory, Tasmania, Western Australia and the ACT. The relevance of the offence is also the founding principle of the Australian Human Rights Commission's ACT (1986), where the offence recorded on an individual's criminal record can only be used to justify discrimination if it impacts on an individual's ability to meet the 'inherent requirements' of the position.

As one participant noted:

*"First off...it has to be relevant. I totally understand kiddy checks, or working with children checks, that's viable and relevant. But criminal record checks, what is it meant to do? If you want the best people for the job, then they might have a criminal history...but they might be the best people for the job."* (Participant 009)

## 2. Employer practices need to be more flexible and provide individuals the opportunity to contextualise their criminal histories

This includes taking into consideration time-frames and evidence of lifestyle change.

## 3. Greater community education and awareness

This is to reduce stigma, ensure that individuals know their legal rights and highlight the need for communities to provide individuals with a second chance.

## 4. Effective mechanisms and organisational policies that ensure that individuals rights are upheld, and disputes are dealt with fairly and equitably

This includes: recruitment processes that ensure that the record is relevant and allows individuals to have a hearing; appeals systems that are legally enforceable; organisational systems that protect privacy and confidentiality, including limiting the number of people able to see the contents of the criminal record and destroying it after it has been seen.

## 5. **Greater support for individuals with criminal records when looking for employment, including greater investment into programs to employ people released from prison**

## 6. **Greater clarification around the discrepancy between the provision of Working With Children's Checks (WWC's) and criminal records checks**

It was noted by some of participants that the WWC's system was not only fairer and provided greater privacy, but could be expanded to include working within all industries.

## 7. **Separate databases for serious and minor offences**

While the recommendations provided varied, overwhelmingly all agreed that greater disputes mechanisms, employer practices that allowed individuals a fair opportunity to discuss and contextualize their offences and the need for the charge to be relevant to the job position, were needed.

The current discrimination experienced by individuals with criminal records exacerbates social exclusion and stigma, and can have strong ramifications on individual's abilities to rehabilitate, participate in society and prevent recidivism. Furthermore, the current system appears to punish offenders after they have served their court ordered sanction. The current Victorian system has the potential to disadvantage 100,000's of Victorian's and is significantly outdated. As one participant noted, the current system hampers both an individual's ability to gain employment, and the community's ability to include and maximize the potential of all its members:

*"Working in the drug and alcohol sector, there is always a push for peers to work in the sector, and it's a real trend for these peers...it hampers the ability of the organisation to employ people as well."* - Participant 009

## Limitations of the report and recommendations for further research

Interestingly, this project attracted participation from a particular cohort of individuals who had all participated in higher education, were seeking employment or were employed within the Community and Health Services, with the majority having a significant amount of time between their criminal record and their applications for employment. This may be reflective of the recruitment strategies utilised by APSU, where professional networks and email databases were used to advertise to potential participants. It is possible that these recruitment strategies may have excluded individuals who had limited access to the internet, who were not members of these networks, and in general weren't seeking employment or connections within the community sector.

While the community sector is well known for utilising criminal records checks for employment purposes as part of their risk management policies, as one of the participants noted, this highlights a level of hypocrisy from the very services that are designed to believe in second chances and support individuals human rights.

In reflection of the limitations of these findings, APSU recommends that further study be conducted into the impact of criminal records on individuals seeking employment in other fields of work, and research that focuses on the more vulnerable individuals within society; particularly individuals who have just been released from incarceration,

have been unemployed for a long period, who haven't industry specific training and have a range of complex needs. This is currently outside the scope of APSU's funding and capacity, however more resources need to be channelled into this type of research to ensure that all individuals, regardless of their past, have fair and just access to society.

It is felt by APSU that this is a fundamental human right and is of particular importance for an individual's capacity to engage and participate in society, and is an integral for individuals' drug and alcohol recovery and rehabilitation.

# Appendix 1

## Interview Questions

Exploring the impact of criminal record checks on the employment and educational opportunities of people who have/have had alcohol and other drug issues.

Optional Question: (This question has been included to help us broaden the policy impact of this report by making it relevant to all community sectors. It is an optional question, and no further information is required beyond yes or no).

**Have you ever experienced a mental health issue?**

**Yes/No**

- 1.How has having a criminal record affected the choices you have made about employment?
- 2.In what ways has having a criminal record impacted on your ability to gain employment?
- 3.What occupational areas have you experienced issues in gaining employment due to your criminal record?
- 4.In what ways has having a criminal record impacted on your ability to access and participate in education programs (University, TAFE etc)?
- 5.In what other ways have criminal record checks in employment and educational settings impacted on your life?
- 6.How do you believe this situation can be improved?
- 7.Is there anything else that you would like to add or talk about?

## Appendix 2

The Association of Participating Service Users (APSU) is conducting a project on the impact of criminal records on alcohol and other drug service user's employment and educational opportunities. We are currently seeking the personal perspectives of individuals with a criminal history and their stories on how criminal record check requests by employers, and specific industries, have impacted on their lives.

All personal details (including names) will be protected and will remain private and confidential. Information will be compiled to present in a report by APSU on the impact of criminal records in employment settings on individual's lives, and will be used to promote and disseminate the views of consumers on this issue.

We hope to gather this information by inviting you to share your story via email.

If you would like to participate in this project, please email us your response to the following question:

- "Have criminal record checks impacted on your life and your choices for employment or education?"
- "If so, how?"

We are also looking for willing participants to be contacted in January 2011 to take part in a short phone interview to further explore this issue. If you would like to take part in the phone interviews, please include your contact phone number at the end of your response.

All responses will be greatly appreciated.

If you have any questions relating to the project please contact Megan or Regina on (03) 9573-1778, or via email at [apsuvolunteer@sharc.org.au](mailto:apsuvolunteer@sharc.org.au)

Thank you for your time.

Yours sincerely,

Megan Cook

APSU Volunteer

## Appendix 3

Exploring the impact of criminal record checks on the employment and educational opportunities of people who have/have had alcohol and other drug issues.

Note: This consent form will remain the property of The Association of Participating Service Users (APSU) for their records.

I agree to take part in The Association of Participating Service Users (APSU) research project as specified above. I have had this project explained to me in detail, and have had the Explanatory Statement read to me, and a copy has been emailed/mailed to me for my own records. I understand that by providing this consent to take part in the project:

1. I agree to be interviewed by the researcher over the phone Yes / No (Please circle)
2. I agree to allow the interview to be audio-taped Yes / No (Please circle)
3. I understand that the information disclosed in this interview will be used for reports and published findings, with due respect to my confidentiality Yes / No (Please circle)

I understand that my participation in this research project is voluntary, and that I can choose to withdraw or choose to not participate in any part of the project at any stage of the process. If I choose to withdraw I will not be penalized or disadvantaged in any way. I understand that any information collected within the interviews may be used in reports or published findings, with due respect to my confidentiality. This will be upheld by not including, under any circumstances, any identifying characteristics or my name.

Service Name:

Participants Name:

Consent recorded on audiotape? Yes/No

Date:

## Appendix 4

Exploring the impact of criminal record checks on the employment and educational opportunities of alcohol and other drug service users (past and present)

APSU (The Association of Participating Service Users), a service arm of SHARC (Self-Help Addiction Resource Centre), is conducting a research project into the impact of criminal record checks on service users lives. The project aims to disseminate and promote the personal perspectives and views of consumers and key organizations on this issue.

Currently, Australian research into the impact of criminal record checks on employment opportunities is limited. In light of the growing number of employer requests for criminal history checks in their employment screenings, it is felt that more information is needed to properly inform policy in this area.

In consideration of this, APSU (the Association of Participating Service Users) has established a project aiming to consult with consumers to provide a forum for their perspectives and life experiences to be acknowledged and recorded. This information will be compiled into a report and will be disseminated publicly with the aim of providing a vehicle for consumer perspectives to be heard on this important issue.

In response to interest and feedback from key organizations in the sector, APSU has also recognized the need to record the perspectives of organizations and peak bodies on this issue. In consideration of this, APSU has expanded the projects terms to include organization representatives, and to acknowledge and record their professional experience and perspectives on this issue.

For more information about this project, please contact Regina or Megan at APSU on (03) 9573-1778//apsuvolunteer@sharc.org.au



of Broken Dreams Boulevard