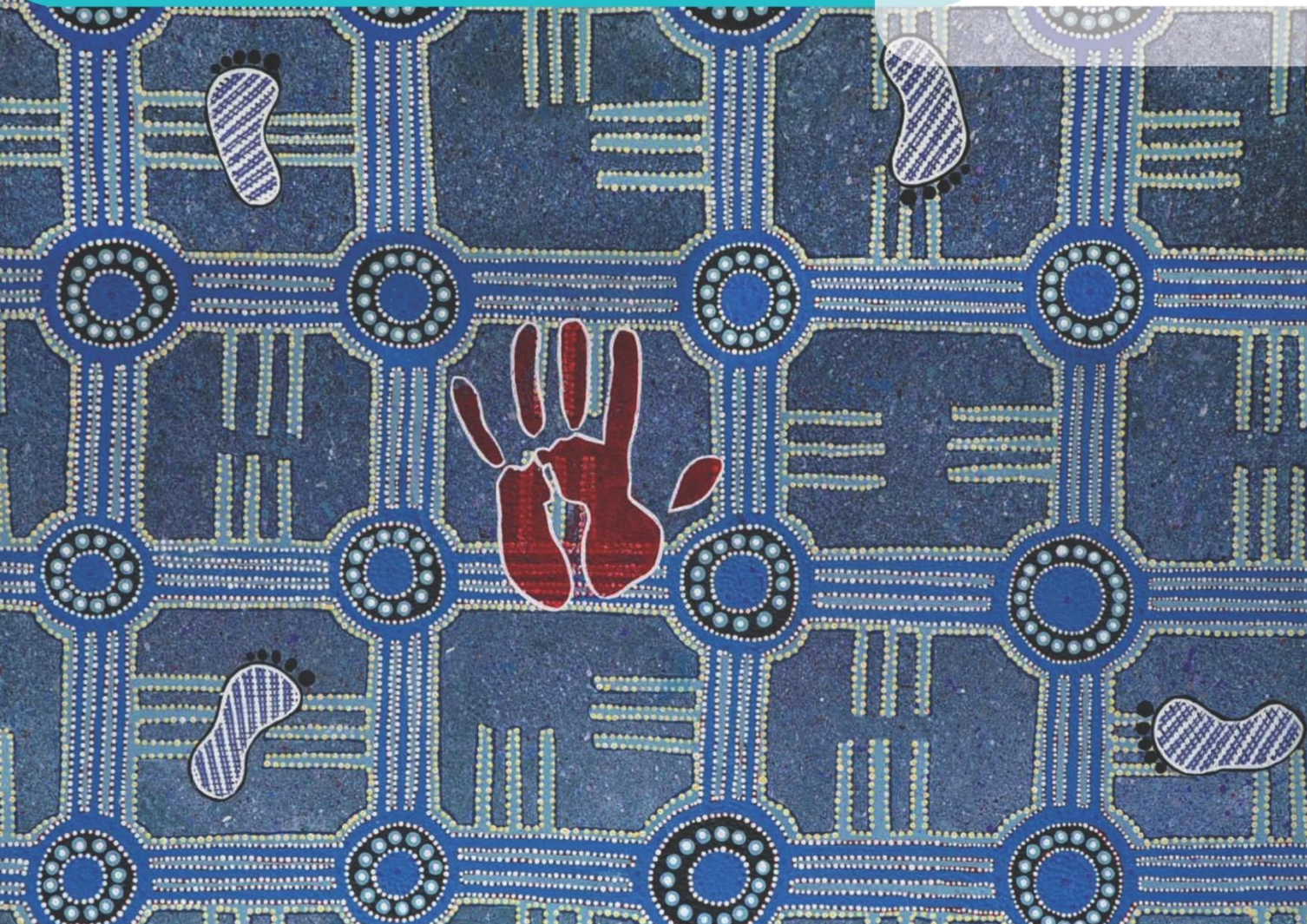


# Aboriginal Art Policy Model

Corrections Victoria



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# Contents

The Aboriginal Art Policy Model respectfully acknowledges all first nations of the state of Victoria and pays its respects to the Spiritual Ancestors, Elders and Traditional Owners & Custodians protecting and nurturing their tribal lands and waters.

The term 'Aboriginal' refers to both Aboriginal and/or Torres Strait Islander people either in Victoria or in other parts of Australia unless otherwise stated.

The term 'Koori' used throughout this document respectfully refers to the Victorian Aboriginal community. Within the Koori community, the Department of Justice and Regulation acknowledges there are also other Aboriginal and/or Torres Strait Islander persons residing, working and gathering in the State of Victoria.

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The cover image by Josh Clark was created as part of the Statewide Indigenous Arts in Prisons and Community Program.

The paintings titled 'Going Home' depicts Josh's journey – "I've been on many journey's in my life. Different doors have opened and closed and some have been prison doors. I've tried going in different directions which is represented in the painting by the four footprints. The footprint pointing towards the hand print represents me now, going home to my family, my blood."

Josh Clark, Barkindji, 'Going Home 2015' Acrylic on canvas 71 x 81cm



# 1 Introduction

Prisoners are generally a disadvantaged group compared to broader society, with higher rates of health problems, poorer education, higher levels of unemployment and higher rates of drug and alcohol problems.

Aboriginal and Torres Strait Islander people rate as among the most disadvantaged cohorts within the corrections system. This group of prisoners consistently present more frequently with previous terms of imprisonment and disadvantage when compared to non-Aboriginal prisoners.

Disadvantage remains entrenched across many areas including health, education, housing, income and employment. Over-representation of Aboriginal people within the Victorian prison system is of significant concern, with disadvantage identified as a key factor contributing to this over-representation.

## Corrections Victoria response

Corrections Victoria is committed to improving justice outcomes for Aboriginal prisoners, and upholds this commitment through the following platforms:

### Aboriginal Justice Agreement

The Department of Justice and Regulation is a signatory to the Victorian Aboriginal Justice Agreement (AJA). The AJA is a partnership between the Victorian Government and the Aboriginal community, established to achieve improved Aboriginal justice outcomes. The AJA aims to minimise Aboriginal over-representation in the criminal justice system by improving the accessibility, use and effectiveness of justice-related programs and services.

The Agreement advocates that justice interventions and related programs and services must be culturally relevant and responsive to the needs of Aboriginal adults, and where possible, Aboriginal persons should deliver programs and services to Aboriginal offenders.

A core focus of the Agreement is to reduce re-offending and strengthen the focus on addressing drivers such as alcohol and drugs, mental health, unstable housing and unemployment through offender rehabilitation and behaviour programs, improved transition support and continuity of care to assist offenders to reintegrate into the community.

### Aboriginal Social and Emotional Wellbeing Plan

On 19 March 2015, the Minister for Corrections launched the Aboriginal Social and Emotional Wellbeing Plan, a joint plan developed by Corrections Victoria and Justice Health. The Plan aims to improve the well-being and mental health of Aboriginal prisoners.

Priority Area 1 of the Aboriginal Social and Emotional Wellbeing Plan aims to increase opportunities for Aboriginal prisoners to practise their culture and spirituality with a view to promoting positive social and emotional wellbeing. The Plan was developed in response to the department's commitments to Phase Three of the Aboriginal Justice Agreement (AJA3).

### Statewide Indigenous Arts in Prisons and Community Program

The Statewide Indigenous Arts in Prisons and Community (SIAPC) program, which has been operating since 2011, is delivered by The Torch with oversight by Corrections Victoria's Naalamba Ganbu Nerrlinggu Yilam, and focuses on the role of culture and cultural identity in the rehabilitative process of Aboriginal prisoners. The program aligns with research highlighting the role arts programs can play in reconnecting Aboriginal prisoners with their culture.

The SIAPC program supports the development of self-esteem, confidence and cultural strengthening through exploring important issues of cultural identity and connection to culture and family through the production of artwork. Program participants are engaged in skill development opportunities and



provided opportunities to build sustainable post-release pathways through arts related economic development opportunities.

The program aims to assist rehabilitation by generating opportunities for ex-prisoners to reconnect with family and culture, foster new networks and to find arts based vocational avenues. The Torch employs Indigenous Arts Officers, who provides both cultural and artistic support to Aboriginal prisoners in the program at male and female prisons, and also offers support once the prisoner is released.

The SIAPC program strongly aligns with the department's commitments to the AJA and the Aboriginal Social and Emotional Wellbeing Plan relating to increasing access to activities that address the importance of connection to culture, ancestry, spirituality, land, family and community.

### Improved outcomes for Aboriginal prisoners through art and culture

There are specific cohorts of offenders within the adult corrections system whose particular circumstances and complex needs must be considered in tailoring relevant, effective and responsive support services. To address these complex issues, Corrections Victoria offers a range of culturally specific programs, activities and services, including the SIAPC program, to meet the specific needs of Aboriginal prisoners.

Building on the success of the SIAPC program, Corrections Victoria has identified an opportunity to enhance the existing program with the intent to implement a solution to further enhance cultural and community connectedness, and strengthen reintegration outcomes by increasing employment and financial opportunities. This program enhancement enables Aboriginal prisoners to sell artworks they have produced while participating in the SIAPC program.

The production of art is an important and traditional component of Aboriginal cultural expression. In this context, art covers a wide range of mediums, including painting, woodcarving, sculpture, sand drawing, ceremonial clothing as well as artistic decorations found on weaponry and tools.

In addition to increasing the connection to community and culture, art may be a viable post release employment option for some Aboriginal prisoners. Developing these skills, including producing a quality exhibition portfolio in custody, may increase the prisoner's capacity to pursue art as a post release career.

### Policy

The policy will enhance the existing SIAPC program by allowing participating prisoners to sell their artwork while in custody. This policy will better enhance cultural and community connectedness for this group, and address drivers of disadvantage by leading to improved reintegration outcomes for Aboriginal prisoners through the sale of their cultural art.

This paper provides a high-level overview of the policy model. The policy is underpinned by a robust operational framework outlining the protocols and guidelines to translate this policy into practice.



## 2 Document purpose

This document provides an overarching policy framework to allow Aboriginal prisoners to sell artwork they have created in prison, prior to their release from custody, as part of the Torch Project's SIAPC program.

## 3 Scope

This document sets out a high-level policy model to enable Aboriginal prisoners to sell artwork they have produced through participation in The Torch SIAPC program, prior to their release from prison.

In the context of this policy, art is taken to mean paintings, drawings and sculpture (including the production of ceremonial dress). The policy framework does not relate to artworks produced outside of the SIAPC program.

This policy does not relate to non-Aboriginal prisoners who are not permitted to sell artwork produced in prison.

This policy model does not relate to artwork commissioned in other programs, such as therapeutic or educational programs, nor artwork produced within prison industries.

## 4 Victorian Context

The rate of imprisonment for Aboriginal people is significantly higher than it is for non-Aboriginal Australians. In 2016–17, the Aboriginal adult imprisonment rate in Victoria was nearly 12 times the rate than the non-Aboriginal people.

To address these complex issues, Corrections Victoria offers a range of culturally specific programs, activities and services, to meet the specific needs of Aboriginal prisoners and offenders, as per Table 1 below. Corrections Victoria recognises that connecting Aboriginal prisoners to their cultural identity and practices is a positive step to strengthening culture as a protective factor.

Table 1: Programs for Aboriginal Prisoners

Program / Services	Description
Aboriginal Case Managers and Aboriginal Advanced Case Managers	Aboriginal Case Managers and Aboriginal Advanced Case Managers monitor and supervise complex and high profile Aboriginal and non-Aboriginal offenders who have been sentenced to serve community corrections orders. A key component of the role is to provide advice and assistance to other case managers that are managing Aboriginal offenders, and to build links with key community organisations.
Aboriginal Wellbeing Officers	Aboriginal Wellbeing Officers are responsible for providing culturally appropriate counsel to Aboriginal prisoners, and assist them to access programs and services. Aboriginal Wellbeing Officers also organise cultural activities in their location and build relationships with community
Aboriginal Parole Officers	Aboriginal Parole Officers case manage complex Aboriginal and non-Aboriginal parolees including high priority parolees and Serious Violent Offenders. The Aboriginal Parole Officers also conduct a case consultancy role with other case managers who are managing Aboriginal offenders, and complete parole assessments and breach reports for the Adult Parole Board.
Wulgunggo Ngalu Learning Place	WNLP is a culturally responsive live in residential centre where Aboriginal men can fulfil their community corrections order requirements and connect with, or further strengthen, their culture.

Program / Services	Description
Aboriginal Women's Bail Houses	There are two dedicated transitional properties for Aboriginal women located in Mildura and Shepparton with a range of support services provided by the local Aboriginal Co-operatives around the areas of health, youth / family support, drug and alcohol counselling, and home and community care.
Aboriginal Family Visits Program	This program provides travel assistance to the families of Aboriginal prisoners to visit their family members in custody. Assistance with travel and accommodation is provided in the form of rail, bus or taxi travel vouchers and booked accommodation at motels as appropriate.
Aboriginal Service Officer Network	The Aboriginal Service Officer (ASO's) Network are existing prison officers and Community Corrections Officers who provide special assistance and coordinated system of support to Aboriginal prisoners and offenders. Corrections Victoria bring the ASOs Network together annually to develop their understanding of Aboriginal people, society and the issues impacting on it.
The Torch's Statewide Indigenous Arts in Prisons and Community Program	The State-wide Indigenous Arts in Prisons and Community Program aims to connect Aboriginal prisoners to their culture and increase their cultural identity through the medium of art. The program includes a post-release support component and an annual exhibition for participants to display their work.
Kaka Wangity Wangin-Mirrie Aboriginal Cultural Programs Suite	The Kaka Wangity Wangin-Mirrie are a suite of programs focusing on cultural strengthening, family violence, healing, parenting and women. These programs are run both in prisons and in Community Corrections.
Yawal Mugadjina Aboriginal Cultural Mentoring Program	Yawal Mugadjina is culturally tailored mentoring to support Aboriginal prisoners with their transition and reintegration back into their communities. This support includes development of cultural plans, an Elders program and cultural post release support.





# 5 The Torch Statewide Indigenous Arts in Prisons and Community Program

The SIAPC program is set within the context of the AJA and its focus is on the role of culture and cultural identity in the rehabilitative process of Aboriginal prisoners. The SIAPC program accords with research highlighting the significant role arts programs can play in reconnecting prisoners with their culture. It aims to address disproportionately high rates of Aboriginal recidivism by increasing the confidence and participation of prisoners and former prisoners, within the arts industry.

The program engages offenders and ex-offenders in skill development opportunities that are socially and culturally relevant and achievable within the context of their circumstances. The program focuses on reconnecting prisoners with their culture and assisting them to develop sustainable post-release pathways, with a particular focus on arts based vocational avenues to increase their levels of legitimate and self-generated income. The program seeks to:

- address over-representation
- build sustainable post-release cultural partnerships
- support Aboriginal leadership and community wellbeing.

The program includes three core activities:

1. Across Victoria's prisons, The Torch delivers one-on-one as well as group sessions with Aboriginal prisoners who are interested in art. These sessions include research into family, language, country and cultural heritage and provide emerging artists with conceptual and technical feedback on arts in progress.
2. The post release component of the program provides professional development activities and opportunities for participating in the Aboriginal arts economy. This program is dynamic and adaptable in order to best serve the specific needs of the current cohort.

3. An annual inclusive art exhibition titled *Confined* presents selected works created by prisoners, offenders and ex-offenders throughout the year. This exhibition provides participants a public outcome to work towards as well as a forum in which to promote their work and redefine themselves to mainstream society.

## 5.1 Evaluation

A qualitative evaluation of the SIAPC program completed at the conclusion of the pilot period in 2012 provided a snapshot of the program's benefits and highlighted the positive impacts of culture in the rehabilitation process. Participants identified that the program had been effective in responding to the complex challenges facing Aboriginal people today by engendering:

- an increased sense of wellbeing and confidence
- a new level of trust that many of the participants had not experienced before
- opportunities for cultural connection and reconnections to culture
- pre-release skills and post-release career opportunities
- improved participation in other prison programs
- increased awareness of arts and culture among prison staff and the wider community
- a new level of support with its inside/outside approach
- better relationships with family and the wider community.

The evaluation highlighted opportunities for program enhancement, including expanding the program to enhance prisoners' vocational opportunities.



### 5.1.1 Enhancement of the program

Corrections Victoria recognises the benefits of enhancing the SIAPC program to allow Aboriginal prisoners the opportunity to both exhibit, license and sell the artworks they have created as part of the program. Key benefits of this change are improved employment and resettlement opportunities following release. Allowing this cohort to develop artistic skills and produce an exhibition quality portfolio whilst in custody, may increase the prisoners' capacity to pursue art as a source of income after release.

Two further benefits are that this policy may enable prisoners to reduce the financial burden of their imprisonment on their families. It would also be an opportunity for the prisoner to accrue money to assist with their transitional needs such as the costs of establishing housing.

One of the key goals of Corrections Victoria is to reduce reoffending, and enhancing the program would contribute toward the attainment of this goal for program participants. Improving the skills and employment prospects of prisoners, whilst they are in prison, has positive effects on critical throughcare factors such as housing, family and community engagement. Improving outcomes in these areas for Aboriginal prisoners has the potential to reduce their risk of reoffending.



# 6 Aboriginal Art Policy

Corrections Victoria recognises the importance of reconnecting Aboriginal prisoners with their culture and community, and recognises the need to build sustainable post-release pathways for this cohort to facilitate improved community reintegration.

To support community connectedness and improved reintegration outcomes Corrections Victoria has developed a high-level policy model to enhance the SIAPC program by enabling program participants to exhibit, license and sell visual artworks they have created in prison prior to their release from prison.

This policy position is strongly aligned with the department's commitment to the AJA and the Aboriginal Social and Emotional Wellbeing Plan by increasing access to activities that address the importance of connection to culture, ancestry, spirituality, land, family and community.

## 6.1 Policy framework

### Overarching Policy Vision

To provide Aboriginal prisoners, participating in The Torch SIAPC program, with greater opportunities to participate in, share and strengthen their culture through arts practice.

This innovative practice will provide better cultural and community connectedness for these prisoners, and will lead to greater post release reintegration outcomes through improving post-release employment options.

### Objectives

The key objectives of this policy are to:

- enhance cultural and community connectedness
- improve reintegration outcomes by increasing employment and financial opportunities.

### Policy Benefits

This policy provides a range of benefits including:

- strengthening the role of culture and cultural identity in the rehabilitation of Aboriginal prisoners, and providing opportunities for Aboriginal participants to have greater involvement with their culture and community
- improving reintegration outcomes through enhancing economic prospects and improving employment opportunities in the arts industry for the participant on release
- formalising protocols concerning the exhibition, licensing and sale of artworks by Aboriginal prisoners participating in the SIAPC program while in custody
- providing the participant with the opportunity to build their profile in the art community.

### Existing program and practice

This policy enhances the existing SIAPC program delivered by The Torch. This policy enhancement enables prisoners participating in the program to sell their artwork while still in custody.

As per the eligibility criteria for the SIAPC program, this program will only be available to Aboriginal prisoners. As such, non-Aboriginal prisoners would be prohibited from selling artwork, produced in prison, for their own benefit.

## 6.2 Operational Framework

On endorsement of the policy, a robust operational framework has been developed to set out the protocols to translate this policy into practice. These guidelines will include the following parameters:

Protocol	Description
Eligibility	The SIAPC program is available to all Aboriginal prisoners.
Art materials	Prisoners can obtain art supplies from the Aboriginal Wellbeing Officer, educational provider or purchase through special spend.
Ownership of artworks	Once art materials have been obtained, the resulting artwork becomes the property of the prisoner regardless of who provides the materials.
'Art' definition	In the context of this policy, art refers to paintings, drawings, printmaking and sculpture (all 3D objects).
Art Content	<p>Corrections Victoria acknowledges that artwork produced by prisoners may have cultural, personal or religious significance. As such, prison staff and contractors will be required to behave in a manner that reflects respect and sensitivity toward religious, cultural and spiritual beliefs, practices, objects and symbols.</p> <p>Corrections Victoria acknowledges that art is a form of self-expression, however artworks will be restricted from exhibition or sale under this policy if Corrections Victoria deems the artwork as:</p> <ul style="list-style-type: none"> <li>• offensive or provocative (for example, racist)</li> <li>• depicting violent or threatening images</li> <li>• sexually explicit</li> <li>• contrary to the good order of the prison system or brings the Department of Justice and Regulation into disrepute – for example art work of other prisoners, prison staff, government or other like officials.</li> </ul> <p>More specifically, Deputy Commissioner's Instruction 4.08A – Prisoner Property – Pornographic and Objectionable Material, will apply to artwork produced under this policy.</p>
Verification of ownership	Before a piece of artwork is released for exhibition (where sale is an objective) or sale, prisoners will be required to submit an artwork verification form, which will be witnessed by the Statewide Indigenous Arts Officer, who is familiar with their work. The Statewide Indigenous Arts Officer will be required to attest that the artwork is the work of the prisoner selling or exhibiting the piece.



## Valuation of artwork

The valuation of artwork process will include/consider:

- all artwork will be valued by The Torch before being sold or licensed, or before being exhibited for sale/licensing
- if the program participant wishes to seek an independent valuation of their artwork outside of The Torch's process they will be responsible for the costs associated with this service
- the cost of the valuation can be deducted from prisoner's remuneration if the artwork is sold
- the artwork will be offered for sale at the price indicated by The Torch or by the independent valuer
- Corrections Victoria is not in a position to place capped amounts on the sale of artworks, however Corrections Victoria reserves the right to limit the overall amount a prisoner can earn through participation in this program.

Protocol	Description
Storage of artwork	The storage of artwork will be managed in accordance with Deputy Commissioner's Instruction 4.08 – Prisoner Property and Commissioner's Requirement 2.1.1 – Prisoner Property.
Participation in art exhibitions, community events, awards and competitions outside of The Torch	<p>As part of the program, prisoners may be permitted to exhibit their artwork in group exhibitions, community events, awards and competitions not organised by The Torch. To exhibit their work, the prisoner must obtain permission from the Prison General Manager. One-person exhibitions will not be permitted. Artwork exhibited at events not organised by The Torch cannot be exhibited for the purposes of selling.</p> <p>Monetary prizes for awards or competitions cannot be accepted however other non-monetary prizes may be accepted with approval from the prison General Manager.</p> <p>After the event, prisoners may only offer artwork for sale where they have produced the artwork as part of the SIAPC program and where the non-financial elements of the sale are managed through The Torch.</p>
Donation or display of artworks	<p>Staff, contractors, individuals from non-government agencies, and other prisoners will be prohibited from receiving donated artworks from prisoners.</p> <p>Prisoners may be permitted to loan artwork to organisations (including Corrections Victoria) for a defined period or purpose. A loan agreement will need to be completed and signed for each loan.</p>

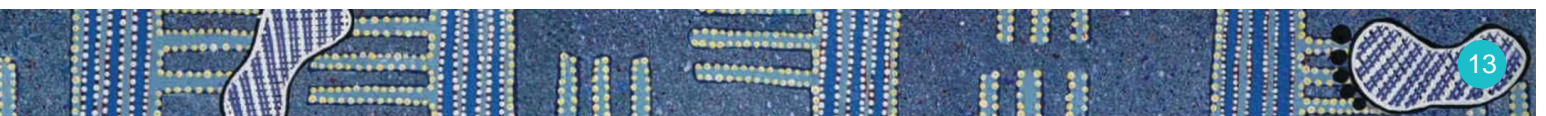


Purchase of art by Corrections Victoria (or associated) staff

Prison staff (including Corrections Victoria staff and contractors) may only purchase prisoner artwork for personal possession through an approved exhibition or gallery. Artwork may only be purchased from a public exhibition or gallery once the artwork has been made available for sale to the general public. Artwork cannot be purchased directly from the prison location.

Staff who intend to purchase prisoner artwork must seek the approval of their General Manager and the General Manager of the prison in which the prisoner is held. A staff member who purchases prison art may have their conduct scrutinised under the Victoria Public Service Code of Conduct and the Corrections Conduct and Ethics Policy.

Where government departments (including regions and government officials) wish to purchase prisoner artwork (for example for placement in offices and buildings), there will be a process in place whereby independent valuation of the artwork will occur prior to purchase to ensure the prisoner's financial interests are protected.



Protocol	Description
Safeguards	<p>Corrections Victoria will be required to put robust protocols in place to ensure prisoner interests are protected, specifically concerning the transfer of funds on sale of artworks.</p> <p>The Torch and the Department of Justice and Regulation will adhere to copyright guidelines when treating with prisoner artwork.</p>
Management of Prisoner Remuneration	<p>Operational guidelines will address the management of prisoner monies after the sale of artworks.</p> <p>Consistent with the Corrections Act and Corrections Regulations:</p> <ul style="list-style-type: none"> <li>• all remuneration will be paid into the prisoner trust account and held there for the benefit of the prisoner (there is no limit to the amount that may be held)</li> <li>• costs associated with exhibition of artwork outside of The Torch or the independent valuation of the artwork may be deducted from the prisoner's remuneration.</li> </ul> <p>Funds to be retained in prisoners 'Compulsory Savings' and 'Spend' accounts are in accordance with Regulations 31 [1A] and [1B] of Corrections Regulations 2009.</p> <p>To improve reintegration outcomes, by increasing prisoners' access to funds on transitioning back into the community, the Corrections Regulations (Regulation 31) will be amended to allow the General Manager of a prison to withhold at least 20 per cent of remuneration paid to a prisoner to be held in the prisoner trust account until the prisoner is released from prison. The percentage withheld will be based on a sliding scale, determined by the Commissioner, with the proportion held relative to the sale price or remuneration received.</p> <p>Further, amendments have been made to the Corrections Regulations to allow a prisoner to elect to retain in excess of the determined proportion of remuneration if desired.</p> <p>Processes surrounding the management of prisoner remuneration allow The Torch to be involved in the production, exhibition, licensing and sale of artworks, but not in the management of any remuneration earned through sales.</p> <p>Prisoners participating in this program will be responsible for managing their taxation obligations in accordance with the requirements of the Australian Taxation Office.</p>

Note: these guidelines do not represent all protocols that will be articulated as part of the development of the operational framework





